



Interoffice Memorandum

APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS

BCC Mtg. Date: Mar. 1, 2016

February 3, 2016

TO: Mayor Teresa Jacobs
and Board of County Commissioners

FROM: Mark V. Massaro, P.E., Public Works Director

A handwritten signature in black ink, appearing to be "MVM", located to the right of the "FROM:" line.

**CONTACT PERSON: Mark V. Massaro, P.E., Director
Public Works Department**

PHONE NUMBER: (407) 836-7970

**SUBJECT: Memorandum of Agreement - US 441 Landscaping from US441/Lee
Road Interchange Northbound to Beggs Road**

Orange County has been in discussion with the Florida Department of Transportation (FDOT) relative to landscaping along US 441, between the US 441/Lee Road Interchange Northbound to Beggs Road. The length is approximately 2.7 miles. The FDOT plans, at their expense, to contract, design and install trees only with the US 441 right-of-way. The FDOT will maintain the planting for two years. After two years, Orange County will maintain only the trees and tree rings. All other right of way maintenance including mowing, edging, and litter cleanup would be FDOT's responsibility and expense.

This Memorandum of Agreement (MOA) commits the County to tree maintenance. The County's financial responsibility is estimated to be \$10,000 annually.

This MOA has been reviewed by Risk Management Division and the County Attorney's Office and have found acceptable.

Action Requested: Approval and execution of Memorandum of Agreement the State of Florida, Department of Transportation and Orange County, a Charter County and a Political Subdivision of the State of Florida for landscaping maintenance along US 441 between Lee Road and Beggs Road. District 2.

MVM/wsv

Attachments

MEMORANDUM OF AGREEMENT

THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

and

**ORANGE COUNTY, A CHARTER COUNTY AND A POLITICAL SUBDIVISION OF THE
STATE OF FLORIDA**

This Memorandum of Agreement (the "MOA") is entered into by and between the **State of Florida Department of Transportation**, an executive agency of the State of Florida having a business address located at 719 South Woodland Boulevard, DeLand, Florida, 32720 (hereinafter referred to as the "Department") and **Orange County**, a charter county and political subdivision of the State of Florida having a business address at P.O. Box 1393, Orlando, FL 32802-1393 ("County").

WHEREAS, US 441, also known as Orange Blossom Trail, between Lee Road and Beggs Road, is a right-of-way under the jurisdiction of the Department for which the Department is responsible to operate and maintain ("Roadway"); and

WHEREAS, the Department has requested that, commencing at a time certain as described below, the County will maintain certain landscaping within the Roadway ; and

WHEREAS, the Department is prepared to have landscape plans for the Roadway developed and then signed and sealed by a qualified and licensed landscape architect ("Landscape Architect") and to have those signed and sealed plans incorporated into a landscaping contract to be administered by the Department by a qualified landscape contractor; and

WHEREAS, the Department will incorporate those landscaping plans into the Department's construction project to have the landscaping installed in accordance with the landscaping plans; and

WHEREAS, upon completion of the landscaping project, the Department's landscaping contractor will be responsible to maintain the landscaping improvements for a period of two years after which the County will be solely responsible for all maintenance of the landscaping, that will consist of trees and mulch rings only; and

WHEREAS, the parties intend to set forth these commitments to establish an understanding of future maintenance responsibilities.

NOW THEREFORE, the parties agree as follows:

1. The recitals set forth above are true and correct and are hereby incorporated herein.
2. The Department will have the Landscape Architect prepare landscaping plans for the Roadway and have the landscaping plans signed and sealed. The Department will have such signed and sealed landscaping plans incorporated into a landscape construction contract to be let by the Department, with such contract having a two year warranty "grow in" and maintenance period by the Department's

contractor. Nothing herein shall be deemed to assign to the County any responsibility for the design of the landscaping or maintenance of the landscaping during the two-year warranty period.

3. Upon completion of the project by the Department, the Department will have its Landscape Architect provide notification that the installation of the landscaping has been completed in compliance with the project construction plans and specifications. If there are any substantial deviations from the accepted landscaping plans, the notification shall include a list of all substantial deviations, along with an explanation that justifies the reason to accept the deviation.

4. The County will, until such time as the landscaping installed in the Roadway needs to be removed from the right of way, maintain the landscaping, consisting of trees and mulch rings only, in a reasonable manner and with due care in accordance with Department guidelines, standards, procedures and practices. Department standards are found at <http://www.dot.state.fl.us/statemaintenanceoffice/RDW/MRPHandbook2015.pdf>.

5. All cost of maintenance, repair, and replacement of the landscaping, consisting of trees and mulch rings only, shall be the sole and exclusive responsibility of the County unless and until a different local governmental entity annexes the underlying property and agrees in writing to take over maintenance responsibility for the landscaping.

6. The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this section is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years' and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than one (1) year.

7. This writing embodies the entire Agreement and understanding between the parties hereto and there are no other Agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.

8. This Agreement may not be assigned or transferred by the County in whole or part without the consent of the Department.

9. The Department and the County acknowledge and agree to the following:

a) The County shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the LOCAL GOVERNMENT during the term of the contract; and

b) The County shall expressly require any contractors and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor/subcontractor during the contract term.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on dates set forth below.

**ORANGE COUNTY
BY: BOARD OF COUNTY COMMISSIONERS**

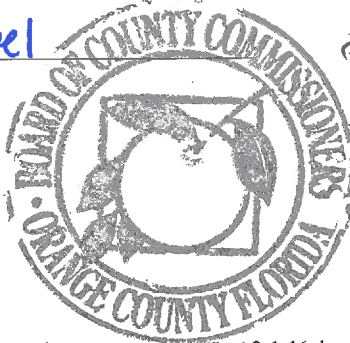
By: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor

Date: 3.1.16, 2016

Attest: Martha O. Haynie, Orange County
Comptroller as Clerk of the Board of County
Commissioners

By: *Jessica Vaupel*
for Deputy Clerk

Jessica Vaupel
Printed Name



**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: *Frank O'Dea*
Name: Frank O'Dea
Title: Director of Transportation Production

Date: 3/15/16, 2016

Attest:

William J. ...
Executive Secretary

Legal Review: *[Signature]*