

# Interlocal Agreement

This Interlocal Agreement is made and entered into this \_\_\_ day of \_\_\_\_\_, 2016, by and between Lee County, Florida, a political subdivision of the State of Florida ("*County*") and the Village of Estero, a Florida municipal corporation ("*Village*").

WHEREAS, pursuant to Florida Statutes Chapter 125 the Board of County Commissioners of Lee County adopted County Ordinance Number 00-04 on March 28, 2000 ("*County's Ordinance*"), creating the non-ad valorem based municipal service benefit unit known as the University Landscaping Operation and Maintenance Special Improvement Unit ("*University Landscaping MSBU*"); and

WHEREAS, the University Landscaping MSBU was established for the purpose of installing and maintaining landscaping on certain portions of Corkscrew Road, Ben Hill Griffin Parkway and Estero Parkway, which landscaping would be over and above the County's "core level" of landscaping; and

WHEREAS, the Village was incorporated as the newest municipality in Lee County on December 31, 2014, with the a Village Council as the governing body; and

WHEREAS, as a result of the incorporation of the Village, portions of County-owned and maintained Corkscrew Road, Ben Hill Griffin Parkway and Estero Parkway are now located within the boundary of the Village; and

WHEREAS, also as a result of the incorporation of the Village, Florida Statutes §125.01(q) requires the termination of that portion of University Landscaping MSBU now located within Estero, unless the Village Council, consents by ordinance, either annually or for a term of years, to the continuation of the University Landscaping MSBU to the extent so located within the Village;

WHEREAS, the County and Village desire to accomplish the continued assessment for the installation and maintenance of landscaping and vegetation over and above the County's "core level" on those portions of Corkscrew Road, Ben Hill Griffin Parkway and Estero Parkway as may now be located within the incorporated boundary of the Village; and

WHEREAS, the Village has given its consent to the inclusion of certain property within the Village of Estero in the University Landscaping MSBU by the adoption of Ordinance Number \_\_\_\_\_, which was adopted by the Village of Estero Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2016 ("*Estero's Ordinance*").

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, the County and Village agree as follows:

1. The foregoing recitals are hereby affirmed and admitted by the County and Village as if set out fully herein.
2. The terms and conditions of Estero's Ordinance are incorporated herein by reference.

3. The terms and conditions of the County's Ordinance are incorporated herein by reference. The County's Ordinance also includes a description of the benefitted properties included in the University Landscaping MSBU.
4. The County shall be solely responsible for the continued administration of the County's Ordinance which will be applied to properties within the University Landscaping MSBU and located within both the County and the Village.
5. This Interlocal Agreement also ratifies and affirms administration of the University Landscaping MSBU to date, and shall remain effective in accordance with the terms and conditions of both the County's Ordinance and Estero's Ordinance, including any extensions thereof.

**IN WITNESS WHEREOF**, the parties have executed this Interlocal Agreement by their proper officials, duly authorized to do so the date above first written.

ATTEST:  
Linda Doggett, Clerk

**Board of County Commissioners  
of Lee County, Florida**

BY: \_\_\_\_\_  
Signature  
\_\_\_\_\_  
Type or print name  
Deputy Clerk

BY: \_\_\_\_\_  
Signature  
\_\_\_\_\_  
Type or print name  
Chair / Vice-Chair

Approved as to form for the  
reliance of Lee County only:

\_\_\_\_\_  
Lee County Attorney's Office

ATTEST:

**Village of Estero, Florida**

BY: \_\_\_\_\_  
Kathy Hall, MMC, Village Clerk

BY: \_\_\_\_\_  
Nicholas Batos, Mayor

Reviewed for legal sufficiency:

\_\_\_\_\_  
Burt Saunders, Esq., Village Attorney

LEE COUNTY ORDINANCE NO. 00-04

AN ORDINANCE CREATING THE UNIVERSITY LANDSCAPING OPERATION AND MAINTENANCE SPECIAL IMPROVEMENT UNIT; DEFINING THE TERRITORY TO BE INCLUDED; ESTABLISHING THE BOARD OF COUNTY COMMISSIONERS AS THE GOVERNING BODY OF THE UNIT; PROVIDING FOR THE TYPE(S) OF SERVICE WHICH MAY BE RENDERED; PROVIDING FOR THE POWER TO LEVY SERVICE CHARGES, SPECIAL ASSESSMENTS OR TAXES WITHIN THE UNIT; PROVIDING FOR A FUND; PROVIDING FOR REVERTER; SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County executed the University Window Overlay Agreement on April 12, 1997 relating to improvements within the specified area, and

WHEREAS, the Board of County Commissioners of Lee County held a public hearing to establish this municipal service taxing or benefit unit; and

WHEREAS, all persons having an interest in the municipal service taxing or benefit unit and the public at large were given an opportunity to be heard at such hearing.

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

SECTION 1. CREATION OF THE UNIT, PURPOSE AND BOUNDARIES

Pursuant to the powers granted to the Board of County Commissioners of Lee County, Florida, hereinafter referred to as the "Board", by the Constitution of the State of Florida and the Florida Statutes, in particular, Section 125.01, Florida Statute, the Board hereby creates a municipal service taxing or benefit unit to be known as the University Landscaping Operation and

Maintenance Special Improvement Unit. Unless expressly mandated by State Statute, any and all procedures, administrative or otherwise, which were required to be followed prior to the enactment of this ordinance shall be waived or considered directory in nature and noncompliance with the procedure shall have no effect upon the validity of this ordinance, constitutional or otherwise.

The purpose of the University Landscaping Operating and Maintenance Special Improvement Unit shall be to: 1) provide operations and maintenance for landscaping within the boundaries of the unit, as provided by funding from the annual budget of the MSBU.

The boundaries of the Unit shall be as follows:

SEE ATTACHED LEGAL DESCRIPTION WHICH IS LABELED "EXHIBIT A"  
HERE BY INCORPORATED BY REFERENCE.

## SECTION 2. THE GOVERNING BODY

The Board of County Commissioners shall be the governing body of the University Landscaping Operating and Maintenance Special Improvement Unit created pursuant to this Ordinance. The Board of County Commissioners may appoint an Advisory Committee, composed of five (5) property owners within the boundaries of the Municipal Service Taxing and Benefit Unit. The method of appointment and term of office shall be set by the Board of County Commissioners.

## SECTION 3. THE GENERAL POWERS

The governing body shall have all the powers necessary or convenient to carry out the purpose of this ordinance and such additional rights and powers as are provided by the Constitution of the State of Florida and the laws of the State of Florida as granted to counties. The governing body shall also have all powers not otherwise prohibited by law and these powers shall include but are not limited to the power to:

1. Sue or be sued, complain or defend in the name of the County. In any and all courts or administrative agencies;

2. Acquire by grant, purchase, gift, devise, exchange or in any other lawful manner any property, real or personal, or any estate or interest therein upon such terms and conditions as the governing body shall determine;

3. Enter into contracts with any public, private or municipal firm, person or corporation for the furnishing of the improvements within the boundaries of this Unit:

4. Levy and collect special charges, special assessments, or taxes within the Unit:

5. Borrow and expend money and issue bonds, revenue certificates, and other obligations of indebtedness in such manner and subject to such limitations as may be provided by law;

6. Levy and collect without referendum ad valorem taxes for the providing of municipal services within the Unit; and

7. Adopt rules and regulations governing the Unit.

#### SECTION 4.

There is hereby created a fund to be known as the “University Landscaping Operating and Maintenance Special Improvement Unit Fund” from which the costs of specified municipal service may be paid, either in whole or in part. This fund shall contain all special charges, special assessments, taxes, interest, and other monies collected or otherwise obtained pursuant to this ordinance or any subsequent resolution thereto.

SECTION 5. LEVYING SPECIAL ASSESSMENTS; LIENS; ENFORCEABILITY

A. Any special assessment levied pursuant to this ordinance shall be levied only after of Notice of Intent to Adopt a proposed Resolution to Assess shall be published in a newspaper of general circulation within Lee County at least ten (10) days prior to the public hearing on the proposed resolution.

The method of apportioning the special assessment among the parcels of land within the unit shall be based upon a finding by the Board that the chosen method of apportionment is a fair and reasonable distribution of the cost of the municipal service improvement in proportion the special benefit which each parcel of land will receive. The assessment roll may be amended at the public hearing.

B. The special assessment shall be due and payable and interest and penalties for late payment shall accrue thereon from such date as the Board shall provide.

C. An assessment roll shall be prepared and shall be attached to the proposed resolution. This assessment roll shall consist of all record legal titleholders of parcels of land within the boundaries of the unit and shall state the apportioned assessment for that parcel of land.

D. The assessment made by the Board as provided for herein shall constitute a lien against all parcels of land so assessed. Upon failure of any property owner to pay any apportioned assessment when due and payable, the Board shall cause to be brought the necessary legal proceedings to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred including reasonable attorney's fees, to be assessed as part of the cost. In that event of a default on payment of any assessment when due and payable or any accrued interest on the assessment, the entire assessment with interest and penalties shall immediately become due and

payable and subject to foreclosure. The foreclosure proceedings may be prosecuted to a sale and conveyance of the property involved in said proceedings as now provided by law and suits to foreclose mortgages; or, in the alternative, said proceedings may be instituted and prosecuted by any other lawful process or procedure then available for the enforcement of the lien pursuant to any general law of the State relative to the enforcement of the municipal lien. Enforcement of this lien through foreclosure proceedings or otherwise shall not be construed as the Board's exclusive remedy.

The Board may prosecute any claim, legal or equitable, which it may have against the owner of the special assessed parcel of land who has defaulted on his payment of the assessment.

E. The property owner, whose property has been assessed, shall have the right to petition the Board for correction of any inaccuracy in the assessment or its apportionment within ten (10) days of the adoption of the Resolution to Assess. After the lapse of 10 (ten) days from the date of the adoption of the Resolution to Assess, including amendments thereto, all assessments made shall be deemed conclusive unless the property owner has filed the petition for administrative review. Failure to exercise this right for an administrative remedy within the time permitted shall be deemed a waiver of the property owner's right to object to the assessment or its apportionment

F. At the Board's direction the Uniform Collection for Non-Ad Valorem Special Assessments will be used for the collection of the above described special assessment.

#### SECTION 6. LEVYING AD VALOREM TAXES

Ad valorem taxes levied pursuant to this ordinance shall be levied and a budget prepared and adopted by this Board in the same manner as the Board prepares and adopts annual County budgets and levied taxes as provided by law.

SECTION 7. REVERTER

By the creation of this MSTBU, the University Landscaping Operating and Maintenance Special Improvement Unit, consisting of the effected properties within the Unit, shall be the responsible entity for the providing of the operations and maintenance landscaping within the boundaries of the Unit.

If the MSBU or MSTU created under the provisions of this Ordinance is ever terminated or ceased for any reason, the responsibility for the operations and maintenance of streetlights within the boundaries of the Unit shall revert automatically to the individual property owners within the University Landscaping Operating and Maintenance Special Improvement Unit in the same form and manner as existed prior to the creation of the MSBU or MSTU pursuant to this Ordinance.

SECTION 8. SEVERABILITY

The provisions of this ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any of the provisions of this ordinance shall be held unconstitutional by any court or competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this ordinance. It is hereby declared to be the legislative intent that this ordinance would have been adopted had such unconstitutional provision not been included therein.

SECTION 9. ALTERNATIVE OR SUPPLEMENTAL AUTHORITY

This ordinance shall not be construed as repealing or superseding any other ordinance or law and is to be construed as alternative or supplemental authority for the exercise of powers provided for herein.

SECTION 10. EFFECTIVE DATE

This Ordinance shall take effect upon filing in the Office of the Secretary of State, State of Florida.

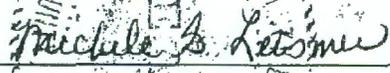
THE FOREGOING ORDINANCE was offered by Commissioner Judah who moved it to adoption. The motion was seconded by Commissioner St. Cerny and, upon being put to a vote, the vote was as follows:

DOUGLAS R. ST. CERNY	<u>Aye</u>
JOHN MANNING	<u>Absent</u>
RAY JUDAH	<u>Aye</u>
ANDREW COY	<u>Aye</u>
JOHN ALBION	<u>Aye</u>

DONE AND ADOPTED this 28th day of March, 2000.

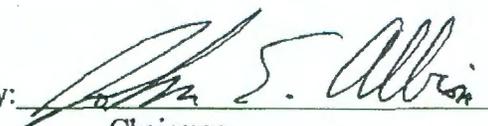
ATTEST:

CHARLIE GREEN, CLERK

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

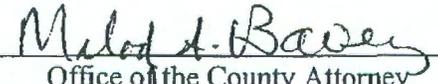


BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

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

Chairman

APPROVED AS TO FORM:

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

Office of the County Attorney

## EXHIBIT "A"

### LEGAL DESCRIPTION FOR THE UNIVERSITY OVERLAY MSBU

Area within 100 feet on both sides of the right-of-way on the following road segments; Ben Hill Griffin Road (formerly Treeline Boulevard) from Alico Road to Corkscrew Road; Alico Road from I-75 to Ben Hill Griffin Road; Corkscrew Road from I-75 to Ben Hill Griffin Parkway, and the future Koreshan Boulevard from I-75 to Ben Hill Griffin Parkway.

VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2016- \_\_\_\_\_

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, PROVIDING FOR AND APPROVING THE AUTHORITY OF THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH LEE COUNTY FOR THE CONTINUATION OF THE UNIVERSITY LANDSCAPING OPERATION AND MAINTENANCE SPECIAL IMPROVEMENT UNIT TO PROVIDE AN ENHANCED LEVEL OF LANDSCAPING ALONG CERTAIN PORTIONS OF CORKSCREW ROAD, ESTERO PARKWAY AND BEN HILL GRIFFIN PARKWAY WITHIN THE VILLAGE LIMITS; PROVIDING FOR A TERM AND AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Florida Statutes Chapter 125 the Board of County Commissioners of Lee County adopted County Ordinance Number 00-04 on March 28, 2000 ("*County's Ordinance*"), the terms of which are incorporated herein by reference, which ordinance created the non-ad valorem based municipal service benefit unit known as the University Landscaping Operation and Maintenance Special Improvement Unit ("*University Landscaping MSBU*"); and

**WHEREAS**, the University Landscaping MSBU was established for the purpose of installing and maintaining landscaping on certain portions of Corkscrew Road, Ben Hill Griffin Parkway and Estero Parkway, which landscaping would be over and above the County's "core level" of landscaping; and

**WHEREAS**, the Village was incorporated as the newest municipality in Lee County on December 31, 2014, with the a Village Council as the governing body; and

**WHEREAS**, as a result of the aforesaid incorporation of the Village, portions of County-owned and maintained Corkscrew Road, Ben Hill Griffin Parkway and Estero Parkway are now located within the boundary of the Village; and

**WHEREAS**, also as a result of the incorporation of the Village, Florida Statutes §125.01(q) requires the termination of that portion of University Landscaping MSBU now located within Estero, *unless* the Village Council consents by ordinance, either annually or for a term of years, to the continuation of the University Landscaping MSBU to the extent so located within the Village;

**WHEREAS**, the County and Village desire to accomplish the continued assessment for the installation and maintenance of landscaping and vegetation over and above the County's "core level" on those portions of Corkscrew Road, Ben Hill Griffin Parkway and Estero Parkway as may now be located within the incorporated boundary of the Village.

**NOW THEREFORE**, be it ordained by the Village Council of the Village of Estero, Florida:

**Section 1. Recitals**

The foregoing recitals are true and correct and incorporated herein by this reference.

**Section 2. Authority**

1. The Mayor of the Village of Estero is hereby authorized to execute an Interlocal Agreement between the Village and the County to facilitate the County's continuation in assessing the non-ad valorem assessment, collecting the same and administering the University Landscaping MSBU, a copy of which Interlocal Agreement is attached hereto and incorporated herein by reference.
2. The intended result of this Ordinance is the continued operation of the University Landscaping MSBU for those benefitted properties now located within the municipal boundary of the Village.
3. This Ordinance is adopted pursuant to the requirements of Florida Statutes §125.01(q), to consent to the continuation of the University Landscaping MSBU to the extent benefitted properties and certain roadways are located within the Village;

**Section 3. Term**

This Ordinance is adopted for a term of three years, commencing December 31, 2014, and running through and including December 31, 2017. Further, this Ordinance may be extended by a subsequent amendment and affirmative vote of the Village Council.

**Section 4. Effective Date**

This Ordinance shall become immediately effective upon its adoption by the Village Council.

**PASSED** on the first reading this \_\_\_\_ day of \_\_\_\_\_, 2016.

**PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2016.

Attest:

**VILLAGE OF ESTERO, FLORIDA**

BY: \_\_\_\_\_  
Kathy Hall, MMC, Village Clerk

BY: \_\_\_\_\_  
Nicholas Batos, Mayor

Reviewed for legal sufficiency:

BY: \_\_\_\_\_  
Burt Saunders, Esq., Village Attorney

Vote:	AYE	NAY
Mayor Batos	_____	_____
Vice Mayor Levitan	_____	_____
Councilmember Boesch	_____	_____
Councilmember Brown	_____	_____
Councilmember Errington	_____	_____
Councilmember Ribble	_____	_____
Councilmember Wilson	_____	_____