



# Brevard County Board of County Commissioners

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Legislation Text

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**File #:** 3683, **Version:** 1

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### **Subject:**

Approval Re: Right-of-Way Use Agreement for the Oak Forest at Melbourne Homeowners Association - District 5

### **Fiscal Impact:**

None

### **Dept/Office:**

Public Works Department/Finance and Contracts Administration

### **Requested Action:**

It is requested the Board of County Commissioners approve and authorize the Chair to execute the Right-of-Way Use Agreement with the Oak Forest at Melbourne Homeowners Association to permit improvements to be installed and maintained in the public right-of-way.

### **Summary Explanation and Background:**

In July 2021, construction of the John Rodes Boulevard Sidewalk project commenced. In conjunction with the sidewalk project, the County's construction contractor also repaired the existing irrigation and reestablished landscaping in the public right-of-way fronting the Oak Forest at Melbourne subdivision. The Association will be fully responsible for the irrigation and landscaping as acknowledged in the Right-of-Way Use Agreement. The Agreement also provides for the Association to install and maintain additional improvements in the public right-of-way between the western edge of pavement to the westerly right-of-way line of John Rodes Boulevard, fronting Tracts A and B of the Oak Forest at Melbourne subdivision. These improvements may consist of landscaping, signage, hardscape, irrigation, and other related improvements. The improvements will be submitted by the Association to the County as right-of-way permit applications, and issuance of the permits will be subject to approval by the County.

The County may allow the use of the public right-of-way for purposes which do not conflict with the interests of the public as set forth in Section 125.01, Florida Statutes. In accordance with the Agreement, the Association will be required to maintain, repair, and replace the permitted improvements without cost to the County. Additionally, the Association is required to provide general liability insurance in an amount not less than one million dollars and name the County as additional insured. The Right-of-Way Use Agreement was reviewed and approved by the County Attorney's Office, Risk Management, and Purchasing Services, in accordance with Administrative Order 29.

The initial term of this Agreement is twenty years commencing with the date of execution by the Board and will automatically renew annually unless terminated by either party with sixty days' written notice. Upon termination, the Association, at the request of the County, will remove all improvements from the rights-of-

way or the Association will reimburse the County for the cost of such removal. Furthermore, in the event of termination and the County assumes ownership of the improvements, the County does not assume maintenance responsibility unless expressly provided in writing.

**Clerk to the Board Instructions:**

Please return the fully executed Right-of-Way Use Agreement to the Public Works Department.