



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 1848, **Version:** 1

Subject:

Approval Re: Amended and Restated Right-of-Way Use Agreement with the Grand Haven Master Homeowners Association, Inc. - District 4

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 Amended and Restated Right-of-Way Use Agreement with the Grand Haven Master Homeowners Association, Inc. to permit improvements to be installed and maintained in the Grand Haven community.

Summary Explanation and Background:

On November 30, 2004, Brevard County and the Grand Haven Master Homeowners Association, Inc. (Association) entered into the Right-of-Way Use Agreement. The Designated Premises in that Agreement were not all inclusive of the public rights-of-way that the Association desires to install improvements. Furthermore, the Agreement limited the type of improvements to only landscaping and irrigation. As such, the County and the Association desire to enter into this Agreement to fully amend, restate, and supersede that certain Right of Way Use Agreement entered into by the County and the Association on November 30, 2004.

The Amended and Restated Right-of-Way Use Agreement updates the Designated Premises to include the applicable public rights-of-way, as depicted on Attachment A. Further, the Amended and Reinstated Agreement provides for the installation of improvements, which may consist of, but are not limited to, improvements for landscaping, signage, hardscape, irrigation, and/or other related improvements. The improvements shall be submitted by the Association as right-of-way permit applications, and issuance of the permits shall be subject to approval by the County.

In accordance with the Agreement, the Association shall 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 initial term of the Amended and Restated Agreement shall be twenty years commencing with the date of execution by the Board and shall automatically renew annually unless terminated by either party with sixty days' written notice. Upon termination, the Association, at the request of the County, shall remove all improvements from the rights-of-way or the Association shall 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.

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 Administrative Order 29, the Amended and Restated Right-of-Way Use Agreement for Grand Haven has been reviewed and approved by the County Attorney's Office and Risk Management. This Agreement will amend, restate, and supersede the Right-of-Way Use Agreement entered into by the County and the Association on November 30, 2004.

Clerk to the Board Instructions:

Please return the fully executed Amended and Restated Right-of-Way Use Agreement for Grand Haven to the Public Works Department.