

LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

BLUE SHEET NO: 20031429

1. REQUESTED MOTION:

**ACTION REQUESTED:** Approve Amendment No. 2 to the amended Interlocal Agreement (Lee Contract # 356) with Charlotte County for Solid Waste Collection and Disposal for Gasparilla Island providing for an extension of the term.

**WHY ACTION IS NECESSARY:** BOCC approval is necessary to extend the term of this Interlocal Agreement.

**WHAT ACTION ACCOMPLISHES:** This amendment extends the term of the Interlocal Agreement for approximately five years.

2. DEPARTMENTAL CATEGORY:  
COMMISSION DISTRICT #: 1

C8A

3. MEETING DATE:

12-16-2003

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER Agmt. Amendment

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER:
- B. DEPARTMENT: Lee County-Public Works
- C. DIVISION/SECTION: Solid Waste Division
- BY: Lindsey Sampson, Solid Waste Director

DATE:

11/25/03  
*Lindsey Sampson*

7. BACKGROUND:

On December 13, 1994, the Lee County BOCC entered into an Amended Interlocal Agreement with Charlotte County that provides for the collection and disposal of solid waste on Gasparilla Island.

On January 11, 2000, the BOCC approved Amendment 1 to the Amended Interlocal Agreement.

This Amendment No. 2 provides for an additional five and one-half year extension of this Agreement through September 30, 2009, at which time this Agreement shall expire unless a new agreement is entered into by the respective Boards of County Commissioners of both counties.

Attachments: 4 Originals

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL

A DEPARTMENT DIRECTOR	B PURCH. OR CONTRACTS	C HUMAN RESOURCES	D OTHER	E COUNTY ATTORNEY	F BUDGET SERVICES				G COUNTY MANAGER
					OA	OM	Risk	GC	
<i>[Signature]</i> 1-26-03	<i>[Signature]</i> 12-1-03			<i>[Signature]</i> 12/2/03	<i>[Signature]</i> 12/2/03	<i>[Signature]</i> 12/2/03	<i>[Signature]</i> 12/2/03	<i>[Signature]</i> 12-2-03	<i>[Signature]</i> 11-26-03

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty  
Date: 12/1/03  
Time: 4:30  
Forwarded To:  
Gly Admin  
12-2-03 8:45

RECEIVED BY  
COUNTY ADMIN: *[Signature]*  
12/2  
9:30  
COUNTY ADMIN  
FORWARDED TO:  
*[Signature]*  
12/2/03

**AMENDMENT 2 TO AMENDED INTERLOCAL AGREEMENT  
FOR SOLID WASTE COLLECTION AND DISPOSAL  
FROM GASPARILLA ISLAND, FLORIDA**

This Amendment 2 is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2003, by and between Lee County, a political subdivision of the State of Florida, and Charlotte County, also a political subdivision of the State of Florida.

WITNESSETH

WHEREAS, on December 13, 1994, the parties entered into an "Amended Interlocal Agreement for Solid Waste Collection and Disposal from Gasparilla Island, Florida," attached hereto as Exhibit "A" and incorporated herein by reference, which amended and restated a previous interlocal agreement entered into on June 27, 1990; and

WHEREAS, on November 22, 1999, the parties entered into "Amendment 1 to Amended Interlocal Agreement for Solid Waste Collection and Disposal from Gasparilla Island, Florida," extending the term of the 1994 Amended Interlocal Agreement until April 29, 2004; and

WHEREAS, the parties now wish to again extend the term of the 1994 Amended Interlocal Agreement as described below.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, Lee County and Charlotte County hereby agree as follows:

1. Paragraph 8. of the "Amended Interlocal Agreement for Solid Waste Collection and Disposal from Gasparilla Island, Florida," entered into by the parties on December 13, 1994, is hereby amended to read as follows:

8. The term of this agreement shall extend uninterrupted from the effective date as first indicated above through September 30, 2009, at which time this agreement shall expire unless a new agreement is entered into by the respective Boards of County Commissioners of both counties.

2. All other provisions of the "Amended Interlocal Agreement for Solid Waste Collection and Disposal from Gasparilla Island, Florida," dated December 13, 1994, shall remain in full force and effect.

(XREF AGR 90-42, 94-262; RES 94-12  
95015, 95-252, 961640A0)

LEE CO. CONTRACT NO. 0951232

Agreement No. 94-262

**AMENDED INTERLOCAL AGREEMENT  
FOR SOLID WASTE COLLECTION AND DISPOSAL  
FROM GASPARILLA ISLAND, FLORIDA**

THIS INTERLOCAL AGREEMENT is made and entered into this  
13<sup>th</sup> day of December, 1994, by and between Lee County, a  
political subdivision of the State of Florida, and Charlotte  
County, a political subdivision of the State of Florida.

**W I T N E S S E T H**

WHEREAS, because Gasparilla Island, Florida, lies  
partially within Lee County and partially within Charlotte County,  
Gasparilla Island poses unique problems for the disposal of solid  
waste collected from the Lee County portion of the Island; and

WHEREAS, Lee and Charlotte Counties have previously  
recognized the problems associated with the collection and disposal  
of solid waste from Gasparilla Island by prior resolutions and  
interlocal agreements; and

WHEREAS, Lee and Charlotte Counties find that it is more  
effective and cost efficient to allow the disposal of solid waste  
from the Lee County portion of Gasparilla Island at the Charlotte  
County Landfill; and

WHEREAS, it is the intent of Lee County to allow  
Charlotte County the receipt of the value and state credit for all  
recycled materials from the Lee County portion of Gasparilla  
Island; and

WHEREAS, it is the intent of Charlotte County to accept  
solid waste at the Charlotte County Landfill from Lee County as set  
forth herein; and

IMAGED  
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WHEREAS, it is the intent of both counties to adopt this Interlocal Agreement; and

WHEREAS, this Interlocal Agreement is authorized by the provisions of Chapters 125, 163 and 403, Florida Statutes; Lee County Solid Waste Management Act; Chapter 85-447, Laws of Florida; Lee County Ordinance 86-14, as amended; and the Charlotte County Code Chapter 4-4, as amended; and

WHEREAS, the parties previously entered into an Interlocal Agreement dated June 27, 1990, and now wish to enter into this Amended and Restated Interlocal Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, Lee County and Charlotte County hereby agree as follows:

1. Charlotte County shall permit and the Charlotte County Landfill shall accept solid waste from the Lee County portion of Gasparilla Island to be deposited into designated Charlotte County solid waste disposal facilities, except as otherwise stated herein.

2. Lee County, by and through its solid waste collection franchisee, shall have the right to deposit solid waste collected from the Lee County portion of Gasparilla Island into the Charlotte County Landfill. If Charlotte County subsequently establishes an alternate disposal facility, Lee County may choose to direct solid waste collected from the Lee County portion of Gasparilla Island to either the alternate Charlotte County disposal facility or to a Lee County disposal facility. If Lee County elects to dispose of solid waste from the Lee County portion of Gasparilla Island at Lee County disposal facilities, this

Interlocal Agreement shall be of no further force or effect and shall be deemed to be terminated.

3. Lee County shall pay directly to Charlotte County the appropriate Charlotte County solid waste disposal fees to include all surcharges for out-of-county users as amended from time to time during the term of this agreement by Charlotte County for the right to landfill its solid waste from the Lee County portion of Gasparilla Island at the Charlotte County disposal facility. The solid waste disposal tipping fees with surcharges shall be paid by Lee County to Charlotte County on a monthly basis, with payment due within thirty (30) business days of receipt of an invoice from Charlotte County.

4. Lee County, for its citizens residing in the Lee County portion of Gasparilla Island, shall recognize and adopt the adjustments to the solid waste collection and disposal rates and the level of service as set and adjusted by Charlotte County from time to time without need for amendments to this Interlocal Agreement. Said disposal rates shall be provided by Charlotte County to Lee County no later than July 1st of each year. Any solid waste collected from the Lee County portion of Gasparilla Island deposited at the Charlotte County Landfill by Lee County or its franchise hauler, shall meet all Charlotte County requirements for solid waste, including any Charlotte County requirements regarding separation of recycled or other materials from the solid waste stream generally. Charlotte County has the right to refuse any solid waste sought to be deposited by Lee County or any franchise hauler that does not meet Charlotte County's solid waste requirements, to include the franchise hauler for Lee County.

5. Charlotte County shall recognize Lee County's duly authorized franchisee for the collection and delivery, for disposal of solid waste from the Lee County portion of Gasparilla Island.

6. Lee County agrees that Charlotte County shall receive the value and state credit for all recycled materials collected from the Lee County portion of Gasparilla Island to any Charlotte County recycling program if and when implemented at any time during the term of this agreement whether such recycling program be in the form of a mandatory or a voluntary type of program.

7. Lee County agrees to indemnify and hold Charlotte County harmless from any administrative or legal claims for damages to persons or property brought by an individual or governmental entity, which are directly attributable to either the negligence or omissions of Lee County, its agents, franchisees or designees, with respect to the delivery of solid waste from the Lee County portion of Gasparilla Island, to the Charlotte County Landfill. Such indemnification is expressly meant to cover any damages resulting from the delivery of "hazardous waste," as defined in Section 403.703, Florida Statutes (1993), from the Lee County portion of Gasparilla Island by the Lee County Solid Waste Collection franchisee.

Charlotte County will have the burden of affirmatively demonstrating through substantial, competent and objective evidence, that the alleged damage was caused by hazardous waste (as defined) delivered from the Lee County portion of Gasparilla Island.

8. The term of this agreement shall extend uninterrupted from the effective date as first indicated above for a period of

five (5) years, at which time this agreement shall expire unless a new agreement is entered into by the respective Boards of County Commissioners of both counties.

9. This agreement may be terminated by either county, at its convenience, by giving the non-terminating county at least one hundred eighty (180) days' written notice prior to September 30th of any calendar year.

10. This agreement may be amended by the mutual acceptance of any amendments made in writing and signed by both counties. Such amendments shall be incorporated into the body of the original agreement and attached thereto. All provisions of the original agreement shall remain in full force and effect with the exception of the amending language, which shall control.

11. This agreement shall be controlled and interpreted according to the laws, rules and regulations of the State of Florida, Lee and Charlotte Counties.

12. This agreement, including any incorporated exhibits or amendments, constitutes the entire agreement between the parties and shall supersede and replace any and all prior agreements or understandings, either written or oral, relating to the matters herein.

13. Lee County Ordinance No. 86-14, as amended, and Charlotte County Code, Chapter 4-4, as amended, are hereby incorporated by reference into this Interlocal Agreement, in their entirety.

14. If any portion of this agreement shall be found to be invalid by any court of competent jurisdiction, such invalidity shall not extend to any other remaining portions of this agreement.

15. This agreement shall become effective upon the signing of the agreement by both counties and with the appropriate filing with the Clerk of each county.

16. This agreement may be executed in counterparts, with each agreement constituting a binding agreement between Lee County and Charlotte County, upon the acceptance and execution by the respective Board of County Commissioners of each county, as signified below.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

By Matthew D. DeBoer  
Matthew D. DeBoer, Chairman

12/13/94

ATTEST:  
Barbara A. Scott, Clerk of  
Circuit Court and Ex-Officio  
Clerk to the Board of County  
Commissioners

By Barbara A. Scott  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

Renee Francis Lee  
Renee Francis Lee  
County Attorney

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By John E. Allen  
Chairman

ATTEST:  
Charlie Green, Clerk of  
Circuit Court and Ex-Officio  
Clerk to the Board of County  
Commissioners

By Charlie Green  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

John E. Allen  
County Attorney

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