

CARRY OVER

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20070437

1. **ACTION REQUESTED/PURPOSE:** Approve the Interlocal Agreement between Lee County and the Iona McGregor Fire Protection and Rescue Service District for the construction and occupancy of the County's Pine Ridge Road Annex.
2. **FUNDING SOURCE:** No funding required.
3. **WHAT ACTION ACCOMPLISHES:** Provides the terms and conditions for partnering with the fire district on the design, construction, and occupancy of the facilities located at the Pine Ridge Road Annex.
4. **MANAGEMENT RECOMMENDATION:** Approve.

5. Departmental Category: 02

CO # 1

6. Meeting Date: 4/24/07

7. Agenda:

- Consent
- Administrative
- Appeals
- Public
- Walk-On

8. Requirement/Purpose: (specify)

- Statute
- Ordinance
- Admin. Code
- Other

9. Request Initiated:

Commissioner _____
Department Construction & Design
Division _____
By: Jim Lavender, Director

10. **Background:** An annex is being developed on County owned land on Pine Ridge Road. The site is intended to house the Sheriff, Tax Collector, EMS, and the Iona McGregor Fire District. The Fire District is in need of an additional fire station. The Fire District and EMS intend to jointly occupy the Fire Station. The County and Fire District intend to jointly fund design, construction, and site related improvements. Subsequently the Fire District will reside on the Annex site under a long term lease with the County.

Attachment: Interlocal Agreement

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<i>Stamler</i> 3-28-07	NA	NA		<i>Madrea</i> <i>Frank</i>	Analyst <i>CA</i> 3/26/07	Risk <i>WR</i> 3/26/07	Grants <i>Sp</i> 3/26/07	Mgr. <i>WR</i> 3/26/07	<i>Stamler</i> 3-28-07

12. Commission Action:

- Approved
- Deferred
- Denied
- Other on 4-17-07 Continue in wk to 4-24-07 - M/B

RECEIVED BY COUNTY ADMIN: 3/26/07 9:20
" 9:30 C.A.
COUNTY ADMIN FORWARDED TO: <i>JK</i> 3/24/07
4-24-07

Rec. by CoAtty
Date: 3/23/07
Time: 2:10 pm
Forwarded To:
3/26/07

**INTERLOCAL AGREEMENT
BETWEEN LEE COUNTY AND THE IONA MCGREGOR FIRE PROTECTION AND
RESCUE SERVICE DISTRICT
FOR THE CONSTRUCTION AND OCCUPANCY
OF THE COUNTY'S PINE RIDGE ROAD ANNEX**

THIS INTERLOCAL AGREEMENT made this 17th day of April, 2007, by and between **LEE COUNTY**, a political subdivision and charter county of the State of Florida ("COUNTY"), and the **IONA MCGREGOR FIRE PROTECTION AND RESCUE SERVICE DISTRICT**, an Independent Special Purpose Taxing District as described in 97-340, Laws of Florida ("FIRE DISTRICT"), collectively, the "Parties" hereto, for the development and the Fire District's partial occupancy of the new County Annex at Pine Ridge Road located at 15650 Pine Ridge Road, Fort Myers, Florida 33908 ("Annex").

The Annex is being proposed by the Parties and by other government agencies as a government agency complex which may contain multiple government agencies, including but not limited to the Parties hereto, the Lee County Sheriff's Department and the Lee County Tax Collector.

The Parties propose the development of a jointly used one-story structure, that includes offices, apparatus bays, living quarters, meeting rooms and storage with the approximate total building footprint for the FIRE DISTRICT not to exceed fifteen thousand (15,000) square feet.

Upon completion of construction, the above referenced one-story structure will be jointly used by the Parties and will be referred to as the FIRE/EMS Structure. The COUNTY will fund construction costs up to FOUR MILLION FIVE HUNDRED THOUSAND and 00/100 DOLLARS (\$4,500,000) for the FIRE/EMS Structure and

related site improvements to be owned by the COUNTY and built on County-owned property, and the FIRE DISTRICT will fund construction costs up to TWO MILLION TWO HUNDRED FIFTY THOUSAND and 00/100 DOLLARS (\$2,250,000) of the FIRE/EMS Structure and related site improvements. Upon completion of construction of the FIRE/EMS Structure and related site improvements, the FIRE DISTRICT agrees to transfer all ownership of the FIRE/EMS Structure and related site improvements to the County. The COUNTY agrees to lease to the FIRE DISTRICT for a term of ninety-nine (99) years, approximately fifteen thousand (15,000) square feet of space in the FIRE/EMS Structure and an appropriate part of the site related improvements that are necessary for housing of the FIRE DISTRICT'S personnel, vehicles and equipment. The space being leased to the FIRE DISTRICT is the area designated as the "Fire District Area" on the FIRE/EMS Structure floor plan, together with the use of the related site improvements as described.

WITNESSETH:

WHEREAS, the COUNTY desires to develop a County Annex on County-owned land to house, among other uses, Emergency Medical Services (EMS) and the FIRE DISTRICT in a jointly occupied FIRE/EMS Structure in order to respond more efficiently and effectively to the County's growth; and

WHEREAS, the FIRE DISTRICT desires to build an additional fifth Fire Station to respond in a more efficient manner to the public's health, welfare and safety demands; and

WHEREAS, the COUNTY and the FIRE DISTRICT agree to jointly fund construction costs for the new FIRE/EMS Structure and related site improvements at

the County Annex to be located at 15650 Pine Ridge Road, Fort Myers, Florida; and

WHEREAS, upon completion of the FIRE/EMS Structure at the County Annex: and in consideration of the FIRE DISTRICT'S contribution to construction of said FIRE/EMS Structure at the County Annex, the COUNTY agrees to lease to the FIRE DISTRICT for a term of ninety-nine (99) years approximately fifteen thousand (15,000) square feet, in the FIRE/EMS Structure for the FIRE DISTRICT'S use in housing fire personnel, vehicles and equipment and for other FIRE DISTRICT uses in the area designated as the "Fire District Area" on the FIRE/EMS Structure floor plan and related site improvements; and

WHEREAS, in order for the Parties to better coordinate and accommodate each other's needs with respect to the construction and configuring of the FIRE/EMS Structure and the other County Annex improvements, the Parties desire to enter into this Interlocal Agreement prior to the construction of and the effective date of a lease for the FIRE DISTRICT'S occupancy of a portion of the FIRE/EMS Structure and related site improvements; and

WHEREAS, the Parties acknowledge and agree that the COUNTY may enter into other Interlocal Agreements with other government agencies to construct other structures on the County Annex property as long as said other uses do not interfere with the FIRE DISTRICT'S access to and occupancy of the FIRE DISTRICT'S leased portion of the FIRE/EMS Structure and related site improvements; and

WHEREAS, pursuant to Florida law, both Parties possess the legal authority to enter into this Interlocal Agreement, the concept and execution of which serves a public purpose and is to the benefit of the citizens of both Parties.

NOW THEREFORE, based upon the above premises and in consideration of the mutual terms, conditions and promises as set out further herein, the sufficiency of which are acknowledged, the Parties agree as follows:

SECTION I **RECITALS**

The Recitals as set forth above are incorporated into the terms of this Interlocal Agreement as if set out herein at length.

SECTION II **DESIGN AND CONSTRUCTION OF THE FIRE/EMS STRUCTURE**

- A. The COUNTY and FIRE DISTRICT agree to cooperate on the design and construction of the FIRE/EMS Structure and related site improvements which will be designed to house County Emergency Medical Services (EMS) personnel and equipment and FIRE DISTRICT personnel and equipment.
- B. The FIRE DISTRICT has hired the architectural firm responsible for drafting and designing the Annex, including the FIRE/EMS Structure. The COUNTY will have the right to grant or withhold final approval of the design and documentation of the Annex site improvements and the FIRE/EMS Structure prepared by the architect. The cost of the architect will be prorated between the FIRE DISTRICT and COUNTY based on the proportionate share of the FIRE/EMS Structure and related site improvements used by each Party. The COUNTY will pay the cost of the architect for the remainder of the Annex property improvements not related to the FIRE/EMS Structure. The FIRE DISTRICT has already contracted with the architectural firm of Gora-McGahey to provide the

architectural services for the project and the COUNTY has had an opportunity to review the contract with Gora-McGahey and approves same.

- C. The COUNTY agrees to obtain all necessary permits and approvals to design and construct the Annex at its sole cost and expense; to include clearing of the proposed site, along with the removal and site remediation of any underground appurtenances.
- D. The COUNTY shall hire the construction manager and all construction work to be performed related to the Annex, including the construction of the FIRE/EMS Structure that is being shared by the COUNTY and the FIRE DISTRICT. The FIRE DISTRICT shall have the right to provide input into the selection of the contractor and subcontractors for the construction of the FIRE/EMS Structure and related site improvements. The FIRE DISTRICT will not participate in the selection of the contractor and subcontractors for the construction of any other structures or site related improvements in the Annex except for the FIRE/EMS Structure and related site improvements. The COUNTY and the FIRE DISTRICT shall have full and equal access to all documentation related to the construction of the FIRE/EMS Structure and related site improvements throughout the construction project, including documentation related to all financial matters and costs of the construction project.
- E. The Parties certify that the FIRE/EMS Structure and related site improvements will meet all state and federal requirements for access, to

include Americans with Disabilities Act (ADA).

- F. The COUNTY and the FIRE DISTRICT agree that the choice of Construction Manager for the FIRE/EMS Structure and related site improvements which are part of the Annex shall be made pursuant to the COUNTY'S Construction Manager selection process. The FIRE DISTRICT shall have the right to provide input into the selection of the Construction Manager and shall have the right to participate in the final selection of the Construction Manager unless the Parties agree to use COUNTY employees as the Construction Manager.
- G. The COUNTY agrees to pay its proportionate share of the cost of the construction of the FIRE/EMS Structure and related site improvements, said COUNTY proportion being the ratio of the FIRE/EMS Structure square footage used by the COUNTY in comparison to the total FIRE/EMS Structure square footage.
- H. The FIRE DISTRICT agrees to pay its proportionate share of the cost of the construction of the FIRE/EMS Structure and related site improvements, said FIRE DISTRICT proportion being the ratio of the FIRE/EMS Structure square footage used by the FIRE DISTRICT in comparison to the total FIRE/EMS Structure square footage.
- I. The Parties agree that the cost of the construction of the FIRE/EMS Structure will include the cost of the directly related site improvements for the FIRE/EMS Structure and a cost factor for the Annex site improvements which are necessary for the development of the Annex site.

J. The Parties shall agree in writing, as an Amendment to this Agreement, on the FIRE/EMS Structure square footage construction cost being paid by the FIRE DISTRICT which shall include a cost element to reflect the FIRE DISTRICT'S share of the site development costs of the Annex site. In addition, the Amendment to this Agreement shall reflect the ratio of the FIRE/EMS Structure square footage being used by the County and by the FIRE DISTRICT in comparison to the total FIRE/EMS Structure square footage. Finally, the above referenced Amendment to this Agreement shall describe the total cost of the construction of the FIRE/EMS Structure that will be paid by the FIRE DISTRICT so that the FIRE DISTRICT'S payment of its proportionate share of the cost of the construction of the FIRE/EMS Structure and related site improvements will be clearly stated in the above referenced Amendment to this Agreement. This Amendment will be entered into between the Parties within sixty (60) days of the County receiving the final construction price for the FIRE/EMS Structure. In the event the Parties cannot agree on a square footage construction cost to be paid by the FIRE DISTRICT, either party can unilaterally cancel the parts of this Agreement which provides for the joint use of the FIRE/EMS Structure by the Parties so that the FIRE DISTRICT will not participate in the construction or use of the FIRE/EMS Structure. If either party unilaterally cancels this Agreement as described above, the County can proceed with the development of the Annex site without the further participation of the FIRE DISTRICT and the County will be responsible for

all costs related to the development of the Annex site, including all construction costs, all site development costs and all costs of the architectural firm hired by the FIRE DISTRICT related to the development of the Annex site.

- K. The Parties agree that the FIRE DISTRICT can hire its own Construction Manager to monitor the construction of the FIRE/EMS Structure and related site improvements for the purpose of reporting to the FIRE DISTRICT on the status of said construction.

SECTION III **LEASE/USE OF COMPLETED FIRE/EMS STRUCTURE**

- A. The Parties estimate that the FIRE/EMS Structure and related site improvements will be completed and ready for occupancy, as evidenced by a Certificate of Occupancy (C.O.), on or about November 2009. The effective date of the ninety-nine (99) year lease between the COUNTY and the FIRE DISTRICT for the FIRE DISTRICT'S lease of a portion of the FIRE/EMS Structure and related site improvements will begin within thirty (30) days of the issuance of the C.O. for the FIRE/EMS Structure. The form of said Lease has been agreed upon and is hereby attached; and will be executed upon issuance of the C.O.
- B. The COUNTY agrees to perform all routine preventative maintenance on the FIRE/EMS Structure to include the roofing, HVAC, plumbing and electrical services and any equipment not specifically used for the operation of the FIRE DISTRICT'S equipment and improvements to the FIRE/EMS Structure and the Lease between the Parties will specifically

provide for said maintenance. The FIRE DISTRICT agrees to pay its proportionate share of the cost of routine maintenance to the FIRE/EMS Structure and related site improvements which represent maintenance of the portion of the FIRE/EMS Structure and related site improvements that are being leased by the FIRE DISTRICT from the County and the above referenced lease between the Parties will provide for same.

- C. Upon completion of the FIRE/EMS Structure, any and all modifications to or maintenance of the FIRE/EMS Structure and related site improvements by the FIRE DISTRICT will only be done by or with the prior written approval of Lee County Facilities Management. Modifications to the FIRE/EMS Structure that are requested and deemed specific to the operation of the FIRE DISTRICT will be either performed by the FIRE DISTRICT through the FIRE DISTRICT'S contractor at the FIRE DISTRICT'S sole cost and with permission of the COUNTY, or upon agreement of the Parties, the modifications can be made by the COUNTY at the FIRE DISTRICT'S sole expense. Nothing herein shall prevent the FIRE DISTRICT from modifying the FIRE DISTRICT'S interior space without COUNTY approval as long as the modification does not constitute a structural modification of the FIRE/EMS Structure. All modifications made by the DISTRICT shall be paid for in full by the FIRE DISTRICT.

SECTION IV **MISCELLANEOUS PROVISIONS**

- A. The provisions of this Interlocal Agreement shall be construed so as to affect the purposes as stated herein. The obligations conferred by the

provisions of this Interlocal Agreement shall be supplemental to the powers conferred upon the Parties by other general, special or local law.

- B. This Interlocal Agreement shall terminate upon issuance of the Certificate of Occupancy (C.O.), execution of the Lease Agreement, and payment of all financial obligations of the project by both Parties.

SECTION V **NOTICES**

Any notices or other documents permitted or required to be delivered pursuant to this Interlocal Agreement shall be delivered to the COUNTY, at the Offices of the County Manager and County Attorney, and to the FIRE DISTRICT, at the Offices of the Chief and Fire District Attorney.

SECTION VI **AMENDMENT**

This Interlocal Agreement may only be amended in writing and only upon being duly executed by the FIRE DISTRICT and the COUNTY with the same formalities as this Agreement.

SECTION VII **CONSTRUCTION/VENUE**

This Interlocal Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue of any legal proceeding shall be Fort Myers, Lee County, Florida.

SECTION VIII **DEFAULT**

In addition to all other remedies allowed by law upon a default of a Party, if the FIRE DISTRICT or the COUNTY shall fail to perform or observe any of the material terms or conditions of this Interlocal Agreement applicable to either the FIRE DISTRICT or the COUNTY for a period of thirty (30) days after receipt of written notice of such

default from the other Party, the non-defaulting Party may be entitled to terminate this Interlocal Agreement or, in the alternative, to enforce the terms of this Agreement by specific performance. Nothing in this Interlocal Agreement shall be construed to create a cause of action for consequential damages for delay. Failure by either Party to exercise its rights in the event of any breach by another Party shall not constitute a waiver of such rights. No Party shall be deemed to have waived any failure to perform by another Party unless such waiver is in writing and signed by the waiving Party. Such waiver shall be limited to the terms specifically contained in the written waiver and shall not affect any other rights as provided for herein.

SECTION IX **SEVERABILITY**

If any provision of this Interlocal Agreement is held invalid by a court of competent jurisdiction, the remainder of the Interlocal Agreement shall not be affected thereby, and all other parts of this Interlocal Agreement shall nevertheless remain in full force and effect.

SECTION X **LIABILITY**

Each Party agrees to indemnify, defend and hold the other Party harmless from any and all claims, suits, judgments, damages, losses and expenses, including court costs, expert witness and professional consultation services, and attorneys' fees arising out of any errors, omissions, and/or negligence of each Party, its employees, agents or representatives. Neither Party shall be liable to, nor be required to indemnify the other Party for any damages arising out of any error, omission, and/or negligence of the other Party, its employees, agents or representatives. This Section shall not be interpreted to be a waiver of sovereign immunity by the FIRE DISTRICT or the COUNTY.


SECTION XII FILING

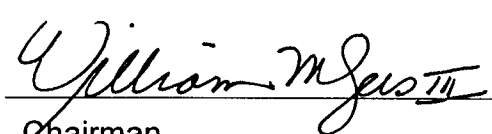
This Interlocal Agreement and any subsequent amendments hereto shall be filed with the Lee County Clerk of the Circuit Court, Minutes Department.

IN WITNESS WHEREOF, the Parties have set their hands and seals on the day, month and year first written above.

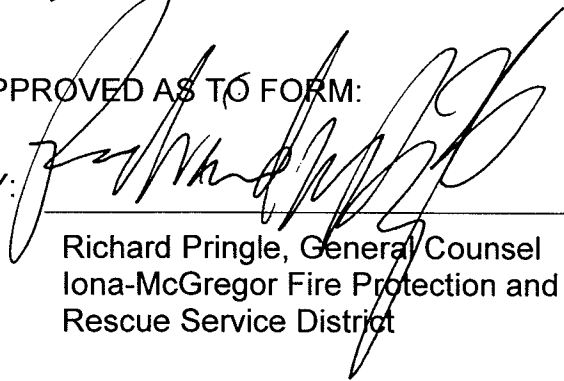
ATTEST:

IONA-McGREGOR FIRE PROTECTION
AND RESCUE SERVICE DISTRICT

BY: 
Secretary

BY: 
Chairman

APPROVED AS TO FORM:

BY: 
Richard Pringle, General Counsel
Iona-McGregor Fire Protection and
Rescue Service District

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Robert P. Janes, Chair

APPROVED AS TO FORM:

BY: _____
Office of the County Attorney

**BOARD OF COUNTY COMMISSIONERS
WALK ON AGENDA ITEMS
MEETING DATE: April 24, 2007**

WO #

DESCRIPTION

WO #1

ACTION REQUESTED/PURPOSE:

Ceremonial Resolution Recognizing the FGCU Women's Basketball Team

REASON FOR WALK ON:

This date allows for recognition of the team before semester end and before the students return home for the summer. (#20070651 – County Commission)

**BOARD: BIGELOW JUDAH MANN JANES HALL
COMMISSION RECEPTION DESK
DONALD STILWELL, COUNTY MANAGER
BILL HAMMOND, DEPUTY COUNTY MANAGER
HOLLY SCHWARTZ, ASSISTANT COUNTY MANAGER
PETE WINTON, ASSISTANT COUNTY MANAGER**

**DINAH LEWIS, ADMINISTRATIVE SERVICES
DAVID M. OWEN, COUNTY ATTORNEY
JIM LAVENDER, PUBLIC WORKS
LISA PIERCE, MINUTES DEPT
PUBLIC RESOURCES OFFICE**

DATE AND TIME DISTRIBUTED: 04-19-07 11:00 AM

Distributed by: Molly Schweers
Division of Public Resources
335-2215