

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20061486

1. ACTION REQUESTED/PURPOSE:

Approve the Sixth Joint Supplemental Interlocal Agreement between Lee County and the City of Bonita Springs under its Master Transportation Agreement for the Bonita Beach Road, Phase 2 Project. Also, approve a budget amendment resolution for project #205720, Bonita Beach Road in the amount of \$3,300,000 and amend the FY 06/07-10/11 CIP accordingly.

2. WHAT ACTION ACCOMPLISHES:

Allows County to enter into Interlocal Agreement with the City of Bonita Springs to specify that the City of Bonita Springs will contribute \$3,300,000 from the additional 50% over and above impact fees paid by the three developments on the east end of Bonita Beach Road toward the right-of-way acquisition phase of Bonita Beach Road Phase

3. MANAGEMENT RECOMMENDATION: Approve interlocal agreement.

4. Departmental Category: 09

C9A

5. Meeting Date: JAN 09 2007

6. Agenda:

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

7. Requirement/Purpose: (specify)

- Statute
- Ordinance
- Admin. Code
- Other

8. Request Initiated:

Commissioner _____
 Department Transportation
 Division _____
 By: Scott M. Gilbertson, Director

Background:

Under this Sixth Supplemental Agreement to the Master Transportation Agreement, the City will provide to the County a portion of cash contributions over and above impact fees paid by the three projects at the east end of Bonita Beach Road known as "East Bonita Active Adult", "Beach Road Estates" and "Bonita Beach Road Golf Community" for a total of \$3,300,000.00. The County will match the funds provided by the City with \$3,300,000 in ad valorem funds and apply them toward the right-of-way acquisition phase for the six-laning improvements to Bonita Beach Road from Old 41 to west of Imperial Street. The County will be responsible for the right-of-way negotiations and acquisition for Bonita Beach Road Phase 2. The City approved this agreement on October 4, 2006.

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
Scott M. Gilbertson Amelia H. Davis Date: 12-14-06				<i>[Signature]</i> 12/17/06	Analyst <i>[Signature]</i> 12-20-06	Risk <i>[Signature]</i> 12-20-06	Grants <i>[Signature]</i> 12-20-06	Mgr. <i>[Signature]</i> 12/20/06	<i>[Signature]</i> 12.14.06

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
 COUNTY ADMIN:
 12/19 2:30 PM
 COUNTY ADMIN
 FORWARDED TO:
 12/20 3pm
 PR

Rec. by CoAtty
 Date: 1/9/07
 Time: 11:33 AM
 Forwarded To:
 CAD 1:40

RESOLUTION

Amending the Budget of Transportation Capital Improvements-Bonita Beach Rd Phase II - Fund 30713 to incorporate the unanticipated receipts into Estimated Revenues and Appropriations for the fiscal year 2006-2007.

WHEREAS, in compliance with the Florida Statutes 129.06(2), it is the desire of the Board of County Commissioners of Lee County, Florida, to amend the Transportation Capital Improvements-Bonita Beach Rd Phase II-Fund 30713 budget for \$3,300,000 of the unanticipated revenue from City of Bonita Springs and an appropriation of a like amount for construction costs and;

WHEREAS, the Transportation Capital Improvements-Bonita Beach Rd Phase II-Fund 30713 budget shall be amended to include the following amounts which were previously not included.

ESTIMATED REVENUES

Prior Total:		\$0
Additions		
20572030713.337700.9006	Bonita Beach Interlocal	3,300,000
Amended Total Estimated Revenues		\$3,300,000

APPROPRIATIONS

Prior Total:		\$0
Additions		
20572030713.506540	Improvements Construction	3,300,000
Amended Total Appropriations		\$3,300,000

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, Florida, that the Transportation Capital Improvements-Bonita Beach Rd Phase II-Fund 30713 budget is hereby amended to show the above additions to its Estimated Revenue and Appropriation accounts.

Duly voted upon and adopted in Chambers at a regular Public Hearing by the Board of County Commissioners on this ____ day of _____, 2007.

ATTEST:
CHARLIE GREEN, EX-OFFICIO CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: _____
DEPUTY CLERK

CHAIRMAN

APPROVED AS TO FORM

OFFICE OF COUNTY ATTORNEY

DOC TYPE YA
LEDGER TYPE BA

**JOINT SUPPLEMENTAL INTERLOCAL AGREEMENT
BETWEEN LEE COUNTY AND THE CITY OF BONITA SPRINGS
UNDER ITS MASTER TRANSPORTATION AGREEMENT:
BONITA BEACH ROAD PHASE 2**

This **SIXTH JOINT SUPPLEMENTAL INTERLOCAL AGREEMENT**, is made and entered into this _____ day of _____, 2006 by and between Lee County, a political subdivision charter county of the State of Florida, hereinafter referred to as "COUNTY", and the City of Bonita Springs, a municipal corporation in the State of Florida, hereinafter referred to as "CITY".

WHEREAS, the respective governing bodies for Bonita Springs and Lee County executed a Master Transportation System Agreement dated September 19, 2000 and updated January 31, 2006, to jointly establish a Five-Year Road Improvement Plan requiring resources of both the County and the City; and

WHEREAS, the Agreement contemplates the use of Supplemental Agreements to the said Master Interlocal Agreement for different stages of road work in Bonita Springs, the first being the Livingston/Imperial connection, four-lane extension from Collier County line to Bonita Beach Road; and

WHEREAS, the Second Supplemental Agreement addressed the four laning of Imperial Street as a collector road from Bonita Beach Road to East Terry Street; and

WHEREAS, the Third Supplemental Agreement involved the widening of Bonita Beach Road between Imperial Street and I-75 and resurfacing between Vanderbilt Drive and Imperial Street; and

WHEREAS, the Fourth Supplemental Agreement addressed the construction of the Three Oaks Parkway Extension South from East Terry Street to The Brooks; and

WHEREAS, the Fifth Supplemental Agreement addressed the City payment of outstanding debt service for a County bond to improve East Terry Street; and

WHEREAS, the CITY on May 18, 2005 approved execution of three development agreements for the three projects that will be developing on Sections 1 and 2, T 48 S, R 26 E at the east end of Bonita Beach Road. Besides paying road impact fees, those agreements require the developer to pay an additional contribution equal to 50% of the road impact fees in effect at the time of rezoning, expected to total \$5,929,700.00. The developer is also obligated to begin the four-laning of Bonita Beach Road from Bonita Grande Drive to the Logan Boulevard Extension within two years of his rezoning approvals, and can only claim a maximum of \$4.8 million in road

BSC-06-10-218

DATE: October 4, 2006

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impact fee credits for the cost of design, right-of-way acquisition, and construction, even though the actual costs are expected to be higher.

WHEREAS, the COUNTY currently has the design and permitting phase underway for the six-laning of Bonita Beach Road from Old 41 to west of Imperial Street (aka, Bonita Beach Road Phase 2), and on August 22, 2006, committed \$3,300,000.00 in surplus general fund revenue in FY 2006/07 toward the right-of-way acquisition phase, but does not have funds programmed within its five-year capital improvement program for the remainder of the right-of-way acquisition phase and the construction phases; and

WHEREAS, the Parties desire to enter into a Sixth Supplemental Agreement to the said Master Interlocal Agreement, to specify that the CITY will contribute the additional 50% over and above impact fees paid by the three developments on the east end of Bonita Beach Road toward the right-of-way acquisition phase of Bonita Beach Road Phase 2.

NOW THEREFORE, in consideration of the above premises and other good and other valuable consideration, the receipt of which is hereby acknowledged, and further consideration of the mutual covenants hereinafter contained, it is agreed by the Parties as follows:

1. The CITY agrees to provide to the COUNTY a portion of the cash contributions over and above impact fees paid by the three projects at the east end of Bonita Beach Road known as "East Bonita Active Adult", "Beach Road Estates", and "Bonita Beach Road Golf Community", for a total of \$3,300,000.00. Any such funds collected from these three projects shall be forwarded to the County on or before October 31, 2006, or thirty (30) days from the date of approval by the Lee County Board of County Commissioners, whichever is later.
2. The COUNTY agrees to apply all funds provided by the CITY under subparagraph (1) toward the right-of-way acquisition phase for the six-lane improvements to Bonita Beach Road from Old 41 to west of Imperial Street. The COUNTY will use best efforts in proceeding immediately, so as to minimize the risk of property values increasing to the extent where the project is cost prohibitive. Should the right-of-way acquisition phase ultimately cost less than the total funds provided by the CITY and the COUNTY, the CITY will determine in writing to the COUNTY the disposition of the remaining funds, from among the following options:
 - A) Apply the remaining money to the construction phase for Bonita Beach Road Phase 2; or

- B) Apply the remaining money to the design/permitting phase for the six-laning of Bonita Beach Road between US 41 and Old 41; or
 - C) Refund the remaining money to the CITY.
3. The COUNTY will undertake and be responsible for the right-of-way negotiations and acquisition for Bonita Beach Road Phase 2, with all work to be done in accordance with the COUNTY's standards and procedures, subject to the availability of the funds identified in subparagraph (1) above. All land acquisition proposals will be provided to the City Manager for review and sign-off prior to any proposal being approved by the Board of County Commissioners.
 4. The COUNTY will strive to program funds for future phases of Bonita Beach Road in future updates of its five-year capital improvement program, subject to competing needs and available revenues.
 5. Neither Lee County nor the City of Bonita Springs will be responsible for any claims, liabilities, lawsuits, or causes of action arising out of the other party, its contractors, agents, or representatives. This Agreement is Supplemental to the Master Transportation System Agreement referenced above. However, this Agreement constitutes the entire understanding between the parties, and other than the Master Transportation System Agreement, any previous Agreements on the subject matter of this Agreement, whether written or oral, is superceded by this Agreement to the extent of any conflict.
 6. This Agreement may be amended only by the concurrence of both parties and executed with the same formalities as this original Agreement.
 7. All of the remaining terms in the Master Transportation System Agreement dated September 19, 2000 as updated January 31, 2006, remain as written, and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers and their official seals affixed hereto, on the day and year as first written above.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairwoman

DATE: October 4, 2006

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APPROVED AS TO LEGAL FORM

By: _____
Lee County Attorneys Office

Attest:

CITY OF BONITA SPRINGS

By: Debra Muchler
Deputy City Clerk

By: Jan Arnold
Mayor

APPROVED AS TO LEGAL FORM:

By: [Signature]
City Attorney

DATE: October 4, 2006

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