

Agenda Item Summary

1. ACTION REQUESTED/PURPOSE: Approve an Updated Master Transportation System Agreement between Lee County and the City of Bonita Springs for financing, planning, design, construction & operation of the road system within the Bonita Springs area.

2. WHAT ACTION ACCOMPLISHES: Updates and extends the umbrella agreement that governs the related joint supplemental interlocal agreements specifying each party's responsibilities regarding projects on Three Oaks Parkway, Imperial Street, Livingston Road, Bonita Beach Road and East Terry Street.

3. MANAGEMENT RECOMMENDATION: Approve updated agreement.

4. Departmental Category: 9 C9D		5. Meeting Date: 01-31-2006
6. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify)	
	<input type="checkbox"/> Statute	
	<input type="checkbox"/> Ordinance	
	<input type="checkbox"/> Admin. Code	
	<input checked="" type="checkbox"/> Other	
		8. Request Initiated: Commissioner _____ Department <u>Transportation</u> Division _____ By: <u>Scott M. Gilbertson</u> Director

9. Background:
 The County and the City first entered this Master Transportation System Agreement in September 2000, to jointly establish a five-year Transportation Capital Improvement Program requiring the resources of both jurisdictions. That initial agreement contemplated the use of joint supplemental interlocal agreements to deal with the shared expectations of specific projects in more detail, and to date five joint supplemental interlocal agreements have been executed and are still in effect. The Master Agreement expired on October 1, 2005, and it is necessary to update the agreement and extend it another three years to complete the obligations of the current supplemental agreements. The City Council is scheduled to consider the updated agreement (attached) at its January 18, 2006 meeting.

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>S. Gilbertson</i> S. Gilbertson Date 1/18/06	<i>[Signature]</i>	NA		<i>[Signature]</i> 1/18/06	<i>[Signature]</i> 1/18/06	<i>[Signature]</i> 1-19-06	<i>[Signature]</i> 1/19/06	<i>[Signature]</i> 1/19/06	<i>[Signature]</i> J. Lavender Date 1-18-06

11. Commission Action:

Approved
 Deferred
 Denied
 Other

RECEIVED BY COUNTY ADMIN: *[Signature]*
 COUNTY ADMIN FORWARDED TO: *[Signature]*

Rec. by CoAtty
 Date: 1/18/06
 Time: 3:40pm
 Forwarded To: C. Mar.
 1-18-06

**UPDATED MASTER TRANSPORTATION SYSTEM AGREEMENT
BETWEEN LEE COUNTY AND BONITA SPRINGS FOR
FINANCING, PLANNING, DESIGN, CONSTRUCTION & OPERATION
OF THE ROAD SYSTEM WITHIN THE
BONITA SPRINGS AREA**

THIS AGREEMENT is made and entered into this ___ day of _____, 2005, by and between **LEE COUNTY**, a political subdivision and charter county of the State of Florida, hereinafter referred to as "COUNTY", and the **CITY OF BONITA SPRINGS**, a Florida municipal corporation, hereinafter referred to as "CITY", collectively, the "PARTIES" hereto.

WHEREAS, the respective governing bodies for Bonita Springs and Lee County executed a Master Transportation System Agreement dated September 19, 2000, to jointly establish a Five-Year Transportation Capital Improvement Program requiring resources of both the COUNTY and the CITY; and

WHEREAS, the Master Transportation System Agreement expired on October 1, 2005 and the PARTIES find it necessary to extend and update this agreement to complete the obligations of the current Joint Supplemental Interlocal Agreements and add additional supplemental agreements; and

WHEREAS, this updated agreement supersedes the September 19, 2000 Master Transportation System Agreement; and

WHEREAS, the Master Transportation System Agreement contemplated the use of Joint Supplemental Interlocal Agreements to provide the specific details and funding responsibilities for each individual road project within the Bonita Springs area; and

WHEREAS, through the first five years of the Master Transportation System Agreement, five Joint Supplemental Interlocal Agreements were executed by the PARTIES, the first related to the Livingston/Imperial Connection, a four-lane extension from the Collier County line to Bonita Beach Road

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, which was expanded through an addendum related to signalization of the Bonita Beach Road/Downs Drive intersection; 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 specified the CITY's commitment to pay the debt service for that portion of the Series 1993 Road Improvement Bond (as refinanced in 2003) used to improve East Terry Street, beginning in FY 2005-2006 and for the three remaining years through payoff in FY 2008-2009; and

WHEREAS, most of the projects governed by the Joint Supplemental Interlocal Agreements are not yet completed and the agreements remain in effect; and

WHEREAS, the PARTIES contemplate at least one additional Supplemental Agreement related to the CITY contributing funding toward widening other sections of Bonita Beach Road; and

WHEREAS, the PARTIES wish to continue the joint participation goals established in the initial Master Transportation System Agreement, as revised and restated below:

Goal One: Identify road improvements in the Bonita Springs area for implementation in a three-year period.

Goal Two: Estimate the cost of identified road improvements and allocate revenues to implement the improvements.

Goal Three: Establish a formal process for implementation of each individual road improvement project and assignment of responsibilities via a joint supplemental agreement. The supplemental agreement shall identify each phase of the process from funding through construction completion to operation and maintenance along with responsibility and authorization for implementation.

Goal Four: Provide for phases of each project to assure compliance with each jurisdiction's comprehensive plans and land development regulations.

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.

SECTION ONE: PREAMBLE

The recitals contained in the preamble above are hereby incorporated in this Agreement and are made a part of this Agreement as if they were set forth in full below.

SECTION TWO: PROGRAM ADMINISTRATION

The Lee County Department of Transportation will perform as the Program Administrator with subsequent Program Administration and/or Project Administration subject to current or future project supplemental agreements.

SECTION THREE: SUPPLEMENTAL AGREEMENTS

The COUNTY and CITY shall continue to implement supplemental agreements One through Five. For each future project identified by supplemental agreement the COUNTY and CITY shall develop and agree upon a separate project supplemental agreement for the implementation of each project. The project supplemental agreements shall be subject to individual review, amendment and approval by both parties. The COUNTY hereby recognizes the need of the CITY to create a local character to roads within its boundaries, and recognizes the need to phase projects, as they will coincide with community development as established in supplemental agreements for specific road projects.

Both parties recognize that all the commitments set forth in this Agreement are subject to estimates in expenditures and estimates in revenue that may require review and revision on an annual basis. Hence, both parties hereby commit specific revenues for the three-year period subject to annual review of the Three-Year road Improvement Program and the annual review of individual Project Supplemental Agreements with the caveat that a reduction in the estimated collection of revenues may cause a reduction in the committed revenues of either or both parties.

SECTION FOUR: AMENDMENTS TO THE AGREEMENT

This Agreement may be amended by written amendments signed by both the COUNTY and CITY. Such amendments shall be incorporated into the body of this original Agreement and attached hereto. All other provisions of this original Agreement shall remain in full force and effect.

SECTION FIVE: APPLICABLE LAW

This Agreement shall be controlled and interpreted according to the laws, rules and regulations of the City of Bonita Springs, Lee County and the State of Florida.

SECTION SIX: SCOPE OF THE AGREEMENT

This Agreement, including any incorporated amendments, constitutes the entire Agreement between the parties and shall supersede and replace any or all prior Agreements or understanding, either written or oral, relating to the matters herein.

SECTION SEVEN: NOTICES

All notices or demands are deemed to have been given or made when delivered in person or delivered by certified or registered mail, return receipt requested, postage prepaid, United States mail, and addressed to the respective parties as follows:

Lee County: Lee County Board of County Commissioners
 Post Office Box 398
 Fort Myers, Florida 33902-0398
 Attention: County Manager

City of Bonita Springs: Bonita Springs City Council
 9101 Bonita Beach Road
 Bonita Springs, Florida 34135
 Attention: City Manager

The address to which any notice or demand may be given to either party may be changed by written notice.

SECTION EIGHT: TERM OF THE AGREEMENT

The term of this Agreement commences on October 1, 2005 and shall continue for three (3) years, but may be extended by agreement of both parties in writing.

SECTION NINE: MISCELLANEOUS

1. The Parties represent and warrant that they have full authority to enter into and sign this Agreement.
2. This Agreement contains all agreements, promises and understandings between the COUNTY and CITY. All exhibits are incorporated by reference.

3. The terms and conditions of this Agreement shall extend to and bind the heirs, personal representatives, successors and assigns of COUNTY and CITY.
4. The drafting of this Agreement has been a joint endeavor between the Parties and shall not, solely as a matter of judicial construction, be interpreted more strictly against one Party than the other.
5. The prevailing Party in any action or proceeding in court to enforce any term of this Agreement shall be entitled to receive its reasonable attorney's fees and other reasonable enforcement costs and expenses from the non-prevailing Party.
6. The invalidity of any provision hereof shall in no way affect or invalidate the remainder of the Agreement.
7. In no case shall either Party be liable for either consequential or special damages of any kind whatsoever, including, but not limited to, lost revenues, profits, or any other damages of any kind whatsoever in any way related to damage, interference, down time, or relocation of its equipment resulting from any breach or default under this Agreement.
8. All disputes arising under this Agreement shall be governed by the laws of the State of Florida.

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

APPROVED AS TO LEGAL FORM

By: _____
Lee County Attorneys Office

Attest:

CITY OF BONITA SPRINGS

By: _____
City Clerk

By: _____
Mayor

APPROVED AS TO LEGAL FORM:

By: _____
City Attorney