

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20041631

1. REQUESTED MOTION:

ACTION REQUESTED: Approve Supplemental Agreement No.5, for RFQ-03-03 Sanibel Bridge & Toll Plaza Reconstruction along with Cape Coral Toll Plaza (Span A), with Jacobs Construction Services, Inc. (Contract #2632) to include the Guaranteed Maximum Price (GMP) in the amount of \$42,411,645 (includes Phase CM Fee of \$2,019,602 which is 5%) and the Construction Inspection Services in the amount of \$1,431,951. Additionally, request Board approve waiving of any formal process (if needed) and authorize the use of the Direct Material Purchase Orders based on CM's competitive process, which allows the County to purchase directly from suppliers of equipments and/or materials as a cost/time saving measure. Approve a budget transfer for \$9,000,000 to move budget from Sanibel Toll Plaza project to Sanibel Bridge Replacement project and amend the FY04-05 CIP accordingly. *skw*

WHY ACTION IS NECESSARY: Board approval is required.

WHAT ACTION ACCOMPLISHES: Allows for the bridge, roadway, seawalls and all associated appurtenances for the construction of the Sanibel Bridge project Span A.

2. DEPARTMENTAL CATEGORY:

2. Transportation

COMMISSION DISTRICT #:

C9D

3. MEETING DATE:

12-14-2004

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE *AC-4-4*
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT *Transportation*
- C. DIVISION
- BY: *Scott Gilbertson, Director*

7. BACKGROUND:

On October 7, 2003, the Board approved award to Jacobs Construction Services Inc. for RFQ-03-03 Sanibel Bridge & Toll Plaza Reconstruction along with Cape Coral Toll Plaza, in the amount of six percent (6%) of the total construction cost and a preconstruction not-to-exceed amount of \$826,528.00, and also authorized staff to enter into a Construction Manager Agreement.

At this time the Department of Transportation is requesting Board approve Supplemental Agreement Number 5 for a Guaranteed Maximum Price of \$42,411,465 and the Construction Inspection Services in the amount of \$ 1,431,951 to allow for the bridge, roadway, seawalls and all associated appurtenances for the construction of the Sanibel Bridge project Span A. Additionally, request Board approve waiving of any formal process (if needed) and authorize the use of the Direct Material Purchase Orders based on CM's competitive process, which allows the County to purchase directly from suppliers of equipments and/or materials as a cost/time saving measure.

CONTINUED ON PAGE 2

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services			G County Manager
					OA	OM	Risk	GC
<i>Skw</i> <i>12-1-04</i>	<i>Cindy Logan</i> <i>by GOR</i> <i>12/1/04</i>	N/A		<i>12/1/04</i>	<i>skw</i> <i>12-2-04</i>	<i>12/4/04</i>	<i>12/2/04</i>	<i>12/2/04</i>
								<i>12-1-04</i>

10. COMMISSION ACTION:

- _____ APPROVED
- _____ DENIED
- _____ DEFERRED
- _____ OTHER

REC'D 12/1/04
by CO. ATTY.
4:39pm
CO. ATTY 12/1/04
FORWARDED TO:
Budget
4:45pm

RECEIVED BY
COUNTY ADMIN.
12/1
4:45pm 5/7
COUNTY ADMIN
FORWARDED TO:
12/2/04
4:30pm

7. Background (Continued)

This brings the project, for SA 1 through SA5 to the total of:

Phase GMP	\$ 102,496,465
Phase CM Fee	\$ 5,420,629
Construction Inspection Services	\$ 5,157,283
Pre-Inspection Plan Review	\$ 826,528

Funds will be made available in Account #20581442136.506540

Attachments: 1) Two Copies of Supplemental Agreement #5 for execution.

REQUEST FOR TRANSFER OF FUNDS

FUND NAME: Trans Fac-Commercial Paper DATE: 12-2-04 BATCH NO.: _____

FISCAL YEAR: 04-05 FUND NO.: 42136 DOC. TYPE: YB LEDGER TYPE: BA

TO: Capital Projects Capital Projects
 (Division Name) (Program Name)

NOTE: Please list the account number below in the following order:
 Business Unit (dept/div, program, fund, subfund); Object Account; Subsidiary; Subledger
 (Example: BB 5120100100.503450)

<u>Account Number</u>	<u>Object Name</u>	<u>DEBIT</u>
20581442136.506540	Improvements Construction	\$ 9,000,000
20581642136.384000.9003	Commercial Paper Proceeds	9,000,000

TOTAL TO: \$18,000,000

FROM: Capital Projects Capital Projects
 (Division Name) (Program Name)

<u>Account Number</u>	<u>Object Name</u>	<u>CREDIT</u>
20581642136.506540	Improvements Construction	\$ 9,000,000
20581442136.384000.9003	Commercial Paper Proceeds	9,000,000

TOTAL FROM: \$18,000,000

EXPLANATION: To move budget from the Sanibel Toll Plaza project to the Sanibel Bridge Replacement project.

 DIVISION DIRECTOR SIGNATURE/DATE

 DEPARTMENT HEAD SIGNATURE/DATE

DBO: APPROVAL DENIAL

Emma K. Wolf 12-2-04
 OPS. ANALYST SIGNATURE DATE

OPS. MGR.: APPROVAL DENIAL

John Huff 12/2/04
 OPS. MGR. SIGNATURE DATE

CO. MGR.: APPROVAL DENIAL

 CO. MANAGER SIGNATURE DATE

BCC APPROVAL DATE: _____

 BCC CHAIRMAN SIGNATURE

BA. NO. _____ AUTH CODE _____ TRANS DATE _____

EXHIBIT E

SUPPLEMENTAL AGREEMENT NO. 5

This Supplemental Agreement (hereinafter, "SA") is made and entered into this ____ day of _____, 2004 by and between **LEE COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter, "Owner"), and **JACOBS CONSTRUCTION SERVICES, INC.**, a Delaware corporation, and licensed to conduct business in the State of Florida (hereinafter, "CM").

W I T N E S S E T H:

WHEREAS, Owner and CM have entered into an "Agreement Between Owner And Construction Manager" (hereinafter, the "Agreement") for construction management services for the Sanibel Bridges and Toll Plaza Reconstruction as well as the Cape Coral Toll Plaza Reconstruction; and

WHEREAS, capitalized terms used herein shall have the meanings assigned to them in the Agreement; and

WHEREAS, the Agreement contemplates that the Project shall be undertaken in separate discrete Phases, and that a Supplemental Agreement shall be used to authorize and govern all work of a Phase; and

WHEREAS, as contemplated in the Agreement, the work authorized by this SA is governed by the terms of the Agreement, as supplemented by the terms of this SA;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereby agree as follows:

**ARTICLE 1.
SCOPE OF WORK**

1.1 Phase Description. The Phase of the Project authorized by this SA is described in summary form as follows:

Construction of Bridge A, associated temporary roadways and maintenance of traffic, and related CM and CI services. This phase of the Project (and GMP) specifically excludes the demolition of Bridge A and subsequent salvage of various Bridge A components and the interior and mid-span diaphragms for all spans of Bridge A.

1.2 Project Plans and Specifications. The Project Plans and Specifications that describe and define the work of this Phase are listed in Appendix 1, attached hereto and incorporated herein.

1.3 Authorization. The CM is authorized to commence performance of this Phase upon the Construction Commencement Date or the effective date of this SA, whichever occurs later (in either case, referred to hereinafter as the "Commencement Date").

ARTICLE 2. COMPENSATION

2.1 Phase GMP. Subject to adjustments provided for in the Agreement, the Phase GMP associated with this SA is Forty-Two Million Four Hundred Eleven Thousand Six Hundred Forty-Five Dollars (\$42,411,645) for the addition of Bridge A. This Phase GMP is in addition to the previously authorized GMP for Bridges B&C (including CM Services and Fees) of \$60,084,820. The new Total GMP for Bridges A, B and C is now One Hundred Two Million Four Hundred Ninety-Six Thousand Four Hundred Sixty-Five Dollars (\$102,496,465). [ref. Agreement Subparagraph 3.01(2)(a)]

2.2 Phase CM Fees. Pursuant to the revisions outlined in Article 4 and Appendix 4 of this SA #5, the CM Fees are established as follows:

2.2.1 CM Fixed Fee. Subject to adjustments provided for in the Agreement, the Phase CM Fixed Fee associated with this SA is Two Million Nineteen Thousand Six Hundred Two Dollars (\$2,019,602) for the addition of Bridge A. This Phase CM Fixed Fee is in addition to the previously authorized CM Fixed Fee for Bridges B&C of \$3,401,027. The new total CM Fixed Fee for Bridges A, B and C is now Five Million Four Hundred Twenty Thousand Six Hundred Twenty-Nine Dollars (\$5,420,629). **Should the CM Construction Contingency be increased by subsequent change order as contemplated in Appendix 2 of this SA #5, CM shall be entitled to a corresponding increase in CM Fixed Fee at the revised rate stipulated in paragraph 1 of Appendix 4 of this SA #5 and not subject to the 2% threshold stipulated in Article 3.02 of the Agreement.**

2.3 Construction Inspection (CI) Services. The not-to-exceed limit for the cost of Construction Inspection Services on this Phase (Bridge A) is One Million Four Hundred Thirty-One Thousand Nine Hundred Fifty-One Dollars (\$1,431,951). This Phase of CI Services is in addition to the previously authorized CI Services for Bridges B&C of \$3,725,332. The new total for CI Services for Bridges A, B & C is now Five Million One Hundred Fifty-Seven Thousand Two Hundred Eighty-Three Dollars (\$5,157,283). [ref. Agreement Paragraph 3.01(3)]

2.4 Phase Schedule Extension Fees. In the event that the Phase Schedule is extended by agreement of Owner and CM due to changes in the Phase requested by Owner, CM shall be entitled to additional fee at the daily rate of Two Thousand Dollars (\$2,000/day), without duplicating any portion of a fee increase as calculated in Section

3.02 of the Agreement for additional work which may have extended the Phase Schedule. [ref. Agreement Section 3.03]

2.5 Phase Contingency, Allowances & Contingency Reversion Schedule. The Phase GMP includes the specific amounts for CM Construction Contingency and Specified Allowances as set forth in Appendix 2, attached hereto and incorporated herein. [ref. Agreement Paragraph 4.03(3)] The contingency reversion schedule applicable for this Phase is also set forth in Appendix 2. [ref. Agreement Paragraph 4.03(4)]

**ARTICLE 3.
PHASE SCHEDULE**

3.1 Phase Schedule. The Phase Schedule applicable for this Phase is set forth in Appendix 3, attached hereto and incorporated herein.

3.2 Liquidated Damages. Place an "X" in the space below and to the left, as applicable.

X Schedule based liquidated damages are agreed upon for this Phase. If the CM fails to achieve Phase Substantial Completion on or before the Phase Substantial Completion Date, the CM shall be liable for liquidated damages in the amount of \$1,000 per calendar day for each day Substantial Completion is extended beyond the Phase Substantial Completion Date, subject to an aggregate limit of \$25,000.

No schedule based liquidated damages shall apply for this Phase.

[ref. Agreement Paragraph 4.06(1)]

3.3 Schedule Bonus. If schedule based liquidated damages are agreed upon for this Phase, then an early completion bonus will also apply for this Phase. Place an "X" in the space below and to the left, as applicable.

An early completion bonus is agreed upon for this Phase. If the CM achieves Phase Substantial Completion before the Phase Substantial Completion Date, the Owner shall pay CM a schedule bonus in the amount of \$_____ per calendar day for each day Substantial Completion is achieved in advance of the Phase Substantial Completion Date, subject to an aggregate limit of \$_____.

X No early completion bonus shall apply for this Phase.

[ref. Agreement Paragraph 4.06(1)]

ARTICLE 4.
OTHER SUPPLEMENTAL TERMS

4.1 General. For purposes of this Phase, the terms of the Agreement are further supplemented as set forth in Appendix 4, attached hereto and incorporated herein.

IN WITNESS WHEREOF, the parties have executed this Supplemental Agreement effective as of the date first noted above.

JACOBS CONSTRUCTION SERVICES, INC.

By: _____

Title: _____

Date: _____

**BOARD OF COUNTY COMMISSIONERS OF
LEE COUNTY, FLORIDA**

Attest: Clerk of the Board

By: _____

Chairman

By: _____
Deputy Clerk

Date: _____

APPROVED AS TO FORM

By: _____

Assistant County Attorney

**APPENDIX 1
TO
SUPPLEMENTAL AGREEMENT NO. 5**

PROJECT PLANS AND SPECIFICATIONS

The Project Plans and Specifications that describe and define the work of this Phase are as follows:

- 1. Scope of Work and Technical Documents for RFCP 002 (Rev 01, dated October 27, 2004) to add the demolition and construction of Bridge A to SC E9X96302-S-49002 including:**
 - a. Attachment 1, Bathometric Survey
 - b. Attachment 2, Plan Sets and Specifications as listed on Drawing/Specification Index (dated MM/DD/YY) and summarized as follows:
 - i. Bridge Plans
 - ii. Bridge Hydraulic Recommendations
 - iii. Electrical Plans
 - iv. As Built Plans – existing Bridge A
 - v. Road Way Plans (Contains the Construction Site Drainage Map, Utility Adjustment and Storm Water Pollution Prevention Plan (SWPPP))
 - vi. Signing and Pavement Marking plans
 - vii. Wall Plans
 - viii. Listing of modifications to plans between 90% and 100% prepared by Hardesty & Hanover
 - ix. Specifications Package for Lee County DOT Project No. 5807 – Sanibel Causeway Improvements – Replacement of Bridge Technical Special Provisions – dated October 29, 2004 - prepared by Hardesty & Hanover
 - x. South Florida Water Management District Environmental Resource Noticed general Permit No. 36-04961-P - issued June 18, 2004 with Exhibits 1 – 3.34
- 2. Subcontract documents contained in RFCP 002 to SC E9X96302-S-49002**
 - a. RFCP 002 dated October 06, 2004
 - b. ATTACHMENT A – SUBCONTRACT PRICING SUMMARY TO RFCP 002 – Rev 1 – 10 NOVEMBER 2004
 - c. ATTACHMENT J – SCOPE OF WORK & TECHNICAL DOCUMENTS (detailed above)

3. Addenda issued to RFCP 002 to SC E9X96302-S-49002

- a. Addenda 01 – Issued October 28, 2004
- b. Addenda 02 – Issued November 03, 2004
- c. Addenda 03 – Issued November 04, 2004
- d. Addenda 04 – Issued November 11, 2004

APPENDIX 2
TO
SUPPLEMENTAL AGREEMENT NO. 5

CONTINGENCY AND ALLOWANCES

This Phase GMP (Bridge A) identified in Article 2.1 above includes no additional CM Construction Contingency beyond the amount previously authorized for Bridges B&C in SA #4 of \$5,109,767. Owner and CM acknowledge that this deferral of CM Construction Contingency for this Phase (Bridge A) is being done at the Owner's request to accommodate Owner's Project funding requirements and that, but for this accommodation, the CM Construction Contingency for this Phase (Bridge A) otherwise would have been Four Million Thirty-Nine Thousand Two Hundred Four Dollars (\$4,039,204) and the corresponding total CM Construction Contingency for Bridges A, B and C otherwise would have been Nine Million One Hundred Forty-Eight Thousand Nine Hundred Seventy-One Dollars (\$9,148,971). Owner and CM expressly agree that CM is entitled to an unconditional increase in the total CM Construction Contingency (and the corresponding Total GMP) of up to Four Million Thirty-Nine Thousand Two Hundred Four Dollars (\$4,039,204) in the event that the Project Costs exceed the Total GMP for Bridges A, B and C stated in Article 2.1 of this Supplemental Agreement. Such an increase, if it occurs, will be accomplished by change order.

This Phase GMP also includes the following specific Allowances for the specified scope and costs:

The Piling Length Variance Allowance for this Phase (Bridge A) is established at One Million Seven Hundred Forty-One Thousand Six Hundred Sixty-Four Dollars (\$1,741,664). This Piling Length Variance Allowance is in addition to the previously authorized Piling Length Variance Allowance for Bridges B&C of \$2,055,957. The new total Piling Length Variance Allowance for Bridges A, B and C is now Three Million Seven Hundred Ninety-Seven Thousand Six Hundred Twenty-One Dollars (\$3,797,621). This allowance is intended to cover any potential additional costs resulting from providing required pile lengths that exceed the anticipated pile lengths shown on the plans. The Engineer of Record will establish the pile lengths required. The pricing will be based upon unit prices established in the subcontract. **All unused Piling Length Variance Allowance shall transfer automatically to the CM Construction Contingency.**

The Seawall Replacement Allowance for this Phase (Bridge A) is established at Three Hundred Five Thousand Four Hundred Sixty Dollars (\$305,460). This allowance is intended to cover the cost of replacing approximately 155 lineal feet of existing seawall at the east end of Bridge A should such replacement become necessary due to further

deterioration of the existing seawall during the course of the Project.

CONTINGENCY REVERSION SCHEDULE

All unused CM Construction Contingency and/or Allowances at the end of this Phase (Bridge A) shall revert to the next Phase GMP.

**APPENDIX 3
TO
SUPPLEMENTAL AGREEMENT NO. 5**

PHASE SCHEDULE for Bridges A, B & C

(Note: This replaces Appendix 3 of SA #4)

<u>Phase Milestone Date</u>	<u>Calendar Days After Commencement</u>
Commencement	0
Substantial Completion	964
Demolition & Final Completion	1054

*All dates and durations are based upon a commencement date of May 11th, 2004

Substantial Completion	<u>December 31st, 2006</u>
Demolition & Final Completion	<u>March 31st, 2007</u>

**APPENDIX 4
TO
SUPPLEMENTAL AGREEMENT NO. 5**

SUPPLEMENTAL TERMS & CLARIFICATIONS

For purposes of this Phase and all previous Phases, the terms of the Agreement are further supplemented or revised as follows:

1. CM Fee. The originally contracted 6% CM Fee in Subparagraph 3.01(2) of the Agreement shall be changed to a fixed fee of 5% of the GMP for the work of this SA #5 (Bridge A) and all changes and future work not yet authorized (ie. Toll Plaza, Roadways, etc.). The CM Fee for all work authorized prior to SA #5 (Bridges B&C) and all other provisions of Article 3, Compensation shall remain unchanged.
2. Personnel Billing. Change the future billing of select personnel (project management, project controls and procurement support) from Preconstruction Services to CM Services. The effect of this change is to reduce the billing rate for these individuals from 2.65 to 1.62, thus reducing the cost to Lee County. This change is not retroactive.
3. Contingency Transfer Form. Incorporate the revised Contingency Transfer Form as attached in Exhibit 1, which supersedes the original form attached to the CM Agreement. This Contingency Transfer Form has been revised to include language which allows changed conditions work to be funded from the CM Contingency on a conditional basis, while reserving the CM's rights to a corresponding adjustment in the GMP should these funds be needed to complete the Project.

**Exhibit 1
To
Appendix 4 of Supplemental Agreement No. 5**

**LEE COUNTY CONSTRUCTION MANAGER AGREEMENT
CONTINGENCY TRANSFER (CT) FORM**

CT NO.: _____

PROJECT NAME: Sanibel Bridge & Toll Plaza Reconstruction

CONSTRUCTION MANAGER: Jacobs Construction Services Inc. PROJECT NO.: 2632

CONTRACT NO.: 2632 PHASES: Bridges A, B&C RFQ NO.: RFQ-03-03

TRANSFER REQUESTED BY: Jacobs Construction Services DATE OF REQUEST: _____

Upon the completion and execution of this Contingency Transfer by both parties to the Contract, the Construction Manager will be authorized to commit contingency funds and proceed with the work described below:

Description of Work:

Purpose of Contingency Transfer:

Attachments:

CONTINGENCY IN PHASE GMP PRICE:

Total Project Guaranteed Maximum Price

\$ _____

Original Total Project Contingency Amount

\$ _____

Previous Contingency Transfers No. ___ to No. ___

\$ _____

Net Increase (**Decrease**) of this Contingency Transfer

\$ _____

New Total Project Contingency Amount

\$ _____

It is understood and agreed that, to the extent allowable by law, all contingency remaining (unused) in these Project Phases shall be available for use by the Construction Manager for (and transferred upon completion to) any remaining (not yet completed) Project Phases.

(The following applies to this Contingency Transfer: _____ (Insert "Yes" or "No") It is also understood and agreed to that the contingency funds committed by this CT action are for a changed condition and the Construction Manager reserves its rights to a future equitable adjustment in the Guaranteed Maximum Price in the event that the total contingency fund is committed to the project:

RECOMMENDED:
(Optional)

ACCEPTED:
(Required)

APPROVED:
(Required)

By: _____
Architect/Engineer

Date

By: _____
Construction Manager

By: _____
Owner Project Coordinator

By: _____
Project Manager

Date

Date Accepted: _____
Construction Manager

Date Approved: _____
Owner Project Coordinator