

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

Blue Sheet No. 20061229

1. ACTION REQUESTED/PURPOSE: Request Board's approval to enter into an Interlocal Agreement between Lee County and City of Bonita Springs for Landscape Design, Installation and Maintenance of Bonita Beach Road from Mango Drive to Old U.S. 41. Authorize Chairman to execute the Interlocal Agreement on behalf of the Board of County Commissioners.

2. FUNDING SOURCE: No funds required at this time.

3. WHAT ACTION ACCOMPLISHES: Allows County and City to enter into an Interlocal Agreement for the design, installation and maintenance of those portions of Bonita Beach Road enhancing the roadway's landscaping from Mango Drive to Old U.S. 41.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: 09

C9A

6. Meeting Date: MAR 13 2007

7. Agenda:
 Consent
 Administrative
 Appeals
 Public
 Walk-On

8. Requirement/Purpose: (specify)
 Statute
 Ordinance
 Admin. Code
 Other

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

10. Background:

This interlocal agreement establishes the responsibilities of the City and County for core level and enhanced level landscaping and irrigation design, installation and maintenance along Bonita Beach Road between Mango Drive and Old U.S. 41.

The terms of the agreement identify the County's role to design, install and maintain the core and enhanced levels of services, along with the City's role to reimburse the County for the enhanced level items and their on-going maintenance.

This agreement is also the result of two separate projects. One being a landscaping project between Arroyal Road and Old U.S. 41 that was complete, then put on hold pending an Access Management Plan and Resurfacing Project.

Preliminary cost estimates dated 2-26-07: County's core level \$475,552.73; City's enhanced level \$398,683.30. Once scope of work has been negotiated for City's portion a change order and necessary budget amendments will be brought forward for Board approval.

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P. W. Director
<i>2/27/07</i>				<i>Added</i>	Analyst	Risk	Grants	Mgr.	<i>3-1-07</i>
				<i>Jasper</i>	<i>RK3/1</i>	<i>MR 2/1/07</i>	<i>RK for RG 3-1-07</i>	<i>3/1/07</i>	<i>3-1-07</i>

12. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: *JK*
 3/1 2:40 PM
 COUNTY ADMIN FORWARDED TO: *JK*
 3/1 C 4:30 PM

Rec. by CoAtty
 Date: 3/1/07
 Time: 1:15 PM
 Forwarded To: 3/1/07 2:30 PM

**INTERLOCAL AGREEMENT BETWEEN
LEE COUNTY AND CITY OF BONITA SPRINGS
FOR LANDSCAPE DESIGN, INSTALLATION AND MAINTENANCE
OF BONITA BEACH ROAD FROM MANGO DRIVE TO OLD U.S. 41**

This Interlocal Agreement is made and entered into this ____ day of _____, 2006, 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.

WITNESSETH:

WHEREAS, the Board of County Commissioners is the governing body in and for Lee County and the City Council is the governing body in and for the City of Bonita Springs; and

WHEREAS, both the County and the City are duly empowered pursuant to Florida Statutes, in particular Section 163.01, Florida Statutes, to enter into Interlocal Agreements for the sharing of certain governmental powers and obligations; and

WHEREAS, Bonita Beach Road is a County maintained Road and the County has jurisdictional responsibility; and

WHEREAS, the County desires to install core level landscaping and irrigation from Mango Drive to I-75, less areas of anticipated conflicts between Lime Street and Old 41; and

WHEREAS, the City desires to enhance this roadway's landscaping from Mango Drive to Old U.S. 41.

NOW THEREFORE, in consideration of the foregoing, and of the mutual covenants and conditions hereinafter set forth, the County and the City, intending to be legally bound, hereby agree as follows.

SECTION ONE: **PURPOSE**

The County and City desire to enter into an Agreement regarding the procedures, rights, duties and obligations which apply to the design, installation and maintenance of specified areas of the right-of-way of those portions of Bonita Beach Road as shown on the official contract documents prepared by the County for construction. This Agreement defines the terms and responsibilities of design,

installation, and maintenance between the County and the City, along with their costs, payment processes, and termination of this agreement.

SECTION TWO: DESIGN, INSTALLATION AND MAINTENANCE

- I. The County agrees to provide the core and enhanced level design, installation and maintenance services and responsibilities for the sections of roadway mentioned above.
- II. The City agrees to be responsible for all enhanced level landscape and irrigation installation and on-going annual maintenance costs. The City will also be responsible for the enhanced level replacement costs; on a per incident basis, if damages occur by such acts as errant vehicles, inclement weather or vandalism.
- III. At the end of the landscape and installation phase of the construction contract (substantial completion), a representative from each entity including the City, County, and Contractor shall meet on-site to perform a walk-through of the enhanced level items installed on this project. If during this walk-through there are any items that are identified to be addressed by the County or Contractor, a punch list shall be created and these items will be addressed prior to the project's official substantial completion date.
- IV. Upon completion of any items identified in section two (2), item three (3), of this agreement, the project will be at substantial completion and the initial one year maintenance period will begin.

SECTION THREE: INSTALLATION AND MAINTENANCE COSTS AND BILLING

- I. The cost for the installation and first year's maintenance services performed by the County under this Agreement is established at the contract award amount, plus or minus any change orders and project administration fees associated with this project.
- II. The City will be responsible for submitting full payment to the County within thirty (30) days of written notice of the contract award amount, approved change orders, project administration fees, and/or fees associated with project restoration to the core level of services as referenced in section five (5) item two (2) of this agreement.
- III. The City will be given written notice from the County of all change orders pertaining to enhanced level landscaping, irrigation or maintenance for this project. The City will have seven (7) calendar days to approve or disapprove in writing any such proposed changes that will affect their portion of this project as

established in this agreement. All notices by both parties must be in writing. Any items not replied to within the allotted time period will be considered disapproved.

- IV. The cost for the maintenance services performed by the County beyond the initial installation and first year's maintenance contract described under this Agreement on this road is established at thirty eight (38%) of the total contract award amount for the core and enhanced level maintenance services, plus or minus any change orders and/or project administration fees. The County will invoice the City on October 1 and April 1 of each year. The City will transmit its payment to the County within ninety (90) calendar days after receipt of the invoice. The payment will cover the upcoming six-month period. Any cost increases will be based on renegotiations of this Agreement between representatives of the City and the County.

SECTION FOUR: **INDEMNIFICATION**

The Parties agree that by execution of this Agreement, no party will be deemed to have waived its statutory defense of sovereign immunity, or increased its limits of liability as provided for in Section 768.28, Florida Statutes.

SECTION FIVE: **TERM OF INTERLOCAL AGREEMENT**

- I. This Interlocal Agreement shall be deemed effective this _____ day of _____, 2006, with its execution by both Parties. This Agreement will continue in full force and effect unless at such time that the road is closed, abandoned, vacated, discontinued or reconstructed, or until the City receives the written notice of the County's termination of this Agreement or vice versa.
- II. If the City chooses to terminate this agreement, the City will be responsible for reimbursing the County for all expenses associated with restoration of the project site to the core level of service as defined by the original contract documents, change orders, and subsequent modifications previously approved by both parties.

SECTION SIX: **ASSIGNMENT**

No assignment, delegation, transfer, or novation to this Agreement or part hereof, shall be made, unless approved by the County and the City.

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: AMENDMENT

This Agreement may only be amended in writing duly executed by the County and the City.

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

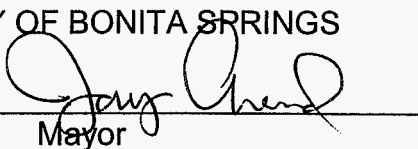
APPROVED AS TO LEGAL FORM

By: _____
Lee County Attorneys Office

Attest:

CITY OF BONITA SPRINGS

By: 
City Clerk

By: 
Mayor

APPROVED AS TO LEGAL FORM:

By: 
City Attorney