

Agenda Item Summary

**1. ACTION REQUESTED/PURPOSE:** Approve the Brooks of Bonita Springs CDD Signalization Agreement for Coconut Road and Three Oaks Parkway providing for payment by the Brooks CDD of the cost associated with upgrading the traffic signal facility from the core service level (concrete pole and wire span) to a steel post and mast arm facility. Approve associated budget amendment for the shared funding in the amount of \$101,817.00 for Project #206648 – Signal – Coconut Rd and Three Oaks, amending the 2006/07 – 2010/11 CIP accordingly. Authorize the Chair to execute all necessary documents to complete this transaction.

**2. FUNDING SOURCE: Fund- Transportation Capital Improvement; Program – Capital Projects; Project – Signal Coconut Road and Three Oaks.**

**3. WHAT ACTION ACCOMPLISHES:** Requires the Brooks CDD to pay the additional cost associated with installing an upgraded traffic signal facility (steel post and mast arm) and allows the permitting and construction of the mast arm signal installation to proceed.

**4. MANAGEMENT RECOMMENDATION: Approve**

**5. Departmental Category: 09** **C9D** **6. Meeting Date: MAR 13 2007**

|  |  |  |   |  |
|--|--|--|---|--|
| <b>7. Agenda:</b><br><input checked="" type="checkbox"/> Consent<br><input type="checkbox"/> Administrative<br><input type="checkbox"/> Appeals<br><input type="checkbox"/> Public<br><input type="checkbox"/> Walk-On | <b>8. Requirement/Purpose: (specify)</b> |  | <b>9. Request Initiated:</b>              |  |
|  | Statute                                  |  | Commissioner                              |  |
|  | Ordinance                                |  | Department Transportation                 |  |
|  | Admin. Code                              |  | Division                                  |  |
|  | Other                                    |  | By: Scott M. Gilbertson<br>Director - DOT |  |

**10. Background:**

Lee County Department of Transportation (LCDOT) is currently working with the Brooks Community Development District (CDD) regarding the transfer of fee title to the right-of-way within the Brooks development for Three Oaks Parkway and Coconut Road. This transaction should be complete in 2007. The County is also processing a request to accept maintenance of these rights of way. LCDOT has recognized that a traffic signal will be warranted when extension of Three Oaks Parkway (outside the Brooks development) is open for thru traffic in 2008. In anticipation of this event, LCDOT has been proactive in working with the Brooks CDD to plan for the necessary traffic signal installation. The attached proposed Agreement is the result of these efforts.

(Cont. Page -2-)

**11. 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>Scott Gilbertson</i><br>Scott Gilbertson<br>Date: 2/26/07 |                         |                 |       | <i>Scott M. Gilbertson</i><br>2-28-07 | <i>MR</i><br>3/1/07 | <i>RK for RG</i><br>3/1 | <i>SM</i><br>3/1/07 | <i>Jim Lawrence</i><br>3-1-07 |                              |

**12. Commission Action:**

- Approved
- Deferred
- Denied
- Other

|   |
|---|
| RECEIVED BY<br>COUNTY ADMIN: <i>PK</i>  |
| <i>2/28/07</i>                          |
| <i>4:07</i>                             |
| COUNTY ADMIN<br>FORWARDED TO: <i>PK</i> |
| <i>3/1 3:30 PM</i>                      |

|                      |
|----------------------|
| Rec. by CoAtty       |
| Date: <i>2/28/07</i> |
| Time: <i>8:30 AM</i> |
| Forwarded To:        |

**Subject: Brooks Signal Agreement**

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Typically, new traffic signal installations are considered site related improvements precipitated by the development of a particular project. As a site related improvement, the Developer is required to design and construct the traffic signal facility. In this instance, the County's extension of Three Oaks Parkway is also contributing to the need for a traffic signal at the Three Oaks Parkway and Coconut Road intersection.

The County's core level of service for traffic signal installations consists of large diameter concrete poles with overhead wires supported by span wire. The Brooks CDD is concerned that the concrete pole and overhead span wire installation will detract from the landscaping and gateway ambiance at this intersection, which also serves as an entrance to the Brooks development. Therefore, the Brooks CDD has requested that the County install a more aesthetically pleasing traffic signal facility. To this end, LCDOT agreed to install black painted steel poles and mast arms to support the traffic signal displays and hide the wiring, if the Brooks CDD would absorb the additional cost associated with upgrading the traffic signal facility.

The costs associated with upgrading the traffic signal facility from the core service level (concrete pole and span wire) to a steel post and mast arm facility, as requested by the Brooks, is \$101,817.00 and the Brooks CDD has agreed to fund these additional costs.

The attached proposed agreement provides that the Brooks CDD will pay \$101,817.00, representing the additional cost for the design and construction using the steel poles and mast arms as opposed to the concrete poles and span wire. The Brooks CDD has also agreed to provide, at no cost to the County, the necessary easements to support the installation of the traffic signal at this intersection.

County staff has reviewed the proposed agreement and recommends approval.

**Funds will be made available in the following account: 20664830700.506450.**

**Attachment:**

Brooks of Bonita Springs CDD Signalization Agreement - Coconut Road and Three Oaks Parkway.

# RESOLUTION #

Amending the Budget of Transportation Capital Improvements-Fund 30700 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-Fund 30700 budget for \$101,817 of the unanticipated revenue from Brook's CDD and an appropriation of a like amount for construction costs and;

**WHEREAS**, the Transportation Capital Improvements-Fund 30700 budget shall be amended to include the following amounts which were previously not included.

## ESTIMATED REVENUES

Prior Total: \$110,264,266  
Additions

20664830700.366900.9215 Brooks CDD Contribution 101,817

Amended Total Estimated Revenues \$110,366,083

## APPROPRIATIONS

Prior Total: \$110,264,266  
Additions

20664830700.506540 Improvements Construction 101,817

Amended Total Appropriations \$110,366,083

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Lee County, Florida, that the Transportation Capital Improvements-Fund 30700 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

**BROOKS OF BONITA SPRINGS CDD  
SIGNALIZATION AGREEMENT FOR  
COCONUT ROAD AND THREE OAKS PARKWAY**

This Agreement, dated \_\_\_\_\_, 2007, is between the **Board of Supervisors of the Brooks of Bonita Springs Community Development District**, an independent single purpose specialized local government created under Florida Statutes Chapter 190, whose address is c/o District Offices, 9220 Bonita Beach road, Suite 214, Bonita Springs, FL 34135 (Brooks CDD), and **Lee County**, a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers Florida 33901.

Whereas, Lee County Department of Transportation (DOT) has determined that it is in the best interest of the safety of the traveling public to plan, design and install a traffic signal at the intersection of Coconut Road and Three Oaks Parkway; and

Whereas, Lee County is primarily responsible for the costs associated with the design and installation of a traffic signal at this location; and

Whereas, Lee County's core level of service for traffic signal installation is concrete poles with overhead wire and signal light displays supported by span wire; and

Whereas, the Brooks CDD has requested an upgrade in the signal installation to provide for painted steel poles and mast arms in lieu of the concrete poles and overhead wires; and

Whereas, DOT has no objection to the design and installation of the upgraded signal facility, if the Brooks CDD pays the additional associated costs; and

Whereas, the Brooks CDD is willing and able to pay the additional costs associated with the traffic signal installation upgrade.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The above recitals are true and correct and incorporated herein as though fully set forth below.

2. **Cost Differential.** The parties agree that the difference in the cost between the concrete poles with span wire and painted steel poles with mast arms painted black at the factory is \$101,817.00. This cost differential is based upon the following:

a. *Design.* Based upon an actual cost proposal, the additional design costs for the upgrade are \$7,123.00.

- b. *Construction.* Based upon Lee County's current unit price contract for miscellaneous traffic signal installation, the additional construction and installation cost for the upgrade is \$94,694.00.

3. **Payment for Signal Upgrade.** The Brooks CDD agrees to pay the cost differential as follows:

- a. Within 30 days after the Board approves this agreement, the Brooks CDD will pay Lee County \$7,123.00 to cover the additional design costs for the upgrade.
- b. Lee County will provide written notice to the Brooks CDD when the signal installation design is 100% complete. Within 30 days after the date of this notice, the Brooks CDD will pay Lee County \$94,694.00 to cover the construction and installation of the upgraded traffic signal installation.

4. **Design.** Subsequent to the receipt of the initial payment from the Brooks CDD, the County will contract with an outside engineering firm to prepare the design for a full traffic signal constructed with steel poles and mast arms painted flat black at the factory. The County agrees to coordinate the traffic signal design with the Brooks CDD by meeting with CDD representatives at mutually agreed upon dates and time. If the CDD specifically requests, the County also agrees to attend meetings with adjacent communities to discuss the project and receive public comment on the design.

The CDD will be provided two sets of plans for review at the 60%, 90% and 100% submittal points. Standard DOT plans review procedures will apply and comments will be due to the County's Engineer within 14 calendar days after receipt of the plans. All comments to the design engineer will be provided through Lee County.

5. **Easement Grants.** Prior to the installation of the traffic signal the County must obtain a number of easements to support the construction and continued existence of the traffic signal. These easements include permanent easements that are a minimum of 6 feet by 6 feet and corresponding 10 foot by 10 foot temporary construction easements. The easements must be located behind the right-of-way line and out of the path of conflicting utilities. It is likely the easements will be required on all four corners of the intersection, though this will be determined by the design engineer during the design phase and will take into account the location of existing underground facilities in conflict with the steel pole and mast arms foundations. The location of the required easements will be coordinated with the Brooks CDD as early in the design phase as possible. The County will prepare the legal description and accompanying sketch.

The Brooks CDD agrees to convey the easements necessary to accommodate the traffic signal installation to Lee County, at no cost to the County. The permanent easements must be reviewed and approved by Lee County prior to recording. These

easements must be in place prior to commencement of the signal installation. The Brooks CDD is responsible for the timely execution and recording of the required easements.

6. **Installation/Construction.** Subsequent to the receipt of the second payment from the Brooks CDD, the County will enter a contract to install the steel poles, foundations, underground conduit and mast arms. The County will be responsible for the project and its management. Installation and construction of the traffic signal will be in accord with the Manual on Uniform Traffic Control Devices (MUTCD), State of Florida Standards and Lee County Specifications. At the County's sole option, certain electrical and technical work may be completed with County construction crews or by contract.

- a. *Construction Schedule.* The County's contractors are required to keep the CDD informed as to the anticipated construction schedule and changes in the construction schedule. The County's contractor must also provide reasonable advance notice to the CDD regarding the start of construction.
- b. *CDD irrigation and landscaping.* Within 14 days of written notice from Lee County or its contractor, the CDD, at its expense, must remove irrigation and landscaping located within the intersection that conflicts with the approved construction plans. The CDD must also cap off all conflicting irrigation lines within three business days of verbal or written notice from Lee County or its contractor. If the CDD fails to remove the irrigation equipment or landscaping in the stated time frames, the County contractor may excavate, remove and dispose of the landscaping and irrigation equipment. Neither the County nor its contract is obligated to provide the CDD with reimbursement or replacement for the removed irrigation equipment or landscaping. The CCD may reinstall the irrigation and landscaping during appropriate points in the signal installation process. However, the CDD is required to provide plans and obtain a Lee County Right-of-way permit prior to any work in the right-of-way with respect to installing the irrigation.
- c. *Sidewalks and pedestrian ramps.* In conjunction with excavating the four corners of the intersection for the elements of the traffic signal installation, the County's contractor will, as necessary, remove and reconstruct the sidewalk and pedestrian ramps within the intersection.

7. **Maintenance.** Lee County is responsible for the maintenance of the traffic signal facility, with the exception of the painted finish on the steel poles and mast arms. The Brooks CDD is responsible for the maintenance of the finish on the steel poles and mast arms. If the finish on the steel poles and mast arms fades or becomes chalky, as determined by Lee County inspection, the CDD will be responsible for the cost of repainting the finishes in accordance with standard specifications and procedures. In order to discharge this responsibility the CDD can either engage a contractor to do the painting or, if the County enters a contract for pole and mast arm painting in the future, utilize the

County's contract. All finish repair and painting work must be accomplished in accordance with manufacturer recommendations as well as County and State specifications and standards. All work must be coordinated with Lee County DOT. If the CDD fails to provide the required maintenance of the black finish, Lee County may perform this maintenance activity and invoice the CDD for the costs incurred.

8. **Notice.** All notices required under this Agreement will be sent to the addresses indicated above. Each party has an obligation to inform the other in the event the address for notification changes.

9. This instrument is binding upon and enures to the benefit of the parties' heirs, executors, successors and assigns.

10. This agreement is intended to be construed in accordance with the laws of the State of Florida.

11. This agreement is the entire agreement between the parties and may not be amended or modified except by written instrument executed with the same formality.

In Witness of the above the parties execute this Agreement.

*Elaine Adams*  
Witness Signature  
ELAINE ADAMS  
Printed Name

The Brooks of Bonita Springs CDD  
By: *J. Merritt*  
JAMES A. MERRITT, V. CHAIR.  
Printed Name and Title

\_\_\_\_\_  
Witness Signature  
\_\_\_\_\_  
Printed Name

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing Agreement was acknowledged before me this 12<sup>TH</sup> day of January 2007 by JAMES MERRITT as VICE CHAIR of The Brooks of Bonita Springs Community Development District. He/she is personally known to me or has produced the following identification \_\_\_\_\_

*Chesley E. Adams Jr.*  
Notary Public  


The Brooks of Bonita Springs II CDD

[Signature]  
Witness Signature  
ELAINE ADAMS  
Printed Name

By: [Signature]  
JOHN K MEEKER JR  
Printed Name and Title  
CHAIRMAN

\_\_\_\_\_  
Witness Signature  
\_\_\_\_\_  
Printed Name

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing Agreement was acknowledged before me this 15<sup>th</sup> day of January 2007 by JOHN MEEKER as CHAIR of The Brooks of Bonita Springs II CDD. He/she is personally known to me or has produced the following identification \_\_\_\_\_.

[Signature]  
Notary Public  


ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Dawn E. Perry-Lehnert  
Office of County Attorney