

**1. Requested Motion:**

**Meeting Date: November 2, 2009**

Approve the Interlocal Agreement between the Town of Fort Myers Beach and Lee County for continued trolley service for the period of October 1, 2009 through September 30, 2010.

**Why the action is necessary:**

Policy requires Town Council to approve all Interlocal Agreements.

**What the action accomplishes:**

The ILA provides for the annual standard service level, augmentation of seasonal trolley service, core level service for 3 specific holidays and allows for discretionary trolley service on a set fee basis.

**2. Agenda:**

- Consent
- Administrative

**3. Requirement/Purpose:**

- Resolution
- Ordinance
- Other: Interlocal Agreement

**4. Submitter of Information:**

- Council
- Town Staff : Public Works
- Town Attorney

**5. Background:**

The attached ILA establishes the terms of the trolley service for FY 2010. It includes seasonal augmentation for the period commencing on January 14, 2010 through April 21, 2010, provides for service on New Years Day, Memorial Day and July 4<sup>th</sup>, and allows for the purchase of additional discretionary service at a set fee schedule. Commencing on January 14, 2009 through April 21, 2009 the ILA provides for 2 Town sponsored trolleys in addition to the 3 trolleys the County will have on the route, bringing the total number of trolleys per day to 5 during this period. The cost of the additional trolleys is \$219,892, prior to any reductions for fares collected. The holiday service consisting of 2 island trolleys and 1 Park and Ride is \$14,057, prior to any reductions for fares collected. Bringing the total to \$233,950.00 prior to any reductions for fares collected. The fee schedule would govern discretionary service.

The agreement does not include enhanced service with fare subsidies. The Town will receive credit for the actual fares paid during the term of the ILA, estimated at \$30,000.00.

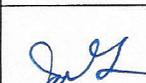
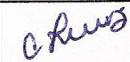
**6. Alternative Action:**

Disapprove and provide alternate direction to staff.

**7. Management Recommendations:**

Approve

**8. Recommended Approval:**

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
						

**9. Council Action:**

- Approved
- Denied
- Deferred
- Other

**INTERLOCAL AGREEMENT PROVIDING TROLLEY SERVICE  
BY AND BETWEEN LEE COUNTY, FLORIDA AND  
THE TOWN OF FORT MYERS BEACH, FLORIDA**

THIS INTERLOCAL AGREEMENT is made and entered into this day of \_\_\_\_\_, 2009, by and between **LEE COUNTY**, a political subdivision and charter county of the State of Florida, hereinafter referred to as County, acting by and through its Board of County Commissioners, the governing body thereof, and the **TOWN OF FORT MYERS BEACH**, a municipal corporation of the State of Florida, hereinafter referred to as Town, acting by and through its Town Council, the governing body thereof; collectively the Parties hereto.

**RECITALS:**

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

WHEREAS, the Town desires improved trolley service to provide opportunities and improvements to Estero Boulevard which reduce its traffic congestion and increase the availability for means of transportation other than by motor car; and,

WHEREAS, trolley service substantially reduces dependency on the automobile for trips to Estero Island's beaches and shopping; and, alternative modes of transportation are an important step towards solving the parking and traffic congestion problems on Estero Island; and,

WHEREAS, the County and Town are working in partnership to ensure the successful transit service of the Trolley Project described herein; and,

WHEREAS, the County and Town find that entering into this Interlocal Agreement serves a public purpose and is to the public's benefit.

NOW, THEREFORE, in consideration of the above recitations and the mutual covenants herein set forth, the Parties hereto mutually agree as follows:

**SECTION ONE: PURPOSE**

The purpose and intent of this Interlocal Agreement is to define the terms and conditions by which the Parties will provide a program for an enhanced trolley service system consisting of more frequent trolley service and related service.

The Parties agree that the above named County and Town will enter into this Interlocal Agreement. This Interlocal Agreement shall be binding only upon the Parties that execute this Interlocal Agreement. No Party that executes this Interlocal Agreement shall be bound by its terms to any third party who has not entered into this Interlocal Agreement.

**SECTION TWO: OPERATION, ROUTES AND FARES**

- A. County shall use its best efforts to furnish and operate trolley-like buses as part of this Agreement.
- B. It is the intent that all services under this Agreement shall be provided solely by the County. If deemed necessary the County may use subcontractors to provide these services under this agreement, and will notify the Town if County owned vehicles and/or personnel are unavailable to provide the

services specified in this agreement.

- C. The route is enhanced trolley service for the entire length of Estero Island. The additional trolleys will operate approximately thirteen (13) hours per day, seven (7) days per week excluding the following holidays: Labor Day, Thanksgiving, and Christmas.
- D. The County will charge a fifty cent fare for trolley service on Estero Island from October 1, 2009 through September 30, 2010, and will provide a credit for actual fares collected to the Town for the two enhanced trolleys that are funded by the Town.
- E. Provided it complies with the Federal Transit Administration Charter Regulations, enhanced or tripper service on existing routes may be purchased for holidays or special events at the cost per hour listed in Exhibit A, and the cost for enhanced service will be reduced by the actual fares collected by the Town funded trolleys.

**SECTION THREE: PROMOTION OF TROLLEY SERVICES**

- A. County shall provide printed schedules for distribution to the media and public at locations throughout the County and on Estero Island for the purpose of actively promoting use of the trolley.
- B. Selling of advertising shall be the right and responsibility of the County (Lee Tran) and any advertising revenues shall accrue to the County (Lee Tran).

**SECTION FOUR: COST OF SERVICE; FUNDING SOURCE**

A. The amount of the subsidy for the term of this Agreement will be \$233,950.00, and will be reduced by actual fares collected for the Town funded trolleys. The cost of the enhanced service is \$219,892.00. The Town will be invoiced for two-thirds of the enhanced service cost in the amount of \$147,328.00 in advance of service and payable within 30 (thirty) days. The County will invoice the remaining one-third in the amount of \$72,564.00 minus the credit for actual fares collected during the entire enhanced service period for the Town funded trolleys. The total subsidy for holiday service, (New Years Day, Memorial Day and July 4<sup>th</sup>) is \$14,057.00. The Town will be invoiced for the actual hours of each holiday service period and reduced by the actual fares collected on beach funded trolleys. The Town will be invoiced following the completion of each holiday period and payment will be due within thirty (30) days. Provided it complies with the Federal Transit Administrations Charter Regulations, the Town may purchase at the cost per hour outlined in Exhibit A, plus a credit for actual fares collected for the Town funded trolleys, and will be invoiced to the Town and payable within thirty (30) days. Cost breakdown in Exhibit A.

- B. In the event the County has a major service interruption, the service cost will be reduced by the number of hours service was unavailable times the hourly service rate specified in Exhibit A.
- C. Town hereby warrants that it will use a legally available funding source to pay for the additional trolley services. Should a court of competent jurisdiction determine that any payment was not properly appropriated; Town shall reimburse and repay the County.

**SECTION FIVE: MONITORING, AUDIT**

- A. County's personnel will monitor, inspect, evaluate and direct the trolley operations as necessary for a successful project.
- B. All cost records and accounts shall be subject to audit by representative(s) of either the Town or County, at their election, during normal work hours and upon reasonable notice. Said records and accounts shall be made available at the respective Party's offices at a location in Lee County, Florida.

**SECTION SIX: MODIFICATIONS, DISPUTE RESOLUTION AND TERMINATION**

- A. All modifications to Interlocal Agreement hereto must be in writing signed by both Parties with the same formality as that contained herein.

- B. Any disputes arising from this Agreement which can not be resolved by the Parties may be settled through arbitration of the disputed matters by following the procedures as set forth in Section 44.104, Florida Statutes, or the Parties may utilize any other legal remedies available to either Party with respect to the disputed matters.
- C. Either Party may terminate this Agreement for any reason by giving the non-terminating party ninety (90) days written notice of its cancellation.

**SECTION SEVEN: LIABILITY AND INSURANCE**

- A. Parties agree that by execution of the 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, as may be revised or amended from time to time.

**SECTION EIGHT: NOTICES**

All written notices to the Town and the County under this Interlocal Agreement shall be directed to the following address:

For the Town: Town Manager  
Town of Fort Myers Beach  
2523 Estero Boulevard  
Fort Myers Beach, Florida 33931

For the County: Transit Director  
Lee Tran  
6035 Landing View Road  
Fort Myers, Florida 33907

**SECTION NINE: EFFECTIVE DATE AND PERIOD OF AGREEMENT**

This Interlocal Agreement shall commence on October 1, 2009, through September 30, 2010. If said execution of Interlocal Agreement occurs after October 1, 2009, it shall become retroactive with all terms and conditions having the effective date of October 1, 2009.

**SECTION TEN: SEVERABILITY**

If any provision of this Interlocal Agreement is held invalid, the remainder of the Interlocal Agreement shall not be affected thereby and all other parts of this Interlocal Agreement shall nevertheless be in full force and effect.

**SECTION ELEVEN: FILING**

This Interlocal Agreement and any subsequent amendments hereto shall be filed with the Lee County Clerk of the Circuit Court, Minutes Department, and the Clerk of the Town of Fort Myers Beach.

IN WITNESS WHEREOF, the PARTIES hereto, have caused this Interlocal Agreement to be executed on the day and year first above written.

ATTEST: CLERK, TOWN OF  
FORT MYERS BEACH

**TOWN OF FORT MYERS BEACH**

BY:

BY:

\_\_\_\_\_

\_\_\_\_\_

Clerk

Mayor

APPROVED AS TO FORM:

BY:

\_\_\_\_\_

Town Attorney

ATTEST: CHARLIE GREEN  
CLERK OF COURTS

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

BY:

BY:

\_\_\_\_\_

\_\_\_\_\_

Deputy Clerk

Chair

APPROVED AS TO FORM:

BY:

\_\_\_\_\_

Office of the County Attorney

**Exhibit A**

**FY 10 - 5 Vehicle Beach Trolley w/fares**

Hourly Rate	86.30								
Fully Allocated Hrly Rate	104.92								
Dates	# of Core Level Vehicles on Route	*Core Hours	# of Enhanced Vehicles on Route	Enhanced Hours	Total Number of Vehicles	Number of Days	Hourly Rate	Enhanced Expense	
*Summerlin Square to Bonita Beach (10/01/09 - 1/13/10) and (4/22/10 thru 9/30/10)	1	16.50	0	0	1	261	\$ 104.92	\$0	
	1	14.08	0	0	1	261	\$ 86.30	\$0	
	<b>2</b>		<b>0</b>		<b>2</b>				
Seasonal - Ft. Myers Beach 01/14/10 - 04/21/10	1	17.02	0	0	1	98	\$ 104.92	\$0	
01/14/10 - 04/21/10	2	27.57	2	26.00	4	98	\$ 86.30	\$219,892	
	<b>3</b>		<b>2</b>		<b>5</b>				

**Enhanced Expense for Beach Trolley 100% Town \$219,892**

Excluding three holidays  
Labor Day, Thanksgiving Day,  
Christmas Day

FY05	\$349,608
FY06	\$210,000
FY07	\$228,626
FY08	\$235,541
FY09	\$236,200

**FY10 Holiday Service 3 Vehicles w/fare (2 on the Beach and 1 Park and Ride)**

New Years, Memorial, July 4	0	0	2	31.50	2	3	\$ 104.92	\$ 9,915
2 Beach Trolleys and	0	0	1	16.00	1	3	\$ 86.30	\$ 4,142
1 Park and Ride	0	0	3	47.50	3	3		\$ 14,057

**Enhanced Expense for Holiday Service 100% Town \$ 14,057**

**Total Enhanced Expense \$233,950**

\* Proposed Base Budget

Fare Credit - \$30,000 Estimate