

1. Requested Motion:

Meeting Date: November 15, 2010

Approve the Interlocal Agreement between the Town of Fort Myers Beach and Lee County for continued trolley service for the period of October 1, 2010 through September 30, 2011.

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 is unchanged from that which was presented to Town Council on October 18, 2010. Steve Myers, Director of LeeTran attended a Town Council workshop on held November 1, 2010 to discuss the questions raised by Council regarding the ILA at the October 18, 2010. Resulting from that meeting the Town Manager contacted TDC regarding eligibility of the enhanced trolley service. Their initial response is that it is ineligible for funding as it constitutes general services, that response is attached. The Town Manager and PW Director met to discuss the merit of performing an outside audit of the LeeTran trolley costs as it relates to Fort Myers Beach. In addition to this, a request will be made to LeeTran to provide the Town budgeting information. Staff will bring back to Council the recommendations as outlined above to move forward with them for preparation with the forthcoming FY 2011 budget.

The ILA as attached includes seasonal augmentation for the period commencing on January 13, 2011 through April 21, 2010 with 2 Town sponsored trolleys, providing for service on New Years Day, Memorial Day and July 4th, and allows for the purchase of additional discretionary service at a set fee schedule. 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. The annual total is \$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. This agreement is identical from the previous year with no rate increase.

6. Alternative Action:

Disapprove and provide alternate direction to staff.

7. Management Recommendations:

Approve the ILA as submitted or with minor modifications.

8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
			<i>Chris</i>			

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 _____, 2010, 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, 2010 through September 30, 2011, 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 4th) 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, 2010, through September 30, 2011. If said execution of Interlocal Agreement occurs after October 1, 2010, it shall become retroactive with all terms and conditions having the effective date of October 1, 2010.

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

Hourly Rate		86.30		FY 11 - 5 Vehicle Beach Trolley w/fares					
Fully Allocated Hirly Rate		104.92							
<u>Dates</u>	<u># of Core Level Vehicles on Route</u>	<u>*Core Hours</u>	<u># of Enhanced Vehicles on Route</u>	<u>Enhanced Hours</u>	<u>Total Number of Vehicles</u>	<u>Number of Days</u>	<u>Hourly Rate</u>	<u>Enhanced Expense</u>	<u>Enhanced Expense</u>
*Summerlin Square to Bontita Beach (10/01/10 - 1/12/11) and (4/21/11 thru 9/30/11)	1	16.50	0	0	1	261	\$ 104.92	\$0	\$0
	1	14.08	0	0	1	261	\$ 86.30	\$0	\$0
	2		0		2				
Seasonal - Ft. Myers Beach 01/13/11 - 04/20/11	1	17.02	0	0	1	98	\$ 104.92	\$0	\$0
01/13/11 - 04/20/11	2	27.57	2	26.00	4	98	\$ 86.30	\$219,892	\$219,892
	3		2		5				

Excluding three holidays Labor Day, Thanksgiving Day, Christmas Day		Enhanced Expense for Beach Trolley 100% Town			
					\$219,892
					\$235,541
					\$236,200
					\$233,950

FY11 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	\$ 9,915
2 Beach Trolleys and	0	0	1	16.00	1	3	\$ 86.30	\$ 4,142	\$ 4,142
1 Park and Ride	0	0	3	47.50	3	3		\$ 14,057	\$ 14,057

Enhanced Expense for Holiday Service 100% Town		Enhanced Expense for Beach Trolley 100% Town		Total Enhanced Expense	
					\$ 14,057
					\$233,950

* Proposed Base Budget
 Fare Credit - \$30,000 Estimate

Cathie Lewis

From: Pigott, Tamara [TPigott@leegov.com]
Sent: Friday, November 05, 2010 11:56 AM
To: Terry Stewart
Cc: Cathie Lewis; Alan Mandel; Bob Raymond; Jo List; Larry Kiker; Tom Babcock; Hawes, Karen; Hammond, William; Winton, Peter; Schwartz, Holly; Fraser, Andrea; Belasco, Frances
Subject: FW: Funding eligibility for Additional Trolley Service during tourist sseason

Terry,

In order to determine if this would be an eligible use of tourist tax revenue, I shared your request with Andrea Fraser in the Lee County Attorney's Office. Her response is below.

Please let me know if you require any additional information.

Thank you,

Tamara Pigott
Executive Director
Lee County Visitor & Convention Bureau
THE BEACHES OF FORT MYERS & SANIBEL
12800 University Drive, Suite 550
Fort Myers, FL 33907
Telephone: 239-338-3500 U.S. & Canada: 800-237-6444
www.fortmyers-sanibel.com

The Lee County Visitor & Convention Bureau promotes the world class beaches and unique attractions of Florida's unspoiled island sanctuary. The Beaches of Fort Myers & Sanibel in southwest Florida includes: Sanibel & Captiva islands, Fort Myers Beach, Fort Myers, Bonita Springs, Estero, Cape Coral, Pine Island, Boca Grande & Outer islands, North Fort Myers, Lehigh Acres.

Follow us:  

 Please consider the environment before printing this e-mail

From: Fraser, Andrea
Sent: Friday, November 05, 2010 8:27 AM
To: Pigott, Tamara
Cc: Hawes, Karen; Hammond, William; Winton, Peter; Schwartz, Holly
Subject: RE: Funding eligibility for Additional Trolley Service during tourist sseason

Good morning. No it would not be. This is a general government service (transportation).

Andrea R. Fraser
Deputy County Attorney
Lee County Attorney's Office
PO Box 398
Fort Myers, FL 33902-0398
Phone: (239) 533-2236
Fax: (239) 485-2118
fraserar@leegov.com

From: Pigott, Tamara

Sent: Thursday, November 04, 2010 5:53 PM
To: Fraser, Andrea
Cc: Hawes, Karen; Hammond, William; Winton, Peter; Schwartz, Holly
Subject: FW: Funding eligibility for Additional Trolley Service during tourist sseason

Andrea,

Would this be an eligible use of tourist tax revenue?

Thank you,

Tamara Pigott
Executive Director
Lee County Visitor & Convention Bureau
THE BEACHES OF FORT MYERS & SANIBEL
12800 University Drive
Fort Myers, FL 33907
239.338.3500

Sent from my HTC Touch Pro2 on the Now Network from Sprint®.

From: Terry Stewart <Terry@fortmyersbeachfl.gov>
Sent: Thursday, November 04, 2010 5:07 PM
To: Pigott, Tamara <TPigott@leegov.com>
Cc: Cathie Lewis <cathie@fortmyersbeachfl.gov>; Alan Mandel <alan@fortmyersbeachfl.gov>; Bob Raymond <Bob@fortmyersbeachfl.gov>; Jo List <Jo@fortmyersbeachfl.gov>; Larry Kiker <larry@fortmyersbeachfl.gov>; Tom Babcock <Tom@fortmyersbeachfl.gov>
Subject: Funding eligibility for Additional Trolley Service during tourist sseason

Tamara,

As you are aware, the Town of Fort Myers Beach is a strong partner with Lee County as a destination for tourist from all over the world. Tourism is a top economic driver within Lee County and the number of visitors it generates has a significant impact upon our island community. For a full four month period, our average daily population swells sevenfold from its full time population figure of 6,973. In order to better serve our visitors and enable them to more fully enjoy their time here, the Town has traditionally contracted with LeeTran to provide two additional trolleys for better and more frequent service. The cost to the Town is approximately \$250,000 annually. Since the additional service is solely the result of demands created by tourist visiting the island, we wish to present this question.

Is it permissible for TDC revenues to be used for the purpose of covering or offsetting the cost associated with providing the additional Trolley service?

We appreciate your time and attention and look forward to hearing back from you soon.

Best regards,
Terry

Terrance (Terry) Stewart
Town Manager

Town of Fort Myers Beach
2523 Estero Blvd.
Fort Myers Beach Florida 33931
Phone (239) 765-0202 Ext 101
Fax (239) 765-0909
E-mail Terry@FortMyersBeachFL.gov
Website www.FortMyersBeachFL.gov

Please note: Florida has a very broad public records law. Most written communications to or from County Employees and officials regarding County business are public records available to the public and media upon request. Your email communication may be subject to public disclosure.

Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.