

MANATEE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT	COUNTY INCENTIVE GRANT PROGRAM AGREEMENTS WITH FDOT	TYPE AGENDA ITEM	REPORT FROM DEPARTMENT
DATE REQUESTED	JANUARY 9, 2001	DATE SUBMITTED/REVISED	DECEMBER 28, 2000
BRIEFINGS?/WHO?	NONE REQUIRED	CONSEQUENCES IF DEFERRED	COUNTY WILL NOT COMPLY WITH DEADLINES IN THE GRANTS IF NOT EXECUTED
DEPARTMENT/DIVISION	PROJECT MANAGEMENT ADMINISTRATION	AUTHORIZED BY TITLE	<i>Janet E. McAfee</i> JANET E. MCAFEE DIRECTOR, PROJECT MANAGEMENT
CONTACT PERSON TELEPHONE/EXTENSION	JANET MCAFEE/JOAN MARSHALL 5047/5033	PRESENTER/TITLE TELEPHONE/EXTENSION	JANET E. MCAFEE, DIRECTOR 5047
ADMINISTRATIVE APPROVAL		<i>[Signature]</i>	

ACTION DESIRED
INDICATE WHETHER "REPORT or "DISCUSSION, "FORM OF MOTION, or "OTHER ACTION REQUIRED:

ADOPTION OF RESOLUTION NO'S R-01-14, R-01-15, R-01-16, R-01-17, AND R-01-18, AUTHORIZING THE CHAIRMAN TO SIGN COUNTY INCENTIVE GRANT PROGRAM AGREEMENTS WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR FUNDING FIVE CONSTRUCTION PROJECTS THROUGHOUT THE COUNTY.

ENABLING/REGULATING AUTHORITY
Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy.)

COMP PLAN - GOAL 5.1.4.1 TRANSPORTATION LEVEL OF SERVICE STANDARDS

BACKGROUND/DISCUSSION

APPROVED IN OPEN SESSION
JAN 09 2001
BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

(SEE PAGE 2)

HAS COUNTY ATTORNEY REVIEW BEEN REQUESTED? Indicate "NO" or "YES" @ right. (If "NO" proceed to 1) below and if "YES" proceed to 2) below) YES

1) IF "NO" TO ABOVE:
A) PLEASE EXPLAIN BELOW: (see also following section 1B) re: contract, agreement, lease, etc.:

B) IF A CONTRACT, AGREEMENT, LEASE OR OTHER DOCUMENT WAS PREVIOUSLY APPROVED, STATE YEAR OF LAST USE @ RIGHT:

2) IF "YES" TO FIRST QUESTION IN THIS SECTION:
A) HAS ENTIRE MATTER, OR ONLY A PORTION, BEEN REVIEWED? IF ONLY A PORTION, WHICH PORTION?
ENTIRE MATTER HAS BEEN REVIEWED BY CAO

B) HAVE ALL COMMENTS/SUGGESTIONS RAISED BY COUNTY ATTORNEY BEEN ADDRESSED/INCORPORATED; IF NOT, PLEASE EXPLAIN. A COPY OF FINAL COUNTY ATTORNEY MEMO RE THIS MATTER **MUST BE ATTACHED** (if comments were verbal, so indicate.)

MEMO HAS NOT BEEN RECEIVED FROM CAO OFFICE

ATTACHMENTS: (List in order as attached)	INSTRUCTIONS TO BOARD RECORDS:
1) RESOLUTION NO. R-01-14, R-01-15, R-01-16, R-01-17, R-01-18 2) AGREEMENTS 3) MEMO FROM CAO	<i>copy of</i> <i>of ca</i> RETURN RESOLUTIONS AND AGREEMENTS TO PROJECT MANAGEMENT/JOAN MARSHALL FOR TRANSMITTAL TO FDOT <i>Resolutions - Jan Bush</i>
COST NO ADDITIONAL COST TO COUNTY	SOURCE (ACCT# & NAME) GAS TAX AND IMPACT FEES
COMMENTS N/A <i>man</i>	AMT./FREQ. OF RECURRING COSTS (ATTACH FISCAL IMPACT STATEMENT) N/A

<F:\USER\WPUBWKS8\WPDOCS\AGENDA\FDOTINCENTIVEGRANT>

BACKGROUND/DISCUSSION:

- THE COUNTY INCENTIVE GRANT PROGRAM HAS BEEN CREATED BY FLORIDA STATUTES TO PROVIDE GRANTS TO COUNTIES TO IMPROVE A TRANSPORTATION FACILITY WHICH IS LOCATED ON THE STATE HIGHWAY SYSTEM OR WHICH RELIEVES TRAFFIC CONGESTION ON THE STATE HIGHWAY SYSTEM.

- | <u>CONSTRUCTION PROJECTS RECEIVING FUNDING ASSISTANCE</u> | <u>FDOT PARTICIPATION</u> | <u>REQUIRED AWARD DATE</u> |
|--|---------------------------|----------------------------|
| 63RD AVENUE (R-01-14)
US 41 (14TH STREET W) TO 15TH STREET E | \$1,312,000 | JUNE 30, 2001 |
| 53RD AVENUE AND 75TH ST. WEST (R-01-15)
CORTEZ ROAD TO 43RD ST. WEST | 1,050,000 | JUNE 30, 2001 |
| LOCKWOOD RIDGE ROAD (R-01-16)
UNIVERSITY PARKWAY TO COUNTRY OAKS BLVD | 875,000 | JUNE 30, 2001 |
| SR 684 (CORTEZ ROAD) AT 51ST STREET WEST (R-01-17) | 47,500 | APRIL 30, 2001 |
| LOCKWOOD RIDGE ROAD (R-01-18)
COUNTRY OAKS BLVD. TO TALLEVAST ROAD | 980,000 | MARCH 30, 2001 |

- THE PROJECT MANAGEMENT DEPARTMENT WILL BE CONSTRUCTING THESE PROJECTS IN THE NEAR FUTURE.



Office of
**MANATEE COUNTY
ATTORNEY**

Teddy N. Williams, Jr., County Attorney

January 2, 2001

William C. Henry, Chief Assistant County Attorney
Jeffrey N. Steinsnyder, Deputy Chief Assistant County
Attorney for Land Use and Environmental Law*
Patricia McVoy, Senior Assistant County Attorney*
James A. Minix, Senior Assistant County Attorney†
Maureen S. Sikora, Senior Assistant County Attorney*
Michael H. Rosen, Assistant County Attorney
Robert M. Eschenfelder, Assistant County Attorney
Stephanie A. Crossman, Associate County Attorney

MEMORANDUM

TO: Janet E. McAfee, Director, Project Management Department

THRU: Teddy N. Williams, Jr., County Attorney *TNW 1/3/01*

FROM: Michael H. Rosen, Assistant County Attorney *MP 1/3/01*

RE: **County Incentive Grant Program Agreements with FDOT;
RLS-00-440; received December 19, 2000; CAO File No. 1132-140**

In the above Request for Legal Services, you have solicited my opinion regarding a proposed agreement between Manatee County and the Florida Department of Transportation. The agreement is entitled, County Incentive Grant Program Agreement. Under the terms of the agreement, the County will receive substantial funds for the County constructing specified roadway improvement projects on or before September 30, 2002. I understand that the agreement was prepared by FDOT and its terms are not negotiable. However, in making a policy decision as to whether to execute the agreement, the County Commissioners should be aware of the following.

In paragraph B, the agreement provides that the County agrees to undertake construction of the Project in accordance with all applicable federal, state and local statutes, rules and regulations. This provision may trigger the applicability of the Uniform Relocation and Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601). As part of this agreement, the County may be required to follow the procedures that were a part of the State Road 70 agreement with FDOT, e.g. review appraisers, following relocation assistance procedures for "displaced" persons, etc. I would strongly suggest that this issue be resolved prior to execution of the agreement. A letter from FDOT stating that the County is not required to follow these procedures is well advised. The lack of a letter subjects the County to the risk that the construction costs may not be reimbursed.

* Board Certified City, County & Local Government Law

† Board Certified Civil Law

Janet A. McAfee

January 3, 2001

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The agreement also provides in paragraph D that FDOT approve ". . . any consultant and/or contractor scope of services prior to advertising by the County." Moreover, the agreement requires specific language be included with regards to indemnification of FDOT in any agreement between Manatee County and any of its consultants or sub-consultants. As you know, the County intends to use the firm of Wade Trim, Inc. and its subconsultant American Acquisition Group for acquisition services. It is my understanding that as of this date, no formal agreement has been reached. Any agreement between the County and any of its consultants or sub-consultants should be analyzed to assure compliance with the various consultant-related provisions of the agreement.

You should also be aware that under 3-C, FDOT has the right to retain out of any payment due the County an amount sufficient to satisfy any amount due and owing to FDOT. Further, in 4-A, the County is required to indemnify FDOT as part of this agreement, although indemnification for the negligence of FDOT is specifically excluded.

In order to receive FDOT participation of \$1,312,000.00 for construction costs associated with the 63rd Avenue East road project, the County must comply with specific deadlines. The agreement provides that the construction contract must be let on or before June 30, 2001, and construction must be completed on or before September 30, 2002. As you know, the timing of the aforementioned project was substantially accelerated in order to get the grant money. For the 63rd Avenue East project, the acquisition of all 82 parcels are required. Based on the expedited acquisition schedule, only ninety (90) days have been allotted from the filing of suit through the acquisition of the all parcels. Additionally, I have been advised that several of the appraisal reports will have to be revised due to recent changes in the construction plans. Based on the fact that no guarantee can be made because compliance depends on circumstances outside the control of the individuals involved, perhaps it might be advantageous to determine if FDOT has any discretion to extend any of the critical deadlines.

I am available to discuss this matter in greater detail, please feel free to contact me at extension 3750.

MHR/kc

cc: Board of County Commissioners
Ernie Padgett, County Administrator

County Incentive Grant Program
January 9, 2001

Projects	Original Proposal		Expedited Proposal		FDOT Funded	
	Construction Estimate	Construction Start	Construction Estimate	Construction Start	Grant Amount	Construction Award
63rd Avenue US41 to 15th Street East	\$3,750,000	Mid-2002	3,750,000	Mid-2001	\$1,312,000	06/30/2001*
Current Status: Design Complete. Expedited Land Acquisition Required.						
Lockwood Ridge Road Country Oaks to University Parkway	\$2,500,000	Mid-2002	2,500,000	Mid-2001	\$875,000	06/30/2001*
Current Status: Design Underway. Minimal Land Acquisition Required.						
53rd Avenue/75th Street 43rd Street W to Cortez Road	\$3,000,000	Mid-2002	3,000,000	Mid-2001	\$1,050,000	06/30/2001*
Current Status: Design Nearing Completion. Negotiations for ROW Underway.						
Lockwood Ridge Road Tallevast Road to Country Oaks Blvd	\$2,800,000	Early 2001	2,800,000	Early 2001	\$980,000	03/30/2001
Current Status: Design Complete. ROW In Hand. Preparing to Advertise for Bids.						
51st St W @ Cortez Rd	\$95,000	Early 2001	95,000	Early 2001	\$47,500	04/30/2001
Current Status: Design Being Modified to Include FDOT Items. ROW In Hand.						
Total	\$12,145,000		\$12,145,000		\$4,264,500	



County Incentive Grant Program

November 22, 2000

Projects	Proposed	BCC Approved	Funded
Lockwood Ridge Rd, Tallevast to 57th	6,550,000	6,550,000	0
63rd Avenue, US41 to 15th Street East	3,750,000	3,750,000	1,312,000
59th Street West, Manatee to Cortez	3,900,000	3,900,000	0
Lockwood Ridge Road, Country Oaks to University	2,500,000	2,500,000	875,000
53rd Ave/75th St, 43rd St W to Cortez Rd	3,000,000	3,000,000	1,050,000
51st St W @ Cortez Rd	95,000	95,000	47,500
Lockwood Ridge Rd, Tallevast to Country Oaks	2,800,000	2,800,000	980,000
44th Avenue East, US41 to 15th St E	2,550,000	2,550,000	0
			4,264,500

Discussion Items:

Schedule Relationship to Procurement, Land Acquisition, Eminent Domain

63rd Ave - Total Typical Time from Current Status 24-60 Months

Required Time 9 Months - 2 Already Elapsed

What it will take to get there from here