



# INTERLOCAL AGREEMENT

THIS AGREEMENT is made this 22 day of FEBRUARY, 2003, by and between **LEE COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as "County", and the **UPPER CAPTIVA FIRE PROTECTION AND RESCUE DISTRICT**, hereinafter referred to as "District".

WHEREAS, County has adopted, the Lee County Fire and EMS Impact Fee component of the Lee County Land Development Code, hereinafter referred to as "the Code"; and

WHEREAS, the fire impact fees imposed by the Code will be collected for land development that occurs in the District's service area, as defined in the Code; and

WHEREAS, the County will collect fire impact fees to be spent by the District for the purposes described in the Code; and

WHEREAS, the County and the District desire to delineate their respective rights and obligations under the Code, as set forth below:

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. This Agreement is made pursuant to Florida Statutes Section 163.01, the Florida Interlocal Cooperation Act of 1969.
2. The fire impact fees imposed by the Code in the District's service area, as defined in the Code, will be collected by the County before the County will issue any building permit, mobile home move-on permit or recreational vehicle development order, as these terms are defined in the Code.
3. Pursuant to the Code the County may charge an administrative fee up to three percent (3%) of the amount of the fire impact fees collected. This fee is in addition to the fire impact fees collected, and the County will retain all such fees charged to cover its costs in collecting the fire impact fees and administering the impact fee program for the District.
4. Impact fees collected pursuant to the Code will be remitted quarterly to the District on the 15<sup>th</sup> day of January, April, July and October of each year, or, if the 15<sup>th</sup> falls on a weekend or holiday, on the next business day thereafter. Impact fees must be spent for the purposes prescribed in the Code, subject to the restrictions set forth below.

5. The District may not spend fire impact fees until and unless it has informed the Lee County Board of County Commissioners, in writing, of the specific project, amount and timing of a proposed fire impact fee expenditure, at least thirty (30) days prior to making the expenditure.
6. Determination of the amount of credits that may be created pursuant to the Code will be done by the County, consistent with the procedures established in the Code.
7. Determination of whether a requested permit is exempt from the impact fee requirements of the Code will be done by the County, consistent with the categories established in the Code.
8. Determination of whether a refund is owed pursuant to the Code will be made by the County, consistent with the provisions of the Code. Refunds will be paid by the County, but will be charged back against the District and collected by deducting the appropriate amount from the County's next payment of net impact fee collections due the District. If net collections are not sufficient to permit this, then the District must pay the difference owed to the County upon demand.
9. The District is bound by the interpretations of the Code that are established under the appeal provisions, Section 2-396 of the Code. If an administrative appeal decision is appealed to the Circuit Court, the appeal will be defended by the County, at its expense, unless the District elects to provide defense of the case itself.
10. The County will provide assistance to the District in establishing the administrative procedures and record keeping procedures necessary to implement the Code.
11. The County will maintain all records of impact fees collected by reference to the feepayer's name and address, the amount paid, in cash and by use of credits, and the specific permit for which the fee was collected. Similar records will be maintained for exemptions from the Code.
12. The District will maintain records of all impact fees spent by reference to payee's name and address, the specific amount paid and the capital improvement acquired. At least once each year, the District will provide the County with a written summary of all these expenditures.

13. Each party must provide the other, or any auditing or accounting firm acting as agent for the other, with access to the records described above, upon request during normal business hours, and reasonable assistance with respect to locating, interpreting and copying such records.
14. The District must notify the County in writing whenever the District's service area, as defined in Chapter 2 of the Code, changes. No later than thirty (30) days after receipt of written notification, which must be accompanied by the appropriate documentation necessary to support the District's position, the County will begin collecting fire impact fees under the Code in the areas added to the District's service area. If the District's service area is reduced by annexation, the County will cease collecting fire impact fees for the District in the annexed area, but net fees collected by the County prior to this annexation will remain in the Impact Fee Trust Funds for which they were collected.
15. The County will hold the District harmless if any suit or legal action is brought to contest the validity of the Code. The County will provide any legal defense necessary to address the action against the Code at no cost to the District. Subject to the exception set forth in the following sentence, if any Court orders payment of damages or a refund of any impact fee, or should any payment of damages or refund be agreed to by settlement, the damages or refund will be paid solely by the County. However, if the suit or claim is the result of bad data given by the District to the County and used by the County in the preparation of the Code; the result of a violation of the Code by the District; or, if the damages or refunds paid were for fees collected or permits denied in areas served by, but lying outside of, the District, and the special laws creating and regulating the District are determined not to permit the application of the Code in these areas, then the District will be responsible for paying the damages or refunds. If the bad data, violation or lack of authority is alleged by either the plaintiff or the County, the District will be given an opportunity to join in the legal proceedings. In no case may the County consent to a finding of District liability to pay damages or a refund; provided, however, that, subject to the provisions set forth below, the District hereby agrees to indemnify the County for any judgments entered against the County for bad data given by the

District to the County, impact fee expenditures improperly made by the District, or for impact fees collected or permits denied by the County for, but outside of, the District in violation of the special laws creating or regulating the District; and the District hereby authorizes the County to file any and all legal or equitable proceedings necessary to secure payment of this indemnity.

16. The indemnification provisions set forth above will not apply with respect to expenditures made by the District if the impact fee expenditure in question was first acknowledged in writing by the County Attorney to be, in his opinion, a proper use of impact fees based upon a complete and accurate disclosure of the facts.
17. This Agreement embodies the whole understanding of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties hereto, except the interlocal agreement made earlier by the parties where the District agreed to pay the County for the District's share of the County's cost in preparing and adopting the Code.
18. This Agreement may only be amended by a written document signed by both parties and filed with the Clerk of the Circuit Court of Lee County, Florida.
19. This Agreement may be cancelled by either party upon sixty (60) days' prior written notice to the other party. If this Agreement is cancelled by the District, the County's obligation to defend and hold the District harmless for acts occurring prior to the date of the notice of cancellation will cease. If this Agreement is cancelled by the County for any reason other than the District's failure to provide the notices described in paragraph 5 above or spend impact fees lawfully, the County's obligations under paragraph 15 above will continue for actions occurring prior to cancellation. If this Agreement is cancelled by either party for any reason, the District's indemnification obligations under paragraph 15 above will remain in full force and effect.
20. This Agreement becomes effective on the 01 day of MAY, 2003.

IN WITNESS WHERE OF the parties hereto have caused the execution hereof by their duly authorized officials on the dates stated below.

ATTEST  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

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

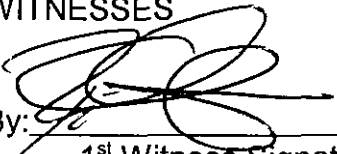
By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM

By: \_\_\_\_\_  
Office of the County Attorney

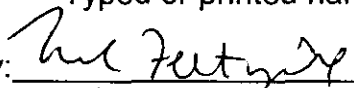
WITNESSES

UPPER CAPTIVA FIRE PROTECTION  
AND RESCUE DISTRICT

By:   
1<sup>st</sup> Witness Signature  
Richard C Crauen  
Typed or printed name

By:   
TITLE: VICE CHAIRMAN

DATE: 2-22-03

By:   
2<sup>nd</sup> Witness Signature  
Treasurer  
Typed or printed name

APPROVED AS TO FORM

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

TITLE: \_\_\_\_\_