

1. ACTION REQUESTED/PURPOSE: Approve and execute Interlocal Agreement between San Carlos Estates Water Control District and Lee County regarding Special Assessments. This agreement specifies the responsibilities of both parties with regard to special assessments associated with the pending capital improvement project.

2. WHAT ACTION ACCOMPLISHES: Provides Lee County relief from the proposed Phase II assessments for property the Department of Transportation has purchased and is purchasing for Three Oaks Parkway Extension South.

3. MANAGEMENT RECOMMENDATION: Approve and execute Interlocal Agreement.

4. Departmental Category: C9E

5. Meeting Date: 10-11-2005

6. Agenda:

- Consent
- Administrative
- Appeals
- Public
- Walk-On

7. Requirement/Purpose: (specify)

- Statute
- Ordinance
- Admin. Code
- Other

8. Request Initiated:

Commissioner _____
 Department Transportation
 Division _____
 By: Scott Gilbertson

9. Background:

Lee County DOT has been and continues to purchase property within San Carlos Estates for the Three Oaks Parkway Extension South. The San Carlos Estates Water Control District (SCEWCD) has undertaken a capital improvement project to improve drainage and pave the roads within San Carlos Estates. Lee County DOT has no objection to the Phase I assessment which includes drainage improvements that will benefit Lee County by improving our water management system outfall for Three Oaks Parkway Extension South. Lee County DOT did object to the Phase II assessment, which includes paving of the roads within San Carlos Estates with structural asphalt. DOT and SCEWCD have agreed that property currently owned by Lee County in San Carlos Estates and property that we will acquire for the road project will be placed in a unit of development that will receive no assessment for Phase II of the capital improvement project.

This agreement formalizes negotiations between Lee County DOT and San Carlos Estates Water Control District.

Attachments: Interlocal Agreement between San Carlos Estates Water Control District and Lee County (2 copies).

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<u>S. Gilbertson</u> Date _____	<u>[Signature]</u>	NA	NA	<u>[Signature]</u>	<u>[Signature]</u> 9/22/05	<u>[Signature]</u> 9/12/05	<u>[Signature]</u> 9/14/05	<u>[Signature]</u> 9/24/05	<u>[Signature]</u> J. Lavender Date <u>9.20.05</u>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: <u>[Signature]</u>
<u>4.17</u>
COUNTY ADMIN FORWARDED TO: <u>[Signature]</u>
<u>9/22</u>
<u>7.30</u>

RECV'D <u>12/1/05</u> by CO. ATTY.
<u>[Signature]</u>
CO. ATTY. FORWARDED TO: <u>[Signature]</u>
<u>9.21.05</u>

INTERLOCAL AGREEMENT
BETWEEN THE
SAN CARLOS ESTATES WATER CONTROL DISTRICT
AND LEE COUNTY
REGARDING SPECIAL ASSESSMENTS

THIS IS AN Interlocal Agreement, "agreement," entered into and effective on the last date affixed hereto, between **SAN CARLOS ESTATES WATER CONTROL DISTRICT**, a Florida special drainage district, the "District," and **LEE COUNTY**, a political subdivision and charter county of the State of Florida, acting by and through its Board of County Commissioners, the governing body thereof, the "County," collectively, the "Parties."

WITNESSETH THAT:

WHEREAS, the County is a political subdivision and charter county of the State of Florida, governed by Chapter 125, Florida Statutes, and given those powers and responsibilities enumerated therein, including the power to enter into contracts with public agencies, private corporations or other persons for the benefit of the County; and,

WHEREAS, the District is a Florida special drainage district, governed by Chapter 298, Florida Statutes, and special legislation pertaining to the District, and given those powers enumerated; and,

WHEREAS, the District has undertaken a capital improvement project bifurcated into two phases, said capital improvement project to be funded by special assessments; and

WHEREAS, Phase I of the capital improvement project is primarily a stormwater management system retrofit as permitted by South Florida Water Management District Environmental Resource Standard General Permit No. 36-04779-P; and

WHEREAS, the District completed the water control plan amendment process for Phase I of the capital improvement project in accordance with the requirements of Chapter 298, Florida Statutes on or about November 24, 2003; and

WHEREAS, on or about October 24, 2003, the District adopted a special assessment resolution and a bond validation resolution to provide a funding mechanism for Phase I of the capital improvement project; and,

WHEREAS, Phase II of the capital improvement project is primarily improvements to District road rights-of-way for the purpose of improving the integrity of District road rights-of-way and lowering District maintenance costs as permitted by South Florida Water Management District Environmental Resource Standard General Permit No. 36-04779-P; and

WHEREAS, on or about June 30, 2005, the District completed the water control plan amendment process for Phase II of the capital improvement project; and

WHEREAS on or about May 31, 2005, the District adopted a special assessment resolution and a bond validation resolution to provide a funding mechanism for Phase II of the capital improvement project; and

WHEREAS, the County has purchased real property in the District and is actively continuing to purchase real property in the District for the Three Oaks Parkway Extension South project; and

WHEREAS, the County has no objection to the Phase I assessments and acknowledges benefit from the Phase I capital improvement project; and

WHEREAS, the County desires that real properties acquired by the County in connection with the Three Oaks Parkway Extension project, hereafter referred to as "County property," be placed in a unit of development that would receive no (\$0) assessment for Phase II of the District's capital improvement project; and

WHEREAS, the basis of the County's request that County property be placed in a unit of development that would receive no (\$0) assessment for Phase II of the District's capital improvement project is the County property is acquired or is being acquired for the Three Oaks Parkway Extension project and will become incorporated into the County road or drainage system and therefore will derive no benefit from Phase II capital improvement project; and,

WHEREAS, there are certain County property acquisitions that may have a buildable remainder and could be surplused in the future and thus derive a benefit from the Phase II capital improvement project; and

WHEREAS, the Parties desire to reduce to writing their respective responsibilities of the Parties for with regard to special assessments associated with Phase I and Phase II of the pending capital improvement project(s); and,

WHEREAS, the Parties have reached an agreement regarding the special assessments associated with Phase I and Phase II of the pending capital improvement project based on the best interest of the public health, safety and welfare, and desire this agreement to be in writing as set forth herein; and,

WHEREAS, the Parties' governing boards have authorized entering into this Interlocal Agreement.

NOW THEREFORE, the District and the County agree to the following terms and conditions hereinafter set forth, the Parties intending to be legally bound, hereby agree as follows:

SECTION I **PURPOSE**

It is the purpose and intent of this Interlocal Agreement to clearly establish the Parties responsibilities with regard to allocation of benefit and payment of special assessments.

All terms and conditions of this Interlocal Agreement shall be interpreted in a manner consistent with, and in furtherance of, the purpose as set forth above.

SECTION II **PHASE I SPECIAL ASSESSMENTS**

The County has no objection to Phase I capital improvement assessments and hereby acknowledges the County's responsibility for payment of such assessments in accordance with the Special Assessment Resolution Phase I adopted on October 24, 2003.

SECTION III **PHASE II SPECIAL ASSESSMENTS**

The District agrees that County property described in Exhibit "A" attached hereto shall be placed in Unit of Development Number 2 as described in the District's Final Engineers' Report associated with the Water Control Plan Amendment for Phase II of the capital improvement project. The District acknowledges that Unit of Development Number 2 will receive no (\$0) assessment for Phase II of the District's

capital improvement project.

The County agrees that in the event any of the County property described in Exhibit "A" is not used for the Three Oaks Parkway Extension South project or in the alternative is surplus by the County, that such County property will be subject to reassessment of benefits with no objection from the County.

SECTION IV ASSIGNMENT

No assignment, delegation, transfer, or novation of this Interlocal Agreement or any part thereof shall be made, unless approved in writing by the District and the County.

SECTION V AMENDMENT

This Interlocal Agreement may only be amended in writing and duly executed by the District and the County with the same formalities as this Interlocal Agreement.

SECTION VI CONSTRUCTION

This Interlocal Agreement shall be governed by, and construed in accordance with the laws of the State of Florida.

SECTION VII LIABILITY

The Parties agree that by execution of this Interlocal Agreement, no Party will be deemed to have waived its statutory defense of sovereign immunity, or increased its limits of liability as provided for by Florida Statutes.

SECTION VIII SEVERABILITY


If any provision of this Interlocal Agreement is held invalid, the remainder of the


Agreement shall not be affected thereby, and all other parts of this Interlocal Agreement shall nevertheless be in full force and effect.

[THIS SPACE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed this ____ day of _____, 2005, for the purposes herein expressed.

SAN CARLOS ESTATES WATER CONTROL DISTRICT


By: Carolyn Williamson, President

Attest: 
By: Bud Lawson, Secretary

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

Chairman

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

**RESOLUTION OF NECESSITY
OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA**

WHEREAS, after consideration of the availability of alternative routes, the costs of the project, environmental factors, long range area planning, and safety concerns, The Board of County Commissioners of Lee County, Florida, desires to exercise its right to condemn property for public use or purpose, and that the property to be condemned is necessary for that use.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY FLORIDA, that:

The Capital Improvement Project provides for the construction of the **Three Oaks Parkway South Extension, Project No. 4043**, by acquiring the necessary right-of-way for construction of an arterial roadway from East Terry Street in Bonita Springs, north to the existing Three Oaks Parkway connection within The Brooks subdivision.

SECTION ONE: USE, NECESSITY AND DESCRIPTION OF PROPERTY

The Board of County Commissioners finds that the fee simple rights in the property described in attached Exhibit "A", slope easement rights in the property described in attached Exhibit "B", slope and drainage easement rights in the property described in attached Exhibit "C", road right of way easement rights in the property described in attached Exhibit "D", and temporary construction easement rights in the property described in attached Exhibit "E" are all necessary for the **Three Oaks Parkway South Extension Project, Phase II**, and are being acquired for the following specific public use or purpose:

To improve traffic flow and transportation safety by providing right-of-way for an increased traffic flow for public as well as private vehicles, and improvement of evacuation routes. Provides for an additional north/south corridor from East Terry Street in Bonita Springs to a point of connection with the existing Three Oaks Parkway within The Brooks Subdivision. Three Oaks Parkway will be an arterial roadway with sidewalk, bike path, stormwater drainage, and utilities. Exhibit "A" consists of Parcels 301, 302, 303, 304A, 304B, 304C, 304D, 304E, 304F, 304G, 304H, 304I, 305C, 305D, 305E, 305F, 306, 307, 308, 320, 321, 323, 327, 330, 331, 339, 342 and 400; Exhibit "B" consists of Parcels 304A-SE, 304B-SE, 304C-SE, 304D-SE, 304E-SE, 304F-SE, 304G-SE, 304H-SE, 304I-SE, 305D-SE, 305E-SE, 305F-SE, and 400-SE; Exhibit "C" consists of Parcels 301-SDE, 302-SDE, 304A-SDE, 304B-SDE, 304C-SDE, 304D-SDE, 304E-SDE, 304F-SDE, 304G-SDE, 305B-SDE, 305C-SDE, 305D-SDE, 305E-SDE, 306-SDE, 321-SDE, 327-SDE, 330-SDE, 331-SDE, 332-SDE, 333-SDE, 334-SDE, 339-SDE and 342-SDE; Exhibit "D" consists of Parcels 304F-RW, 304G-RW, 305A-RW, 305B-RW, 306-RW, 321-RW, 331-RW, 332-RW, 333-RW, and 334-RW, 337-RW, 338-RW, 340-RW, 341-RW; Exhibit "E" consists of Parcel 305E-TCE.

SECTION TWO: AUTHORITY AND ESTATE

By virtue of the authority granted to the Board of County Commissioners of Lee County by Chapters 73, 74, 125 and 127, Florida Statutes, and all other statutory or common law which grant to the Board of County Commissioners the power to institute and proceed with acquiring property under the exercise of the power of eminent domain, the Board of County Commissioners hereby authorizes and directs the County Attorney's Office to commence and prosecute any and all proceedings necessary to acquire the fee simple interest in, and the slope easement or slope and drainage easement rights, the right of way easement rights, and the temporary construction easement rights to the properties described in Exhibits "A", "B", "C", "D" and "E", respectively, for the above described public use or purpose.

The foregoing Resolution was offered by Commissioner Judah, who moved its adoption. The motion was seconded by Commissioner Hall, and upon being put to a vote was as follows:

Bob Janes	<u>Absent</u>
Douglas St. Cerny	<u>Aye</u>
Ray Judah	<u>Aye</u>
Tammy Hall	<u>Aye</u>
John E. Albion	<u>Aye</u>

DULY PASSED AND ADOPTED this 15th day of March, 2005.

ATTEST:
CHARLIE GREEN, CLERK

By: [Signature]
Deputy Clerk

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

[Signature]
Chairman

APPROVED AS TO FORM:

[Signature]
Office of County Attorney



ACRE=43,560 SQUARE FEET

Lot #	Owner of Property	Description of Property (STRAP No.)	Number of Acres	Total Square Feet	Square Feet Taken	Taxable Remainder
300	LEE COUNTY	14-47-25-B2-0020H.8610	0.96	N/A	TOTAL	0
303	BONITA SPRINGS UTILITIES INC	14-47-25-B2-0020H.8540	1.20	N/A	TOTAL	0
306	CHAMBERLAIN BRUCE	14-47-25-B2-00200.0350	1.26	N/A	TOTAL	0
307	EDEN CAROL	14-47-25-B2-00200.0280	1.26	N/A	TOTAL	0
308	SPITZ MARIT	14-47-25-B2-00200.0270	1.26	N/A	TOTAL	0
310	LEE COUNTY	14-47-25-B2-00200.0370	1.26	N/A	TOTAL	0
311	LEE COUNTY	14-47-25-B2-00200.0260	1.26	N/A	TOTAL	0
312	LEE COUNTY	14-47-25-B2-00200.0260	1.26	N/A	TOTAL	0
313	LEE COUNTY	14-47-25-B2-00200.0380	1.26	N/A	TOTAL	0
314	LEE COUNTY	14-47-25-B2-00200.0870	1.26	N/A	TOTAL	0
315	LEE COUNTY	14-47-25-B2-00200.0860	1.26	N/A	TOTAL	0
316	LEE COUNTY	14-47-25-B2-00200.0390	1.26	N/A	TOTAL	0
317	LEE COUNTY	14-47-25-B2-00200.0240	1.26	N/A	TOTAL	0
318	LEE COUNTY	14-47-25-B1-00200.0230	1.25	N/A	TOTAL	0
319	LEE COUNTY	14-47-25-B1-00200.0400	1.25	N/A	TOTAL	0
320	BOLLIGER EUGENE	14-47-25-B1-00200.0850	1.25	N/A	TOTAL	0
321	GANTENBEIN RALPH	14-47-25-B1-00200.1020	1.25	N/A	TOTAL	0
322	LEE COUNTY	14-47-25-B1-00200.1030	1.25	N/A	TOTAL	0
323	PENDOLA PATRICIA E TR	14-47-25-B1-00200.0840	1.25	N/A	TOTAL	0
324	LEE COUNTY	14-47-25-B1-00200.0410	1.25	N/A	TOTAL	0
325	LEE COUNTY	14-47-25-B1-00200.0220	1.25	N/A	TOTAL	0
326	LEE COUNTY	14-47-25-B1-00200.0210	5.00	N/A	TOTAL	0
327	PISCITELLI ITALO	14-47-25-B1-00200.0820	1.25	N/A	TOTAL	0
328	LEE COUNTY	14-47-25-B1-00200.0430	1.25	N/A	TOTAL	0
329	LEE COUNTY	14-47-25-B1-00200.0200	1.25	N/A	TOTAL	0
304J	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.0330	0.75	N/A	EASEMENT	0.75
305A	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.1580	1.26	N/A	EASEMENT	1.26
332	SCHMETTERER WILLIAM T	14-47-25-B1-00200.0810	1.25	N/A	EASEMENT	1.25
333	KREPS ISAAC TR +	14-47-25-B1-00200.1450	1.25	N/A	EASEMENT	1.25
334	LE FEVRE MARCEL R + NICOLE	14-47-25-B1-00200.1480	1.25	N/A	EASEMENT	1.25
335	KELLER STEVEN T + CINDY L +	14-47-25-B1-00200.1470	1.25	N/A	EASEMENT	1.25
337	DADAMO DONNA M	14-47-25-B2-00200.1480	1.26	N/A	EASEMENT	1.26
340	FRANKLIN LAVERNE C	14-47-25-B2-00200.1000	1.26	N/A	EASEMENT	1.26
340	BILLS LARRY K + PENELOPE K	14-47-25-B2-00200.0890	1.26	N/A	EASEMENT	1.26
341	KING BEVERLY A	14-47-25-B2-00200.0900	1.26	N/A	EASEMENT	1.26
302	BONITA SPRINGS UTILITIES INC	14-47-25-B2-0020H.8530	1.81	79,292	34,359	1.03
304B	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.2810	0.75	32,670	22,477	0.23
304C	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.2780	0.75	32,670	22,816	0.23
304D	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.2190	0.75	32,670	23,165	0.22
304E	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.2160	0.75	32,670	23,533	0.21
304F	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.1570	0.75	32,670	25,121	0.17
304G	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.1540	0.75	32,670	27,550	0.12
304H	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.0950	0.75	32,670	21,790	0.25
304I	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.0920	0.75	32,670	9,823	0.52
305B	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.1530	1.25	53,928	474	1.23

Keith Gomez List			
Total Square Feet	Square Feet Taken	Taxable	Remainder
33,877	3,371		30,506
43,962	29,803		14,159
43,318	29,803		13,515
42,675	29,803		12,872
42,031	29,803		12,228
41,388	29,813		11,575
40,745	31,330		9,415
40,101	33,816		6,285
39,458	28,318		13,140
38,452	11,562		26,890

Engineer's Report (Chapter 288.301(5), F.S.)
 San Carlos Estates Water Control District
 Phase II

ACRE=43,560 SQUARE FEET

Lot #	Owner of Property	Description of Property (STRAP No.)	Number of Acres	Total Square Feet	Square Feet Taken	Taxable Remainder
305C	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.0960	1.26	54,401	11,951	0.97
305D	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.0910	1.26	54,401	37,212	0.39
305E	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.0340	1.26	54,401	36,989	0.40
305F	BONITA SPRINGS UTILITIES INC	14-47-25-B2-00200.0290	1.26	54,380	2,818	1.18
309	LEE COUNTY	14-47-25-B2-00200.0360	1.26	54,401	21,000	0.77
330	WILSON	14-47-25-B1-00200.0190	1.25	53,933	22,486	0.72
331	WILSON	14-47-25-B1-00200.0440	1.25	53,953	6,071	1.05
336	LEE COUNTY	14-47-25-B2-00200.1010	1.26	54,405	7,104	1.09
339	HEYDOLPH SCOTTY + WENDI	14-47-25-B2-00200.0880	1.26	54,401	288	1.24
342	PERGJINI EDUARD	14-47-25-B1-00200.1050	1.25	53,953	5,334	1.12