Lee County Board Of County Commissioners Agenda Item Summary

Blue Sheet No. 20051261

- 1. ACTION REQUESTED/PURPOSE: Approve and authorize the Chairman to sign an Interlocal Agreement between Lee County and the NPDES Permit co-permittees (Bay Creek Community Development District, Bayside Improvement Community Development District, Brooks of Bonita Springs Community Development District, City of Bonita Springs, City of Cape Coral, City of Fort Myers, City of Sanibel, East County Water Control District, East Mulloch Water Control District, Florida Department of Transportation, Gateway Services District, River Ridge Community Development District, San Carlos Estates Drainage District, and Town of Fort Myers Beach) providing a mechanism for Lee County and other co-permittees to meet the conditions of Chapter 62-4 F.A.C. for a single invoice and payment mechanism for the annual NPDES Permit #FLS000035 fees.
- **2. WHAT ACTION ACCOMPLISHES:** The single invoice and associated payment reduces the total permit fee compared to individual invoices by the permitting agency.
- 3. MANAGEMENT RECOMMENDATION: Staff recommends approval.

4. Departmental Category:	08 C8B		5. Meeting Date	09-20-2005
6. Agenda: X Consent	7. Requirement/Purpos Statute	se: (specify)	8. Request Initia Commissioner	
Administrative	Ordinance		Department	Public Works
Appeals	Admin. Code		Division	Natural Resources
Public	X Other	Interlocal	By: Roland	E. Ottolini, P.E.
Walk-On			Trace	

9. Background: In 1995, Lee County and co-permittees were issued an NPDES permit (#FLS000035) by the USEPA. In March 2004, the Florida Department of Environmental Protection (FDEP) renewed the permit. Permit fees are assessed in accordance with Chapter 62-4 F.A.C. Lee County and the associated co-permittees have the option to either be invoiced individually (resulting in multiple invoices) or agree to designate one permittee to a single invoice from FDEP as outlined in Florida Administrative Code, Chapter 62-4.052(10).

By Lee County agreeing to accept the responsibility for this designation, paying the entire permit fee and invoicing each copermittee for a prorated share (as outlined in Attachment A), the total annual permit fee total is reduced \$13, 691. Under the current fee structure and the presently agreed upon methodology (Attachment A), Lee County will save \$3,804 annually in permit fees.

Original Interlocal Agreement Distribution: Bay Creek Community Development District (copy), Bayside Improvement Community Development District (copy), Brooks of Bonita Springs Community Development District (copy), City of Bonita Springs (original), City of Cape Coral (copy), City of Fort Myers (original), City of Sanibel (original), East County Water Control District (original), East Mulloch Water Control District (original), Florida Department of Transportation (original), Gateway Services District (copy), Lee County Board of County Commissioners (original), River Ridge Community Development District (copy), San Carlos Estates Drainage District (copy), and Town of Fort Myers Beach (original).

10. Review for Scheduling: Purchasing Department County Human County Other Director **Budget Services** Manager/P.W. Resources 4ttorney Contracts Director Theins 4 Grants N/A N/A **Commission Action:** Approved by Coatey Deferred Denied RECEIVED BY Other COUNTY ADMIN: COUNTY ADMIN FORWARDED TO:

INTERLOCAL AGREEMENT BETWEEN LEE COUNTY AND
THE CITIES OF BONITA SPRINGS, CAPE CORAL, FORT MYERS AND SANIBEL,
THE TOWN OF FORT MYERS BEACH, EAST COUNTY WATER CONTROL
DISTRICT, THE EAST MULLOCH DRAINAGE DISTRICT, GATEWAY SERVICES
DISTRICT, BAYSIDE IMPROVEMENT COMMUNITY DEVELOPMENT DISTRICT,
BAY CREEK COMMUNITY DEVELOPMENT DISTRICT, THE BROOKS COMMUNITY
DEVELOPMENT DISTRICT, RIVER RIDGE COMMUNITY DEVELOPMENT
DISTRICT, SAN CARLOS ESTATES WATER CONTROL DISTRICT, AND THE
FLORIDA DEPARTMENT OF TRANSPORTATION FOR NPDES PERMIT FEE
ALLOCATIONS

THIS INTERLOCAL AGREEMENT, by and between the Cities of Bonita Springs, Fort Myers, Cape Coral, Sanibel and the Town of Fort Myers Beach, municipal corporations of the State of Florida, hereinafter referred to collectively as the "MUNICIPALITIES", the East County Water Control District, East Mulloch Drainage District, Gateway Services District, Bayside Improvement Community Development District, Bay Creek Community Development District, The Brooks Community Development District, River Ridge Community Development District, and San Carlos Estates Water Control District, special districts of the State of Florida, hereinafter referred to collectively as the "DISTRICTS"; the Florida Department of Transportation, an agency of the State of Florida, hereinafter referred to as "FDOT"; and Lee County, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY", and collectively referred to as the "Parties" is entered into this ______ day of ______, 2005.

WITNESSETH:

WHEREAS, the MUNICIPALITIES, DISTRICTS, FDOT and COUNTY ("Parties") desire to protect and promote the public health, safety and general welfare through the management of stormwater runoff; and

WHEREAS, the Parties desire to maintain and assist in the improvement of water quality and to preserve and enhance the environmental quality of streams and receiving waters; and

WHEREAS, pursuant to Florida Administrative Code Chapter 62-4 certain political entities are required to obtain a National Pollutant Discharge Elimination System (NPDES) Permit (hereinafter the Permit) to operate their Municipal Separate Sewer System; and

WHEREAS, the Parties are co-permittees under the Municipal Separate Storm Sewer NPDES permit; and

WHEREAS, pursuant to Chapter 62-4 of the Florida Administrative Code, permit fees associated with the Permit may be assessed according to a methodology either 1) based on a combination of census population fraction and a fixed base fee or 2) directly to the

individual co-permittees with DISTRICTS and FDOT paying fixed fees in addition to the MUNICIPALITIES and COUNTY assessments determined by a combination of a census population fraction plus a fixed base fee; and

WHEREAS, pursuant to F.A.C. Chapter 62-4 permit fees associated with the Permit may be paid by the lead co-permittee and subsequently distributed to each co-permittee; and

WHEREAS, the Parties desire to minimize and distribute the costs of permit fees equitably; and

WHEREAS, the COUNTY as lead co-permittee, may receive the permit invoice for permit fees and distribute the costs according to the consensus methodology developed by the COUNTY and accepted by the co-permittees; and

WHEREAS, the co-permittees, having approved the methodology for a permit fee distribution, agree to pay upon receipt of COUNTY invoice their annual NPDES MS4 permit fee; and

WHEREAS, the COUNTY agrees to pay the entire annual permit fee assessed by the Florida Department of Environmental Protection; and

WHEREAS, the EPA, Region IV, has determined that the MUNICIPALITIES within the COUNTY are designated as part of the COUNTY municipal separate storm sewer system for the purposes of NPDES permitting; and

WHEREAS, the Parties are accountable for their separate storm sewer systems which may outfall to another municipal separate storm sewer system or to Waters of the United States; and

WHEREAS, the Parties have approved the concept of intergovernmental cooperation to effectively manage and control discharge into separate storm sewer systems; and

WHEREAS, it is the mutual desire of the Parties to establish relationships and responsibilities for control of discharges to separate storm sewer systems.

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, the parties hereto mutually agree as follows:

SECTION ONE: <u>PURPOSE</u>

The purpose of this Agreement is to set forth the relationships and responsibilities of the MUNICIPALITIES, DISTRICTS, FDOT, and COUNTY with respect to the annual NPDES MS4 Permit fees, as assessed by the Florida Department of Environmental Protection.

The parties anticipate that the above named MUNICIPALITIES, DISTRICTS, FDOT, and COUNTY will enter into this Interlocal Agreement. This Interlocal Agreement shall be binding only upon parties that execute this Interlocal Agreement. No party that executes this Agreement shall be bound to its terms to a named party who has not entered into this Interlocal Agreement.

SECTION TWO: GENERAL RESPONSIBILITIES

The Parties, as co-applicants, recognize that unless otherwise established through a separate agreement, each co-permittee is responsible for the permit fees agreed upon for their jurisdiction or DISTRICT, in the agreed upon methodology.

SECTION THREE: METHODOLOGY

- A. The COUNTY shall develop a reasonable, responsible methodology and submit it to the representatives of the MUNICIPALITIES, DISTRICTS and FDOT for their review and approval at a regularly scheduled monthly coordination meeting prior to June 1 of each calendar year. [See Attachment "A"].
- B. Acceptance by the Parties of the methodology in accordance with the paragraph above shall be construed as an agreement to pay upon invoice by COUNTY the annually assessed fee to the COUNTY.
- C. The Methodology shall include provisions for additional (new) co-permittees in subsequent permits or permit years as well as the provision for a co-permittee to withdraw from the permit.

SECTION FOUR: INVOICING

The COUNTY shall invoice the MUNICIPALITIES, DISTRICTS and FDOT using the approved methodology during the month of October of each year of the permit.

SECTION FIVE: PAYMENT

The MUNICIPALITIES, DISTRICTS and FDOT shall pay the COUNTY the invoiced amount as determined using the agreed upon methodology within forty (40) days of receipt of invoice from the COUNTY. If payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable in addition to the invoice amount. Interest penalties of less than one (1) dollar will not be enforced unless requested by the COUNTY. Invoices that must be returned to the COUNTY because of COUNTY preparation errors will result in a delay in payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Parties.

SECTION SIX: DEFAULT

Should any one of the MUNICIPALITIES, DISTRICTS and FDOT fail to make payment of the assessment, the COUNTY has the sole and unilateral option to cease acting as the central collection and invoicing agency under this agreement in the following year, and the invoicing shall revert to direct invoicing to all parties hereto by the FDEP.

SECTION SEVEN: COPIES

Upon final execution of this Agreement by all Parties, two (2) copies will be provided to each of the Parties.

SECTION EIGHT: <u>LEGAL AUTHORITY</u>

- A. The Parties agree that they will adopt, modify or amend any ordinances, resolutions, rules, regulations or policies which will assure the enforcement of the terms, conditions and responsibilities under this Agreement.
- B. This Agreement shall be construed according to the laws of the State of Florida and any action regarding this Agreement shall be filed in the Twentieth Judicial Circuit (Lee County).
- C. If any part of this Agreement or any application thereof to any person or circumstance is declared invalid for any reason, then such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable and the remaining provisions of this Agreement, and all applications thereof not having been declared invalid, shall remain in effect.

SECTION NINE: DISCLAIMER OF THIRD PARTY BENEFICIARIES

This Agreement is solely for the benefit of the parties hereto and no right or cause of action shall accrue to, by reason hereof, or for the benefit of any third party not a signatory to this agreement

SECTION TEN: NOTICES

All written notices to the MUNICIPALITIES, DISTRICTS, FDOT and COUNTY under this agreement shall be directed to the following addresses:

LEE COUNTY

Mr. Tony Pellicer Division of Natural Resources 1500 Monroe Street P. O. Box 398 Fort Myers, FL 33902-0398 (239)479-8129 - 479-8108 Fax

TOWN OF FORT MYERS BEACH

Ms. Marsha Segal-George Town Manager Town of Fort Myers Beach P. O. Box 3077 Fort Myers Beach, FL 33932

GATEWAY SERVICES DISTRICT

Mr. Chuck Adams
Reg. Dir. Of Operations
13240 Commerce Lakes Drive
Fort Myers, FL 33912
(239)561-1313 - 561-1350 Fax
and
Mr. Anthony P. Pires
Woodward, Pires & Lombardo, P.A.
3200 Tamiami Trail North
Naples, FL 34103

FLORIDA DEPARTMENT OF TRANSPORTATION

Maintenance Environmental Manager P. O. Box 1249 Bartow, FL 33831 (863)519-2560 - (863)-534-7045 Fax

CITY OF BONITA SPRINGS

Mr. Gary A. Price City Manager City of Bonita Springs 9101 Bonita Beach Road Bonita Springs, FL 34135 (239)949-6262 - 949-6238 Fax

CITY OF FORT MYERS

Mr. Albert Abdo, Jr.
Public Works Director
City of Fort Myers
P. O. Drawer 2217
Fort Myers, FL 33902-2217
(239)332-6854 - 332-6604 Fax

EAST COUNTY WATER CONTROL DISTRICT

Mr. David Lindsay District Manager 101 Construction Lane Lehigh Acres, FL 33936 (239)368-0044 - 368-3412 Fax

RIVER RIDGE COMMUNITY DEVELOPMENT DISTRICT

Mr. James P. Ward, Assistant District Manager 10300 Northwest Eleventh Manor Coral Springs, FL 33071 (954)753-0380 - 954-755-6701 Fax and Mr. Anthony P. Pires Woodward, Pires & Lombardo, P.A. 3200 Tamiami Trail North Naples, FL 34103

BAYSIDE IMPROVEMENT COMMUNITY DEVELOPMENT DISTRICT

Mr. James P. Ward, Assistant District Manager 10300 Northwest Eleventh Manor Coral Springs, FL 33071 (954)753-0380 - 954-755-6701 Fax and Mr. Daniel H. Cox, Esq. Attorney P. O. Drawer CC 206 West 6th Street Carrabelle, FL 32322 (850)697-5555 (850)697-2171 Fax

CITY OF CAPE CORAL

Ms. Connie Jarvis, Biologist Environmental Resources Manager City of Cape Coral Public Works Department P. O. Box 150027 Cape Coral, FL 33915-0027 (239)574-0745 - 574-0861 Fax

EAST MULLOCH DRAINAGE DISTRICT

Mr. Alan Freeman 19091 Tamiami Trail, S.E. Fort Myers, FL 33908 (239)267-7472 - 267-7622 Fax

SAN CARLOS ESTATES WATER CONTROL DISTRICT

Mr. Bud Lawson Secretary/Treasurer P.O. Box 367807 Bonita Springs, FL 34136

BAY CREEK COMMUNITY DEVELOPMENT DISTRICT

Mr. James P. Ward, Assistant District Manager 10300 Northwest Eleventh Manor Coral Springs, FL 33071 (954)753-0380 - 954-755-6701 Fax and Mr. Daniel H. Cox, Esq. Attorney P. O. Drawer CC 206 West 6th Street Carrabelle, FL 32322 (850)697-5555 (850)697-2171 Fax

CITY OF SANIBEL

800 Dunlop Road Sanibel, Florida 33957

BROOKS OF BONITA SPRINGS COMMUNITY DEVELOPMENT DISTRICT

Mr. Chuck Adams
Reg. Dir. Of Operations
15730 Red Fox Run
Fort Myers, FL 33912
(239)437-5551-239-437-5552Fax
Mr. Daniel H. Cox, Esq.
Attorney
P. O. Drawer CC
206 West 6th Street
Carrabelle, FL 32322
(850)697-5555
(850)697-2171 Fax

SECTION ELEVEN: <u>EFFECTIVE DATE - TERM</u>

This Agreement shall become effective on the date a fully executed copy is filed with the Clerk of the Circuit Court for Lee County, unless otherwise terminated by the COUNTY. This Agreement shall remain in effect for so long as each party remains a co-permittee on the NPDES permit, and shall automatically be extended with NPDES permit renewals, as long as the parties continue as Co-Permittees.

SECTION TWELVE: AMENDMENTS

Modifications or amendments to the provisions herein shall be made only in writing signed by all the parties hereto.

IN WITNESS WHEREOF, have executed and affixed their o	the lawful representatives of the co-permittees hereto fficial seals to this Agreement this day of 05.
ATTEST: CHARLIE GREEN, CLERK	BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA
By: Deputy Clerk	By:Chairman
	APPROVED AS TO LEGAL FORM:
	By: Lee County Attorney's Office

IN WITNESS WHEREOF, the I have executed and affixed their official , 200 £	awful representatives of the co-applicants hereto seals to this Agreement this day of
ATTEST: TOWN CLERK By: Clerk	By: Ms. Marska Segal-George Town Manager
	APPROVED AS TO LEGAL FORM: By: Town Attorney's Office

IN WITNESS WHEREOF, the have executed and affixed their officia	lawful representatives of the co-applicants hereto I seals to this Agreement this3 core day of
Witness - Signature	By: Chairman
Witness - Signature	
Steven H Monnison Witness Printed Name	

Mai

	the lawful representatives of the co-applicants hereto fficial seals to this Agreement this day of 200_5
Witness - Signature	FLORIDA DEPT. OF TRANSPORTATION By:
Witness Printed Name	APPROVED AS TO LEGAL FORM:
Witness -, Signature Score file Park File Witness Printed Name	BH: Y abricia T. M. A Dokum. GENERAL COUNSEL'S CAFICE.

IN WITNESS WHEREOF, the la have executed and affixed their official , 200 5	swful representatives of the co-applicants hereto seals to this Agreement this day of
ATTEST: CITY CLERK /	CITY OF BONITA SPRINGS
By: Clerk Jun	By: Chan C
	APPROVED AS TO LEGAL FORM:
	By:City Attorney's Office

IN WITNESS WHEREOF, the land have executed and affixed their official new part of the land their official new part of the land th	swful representatives of the co-applicants hereto seals to this Agreement this day of
ATTEST: CITY CLERK	CITY OF FORT MYERS
By: <u>Makue Adamy</u> Clerk Marie Adams, CMC City Clerk	By: Mayor Jim Hymphrey
	APPROVED AS TO LEGAL FORM: By: City Attorney's Office Grant W. Alley, City Attorney

IN WITNESS WHEREOF, the land affixed their official June, 200_5	awful representatives of the co-applicants hereto seals to this Agreement this <u>27th</u> day of
Witness - Signature	EAST COUNTY WATER CONTROL DISTRICT By: Chairman
Brenda Fallon Witness Printed Name Witness - Signature	
PAUCH CAMBERATO Witness Printed Name	

IN WITNESS WHEREOF, the have executed and affixed their office the have executed and affixed the have	e lawful representatives of the co-applicants hereto sial seals to this Agreement this day of
	RIVER RIDGE COMMUNITY DEVELOPMENT DISTRICT
Witness - Signature	By: Solician Solicians
CHESLEY E. Adams JR. Witness Printed Name	
Witness - Signature	
Witness Printed Name	

have executed and affixed their office	e lawful representatives of the co-applicants hereto cial seals to this Agreement this day of
Witness - Signature	BAYSIDE IMPROVEMENT COMMUNITY DEVELOPMENT DISTRICT By: Chairman
Witness Frinted Name Witness - Signature	
Witness Printed Name	

have executed and affixed their office	ne lawful representatives of the co-applicants he cial seals to this Agreement this/& date of the co-applicants he cial seals to this Agreement this/& date of the co-applicants he cial seals to this Agreement this/
ATTEST: CITY CLERK	CITY OF CAPE CORAL
By: <u>Urgenea Glackel</u> Caty_ Clerk	By: Cur Fordala
	APPROVED AS TO LEGAL FORM:
	By: Maily W. Mela

IN WITNESS WHEREOF, the I have executed and affixed their official รงผะ , 200 ร	awful representatives of the co-applicants hereto seals to this Agreement this day of
	EAST MULLOCH DRAINAGE DISTRICT
Brothe & aller Witness - Signature	By: Osa C. Osas
Scoke S. Allen Witness Printed Name	
Witness - Signature	
Witness Printed Name	

	awful representatives of the co-applicants hereto seals to this Agreement this '41/1_ day of
	SAN CARLOS ESTATES WATER CONTROL DISTRICT
Witness - Signature	By: Carolyn Williamson Chairman
Witness Printed Name	
Witness - Signature	
Kenneth W. Kellum Witness Printed Name	

IN WITNESS WHEREOF, the have executed and affixed their official, 200_	lawful representatives of the co-applicants hereto al seals to this Agreement this27 day of
	BAY CREEK COMMUNITY DEVELOPMENT DISTRICT By: Acres By: Acres By: Acres
Witness Signature	Chairman Chairman
Witness Frinted Name Witness - Signature	
Witness Printed Name	

IN WITNESS WHERE have executed and affixed th	eir official seals to this Agreement this <u>15th</u> day of, 2005
ATTEST: CITY CLERK	CITY OF SANIBEL
By: ntz. Olerk	By: Carla Brooks Johnston
	APPROVED AS TO LEGAL FORM: By: Kunnet B. hyl
	City Attorney's Office

have executed and affixed their	, the lawful representatives of the co-applicants hereto official seals to this Agreement this27 day of200
July,	of Bonita Springs
Ω	THE BROOKS COMMUNITY DEVELOPMENT
[/]/[/	
Witness - Signature	By: Chairman
Daviel H. Cox Witness Printed Name	
Witness - Signature	
Mitness Printed Name	
M/	Brooks of Bourta Springe II Community Development District
Widness Signature	
Daniel H. Coc	Residence
printed Namy	Chairpain
Agn	
Witness Signature	
Laura Agnew	
1 / Name	

Attachment A NPDES Fees and Charges Current versus Single Invoice

Municipal			Fort						
Population	Bonita		Myers				Unincorp	Total Lee	Annual
Percentages	Springs	Cape Coral	Beach	Fort Myers	Sanibel	Fort Myers Sanibel City Sub-Total Lee County	Lee County	County	Base Fee
Population	28,262	115,148	6,460	48,596	6,064	204,530	236,358	440,888	\$ 10,400
%Population	%9	26%	1%	11%	1%	46%	54%	100%	Pop Fee
% Base Fee	£ \$	\$ 2,716	\$ 152	\$ 1,146	\$ 143	\$ 4,825	\$ 5,575	\$ 10,400	\$ 0.022
Adjusted Base Fee \$	\$ 378	\$ 1,541	\$ 86	\$ 650	\$ 81	\$ 2,737	\$ 3.163	\$ 5.900	Adjusted Base Fee*
Distributed Pop									
Fee	\$ 622	\$ 2,533	\$ 142 \$	\$ 1,069	\$ 133	\$ 4,500	\$ 5,200	\$ 9,700	\$ 5,900
Adjusted Totals	\$ 1,000	\$ 4,074	\$ 229	\$ 1,719	\$ 215	\$ 7,237	\$ 8,363	\$ 15,600	
Municipal Fees									*Base less \$

⇔		
*Base less	paid by	districts

Municipal Co-			L			
permittees	Current	ent	Prof	Proposed	Diff.	Difference
Bonita Springs	()	•	\$	1,000	\$	1,000
Cape Coral	ક	4,504	\$	4,074	↔	(430)
Fort Myers	€	2,233	\$	1,719	↔	(514)
Fort Myers Beach	ક્ક	100	ω	229	↔	129
Sanibel	₩	287	မာ	215	↔	(72)
Lee County	↔	12,167	क	8,363	↔	(3,804)
Municipal Total	⇔	19,291	\$	15,600	\$	(3,691)
District Fees						

(1,000)(1,000) (1,000)(1,000)(1,000)(1,000) Difference (2,000)(1,000) \$ (10,000) ω 4,500 500 500 500 500 500 500 500 500 Proposed 14,500 1,500 1,500 1,500 1,500 2,500 1,500 1,500 Current** ω Bayside Estates Districts Total East Mulloch East County River Ridge Estates Bay Creek San Carlos Gateway Districts Brooks

**Based on the 2003 permit year Population based on 2000 Census Future Permit fee adjustments may be made as equity/population dictates

13,691

Annual Savings

\$ (13,691)

20,100

33,791

Permit Total