

**Lee County Board of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20031061

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Approve the Interlocal Agreement Concerning Proportionate Share Payments and Cross-Jurisdictional Impacts Attributable to Adoption of the Coconut Point DRI between Lee County and the City of Bonita Springs.

**WHY ACTION IS NECESSARY:** Formal approval of the Interlocal Agreement is required.

**WHAT ACTION ACCOMPLISHES:** Provides clear and specific direction regarding the City of Bonita Springs entitlement to a portion of the DRI proportionate share payment upon its receipt from the Coconut Point DRI Developer.

**2. DEPARTMENTAL CATEGORY:**  
COMMISSION DISTRICT #

*C12A*

**3. MEETING DATE:**

*09-23-2003*

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**  
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION Land Use
- BY: *[Signature]* *9/15/03*  
Dawn E. Perry-Lehnert  
Assistant County Attorney

**7. BACKGROUND:** The Board approved the Coconut Point DRI Development Order on October 21, 2002. As part of the Development Order, a proportionate share obligation was established in the total amount of \$14,600,000. This proportionate share obligation is intended to address the significant and adverse impacts on county roads caused by development of Coconut Point DRI. Some of the effected roads are located within the City of Bonita Springs, specifically Old U.S. 41 between Rosemary Drive and the intersection of Old U.S. 41 with U.S. 41 and Pelican Landing Boulevard.

In order to address the impacts to Bonita Springs' roads, the County is agreeing to transfer \$2.184 million to the City as full mitigation for the impacts created by Coconut Point DRI. Under the Interlocal Agreement, the County is not obligated to transfer any funds until the County receives the first proportionate share installment from the Developer. Upon receipt of the funds from the County, the City will be obligated to use the funds for improvements to Old U.S. 41 or as otherwise required under the DRI Development Order.

This Interlocal Agreement has been approved by the City of Bonita Springs. County Staff Recommends approval.

Attachments: Interlocal Agreement

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
					OA	OM	RISK	GC	
N/A	N/A	N/A	N/A	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY  
COUNTY ADMIN.  
*9/18/03 11:00 AM*

RECEIVED BY  
COUNTY ADMIN: *CA*  
*9/18*  
*11:30 am*  
COUNTY ADMIN  
FORWARDED TO: *DS*  
*9/18/03*

**INTERLOCAL AGREEMENT CONCERNING PROPORTIONATE  
SHARE PAYMENTS AND CROSS-JURISDICTIONAL  
IMPACTS ATTRIBUTABLE TO ADOPTION OF  
THE COCONUT POINT DRI**

This Interlocal Agreement is made between Lee County, a political subdivision of the State of Florida (County) and the City of Bonita Springs, a municipal corporation in the State of Florida (City).

WHEREAS, F.S. §163.01 provides the City and County with the power and authority to enter into an Interlocal Agreement for the mutual benefit of the citizens within each jurisdiction; and

WHEREAS, the Coconut Point Development of Regional Impact was approved by the Board of County Commissioners on October 21, 2002; and

WHEREAS, the traffic projections for Coconut Point DRI indicate significant and adverse impacts on a number of roads within the County, including some within the City of Bonita Springs' boundaries; and

WHEREAS, the City has determined that acceptance of a proportionate share payment will adequately mitigate the impacts from development of Coconut Point DRI within the City boundaries; and

WHEREAS, the City and County desire to set forth the manner in which the proportionate share payment will be received and used in accordance with F.S. Ch. 380 and FAC. Rule 9J-2.045; and

WHEREAS, the City and County find entering into this Interlocal Agreement serves the public interest and benefit.

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The recitals are true and correct and incorporated herein.
2. Purpose. The purpose of this Interlocal Agreement is to set forth the obligations of the parties with respect to mitigation of cross-jurisdictional impacts created by the approval and development of the Coconut Point DRI. This agreement is intended to be an attachment to and part of the Coconut Point DRI Development Agreement executed subsequent to the Coconut Point DRI development order approval. This agreement will be incorporated

into the Coconut Point DRI Development Order as part of the next NOPC submittal filed by the Developer.

3. Authority. The parties each represent that the execution and delivery of this Interlocal Agreement is duly authorized by all appropriate actions of the respective governing body and constitutes a legal, valid and binding obligation of the respective party.
4. Sandy Lane Extension Corridor Alignment Study. The County agreed to provide funds to conduct the Corridor study for Sandy Lane Extension. Board of County Commissioner direction and approval for expenditure for up to \$250,000.00 was granted in July, 2002. The County agrees to provide a copy of the Study to the City upon receipt.

Neither party is obligated to expend additional funds with respect to Sandy Lane under this Interlocal Agreement.

5. Old U.S. 41 Improvements. The City agrees to accept \$2.184 million as full mitigation for the impacts created by development of Coconut Point DRI. This amount represents the estimated proportionate share as determined and agreed by both parties. Under the terms of the DRI Development Order the County will receive proportionate share payments directly from the developer. Within 30 days of receiving the first cash installment or proportionate share payment for the Regional Retail Center from the developer, the County will transmit \$2.184 million to the City. Once this amount is transmitted, the City and County agree no further funds will be due from the County for impacts attributable to development of the Coconut Point DRI as approved by the County in October 2002.

The funds transmitted to the City must be used towards the necessary and identified improvements to Old U.S. 41 between Rosemary Drive and the intersection of Old U.S. 41 with U.S. 41 and Pelican Landing Boulevard. This roadway is under the City's jurisdiction and as such constitutes an improvement over which the City has control and authority.

6. State Roads within the City. The Coconut Point DRI development order identifies a number of impacted state roads within the City. Proposed improvements to mitigate these projects are set forth in the text of the DRI development order and included in the developer's proportionate share payment. The parties agree these improvements, unless otherwise provided for in this Agreement, will be addressed by the County or the Florida Department of Transportation at the appropriate time based upon availability of necessary funds.

7. Intersection Improvements. The City agrees to accept \$138,000.00, as full mitigation for the impacts of the Coconut Point DRI to the following intersections:
  - a. Old U.S. 41 @ Bonita Beach Road
  - b. Old U.S. 41 @ Dean Street
  - c. Old U.S. 41 @ Terry Street

These funds will be provided to the City within thirty (30) days of the County's receipt of the first cash installment or proportionate share payment for the Regional Retail Center is received from the developer. No additional funds will be provided to the City for the purpose of completing these improvements.

8. Transfer of Funds. The City understands and agrees the County has no obligation to transfer the funds unless and until the proportionate share cash payment contemplated by the DRI development order is actually made by the developer. The City also understands and agrees that any adjustment to 2002 dollars, as contemplated by the DRI Development Order, will be provided to the City only if this adjustment is required by the County or requested by the Developer prior to payment of the first proportionate share installment.
9. Venue. This Interlocal Agreement is governed by the laws of the State of Florida. Any action to enforce the terms of this Agreement will be brought in a court of competent jurisdiction in Lee County, Florida.
10. Amendment. This Agreement may be amended only by a written document executed with the same formality.
11. Effective Date. This Agreement becomes effective on the date it is fully executed by both parties.
12. Termination. This Agreement terminates upon the City's receipt of the payments contemplated under Paragraphs 5 and 7 and the setting of the Sandy Lane Alignment between Pelican Colony Boulevard and the southern DRI boundary line, or on December 31, 2006, whichever is earlier.
13. Liability. The parties agree that execution of this Agreement does not serve to waive the sovereign immunity of either party or serve to increase the limits of liability provided in F.S. §768.28.

IN WITNESS OF THE ABOVE, the City and County execute this Agreement on the dates indicated.

ATTEST

By: *Anne J. Green*  
Clerk

CITY OF BONITA SPRINGS

By: *Paul D. ...*  
Mayor

Date:

APPROVED AS TO FORM:

By: *[Signature]*  
Office of the City Attorney

ATTEST:  
CHARLIE GREEN, CLERK

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

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

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

Date:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Dawn E. Perry-Lehnert  
Office of the County Attorney