



Interoffice Memorandum

Date : October 6, 2021

To : Glen Salyer
Dave Loveland
Michael Jacob
Amanda Swindle

From : Russell P. Schropp

Re : Interlocal Agreement Between Babcock Ranch ISD and Lee
County for Alternate Assurances for Construction of
Improvements

VIA EMAIL

Following up on our meeting of September 13, 2021, attached please find the above-referenced Interlocal Agreement that has been executed by the Babcock Ranch ISD. Please advise when this matter will be scheduled for presentation to the Board.

I will have the ORIGINAL of this agreement delivered to Glen's office this afternoon.

Please let me know if you have any questions or need anything further. Thank you for your continued assistance in reaching this agreement.

/rs

Enc

CC: Erica Woods
Alyssa Wilson

**INTERLOCAL AGREEMENT BETWEEN LEE COUNTY, FLORIDA, AND THE
BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT
PROVIDING FOR WAIVER OF BOND WITH ALTERNATE FINANCIAL
ASSURANCE FOR CONSTRUCTION OF IMPROVEMENTS**

THIS INTERLOCAL AGREEMENT (the "Interlocal Agreement"), dated as of _____, 2021, is entered into by and between:

Lee County, Florida, a political subdivision of the State of Florida, whose address is 2120 Main Street, Fort Myers, Florida 33901 ("County"); and

Babcock Ranch Community Independent Special District, a local unit of special-purpose government created and existing pursuant to Chapter 2007-306, Laws of Florida, as amended by Chapter 2016-257, Laws of Florida (together, "the Act"), located in Charlotte County and Lee County, Florida, whose mailing address is 2300 Glades Road, Suite 410W, Boca Raton, Florida 33431 (the "District").

RECITALS:

WHEREAS, Babcock Property Holdings, LLC, a Delaware limited liability company and owner of lands within the boundaries of the District, whose address is 42850 Crescent Loop, Suite 200, Babcock Ranch, Florida 33982 (the "Developer") or the District shall construct improvements including but not limited to roads, surface water management systems, landscaping, utilities, conservation areas and plat monumentation, to the extent authorized by the Act, within the lands identified on **Exhibit A** (the "Improvements"); and

WHEREAS, the District was established pursuant to the Act for the purpose of planning, financing, constructing, installing, operating, and/or maintaining certain infrastructure, including transportation and roadway improvements, drainage facilities, potable water facilities, sanitary sewer facilities, and other improvements, including the Improvements; and

WHEREAS, pursuant to the Act the District has authority to borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such taxes and assessments as may be authorized; and to charge, collect, and enforce fees and other user charges; and

WHEREAS, Lee County Land Development Code, Chapter 10, Article II, Section 10-154(26), Additional Required Submittals, as implemented by Administrative Code Number AC-13-19, ("Construction Bond Requirement") provides in part that:

Assurance of completion of the development improvements as specified in this section will be required for all off-site improvements prior to commencing any off-site or on-site development. Assurance of completion of the development improvements for on-site subdivision improvements will be required prior to the acceptance of the subdivision plat. Those on-site subdivision improvements that have been constructed, inspected and approved by the Director of Development Services through the issuance of a certificate of compliance may be excluded from the requirements of this section.

a. *Surety or cash performance bond.* Security in the form of a surety or cash performance bond must be posted with the Board and made payable to the County in an amount equal to 110 percent of the full cost of installing the required improvements approved by the County. If the proposed improvement will not be constructed within one year of issuance of the final development order, the amount of the surety or cash performance bond must be increased by ten percent compounded for each year of the life of the surety or bond. Alternatively, the surety or cash performance bond may be renewed annually at 110 percent of the cost of completing the remaining required improvements if approved by the Director. Prior to acceptance, bonds must be reviewed and approved by the County Attorney's Office. Surety instruments will be reviewed and approved in accord with the provisions set forth in administrative code 13-19.

b. *Other types of security.* The Board may accept letters of credit or escrow account agreements or other forms of security provided that the reasons for not obtaining the bond are stated and the County Attorney approves the document. Review and approval of surety instruments will be in accord with the guidelines set forth in Administrative Code 13-19.

WHEREAS, the Construction Bond Requirement in general, is for the purpose of making funds available to complete improvements in the event a private party seeking to develop land is unable to complete the necessary infrastructure; and

WHEREAS, in light of the nature and timing of the construction of the Improvements, the issuance of bonds by the District to fund a portion of the Improvements, and the fact that the District is a public governmental body with the ability to issue additional bonds and assess lands within its boundaries, the District seeks an alternative mechanism to meet the Construction Bond Requirement for the Improvements from time to time which would allow the cost effective construction of the Improvements, take into account the anticipated bond funds available for completion of such improvements, and allow acceptance by the Board of County Commissioners of plats containing the Improvements; and

WHEREAS, collecting on a construction bond to fund deficiencies in construction funding is often a time consuming process involving litigation against third party sureties, with all attendant risks and costs; and

WHEREAS, having the ability to issue bonds, and having the established process under the Act for the collection of non ad valorem assessments levied by the District provides greater certainty as to the likelihood and timeliness of having funds available in order to complete construction of the Improvements subject to these alternative financial assurances, if needed; and

WHEREAS, the District has requested that the County accept an alternative mechanism to meet the Construction Bond Requirement for the Improvements from time to time and the County has examined the factors enumerated above and has determined that the alternative mechanisms set forth in this Interlocal Agreement provide equal or greater assurance of completion of the Improvements by the District than a customary construction bond would.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the District agree as follows:

Section 1. Authority. This Interlocal Agreement is entered into pursuant to the provision of Florida law, including but not limited to Chapters 125, 163, and 189, Florida Statutes, the Act and the Florida Constitution.

Section 2. Recitals. The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Interlocal Agreement. All exhibits identified herein are hereby incorporated by reference to the same extent as if fully set forth herein.

Section 3. District Commitment to Complete Construction. The District shall be obligated to commit to completion of construction (subject only to reasonable delays due to Force Majeure) of such portion of the Improvements to which the alternate financial assurances set forth in this Interlocal Agreement relate (“Alternate Assurances”) upon the Developer or the District’s commencement of construction of the Improvements for which Alternate Assurances are sought, all in the manner provided in this Interlocal Agreement. For purposes of this Interlocal Agreement, the term “Force Majeure” shall mean any fire, flood, windstorm, hurricane, epidemic, pandemic, abnormal weather condition, labor dispute, strike, insurrection or unrest, act of God, dispute between the District and contractors or subcontractors, which causes a work slowdown, delay or stoppage as a result of any of the foregoing, action by another governmental agency with jurisdiction over construction permitting resulting in a slowdown or stoppage of construction, or any other circumstance or event beyond the control of the District. Force Majeure shall only apply to alter the time for completion of construction and not excuse a failure to perform.

Section 4. Use of Other Bond Assurances. Nothing contained herein shall require the District to provide Alternate Assurances and at any time a developer may comply with the standard Construction Bond Requirement as to any portion of the Improvements, or may complete the improvements prior to acceptance of a subdivision plat.

Section 5. Improvements.

5.1 Completion of Improvements. As each plat is submitted to the County for approval, should the District choose to provide Alternate Assurances, the District shall provide a letter, in substantially the same form as that attached hereto as **Exhibit B**. The District hereby agrees to complete or cause to be completed the Improvements for which it has provided Alternate Assurances, subject only to reasonable delays due to Force Majeure, and to abide by and comply with the provisions of this Interlocal Agreement in the event such Improvements are not completed. All applicable Lee County requirements, other than the Construction Bond Requirement, shall continue to govern the platting and construction process.

5.2 Completion Cost. As each plat is submitted to the County for approval, the District Engineer shall certify the Completion Cost of the Improvements contained on such plat.

5.3 Duty to Fund as to Improvements. The District shall comply with the provisions of this Interlocal Agreement to complete or cause to be completed the Improvements

in the event the Improvements indicated on the plat are not completed. The District shall fund the completion of the Improvements by electing one of the following methods:

- (a) use of bond funds either currently in a trust account or by accessing the public bond market;
- (b) use of a conventional lender to obtain a loan backed by assessments;
- (c) use of monies in the District's operating fund;
- (d) levy assessments on property within the District; or
- (e) use of such other lawful revenues or funding sources as may be available.

In the event the Improvements on the plat are not completed within the time period identified in the Alternate Assurances, the County may provide notice of such failure in the form attached as **Exhibit C** and demand use of the alternative methods provided above. Response to such notice from the County must be provided by the District within ten (10) days of receipt of such notice. The failure to respond or to diligently pursue one or more of the alternative methods provided above shall be deemed a default hereunder by the District.

5.4 Acceptance and Release of Alternate Assurances. The County hereby accepts the Alternate Assurances as to the Improvements to satisfy the Construction Bond Requirement relating to the Improvements. Except as provided below in Section 5.6 for Improvements constructed in County right-of-way, the Alternate Assurances will be deemed released upon issuance of a Certificate of Compliance for the specified Improvements by the County's Division of Development Services or other entity to whom the responsibility for final inspection has been assigned.

5.5 County Option to Complete Improvements. In the event the District or the Developer fails to complete the Improvements in the manner provided in this Agreement, the County may, at its sole option and discretion, step in and complete said Improvements, whereupon the County may proceed to recover its costs by appropriate action pursuant to Sections 10 and 15 below.

5.6 Improvements within County Right-of-Ways. In the event that Improvements are located within County right-of-way, the Alternate Assurances will remain in full force and effect for a period of twelve (12) months subsequent to the date upon which a Certificate of Compliance for those Improvements is issued. The Alternate Assurances will remain in effect to ensure that the Improvements located within the County-maintained right-of-way remain free from deficiencies and are warranted for the 12-month period against such defects resulting from substandard workmanship, construction practices, or materials. At the conclusion of the 12-month period, if no deficiencies exist, the Alternate Assurances will be released in full upon written notice from the County's Department of Transportation that the constructed Improvements remain free of construction defects, normal wear and tear excepted.

Section 6. Authority to Contract. The execution of this Interlocal Agreement has been duly authorized by the appropriate body or official(s) of the County and the District, each party has complied with all applicable requirements of law, and each party has full power and authority to comply with the terms and provisions of this instrument. The District has been authorized to enter into and implement this Agreement by Resolution of the District's Governing Board attached hereto as **Exhibit D**, which Resolution has authorized the District's Chairman or Vice-Chairman to take all action necessary in furtherance of this Agreement on behalf of the District.

Section 7. Limitations on Governmental Liability; Insurance. Nothing in this Interlocal Agreement shall be deemed a waiver of immunity limits of liability or sovereign immunity of either the County or the District, pursuant to Chapter 768, Florida Statutes, and any amendment thereto, or other statute or law. Nothing in this Interlocal Agreement shall inure to the benefit of any third party for the purpose of allowing any claim, which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law. The District agrees that as to any construction contracts entered into after the effective date hereof for construction of any part of the Improvements subject to Alternate Assurances, the District shall include a provision requiring the contractor to name the County as an additional insured under the liability insurance policies carried by contractor under such construction agreement.

To the extent permitted by law, the District agrees to indemnify and hold the County harmless from and against any and all damages, losses or claims, including but not limited to, legal fees and expenses, to the extent that such damages, losses or claims are attributable to actions, omissions or negligence by the District, its supervisors, officers, agents, employees or independent contractors.

To the extent permitted by law, the County agrees to indemnify and hold the District harmless from and against any and all damages, losses or claims, including, but not limited to, legal fees and expenses, to the extent that such damages, losses or claims are attributable to actions, omissions or negligence by the County, its supervisors, officers, agents, employees or independent contractors.

Section 8. Negotiation at Arm's Length. This Interlocal Agreement has been negotiated fully between the parties as an arm's length transaction and with the assistance of legal counsel. Both parties participated fully in the preparation of this Interlocal Agreement. In the case of a dispute concerning the interpretation of any provision of this Interlocal Agreement, both parties are deemed to have drafted, chosen, and selected the language, and the language in question will not be interpreted or construed against either party.

Section 9. Notices. All notices, requests, consents and other communications hereunder ("Notices") shall be in writing and shall be delivered, mailed with delivery confirmation tracking system, or hand delivered to the Parties, as follows:

(a) **If to District:** Babcock Ranch Community Independent
Special District
2300 Glades Road, Suite 410W
Boca Raton, Florida 33431
Attn: District Manager

With a copy to: Hopping Green & Sams, P.A.
119 South Monroe Street, Suite 300
Tallahassee, Florida 32301
Attn: Jonathan T. Johnson

(b) **If to County:** Lee County
2115 Second Street
Fort Myers, Florida 33902
Attn: County Administrator

With a copy to: Lee County Attorney's Office
2115 Second Street
Fort Myers, Florida 33901
Attn: County Attorney

Except as otherwise provided herein, any Notice shall be deemed received only upon actual delivery at the address set forth herein. If mailed as provided above, Notices shall be deemed delivered as stated on delivery confirmation unless actually received earlier. Notices hand delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the Parties may deliver Notice on behalf of the Parties. Any party or other person to whom Notices are to be sent or copied may notify the other Parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the Parties and addressees set forth herein.

Section 10. Default. Each of the parties hereto shall give the other party written notice of any default hereunder and shall allow the defaulting party a reasonable time (not to exceed thirty (30) days unless otherwise agreed to by the parties) from the date of its receipt of such notice within which to cure any such defaults and to thereafter notify the other parties of the actual cure of any such defaults. If the breach is not cured within said time period, the County and District shall be entitled to all remedies at law or in equity, which may include but not be limited to, damage, injunctive relief and specific performance. The parties may utilize the governmental dispute procedures set forth in Chapter 164, Florida Statutes, and any amendments thereto.

Section 11. Other Agreements. Nothing in this Interlocal Agreement shall be construed as superseding, altering or amending the conditions and terms of any other agreement between the parties hereto.

Section 12. Assignment or Transfer. Neither party may assign or transfer its rights or obligations under this Interlocal Agreement without the prior written consent of the other party.

Section 13. Binding Effect. This Interlocal Agreement shall be binding upon and shall inure to the benefit of the County, the District, and their respective successors.

Section 14. Filing. The County Attorney is hereby authorized and directed, after approval of this Interlocal Agreement by the respective governing bodies of the County and the District and the execution thereof by the duly qualified and authorized officers of each of the parties hereto, to cause this Interlocal Agreement to be filed with the Clerk of the Circuit Court of Lee County, Florida, in accordance with the requirements of Section 163.01(11) of the Interlocal Cooperation Act.

Section 15. Applicable Law and Venue. This Interlocal Agreement and the provisions contained herein shall be governed by and construed in accordance with the laws of the State of Florida. In any action, in equity or law, with respect to the enforcement or interpretation of this Interlocal Agreement, venue shall be in Lee County, Florida.

Section 16. Severability. If any part of this Interlocal Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, such invalid, illegal or unenforceable part shall be deemed severable and the remaining parts of this Interlocal Agreement shall continue in full force and effect provided that the rights and obligations of the parties are not materially prejudiced and the intentions of the parties can continue to be effected.

Section 17. Entire Agreement; Amendment. This instrument and its exhibits constitute the entire agreement between the parties and supersede all previous discussions, understandings and agreements between the parties relating to the subject matter of this Interlocal Agreement. Amendments to and waivers of the provisions herein shall be made by the parties in writing by formal amendment.

Section 18. Effective Date. This Interlocal Agreement shall become effective upon the filing hereof in accordance with Section 14 hereof.

Section 19. Attorneys Fees. In the event of litigation to enforce the remedial provision of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs associated with any such litigation at the trial level and/or appeal.

Section 20. Termination. This Agreement shall automatically terminate following buildout of lands described in Exhibit A.

Section 21. No Lien or Encumbrance. Nothing contained herein shall constitute a lien or encumbrance upon any portion of lands within the District.

Section 22. Abolishment of the District. In the event the District is terminated or repealed by law or otherwise ceases to exist or function, the County may unilaterally terminate this Agreement by providing notice pursuant to Section 9 above and recording notice of such termination in the Public Records of Lee County, Florida, whereupon the County may require appropriate financial assurances for all outstanding and future Improvements on the lands described in Exhibit A.

IN WITNESS WHEREOF, the undersigned set their hands as of the _____
_____, day of _____, 2021.

BABCOCK RANCH COMMUNITY
INDEPENDENT SPECIAL DISTRICT

By _____
Chairman

Witness: Cindy Carbone
Cindy Carbone
Print Name

Attest: _____,
Secretary/Assistant Secretary

Witness: Erica S Woods
Erica S Woods
Print Name

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
By _____
Jonathan T. Johnson, District Counsel

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By _____
Kevin Ruane, Chairman

ATTEST
Linda Doggett, Clerk

By _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
By _____
Richard Wesch, County Attorney

Exhibit A

LEE COUNTY PARCEL:

A parcel of land lying within Sections 1 through 7 and Section 9, Township 43 South, Range 26 East, Lee County, Florida being more particularly described as follows:

Commence at the Southwest corner of Section 31, Township 42 South, Range 26 East and run S89°41'45"E, along the South line of said Section 31, a distance of 50.00 feet to a point on the East right-of-way line of State Road No. 31, said point also being the Point of Beginning of the parcel of land herein described; Thence continue S89°41'45"E a distance of 5,189.75 feet to the Northeast corner of Section 6, Township 43 South, Range 26 East; Thence S89°41'45"E a distance of 5,306.08 feet to the Northeast corner of Section 5, Township 43 South, Range 26 East; Thence S89°37'16"E a distance of 5,289.11 feet to the Northeast corner of Section 4, Township 43 South, Range 26 East; Thence S89°35'44"E a distance of 5,294.60 feet to the Northeast corner of Section 3, Township 43 South, Range 26 East; Thence S89°35'44"E a distance of 5,294.60 feet to the Northeast corner of Section 2, Township 43 South, Range 26 East; Thence S89°35'44"E, along the North line of Section 1, Township 43 South, Range 26 East, a distance of 155.76 feet; Thence S09°58'52"W a distance of 4,667.96 feet; Thence S04°10'14"W a distance of 283.52 feet; Thence S03°53'19"E a distance of 515.32 feet to a point on the South line of Section 2, Township 43 South, Range 26 East (said point being 558.41 feet West of the Southeast corner of said Section 2); Thence N88°38'22"W a distance of 2,084.07 feet to the South one-quarter corner of said Section 2; Thence N88°38'42"W a distance of 2,642.06 feet to the Southwest corner of said Section 2; Thence N89°51'49"W a distance of 5,300.09 feet to the Southwest corner of Section 3 Township 43 South, Range 26 East; Thence N89°51'54"W a distance of 2,650.09 feet to the South one-quarter corner of Section 4, Township 43 South, Range 26 East; Thence S00°23'25"W a distance of 1,330.65 feet to the Southwest corner of the North one-half of the Northeast one-quarter of Section 9, Township 43 South, Range 26 East; Thence S06°02'41"E a distance of

1,338.36 feet to a point on the North line of the Southeast one-quarter of said Section 9 (said point being 150.00 feet East of the Northwest corner of the Southeast one-quarter of said Section 9); Thence S00°22'58"W, parallel with and 150.00 feet East of the West line of the Southeast one-quarter of said Section 9 a distance of 2,611.56 feet to a point on the North right-of-way line of County Road No. 78; Thence along said right-of-way line the following courses and distances N89°54'54"W a distance of 150.26 feet and N89°54'44"W a distance of 2,648.95 feet to a point on the West line of said Section 9; Thence N00°22'31"E a distance of 2,612.02 feet to the West one-quarter corner of said Section 9; Thence N00°21'56"E a distance of 2,663.13 feet to the Southeast corner of Section 5, Township 43 South, Range 26 East; Thence N89°52'00"W a distance of 2,666.70 feet to the South one-quarter corner of said Section 5; Thence N89°50'47"W a distance of 2,667.42 feet to the Southwest corner of said Section 5; Thence S00°23'16"W, along the East line of Section 7, Township 43 South, Range 26 East a distance of 5,294.00 feet to a point on the North right-of-way line of County Road No. 78; Thence Westerly along the curved right-of-way line, (said curve being curved concave to the North, having a delta angle of 00°53'52" and a radius of 11,339.17 feet, with a chord bearing of N89°19'12"W and a chord length of 177.69 feet) a distance of 177.69 feet to the end of the curve; Thence N88°52'16"W, along said North right-of-way line, a distance of 4,406.31 feet to the beginning of a curve to the right; Thence along the arc of the curved right-of-way line (said curve being curved concave to the Northeast, having a delta angle of 89°12'05" and a radius of 522.94 feet, with a chord bearing of N44°16'14"W and a chord length of 734.37 feet) a distance of 814.14 feet to a point on the East right-of-way line of State Road No. 31; Thence along the East right-of-way line for State Road No. 31, the following courses and distances N00°19'49"E a distance of 4,776.07 feet, N00°18'54"E a distance of 5,313.41 feet and N00°36'46"E a distance of 0.14 feet to the Point of Beginning.

Containing 4,157.2 acres more or less.

Bearings hereinabove mentioned are based on the North line of Section 6 Township 43 South, Range 26 East to bear S89°41'45"E.

Exhibit B

_____, 2021

Lee County Administrator
2115 Second Street
Fort Myers, Florida 33902

Subject: Plat Submittal- Babcock Ranch Community Independent Special District

Dear County Administrator:

In accordance with the Interlocal Agreement between Lee County, Florida, and the Babcock Ranch Community Independent Special District Providing for Waiver of Bond with Alternate Financial Assurance for Construction of Improvements, dated, _____, 2021 (the "Interlocal Agreement") attached hereto as **Attachment A**, the Babcock Ranch Community Independent Special District (the "District") shall provide alternate assurances for the completion of the improvements including but not limited to roads, surface water management systems, landscaping, utilities, conservation areas and plat monumentation, to the extent authorized by the Act, contained on the plat (the "Improvements"). As shown on **Attachment B**, _____ the District Engineer, certifies that the cost to complete the Improvements is \$ _____. The Improvements are intended to be completed on or before _____. A quarterly update shall be provided to the County regarding the construction progress of the Improvements and shall include the percentage of completion of such Improvements and an anticipated completion date. The District shall comply with the provisions of the Interlocal Agreement to provide for completion of the Improvements upon an event that the Improvements are not completed. If Alternate Assurances are invoked, District shall fund the completion of the Improvements by electing one of the following methods (i) use of existing bond funds in a trust account or accessing the public bond market; (ii) use of a conventional lender to obtain a loan backed by assessments; (iii) use of monies in the District's operating fund; (iv) monies generated by levying assessments on property within the District; or (v) use of such other lawful revenues or funding sources as may be available.

Sincerely,

Exhibit C

_____, 2021

District Manager
Babcock Ranch Community
Independent Special District
2300 Glades Road, Suite 410W
Boca Raton, Florida 33431

**Subject: Notice to Invoke Alternate Assurances- Babcock Ranch Community
Independent Special District**

Dear District Manager:

In accordance with the Interlocal Agreement between Lee County, Florida, and the Babcock Ranch Community Independent Special District Providing for Waiver of Bond with Alternate Financial Assurance for Construction of Improvements, dated, _____, 2021 (the "Interlocal Agreement"), the County wishes to invoke the District's obligation to provide Alternate Assurances for the completion of the improvements including roads, surface water management systems, landscaping, utilities, conservation areas and plat monumentation, to the extent authorized by the Act, contained on the plat (the "Improvements"). Such Improvements must be completed on or before [insert date] in order to comply with the Lee County Land Development Code Section I0-154(26) and Administrative Code AC-13-19 unless the County otherwise agrees to an extension of time.

Sincerely,

Cc: Jonathan T. Johnson

EXHIBIT D
RESOLUTION 2021-41

**A RESOLUTION OF THE BABCOCK RANCH
COMMUNITY INDEPENDENT SPECIAL DISTRICT
APPROVING THE INTERLOCAL AGREEMENT
BETWEEN LEE COUNTY, FLORIDA, AND THE
BABCOCK RANCH COMMUNITY INDEPENDENT
SPECIAL DISTRICT PROVIDING FOR WAIVER OF
BOND WITH ALTERNATE FINANCIAL ASSURANCE
FOR CONSTRUCTION OF IMPROVMENTS AND
PROVIDING FOR SEVERABILITY AND EFFECTIVE
DATE.**

WHEREAS, the Babcock Ranch Community Independent Special District (“District”) is a local unit of special purpose government created and existing pursuant to Chapter 2007-306, Laws of Florida, as amended, (the “Act”) being situated in Charlotte County and Lee County, Florida; and

WHEREAS, as provided in the Act, the special purpose of the District is to plan, construct, maintain, operate, finance, and improve the provision of systems, facilities, and services necessary to meet the infrastructure needs of the Babcock Ranch Community; and

WHEREAS, pursuant to the Act the District has authority to borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness, to levy such taxes and assessments as may be authorized, and to charge, collect, and enforce fees and other user charges; and

WHEREAS, Lee County Land Development Code, Chapter 10, Article II, Section 10-154(26), Additional Required Submittals, as implemented by Administrative Code Number AC-13-19, addresses the current construction bond requirement and provides, in part, the Lee County Board of County Commissioners may accept other forms of security; and

WHEREAS, the District wishes to provide such other for of security in accordance with the terms of the Interlocal Agreement Between Lee County, Florida, and the District Providing for Waiver of Bond with Alternate Financial Assurance for Construction of Improvements (the “Alternate Assurance Agreement”) and approve the Alternate Assurance Agreement in the form attached hereto as Exhibit A; and

**NOW, THEREFORE, BE IT RESOLVED BY THE
GOVERNING BOARD OF THE BABCOCK RANCH
COMMUNITY INDEPENDENT SPECIAL DISTRICT:**

SECTION 1. The District hereby finds it continues to be in the best interest of the District and its residents to approve the Alternate Assurance Agreement. The Board hereby ratifies actions of the District staff and officers related to preparation of the Alternate Assurance Agreement. Further the Board hereby authorizes and directs District staff and the Chairman to

take further actions necessary to execute, finalize and implement the provisions of the Alternate Assurances Agreement.

SECTION 2. The Board hereby authorizes the District Chairman and District staff to act as agents of the District with regard to any and all matters pertaining to finalization and implementation of the Alternate Assurance Agreement.

SECTION 3. If any provision of this resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 4. This resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 23rd day of September, 2021.

ATTEST:

**BABCOCK RANCH COMMUNITY
INDEPENDENT SPECIAL DISTRICT**



**SECRETARY/ ASSISTANT
SECRETARY**



CHAIRMAN

Exhibit A: Interlocal Agreement Between Lee County, Florida, and the Babcock Ranch Community Independent Special District Providing for Waiver of Bond with Alternate Financial Assurance for Construction of Improvements