




MEMORANDUM

TO: Ronald M. Ferris, City Manager

FROM: R. Max Lohman, City Attorney 

DATE: June 17, 2025

RE: Palm Beach County "allegedly" § 163.3180 Compliant Interlocal Agreements (ILAs)

On May 14, 2025, then County Administrator, Verdenia Baker, provided correspondence to you, which enclosed two (2) ILAs that would purportedly satisfy HB 479's requirement to mitigate extra jurisdictional transportation impacts of new development or redevelopment. Ms. Baker's letter misidentifies the operative legislation as "HB 457." No such house bill was introduced in 2024. Further, Ms. Baker's letter summarizes each of the proposed ILAs and the options contained therein. You have asked me to review Ms. Baker's letter and both ILAs and provide a legal analysis. Accordingly, I offer the following:

1. As you know, I played a significant role in both the drafting of HB 479 (2024) and lobbying for its adoption. Ms. Baker does not appear to comprehend the gravamen of the legislation or the proper and legally sufficient means of its implementation.
2. HB 479 does not merely require ILA's between the county and municipalities that charge a transportation impact fee. HB 479 specifically requires that "...the county and municipality must create and execute an interlocal agreement to coordinate the mitigation of their respective transportation capacity impacts." HB 479 then sets forth minimum requirements for the contents of the ILA.
3. The ILA must, at a minimum:
 - a. Ensure that any new development or redevelopment is **not charged twice** for the same transportation **capacity** impacts.
 - b. Establish a **plan-based** methodology for determining the **legally permissible fee** to be charged to a new development or redevelopment.
 - c. Require the county or municipality issuing the building permit to collect the fee, unless agreed to otherwise.

- d. Provide a method for the **proportionate distribution** of the revenue collected by the county **or**¹ municipality to address the transportation capacity impacts of a new development or redevelopment, or provide a method of assigning responsibility for the mitigation of the transportation capacity impacts belonging to the county and the municipality.
4. HB 479 also contains a penalty provision if the required ILA has not been executed by October 1, 2025.
5. The two ILAs proffered by Palm Beach County both fail to address anything other than the mere collection of the county's transportation impact fee. Both ILAs are nothing more than a meager attempt to rebrand the legacy-ILA that many municipalities previously executed with the county, through which the municipalities were simply either collection agents or ticket takers for county impact fee payment vouchers. The subject ILAs do nothing more than reinstitute the old, outdated, and legally insufficient concurrency program that the county has been using for the past 40+ years. The ILAs simply seek to memorialize a method through which the county continues the status quo. The content of the ILAs utterly fail to address any of the requirements mandated by HB 479.
6. The county completely ignores that pursuant to HB 479, the county is required to distribute transportation impact fees that it collects for development or redevelopment in the unincorporated county with adjacent municipalities in an amount proportionate to the impact such development has on the adjacent municipalities' transportation network.
7. The county further ignores HB 479's requirement that development is not charged twice for the same transportation capacity impacts and that only the entity issuing the building permit may collect the fee. The language is clear; there is **one fee** and **one entity** collecting that fee.
8. HB 479 no longer permits the county to charge and collect (or have the municipalities collect) a county transportation impact fee within the municipalities, if the municipality charges its own fee.
9. Additionally, the county's transportation impact fee is a "consumption-based" fee. HB 479 requires that the ILA establish a plan-based methodology for determining the legally permissible fee to be charged. HB 479 no longer permits consumption-based transportation fees.

In conclusion, it is my opinion that neither ILA proffered by the county is legally sufficient. I encourage the city, and all municipalities in the county, to refuse to participate in the county's apparent attempt to violate state law.

¹ Note that the language used is "OR" not "AND." It is mutually exclusive not inclusive.