

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

Blue Sheet No. 20061350

- 1. ACTION REQUESTED/PURPOSE:** Approve the resolution authorizing the Chairwoman to execute the attached Transportation Regional Incentive Program Agreement with FDOT for Colonial Boulevard from I-75 to SR 82. Also, approve budget amendment resolution and transfer from Project #204054-Colonial Boulevard I-75 to SR 82 to District 23 Road Impact Fee Reserves and amend the FY 2006/07-2010/11 CIP accordingly.
- 2. WHAT ACTION ACCOMPLISHES:** Allows County to enter into a TRIP Agreement with FDOT for Colonial Boulevard from I-75 to SR 82 with a maximum contribution of \$4,700,000 from FDOT.
- 3. MANAGEMENT RECOMMENDATION:** Approve.

4. Departmental Category: 9 C9H		5. Meeting Date: _____ OCT 24 2006
6. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify)	
	<input type="checkbox"/> Statute	8. Request Initiated: Commissioner _____
	<input type="checkbox"/> Ordinance	Department <u>Transportation</u>
	<input type="checkbox"/> Admin. Code	Division _____
<input checked="" type="checkbox"/> Other	By: <u>Scott M. Gilbertson</u> Director	

9. Background: Colonial Boulevard from I-75 to SR 82 and Collier Boulevard from Golden Gate Parkway to Pine Ridge Road were chosen as 2006/07 TRIP projects. Lee County has been awarded \$4,700,000 from FDOT to assist in the construction of Colonial Boulevard. These funds are available on a reimbursement basis from FDOT. Execution of the attached agreement and resolution are necessary to receive the funds.

A budget amendment resolution is needed to establish \$4,700,000 in funds coming from FDOT on a reimbursement basis into Project #224054. Budget is currently established within the Project in Fund 18823, the transfer of funds will decrease the project budget in Fund 18823 by \$4.7 million to offset the addition of \$4,700,000 in Fund 30700. No additional money is being added to this project.

Funds will be made available in account: 22405430700.506510

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.	
<i>S. Gilbertson</i> Date <i>10/5/06</i>	N/A CL		DAO/OF	<i>[Signature]</i> 10/10/06	<i>[Signature]</i> 10-10-06	SB 10/10	<i>[Signature]</i> 10/10/06	<i>[Signature]</i> J. Lavender Date 10-9-06	

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

REC'D
 by CO. ATTY.
 10/10/06
 9:50 am
 CO. ATTY.
 FORWARDED TO:
 10/10/06
 10:30 Am

RECEIVED BY
 COUNTY ADMIN:
 10/10/06 10:45 AM
 COUNTY ADMIN
 FORWARDED TO:
 10/30/06
 4:30 PM

RESOLUTION

Amending the Budget of Transportation Capital Improvements-Fund 30700 to incorporate the unanticipated receipts into Estimated Revenues and Appropriations for the fiscal year 2006-2007.

WHEREAS, in compliance with the Florida Statutes 129.06(2), it is the desire of the Board of County Commissioners of Lee County, Florida, to amend the Transportation Capital Improvements-Fund 30700 budget for \$4,700,000 of the unanticipated revenue from FDOT Trans Regional Incentive Program and an appropriation of a like amount for construction costs and;

WHEREAS, the Transportation Capital Improvements-Fund 30700 budget shall be amended to include the following amounts which were previously not included.

ESTIMATED REVENUES		
Prior Total:		\$143,986,899
Additions		
22405430700.334490.9005	FDOT – TRIP Program	4,700,000
Amended Total Estimated Revenues		\$148,686,899

APPROPRIATIONS		
Prior Total:		\$143,286,899
Additions		
22405430700.506540	Improvements Construction	4,700,000
Amended Total Appropriations		\$148,686,899

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, Florida, that the Transportation Capital Improvements-Fund 30700 budget is hereby amended to show the above additions to its Estimated Revenue and Appropriation accounts.

Duly voted upon and adopted in Chambers at a regular Public Hearing by the Board of County Commissioners on this ____ day of _____, 2006.

ATTEST:
CHARLIE GREEN, EX-OFFICIO CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: _____
DEPUTY CLERK

CHAIRWOMAN

APPROVED AS TO FORM

OFFICE OF COUNTY ATTORNEY

DOC TYPE YA
LEDGER TYPE BA

REQUEST FOR TRANSFER OF FUNDS

FUND NAME: Impact Fee – Rd. Central District DATE: 10/2/06 BATCH NO.: _____

FISCAL YEAR: 06-07 FUND NO.: 18823 DOC. TYPE: YB LEDGER TYPE: BA

TO: _____
Non-Dept. Reserves
(Division Name) (Program Name)

NOTE: Please list the account number below in the following order:
 Business Unit (dept/div, program, fund, subfund); Object Account; Subsidiary; Subledger
 (Example: BB 5120100100.503450)

<u>Account Number</u>	<u>Object Name</u>	<u>DEBIT</u>
GC5890118823.509910 30	Res. For Contingencies	\$4,700,000

TOTAL TO: \$4,700,000

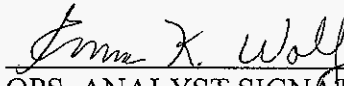
FROM: _____
Capital Projects Transportation Capital Projects
(Division Name) (Program Name)

<u>Account Number</u>	<u>Object Name</u>	<u>CREDIT</u>
20405418823.506540	Improvement Construction	\$4,700,000

TOTAL FROM: \$4,700,000

EXPLANATION: Transfer from Colonial Boulevard project to Reserves because DOT received a TRIP grant from the State for \$4,700,000 and budget will be increased by \$4,700,000 in Fund 307 within this project to account for these revenues

DIVISION DIRECTOR SIGNATURE/DATE	 10/5/06 CW DEPARTMENT HEAD SIGNATURE/DATE
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DBO: APPROVAL <input checked="" type="checkbox"/> DENIAL <input type="checkbox"/>	 10-10-06 OPS. ANALYST SIGNATURE DATE
---	--

OPS. MGR.: APPROVAL <input type="checkbox"/> DENIAL <input type="checkbox"/>	OPS. MGR. SIGNATURE DATE
--	--------------------------

CO. MGR.: APPROVAL <input type="checkbox"/> DENIAL <input type="checkbox"/>	CO. MANAGER SIGNATURE DATE
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BCC APPROVAL DATE: _____	BCC CHAIRMAN SIGNATURE
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BA. NO. _____ AUTH CODE _____ TRANS DATE _____

FORWARD WITH AGREEMENT AND BLUE SHEET

ALL INFORMATION IS REQUIRED - DO NOT LEAVE ANY BLANKS - USE N/A WHEN NOT APPLICABLE

GRANT AT A GLANCE

GRANT AWARD INFORMATION

- 1. County Grant ID (project #): 224054
- 2. Title of Grant: Transportation Regional Incentive Program
- 3. Amount of Award: \$4,700,000
- 4. Amount of Match Required: \$4,700,000
- 5. Type of Match: Cash
(cash, in-kind etc)

6. SOURCE OF GRANT FUNDS & CATALOG NUMBER:

FEDERAL <input type="checkbox"/> CFDA #	STATE <input checked="" type="checkbox"/> CSFA #55.026
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7. Agency Contract Number: FPN No. 420990-1-58-01

8. Contract Period:	Begin Date: <u>upon exec by FDOT</u>	End Date: <u>1/1/2010</u>
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9. Name of Subrecipient(s) _____

10. Business Unit(s): 22405430700.506510

11. Scope of Grant: (describe project). <u>Construct six-lane project from I-75 to SR 82.</u>

12. Has this Grant been Funded Before? YES NO If YES When? _____

13. Is Grant Funding Anticipated in Subsequent Years? YES NO

14. If Grant Funding Ends Will This Program Be Continued at County Expense? YES NO
If YES What is the Lee County Budget Impact:

1st Year <u>13,775,000</u>	2 nd Year	3 rd Year
4 th Year	5 th Year	

Check Box if Additional Information on Program and Budget Impact is provided in *Comment Section* on page 2

ADMINISTERING DEPARTMENT INFORMATION

1. Department: Engineering Services/DOT

2. Contacts: _____

Program Mgr. <u>Mike Rigsby</u>	Phone #: <u>479-8513</u>
Fiscal Mgr. <u>Eileen Webster</u>	Phone #: <u>479-8507</u>

GRANTOR AGENCY INFORMATION

(The agency you signed this agreement with)

1. Grantor Agency: State Of Florida Department of Transportation

2. Program Title/Division: _____

3. Agency Contact: Karen Miracola

4. Phone Number: 239-461-4300

Mailing Address: 2295 Victoria Ave., Ft. Myers, FL

SOURCE OF FUNDS

1. Original Funding

Source: FDOT
(name of agency where funding originated from)

2. Pass Through Agency: _____

(middleman if any? Example: federal \$\$ from US DOT -- then from STATE of FL DOT --- then from STATE DOT --- STATE of FL DOT is the pass-through agency).

3. Additional Information for Other Agencies Involved:

none

3a. Is the County a Grantee

or Subrecipient in #3 above: Grantee

REPORTING REQUIREMENTS

1. Does this grant require a separate subfund? YES NO

(Example: you need to return interest earnings)

Please Explain: _____

2. Is funding received in advance? YES NO

(If YES, please indicate conditions for returning residual proceeds, or interest and the address to return it to, if different from the Grantor Agency Information)

COMMENTS--INSTRUCTIONS:

Lee County will receive funds on a reimbursement basis.

LEE COUNTY RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING LEE COUNTY TO ENTER
INTO AN A TRANSPORTATION REGIONAL INCENTIVE
GRANT PROGRAM WITH THE FLORIDA DEPARTMENT
OF TRANSPORTATION**

This is a Resolution of the Board of County Commissioners, Lee County, Florida, a political subdivision of the State, authorizing the execution of a Transportation Regional Incentive Grant Program Agreement with the Florida Department of Transportation.

WHEREAS, Lee County, Florida, has the statutory authority to enter into this Agreement with the Florida Department of Transportation in accordance with Section 339.2819, Florida Statutes.

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

1. The Transportation Regional Incentive Grant Program Agreement for Colonial Boulevard from Interstate 75 to State Road 82 in the sum of a maximum participation from Florida Department of Transportation of Four Million Seven Hundred Thousand and No/100 Dollars (\$4,700,000.00) is hereby approved.
2. The Chairman or Chairwoman of the Board of County Commissioners of Lee County, Florida, or designee per Lee County Administrative Code 1-3 are hereby authorized to execute said Agreement.

3. The Clerk of the Circuit Court is hereby authorized and directed to transmit one (1) certified copy of this Resolution to the Florida Department of Transportation along with the executed Agreements.

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

DOUGLAS ST. CERNY _____
BOB JANES _____
RAY JUDAH _____
TAMMARA HALL _____
JOHN E. ALBION _____

DULY PASSED AND ADOPTED this _____ day of _____, 2006.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairwoman

APPROVED AS TO FORM:

By: _____
Office of County Attorney

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TRANSPORTATION REGIONAL INCENTIVE PROGRAM AGREEMENT

This is an Agreement by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter "DEPARTMENT") and LEE COUNTY (hereinafter "COUNTY").

WITNESSETH

1. WHEREAS, the DEPARTMENT has the authority, under Fla. Stat. §334.044, to enter into this Agreement; and
2. WHEREAS, the Transportation Regional Incentive Program was created by Fla. Stat. §339.2819 to provide funds to improve regionally significant transportation facilities in "regional transportation areas" pursuant to Fla. Stat. §339.155 (5); and
3. WHEREAS, the Lee County and Collier County MPO's, acting as a designated regional partnership under Fla. Stat §339.155 (5)(c) and formed by an interlocal agreement, designated CR 884 (Colonial Boulevard) from I-75 to SR 82 as a regional facility by resolution, a copy of which is incorporated into this agreement and attached.
4. WHEREAS, the DEPARTMENT is willing to provide LEE COUNTY with financial assistance under Financial Project No. 420990 1 58 01 hereinafter referred to as the "PROJECT," in accordance with Fla. Stat. §339.2819; and
5. WHEREAS, the COUNTY has certified to the DEPARTMENT that it has met the eligibility requirements of Fla. Stat. §339.2819; and
6. WHEREAS, the COUNTY
 - Certifies to the DEPARTMENT that it has met all Project Eligibility Requirements listed below
 - Will certify by _____ date to the DEPARTMENT that it will have met all Project Eligibility Requirements listed below

PROJECT ELIGIBILITY REQUIREMENTS

1. Support facilities that serve national, statewide or regional functions and function as an integrated transportation system,
2. Be identified in appropriate local government capital improvements program(s) or long term concurrency management system(s) that are in compliance with state comprehensive plan requirements,
3. Be consistent with the SIS,
4. Be in compliance with local corridor management policies, and
5. Have commitment of local, regional or private matching funds.

7. WHEREAS, the COUNTY by Resolution No. _____ dated the _____ day of _____, 2006, a copy of which is attached hereto and made a part hereof, has authorized the Chairman of its Board of Commissioners or designee to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations contained herein, the parties agree as follows:

I. SERVICES AND PERFORMANCE

- 1) The PROJECT consists of construction to increase CR 884 (Colonial Blvd) from four to six lanes from I-75 to SR 82.
- 2) The COUNTY agrees to undertake the construction of the PROJECT in accordance with all applicable, federal, state and local statutes, rules and regulations, and standards. The COUNTY shall be responsible for obtaining clearances/permits required for the construction of the PROJECT from the appropriate permitting authorities. Upon completion of the PROJECT, the COUNTY shall certify to the DEPARTMENT that the PROJECT has been completed in accordance with the applicable standards, statutes, rules and regulations in writing.
- 3) The DEPARTMENT will be entitled at all times to be advised, at its request, as to the status of work being done by the COUNTY and of the details thereof. Coordination shall be maintained by the COUNTY with representatives of the DEPARTMENT. The COUNTY shall provide the DEPARTMENT with quarterly progress reports.
- 4) The COUNTY shall not sublet, assign or transfer any work under this Agreement without prior written consent of the DEPARTMENT.
- 5) All notices under this Agreement shall be directed to the following addresses:

TO DEPARTMENT:

David Holden, PE
Ft. Myers Operations Center Engineer
Florida Department of Transportation
2981 NE Pine Island Road
Cape Coral, Florida 33909

TO COUNTY:

Nicole Maxey, Project Manager
Lee County Department of Transportation
P.O. Box 398
Fort Myers, Florida 33902-0398

II. TERM

- 1) The COUNTY shall perform the PROJECT activities in accordance with the following schedule:
 - (1) Construction contract to be let on or before _____.
 - (2) Construction to be completed on or before _____.
- 2) This Agreement shall be effective upon execution by both parties and shall continue in effect and be binding on the parties until the PROJECT is completed and accepted and payment made by the DEPARTMENT or terminated in accordance with the DEFAULT & TERMINATION SECTION below.

- 3) This Agreement shall not be renewed. Any extension shall be in writing and executed by both parties, and shall be subject to the same terms and conditions set forth in this Agreement and contingent upon the DEPARTMENT'S District Secretary's or Designee's Approval.

III. PAYMENT TERMS

- 1) The COUNTY and the DEPARTMENT agree to share the cost of this PROJECT # 420990 1 58 01.
- 2) ESTIMATES & PARTICIPATION AMOUNTS
 - A) The **estimated total cost** as set forth in the DEPARTMENT'S adopted work program for this PROJECT is **\$10,300,000** (TEN MILLION THREE HUNDRED THOUSAND DOLLARS).
 - B) The **estimated COUNTY share** for the PROJECT is **\$5,600,000** (FIVE MILLION SIX HUNDRED THOUSAND DOLLARS).
 - C) The **estimated DEPARTMENT share** for the PROJECT is **\$4,700,000** (FOUR MILLION SEVEN HUNDRED THOUSAND DOLLARS) which is the maximum participation by the DEPARTMENT.
 - D) The parties further agree all remaining costs of the PROJECT will be borne by the COUNTY.
- 3) In the event the COUNTY proceeds with the construction of the PROJECT with its own forces, the COUNTY will only be reimbursed for direct costs (this excludes general and administrative overhead).
- 4) All costs charged to the PROJECT shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges.
- 5) Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the DEPARTMENT'S under Section 334.044 (29), Florida Statutes.
- 6) If this Agreement involves units of deliverables, then such units must be received and accepted in writing by the Contract Manager prior to payments.
- 7) The DEPARTMENT'S obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.
- 8) Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit.
- 9) Travel costs will not be reimbursed.
- 10) The COUNTY shall submit one invoice (3 copies), plus supporting documentation required by the DEPARTMENT. Payment shall be made to the COUNTY upon completion of all services, as approved by the DEPARTMENT.

- 11) A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payments(s) from a state and/or COUNTY. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Department of Financial Services Hotline, 1-800-848-3792.
- 12) Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred includes the COUNTY'S general accounting records and the project records, together with supporting documents and records of the COUNTY and all subcontractors performing work on the project, and all other records of the COUNTY and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs.
- 13) The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature.

IV. ROADWAY LEVEL OF SERVICE

- 1) Fla. Stat. §163.3180 requires that facilities funded through the Transportation Regional Incentive Program adopt the level of service standards established by the DEPARTMENT for the PROJECT limits.
- 2) The logical termini for the PROJECT are CR 884 (Colonial Boulevard) from I-75 to SR 82.
- 3) The COUNTY agrees that upon execution of this agreement the level of service for the segment of (Winchester Boulevard) between the logical termini specified in (2), above, shall be as designated by the DEPARTMENT. Upon execution of this agreement the level of service will be (C), subject to change by the DEPARTMENT without need to modify this agreement.
- 4) The COUNTY agrees to update its comprehensive plan at the next amendment cycle, scheduled for (_____), and reflect the level of service change for the segment of CR 884 (Colonial Boulevard) between the logical termini specified in (2) above.

V. IN-KIND SERVICES AND RIGHT OF WAY DONATIONS (if applicable)

- 1) In-kind services are goods, commodities, or services received in lieu of cash payments. Goods and commodities should be valued based on their current market value.
- 2) Property donated by local governments for right of way as the local share for a qualified project, must comply with the requirements of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601, et sec., and implementing federal regulations, 49 CFR Part 24 and 23 CFR Part 710, if federal funds will be used in any phase of the project. Other requirements for the acquisition of rights of way should be determined in accordance with guidelines established by the Office of Right of Way.
- 3) The DEPARTMENT has established specific right of way acquisition guidelines for the Transportation Regional Incentive Program. These guidelines can be found at <http://www.dot.state.fl.us/planning/TRIP/RW-contributions.pdf> and are incorporated into this Agreement by reference.
- 4) The excess of an in-kind match valued in excess of the required match will not generally be applied towards another project. On a case by case basis, an exception may be made for project segments in a regional corridor that are part of an implementation plan for that corridor.

VI. INDEMNITY, LIABILITY & INSURANCE

1) INDEMNITY

- A) To the extent allowed by law, the COUNTY shall indemnify, defend, and hold harmless the DEPARTMENT and all of its officers, agents, and employees from any claim, loss, damages, cost, charge, or expense arising out of any act, error, omission, or negligent act by the COUNTY, its agents, or employees, during the performance of the Agreement, except that neither the COUNTY, its agents, or its employees will be liable under this paragraph for any claim, loss, damages, cost, charge, or expense arising out of any act, error, omission, or negligent act by the DEPARTMENT, or any of its officers, agents, or employees, during the performance of the Agreement.
- B) When either party receives notice of claim for damages that may have been caused by the other party in the performance of services required under this Agreement, that party will immediately forward the claim to the other party. Each party will evaluate the claim, and report its findings to each other within fourteen (14) working days and jointly discuss options in defending the claim. A party's failure to promptly notify the other of a claim will not act as a waiver or any right herein.

- C) The COUNTY agrees to include the following indemnification in all contracts with contractors/subcontractors, consultants/sub-consultants, who perform work in connection with this Agreement:

"The contractor/consultant shall indemnify, defend, save, and hold harmless the DEPARTMENT and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the contractor, its officers, agents, or employees. Neither the contractor/consultant, nor any of its officers, agents, or employees will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the DEPARTMENT or any of its officers, agents, or employees."

2) LIABILITY & INSURANCE.

- A) The DEPARTMENT shall not be obligated or liable hereunder to any party other than the COUNTY
- B) The COUNTY shall carry and keep in force during the period of this Agreement a general liability policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$100,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$50,000 each occurrence, for the services to be rendered in accordance with this Agreement. However, in the event the COUNTY maintains a self-insurance fund to cover such liability, the COUNTY agrees to maintain sufficient reserves in the fund to pay the above-described liability limits. In addition to any other forms of insurance or bonds required under the terms of this Agreement, the COUNTY must comply or cause its contractor to comply with §7-13 of the DEPARTMENT'S Standard Specifications for Road and Bridge Construction (2000), as amended.

3) WORKERS' COMPENSATION.

- A) The COUNTY shall also carry and keep in force Workers' Compensation insurance as required for the State of Florida under the Workers' Compensation Law.

VII. COMPLIANCE WITH LAWS

- 1) The COUNTY shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by the COUNTY in conjunction with this Agreement. Failure by the COUNTY to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the DEPARTMENT.
- 2) The COUNTY shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.

- 3) No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch, or a state agency.
- 4) The COUNTY and the DEPARTMENT agree that the COUNTY, its employees, and subcontractors are not agents of the DEPARTMENT as a result of this Agreement for purposes other than those set out in §337.274, Florida Statutes.

VIII. AUDITS

1) GENERAL REQUIREMENTS & MONITORING

- A) The administration of resources awarded by the DEPARTMENT to the COUNTY may be subject to audits and/or monitoring by the DEPARTMENT, as described in this section.
- B) Any reports, management letter, or other information required to be submitted to the DEPARTMENT pursuant to this agreement shall be submitted timely in accordance with Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- C) Recipients, when submitting financial reporting packages to the DEPARTMENT for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.
- D) The recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of at least five years from the date the audit report is issued, and shall allow the DEPARTMENT, or its designee, CFO, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the DEPARTMENT, or its designee, CFO, or Auditor General upon request for a period of at least five years from the date the audit report is issued, unless extended in writing by the DEPARTMENT.
- E) The recipient shall follow up and take corrective action on audit findings. Preparation of a summary schedule of prior year audit findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.
- F) Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the FDOT, the Department of Financial Services, and the Auditor General. This section does not limit the authority of the DEPARTMENT to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

G) In addition to reviews of audits conducted in accordance with F.S. §215.97, as revised (see "AUDITS" below), monitoring procedures may include, but are not limited to, on-site visits by Department staff, limited scope audits and/or other procedures. By entering into this agreement, the recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the DEPARTMENT determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department staff to the COUNTY regarding such audit. The COUNTY further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the FLORIDA DEPARTMENT OF TRANSPORTATION Office of Inspector General (OIG) and Florida's Chief Financial Officer (CFO) or Auditor General.

2) STATE FUNDED

A) Recipients of state funds (i.e. a non-state entity as defined by F.S. §215.97(2)(m)), are to have audits done annually using the following criteria:

- (i) In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year, the recipient must have a State single or project-specific audit for such fiscal year in accordance with F.S. §215.97, applicable rules of the Department of Financial Services and the CFO, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this agreement indicates state financial assistance awarded through the DEPARTMENT by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the DEPARTMENT, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements.
- (ii) In connection with the audit requirements addressed in paragraph (i) above, the recipient shall ensure that the audit complies with the requirements of F.S. §215.97(7). This includes submission of a financial reporting package as defined by F.S. §215.97(2)(d), and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- (iii) If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of F.S. §215.97 is not required. However, if the recipient elects to have an audit conducted in accordance with the provisions of F.S. §215.97, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
- (iv) State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency making the award.

3) REPORT SUBMISSION

- A) Records to be submitted to DEPARTMENT by or on behalf of the recipient should be submitted to:

Florida Department of Transportation
Attn: Karen A. Miracola, District JPA/LFA Coordinator
2295 Victoria Avenue, Suite 292W
Fort Myers, FL 33901

- (i) List of Records to be submitted to the DEPARTMENT include:

(a) Copies of financial reporting packages required in the STATE FUNDED section 2 above of this agreement.

(b) Copies of reports or the management letter required by the GENERAL REQUIREMENTS & MONITORING section 1)E) and 1)F) above of this agreement.

- B) Records to be submitted to the State Auditor General's Office by or on behalf of the recipient should be submitted to:

Auditor General's Office
Room 401, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

- (i) List of Records to be submitted to the State Auditor General's Office include:

(a) Copies of financial reporting packages required in the STATE FUNDED section 2 above of this agreement.

IX. DEFAULT & TERMINATION

- 1) This Agreement may be canceled by either the COUNTY or the DEPARTMENT upon sixty (60) days written notice.
- 2) If the DEPARTMENT determines that the performance of the COUNTY is not satisfactory, the DEPARTMENT shall have the option of (a) immediately terminating the Agreement, or (b) notifying the COUNTY of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (c) taking whatever action is deemed appropriate by the DEPARTMENT.
- 3) In no event shall the making by the DEPARTMENT of any payment to the COUNTY constitute or be construed as a waiver by the DEPARTMENT of any breach of covenant or any default which may then exist, on the part of the COUNTY, and the making of such payment by the DEPARTMENT while any such breach or default exists shall in no way impair or prejudice any right or remedy available to the DEPARTMENT with respect to such breach or default.

- 4) If the DEPARTMENT requires termination of the Agreement for reasons other than unsatisfactory performance of the COUNTY, the DEPARTMENT shall notify the COUNTY of such termination, with instructions as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- 5) If the Agreement is terminated before performance is completed, the COUNTY shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress will become the property of the DEPARTMENT and will be turned over promptly by the COUNTY.

X. MISCELLANEOUS

- 1) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.
- 2) This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein. The parties agree that all commitments, agreements, or understandings concerning the subject matter of this Agreement are contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by the COUNTY and the DEPARTMENT.
- 3) If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.
- 4) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue of any judicial proceedings arising out of this Agreement shall be in Leon County, Florida.
- 5) An entity or affiliate which has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

- 6) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in F.S. §287.017, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

IN WITNESS WHEREOF, LEE COUNTY has caused this Agreement to be executed in its behalf, by the Chairman of the Lee County Board of County Commissioners or its designee, as authorized by **Resolution Number** _____, and the FLORIDA DEPARTMENT OF TRANSPORTATION has caused this Agreement to be executed in its behalf through its District Secretary or authorized designee: This Agreement shall become effective on:

LEE COUNTY, FLORIDA

ATTEST

_____	_____	_____	_____
CLERK	(SEAL)	TITLE	
_____	_____	_____	_____
	DATE	PRINT NAME	DATE
		LEE COUNTY LEGAL REVIEW:	
		BY:	
		_____	_____
			DATE

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST

_____	_____	BY:	_____
EXECUTIVE SECRETARY	(SEAL)	DISTRICT SECRETARY OR DESIGNEE	DISTRICT ONE
_____	_____	_____	_____
PRINT NAME	DATE	PRINT NAME	DATE
AVAILABILITY OF FUNDS APPROVAL:		FLA. DEPT. OF TRANS. LEGAL REVIEW:	
_____	_____	BY:	_____
	DATE		DATE

EXHIBIT – 1

STATE RESOURCES

Agency: Florida Department of Transportation
Catalog of State Financial Assistance: Transportation Regional Incentive Program (55.026)
Amount: \$4,700,000 (Four Million Seven Hundred Thousand Dollars)
Financial management #: 420990 1 58 01
Project description: CR 884 (Colonial Blvd) from I-75 to SR 82

COMPLIANCE REQUIREMENTS

1. The project must be regionally significant and derived from a regional transportation plan.
2. The regional transportation plan must be created by a regional transportation area created pursuant to Section 339.155(5) Florida Statutes.
3. The project must meet the minimum eligibility criteria listed in Section 339.2819 Florida Statutes.
4. Funds will only be provided for capital expenses. Operations are not covered through TRIP.
5. For roadway projects, the Florida Department of Transportation's level of service must be adopted for the logical termini specified in the Joint Participation Agreement once the additional capacity from the project is available for purposes of concurrency under Fla. Stat. §163.3180.

NOTE: Section .400(d) of OMB Circular A-133, as revised, and F.S. §215.97(5)(a) require that the information about Federal Programs and State Projects included in Exhibit 1 be provided to the recipient.



**INTERLOCAL AGREEMENT FOR JOINT REGIONAL
TRANSPORTATION PLANNING AND COORDINATION BETWEEN
THE COLLIER COUNTY AND LEE COUNTY MPOS**

INST # 01-0208 OR BK 04194 Pgs 1222 - 1297 (9pgs) RECORDED 02/09/2004 02:59:03 PM
CHARLIE GREEN, CLERK OF COURT, LEE COUNTY, FLORIDA
REC FILED 02/09/2004
DEPUTY CLERK J. J. J.

This INTERLOCAL AGREEMENT (hereinafter the Agreement) is made and entered into as of January 27, 2004 by and between the Collier County Metropolitan Planning Organization (hereinafter the Collier County MPO) and the Lee County Metropolitan Planning Organization (hereinafter the Lee County MPO).

Whereas, the Lee County and Collier County Metropolitan Planning Organizations (MPOs) are the duly designated and constituted agencies responsible for carrying out the metropolitan transportation planning and programming processes for the Cape Coral and Bonita Springs-Naples Urbanized Areas; and

Whereas, the 2000 Census, while still identifying distinct and separate Bonita Springs-Naples and Cape Coral Urbanized Areas, also determined that the Naples Urbanized Area had expanded into the metropolitan planning area of the Lee County MPO to become the Bonita Springs-Naples Urbanized Area; and

Whereas, the elected and appointed officials comprising the policy boards of the Collier County MPO and the Lee County MPO recognize the benefits of regional cooperation; and

Whereas, on October 17, 2002, at a joint meeting, the members of the Collier County MPO and Lee County MPO voted unanimously for staff not to pursue consolidation of the MPOs or alter their common metropolitan planning area boundary; and

Whereas, on October 17, 2002, at a joint meeting, the members of the Collier County MPO and Lee County MPO voted unanimously for staff to coordinate transportation planning and policy activities in this bi-county region to promote regional transportation solutions and enhance overall regional transportation system efficiency using a straightforward, resourceful method; and

Whereas, by Joint Resolution 2003-1 adopted on February 14, 2003 by the Collier County MPO and on March 21, 2003 by the Lee County MPO the parties agreed that the MPOs would continue coordination efforts by having a member of each MPO's staff serve as a voting member of the other's technical advisory committee and by holding joint MPO policy board meetings at least annually, and when necessary to resolve otherwise irresolvable differences; and

Whereas, staff and policy board members from both the Collier County and Lee County MPOs also already coordinate regional transportation issues through participation in the Metropolitan Planning Organization Advisory Council (MPOAC), the District One Coordinated Urban Transportation Studies (CUTS) Committee, and the Southwest Florida Regional Planning Council (SWFRPC); and

Whereas, the Collier County and Lee County MPOs are currently cooperating in the development of a single bi-county travel demand model for use in the next updates of both their long range transportation plans, during which they have also agreed to evaluate the feasibility of a bypass of Interstate 75 through south Lee and western Collier Counties via State Roads 29 and 82; and

Whereas, the Collier County MPO and Lee County MPO both received letters from the District One Secretary in October 2003 asking them to enter into a more formal interlocal agreement to develop a joint long range transportation plan, joint regional priorities, a joint regional public involvement process, and a joint regional model, and specifying time frames for their completion; and

Whereas, at their October 17, 2003 joint meeting, the Collier County and Lee County MPOs directed their staffs to develop such an agreement;

NOW, THEREFORE, in consideration of the covenants made by each party to the other and of the mutual benefits to be realized by the parties hereto, the Collier County MPO and Lee County MPO hereby agree as follows:

Section 1. Authority. This Interlocal Agreement is entered into pursuant to the general authority of Sections 339.175, Florida Statutes, relating to metropolitan planning organization, and 163.01, Florida Statutes, relating to interlocal agreements.

Section 2. Purpose. The purpose of this Agreement is to promote and establish a forum for communication and coordination between the Collier County and Lee County MPOs and to foster joint regional cooperation and conduct regarding transportation planning in accordance with Section 339.175, Florida Statutes, 23 C.F.R. 450.312, and the goals and requirements of the Transportation Equity Act for the 21st Century and its successor legislation. More specifically, this Agreement establishes the commitment by the parties to develop joint regional transportation planning products and processes for the bi-county region of Collier and Lee Counties and provides targeted timeframes for the accomplishment of these products and processes. This Agreement incorporates the provisions of and supersedes Joint Resolution 2003-1 of the Collier County and Lee County MPOs.

Section 3. Staff-level Coordination. Each party will appoint a representative of the other party's staff agency as a voting member of its Technical Advisory Committee.

Section 4. Joint Meetings. Joint meetings of the governing boards of the Collier County and Lee County MPOs will be held at least annually.

Section 5. Planning Products and Timeframes. The parties hereby agree to coordinate and collaborate in good faith and with due diligence to develop the following joint regional planning products by the target dates set out by each product described below:

Interlocal Coordination Agreement between Collier County and Lee County MPOs

(a) **Joint Regional Transportation Model**

The parties have already commenced development of a bi-county model, using the same consultant, to assist in the development and validation of this critical planning tool, which will first be used in the development of the two MPOs' 2030 long range transportation plans that are targeted for adoption by December 2005. Completion of the initial model validation is anticipated by July 2004. A standing joint Model Coordination Committee, comprising representatives of the Collier County MPO, Lee County MPO, Collier County Department of Transportation, Lee County Department of Transportation, Southwest Florida Regional Planning Council, and FDOT, has been formed to oversee and coordinate the development, validation, use, maintenance, and future improvement of this model. The parties agree to continue to support and coordinate all travel demand modeling activities through this committee, which will continue to meet as needed to maintain and update the joint model.

(b) **Joint Regional Long Range Transportation Plan (LRTP)**

This will first involve identification and designation by the two MPOs of a *Joint Regional Multi-Modal Transportation System* as a component of each MPO's LRTP. Specifically, this exercise will identify regionally significant corridors and facilities. This should be accomplished with adoption of an initial system by both MPO governing boards by June, 2004. This initial system may subsequently be reconsidered and revised as necessary, at the request of either MPO.

During the early stages of each MPO's LRTP update, the parties agree to identify where improvements to the joint regional system may be needed, to propose and test appropriate alternative system improvements, and to agree upon a *provisional joint regional long range transportation plan* addressing those needs. The parties further agree to incorporate this provisional regional plan in the updates of their own LRTPs, and to agree on any refinements or modifications to the regional plan that either MPO may wish to include in its LRTP prior to or concurrent with the adoption of their LRTPs. The final joint regional long range transportation plan shall be published in and adopted as part of each MPO's LRTP. The target date for adoption of the initial LRTPs thus coordinated is December 2005.

The parties agree that subsequent amendments to their LRTPs affecting the joint regional long range transportation plan must be approved by both MPOs' governing boards.

(c) **Joint Regional Project Priorities**

Following the designation of the *Joint Regional Multi-Modal Transportation System* in accordance with paragraph 3(b) above, the MPOs agree to adopt priorities for funding unprogrammed improvements

on the identified Regional Multi-Modal Transportation System that will be compelling for state or federal funding within the next six fiscal years, and include said projects in the respective MPO's project priorities adopted in summer, 2004. The Joint Regional Project Priorities must be adopted by each MPO's governing board. Either MPO governing board may require that the Joint Regional Project Priorities be reconsidered at any time. Starting with the 2005 update, each MPO's Project Priorities will be consistent with the identified Regional Priorities. This collaboration and the products developed will recur each subsequent year during the duration of this Agreement and will be a continuing obligation and commitment.

(d) Joint Regional Public Involvement Process Component

The parties will collaborate to develop and adopt a Joint Regional Public Involvement Component for inclusion in each MPO's existing Public Involvement Plan. This Joint Regional Component will prescribe public notice and outreach actions and measures to assure public access and involvement for all joint regional activities including development of the Joint Regional Long Range Transportation Plan component and annual regional priority list within the bi-county area. This Joint Regional Component will be adopted by each MPO as part of its 2004 annual Public Involvement Plan update.

Section 6. Staff Services and Costs. The directors and staffs of each MPO will be responsible for development of the joint regional products identified in this Agreement, subject to review and final approval by each MPO governing board. In this regard, each MPO will cooperate to assign and share equitably the needed staff resources to accomplish these regional efforts as specified in their respective Unified Planning Work Programs (UPWP). Similarly, significant non-staff-services costs for the joint regional efforts and products identified in this Agreement will be split between the parties in proportion to their allocations of FHWA planning funds. The parties agree, as may be necessary in order to carry out the terms and commitments of this Agreement, to cooperate in seeking federal, state and local funding for the joint regional products to be developed.

Section 7. Conflict Resolution. The parties to this Agreement concur that if an issue is otherwise irresolvable, their staffs will organize a joint meeting of the MPO governing boards to resolve said matter. If the parties are unable to resolve the issue at the joint meeting, they agree to submit the issue to the Southwest Florida Regional Planning Council for non-binding arbitration. Notwithstanding any such resolution process, the parties to this agreement do not waive their respective rights to seek declaratory judgment as provided in Chapter 86, Florida Statutes.

Section 8. Duration of Agreement. This Agreement shall have an initial term of five (5) years, commencing on the date first above written, and shall automatically renew at the end of five (5) years for an additional five (5)-year term and every five years thereafter unless terminated or rescinded as set out in Section 10, herein. Prior to the end of each five (5)-year

term, the parties shall reexamine the terms hereof for possible amendment. However, the failure to amend or reaffirm the terms of this Agreement shall not invalidate or otherwise terminate this Agreement.

Section 9. Modification. This Agreement may be modified at any time, but only by a new or addendum interlocal agreement duly signed by both parties.

Section 10. Termination-Rescission. This Agreement shall continue in force unless terminated with or without cause by either party by providing thirty (30) days written notice to the other party.

Section 11. Liability. The parties agree that nothing created or contained in this Agreement shall be construed, interpreted or inferred to establish any joint liability amongst or between one or more of the parties by the actions or omissions of its individual employees or agents acting pursuant to the terms of this Agreement. In this regard, each party agrees that it shall be solely responsible and bear its own cost of defending any claim or litigation arising out of the acts or omissions of its employees or agents for actions or omissions in carrying out the terms and provisions of this Agreement. Finally, pursuant to Section 768.28, Florida Statutes each party agrees to indemnify, hold harmless and defend the other party against any claims or causes of action based upon the individual acts or omissions of its employees or agents.

Section 12. Notice. Any notice provided for herein, including the written notice referenced in Section 10 above, shall be provided by Certified Mail, Return Receipt Requested, to the other party's representatives listed below at the following addresses:

Collier County MPO Director
Collier County MPO
2675 Horseshoe Drive South
Naples, Florida 34104

Lee County MPO Staff Director
Lee County MPO
P.O. Box 3455
North Fort Myers, Florida 33918

Notice shall be deemed received on the first business day following actual receipt of the notice. The parties will promptly notify the other in writing of any change to their respective addresses.

As required by Section 163.01(11), Florida Statutes, this Interlocal Agreement and all future amendments hereto shall be filed with the Clerks of the Circuit Courts of Collier and Lee Counties, Florida.

IN WITNESS WHEREOF, the parties herein have executed this Agreement by their duly authorized officials as of the day and year written below.

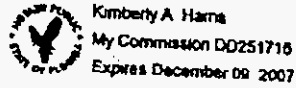
Clark Russell
Clark Russell, Chairperson
Collier County MPO
Date: 2/1/04

Attest: Regina Devlin



Tammy Hall
Tammy Hall, Chairperson
Lee County MPO
Date: 2/6/04

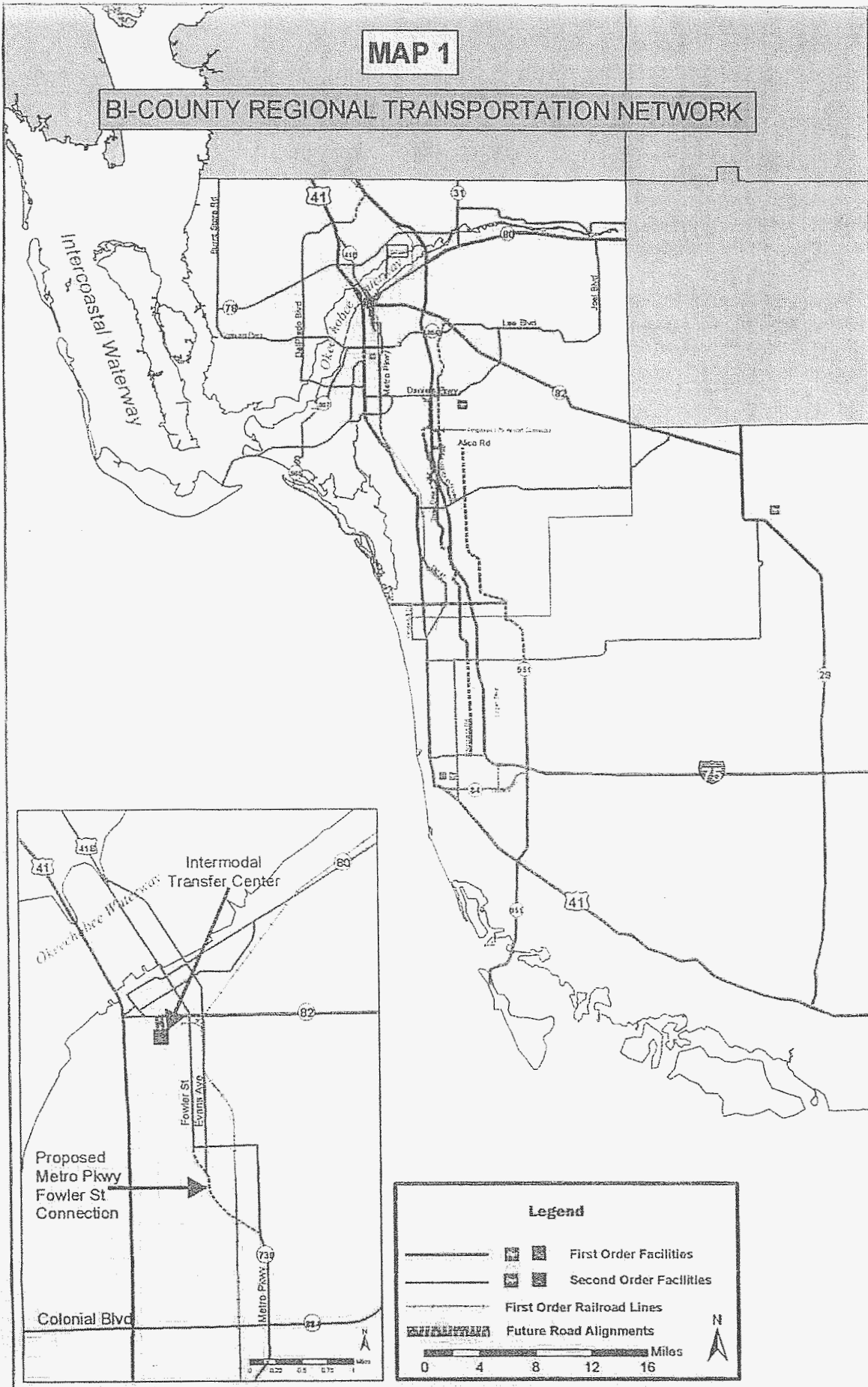
Attest: Kimberly A. Harris



Interlocal Coordination Agreement between Collier County and Lee County MPOs

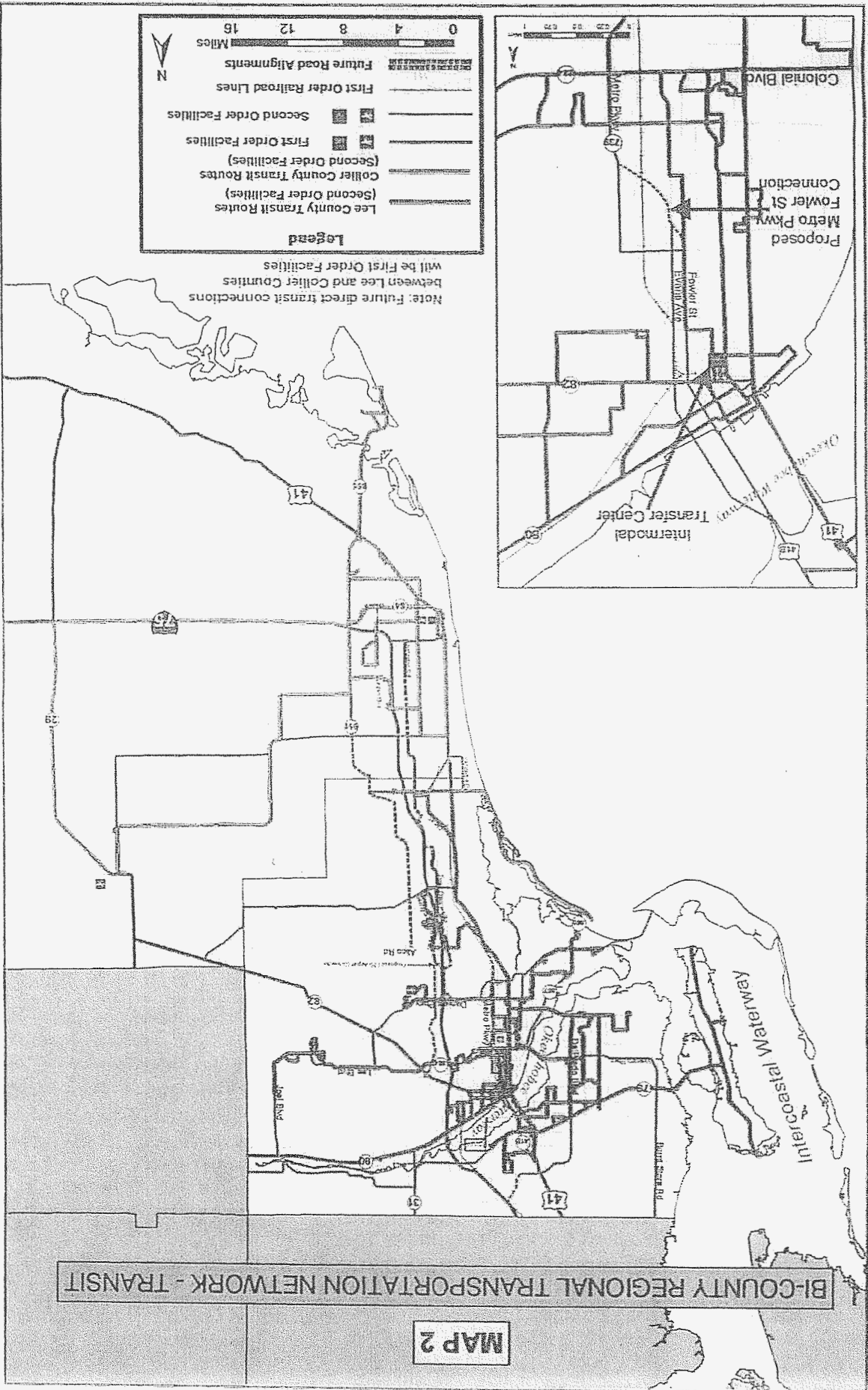
MAP 1

BI-COUNTY REGIONAL TRANSPORTATION NETWORK



BI-COUNTY REGIONAL TRANSPORTATION NETWORK - TRANSIT

MAP 2



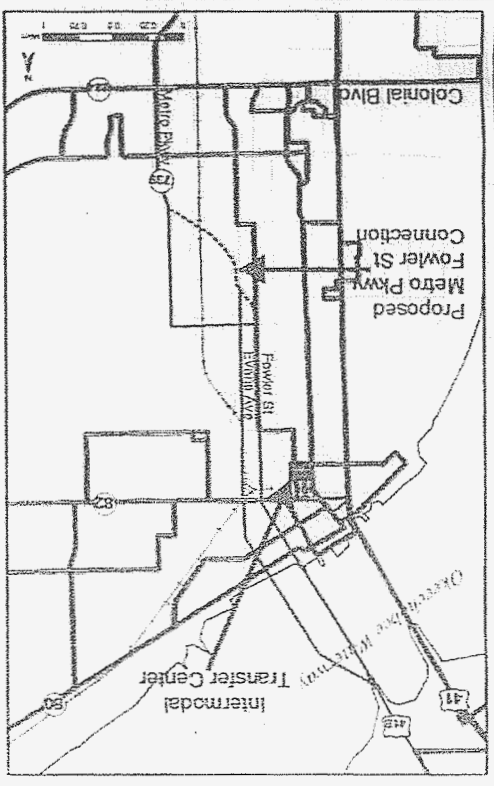
Legend

- Lee County Transit Routes (Second Order Facilities)
- Collier County Transit Routes (Second Order Facilities)
- First Order Facilities
- Second Order Facilities
- First Order Railroad Lines
- Future Road Alignments

Miles 0 4 8 12 16

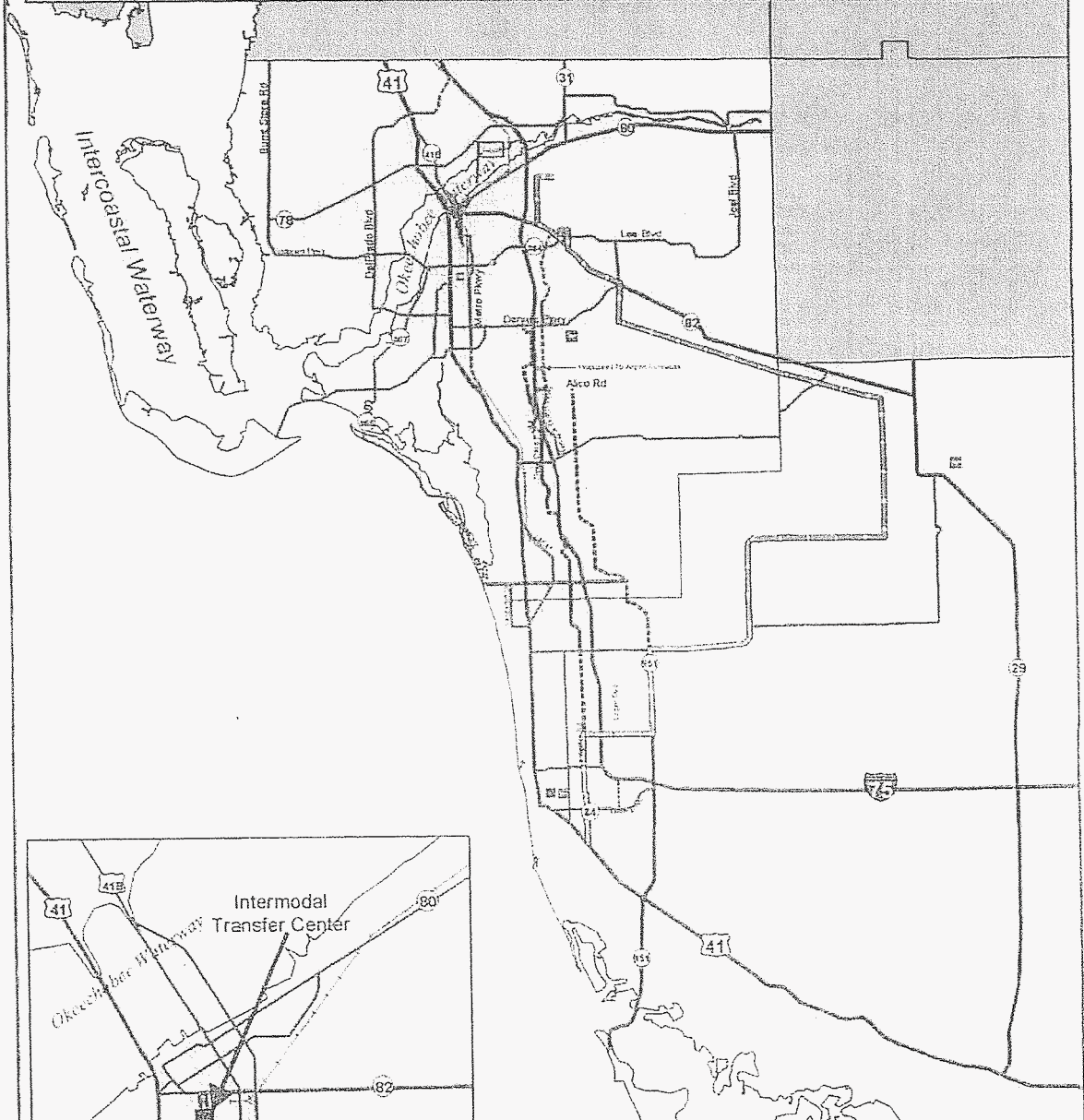
N

Note: Future direct transit connections will be first order facilities between Lee and Collier Counties



MAP 3

BI-COUNTY REGIONAL TRANSPORTATION NETWORK - PATHWAYS



Legend

- First Order Pathway Facilities
- Second Order Pathway Facilities
- First Order Facilities
- Second Order Facilities
- First Order Railroad Lines
- Future Road Alignments

0 4 8 12 16 Miles