

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

Blue Sheet No. 20020233

1. REQUESTED MOTION:

ACTION REQUESTED: Approve the Joint Project Agreement with the Florida Department of Transportation for an Intelligent Transportation System Feasibility Study in the amount of \$22,837.00. Also, approve authorizing resolution for Chairman to execute Agreement on behalf of the Board of County Commissioners.

WHY ACTION IS NECESSARY: Requires Board of County Commissioner approval for agreements.

WHAT ACTION ACCOMPLISHES: Allows County to contribute to the local match (12.5%), such that the project can proceed.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #

C9A

3. MEETING DATE:

03-26-2002

4. AGENDA:

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

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER _____
- B. DEPARTMENT Transportation
- C. DIVISION _____

BY: Scott M. Gilbertson, P. E.

7. BACKGROUND:

The Florida Department of Transportation has programmed \$182,697 in the current fiscal year (2001/2002) for a feasibility study to develop solutions and an implementation strategy for an Incident Management System for the Caloosahatchee River crossings. These crossings include the Cape Coral Bridge, Midpoint Memorial Bridge, Caloosahatchee/US 41 Bridge, and Edison/Business US 41 Bridge.

This project was originally identified in the Lee County MPO's Congestion Management System's program as a means to address traffic incidents on the bridges that either block or obstruct the flow of traffic. Through an Incident Management System, a program would be in place to detect a traffic incident, handle the event, and provide information to motorists approaching the bridge, so that they might travel on an alternate route. The overall objective is to optimize traveling public safety and mobility.

The project involves Federal funding from the Federal Highway Administration and FDOT non-federal funds. The Federal funding is for \$137,023, and accounts for 75 percent of the total amount. The FDOT share and Lee County are equal and account for the remaining 25 percent. FDOT staff will be managing this project.

Funds are available in the following account: PE 54147 42101 503140 50%
PE 54147 42103 503140 50%

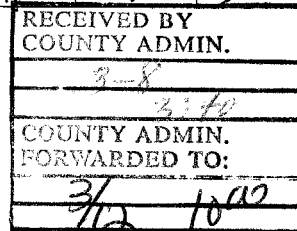
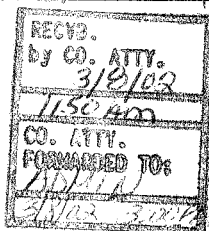
8. MANAGEMENT RECOMMENDATIONS: Approve the agreement.

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>3/7/02</i> <i>[Signature]</i>	<i>N/A</i>	<i>NA</i>		<i>[Signature]</i>	<i>OA</i> <i>3/11/02</i>	<i>OM</i> <i>3/11/02</i>	<i>Risk</i> <i>3/12</i>	<i>GC</i> <i>3/11/02</i>	<i>[Signature]</i> <i>3.7.02</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER



FM NO: 405462
FAP NO: 4225024C
COUNTY: LEE

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
JOINT PROJECT AGREEMENT**

This Agreement by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "Department", and LEE COUNTY, hereinafter referred to as the "Local Government";

WITNESSETH:

WHEREAS, pursuant to the Transportation Equity Act for the 21st Century (TEA21), there is Federal funding available for certain projects in the State of Florida; and

WHEREAS, the Department has programmed such Federal funding in its Work Program for the project described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter referred to as the "Project"); and

WHEREAS, as allowed by Section 339.135(3)(d), Florida Statutes, the Department and the Local Government each will provide fifty percent (50%) of the funds required to match the non-federal participation in the Project; and

WHEREAS, said project is identified and known to the parties as FM No.: 405462, Federal Aid No. 4225024C, which will be of benefit to the Local Government; and

WHEREAS, in accordance with Title 23, U.S. Code, Section 116 and Federal Highway Administration regulations issued pursuant thereto, there must be an agreement from the Local Government to maintain the project; and

WHEREAS, the Local Government by Resolution, dated _____, by this reference made a part hereof as if included hereto, has approved the Agreement and authorized its Chairman of the Board of County Commissioners to execute said Agreement.

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:

1. The Department shall commence and complete the Project as described in Exhibit A attached hereto and by this reference made a part hereof in accordance with the provisions of this Agreement and in accordance with all applicable documents which form a part of the Project.

2. The Department shall take all steps necessary to obtain Federal funds for the Project.

3. Payment for the costs of the Project shall be made in accordance with Exhibit A.

(a) The Department will participate in fifty percent (50%) of the funds required to match the non-federal share (at the effective federal participation rate), including costs overruns.

(b) The Local Government will participate in fifty percent (50%) of the funds required to match the non-federal share (at the effective federal participation rate), including cost overruns. The matching fund participation of the Local Government shall be made in accordance with paragraph 3(c) below.

(c) (i) The Local Government agrees that it will, upon execution of this

Agreement, make payment to the Department in the amount of TWENTY TWO THOUSAND EIGHT HUNDRED THIRTY SEVEN AND 00/100 (\$22,837.00), which represents its share of the estimated total cost of the Project. Said payment and any future payment(s) shall be made to the Florida Department of Transportation and mailed to:

Florida Department of Transportation
Office of the Comptroller
3717 Apalachee Parkway, Suite E
Tallahassee, Florida 32311
Attention: JPA Coordinator.

A copy shall be sent to the District JPA Coordinator as shown in paragraph 8, of this Agreement.

(ii) In the event actual costs for the Project exceed the total Project costs as stated in Exhibit "A", the local Government options are as follows:

- If additional funds are available to increase the funding of the Project, Local Government within ten (10) days of receiving notice from the Department, will make an additional payment to cover its fifty percent (50%) participation of the non-federal participation.
- If additional funds are not available to go ahead with the Project as originally scheduled with the cost increase, the Local Government will notify the Department that it is willing to scale down the Project, or that it will cover any amount in excess of the original estimate stated in Exhibit "A".

(d) The Department shall not be obligated to separately track the use of the Local Government payment(s) apart from the remainder of the funds available for the Project during the course of the Project and the Department's obligation to account for the Local Government's participation shall be limited to final reconciliation as stated below.

(e) If the Project is terminated, cancelled, or indefinitely suspended through no fault of the Local Agency, the Department shall refund any money paid by the Local Government to the Department within ninety (90) days after a request from the Local Government for such refund, less any amount of the money actually committed for work performed prior to the date of termination, cancellation, or indefinite suspension. The Project shall not be deemed terminated, cancelled, or indefinitely suspended merely because of a delay in commencing or pursuing the work without an actual written declaration of termination, cancellation, or indefinite suspension from the Department stating that it is intended as such.

(f) Upon final payment to the Contractor, the Department intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty days. All project cost records and accounts shall be subject to audit by a representative of the Local Government for a period of three (3) years after final close out of the project. The Local Government will be notified of the final cost. In the event the final accounting of total project costs pursuant to the terms of this agreement is less than the total deposits to date a refund of the excess will be made by the Department to the Local Government in accordance with Section 215.422, Florida Statutes. In the event said final accounting of total project costs is greater than the total deposits to date, the Local Government will pay the additional amount within forty (40) calendar days from the date of the invoice. The Local Government agrees to pay interest at a rate as

established pursuant to Section 55.03, Florida Statutes, on any invoice not paid within the time specified in the preceding sentence until the invoice is paid.

4. (a) Section 339.135(6)(a), Florida Statutes, is incorporated herein verbatim, to-wit:

"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 (1) 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.";

(b) The State of Florida performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

5. It is understood and agreed by the parties that upon completion of construction of the Project, the Local Government shall be responsible for maintenance of said project in accordance with Title 23 U.S. Code, Section 116 and the following federally accepted state standards: (a) Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (1994), as amended; (b) FDOT Procedures 850-065-001, 850-065-002, and/or 650-050-001, as amended.

6. All tracings, plans, specifications, maps and/or reports prepared or obtained under this Agreement shall be considered works made for hire and shall become the property of the DEPARTMENT without restriction or limitation on their use.

7. Unless otherwise specifically stated herein, this Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

8. All notices under this Agreement shall be directed to the following:

DEPARTMENT:	LOCAL GOVERNMENT:
Karen Miracola	John Davis
District JPA Coordinator	Chief Traffic Engineer
Florida Department of Transportation	Lee County
Post Office Box 1030	5650 Enterprise Parkway
Fort Myers, Florida 33902-1030	Fort Myers, Florida 33905

9. 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.

10. To the extent allowed by Section 768.28, Florida Statutes, the Local Government hereby agrees to indemnify, defend, save and hold harmless the Department and all of its officers, agents or employees from all suits, actions, claims, demands, liabilities of any nature whatsoever arising out of, because of, or due to breach of this Agreement by the Local Government, its officers, agents, employees or subcontractors or due to any negligent act or occurrence of omission or commission of the Local Government, its officers, agents, employees or subcontractors. Neither Local Government nor any of its officers, agents, employees or subcontractors will be liable under this section for the negligence of the Department or any of its officers, agents or employees.

11. This Agreement shall continue in effect and be binding on the parties until the Project is completed, final costs are known and all payments are made to the Department.

12. (a) This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations 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 with the same formality and of equal dignity herewith.

(b) All documents ordinarily and/or necessarily associated with a project of this nature, which documents, whether specifically named in this Agreement or not, are by this reference made a part of this Agreement as though fully set forth herein.

13. This Agreement shall take effect upon being executed by the parties and shall be terminated upon the earlier of the mutual consent of the parties or two hundred forty (240) days after final payment for the Project; provided, however, that the Local Government's obligations to perform maintenance shall survive any termination of this Agreement that occurs subsequent to performing any part of the Project for which maintenance would be required.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers and their official seals hereto affixed, this _____ day of _____, 2002.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
Chairman

By: _____
District Secretary

Attest: Charlie Green
Clerk of Circuit Court

Attest:

(SEAL)

(SEAL)
Executive Secretary

Approved as to Form:

Legal Review:

County Attorney's Office

District Counsel

EXHIBIT A

FM No: 405462
FAP No: 4225 024 C
County: LEE

PROJECT DESCRIPTION AND RESPONSIBILITIES

This exhibit forms an integral part of that certain Joint Project Agreement between the State of Florida Department of Transportation and Lee County, dated _____

I. PROJECT LOCATION:
Lee County

II. PROJECT DESCRIPTION:
Intelligent Transportation System Feasibility Study

- a) Develop Incident Management System solutions for USB41/Edison Bridge, US41/Caloosahatchee Bridge, Veterans Memorial Bridge and Cape Coral Bridge.
- b) Develop communication network control package consistent with the Lee County Emergency Operations Center (EOC) or the Traffic Management Center for I-75 Intelligent Transportation System Master Plan.
- c) Develop and evaluate a route diversion plan.
- d) Develop an implementation strategy

III. PARTICIPATION:

Federal Participation (FHWA)	(75%) or	\$ 137,023.
Agency Participation (50% of non-federal participation)		\$ 22,837.
Department Participation (50% of non-federal participation)		\$ 22,837.
TOTAL PROJECT COST		\$ 182,697.