

SECTION 4(F) DE MINIMIS DETERMINATION FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES

Project Name:	SR 29 from Oil Well Road to SR 82				
FM#:	417540-1-22-01	ETDM#:	3752	FAP#:	3911 022 P
Project Review Date:	10/5/2018				
FDOT District:	1				
County(ies):	Collier				

Project Description including Section 4(f) Specific Information:

SR 29 is designated as an Emerging Strategic Intermodal System (SIS) and is a major north-south corridor in Collier County. The project extends from Oil Well Road to SR 82 and is approximately 15.6 miles in length (see Attachment 3, Location Map). The project section of SR 29 specifically traverses the unincorporated community of Immokalee in eastern Collier County. SR 29 will be widened from two to four lanes from Oil Well Road to south of Farm Worker Way and from north of Westclox Street/New Market Road (CR 29A) to SR 82, as well as include the addition of a four-lane segment on new alignment from north of Seminole Crossing Trail to north of Westclox Street/New Market Road (CR 29A). Central Alternative 2, the Recommended Alternative, will require an additional 77.82 acres of right-of-way. This includes approximately 0.27 acre from the eastern edge of the Immokalee Airport Park, the Section 4(f) resource (see Attachment 3, Recommended Alternative Park Impacts).

Type of Property: Public Parks and Recreation Areas

Description of Property: The Immokalee Airport Park, totaling 5.1 acres, is owned and operated by Collier County as a public recreational resource, which is open and free to the public. The Immokalee Airport Park occupies part of a Collier County owned parcel that includes the Immokalee Airport as identified by the Collier County Property Appraiser. The park is located immediately outside and adjacent to the airport as shown in the Immokalee Airport Master Plan. Additionally, the boundary of the park is defined by an airport security fence that limits access north of Airport Access Road. Access can only be gained by traveling on New Market Road and is provided on the north side of the facility through a single gate located adjacent to the gravel parking area and is not accessible from SR 29. Airport Park includes an amphitheater, children's playground, picnic pavilions, restrooms, and open space containing picnic tables and benches. On June 6, 2013, FHWA found that protection under Section 4(f) of the US Transportation Act of 1966, as amended and implemented by 23 CFR 774, is applicable to Immokalee Airport Park.

Section 4(f) Use of the Property

Yes No Will the project involve the "use" of the Section 4(f) resource (e.g., new right of way, intrusions into the historic boundaries, temporary occupancy)?

Explanation of how the Section 4(f) property will be used, including any mitigation or enhancement measures related to activities, features or attributes of the property:

The Recommended Alternative, Central Alternative 2, will impact approximately 0.27 acre (5.3% of the 5.1 acres) along the Immokalee Airport Park's northeastern edge. See the exhibits included in Attachment 3. This will impact the existing access road and the gravel parking area; no recreational facilities or features within the bounds of the park will be impacted. In order to minimize harm to the facility and maintain access, the following mitigation and minimization of harm measures have been incorporated into the proposed project: 1. Access to the parking lot will be realigned to the north end of the lot and maintained on Airport Access Road. No parking within the boundary of the park will be lost. A new roadway intersection with a directional median opening and dedicated left turn lane will be constructed on SR 29 at Airport Access Road to provide more direct access to the Airport Park.; 2. Central Alternative 2 will include pedestrian and bicycle facilities along SR 29 and installation of a signalized crosswalk at the new intersection of SR 29 at CR 846 providing pedestrian and bicycle access.; 3. FDOT has committed to further coordination with the Collier County Parks and

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Recreation Division during future phases of project development to minimize impacts to the Immokalee Airport Park. Therefore, there will be no adverse effects to the property and its activities, features, and attributes.

Evaluating Section 4(f) *de minimis* Eligibility

1. Yes No Was there coordination with the Official(s) with Jurisdiction to identify an opportunity for a *de minimis* finding?
2. Yes No Was the OWJ informed by the District of FDOT's intent to pursue a *de minimis* approval option?
(Attach the letter to the document)
3. Yes No Was the public provided notice and an opportunity to review and comment on the effects of the project on the activities, features, and attributes of the property?
4. Yes No Was the OWJ informed in writing that their concurrence with a no adverse effect finding to the activities, features or attributes which qualify the property for protection may result in FDOT making a *de minimis* approval under Section 4(f)?
5. Yes No Did the OWJ concur that the proposed project, including any enhancement, mitigation and minimization of harm measures, will result in no adverse effects to the activities features or attributes of the property?
6. Identify and describe the avoidance and minimization of harm measures (if any) incorporated into the project in order to obtain a *de minimis* finding:

1. Access to the parking lot will be realigned to the north end of the lot and maintained on Airport Access Road. No parking within the boundary of the park will be lost. A new roadway intersection with a directional median opening and dedicated left turn lane will be constructed on SR 29 at Airport Access Road to provide more direct access to the Airport Park.

2. Central Alternative 2 will include pedestrian and bicycle facilities along SR 29 and installation of a signalized crosswalk at the new intersection of SR 29 at CR 846 providing pedestrian and bicycle access.

3. FDOT has committed to further coordination with the Collier County Parks and Recreation Division during future phases of project development to minimize impacts to the Immokalee Airport Park.

7. Describe below the basis on which the *de minimis* determination was made (e.g., consideration on why there is no adverse effects to the property and its activities, features and attributes)

Incorporation of mitigation and minimization of harm measures, including: realigning access to the parking lot to the north end, maintained access on Airport Access Road, providing a directional median opening with a dedicated left turn lane on SR 29 at Airport Access Road, and providing pedestrian and bicycle facilities on SR 29 for more direct access to the park. No loss of parking within the boundary of the park and no other facilities within the park will be impacted. In addition, FDOT has committed to continued coordination with Collier County during future phases of the project to minimize impacts to the park. While the provisions of Section 4(f) are applicable to the Immokalee Airport Park, with the implementation of these measures, the project will not adversely affect the activities, features, and attributes that qualify the Immokalee Airport Park for protection under Section 4(f). The Official With Jurisdiction supports the project and measures identified to minimize harm and their written concurrence with the *de minimis* determination is pending.

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AND WILDLIFE OR WATERFOWL REFUGES**

Documentation

The following items **must** be attached to this form to ensure proper documentation of the Section 4(f) *de minimis*:

1. DOA form and documentation
2. Any additional communications with the OWJ (e.g. concurrence letters)

Signatures

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Signature: _____ : Click here to enter a date.
Preparer Date

Signature: _____ Click here to enter a date.
Environmental Manager, or designee Date

**OEM
Concurrence:**

Signature: _____ Click here to enter a date.
Director of OEM, or designee Date

ATTACHMENT 1
FHWA SECTION 4(F) DETERMINATION OF APPLICABILITY

Attachment 1, Exhibit A

From: Linda.Anderson@dot.gov [<mailto:Linda.Anderson@dot.gov>]
Sent: Thursday, June 06, 2013 5:34 PM
To: James, Jeffrey W; Schulz, Mark
Cc: Benito.Cunill@dot.gov; BSB.Murthy@dot.gov
Subject: FHWA's Determination re Section 4(f) Applicability for Properties Adjacent to Proposed Alternatives for SR 29 (Immokalee) EIS, FPID # 417540-1-22-01

FHWA has reviewed the Section 4(f) DOA for SR 29 (Immokalee) EIS, FPID # 417540-1-22-01, and made the determination that Immokalee Airport Park, 1st Street Plaza, and 9th Street Plaza are Section 4(f) properties.

Whether the Collier Rural Land Stewardship Sending Area #5 is a Section 4(f) property is a more complex question, given its designated use for both conservation and ranching, and the nature of the Stewardship Easement Agreement between Collier County, FDOT, FDACS, and the property owner.

There are two issues here:

1. Does the land have a designated function as a wildlife or waterfowl refuge. Page 2, #'s 3A and B of the Stewardship Easement Agreement (p. A-7 of DOA) state that the land may be used for "Conservation, Restoration, and Natural Resources Uses" and "Agriculture." The Land Use Matrix on P. A-19 of the DOA defines "Conservation, Restoration and Natural Resources" as "Wildlife management, plant and wildlife conservancies, refuges and sanctuaries." Page 2-1, #1 of the DOA states "those areas within SSAs designated exclusively for conservation use are the only areas considered to fall under the auspices of Section 4(f). Note: the limitation of applicability of Section 4(f) to the areas of the SSA supporting conservation is based on 23 CFR 774.11(d)." However, 23 CFR 774.11(d) does not state that lands have to be "designated exclusively for conservation," only that they have to be "designated in the plans of the administering agency as being for, significant park, recreation, or wildlife and waterfowl refuge purposes." The easement does not appear to designate specific areas within the western portion adjacent to East Alternative #1 for conservation or agriculture. The land may be used for either. Consequently, FHWA's opinion is that Eastern Alternative #1 may have a designated function as a wildlife or waterfowl refuge.
2. Does the easement make this public land? This depends on the nature of the easement as well as other factors (see Question 1B of the Section 4(f) Policy Paper) and is a difficult question that will require additional research.

FHWA's recommendation is that a Section 4(f) determination for Collier Rural Land Stewardship Sending Area #5 be postponed until it is apparent that East Alternative #1 will be retained as a viable alternative. If it is, then we can further explore the question of whether this is a Section 4(f) property.

Linda Anderson
Environmental Protection Specialist
Federal Highway Administration
545 John Knox Rd., Ste. 200
Tallahassee, FL 32303
P: 850-553-2226
F: 850-942-8308

ATTACHMENT 2
COLLIER COUNTY DE MINIMIS CONCURRENCE LETTER and
COLLIER COUNTY POST PUBLIC HEARING COORDINATION



Florida Department of Transportation

RICK SCOTT
GOVERNOR

801 North Broadway
Bartow, FL 33830

MICHAEL J. DEW
SECRETARY

August 9, 2018

Mr. Barry Williams
Director
Collier County Parks and Recreation Division
15000 Livingston Road
Naples FL 34109

**SUBJECT: Immokalee Airport Park
SR 29 Immokalee Project Development and Environment (PD&E) Study:
From Oil Well Road to SR 82
Collier County, Florida
Financial Management No.: 417540-1-22-01**

Dear Mr. Williams:

In follow-up to our meeting on April 19, 2018, this letter is being submitted to solicit written concurrence from the Collier County Parks and Recreation Division with the Florida Department of Transportation's (FDOT) intent to pursue a Section 4(f) *de minimis* finding for the proposed impacts to Immokalee Airport Park that will result from the proposed improvement to SR 29. In correspondence dated June 6, 2013, the Federal Highway Administration (FHWA) determined that Immokalee Airport Park is a publicly held land and a Section 4(f) resource according to the Department of Transportation Act of 1966 and meets the Section 4(f) definition of a significant facility. The current identified purpose of Immokalee Airport Park is to support active and passive public recreation activities, including festivals and major public events.

At the April 19, 2018 meeting, the FDOT presented two alternatives that were being considered for the proposed improvements to SR 29 (Central Alternative #1 Revised and Central Alternative #2) along with the No-Build Alternative. Since our meeting and upon further review, the FDOT has dropped Central Alternative #1 Revised from further consideration and determined that Central Alternative #2 is the Recommended Alternative since this alternative avoids the commercial/industrial areas of Immokalee and the State Farmer's Market to the west. Central Alternative #2 also has fewer business relocations (one relocation) and no residential relocations or impacts in comparison to Central Alternative #1 Revised which has nine business relocations and three residential relocations.

Central Alternative #2 provides a 4-lane divided typical section and follows the existing SR 29 corridor from the start of the project at Oil Well Road to north of 13th Street. From 13th Street, Central Alternative #2 travels north from SR 29 on new alignment along the west side of the Immokalee Regional Airport traversing a small portion of the eastern perimeter of Immokalee Airport Park. **Exhibit A** (enclosed for reference) depicts the footprint of Central Alternative #2 in relation to Immokalee Airport Park. As illustrated, Central Alternative #2 will result in approximately 0.27 acre of direct impact to Immokalee Airport Park (5.3% of the total 5.10 acres). Mitigation would be required to offset these impacts. In our coordination, the FDOT has committed to work with the Collier County Parks and Recreation Division to mitigate the potential impacts of the proposed action through compensatory land acquisition or any other appropriate measure as identified.

Mr. Barry Williams
Immokalee Airport Park
Page 2 of 2
August 9, 2018

Based upon the above information and because the impacts to the site will be mitigated, we believe that there will be no adverse effects to the activities, features and attributes that qualify the Immokalee Airport Park for protection under Section 4(f).

If the Collier County Parks and Recreation Division concurs with the FDOT's findings that after mitigation there will be no adverse effects to the activities, features, and attributes to the Immokalee Airport Park, please sign and date the concurrence block at the end of this letter and return it to me at the address below. If the Collier County Parks and Recreation Division concurs with this finding, then the FDOT may determine the impacts to be *de minimis* per 23 CFR Part 774.

P.O. Box 1249
Bartow, Florida 33831

If you have any questions, please contact me by phone at (863) 519-2375 or by email at gwen.pipkin@dot.state.fl.us. Thank you for your assistance with this request.

Sincerely,



Gwen G. Pipkin
District Environmental Manager

Concurrence

(Signature)

Barry Williams

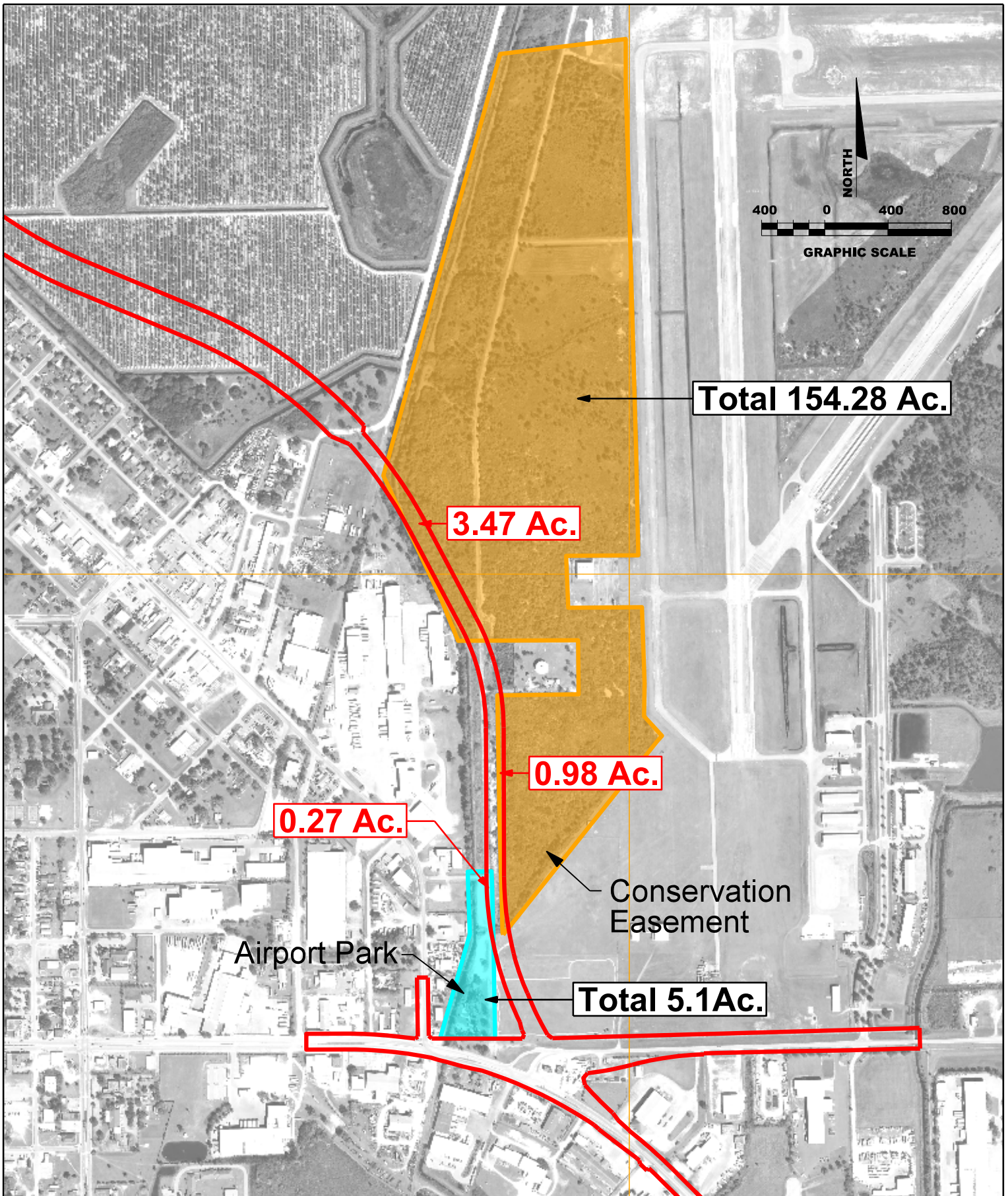
Director

Collier County Parks and Recreation Division

(Date)

Enclosures

Cc: Bill Howell (Lochner)
Adam Purcell (AECOM)



URS Corporation Southern
 7650 West Courtney
 Campbell Causeway
 Tampa, FL 33607-1462
 C.A. No. 00000002

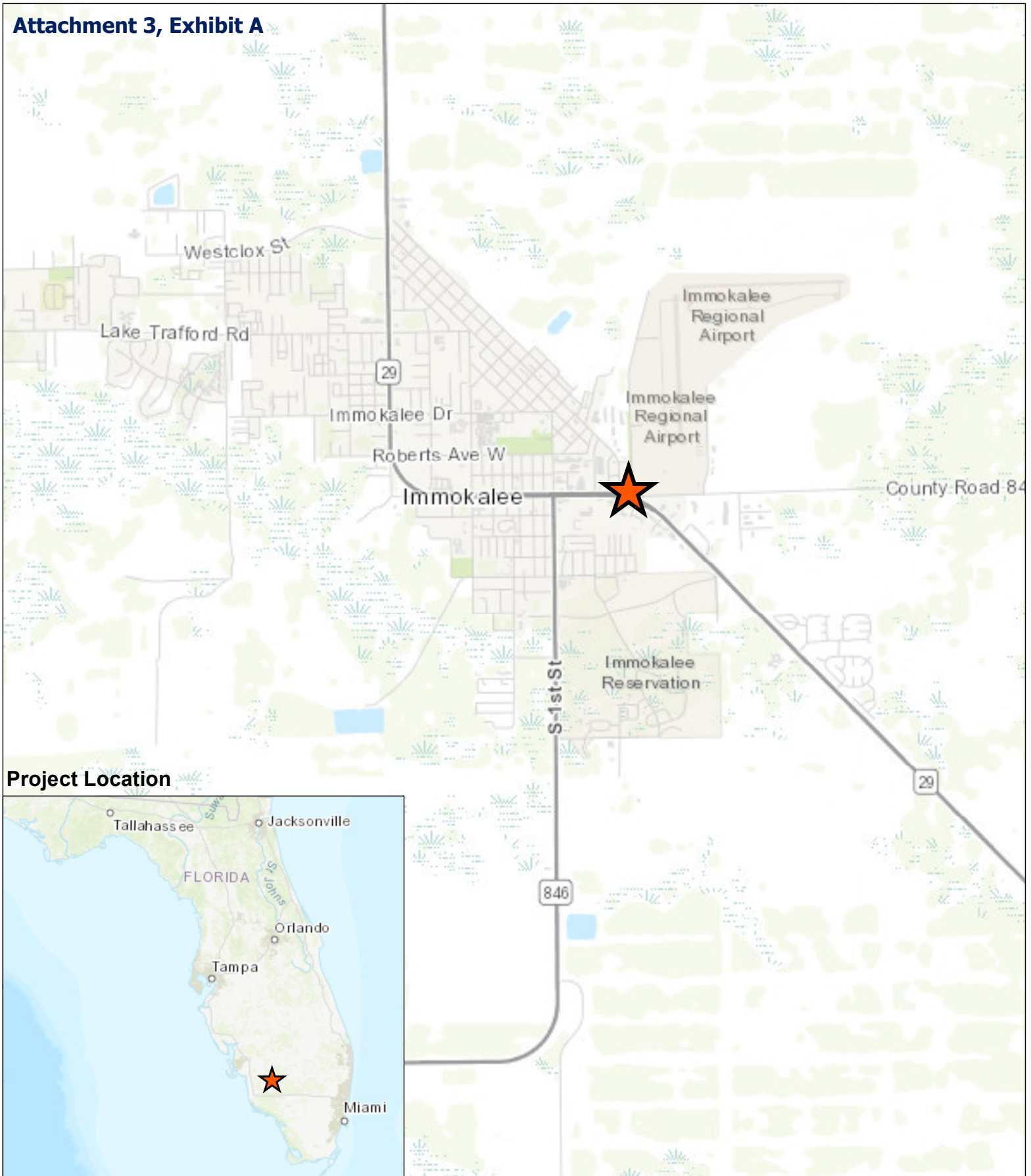
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
SR 29	COLLIER	417540-1-22-01

SR 29 Immokalee
 ALTERNATIVE C2

SHEET
 NO.

ATTACHMENT 3
LOCATION MAP and RECOMMENDED ALTERNATIVE (C2)
with IMMOKALEE REGIONAL AIRPORT PARK IMPACTS

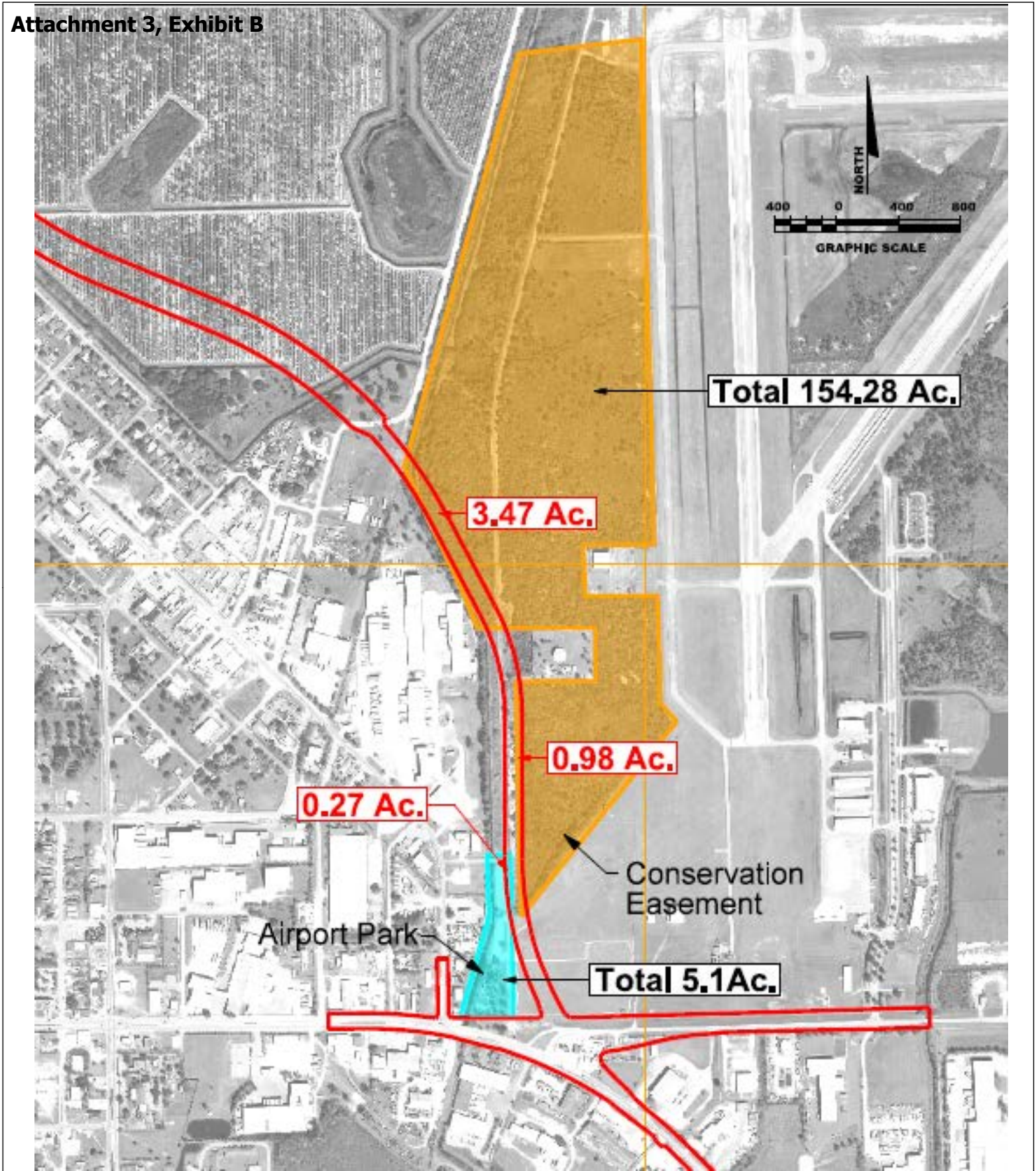
Attachment 3, Exhibit A



Immokalee Regional Airport Airport Park

Legend








Immokalee Regional Airport Impacts to Airport Park

Recommended Alternative (Central 2)

Legend

-  Airport Conservation Easement
-  Airport Park
-  Proposed Right-of-Way