

FLORIDA DEPARTMENT OF TRANSPORTATION
SECTION 4(F) DETERMINATION OF APPLICABILITY

650-050-45
Environmental
Management
06/17

Project Name:	State Road (SR) 29 from Oil Well Road to SR 82				
FM#:	417540-1-22-01	ETDM#:	3752	FAP#:	3911 022 P
Project Review Date:	6/14/2018				
FDOT District:	1				
County(ies):	Collier				

A DOA IS REQUIRED FOR EACH SECTION 4(f) PROPERTY AND PROPOSED ALTERNATIVE.

Project Description including Section 4(f) Specific Information:

SR 29 extends from south of Oil Well Road north to SR 82 in Collier County and is approximately 15.6 miles in length. Existing SR 29 will be widened from two lanes to four lanes from south of Oil Well Road to CR 846 (Airport Road) and from the central alignment connection north of Immokalee to SR 82. SR 29 is proposed to be on new alignment in the central segment from CR 846 (Airport Road) north to its reconnection at existing SR 29 north of Immokalee. One of the proposed alternatives, Central #2, will require approximately 2.44 acres from the Airport Viewing Area.

Type of Property

Check all that apply:

- Public Parks and Recreation Areas
- Wildlife and Waterfowl Refuges
- Historic Sites

Description of Property: The Immokalee Regional Airport is located northeast of the intersection of SR 29 and CR 846 (Airport Road). The Airport Viewing Area, owned by the Collier County Airport Authority, occupies the southwest corner of the airport property. See the exhibit included in Attachment 1. A Memorandum of Understanding (MOU) was entered into on April 26, 2011 between the Collier County Airport Authority and Collier County, operating through its Parks and Recreation Department. See Attachment 3. The MOU establishes the primary use of the property as one supporting airport operations and consents to the Collier County Parks and Recreation Department use of the Airport Viewing Area for passive recreational purposes and for attendance by large group activities, such as outdoor concerts, festivals, charitable functions, etc.. However, the MOU establishes that the Collier County Airport Authority maintains control and the regulated use occurs on an "as needed basis". The MOU establishes a process by which the Airport Viewing Area may be used and prohibits the placement or installation of any permanent building, trees, structure or fixtures. It does allow for sidewalks and/or bicycle pathways, park benches and picnic tables. It is also stated in the MOU that the Collier County Airport Authority may terminate the agreement upon thirty (30) days written notice and return the Airport Viewing Area to airport use.

Criteria of Selected Property Type(s):

Public Parks and Recreation Areas

- Must be publicly owned which refers to ownership by local, state or federal government
 - Ownership can also include permanent easements and long-term lease agreements
- Must be open to the public during normal hours of operation
- The major purpose must be for park or recreation activities
- Must be designated or function as a significant park or recreational area.
 - Applies to the entire park or recreation area not just a specific feature

Wildlife and Waterfowl Refuge

- Must be publicly owned which refers to ownership by local, state or federal government;
 - Ownership can also include permanent easements and long-term lease agreements;

FLORIDA DEPARTMENT OF TRANSPORTATION
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- Must be open to the public but **refuges are able to restrict access for the protection of refuge habitat and species;**
- The major purpose must be for wildlife and waterfowl refuges;
- Must be designated or function as a significant as a wildlife and waterfowl refuges; -
 - Applies to the entire wildlife and waterfowl refuges not just a specific feature

Historic Sites- includes historic buildings, historic transportation facilities, archeological sites, traditional cultural places, historic & archeological districts and historic trails.

- Must be of national, state or local significance and it must be eligible for listing or is listed on the National Register of Historic Places (NRHP); or
- If a site is determined not to be eligible OEM may determine that the application of Section 4(f) is otherwise appropriate when an official (such as the Mayor, president of a local historic society) provides information to support that the historic site is of local importance.

Does the identified resource meet all of the criteria for the selected property type?

Yes, continue to complete the form

No, STOP Section 4(f) does not apply

Identify the Official(s) with Jurisdiction (OWJ) contacted: Justin Lobb, Airports Manager, Collier County Airport Authority. Statement of Significance concurrence provide in Attachment 2.

Date correspondence sent to the OWJ: 6/1/2018

Has the Official(s) with Jurisdiction (OWJ) responded?

Yes No

Has the 30 day response period passed since the initial OWJ correspondence was sent?

Yes No

Please answer the questions below about the resource:

Note: A potential source for this information can include the property management plan, resource website and/or communications with the OWJ (be sure to document these communications in writing).

What is the size and location of the property (include a map of the resource)?

██████████

Who/what organization owns/manages the property?

██████████

What is the primary function (activities, features and attributes) within the meaning of Section 4(f) of the facility or property?

██████████

Please describe the location of available appurtenances and facilities (e.g. tennis courts, pools, shelter houses, sports fields, beaches) on the property:

FLORIDA DEPARTMENT OF TRANSPORTATION
SECTION 4(F) DETERMINATION OF APPLICABILITY

650-050-45
Environmental
Management
06/17

█
What is the function of/or the available activities on the property?

█
Access and Usage of the property by the Public:

█
Relationship to other similarly used lands/facilities in the vicinity:

█
Are there any unusual characteristics of the property that either limit or enhance the value of the resource? If so please explain:

█
Describe project activities that could potentially "use" the resource:

█
If applicable, give a general description of the history of the Historic Site, Archaeological Site or Historic District:

█
Based on the above information the recommended level of Section 4(f) evaluation for this property is:

Select the level of Section 4(f) evaluation: Choose an Item

█
Reason the selected level is appropriate:

Supporting Documentation

The following items **must** be attached to this form:

1. A map of the resource based on the guidelines in the PD&E Manual Part 2, Chapter 7, including the proposed alternative being evaluated.
2. Statement of Significance from OWJ or FDOT's presumption of significance.
3. Determination of Eligibility or Listing in the National Register of Historic Places, Archaeological Site (*include criterion of eligibility*) or a Historic District if applicable.

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: Adam Purcell, AECOM : 6/14/2018
Preparer Date

Signature: Gwen G. Pipkin : 6/15/2018
Environmental Manager, or designee Date

FLORIDA DEPARTMENT OF TRANSPORTATION
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OEM
Concurrence:



6/26/2018

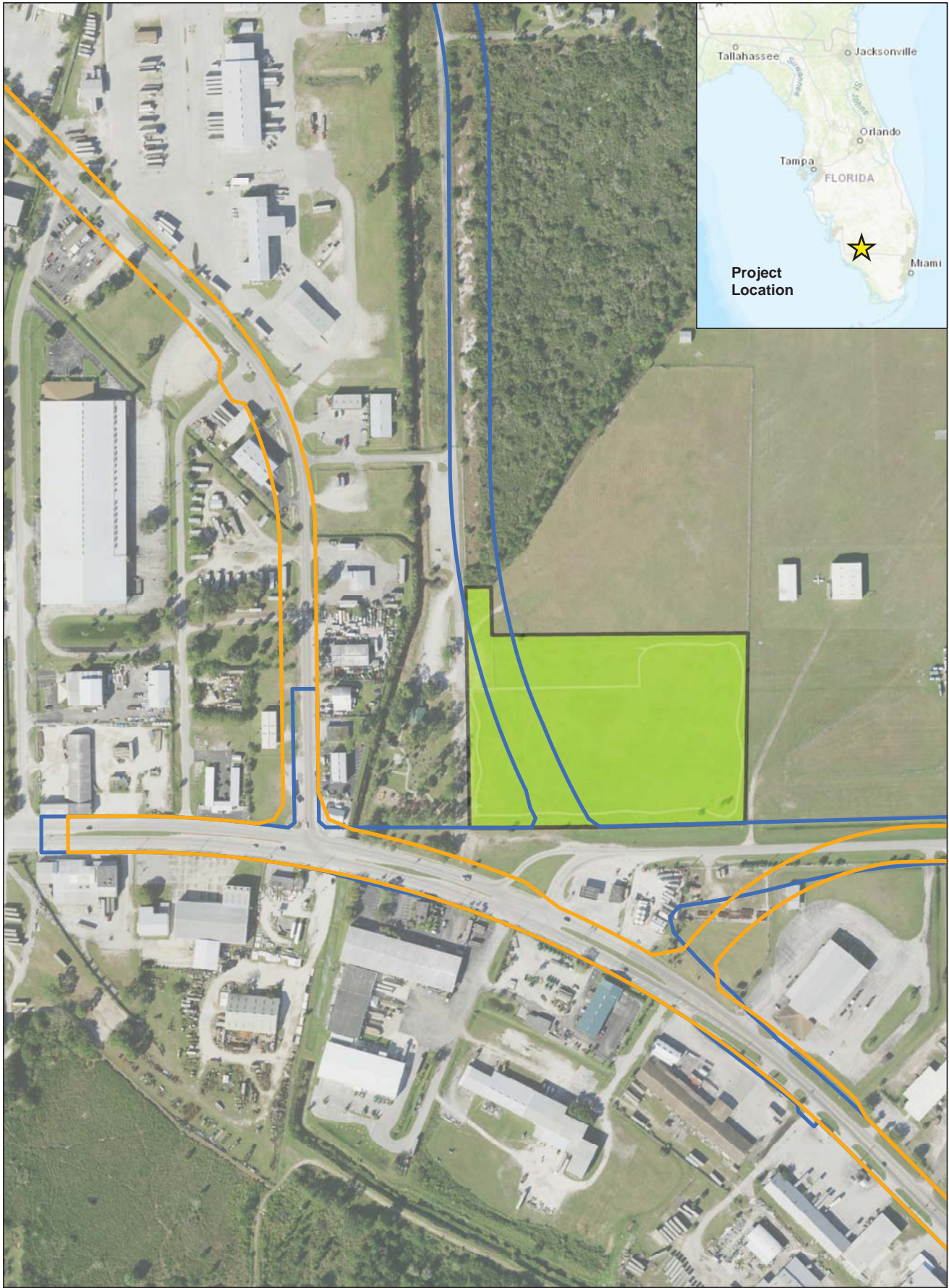
Signature:



Director of OEM, or designee

6/26/18
Date

Attachment 1:
Map of Resource with Proposed Alternative(s)



SR 29 Immokalee

Potential Section 4(f) Resource

Legend

- Alternative 1R
- Alternative C2

Potential 4(f) Resources

- Airport Viewing Area



0 250 500
 Feet

Attachment 2:
Statement of Significance from OWJ

From: LobbJustin [mailto:Justin.Lobb@colliercountyfl.gov]
Sent: Thursday, June 07, 2018 3:49 PM
To: Warren, Kimberly <Kimberly.Warren@dot.state.fl.us>
Cc: Pipkin, Gwen G <Gwen.Pipkin@dot.state.fl.us>; Howell, Bill <bhowell@hwlochner.com>; lauren.brooks@aecom.com; Sands, Wendy <Wendy.Sands@dot.state.fl.us>
Subject: RE: 417450-1 SR 29 PD&E - Airport Viewing Area within the Immokalee Regional Airport

Good afternoon,

Please accept this email as confirmation that the primary use of the "Airport Viewing Area" at Immokalee Airport is indeed **aeronautical** as per the MOU, Airport PUD and the Airport Master Plan. Let me know if you have any further questions or require additional information.

Regards,



Justin E. Lobb, ACE | Airports Manager
Collier County Airport Authority
2005 Mainsail Drive | Naples, FL 34114
tel (239) 642-7878 | fax (239) 394-3515
[website](#) | [map](#) | [email](#) | [flyMKY](#) [flyIMM](#) 

*Note email address has changed: Justin.Lobb@colliercountyfl.gov

From: Warren, Kimberly [mailto:Kimberly.Warren@dot.state.fl.us]
Sent: Friday, June 01, 2018 1:44 PM
To: LobbJustin <Justin.Lobb@colliercountyfl.gov>
Cc: Pipkin, Gwen G <Gwen.Pipkin@dot.state.fl.us>; Howell, William G. <bhowell@hwlochner.com>; lauren.brooks@aecom.com
Subject: 417450-1 SR 29 PD&E - Airport Viewing Area within the Immokalee Regional Airport

This email is being sent on behalf of Gwen Pipkin.

Mr. Lobb:

In follow-up to our meeting on April 19th to discuss the proposed improvements to State Road (SR) 29 in Immokalee, this email is submitted to solicit information regarding the primary purpose and to document the use of the **Airport Viewing Area**, located along the southwestern edge of the Immokalee Regional Airport. While the Airport Viewing Area has been identified as a publicly held land, the Florida Department of Transportation (FDOT) is trying to determine if it is a Section 4(f) resource according to the US Department of Transportation Act of 1966. The FDOT is conducting a Project Development and Environment (PD&E) Study and one of the alternatives under consideration, Central Alternative #2, would require property from the Airport Viewing Area. A detailed description of the project can be found at www.sr29collier.com.

As discussed at our meeting, the FDOT is required to obtain a statement of significance from an official who has jurisdiction over the subject property. Significance means that in comparing the

availability and function of the subject property to all properties within your jurisdiction, the land in question plays an important role in meeting the overall objective of such resources.

FDOT has reviewed the Memorandum of Understanding (MOU) entered into between the Collier County Airport Authority and Collier County, operating through its Parks and Recreation Department, on April 26, 2011. The MOU consents to the use of the Airport Viewing Area for passive recreational purposes and for attendance by large group activities, such as outdoor concerts, festivals, charitable functions, etc.. However, the MOU establishes that the Collier County Airport Authority maintains control and the regulated use occurs on an "as-needed basis". It is also stated in the MOU that the Collier County Airport Authority may terminate the agreement and return the Airport Viewing Area to airport use. FDOT believes that the use limitations and termination clause in the MOU establish that the primary purpose of the property remains as aeronautical use and not recreational use. Based on the foregoing, the FDOT does not believe that Section 4(f) applies to the Airport Viewing Area.

If you concur with FDOT's assessment that the primary purpose for the Airport Viewing Area remains as aeronautical use, please respond to this e-mail stating your concurrence. If you have any questions or require additional information please do not hesitate to contact me by phone at (863) 519-2375 or via e-mail at Gwen.Pipkin@dot.state.fl.us.

Sincerely,

Gwen G. Pipkin

Environmental Manager

Office - 863.519.2375

Cell - 863-280-5850

gwen.pipkin@dot.state.fl.us

Under Florida Law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by telephone or in writing.

Attachment 3:
Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made and entered into this 26th day of April, 2011, between the Board of County Commissioners of Collier County, Florida, acting in its capacity as the Collier County Airport Authority, (hereinafter referred to as the "Authority") and Collier County, a political subdivision of the State of Florida, operating through its Parks and Recreation Department (hereinafter referred to as "County"), collectively stated as the "Parties."

RECITALS

WHEREAS, Collier County, Florida, has leased to the Authority certain real property comprising the Immokalee Regional Airport located in Immokalee, Florida; and

WHEREAS, the Authority is responsible for the development, operation and maintenance of the Immokalee Regional Airport; and

WHEREAS, on July 29, 2007, the Authority entered into a Consent to Use Agreement with the County, through its Parks and Recreation Department, relating to an undeveloped portion of the Immokalee Regional Airport property, adjacent to an existing County park, which allowed recreational uses, including, but not limited to, passive recreational uses and temporary short-term activities such as festivals, charitable events, and concerts to be attended by large groups of persons; and

WHEREAS, the Parties desire to terminate the 2007 agreement; and

WHEREAS, the intent of this Memorandum of Understanding is to reestablish and continue the rights and obligations of the Parties set forth in the 2007 agreement in a manner compliant with current Federal Aviation Administration ("FAA") regulations.

WITNESSETH:

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration exchanged amongst the Parties, and in consideration of the covenants contained herein, the parties agree as follows:

1. Use of Park Property.

- a. The Authority hereby consents to the County using that portion of the Immokalee Airport Property described in Exhibit "A" (approximately 305,000 square feet) ("Airport Viewing Area") for passive recreational purposes and for attendance by large group activities, such as outdoor concerts, festivals, charitable functions, and the like. The County may use the property for temporary parking of vehicles, to the extent needed during the respective large group event.
- b. Use of the Airport Viewing Area shall be on an "as-needed basis" whereby, upon request, and subject to approval of the Airport Authority, the County may grant such permission through the issuance of a permit. All permits shall be subject to review by the FAA.
- c. The Authority shall control the use of the property.
- d. In the event the County charges admission fees or parking fees, said fees shall be consistent with a Fee Schedule established by the Airport Authority for such purpose.
- e. The County shall not place, erect or install any permanent building, trees, structure or fixture within the Airport Viewing Area. It is agreed that temporary or permanent fencing may be relocated or installed on the property subject to approval by the Airport Authority at least 90 days in advance to the extent necessary to secure the Airport Property against entry from the Airport Viewing Area, and other removable things such as, but not limited to, park benches and picnic tables. Also, asphalt, cement or other improved pedestrian sidewalks and/or bicycle pathways are anticipated and are not prohibited permanent structures or fixtures.
- f. The County shall not use the Airport Viewing Area in a manner that will interfere with or disrupt operation and/or maintenance of the Airport. It is the intention and firm belief of the Parties that the County's proposed use of the Airport Viewing Area as described above, and in accordance with the terms of this Agreement, will not materially or adversely affect development, improvement, operation or maintenance of the Airport.

The Authority may charge a reasonable fee for County departments and Community Organizations to use the property. The fee will be consistent with the Authority Fee Schedule. Parks and Recreation will be charged a fee but will receive credit for the in-kind services provided to the Authority.

2. Property Maintenance.

The Immokalee Regional Airport will maintain the Airport Viewing Area during the term of this Agreement including, but not limited to, maintenance of all vegetation, exotics removal, if required, mowing of grass, maintenance of all improvements permitted hereunder, including fencing and debris removal, and the County shall administer the events that are to occur at the Airport Viewing Area.

- 3. Termination of This Agreement.** This Agreement may be terminated upon thirty (30) days written notice if the property is required by an aeronautical user to meet aeronautical demand or is determined to have a more valuable use as determined by the Authority. Should the Authority exercise this right, Tenant will be given three (3) months to vacate the premises and remove all of its improvements and fixtures.
- 4. Notices; Large Group Events or Otherwise.** The County agrees to deliver written notice to the Authority no less than thirty (30) days prior to each large group event (more than 300 attendees expected). Any notice or other communication to be given to any party under this Agreement shall be in writing and shall be delivered by e-mail, facsimile or by hand delivery. If mailed, the notice should be addressed as follows (or to the addressee's other then applicable mailing address):

If to the County:

Director
 Collier County Parks and Recreation
 15000 Livingston Road
 Naples Florida 34109

If to the Authority:

Executive Director
 Collier County Airport Authority
 Marco Island Executive Airport
 2005 Mainsail Drive, Suite 1
 Naples, Florida 34114


- 5. Airport Security.** The remainder Airport Property (exclusive of the Airport Viewing Area) must always remain secure against entry by individuals and/or vehicles not authorized by the Airport Manager, the Authority or its Executive Director. The County agrees to cooperate with the Authority in location of existing fencing and/or additional fencing, to physically separate and to secure the Airport Property from the Airport Viewing Area during the term of this Agreement and to the extent deemed necessary by the Authority, its Executive Director or by the Airport Manager. The County shall make all reasonable efforts to prevent entry of individuals and vehicles onto the remainder Airport Property during each large group event. The Authority, at its option, may require submittal by the County of all planned security measures prior to each such event (to enable the Airport Manager or the Executive Director to determine whether the planned event might interfere with any concurrent in time use of the Airport, such as a fly-in, etc).
- 6. Signage.** The County reserves the right to utilize the southern and westerly portion of the Airport Viewing Area immediately adjacent to the roadway for purposes of erecting, repairing and maintaining signage. No signage will be permitted on Airport property without prior approval and must be requested at least ninety (90) days in advance. Signage must also be approved in accordance with local, state and federal laws, as then applicable. The Authority in conjunction with FAA coordination will approve such signage requested by the County in writing
- 7. Indemnification.**
- a. The use of the Airport Viewing Area shall be at the sole risk and expense of the County.

b. The Authority is hereby relieved of any responsibility for any and all damages or losses resulting, directly or indirectly, from all use of the Airport Viewing Area. The Authority makes no representations as to the fitness of the Airport Viewing Area for any use or with regard to its physical condition. The County accepts the Airport Viewing Area "as is." To the greatest extent then permitted by law, the County agrees to indemnify and hold the Authority harmless from all losses, damages or injuries whatsoever arising directly or indirectly from this Agreement or use of the Airport Viewing Area. However, nothing in this Agreement shall be construed to be any waiver by the County or by the Authority, or otherwise, of all then existing protections of sovereign immunity, including Section 768.28, *Florida Statutes*, and/or any other then applicable law.

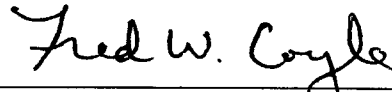
- 8. **Severability.** Should any provision of this Agreement be determined by a court of competent jurisdiction to be illegal or in conflict with any applicable law, the validity of the remaining provisions shall not be impaired to the greatest extent legally possible.
- 9. **No Third Party Beneficiaries.** Nothing herein shall be construed to be a consent by either Party to be sued by third parties in any matter arising out of this Agreement, and no third party shall have any right, privilege or any standing whatsoever with regard to this Agreement of any use of, or existence of, the Airport Viewing Area, or otherwise.
- 10. **No Assignment or Transfer.** As a matter of Florida law this Memorandum of Agreement is solely to the benefit of the County and cannot be assigned or otherwise transferred by the County or by the Authority, and any such attempt shall be void ab initio.

AS TO THE AUTHORITY:

ATTEST:
DWIGHT E. BROCK, CLERK

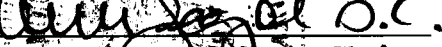
By: 
Attest as to Chairman Clerk
signature only.

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA IN ITS
CAPACITY AS THE COLLIER COUNTY
AIRPORT AUTHORITY

By: 
FRED W. COYLE, CHAIRMAN

AS TO THE COUNTY:

ATTEST:
DWIGHT E. BROCK, CLERK

By: 
Attest as to Chairman Clerk
signature only.

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

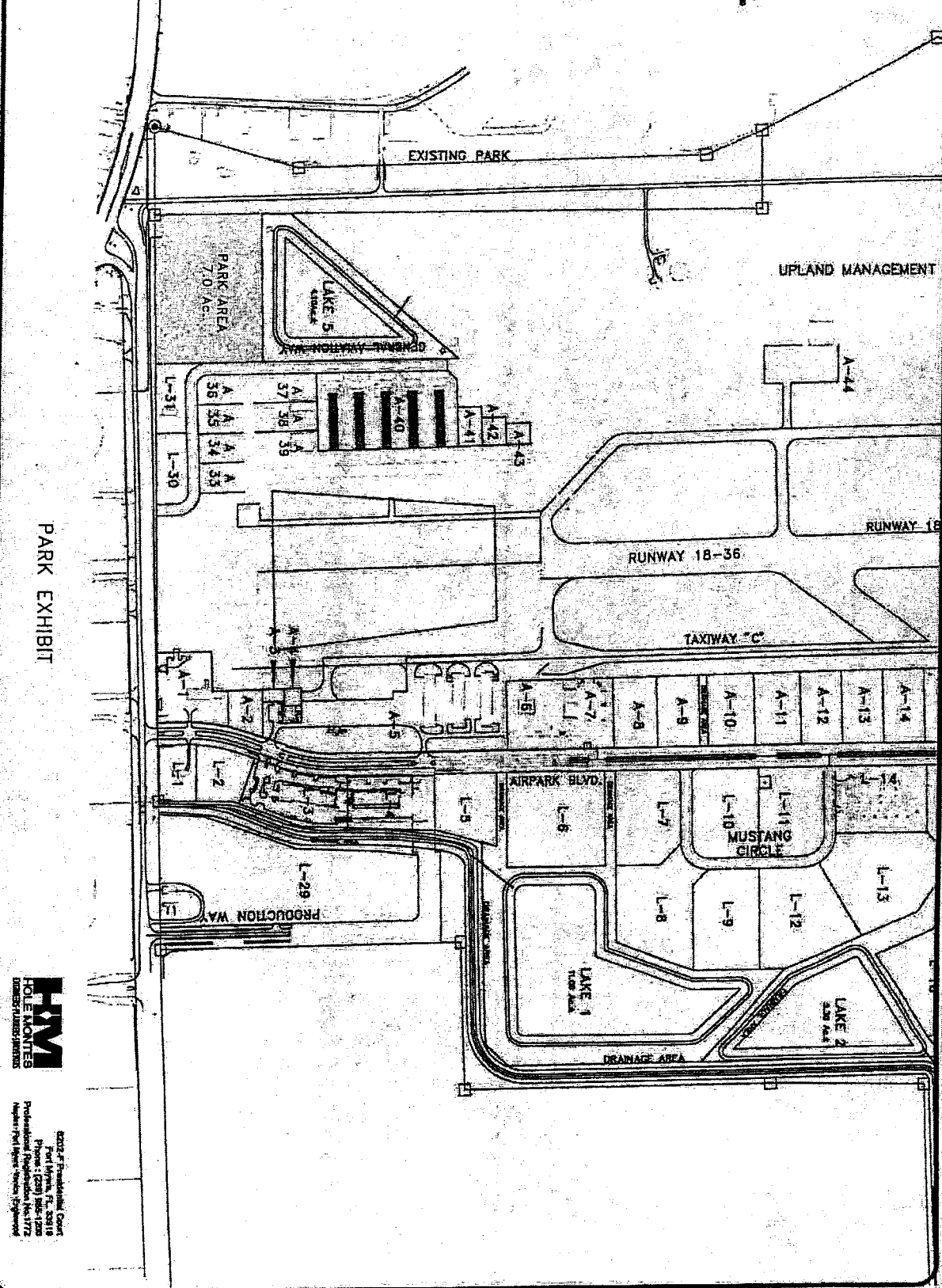
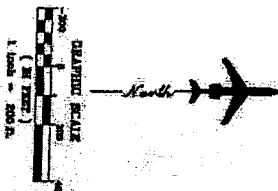
By: 
FRED W. COYLE, CHAIRMAN

Approved as to form
and legal sufficiency:

Colleen M. Greene

for: Jeffrey A. Klatzkow
Assistant County Attorney

EXHIBIT A



PARK EXHIBIT



Office: 7750 Westwood Court
 Fort Myers, FL 33918
 Phone: (239) 386-1222
 Professional Registration No. 172
 Major: P.E. State: FL License: 15999