

**Lee County MPO Rail Feasibility Study  
Contract 2012-001**



**Technical Report**

**Regional Corridor Preservation in Florida,  
With Strategies for Southwest Florida**

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## **1. Report Summary**

This report begins with a summary of court rulings that affect efforts to preserve transportation corridors in Florida. Immediately following is an evaluation of current Florida Statutes and other state-level corridor protection programs.

Potential preservation strategies for the Seminole Gulf rail corridor in southwest Florida are then outlined, beginning with planning/regulatory strategies and concluding with enterprise strategies. Although a number of distinct strategies are identified, many of them could be combined to create a comprehensive corridor management strategy for the entire rail corridor.

## **2. Florida Court Rulings on Corridor Preservation**

The protection of future transportation corridors has been a fundamental goal of urban planning for generations. Comprehensive plans back to the 1920s routinely contained thoroughfare plans that identified future road corridors; the Fort Myers Plan of 1926 was a typical example. The 1985 Growth Management Act required all local governments to adopt a map showing future major road corridors.

The legal status of these measures has occasionally been challenged. In 1990, the Florida Supreme Court rejected a state official map statute as unconstitutional.<sup>1</sup> That statute prohibited local governments from issuing development permits within mapped right-of-way once Florida DOT recorded an official map for the state highway system.

The statute was intended to hold down land values in anticipation of condemnation. Weighing eminent domain law and the lack of a commitment by the state to purchase the land within the possible 10-year reservation period, the court concluded that the statute was "a thinly veiled attempt to 'acquire' land by avoiding the legislatively mandated procedural and substantive protection," and a deliberate attempt to "depress land values in anticipation of eminent domain proceedings."

In 1993, the Florida Supreme Court considered whether the Palm Beach County's thoroughfare plan map was the same as the map of reservation that had been declared unconstitutional in the Joint Ventures case. The thoroughfare plan map had been adopted as part of an approved comprehensive plan, under the requirements of the Growth Management Act, and was used to reserve corridors needed for transportation facilities. Any land use activities in the mapped corridors that would impede the development of the future transportation network were prohibited by the comprehensive plan.

The Supreme Court affirmed the constitutionality of the thoroughfare plan map,<sup>2</sup> distinguishing it from the state official map in Joint Ventures for several reasons. The Court noted that providing adequate transportation facilities was necessary to achieving the concurrency requirements of Florida growth management law, avoiding the need to curtail development and thereby benefitting affected property owners.

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<sup>1</sup> *Joint Ventures v. Dept. Of Transportation*, 563 So.2d at 625, 626 (Fla. 1990)

<sup>2</sup> *Palm Beach County v. Wright*, 612 So.2d 709 (Fla. 4th DCA 1993)

The Court strongly emphasized the map's foundation in the comprehensive plan. The map was designed to preserve existing and future transportation rights-of-way, consistent with Rule 9J-5.007(3)(b-c)(4), F.A.C. (repealed by the legislature in 2011). By meeting the statutory objectives of planning for future growth and development, the thoroughfare plan map was viewed by the Court as an invaluable planning tool and a proper subject of the police power. The Court concluded that "the County's ability to plan for future growth would be seriously impeded without the Thoroughfare Map." This was in contrast to the map of reservation in Joint Ventures, which was perceived as primarily reducing right-of-way acquisition costs.

Comprehensive plans can be easily amended; this flexibility was viewed by the Courts as important for mitigating any hardships incurred by affected property owners, unlike the FDOT requirements challenged in Joint Ventures, which precluded issuance of any development permits in mapped corridors. The court concluded that the thoroughfare map outlines generalized corridors, and therefore a takings claim cannot be determined until the property owner submits an actual development application. When the thoroughfare map is implemented, an aggrieved owner could then bring an inverse condemnation proceeding to determine if a taking had occurred.

In light of this Supreme Court ruling, in 1995 the Florida legislature established a new direction for corridor management in Florida by promoting an expanded local role using comprehensive plans, as described in the next section of this report.

### **3. Florida Statutes & Programs Relevant to Corridor Preservation**

#### **3.1 Corridor Management**

The 1995 statutory language authorizes local governments to designate transportation corridors in their comprehensive plans (see F.S. 337.273).

Through this statute, Florida's policy emphasis shifted from "corridor protection" to "corridor management," the new term emphasizing compatible development along designated corridors, as opposed to strictly limiting development.

The statute seems to anticipate these transportation corridors becoming future highways, but no provisions disallow the designation of a rail corridor under this statute. Florida DOT has already designated the Seminole Gulf rail corridor as an emerging corridor on the Strategic Intermodal System (SIS), along with certain state highways and most airports (see SIS map later in this report).

This statute anticipates direct acquisition of corridor right-of-way. The state's power of eminent domain over active rail corridors is subservient to federal law, so the ultimate effectiveness of this statute for managing a rail corridor is unclear. This statute's actual use for rail corridor protection is apparently untested.

### 3.2 Other Statutory Provisions

The Florida Statutes have several other provisions that could become relevant to rail corridor preservation in Lee County.

Section 341.0532 designates eight statewide transportation corridors. Each corridor includes a major state highway or expressway, but the corridor is defined to include railways adjacent to the highway and roadway links to transportation terminals and intermodal service centers. The eight corridors are:

- (a) Atlantic Coast Corridor, from Jacksonville to Miami, including I-95.
- (b) Gulf Coast Corridor, from Pensacola to St. Petersburg and to Tampa, including U.S. 98 and U.S. 19.
- (c) Central Florida/North-South Corridor, from the state line to Naples and Fort Lauderdale/Miami, including I-75.
- (d) Central Florida/East-West Corridor from St. Petersburg to Tampa and to Titusville, including I-4 and the Beeline Expressway.
- (e) North Florida Corridor, from Pensacola to Jacksonville, including I-10, and U.S. 231, S.R. 77, and S.R. 79 from the state line to Panama City.
- (f) Jacksonville to Tampa Corridor, including U.S. 301.
- (g) Jacksonville to Orlando Corridor, including U.S. 17.
- (h) Southeastern Everglades Corridor, linking Wildwood, Winter Garden, Orlando, and West Palm Beach via the Florida Turnpike.

A new Southwest Florida Corridor could be designated from Punta Gorda to Naples to include U.S. 41 and the Seminole Gulf rail corridor. This would require an amendment to F.S. 341.0532. However, Florida DOT appears to already consider the rail corridor from Punta Gorda to northern Collier County to be part of corridor (c) as described above.

Chapter 343 designates four regional transportation authorities, three of which have a commuter rail component:

- South Florida Regional Transportation Authority
- Central Florida Regional Transportation Authority
- Northwest Florida Transportation Corridor Authority
- Tampa Bay Area Regional Transportation Authority

The Tampa Bay Authority, known as TBARTA, is the newest authority and is comprised of Citrus, Hernando, Hillsborough, Pasco, Pinellas, Manatee, and Sarasota Counties. A Southwest Florida regional transportation authority could be created through an amendment to Chapter 343.

Section 341.053 calls for an intermodal development plan to connect Florida's airports, seaports, passenger and freight rail systems, and major intermodal connectors to the state's Strategic Intermodal System highway corridors. Major capital investments are anticipated for fixed-guideway transportation systems and intermodal or multimodal terminals to move people and goods.

There is a statutory requirement that projects funded through FDOT's intermodal development program need to be consistent with local comprehensive plans (F.S. 341.053(6)). A similar requirement is found in other transportation statutes, emphasizing the importance to local governments that they are clear in their comprehensive plans about the desirability of various projects, even though the projects may be funded or constructed by state government.

### 3.3 Florida Department of Transportation Programs

Florida DOT has formally designated an intermodal transportation system. The Strategic Intermodal System (SIS) is a network that includes the state's largest and most significant highways, rail corridors, airports, seaports, freight rail terminals, passenger rail and intercity bus terminals, and waterways. This network carries more than 99 percent of all commercial air passengers and cargo, virtually all waterborne freight and cruise passengers, almost all rail freight, 89 percent of all interregional rail and bus passengers, 55 percent of total traffic, and more than 70 percent of all truck traffic on state highways.

The rail corridor from Arcadia to the Lee/Collier border (but not beyond) is designated as an "emerging" SIS rail corridor. The map on page 5 shows the SIS network for Lee County.

The Florida Transportation Plan (FTP) is the state's long-range transportation plan, including local, regional, and private partners responsible for transportation planning and funding. The recent 2060 FTP calls for a fundamental change in how and where Florida invests in transportation, including strategies to make Florida's communities more livable and the environment more sustainable. FTP objectives now include:

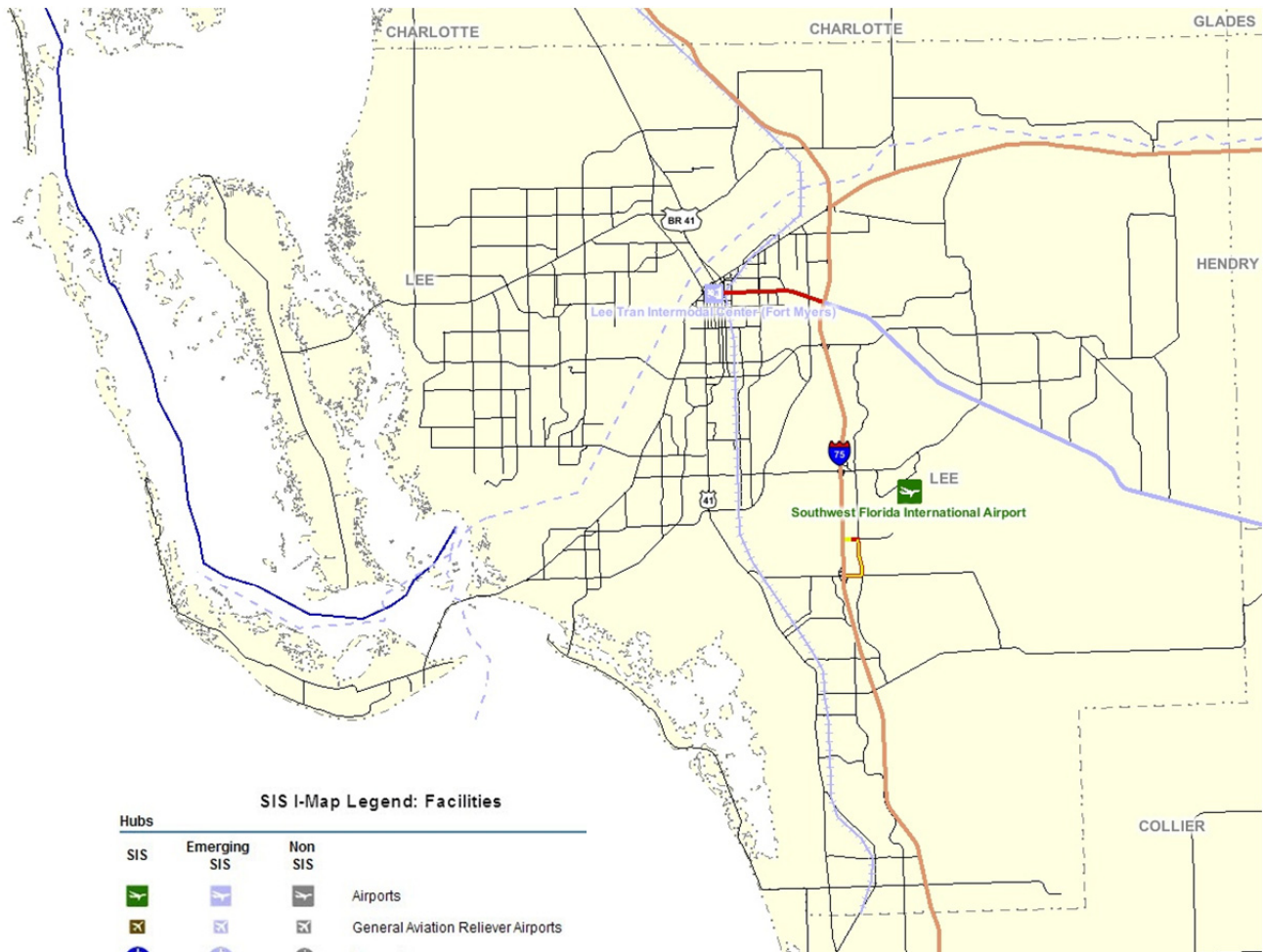
- Develop and operate a statewide high-speed and intercity passenger rail system connecting all regions of the state and linking to public transportation systems...
- Expand and integrate regional public transit systems in Florida's urban areas.
- Integrate modal infrastructure, technologies, and payment systems to provide seamless connectivity for passenger and freight trips from origin to destination.

Florida DOT is directed by FS 341.041(1) to regularly update a statewide strategic plan for public transit. The most recent plan is *Transit 2020*, a policy plan that does not specifically address rail transit or paratransit, instead focusing on fixed-route urban transit systems.

Florida DOT is directed by F.S. 341.302(3) to update a statewide rail system plan every five years. The most recent plan, which addresses both passenger and freight service, is the Florida Rail System Plan, with a 2009 policy element and a 2010 investment element. The Florida Rail System Plan identifies priorities and funding needed to meet statewide needs and to maximize the use of existing facilities and integrate with other travel modes.

Earlier state rail plans focused on rehabilitation needs, but the latest state rail system plan has become a tool to prioritize broader capital improvements. This change is a result of increased public interest in expanding both passenger and freight services by rail and FDOT's creation of its Strategic Intermodal System (SIS).

A map of the Florida freight rail system from the Florida Rail System Plan is presented on page 6.



**SIS I-Map Legend: Facilities**

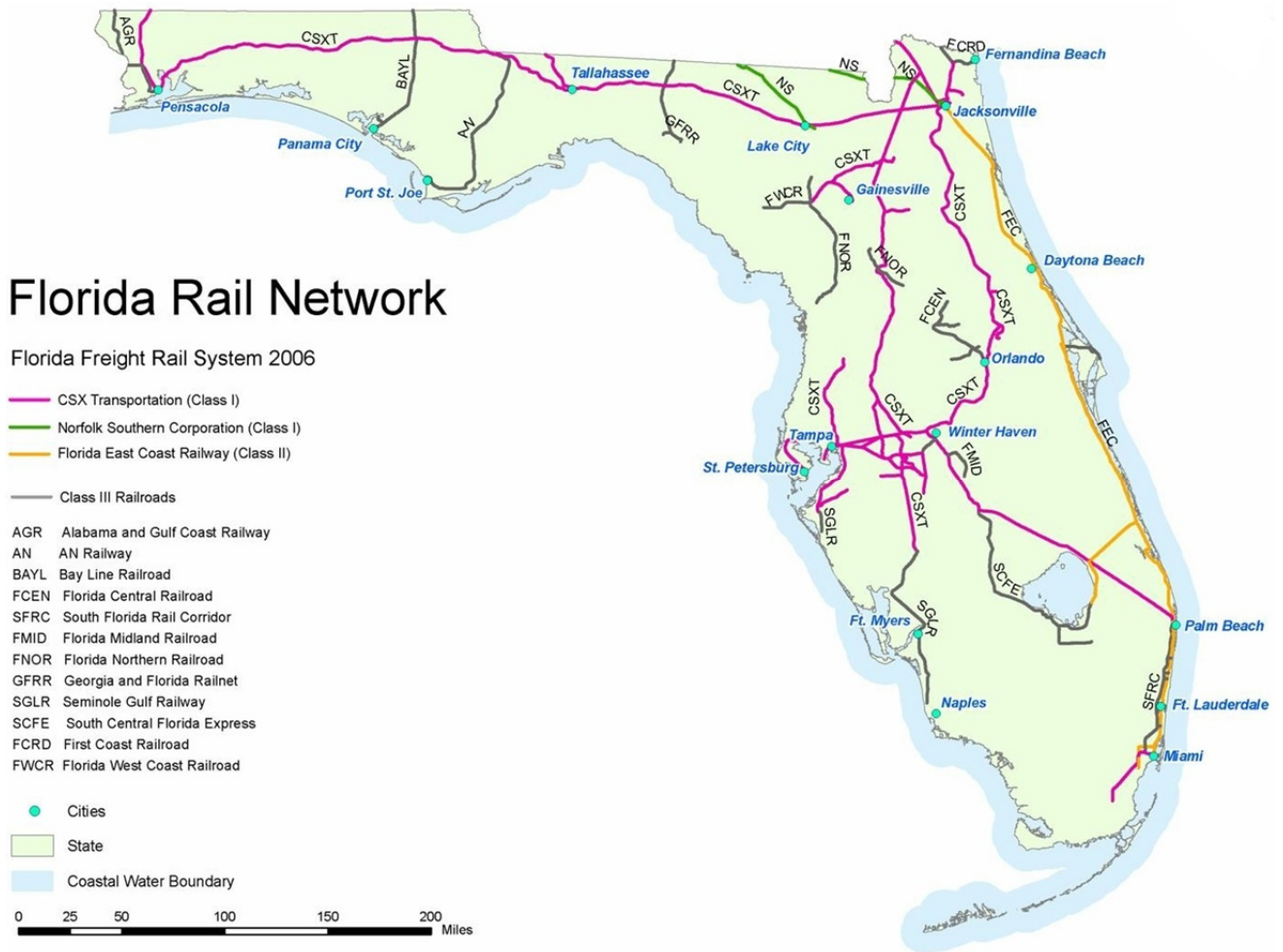
Hubs			
SIS	Emerging SIS	Non SIS	
			Airports
			General Aviation Reliever Airports
			Seaports
			Passenger Terminals
	n/a	n/a	Spaceport
			Intermodal Freight – Rail Terminals
		n/a	Planned Add
		n/a	Planned Drop

**Corridors**

SIS	Emerging SIS	
		Highway
		Highway Planned Add
		Highway Planned Drop
		Highway - Planned Road
		Highway Planned Add - Planned Road
		Highway Planned Road - Planned Road
		Rail
		Rail Planned Add
		Waterways

**Connectors**

SIS	Emerging SIS	
	n/a	Road Connectors
	n/a	Road Connectors Planned Add
	n/a	Road Connectors Planned Drop
	n/a	Road Connectors - Planned Road
	n/a	Road Connectors Planned Add - Planned Road
	n/a	Road Connectors Planned Drop - Planned Road
	n/a	Rail Connectors
	n/a	Rail Connectors Planned Add
	n/a	Waterway Connectors



## **4. Corridor Preservation Strategies for Southwest Florida**

The remainder of this report describes potential rail corridor preservation strategies for southwest Florida, evaluates those strategies relative to each other, and concludes with recommendations for southwest Florida.

### 4.1 Potential Corridor Preservation Strategies

The first planning/regulatory strategy outlined below would use the 1995 provisions of the Florida Statutes regarding transportation corridors, even though the Seminole Gulf rail corridor already exists under unified ownership.

The second, third, and fourth planning/regulatory strategies would use the general authority granted to local governments and Metropolitan Planning Organizations, without relying on any of the 1995 statutory provisions.

The remaining strategies are termed "enterprise strategies" inasmuch as they would require units of local government to go beyond their traditional planning and regulatory authority and pursue property interests and/or operating agreement in the rail corridor (or in the companies that now control the corridor).

#### 4.1.1 Planning / Regulatory Strategy #1

Under this strategy, Lee County and the cities of Fort Myers and Bonita Springs would designate in their comprehensive plans the rail corridor as it passes through their jurisdiction as a "transportation corridor" pursuant to F.S. 337.273.

These local governments outside Lee County could be requested to pursue this same designation: Collier County, Charlotte County, DeSoto County, and the cities of Punta Gorda and Arcadia.

The statutes seem to anticipate these transportation corridors to be future highways, but nothing in the statute disallows the designation for a rail corridor.

Also, this statute anticipates direct acquisition of right-of-way, which is the best but not the only method for corridor preservation. Acquisition of an active rail corridor through the power of eminent domain is subservient to federal law, so the practical effectiveness of this statute for managing a rail corridor is unclear.

In this case, the rail corridor already exists and is in active use, so any construction anticipated within the rail corridor would be with the permission of Seminole Gulf and CSX – unlike future highway corridors where construction may be anticipated by current landowners with no interest in the corridor, or even antagonistic to it.

The main advantage of this approach may be that it is a simple and statutorily approved method for local governments to jointly signal their desire to see the rail corridor preserved in its entirety. This could be effective if supplemented by additional substantive measures toward preservation; it would not be an effective approach by itself.



#### 4.1.2 Planning / Regulatory Strategy #2

Under this strategy, the county and cities would designate the rail corridor in their comprehensive plans without relying on the "transportation corridor" provisions of the Florida Statutes.

There are a number of approaches that could be used, either by themselves or in combination:

- Each jurisdiction could declare the rail corridor to be a "Strategic Regional Transportation Corridor." This could be done by reference to the CSX ownership or the CSX/Seminole Gulf lease, or it could be accomplished through a new designation on the Future Land Use Map that precisely maps the extent of the rail corridor as it passes through each jurisdiction.
- Formal policies could be adopted for the rail corridor that would commit each local government to:
  - (1) Explore methods for enhancing freight capability for the corridor and adding capability for commuter rail, light rail, or bus rapid transit.
  - (2) Commit to protecting the public interest in the rail corridor during any abandonment proceedings before the U.S. Surface Transportation Board.
  - (3) Support use of federal rails-to-trails authority to railbank the corridor if abandonment ever succeeds, in order to preserve the corridor for possible future rail service. (Railbanking is a voluntary agreement between a railroad and a trail agency to use an out-of-service rail corridor as a trail until a railroad might need the corridor again for rail service.)
- The affected local governments could enter into interlocal agreements to adopt designations and policies like those just described and to formally commit to not changing those designations and policies without the advance formal approval of the other jurisdictions.

#### 4.1.3 Planning / Regulatory Strategy #3

Under this strategy, once potential high-capacity transit stations are defined, each local government would commit to creating a vision or master plan for transit-oriented development and redevelopment around each station. Each plan would graphically illustrate the intended physical character of the area, taking into account the expected transit mode, anticipated ridership, existing physical conditions, the potential for intensification and diversification of land uses around the station, and any phasing that would aid in an orderly transformation toward transit-oriented development (TOD).

If extensive park-and-ride facilities are proposed, the master plan would identify whether they are temporary or permanent and ensure that the placement and design of parking facilities would not unnecessarily interfere with transit-oriented development around the station.

These master plans would provide sufficient urban design detail to use as the basis for future rezoning of each station area into form-based zoning districts of varying intensities.

These actions would ensure the predictable creation, over time, of a pedestrian-friendly street and block structure and complementary zoning regulations that would carry out the master plan's land use and transportation strategies while providing superior access to the transit station from the surrounding area.

This approach is being recommended by the Florida Department of Transportation in its recent guidebook for transit-oriented development, *Florida TOD Guidebook* (available from [www.fltod.com/fl\\_tod\\_guidebook.htm](http://www.fltod.com/fl_tod_guidebook.htm)).

#### 4.1.4 Planning / Regulatory Strategy #4

The Lee County, Charlotte County, and Collier County MPOs could all declare the rail corridor to be a "Strategic Regional Transportation Corridor" in their Long-Range Transportation Plans and could all adopt a series of similar policies that would commit them to the same positions as the affected local governments:

- (1) Explore methods for enhancing freight capability for the corridor and adding capability for commuter rail, light rail, or bus rapid transit.
- (2) Commit to protecting the public interest in the rail corridor during any abandonment proceedings before the U.S. Surface Transportation Board.
- (3) Support use of federal rails-to-trails authority to railbank the corridor if abandonment ever succeeds.

#### 4.1.5 Enterprise Strategy #1

This strategy would be to pursue voluntary agreements with CSX and/or Seminole Gulf Railway that would leave the current land ownership and leasehold interests in place. Examples of such agreements could be:

- Planning and preliminary design agreements to identify how the rail corridor, in full or in part, could accommodate public transportation facilities without displacing freight service.
- Capital upgrade agreements that would maintain or improve the corridor's ability to handle freight while also accommodating public transportation and other public infrastructure needs.
- CSX and/or Seminole Gulf Railway could lease or sub-lease the rail corridor to a public agency.

#### 4.1.6 Enterprise Strategy #2

Under this strategy, a public agency such as Lee County or Florida DOT would purchase the underlying right-of-way from CSX. The long-term lease with Seminole Gulf Railway would continue under its present terms; it could be renegotiated if parties were to agree, or a voluntary agreement could be negotiated with Seminole Gulf to share the right-of-way with public transportation.

The public agency would take over (or contract out) CSX's current responsibilities as landowner, including liability protection, leasing the corridor for fiber optic cables, and reserving the right-of-way for the restoration of passenger rail service.

This strategy could relieve the liability concerns that private railroad companies have when sharing corridors with passenger trains and could remove other impediments that might block expanded use of the rail corridor for public transportation.

#### 4.1.7 Enterprise Strategy #3

Under this strategy, a public agency would purchase Seminole Gulf Railway (the company), should it become available for sale. The freight and dinner theater businesses would be spun off, remaining as strictly private enterprises that operate through long-term leases with the public agency.

#### 4.1.8 Enterprise Strategy #4

This strategy is similar to #3, except that only the long-term lease would be acquired from Seminole Gulf Railway. As part of this acquisition, a new agreement could be reached for Seminole Gulf Railway to retain its right to provide freight service on the rail corridor and continue operating the dinner theater, subject to potential shared use of corridor for public transit.

#### 4.1.9 Enterprise Strategy #5

Under this strategy, a new regional entity would be established to pursue any or all of the enterprise options for the entire rail corridor, from Arcadia to north Naples. This entity could be structured as a regional transportation authority like the Tampa Bay Area Regional Transportation Authority (TBARTA), which was established under Chapter 343 of the Florida Statutes.

#### 4.1.10 Enterprise Strategy #6

This strategy is similar to Enterprise Strategy #5, except that Florida DOT would pursue any or all of the enterprise options for the entire rail corridor from Arcadia to north Naples. A new regional entity would not be needed.

### 4.2 Comparative Evaluation of Corridor Preservation Strategies

The next two pages summarize the evaluation of the strategies described on pages 7 through 10. This evaluation compares the feasibility and importance of each strategy relative to the other potential strategies.

The first evaluation matrix, shown on page 11, addresses the four potential planning/regulatory strategies. The first two strategies were conceived as alternative choices, but each has merit and the two strategies can be combined. The third and fourth strategies should be considered separately because they do not depend on the first two.

<b>EVALUATION OF PLANNING / REGULATORY STRATEGIES</b>			
	<b>ADVANTAGES</b>	<b>DISADVANTAGES</b>	<b>PRIORITY</b>
<b>Transportation Corridor Designation per 337.273 F.S.</b>  <i>(planning/regulatory strategy #1)</i>	Would use existing statutory procedure to identify this corridor as a priority for state acquisition of the right-of-way.	Statute could get repealed, or modified to preclude its use for rail corridors.  Statute anticipates eminent domain rather than a negotiated purchase.	<i>fallback</i>
<b>Local Transportation Corridor Designation</b>  <i>(planning/regulatory strategy #2)</i>	Similar to statutory designation, but could be more customized to the local situation.  Could be combined with statutory designation to obtain the advantages of both approaches.	May lose legal protections afforded to a statutory designation (unless a local designation also met state requirements).	<i>highest</i>
<b>Plan for T.O.D. around stations</b>  <i>(planning/regulatory strategy #3)</i>	Most station areas are suitable for higher-intensity development, but may be zoned otherwise.  Would ensure that land-use planning is directly coordinated with transportation planning.	Station locations are still in conceptual stage.  Some stations may be moved, added, or dropped.	<i>medium</i>
<b>All MPOs designate rail corridor</b>  <i>(planning/regulatory strategy #4)</i>	Would indicate support for preservation of the rail corridor by all regional transportation agencies.	None.	<i>high</i>

The second evaluation matrix, shown on page 12, addresses the six potential enterprise strategies. These strategies are not mutually exclusive; they contain various alternative approaches that may be useful if the most promising strategies cannot be pursued or are pursued without success.

<b>EVALUATION OF ENTERPRISE STRATEGIES</b>			
	<b>ADVANTAGES</b>	<b>DISADVANTAGES</b>	<b>PRIORITY</b>
<b>Voluntary agreements</b>  <i>(enterprise strategy #1)</i>	<p>CSX could grant rights not previously leased to SGR through a voluntary agreement.</p> <p>SGR could sub-lease rights it now holds through a voluntary agreement.</p> <p>Exploratory pursuit of voluntary agreements would have modest costs.</p>	<p>Private companies may have little interest in investing effort to explore voluntary agreements.</p> <p>Terms of a voluntary agreement may favor freight more than public transit.</p>	<p><i>high for Seminole Gulf;</i> <i>fallback for CSX</i></p>
<b>Acquire R.O.W. from CSX</b>  <i>(enterprise strategy #2)</i>	<p>The public could control the right-of-way should freight service be discontinued.</p> <p>Could resolve liability issues that arise when public transit ROWs are owned by a private entity.</p>	<p>Up-front cost with little immediate payoff.</p>	<p><i>highest</i></p>
<b>Purchase Seminole Gulf</b>  <i>(enterprise strategy #3)</i>	<p>Should the owners of Seminole Gulf wish to sell the entire company, this arrangement could be attractive to them; possible favorable tax consequences.</p>	<p>Public agencies are not comfortable owning private companies, even for short periods.</p>	<p><i>fallback</i></p>
<b>Acquire lease from Seminole Gulf</b>  <i>(enterprise strategy #4)</i>	<p>The public could control the lease on the corridor, allowing public transit to be the primary use of the corridor (coexisting with but not subservient to freight).</p>	<p>Seminole Gulf may not wish to sell the lease because of potential interference with its freight operations.</p> <p>Acquisition appears prohibitively expensive.</p>	<p><i>fallback</i></p>
<b>Establish regional transit authority</b>  <i>(enterprise strategy #5)</i>	<p>Would involve all affected counties in protecting a regional asset.</p>	<p>Other counties may not share Lee County's interest in public transit on the rail corridor.</p> <p>The establishment of a regional transit authority would delay progress in securing the rail corridor for public transit purposes.</p>	<p><i>medium</i></p>
<b>FDOT to act as regional transit authority</b>  <i>(enterprise strategy #6)</i>	<p>Involving a state agency could eliminate the need for a new regional transit authority.</p>	<p>FDOT typically hands off transit operations to regional or local entities.</p>	<p><i>fallback</i></p>




### 4.3 Composite Recommendations for Rail Corridor Preservation

The Seminole Gulf rail corridor is presently used solely for moving freight. Local, regional, and state governments should take actions to protect the corridor for this essential purpose while also pursuing other transportation purposes for which the corridor may be suited. The most urgent recommendations to this end are described below.

The Seminole Gulf rail corridor traverses four cities (Bonita Springs, Fort Myers, Punta Gorda, and Arcadia) and four counties (Collier, Lee, Charlotte, and DeSoto). The corridor's value to each of these jurisdictions would be greatly reduced if any part of the corridor were lost. Each jurisdiction should take steps to recognize the importance of the rail corridor to itself and its neighboring communities.

The Florida Supreme Court has clearly identified local government comprehensive plans as a preferred method for designating future transportation corridors. The Florida legislature has provided one method for doing so (see F.S. 337.273), but local governments have authority to make such designations through their general authority to adopt and implement comprehensive plans. The advantages of both methods can be obtained by using both sources of authority to designate the Seminole Gulf rail corridor in local comprehensive plans.

#### **1. All four cities and four counties should take the following steps in their comprehensive plans:**

-  Adopt a policy that formally designates the rail corridor as a strategic regional transportation corridor, using the combined authority of the Community Planning Act (F.S. 163.3161 et seq.) and the specific enabling legislation for transportation corridors (F.S. 337.273).
-  To implement this designation, adopt policies that would commit each local government to:
  - (1) Encourage Florida DOT to purchase the real estate interests in the entire rail corridor from Arcadia to north Naples from its current owner, CSX Transportation (this action would not affect the existing lease to Seminole Gulf).
  - (2) Explore methods for enhancing freight capability for the corridor and adding capability for commuter rail, light rail, or bus rapid transit.
  - (3) Commit to protecting the public interest in the rail corridor during any abandonment proceedings before the U.S. Surface Transportation Board.
  - (4) Support use of federal rails-to-trails authority to railbank the corridor if abandonment ever succeeds, in order to preserve the corridor for possible future rail service. (Railbanking is a voluntary agreement between a railroad and a trail agency to use an out-of-service rail corridor as a trail until a railroad might need the corridor again for rail service.)
-  Designate the rail corridor on their future transportation maps (F.S. 163.3177(6)(b)(1)). Lee County already shows the rail corridor on its Map 3E; Bonita Springs shows the rail corridor on its Transportation Map 3.

#### **2. The cities of Bonita Springs and Fort Myers and the counties of Collier and Lee have the greatest potential to benefit from public transportation sharing the rail corridor. These four governments should take the following additional steps:**

- ☀ Designate the rail corridor on their future land use maps (F.S. 163.3177(6)(a)(1)). As an alternative, this designation can be made through an overlay instead of a separate category. The precise width of the corridor at various locations has been identified and mapped as part of this rail feasibility study.
- ☀ Begin the land-use planning process for transit-oriented development (TOD) around future transit stations, beginning with the most probable station locations and extending to other potential stations over time. Model goals, objectives, and policies for comprehensive plans, and model form-based codes, are provided in the *Florida TOD Guidebook*, published by Florida DOT in December 2012.

(The application of these recommendations to the Lee County Comprehensive Plan is illustrated in the appendix.)

**3. Each MPO that the Seminole Gulf rail corridor passes through (Collier, Lee, and Charlotte–Punta Gorda) should:**

- ☀ Strongly urge the Florida Department of Transportation to purchase outright the real estate interests of CSX in the Seminole Gulf rail corridor. Florida DOT is the only transportation entity whose area of authority covers the four counties served by the rail corridor. Purchase of the real estate would not affect the current lease to Seminole Gulf but would allow Florida DOT to replace CSX as the entity with legal responsibility and become the long-term steward responsible for future uses of the rail corridor.
- ☀ Adopt policies and carry out plans that:
  - (1) Explore methods for enhancing freight capability for the corridor and adding capability for commuter rail, light rail, or bus rapid transit.
  - (2) Commit to protecting the public interest in the rail corridor during any abandonment proceedings before the U.S. Surface Transportation Board.
  - (3) Support use of federal rails-to-trails authority to railbank the corridor if abandonment ever succeeds.

**4. The Lee and Collier MPOs and Lee’s Transit Task Force should take these steps:**

- ☀ Because Seminole Gulf’s lease would be too expensive to purchase, the Lee County MPO should take the lead role in exploring with Seminole Gulf officials other voluntary arrangements that could integrate public transit with existing and planned freight rail operations in Lee County. These discussions should include potential physical configurations within the rail corridor as well as various legal arrangements including sub-leasing, assignment of the lease with lease-back of freight rights, and renegotiation of the existing lease. The Lee County MPO should also serve as lead agency for further technical analyses required before public transit could be added to the rail corridor.
- ☀ The Collier County MPO should take the lead in exploring the costs and benefits of extending high-capacity transit that runs along the rail corridor all the way to Immokalee Road into northern Collier County, which is the northern terminus of public transit in Collier County.
- ☀ The Lee County Transit Task Force should consider how a high-capacity transit spine along the rail corridor could improve the effectiveness of LeeTran bus service and how the combined system could promote the establishment of an independent transit authority or other entity that could construct and operate the combined system.

## Appendix Illustration of Proposed Policies for the Lee Plan

### FUTURE LAND USE ELEMENT

**NEW POLICY 1.7.1.a: Rail Corridor.** The Rail Corridor category includes the north-south railroad corridor from Charlotte to Collier County. This corridor is currently used for freight rail operations, dinner trains, utility lines, and stormwater management. This corridor is also suitable for other transportation purposes such as commuter rail, light rail, or bus rapid transit. The allowable uses in this category are determined by the entity owning or leasing the corridor, provided the corridor remains in use for freight rail. Transportation Objective 1.4 and subsequent policies describe Lee County's intentions for this corridor to remain completely intact and dedicated to transportation purposes.

**NEW POLICY 4.1.10:** Begin a new land-use planning process for transit-oriented development (TOD) around future transit stations along the Seminole Gulf rail corridor. Potential stations in unincorporated Lee County have been added to the mixed-use overlay on the Future Land Use Map at these locations: Danley Drive, Crystal Drive, Daniels Parkway, Gladiolus/Six Mile Cypress Parkway, Alico Road, Sanibel Boulevard, Corkscrew Road, and Coconut Road.

**NEW POLICY 4.1.11:** Model procedures for station area planning and implementation are provided in the *Florida TOD Guidebook*, published by Florida DOT in December 2012. The process includes these two major steps:

- Create station area master plans that provide for transit-oriented development and redevelopment around each station. Station area planning should begin with the most probable stations and extend to the remainder over time.
- Apply Lee County's compact communities code or similar mechanism to implement the station area master plans.

### TRANSPORTATION ELEMENT

**NEW OBJECTIVE 1.4: Rail Corridor.** Protect the entire Seminole Gulf rail corridor for future transportation purposes through direct public involvement in its property ownership and/or long-term lease.

**NEW POLICY 1.4.1:** The Seminole Gulf rail corridor, as shown on Transportation Map 3E and the Future Land Use Map, is hereby designated as a strategic regional transportation corridor. This designation has been recommended by the Lee County Metropolitan Planning Organization as a means for cities and counties along the rail corridor to recognize the regional nature of this asset and jointly commit to efforts to protect it in its entirety. This designation includes the designation of the rail corridor as a "transportation corridor" pursuant to F.S. 337.273. The following policies implement this designation.

**NEW POLICY 1.4.2:** Encourage Florida DOT to purchase the real estate interests in the entire rail corridor from Arcadia to north Naples from its current owner, CSX Transportation Inc.

**NEW POLICY 1.4.3:** Support efforts of the Lee County Metropolitan Planning Organization to enhance freight capability for the entire rail corridor and to add capability for commuter rail, light rail, or bus rapid transit in Lee County and northern Collier County.

**NEW POLICY 1.4.4:** Future Land Use Policies 4.1.10 and 4.1.11 demonstrate Lee County's commitment to transit-oriented development around future stations for commuter rail, light rail, or bus rapid transit.

**NEW POLICY 1.4.5:** Lee County will formally oppose any attempts at abandonment of the rail corridor before the U.S. Surface Transportation Board, and will support use of federal rails-to-trails authority to railbank the corridor, if abandonment ever succeeds, in order to preserve the corridor for possible future rail service.