

REPLACEMENT INTERLOCAL

CREATING

THE

SOUTHWEST FLORIDA REGIONAL COUNCIL

EFFECTIVE XXXX, XXXX

AMENDED AND RESTATED
INTERLOCAL AGREEMENT
CREATING THE SOUTHWEST FLORIDA
REGIONAL COUNCIL

THIS AMENDED AND RESTATED AGREEMENT, made and entered into this ____ day of _____, pursuant to authority of Section 163.01, Florida Statutes, by and between:

CHARLOTTE COUNTY
COLLIER COUNTY
GLADES COUNTY
HENDRY COUNTY
LEE COUNTY
and
SARASOTA COUNTY

WITNESSETH:

WHEREAS, The Florida Interlocal Cooperation Act of 1969, Section 163.01 et seq., Florida Statutes, permits local government units to make the most efficient use of their powers by enabling them to cooperate with other localities on the basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, this Agreement replaces the Interlocal Agreement entered on November 8, 1973, as amended June 6, 1974, as amended June 27, 1974, as amended February 5, 1976, and as amended October 28, 1980 by and among the parties to this agreement pursuant to which the Southwest Florida Regional Planning Council was originally created; and

WHEREAS, the Florida Regional Planning Council Act, Section 186.501, Florida Statutes, mandates the creation of a Regional Planning Council in each of the several comprehensive planning districts of the state; and,

WHEREAS, Section 186.512(1)(h), Florida Statutes, and the Executive Office of the Governor have designated that the Southwest Florida Regional Planning Council and Comprehensive Planning District IX shall be comprised of the counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota; and

WHEREAS, the declared purpose of the Florida Regional Planning Council Act is to establish a common system of regional planning councils for areawide coordination and related cooperative activities of federal, state and local governments and ensure a broad-based regional organization that can provide a truly regional perspective enhancing the ability and opportunity of local governments to resolve issues and problems transcending their individual boundaries; and

WHEREAS, it is the desire of the parties hereto to establish a regional council to serve in an advisory capacity to the constituent local governments and

WHEREAS, the parties hereto desire to make the most efficient use of their powers to cooperate for mutual advantage in conducting the regional planning process

and for providing coordination and cooperation within the Southwest Florida region;
and,

WHEREAS, the Community Planning Act, Chapter 163, Part II Florida Statutes assigns to regional planning agencies the responsibility to determine the relationship and effect of a local government's plan or element thereof to or on the strategic regional policy plan and extra jurisdictional impacts; and,

WHEREAS, Governor's Executive Orders 83-150 and Presidential Executive Order 82-12372, designates the comprehensive regional planning agencies as areawide clearinghouses responsible for review and coordination regarding certain Federal programs; and,

WHEREAS, Regional Planning Councils are statutorily assigned various duties and responsibilities in Chapter 129, 163, 186, 258, 260, 288, 339, 380, 403, 420 and 1013, Florida Statutes and other applicable federal, state and local laws.

NOW, THEREFORE, for and in consideration of mutual promises, covenants, benefits to accrue from conduct of a regional planning process, and agreements herein contained and set forth, the member counties to hereby establish, pursuant to the authority of Section 163.01 and Section 186.501, Florida Statutes, the Southwest Florida Regional Planning Council located in Comprehensive Planning District IX consisting of the counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota, hereinafter referred to as the Council, a separate legal entity, and do further delegate such powers as are specified herein and agree as follows:

1. Purpose.

The purposes of this agreement are:

- (a) To provide local governments with a means of exercising the rights, duties and powers of a regional planning council as defined in Chapter 186, Florida Statutes and other applicable federal, state and local laws.
- (b) To provide a means for conducting the regional planning process.
- (c) To provide regional coordination for local governments in the Southwest Florida region.
- (d) To act in an advisory capacity to exchange, interchange, and review the various programs referred to it which are of regional concern.
- (e) To promote communication among local governments in the region and the identification and resolution of common regional-scale problems.
- (f) To cooperate with Federal, State, local, and non-governmental agencies and citizens to ensure the orderly and harmonious coordination of Federal, State, and local planning and development programs in order to insure the orderly, and balanced growth and development of this region, consistent with protection of the natural resources and environment of the region, and to promote safety, welfare and to enhance the quality of life of the residents of the region.

- (g) To encourage and promote communications between neighboring regional planning districts in attempt to ensure compatibility in development and long-range planning goals.
- (h) To establish an organization that will promote areawide coordination and related cooperative activities of federal, state and local governments, ensuring a broad based-regional organization that can provide a truly regional perspective and enhance that ability and opportunity of local governments to resolve issues and problems transcending their individual boundaries.
- (i) To establish an organization to carry out the duties, functions and activities that are to the mutual advantage of one or more of the local governments within Southwest Florida.

2. Definitions.

- (a) Appointed Representative – a voting member of the Council.
- (b) Comprehensive Planning Districts – the geographic areas within the State specified by the Executive Office of the Governor, and/or by statute.
- (c) Strategic Regional Policy Plan – a plan prepared pursuant to Section 186.507 Florida Statutes and containing goals and policies that address, at a minimum, affordable housing, economic development, emergency preparedness, natural resources of regional significance and regional transportation and that may address any other subject

that relates to the particular needs and circumstances of the comprehensive planning district as determined by the regional planning council. Regional plans shall identify and address significant regional resources and facilities. Regional plans shall be consistent with the State Comprehensive Plan.

- (d) Contribution – any monies received by the Council from a member county or otherwise.
- (e) Council – the Southwest Florida Regional Planning Council.
- (f) Elected Official – a member of the governing body of a municipality or county or a county elected official chosen by the governing body.
- (g) Federal or Federal Government – the government of the United States or any department, commission, agency, or other instrumentalities thereof.
- (h) Governing body – the Board of County Commissioners or City/Town Council/Commission of any member county.
- (i) Local General Purpose Government – any municipality or county created pursuant to the authority granted under ss. 1 and 2, Article VIII of the Florida Constitution.
- (j) Member County – any county within the Southwest Florida Comprehensive Planning District IX.
- (k) Municipality – any incorporated municipality located within a member county.

(l) Principal Member Units – shall be the Charlotte, Collier, Glades, Hendry, Lee and Sarasota Boards of County Commissioners.

3. Effective Date, Duration, Amendment, Withdrawal, and Termination.

(a) The effective creation date of the Council is November 8, 1973.

(b) This agreement shall continue in effect until terminated as provided in Section 3.e.

(c) Any amendments to this agreement shall be in writing and set forth an effective date. To put into effect any amendment, each member county shall adopt, by a majority vote of its governing body, a resolution authorizing its chairman or chief elected official to execute the amendment.

(d) Termination may only occur concurrent with a subsequent Interlocal Agreement being adopted due to the requirement of Section 186.512(1)(h), Florida Statutes, and the Executive Office of the Governor's designation of Southwest Florida Regional Planning Council and Comprehensive Planning District IX shall be comprised of the counties of Charlotte, Collier, Glades, Hendry, Lee and Sarasota.

(e) In the case of a complete termination of this agreement, the non-Federal matching contribution required to match any approved Federal or State grant shall be firm. The project shall be completed, and the required reports and accounting shall be completed.

4. Membership, Voting and Term.

- (a) Membership of the Council shall be provided pursuant to 186.504 Florida Statutes, as amended from time to time.
- (b) A regional planning council shall be created in each of the several comprehensive planning districts of the state. Only one agency shall exercise the responsibilities granted herein within the geographic boundaries of any one comprehensive planning district.
- (c) Membership on the regional planning council shall be as follows:
 - (1) Representatives appointed by each of the member counties in the geographic area covered by the regional planning council.
 - (1.1) There shall be two elected officials appointed from each of the member counties.
 - (2) Representatives from other member local general-purpose governments in the geographic area covered by the regional planning council.
 - (2.1) Each county shall decide which of cities, towns and or villages will be voting members of the regional planning council.
 - (3) Representatives appointed by the Governor from the geographic area covered by the regional planning council, including an elected school board member from the geographic area covered by the regional planning council, to be nominated by the Florida School Board Association.
 - (4) Not less than two-thirds of the representatives serving as voting members on the governing bodies of such regional planning councils shall be

elected officials of local general-purpose governments chosen by the cities and counties of the region, provided each county shall have at least one vote.

(5) The remaining one-third of the voting members on the governing board shall be appointed by the Governor, to include one elected school board member, subject to confirmation by the Senate, and shall reside in the region. No two appointees of the Governor shall have their places of residence in the same county until each county within the region is represented by a Governor's appointee to the governing board.

(6) Nothing contained in this section shall deny to local governing bodies or the Governor the option of appointing either locally elected officials or lay citizens provided at least two-thirds of the governing body of the regional planning council is composed of locally elected officials.

(7) In addition to voting members appointed pursuant to paragraph (2)(c), the Governor shall appoint the following ex officio nonvoting members to each regional planning council:

- (i) A representative of the Department of Transportation.
- (ii) A representative of the Department of Environmental Protection.
- (iii) A representative nominated by the Department of Economic Opportunity.
- (iv) A representative of the appropriate water management district or districts.

- (8) The Governor may also appoint ex officio nonvoting members representing appropriate metropolitan planning organizations and regional water supply authorities.
- (d) Nothing contained in this act shall be construed to mandate municipal government membership or participation in a regional planning council. However, each county shall be a member of the regional planning council created within the comprehensive planning district encompassing the county.
- (e) The existing regional planning council in each of the several comprehensive planning districts shall be designated as the regional planning council specified under subsections (1)-(5), provided the council agrees to meet the membership criteria specified therein and is a regional planning council organized under either s. 163.01 or s. 163.02 or ss. 186.501-186.515.
- (f) The names of all the appointed representatives shall be recorded in the Council minutes.
- i. Each Board Member shall have an equal vote, which shall be one (1) vote for each Board Member. The basic term of office for appointed representatives of the Council shall be set by the respective appointing authority. All representatives shall serve until a replacement is appointed by the appropriate appointing authority or until written resignation is received by the Council.

5. Officers.

The officers of the Council shall consist of:

- (a) A Chairman, who shall be responsible for overseeing the working organization of the Council, for seeing that all policies of the Council are carried out, and for presiding over all Council meeting. The Chairman or a designated representative shall be ex officio member of all subsidiary committees and boards.
- (b) A Vice-Chairman who shall preside in the Chairman's absence or inability to act. The Vice-Chairman shall perform such other functions as the Council may from time to time assign.
- (c) A Secretary, who shall be responsible for correspondence of the Council, approve minutes of the meetings, be custodian of the records, keep the roll of all members and discharge other duties as may be assigned by the Chairman or the members
- (d) A Treasurer, who shall supervise the financial affairs of the Council and perform such other duties as may be assigned.
- (e) The officers shall be elected at the annual meeting of the Regional Planning Council and shall hold office for a term of one (1) year or until their respective successor(s) are elected and qualified.
- (f) An Executive Committee, consisting of the Chairman, immediate past Chairman, Vice Chairman, Secretary, Treasurer shall be established to act for the Council when necessary to meet any emergency or to deal with any matters when it would be

impossible or inconvenient to convene a meeting of the full Council.

6. Meetings.

- (a) The annual election of officers shall occur in a timely manner, so the terms of officers may commence with their installation at the January meeting.
- (b) Regular meetings shall be held on the days and times established by the Council.
- (c) Special meetings shall be called by the Chairman either at his/her discretion or when she/he is requested by at least three (3) appointed representatives, none of which may be from the same member county; provided adequate notice shall be given to all appointed representatives stating the date, hour and place of the meeting and the purpose for which such meeting is called, and no other business shall be transacted at that meeting.
- (d) The place and time of each meeting shall be determined by the membership prior to the adjournment of the previous meeting. In the absence of such determination, the time and place of the meeting(s) shall be determined by the Chairman.
- (e) All meetings of the Council shall be open to the public.
- (f) A quorum at any meeting shall consist of at least one-half of all voting members. When a quorum has been established, a

majority of those present and voting may take action on all matters presented at the meeting. Each member shall vote on each question presented to the Council except in the event he disqualifies himself. Proxy voting is prohibited.

(g) The Secretary or his/her designee shall keep minutes of each meeting and distribute a copy thereof to each member county.

7. Finances.

(a) The work year and fiscal year of the Council shall be twelve (12) months beginning the first day of October and ending the thirtieth day of September.

(b) On or before August 15th of each year, the Council shall adopt an annual budget and certify a copy thereof to the Clerk or authorized recipient of the governing body of each member county. Each member county shall include in its annual budget and provide to the Council funds in an amount sufficient to fund its proportionate share of the Council's adopted budget, which bears the same ratio to the total budget as the population of each member unit bears to the total population of the region, all as determined annually by official population forecasts by the state of Florida for the year preceding each budget determination.

- i. Each municipal government having a voting seat on the Council shall provide its proportionate share of funds based on population.
 - ii. Each member county shall pay the full assessment to the regional planning council. Each County will collect the proportionate share of assessments for cities, towns and villages within each county that are voting members of the regional planning council.
- (c) Contributions for each fiscal year shall be payable in four equal installments. Payments shall be made within thirty (30) days from receipt of invoicing. The contribution of each member county shall be fifteen cents (15 cents) per capita of the population of the member county according to the most recent available determination under Section 186.901 Florida Statutes.
- (d) Each member county who does not remit the contribution amounts in accordance with Section 7(c) above shall lose all voting privileges until payment is made.

8. Powers

The Council shall have the right to receive and accept in furtherance of its function; gifts, grants, assistance funds, bequeaths, and services from Federal, State and local governments or their agencies and from private and community sources, and to expend therefrom such sums of money

as shall be deemed necessary from time to time for the attainment of its objectives in accordance with all applicable laws. Pursuant to Chapter 186.505 F.S. the Council shall have all powers granted herein including:

- (a) To adopt rules of procedure for the regulation of its affairs and the conduct of its business and to appoint from among its members a chair to serve annually; however, such chair may be subject to reelection.
- (b) To adopt an official name and seal.
- (c) To maintain an office at such place or places within the comprehensive planning district as it may designate.
- (d) To employ and to compensate such personnel, consultants, and technical and professional assistants as it deems necessary to exercise the powers and perform the duties set forth in this act.
- (e) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act.
- (f) To hold public hearings and sponsor public forums in any part of the regional area whenever the council deems it necessary or useful in the execution of its other functions.
- (g) To sue and be sued in its own name.
- (h) To accept and receive, in furtherance of its functions, funds, grants, and services from the Federal Government or its agencies; from departments, agencies, and instrumentalities of state, municipal, or local government; or from private or civic sources. Each regional planning council shall render an accounting of the receipt and disbursement of all funds received by it, pursuant to the federal Older Americans Act, to the Legislature no later than March 1 of each year.

- (i) To receive and expend such sums of money as shall be from time to time appropriated for its use by any county or municipality when approved by the council and to act as an agency to receive and expend federal funds for planning.
- (j) To act in an advisory capacity to the constituent local governments in regional, metropolitan, county, and municipal planning matters.
- (k) To cooperate, in the exercise of its planning functions, with federal and state agencies in planning for emergency management as defined in s. 252.34.
- (l) To fix and collect membership dues, rents, or fees when appropriate.
- (m) To acquire, own, hold in custody, operate, maintain, lease, or sell real or personal property.
- (n) To dispose of any property acquired through the execution of an interlocal agreement under s. 163.01.
- (o) To accept gifts, grants, assistance, funds, or bequests.
- (p) To conduct studies of the resources of the region.
- (q) To participate with other governmental agencies, educational institutions, and private organizations in the coordination or conduct of its activities.
- (r) To select and appoint such advisory bodies as the council may find appropriate for the conduct of its activities.
- (s) To enter into contracts to provide, at cost, such services related to its responsibilities as may be requested by local governments within the region and which the council finds feasible to perform.
- (t) To provide technical assistance to local governments on growth management matters.

- (u) To perform a coordinating function among other regional entities relating to preparation and assurance of regular review of the strategic regional policy plan, with the entities to be coordinated determined by the topics addressed in the strategic regional policy plan.
- (v) To coordinate land development and transportation policies in a manner that fosters regionwide transportation systems.
- (w) To review plans of independent transportation authorities and metropolitan planning organizations to identify inconsistencies between those agencies' plans and applicable local government plans.
- (x) To use personnel, consultants, or technical or professional assistants of the council to help local governments within the geographic area covered by the council conduct economic development activities.
- (y) To provide consulting services to a private developer or landowner for a project, if not serving in a review capacity in the future, except that statutorily mandated services may be provided by the regional planning council regardless of its review role.

9. Rules of Procedure

See attached Replacement By-laws

10. Immunity

All of the privileges and immunities from liability and exemptions from laws, ordinance and rules which apply to the activity of the officials, officers, agents or employees of the members shall apply to the officials,

officers, agents of employees of the Council when performing their respective functions and duties under the provisions of this Agreement.

11. Limited Liability

Except as provided in Section 3(e) and Section 7 herein, no member shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the Council, the representatives of any other agents, employees, officers or officials of the Council to have any authority or power to otherwise obligate the members in any manner.

12. Severability.

If any provision of this agreement or the application of such provisions to any person or circumstance shall be invalid, such invalidity shall not affect other provisions or applications of this agreement which can be given effect without invalid provisions or applications, and to this end the provisions of this agreement are declared severable.

13. Signatories.

It is expressly understood that the terms and conditions of this agreement shall be effective between and among those parties signatory hereto; and that the validity, force and effect to their agreement shall not be affected by one or more of the parties named herein not joining in this agreement any other provisions of this agreement to the contrary notwithstanding.

IN THE WITNESS WHEREOF, the parties have officially adopted and caused this amended and restated agreement to be executed and their signature to be affixed by their respective Chairman or Chief Elected Official as of the day and year first above written.

Execution of parties follows on next page.

CHARLOTTE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISIONERS

Chairman

COLLIER COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISIONERS

Chairman

GLADES COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISIONERS

Chairman

HENDRY COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

Chairman

LEE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

Chairman

SARASOTA COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

Chairman