Follow-Up of the Audit of the Use of Transportation Impact Fees

Report by the Office of County Comptroller

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November 5, 2008

Richard T. Crotty, County Mayor And Board of County Commissioners

We have conducted a follow-up of the Audit of the Use of Transportation Impact Fees (Report 327). Our original audit included the period of October 1, 1999 to March 31, 2001. Testing of the status of the previous Recommendations for Improvement was performed for the period July 1, 2007 through September 30, 2007.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The accompanying Follow-Up to Previous Recommendations for Improvement presents a summary of the previous conditions and the previous recommendations. Following the recommendations is a summary of the current status as determined in this review.

During our review, we noted that all of the applicable recommendations for improvement were fully or partially implemented. **We commend** the Public Works Department for their efforts. We appreciate the cooperation of the personnel of the Public Works Department during the course of the audit.

Martha O. Haynie, CPA County Comptroller

c: Ajit Lalchandani, County Administrator
Mark Massaro, Director, Public Works Department

IMPLEMENTATION STATUS OF PREVIOUS RECOMMENDATIONS FOR IMPROVEMENT

FOLLOW-UP AUDIT OF THE USE OF TRANSPORTATION IMPACT FEES STATUS OF PREVIOUS RECOMMENDATIONS FOR IMPROVEMENT

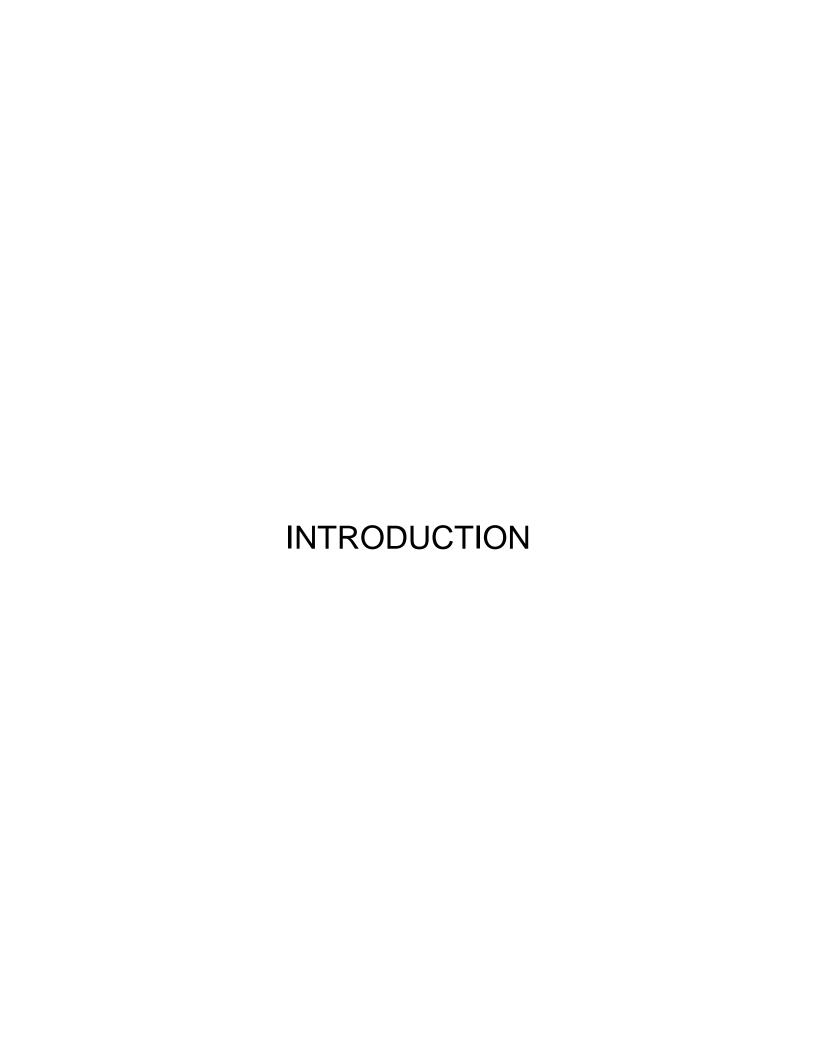
NO.	PREVIOUS RECOMMENDATION	IMPLEMENTATION STATUS			
		IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED	NOT APPLICABLE
1.	We recommend the County ensures adequate documentation is maintained to show that road improvement projects that utilize TIFTFs meet the requirements for arterial roads.	✓			
2.	We recommend the following:				
A)	Written procedures for the allocation of road improvement costs to new developments (to be funded from TIFTFs) and existing residents (to be met from other funding sources such as gas taxes) be developed and used; and		✓		
В)	Documentation of the methodology, input data and resultant allocation percentages for all projects funded with TIFTFs be prepared and retained.	✓			
3.	We recommend the County documents that funding for improvements to a State road is tied to growth in specific areas and the impact the improvement has on County roads when such funding is provided from TIFTFs.				✓
4.	We recommend, when a project impacts more than one benefit area, the County makes appropriate allocation of costs to the benefit areas impacted.				✓

FOLLOW-UP AUDIT OF THE USE OF TRANSPORTATION IMPACT FEES STATUS OF PREVIOUS RECOMMENDATIONS FOR IMPROVEMENT

NO.	PREVIOUS RECOMMENDATION	IMPLEMENTATION STATUS			
		IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED	NOT APPLICABLE
5.	We recommend policies and procedures be established to ensure payments are made from the designated funding sources. In addition, the policies and procedures should detail the method to allocate individual payments so as to ensure conformance with the approved funding split established at the inception of a project. Any deviations from these funding sources and percentage allocations should be adequately documented and approved.	✓			
6.	We recommend the PWD Fiscal Administration works with the Divisions impacted in the payment process to develop written policies and procedures for the processing of pay instruments related to capital projects.	✓			
7.	We recommend the County ensures the following:				
A)	Roadway Conceptual Analyses for specific roads are procured separately from Transportation Needs Studies that identify several roads as needing improvements.	✓			
В)	Improvement costs for specific roads identified by Transportation Needs Studies are accounted for under separate project specific organization numbers.				✓
8.	We recommend County staff complies with County Ordinance No. 99-02 and ensures the 15-month report on the impact of the deferred method of collecting impact fees on the County's fiscal operations is completed and presented to the Board.				✓

FOLLOW-UP AUDIT OF THE USE OF TRANSPORTATION IMPACT FEES STATUS OF PREVIOUS RECOMMENDATIONS FOR IMPROVEMENT

NO.	PREVIOUS RECOMMENDATION	IMPLEMENTATION STATUS			
		IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED	NOT APPLICABLE
9.	We recommend that land purchases from TIFTFs for mitigation purposes be linked to specific road projects. If the land purchase is deemed for future mitigation, then a tracking mechanism should be established to account for the mitigation usages. Also, in the event the land is not used within a specified period of time, the fund should be reimbursed for the cost of the land.	✓			



INTRODUCTION



Scope and Methodology

The audit scope was limited to an examination of the status of the previous Recommendations for Improvement from the Audit of the Use of Transportation Impact Fees (Report No. 327). Testing of the status of the previous recommendations was performed for the audit period July 1, 2007 through September 30, 2007; however, certain other matters outside of that period were also reviewed because of the length of the road improvement process.

We interviewed personnel in the Public Works Department (Department), reviewed source documents prepared by Department employees and performed tests necessary to determine the implementation status of the previous recommendations. Specific methodologies utilized are described in the status of the previous recommendations for improvement.

FOLLOW-UP TO PREVIOUS RECOMMENDATIONS FOR IMPROVEMENT



1. Adequate Documentation Should Be Maintained to Show That Road Improvement Projects Utilizing TIFTFs Meet the Requirements of an Arterial Road

During the previous audit, we noted that \$3.4 million from a budget of \$5.5 million of Transportation Impact Fee Trust Funds (TIFTFs) were used to fund construction of Avalon Park Boulevard, described in a tri-party agreement as a "collector road." County Ordinance No. 98-27 and Sections 23-87 and 88, Orange County Code restrict the use of TIFTFs to "arterial roads." We noted no documentation in the file indicating this road was an arterial road.

<u>We Recommend</u> the County ensures adequate documentation is maintained to show that road improvement projects that utilize TIFTFs meet the requirements for arterial roads.

Status:

Implemented. Since the original audit, Section 23-88, Orange County Code has been revised to include the term "impact fee eligible roadway" in place of "arterial road." We tested three road improvement projects that were started after the original audit was issued. We found that all of the projects were included in the 2004 Road Impact Fee Update and therefore appropriately classified as impact fee eligible. We visited each roadway and found the determination was reasonable given the roads' locations and levels of traffic.

2. The Basis of Allocating Road Improvement Costs Between TIFTFs and Other Funds Should Be Adequately Prescribed and Documented

During the prior audit, we found that there was no documentation to show the basis of allocating road improvement costs between TIFTFs and other funding sources. Generally, the funding of improvement costs are

split between TIFTFs and other funding sources based on population growth.

The review also noted there were no written procedures to determine funding allocation percentages. Written procedures help ensure the fair sharing of road improvement costs between existing residents and new developments.

We Recommend the following:

- A) Written procedures for the allocation of road improvement costs to new developments (to be funded from TIFTFs) and existing residents (to be met from other funding sources such as gas taxes) be developed and used; and
- B) Documentation of the methodology, input data and resultant allocation percentages for all projects funded with TIFTFs be prepared and retained.

Status:

A) Partially Implemented. The Department developed procedures in January 2003 for allocating road improvement costs. We reviewed ten road improvement projects and noted the cost allocations were calculated consistent with the procedures. However, the procedures have not been updated since they were initially developed. For example, cited references and job duties included in the procedures are no longer relevant.

<u>We Recommend</u> the Department ensures the written impact fee procedures are periodically updated.

Management's Response:

Concur. Standard Operating Procedures have been updated with corrected citations and identifications/updates of respective functions as they apply to job duties.



B) The methodology, input data, and Implemented. allocation percentages were documented for the ten improvement projects reviewed. The road determining methodology for the allocation percentages was contained within the Department's procedures.

3. Documentation Should Be Prepared to Show Growth Impact from Funding State Roads with TIFTFs

During the previous audit, the County funded expenditures of approximately \$3.4 million from TIFTFs for improvements to State Road (SR) 50. While roadway improvements for a state road are not a local government responsibility, the County provided the funding to help encourage the State to begin road-widening improvements. It is also possible and likely that widening or improving a state road in the County will allow the County to forgo or postpone widening or the building of a nearby County road to alleviate roadway overcrowding due to growth.

However, records supporting the expenditures did not document what County roads were impacted by the improvements or where growth, based upon a study, required the improvements to SR 50. Standard operating practices require that expenditures from TIFTFs be supported with traffic engineering studies demonstrating road deficiencies attributable to growth.

<u>We Recommend</u> the County documents that funding for improvements to a State road is tied to growth in specific areas and the impact the improvement has on County roads when such funding is provided from TIFTFs.

Status:

Not applicable. We reviewed all road improvement projects that began after the previous audit and found that all were undertaken on County roads. During the audit period, no impact fee monies were spent to improve a State road.



4. Applicable Loans from the TIFTFs Should Be Properly Allocated Between Benefit Areas Impacted

The prior audit noted that an interest free loan of \$2,150,000 was provided to the State to help fund improvements to State roads. The loan payment was charged to County benefit area No. 1; however, the road to be improved travels through and between benefit areas No. 1 and No. 4.

Section 23-97 (b)(3), Orange County Code requires that impact fees "... be used exclusively within the benefit areas from which they were collected." Since the road improvements benefit two separate areas (No. 1 and No. 4), an appropriate allocation of the \$2,150,000 should have been made.

<u>We Recommend</u>, when a project impacts more than one benefit area, the County makes appropriate allocation of costs to the benefit areas impacted.

Status:

Not applicable. During our follow-up testing, we did not note any road improvement segments that were split between impact fee benefit areas. The Department did, however, establish procedures for determining the allocation of costs when more than one benefit area is affected.

We reviewed Department memos requesting approval to enter into new road improvement contracts or issue change orders to existing contracts and found that some of the memos addressed to the Board of County Commissioners (Board) designated funding from the wrong impact fee fund or project number. For example, the Highway Construction Division (Division) requested Board approval to issue a change order to a contract for improvements to a segment of John Young Parkway The Division identified that funding was available from area No. 4 even though the segment of John Young Parkway being improved lies within area No. 3. As a result, expenditures of \$122,000 for this segment were



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paid with impact fees collected for area No. 4 instead of area No. 3.

We Recommend the Department corrects the allocation of TIFTFs funding on the John Young Parkway improvement project. In addition, the Department should verify that the project and fund numbers listed in correspondence for Board action are accurate. The Department should also ensure that payments using impact fees are made from the correct fund.

Management's Response:

Concur. Correction of TIFTFs funding for the John Young Parkway improvement project will be implemented in FY 09 when additional expenditures can be adjusted to balance out the inappropriate charge (\$122,122.47) to fund 1034. Procedures to ensure payments using impact fees are made from the correct fund have been established.

5. Policies and Procedures Should Be Established to Ensure Compliance with Designated Funding Sources and Individual Payments Allocated in Accordance with the Funding Splits Established at the Inception of the Projects

During the review of internal controls in the prior audit, we noted the following:

- A) We were informed that the total expenditures for each phase of a project are sometimes charged to one funding source instead of being allocated to the designated funding sources.
- B) In a memo to the Purchasing and Contracts Division requesting Board approval of the Roadway Conceptual Analysis (RCA) for Apopka Vineland Boulevard, the Engineering Division's designated funding sources and allocation were 67 percent to Constitutional Gas Taxes and 33 percent to Local

Option Gas Taxes. However, payments were split between three funding sources that included TIFTFs even though funding from TIFTFs was not included in the original funding designation.

C) Payments under a final design services contract for Taft Vineland Boulevard were not made according to the Engineering Division's designated allocation. There was no written explanation for the use of the funding sources and allocation percentages that differed from the original designations. Although in some cases future payments funding splits could be adjusted to bring the project in line with the approved funding allocation, there appears to be no standard method of allocating payments.

<u>We Recommend</u> policies and procedures be established to ensure payments are made from the designated funding sources. In addition, the policies and procedures should detail the method to allocate individual payments so as to ensure conformance with the approved funding split established at the inception of a project. Any deviations from these funding sources and percentage allocations should be adequately documented and approved.

Status:

Implemented. The Department developed written policies and procedures in January 2003 to ensure payments are made from the appropriate funding sources. However, as noted in Recommendation for Improvement No. 2, these procedures have not been updated since they were initially developed.

We looked at five road improvement projects that were completed since April 2003 and found that all complied with the approved funding splits. None of the projects deviated from the approved funding sources and percentage allocations.



6. Internal Controls Over the Payment Process Should Be Strengthened

During the previous audit, we noted that there were no written guidelines for the processing of payments from TIFTFs and other funding sources except for pay requests received through the County Attorney's Office. Our review noted the following:

- A) Three of the four payments for various design projects did not contain the initials of the Fiscal Coordinator as evidence of fiscal review.
- B) Three of the five payments over \$500,000 for right of way (ROW) projects did not contain the signature of the Division Manager evidencing approval.

Good internal controls require that procedures are written, authorized by management, and maintained in an appropriate policy and procedure manual.

<u>We Recommend</u> the PWD Fiscal Administration works with the Divisions impacted in the payment process to develop written policies and procedures for the processing of pay instruments related to capital projects.

Status:

Implemented. The Department developed written policies and procedures in January 2003 for processing capital project pay instruments. However, as noted in Recommendation for Improvement No. 2, these procedures are outdated.

To ensure the Department complied with their procedures, we reviewed a random sample of 37 disbursements, including seven for \$500,000 or more, for the 10 road improvement projects sampled. All of the transactions except one included the initials of the Fiscal Coordinator as evidence of fiscal review. However, three of the seven transactions for \$500,000 or more involved ROW



acquisitions but did not contain the signature of the Division Manager evidencing approval. The procedures developed by the Department in response to the previous audit include a requirement that a manager approve payments for \$500,000 or more.

<u>We Recommend</u> the Department comply with their written procedures and require all invoices for \$500,000 or more be reviewed and approved by a Division Manager.

Management's Response:

Concur. The Department shall comply with written procedures. Moreover, all invoices shall be reviewed and approved by a Division Manager (for an unspecified period; procedures now require the Department Director to sign-off on all invoices).

7. Roadway Conceptual Analysis for Specific Roads Should Be Procured Separately from Transportation Needs Studies and the Costs Handled Under a Separate Project Specific Organization Number

During the prior audit, we reviewed the East Orange County Transportation Needs Study (EOCTNS). This study identified 11 specific County roadway projects needed to accommodate existing traffic and projected growth in the area covered by the study. Based upon a staff recommendation, the Board approved an amendment to the contract for the Rouse Road RCA, one of the eleven projects included in the Study. Costs for the EOCTNS and the RCA were applied to the same Project Organization No. 3018 entitled "East Orange County Transportation Needs Study."

Procurement Ordinance No. 92-26, states that "if the change is outside the scope of the original project or procurement as determined by the Chief of Purchasing and Contracts, a new Invitation for Bid must be issued unless bidding would cause a significant delay or other adverse impact on the project."

The Rouse Road RCA should have been procured separately and its cost, together with the cost of land and easements, design, and construction, handled under a separate project organization number that is Rouse Road specific.

We Recommend the County ensures the following:

- A) Roadway Conceptual Analyses for specific roads are procured separately from Transportation Needs Studies that identify several roads as needing improvements.
- B) Improvement costs for specific roads identified by Transportation Needs Studies are accounted for under separate project specific organization numbers.

Status:

- A) Implemented. We reviewed all RCA contracts procured since April 2003 and found that all were procured as separate contracts.
- B) Not applicable. No Transportation Needs Studies were procured since the original audit report was issued.
- 8. The 15-Month Report on the Fiscal or Operational Impact of the Deferred Method of Collecting Impact Fees Should Be Completed and Presented to the Board

During the previous audit, we noted that the 15-month report on the impact of the deferred method of paying impact fees had not been submitted to the Board. Section 13 of Orange County Ordinance 99-02 states,

Within fifteen months after this ordinance is effective, County staff shall review the provisions of this



ordinance and provide a report to the Board of County Commissioners of any fiscal or operational impacts the implementation of this ordinance has upon the County.

<u>We Recommend</u> County staff complies with County Ordinance No. 99-02 and ensures the 15-month report on the impact of the deferred method of collecting impact fees on the County's fiscal operations is completed and presented to the Board.

Status:

Not Applicable. The requirement for the 15-month report contained in Ordinance 99-02 is not included in the current Road Impact Fee Ordinance and is therefore no longer required.

9. Land Purchases for Mitigation from TIFTFs
Should Be Linked to Ongoing or Future Road
Improvement Projects with Future Mitigation
Usages Accounted for Under an Established
Tracking Mechanism

During the previous audit, we noted that the County purchased 270.75 acres of wetlands in impact fee benefit area No. 3; however, funding was provided from benefit area No. 2 (\$1 million) and benefit area No. 4 (\$985,746). This purchase was not linked to any ongoing or future road projects. In addition, there was no established mechanism to track future utilization of the property for mitigation purposes.

County Code allows impact fee monies to be used to purchase conservation area mitigation lands. However, no road project that required mitigation was linked to the purchase at the time of acquisition.

<u>We Recommend</u> that land purchases from TIFTFs for mitigation purposes be linked to specific road projects. If the land purchase is deemed for future mitigation, then a



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tracking mechanism should be established to account for the mitigation usages. Also, in the event the land is not used within a specified period of time, the fund should be reimbursed for the cost of the land.

Status:

Implemented. On August 3, 2004, the Board approved the purchase of this tract by the Environmental Protection Division and the South Florida Water Management District. The purchase price plus interest totaling \$2,290,222 was transferred from the County's Environmental Protection Conservation Trust Fund to the Transportation Impact Fee Trust Funds for benefit areas No. 2 and No. 4. This was the first acquisition of property under the County's Green PLACE program.

We reviewed land purchased for mitigation purposes since April 2003 and found one land parcel purchased with impact fees. The purchase of this parcel was necessary to proceed with the Hiawassee Road Extension project and was accounted for within the appropriate project number.