

City of  
Cape Coral

2016

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**STATE  
LEGISLATIVE  
INITIATIVES**

# CITY OF CAPE CORAL

## LEGISLATIVE INITIATIVES FOR 2016

**ABOUT CAPE CORAL:** The city of Cape Coral is situated on the Gulf Coast of Southwest Florida. With a population of 166,000, it is the largest city between Tampa and Miami and the 10<sup>th</sup> largest city in Florida. Its area of more than 120 square miles makes Cape Coral the third-largest Florida city by land mass. Designed and developed as a "waterfront wonderland," Cape Coral is home to more than 400 miles of waterways and 27 miles of shoreline.



### KEY DATES:

September 15, 2015	Legislative Interim Committee Meetings Begin and run through the end of November
October 14, 2015	Lee County Delegation Meeting
January 12, 2016	Session Begins
March 11, 2016	Session Ends

**INTRODUCTION:** The legislative platform adopted by City Council on September 28, 2015, is a list of legislative initiatives for the City of Cape Coral. The identified initiatives represent the City's priority interests at the State level but are not meant to represent a complete list of issues the City will take a specific stand on. Often a piece of legislation, rule, issue or policy will require additional advocacy efforts.

Advocacy efforts are made to ensure the City's fiscal, operational and quality of life interests are represented on behalf of the citizens of Cape Coral.

**CITY OF CAPE CORAL  
LEGISLATIVE INITIATIVES FOR 2016**

**Legislative Initiatives (not in priority order)**

The City of Cape Coral SUPPORTS legislation that designate resources solely for the unique problems facing pre platted cities and provides property owners and local governments additional tools including funding with which to address challenges posed by antiquated subdivisions (Exhibit A).

The City of Cape Coral SUPPORTS legislation that upholds the current state law allowing local governments and their taxpayers to require utilities to relocate utility equipment when the equipment is located within a public utility easement or right of way and needs to be relocated for public purposes (Exhibit B).

The City of Cape Coral SUPPORTS restoring state funding for the Regional Planning Councils created and operating under the Florida Administrative Code (FAC).

The City of Cape Coral OPPOSES any and all legislation that will allow for an "opt out" clause for Florida Counties regarding membership in the Regional Planning Councils. The City of Cape Coral SUPPORTS the statutory requirement for all Counties to be dues paying members of the Regional Planning Councils.

The City of Cape Coral SUPPORTS increasing the per pupil spending and teacher pay for public and charter schools and continue to set aside Public Education Capital Outlay Funds for Charter Schools to use for new construction, renovation and expansion. The City also SUPPORTS legislation that will mandate local school districts to share capital money with municipal charter schools and the capital funding distributed in a proportionate manner with municipal charter school authorities ensuring that municipal run public schools have the same access to capital dollars as county schools (Exhibit C).

The City of Cape Coral supports legislation that protects general revenues collected from the local communications services tax (Exhibit D).

The City of Cape Coral SUPPORTS legislation that addresses water quality and quantity issues that affect local communities, specifically efforts to revitalize and protect Florida's springs, aquifers, surface waters and estuaries. Specifically, the City of Cape Coral supports legislation removing roadblocks that are impeding the expansion and use of alternative water supplies. The City also supports expanded storage capacity such as large reservoirs for stormwater runoff, and Water Management District cost share programs to incentivize reservoir construction and alternative water supply infrastructure. The City, however, is OPPOSED to unfunded mandates related to the foregoing, as well as regional reservoirs controlled by Regional Water Supply Authorities.

The City of Cape Coral SUPPORTS legislation that facilitates the ability of municipalities to offer broadband services to residents.

The City of Cape Coral SUPPORTS legislation encouraging vulnerability assessments and coordinated resources to reduce or mitigate the impacts of sea-level rise on coastal communities and economic impact to the State of Florida.

The City of Cape Coral SUPPORTS legislation that will allow for the collection of F.S. Chapter 175 monies in exchange for providing Fire protection to a Municipal Services Taxing Unit (MSTU) through an Inter Local Agreement (Exhibit E).

The City SUPPORTS legislation that provides protection for the public's security and best interest by reducing the risks associated with the requirement for local governments to disclose internal IP addresses located behind security firewalls in response to public record requests (Exhibit F).

The City SUPPORTS legislation requiring additional oversight of persons or businesses providing services for pets, including but not limited to grooming and boarding.

The City of Cape Coral SUPPORTS legislation that supports using State Housing Initiative Partnership Program (SHIP) trust fund exclusively for housing.

The City of Cape Coral SUPPORTS legislation that provides opportunities for increased and alternative revenue sources for municipal transportation infrastructure projects.

The City of Cape Coral OPPOSES legislation that creates unfunded mandates, legislation that fails to protect the needs of municipalities, legislation that assaults Home Rule authority or legislation that fails to safeguard the legislative intent and elements initially cited in Florida Statutes, Chapter 163.33 known as the Community Redevelopment Act of 1969.

### **Funding Requests**

The City of Cape Coral requests SUPPORT for the funding of sidewalks to provide a safer environment for the transportation of students attending schools where sidewalks are not currently present (Exhibit G).

The City of Cape Coral REQUESTS continued support for future FDEP SRF loans. Cape Coral is the third largest municipality by size and approximately half of the City's **pre-platted** parcels remain to be served by centralized water and sewer services. City Council has approved approximately 12 square miles of utility line extensions covering nearly 20,000 parcels. The City recently completed construction in the first of three areas in its Utility Extension Project (UEP) bringing water, sewer and irrigation to approximately 6,000 parcels using FDEP SRF Loans. We are also in the process of design services for the second area. Securing the FDEP Clean Water and Drinking Water loans is key to funding the project. As the City continues to extend utility infrastructure throughout the City we will be applying for future FDEP SRF Loans.

(Adopted by City Council September 28, 2015)

# SUPPORTING DOCUMENTS

**EXHIBIT A**

**The City of Cape Coral SUPPORTS legislation that designate resources solely for the unique problems facing pre platted cities and provides property owners and local governments additional tools including funding with which to address challenges posed by antiquated subdivisions.**

**Purpose of Legislation:** To develop dedicated resource stream(s) to assist pre-platted communities in their challenges caused by aging infrastructure.

**What are pre-platted lands?** Also known as “antiquated subdivisions”, pre-platted lands refers to subdivisions developed prior to the mid-1970’s, and are characterized by the provision of minimal infrastructure, provision of minimal lands for commercial, park, and public uses, the location outside of the then-urban area, communities having a fragmented ownership pattern indicative of sprawl, and lack of environmental controls and protection.

**What are the challenges?** These subdivisions were marketed to potential buyers throughout the world, and were developed to maximize residential sales. As a result, these communities were developed with inadequate and obsolete infrastructure, and provided few large tracts for needed commercial development, which results in a tax base heavily dependent on residents. Today, subdivision regulations require developers to provide utilities as a part of development; the costs of providing utilities after development has commenced, as is the case in pre-platted communities, is enormous.

**What will legislation accomplish?** These communities are negatively affected by their pre-platted nature, which is extremely difficult, if not impossible to fully correct, given the thousands of lots located in each of the communities, and the vested rights held by those lots. The provision of dedicated resources to assist these communities will ensure that these communities will be able to provide necessary infrastructure support to their residents, and allow them a better opportunity for financial stability.

**Would the Legislation have a widespread impact?** The focus of the legislation is narrow; for pre-platted communities only. However, these communities are located throughout the state, and their inability to provide necessary infrastructure for their residents could have an impact outside of their borders.

## EXHIBIT B

**The City of Cape Coral SUPPORTS legislation that upholds the current state law allowing local governments and their taxpayers to require utilities to relocate utility equipment at the utilities' cost when the equipment is located within a public utility easement or right-of-way and needs to be relocated for public purposes (Exhibit B).**

### BACKGROUND

For more than 100 years, state law has provided local government with the authority to require non-government utilities to pay the costs associated with relocating their utility equipment out of public rights-of-way and public utility easements to accommodate public construction projects, such as road improvement projects, and other non-transportation public projects. Public utility easements and public rights-of-way are controlled by local government and access is provided to utilities as a permissive use.

Generally, a utility is required to pay the costs to relocate its equipment when relocation is in the public interest.

In many communities, a "public utility easement" is created by dedication in a land developer's plat for a new community, such as: "The owners of this property do hereby dedicate easements along each boundary of each home site for county drainage purposes and for public utilities." Typically, public utility easements do not exceed six to 10 feet in width and run alongside public rights-of-way in the case of roadways.

Like rights-of-way, courts have found that public utility easements are for the benefit of the public and, therefore, are not owned by utilities. Instead, such easements function as public property for the use of utilities. Thereby, developers create interests relating to particular (limited) property uses by third parties who then use the property to provide essential public services. Occasionally, utilities purchase these property interests, but often they do not, leaving local authorities with the burden of purchasing property for public easements and/or rights of way as part of roadway improvement projects.

If local governments are required to bear the cost of relocation, it would dramatically and negatively affect them by transferring the costs of utility relocations from the utility provider to local government taxpayers, instead of the actual users of the utilities. In many cases, the utility equipment to be relocated does not service the constituent taxpayers of that municipality or county, but services a neighboring local government.

The expense of relocating a utility's equipment in the public easement, or for non-transportation purposes within the right-of-way, will greatly increase the costs of completing transportation projects at a time when local governments continue to struggle with funding for such projects. Transportation projects are often the catalyst

for economic development and the result of growth within a community, which benefit the utility in terms of an expanded customer base.

In 2015, **CS/CS/CS/HB 391** and **CS/CS/SB 896** were filed and would have prohibited local governments from requiring utilities to pay the costs of equipment relocation unless the utilities were in a "right-of-way," as opposed to the current requirement for utility relocations occurring "upon, over, under or along" a roadway. The bills would have required local governments, and not the utilities, to bear the cost of relocating a utility's equipment if such equipment is located within a public utility easement. In addition, the bills would have required local governments to bear the costs of utility equipment relocation if the equipment was located within the right-of-way and needed to be relocated for a non-transportation purpose. CS/CS/CS/HB 391 passed the House 110-5, but was never heard by the full Senate. CS/CS/SB 896 was never heard by the Senate Appropriations Committee, which was its last committee of reference.

**Current Status:** To date, no bills have been filed for the 2016 legislative session that directly address the cost shifting of utility relocations.

**EXAMPLE OF CAPE CORAL PROJECT COSTS**

PROJECT	LIMITS	LENGTH IN MILES	LEE COUNTY ELECTRIC CO-OP RELOCATION COSTS	EMBARQ/CENTURY LNK RELOCATION COSTS	TOTAL UTILITY RELOCATION COSTS
Gleason/SW 32nd Street Extension	Chiquita Blvd- SW 16th PI	0.2	\$43,413	\$82,700	\$126,113
Del Prado Boulevard 6 Laning	SR78 - Kismet Pkw	2.3	\$1,167,467	\$752,964	\$1,920,431
Santa Barbara Boulevard 6 Laning	Gleason Pkw- SR78	4.5	\$1,976,622	\$108,326	\$2,084,948
<b>TOTAL</b>		<b>7</b>	<b>\$3,187,502</b>	<b>\$943,990</b>	<b>\$4,131,492</b>

**EXHIBIT C**

The City of Cape Coral SUPPORTS increasing the per pupil spending and teacher pay for public and charter schools and continue to set aside Public Education Capital Outlay Funds for Charter Schools to use for new construction, renovation and expansion; and,

SUPPORTS legislation that will mandate local school districts to share capital money with municipal charter schools and the capital funding distributed in a proportionate manner with municipal charter school authorities ensuring that municipal run public schools have the same access to capital dollars as county schools.

**Status:** During the 2014-2015 fiscal year, charter schools received \$75 million from the Public Education Capital Outlay (PECO). This was reduced to \$50 million for the 2015-2016 fiscal year. With more and more charter schools being approved, and with less PECO funds being allocated to charter schools, the PECO funds that went to the Cape Coral Charter School were not sufficient to meet the capital needs of the school.

**Request:** PECO funding for charter schools should be increased and consideration be given for a portion of the charter school PECO allocation to be set aside specifically for municipal charter schools.

## EXHIBIT D

**The City of Cape Coral supports legislation that protects general revenues collected from the local communications services tax.**

### **Background**

These revenues are used to provide essential municipal services to citizens and businesses. Maintaining a diversified revenue base strengthens the fiscal stability of local governments. Reducing this source of general revenue would require municipalities to increase taxes, fees and millage, or cut services to make up for the financial loss.

### **Impact**

Eliminating this revenue source will negatively impact the City by more than \$4 million dollars.

**EXHIBIT E**

**The City of Cape Coral SUPPORTS legislation that will allow for the collection of F.S. Chapter 175 monies in exchange for providing Fire protection to a Municipal Services Taxing Unit (MSTU) through an Inter Local Agreement.**

**Purpose of Legislation:** Update FS Chapter 175

**What is FS Chapter 175?**

- Implements provisions to ensure that municipal and special district firefighter's pension trust funds are managed, administered, operated, and funded in such a manner as to maximize the protection of the pension trust funds.
- Provides for the distribution of funds to municipal and special fire control district firefighters pension plans
  - Funds derived from the collection of the 1.85% excise tax on gross insurance premiums on properties within the boundaries municipality or special fire district.

**Current provisions of Chapter 175:**

- Funds derived from parcels in an unincorporated area not covered by a special fire district are retained by the State's General Fund and utilized to support the education reimbursements provided for with Chapter 175
- A municipal fire pension plan is eligible to receive funds collected from parcels within the boundaries of another municipality if providing services to those parcels through an interlocal agreement

**What Legislation Would Accomplish:**

- Funds collected from parcels in an unincorporated area can be remitted to a municipal firefighters plan:
  - IF the parcels are designated within a Municipal Services Taxing Unit (MSTU)
  - AND an interlocal agreement exists between the municipality and county for the municipality to provide fire protection services to the parcels within the MSTU boundaries
- Would correct inequity of a municipal firefighter's pension plan being unable to receive the excise tax collected on the insurance premiums for parcels they provide service to just because the parcels are within in an unincorporated area of a county

**Would the Legislation have a widespread impact?**

- It would primarily impact the City of Cape Coral and the Burnt Store MSTU within Lee County. Other known instances where a municipality is providing services to an unincorporated area of a county through an interlocal agreement are 3 very small MSTUs (two in Lee and one in Collier)
- Burnt Store MSTU
  - Created in 1983
  - City of Cape Coral has been providing fire services since 1990 through an interlocal agreement

**EXHIBIT F**

**The City SUPPORTS legislation that provides protection for the public's security and best interest by reducing the risks associated with the requirement for local governments to disclose internal IP addresses located behind security firewalls in response to public record requests.**

**Purpose of Legislation:** Changes in legislation may prevent threats to government agencies and the public's security.

**Background:** It is well known that Florida municipalities and counties are subject to public record requests for information that would be kept from disclosure in the private sector that is useful for hackers and others interested in various forms of malicious activity including phishing. The most basic first step in planning an attack is to implement "Footprinting" as part of the reconnaissance of the target. By providing email addresses and network systems information as part of a public records request, the Footprinting phase is easily accomplished. This is the case with being required to disclose complete employee listings including names, titles, and email addresses. This information makes it easy to target employees assumed to be working with credit card information with phishing attacks, for example. The only remedy available to government agencies to counteract this kind of threat is more intensive security awareness training. Note that in the case of credit cards, it is the public's security that is being potentially compromised.

There are recent examples of Public Record Requests that are even more intrusive including requests for router logs and internal IP addresses. Reference Ninth Judicial Circuit Case No. 2014-CA-010080 where the judge specifically asked for legislative clarity.

**EXHIBIT G**

**The City of Cape Coral requests SUPPORT for the funding of sidewalks to provide a safer environment for the transportation of students attending schools where sidewalks are not currently present.**

**Purpose:** Support Request for Funding Relating to Sidewalks Within 2 Miles of Schools Where Sidewalks Are Not Available

**Request:** The City of Cape Coral is requesting funding for sidewalks to meet requirements identified in Florida Statute 1006.23.

**Background:** The City of Cape Coral is a pre-platted community with an area of 120+ square mile city and an extensive infrastructure built mostly before its incorporation in the 70's. The current city inventory includes: 3,046 Lane Miles of Roads, 400 miles of canals and 158 Bridges.

The original developer of the City built the transportation network with a rural cross section (no curb/gutters/sidewalks/bike lanes and open swales)

In the 90's the City began the monumental task of retrofitting its extensive roadway network with sidewalks and bike lanes.

The Lee County School District and City Charter Schools limit transportation services for its students as follows:

*Students who live within the 2 Mile limit from home to school are not provided transportation services as per Florida Rule 6A-3.001 (3)*

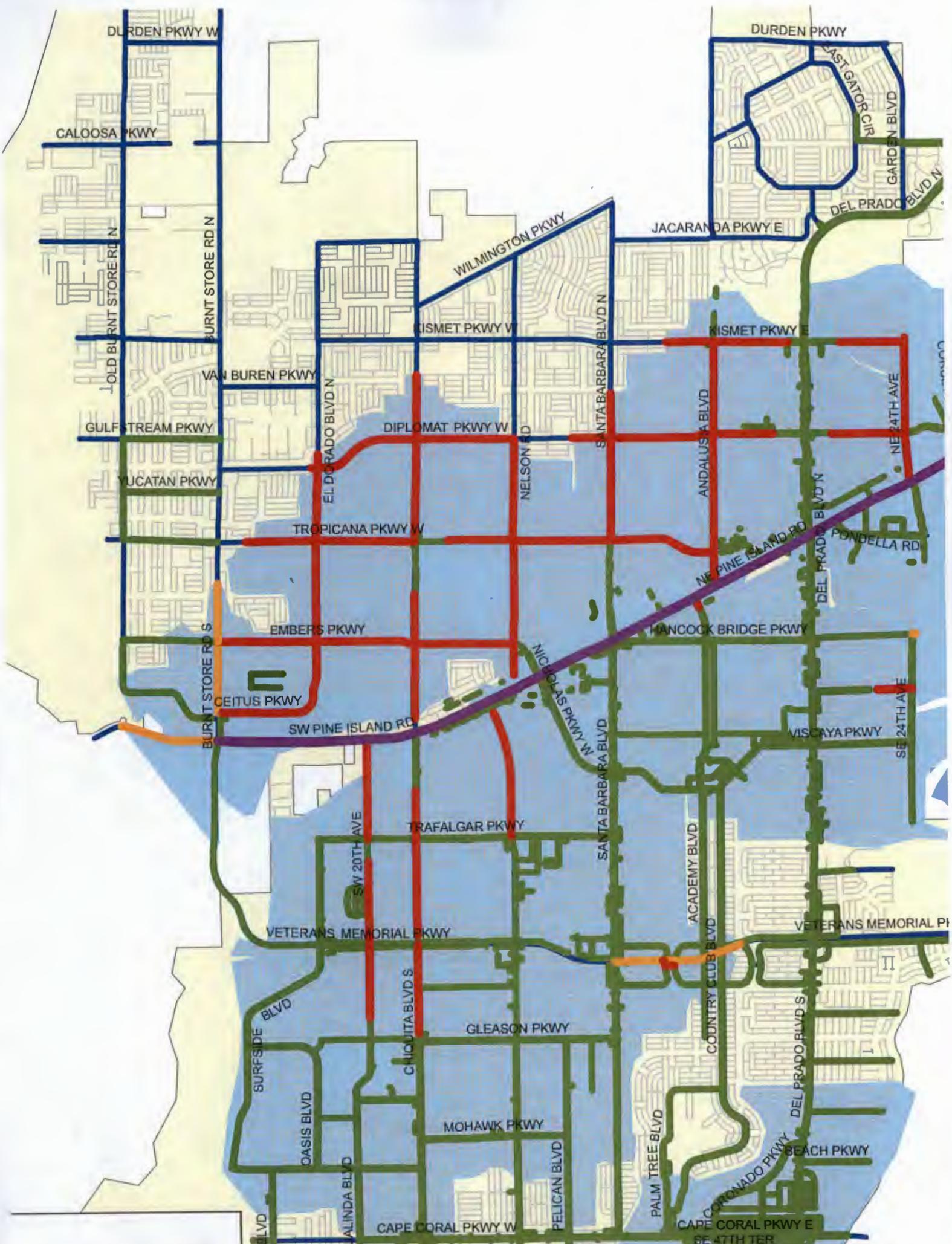
*Per F.S. 1006.23: It shall be considered a hazardous walking condition with respect to any road along which students must walk in order to walk to and from school if there is not an area at least 4 feet wide adjacent to the road, not including drainage ditches, sluiceways, swales, or channels, having a surface upon which students may walk without being required to walk on the road surface.*

The City is working with the Lee County School District on the identification of the roadway segments where hazardous walking conditions exists.

The City identified 23 centerline miles of major roadways without funding for the provision of bike-ped facilities within the next 5-year period.

**Current Status:** Per the map attached, there are 36 centerline miles of major City-maintained roadways without any bike-ped facility within the 2-mile walking zone from Elementary and Middle schools within the City limits. Out of this total, 13 centerline miles have been awarded Transportation Alternatives (TA) grant funding within the next 5-years for sidewalk construction, leaving 23 centerline miles without any funding for bike-ped facilities. At a cost of \$500,000 to build sidewalks on both sides of 1-mile of road, the need to address this void of pedestrian facilities within the 2-mile walking zone from Elementary and Middle schools is estimated in \$11,500,000

**What the Funding Would Accomplish:** Provision of sidewalks increases pedestrian safety and provides transportation choices to residents in particular students who would have to walk to their school.



DURDEN PKWY W

CALOOSA PKWY

DURDEN PKWY

EAST GATOR CIR

GARDEN BLVD  
DEL PRADO BLVD N

JACARANDA PKWY E

WILMINGTON PKWY

MISMET PKWY W

MISMET PKWY E

VAN BUREN PKWY

DIPLOMAT PKWY W

GULF STREAM PKWY

YUCATAN PKWY

TROPICANA PKWY W

NELSON RD

SANTA BARBARA BLVD N

ANDALUSIA BLVD

NE 24TH AVE

EMBERS PKWY

CEITUS PKWY

SW PINE ISLAND RD

HANCOCK BRIDGE PKWY

NICOLAS PKWY W

PONDILLA RD

VISCAYA PKWY

SE 24TH AVE

TRAFALGAR PKWY

SW 20TH AVE

SANTA BARBARA BLVD

ACADEMY BLVD

VETERANS MEMORIAL PKWY

VETERANS MEMORIAL PKWY

GLEASON PKWY

SURFSIDE BLVD

CHIQUITA BLVD S

COUNTRY CLUB BLVD

OASIS BLVD  
SUALINDA BLVD

MOHAWK PKWY

PELICAN BLVD

PALM TREE BLVD

CORONADO PKWY

DEL PRADO BLVD S

BEACH PKWY

CAPE CORAL PKWY W

CAPE CORAL PKWY E

SE 47TH TER