




March 27, 2017

TO: Metropolitan Transportation Planning Organization for the Gainesville Urbanized Area

FROM: Scott R. Koons, AICP, Executive Director 

SUBJECT: Intergovernmental Coordination and Review and Public Transportation Coordination Joint Participation Agreement

STAFF RECOMMENDATION

Authorize Chair to sign:

- 1. A letter reaffirming terms of the Intergovernmental Coordination and Review and Public Transportation Coordination Joint Participation Agreement; and**
- 2. Letters to Alachua County, the City of Gainesville, Gainesville/Alachua County Regional Airport Authority, Florida Department of Transportation District 2 Secretary and the North Central Florida Regional Planning Council requesting reaffirmation of the terms of the Intergovernmental Coordination and Review and Public Transportation Coordination Joint Participation Agreement.**

BACKGROUND

According to Section 339.175 (10)(a)(2) Florida Statutes, the Metropolitan Transportation Planning Organization for the Gainesville Urbanized Area is required to execute

“an agreement with the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan areas, specifying the means by which activities will be coordinated and how transportation planning and programming will be part of the comprehensive planned development of the area.”

Attached Exhibit 1 is a copy of the Intergovernmental Coordination and Review and Public Transportation Coordination Joint Participation Agreement that the Metropolitan Transportation Planning Organization for the Gainesville Urbanized Area executed on January 26, 2007. According to Section 339.175 (10)(a) Florida Statutes, the Agreement is to be reviewed and updated as necessary every five years.

There are no updates that need to be made to the Agreement.

Attachment

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EXHIBIT 1

INTERGOVERNMENTAL COORDINATION AND REVIEW AND PUBLIC TRANSPORTATION COORDINATION JOINT PARTICIPATION AGREEMENT

THIS JOINT PARTICIPATION AGREEMENT is made and entered into this 26th day of January, 2007 by and between the STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the Department; the Metropolitan Transportation Planning Organization for the Gainesville urbanized area, hereinafter referred to as the MTPO; The North Central Florida Regional Planning Council, hereinafter referred to as the Council; the City of Gainesville, hereinafter referred to as the City; and the Gainesville-Alachua County Regional Airport Authority, hereinafter referred to as the Authority.

RECITALS

WHEREAS, the Federal Government, under the authority of 23 U. S. C. and any subsequent applicable amendments requires each metropolitan area, as a condition to the receipt of federal capital or operating assistance, to have a continuing, cooperative, and comprehensive transportation planning process in designated metropolitan areas to develop and implement plans and programs consistent with the comprehensively planned development of the metropolitan area;

WHEREAS, 23 U. S. C. 134 (a) and (b), and Section 339.175, Florida Statutes, provide for the creation of metropolitan planning organizations to develop transportation plans and programs for metropolitan areas;

WHEREAS, the aforementioned federal laws require that the State, the MTPO, and the operators of publicly owned transportation systems shall enter into an agreement clearly identifying the responsibilities for cooperatively carrying out such transportation planning (including corridor and subarea studies pursuant to 23 Code of Federal Regulations 450.316 and 450.318) and programming;

WHEREAS, pursuant to Section 20.23, Florida Statutes, the Department has been created by the State of Florida, and the Department has the powers and duties relating to transportation, all as outlined in Section 334.044, Florida Statutes;

WHEREAS, pursuant to 23 United States Code 134, 49 United States Code 5303, 23 Code of Federal Regulations 450.306, and Section 339.175, Florida Statutes, the MTPO has been designated and its membership apportioned by the Governor of the State of Florida, with the agreement of the affected units of general purpose local government, to organize and establish the MTPO;

WHEREAS, pursuant to Section 339.175(9)(a)2., Florida Statutes, the MTPO shall execute and maintain an agreement with the metropolitan and regional intergovernmental coordination and review agencies serving the Gainesville Metropolitan Area, hereinafter referred to as the Metropolitan Area;

WHEREAS, the aforesaid agreement must describe the means by which activities will be coordinated and specify how transportation planning and programming will be part of the comprehensively planned development of the Metropolitan Area;

WHEREAS, pursuant to Section 186.504, Florida Statutes, the Council was established and operates under its Organization Policies with a primary purpose of intergovernmental coordination and review;

WHEREAS, pursuant to Section 186.505(24), Florida Statutes, the Council is to review plans of metropolitan planning organizations to identify inconsistencies between those agencies' plans and applicable local government comprehensive plans adopted pursuant to Chapter 163, Florida Statutes;

WHEREAS, the Council, pursuant to Section 186.507, Florida Statutes, is required to prepare a Strategic Regional Policy Plan, which will contain regional goals and policies that address regional transportation issues;

WHEREAS, based on the Council's statutory mandate to identify inconsistencies between plans of metropolitan planning organizations and applicable local government comprehensive plans, and to prepare and adopt a Strategic Regional Policy Plan, the Council is appropriately situated to assist in the intergovernmental coordination of the intermodal transportation planning process;

WHEREAS, pursuant to Section 186.509, Florida Statutes, and Chapter 29C-8, Florida Administrative Code, the Council has adopted a conflict and dispute resolution process;

WHEREAS, the purpose of the dispute resolution process is to reconcile differences in planning and growth management issues between local governments, regional agencies, and private interests;

WHEREAS, the parties hereto have determined that the voluntary dispute resolution process is useful in the process of resolving conflicts and disputes arising in the transportation planning process;

WHEREAS, pursuant to 23 Code of Federal Regulations 450.310(b) and Section 339.175(9)(a)3., Florida Statutes, the MTPO must execute and maintain an agreement with the operators of public transportation systems, including transit systems, commuter rail systems, airports, and seaports, describing the means by which activities will be coordinated and specifying how public transit, commuter rail, aviation, and seaport planning (including corridor and subarea studies pursuant to 23 Code of Federal Regulations 450.316 and 450.318) and programming will be part of the comprehensively planned development of the Metropolitan

operators of public transportation systems, including transit systems, commuter rail systems, airports, and seaports, describing the means by which activities will be coordinated and specifying how public transit, commuter rail, aviation, and seaport planning (including corridor and subarea studies pursuant to 23 Code of Federal Regulations 450.316 and 450.318) and programming will be part of the comprehensively planned development of the Metropolitan Area;

WHEREAS, it is in the public interest that the MTPO, operators of public transportation systems, including transit systems, commuter rail systems, port and aviation authorities, jointly pledge their intention to cooperatively participate in the planning and programming of transportation improvements within the Metropolitan Area;

WHEREAS, the undersigned parties have determined that this Agreement satisfies the requirements of, and is consistent, with 23 Code of Federal Regulations 450.310, 450.312, 450.316 and 450.318 and Section 339.175(9)(a), Florida Statutes; and

WHEREAS, the parties to this Agreement desire to participate cooperatively in the performance, on a continuing basis, of a coordinated, comprehensive transportation planning process to assure that highway facilities, mass transit, rail systems, air transportation and other facilities will be properly located and developed in relation to the overall plan of community development.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representation herein, the parties desiring to be legally bound, do agree as follows:

ARTICLE 1 RECITALS; DEFINITIONS

Section 1.01. Recitals. Each and all of the foregoing recitals are incorporated herein and acknowledged to be true and correct. Failure of any of the foregoing recitals to be true and correct shall not operate to invalidate this Agreement.

Section 1.02. Definitions. The following words when used in this Agreement (unless the context shall clearly indicate the contrary) shall have the following meanings:

Agreement means and refers to this instrument, as amended from time to time.

Corridor or Subarea Study shall mean and refer to studies involving major investment decisions or as otherwise identified in 23 Code of Federal Regulations 450.316 and 450.318.

Department shall mean and refer to the Florida Department of Transportation, an agency of the State of Florida, created pursuant to Section 20.23, Florida Statutes.

FHWA means and refers to the Federal Highway Administration.

Long Range Transportation Plan is at a minimum a 20-year plan which: identifies transportation facilities and; includes a financial plan that demonstrates how the plan can be implemented and assesses capital improvements necessary to preserve the existing metropolitan transportation system and make efficient use of existing transportation facilities and; indicates proposed transportation enhancement activities; all as required by 23 United States Code 134(g), 23 Code of Federal Regulations 450.322 and Section 339.175(6), Florida Statutes.

Metropolitan Area means and refers to the planning area as determined by agreement between the MTPO and the Governor in the urbanized areas designated by the United States Bureau of the Census as described in 23 United States Code 134(b)(1) and Section 339.175, Florida Statutes, which shall be subject to the MTPO's planning authority.

MTPO means and refers to the MTPO formed pursuant to the Interlocal Agreement dated May 26, 2004 as amended or superseded from time to time.

Council means and refers to the North Central Florida Regional Planning Council created pursuant to Section 186.504, Florida Statutes, and established to operate under its Organization Policies.

TIP is the staged multi-year program of transportation improvement projects developed by the MTPO consistent with the Long-Range Transportation Plan and developed pursuant to Title 23 United States Code 134(h), 49 United States Code 5304, 23 Code of Federal Regulations 450.324 and Section 339.175, Florida Statutes.

Unified Planning Work Program is the annual program, developed in cooperation with the Department and public transportation providers, that lists all planning tasks to be undertaken during a program year, with a complete description thereof and an estimated budget, all as required by 23 Code of Federal Regulations 420, Subpart A, and Section 450.314, and Section 339.175(8), Florida Statutes.

ARTICLE 2 PURPOSE

Section 2.01. Coordination with public transit operators. As set forth in Article 3 of this Agreement, the purpose of this Agreement is to provide for cooperation with the Department, the City, the Authority, and the MTPO in the development and preparation of the Unified Planning Work Program, the TIP, the Long-Range Transportation Plan, and any applicable Corridor or Subarea Studies.

Section 2.02. Intergovernmental coordination. As set forth in Article 4 of this Agreement, the purpose of this Agreement is to provide a process through the Council for intergovernmental coordination and review and identification of inconsistencies between proposed MTPO transportation plans and local government comprehensive plans adopted pursuant to Chapter 163, Florida Statutes, and approved by the Florida Department of Community Affairs.

Section 2.03. Dispute resolution. As set forth in Article 5 of this Agreement, the purpose of this Agreement is to provide a process for conflict and dispute resolution through the Council.

ARTICLE 3
COOPERATIVE PROCEDURES FOR PLANNING AND PROGRAMMING
WITH OPERATORS OF PUBLIC TRANSPORTATION SYSTEMS

Section 3.01. Cooperation with operators of public transportation systems: coordination with local government approved comprehensive plans.

(a) The MTPO shall cooperate with the City, the Authority and the Department to optimize the planning and programming of an integrated and balanced intermodal transportation system for the Metropolitan Area.

(b) The MTPO shall implement a continuing, cooperative, and comprehensive transportation planning process that is consistent, to the maximum extent feasible, with aviation master plans, and public transit development plans of the units of local governments whose boundaries are within the Metropolitan Area.

(c) The MTPO shall ensure that representatives of transit agencies and airports within the Metropolitan Area are provided membership on the MTPO's Technical Advisory Committee.

Section 3.02. Preparation of transportation related plans.

(a) Although the adoption or approval of the Unified Planning Work Program, the TIP, and the Long-Range Transportation Plan is the responsibility of the MTPO, development of such plans or programs shall be viewed as a cooperative effort involving the Department, the City, and the Authority. In developing its plans and programs, the MTPO shall solicit the comments and recommendations of the parties to this Agreement in the preparation of such plans and programs.

(b) At the commencement of the process of preparing the Unified Planning Work Program, the TIP, or the Long-Range Transportation Plan, or preparing other than a minor amendment thereto (as determined by the MTPO), the MTPO shall extend notice to the Department, the City, and the Authority advising the scope of the work to be undertaken and inviting comment and participation in the development process. The MTPO shall ensure that the chief operating officials of the Department, the City, and the Authority shall receive approximate 15 days written formal notice of all public workshops and hearings relating to the development of such plans and programs. It is stipulated by the parties to this Agreement that the failure by the MTPO to properly extend written or other notice shall not invalidate, or be lodged as a claim to invalidate, the adoption of the aforementioned plans and programs.

(c) Local government comprehensive plans.

(1) In developing the TIP, Long-Range Transportation Plan, or a Corridor or Subarea Studies, or preparing other than a minor amendment thereto (as determined by the

MTPO), the MTPO, the City and the Authority shall analyze for each local government in the Metropolitan Area: (i) the comprehensive plan future land use elements; (ii) the goals, objectives, and policies of the comprehensive plans; and (iii) the zoning regulations of each of the local governments in the Metropolitan Area. Based upon the foregoing review and a consideration of other growth management factors, the MTPO, the City and the Authority shall provide written recommendations to local governments in the Metropolitan Area in the development, amendment, and implementation of their comprehensive plans and zoning regulations. A copy of the recommendations shall be sent to the Council.

(2) The MTPO agrees that, to the maximum extent feasible, the Long-Range Transportation Plan and the project and project phases within the TIP shall be consistent with the future land use element and goals, objectives, and policies of the comprehensive plans of local government in the Metropolitan Area. If the MTPO's TIP is inconsistent with a local government comprehensive plan, the MTPO shall so indicate, and the MTPO shall present, as part of the TIP, justification for including the project in the program.

(d) Multi-modal transportation agency plans.

(1) In developing the TIP, Long-Range Transportation Plan, or a Corridor or Subarea Studies, or preparing other than a minor amendment thereto (as determined by the MTPO), the MTPO shall analyze the affected master plans and comprehensive plans of the City and Authority. Based upon the foregoing review and a consideration of other transportation-related factors, the MTPO, shall from time to time and as appropriate, provide recommendations to the parties to this Agreement as well as local governments within the Metropolitan Area, for the development, amendment, and implementation of their master, development, or comprehensive plans.

(2) In developing or revising their respective master or development plans, the parties to this Agreement shall analyze the draft or approved Unified Planning Work Program, TIP, Long-Range Transportation Plan, or Corridor and Subarea Studies, or amendments thereto. Based upon the foregoing review and a consideration of other transportation-related factors, the parties to this Agreement shall from time to time and as appropriate, provide written recommendations to the MTPO with regard to development, amendment, and implementation of the plans, programs, and studies.

(3) The MTPO agrees that, to the maximum extent feasible, the TIP shall be consistent with the affected master plans and development plans of the parties to this Agreement.

(e) By letter agreement to be executed by the MTPO and the affected Authority and public transit providers represented by MTPO members, the MTPO and the affected agency or authority shall mutually develop a process for planning coordination, forwarding recommendations, and project programming consistency to be referred to as the letter agreement. The parties to this letter agreement agree that the MTPO need only include in the TIP those state-funded airport projects that directly relate to surface transportation activities. The process agreed to in the letter agreement shall provide flexible deadlines for inter-agency comment on affected plans referenced in this section. This Agreement will be amended pursuant to Section

6.02 to incorporate this letter agreement. The signatories to the letter agreement may revise or terminate the letter agreement upon 30 days written notice to all other parties to this letter agreement but without approval of other parties hereto.

ARTICLE 4 INTERGOVERNMENTAL COORDINATION AND REVIEW

Section 4.01. Coordination with Council. The Council shall perform the following tasks:

(a) Within 30 days of receipt, review the draft of the proposed TIP, Long-Range Transportation Plan, Corridor and Subarea Studies, or amendments thereto, as requested by the MTPO, to identify inconsistencies between the foregoing plans and programs and applicable local government comprehensive plans adopted pursuant to Chapter 163, Florida Statutes, for counties and cities within the Metropolitan Area and the adopted Strategic Regional Policy Plan.

(1) The parties hereto recognize that, pursuant to Florida law, the Long-Range Transportation Plan of the MTPO must be considered by cities and counties within the Metropolitan Area in the preparation, amendment, and update/revision of their comprehensive plans. Further, the Long-Range Transportation Plan and the projects and project phases within the TIP are to be consistent with the future land use element and goals, objectives, and policies of the comprehensive plans of local governments in the Metropolitan Area to the maximum extent feasible. Therefore, promptly upon completion of its review of the draft proposal, the Council shall advise the MTPO and each affected county or city of its findings;

(2) If, after completing its review of the draft proposal, the Council deems that the plans or programs submitted are not acceptable, the Council shall promptly advise the MTPO in writing of its concerns and identify those portions of the submittals which need to be reevaluated and potentially modified; and

(3) Upon final adoption of the proposed TIP, Long-Range Transportation Plan, Corridor and Subarea Studies, or amendment thereto, the MTPO may request that the Council consider adoption of regional transportation goals, objectives, and policies in the Strategic Regional Policy Plan implementing the adopted TIP, Long-Range Transportation Plan, Corridor and Subarea Studies, or amendments thereto. If the proposed plan, program, or study, or amendments thereto, was the subject of previous adverse comment by the Council, the MTPO will identify the change in the final adopted plan intended to resolve the adverse comment, or alternatively, the MTPO shall identify the reason for not amending the plan as suggested by the Council.

(b) The Council and MTPO agree to use the conflict and dispute resolution process as set forth in Article 5 below.

ARTICLE 5
CONFLICT AND DISPUTE RESOLUTION PROCESS

Section 5.01. Disputes and conflicts under this Agreement. This process shall apply to conflicts and disputes relating to matters subject to this Agreement, or conflicts arising from the performance of this Agreement. Except as otherwise provided in this Article 5, only representatives of the agencies with conflicts or disputes shall engage in conflict resolution.

Section 5.02. Remedies. The parties may seek to resolve their dispute by the informal dispute resolution procedures of the Council as set forth in Chapter 29C-8, Florida Administrative Code, or by mediation or such other procedures as mutually agreed to by all the parties. In the event the parties are unable to resolve the dispute, the parties shall retain their right to all available administrative and/or judicial remedies.

ARTICLE 6
MISCELLANEOUS PROVISION

Section 6.01. Constitutional or statutory duties and responsibilities of parties. This Agreement shall not be construed to authorize the delegation of the constitutional or statutory duties of any of the parties. In addition, this Agreement does not relieve any of the parties of an obligation or responsibility imposed upon them by law, except to the extent of actual and timely performance thereof by one or more of the parties to this Agreement or any legal or administrative entity created or authorized by this Agreement, in which case this performance may be offered in satisfaction of the obligation or responsibility.

Section 6.02. Amendment of Agreement. Amendments or modifications of this Agreement may only be made by written agreement signed by all parties hereto with the same formalities as the original Agreement.

Section 6.03. Duration; withdrawal procedure.

(a) Duration. This Agreement shall have a term of five years and shall automatically renew at the end of said five years for another five year term and every five years thereafter. At the end of the first five year term and at least every five years thereafter, the parties hereto shall examine the terms hereof and agree to amend the provisions or reaffirm the same. However, the failure to amend or to reaffirm the terms of this Agreement shall not invalidate or otherwise terminate this Agreement.

(b) Withdrawal procedure. Any party may withdraw from this Agreement after presenting in written form a notice of intent to withdraw to the other parties to this Agreement and the MTPO, at least 90 days prior to the intended date of withdrawal; provided, that financial commitments made prior to withdrawal are effective and binding for their full term and amount regardless of withdrawal.

Section 6.04. Notices. All notices, demands and correspondence required or provided for

under this Agreement shall be in writing and delivered in person or dispatched by certified mail, postage prepaid, return receipt requested. Notice is required to be given and shall be addressed as follows:

North Central Florida Regional Planning Council
2009 NW 67th Place, Suite A
Gainesville, FL 32653-1603

Metropolitan Transportation Planning Organization for the Gainesville Urbanized Area
2009 NW 67th Place, Suite A
Gainesville, FL 32653-1603

Florida Department of Transportation, District 2
1109 South Marion Avenue, Mail Station 2000
Lake City, FL 32025-5874

City of Gainesville
P.O. Box 490
Gainesville, FL 32602

Gainesville-Alachua County Regional Airport Authority
3880 NE 39th Avenue, Suite A
Gainesville, FL 32609

A party may unilaterally change its address or addressee by giving notice in writing to the other parties as provided in this section. Thereafter, notices, demands and other pertinent correspondence shall be addressed and transmitted to the new address.

Section 6.05. Interpretation.

(a) Drafters of Agreement. All parties hereto were each represented by, or afforded the opportunity for representation by legal counsel, and participated in the drafting of this Agreement and in the choice of wording. Consequently, no provision hereof should be more strongly construed against any party as drafter of this Agreement.

(b) Severability. Invalidation of any one of the provisions of this Agreement or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment, court order, or administrative hearing or order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect; provided, that such remainder would then continue to conform to the terms and requirements of applicable law.

(c) Rules of construction. In interpreting this Agreement, the following rules of construction shall apply unless the context indicates otherwise:

- (1) The singular of any word or term includes the plural;
- (2) The masculine gender includes the feminine gender; and
- (3) The word "shall" is mandatory, and "may" is permissive.

Section 6.06. Attorney's Fees. In the event of any judicial or administrative action to enforce or interpret this Agreement by any party hereto, each party shall bear its own attorney's fees in connection with such proceeding.

Section 6.07. Agreement execution; use of counterpart signature pages. This Agreement, and any amendments hereto, may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

Section 6.08. Effective date. This Agreement shall become effective upon its execution by all parties hereto.

Section 6.09. Other authority. In the event that any election, referendum, approval, permit, notice, or other proceeding or authorization is required under applicable law to enable the parties to enter into this Agreement or to undertake the provisions set forth hereunder, or to observe, assume or carry out any of the provisions of the Agreement, said parties will initiate and consummate, as provided by law, all actions necessary with respect to any such matters for required.

Section 6.10. Parties not obligated to third parties. No party hereto shall be obligated or liable hereunder to any party not a signatory to this Agreement. There are no express or intended third party beneficiaries to this Agreement.

Section 6.11. Rights and remedies not waived. In no event shall the making by the Department of any payment to the MTPO constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the MTPO, and the making of any such payment by the Department while any such breach or default exists shall in no way impair or prejudice any right or remedy available to the Department in respect of such breach or default.

IN WITNESS WHEREOF, the undersigned parties have executed this Joint Participation Agreement on behalf of the referenced legal entities on the date as first above written.

Signed, Sealed, and Delivered in the presence of:

ATTEST:



ATTEST:



ATTEST:



ATTEST:



ATTEST:



METROPOLITAN TRANSPORTATION PLANNING ORGANIZATION FOR THE GAINESVILLE URBANIZED AREA

By:

Chair

APPROVED AS TO FORM LEGALITY

David Schwartz, MTPO Attorney

FLORIDA DEPARTMENT OF TRANSPORTATION

By:

District 2 Secretary

APPROVED AS TO FORM LEGALITY

FDOT District 2 Attorney

NORTH CENTRAL FLORIDA REGIONAL PLANNING COUNCIL

By:

Chair

APPROVED AS TO FORM LEGALITY

Jonathan Wershow, Council Attorney

GAINESVILLE-ALACHUA COUNTY REGIONAL AIRPORT AUTHORITY

By:

Chair

APPROVED AS TO FORM LEGALITY

Authority Attorney

CITY COMMISSION GAINESVILLE, FLORIDA

By:

Mayor

APPROVED AS TO FORM LEGALITY

Marion Radtson, City Attorney