

TREASURE COAST REGIONAL PLANNING COUNCIL

MEMORANDUM

To: Council Members AGENDA ITEM 8D
From: Staff
Date: May 20, 2016 Council Meeting
Subject: Interlocal Coordination and Review and Public Transportation Coordination Joint Participation Agreement with Martin Metropolitan Planning Organization

Introduction

As a condition of receiving federal funding for capital improvements and operating assistance, each Metropolitan Planning Organization (MPO) is required to execute and maintain cooperative agreements with regional coordination and review agencies. One of Council's primary purposes as described in Florida Statutes and in the Interlocal Agreement creating the Council, is intergovernmental coordination and review. Council is federally recognized as an organization to be included in intergovernmental coordination agreements with MPOs.

Council is a signatory to an existing cooperative agreement with the Martin MPO. The new agreement includes updated language to reflect changes in federal and state laws governing MPOs (Attachment 1). Council's responsibilities remain the same under this proposed agreement: 1) to assist MPOs in their long-range transportation planning processes; 2) to provide a process through the Council for intergovernmental coordination and review and identification of inconsistencies between proposed MPO transportation plans and local government and regional comprehensive plans; and 3) to provide a process for conflict and dispute resolution through the Council.

Recommendation

Council should authorize the Executive Director in consultation with Council's attorney to execute the Interlocal Agreement with the Martin Metropolitan Planning Organization.

Attachment

ATTACHMENT 1

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**INTERGOVERNMENTAL COORDINATION AND REVIEW
AND
PUBLIC TRANSPORTATION COORDINATION
JOINT PARTICIPATION AGREEMENT**

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THIS JOINT PARTICIPATION AGREEMENT is made and entered into on this ____ day of _____, 2016, by and between the FLORIDA DEPARTMENT OF TRANSPORTATION (hereafter FDOT); the MARTIN METROPOLITAN PLANNING ORGANIZATION (hereafter MPO); the TREASURE COAST REGIONAL PLANNING COUNCIL (hereafter TCRPC); and the MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS (hereafter BOCC).

RECITALS

WHEREAS, the Federal Government, under the authority of Title 23 United States Code Section 134 and Title 49 United States Code (USC) Section 5303 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 urbanized areas to develop and implement plans and programs consistent with the comprehensively planned development of the metropolitan area;

WHEREAS, Title 23 USC §134, Title 49 USC §5303, and Section 339.175, Florida Statutes (F.S.), provide for the creation of metropolitan planning organizations to develop transportation plans and programs for urbanized areas;

WHEREAS, Title 23 Code of Federal Regulations (CFR) §450 requires that the State, the Metropolitan Planning Organization, 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 multimodal, systems-level corridor and subarea planning studies pursuant to Title 23 CFR §450 and programming;

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

WHEREAS, pursuant to 23 USC §134, 49 USC §5303, 23 CFR §450, and Section 339.175 F.S., the Martin Metropolitan Planning Organization, herein after referred to as the Metropolitan Planning Organization or MPO, 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 Metropolitan Planning Organization;

WHEREAS, pursuant to the Interlocal Agreement executed on May 14, 1993, and filed with the Clerk of the Circuit Court of Martin County the MPO was established;

WHEREAS, pursuant to Chapter 125 and 163, Laws of Florida, the BOCC was created and established with the purpose of certain powers and duties relative to airports and transit within Martin County;

WHEREAS, pursuant to Section 339.175 F.S., the MPO shall execute and maintain an agreement with the metropolitan and regional intergovernmental coordination and review agencies serving the Metropolitan Planning Area;

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WHEREAS, the 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 Planning Area;

WHEREAS, pursuant to Section 186.504 and 186.505, F.S., and the 2006 Amended and Restated Interlocal Agreement creating the Treasure Coast Regional Planning Council, herein after referred to as the Regional Planning Council or the RPC, was established and operates with a primary purpose of intergovernmental coordination and review;

WHEREAS, pursuant to Section 186.505, F.S., the RPC 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, F.S.;

WHEREAS, the RPC, pursuant to Section 186.507, F.S., 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 RPC 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 RPC is appropriately situated to assist in the intergovernmental coordination of the transportation planning process;

WHEREAS, pursuant to Section 186.504 and 186.505, F.S., and the 2006 Amended and Restated Interlocal Agreement creating the RPC 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 can be useful in resolving conflicts and disputes arising in the transportation planning process;

WHEREAS, pursuant to Title 23 CFR §450 and Section 339.175, F.S., the MPO must execute and maintain an agreement with the operators of public transportation systems, including transit systems, commuter rail systems, airports, seaports, and spaceports, describing the means by which activities will be coordinated and specifying how public transit, commuter rail, aviation, and seaport planning (including multimodal, systems-level corridor and subarea planning studies pursuant to 23 CFR §450) and programming will be part of the comprehensively planned development of the Metropolitan Planning Area;

WHEREAS, it is in the public interest that the MPO, 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 this Metropolitan Planning Area;

WHEREAS, the undersigned parties have determined that this Agreement satisfies the requirements of and is consistent with Title 23 CFR §450 and Section 339.175 F.S.; and

WHEREAS, the parties to this Agreement desire to participate cooperatively in the performance, on a continuing basis, of a cooperative, and comprehensive transportation planning

process to assure that highway facilities, transit systems, bicycle and pedestrian facilities, rail systems, air transportation and other facilities will be 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 may be amended from time to time.

Corridor or Subarea Study shall mean and refer to studies involving major investment decisions or as otherwise identified in Title 23 CFR §450.

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

FHWA means and refers to the Federal Highway Administration.

Long Range Transportation Plan is the 20-year transportation planning horizon which identifies transportation facilities; 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; indicates proposed transportation activities; and, in ozone/carbon monoxide nonattainment areas is coordinated with the State Implementation Plan, all as required by Title 23 USC §134, Title 49 USC §5303, Title 23 CFR §450, and Section 339, F.S.

Metropolitan Planning Area means and refers to the planning area as determined by agreement between the MPO and the Governor for the urbanized areas designated by the United States Bureau of the Census as described in 23 USC §134, 49 USC §5303, and Section 339.175, F.S., and including the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period, which shall be subject to the Metropolitan Planning Organization's planning authority.

Metropolitan Planning Organization (MPO) means and refers to the Metropolitan Planning Organization formed pursuant to this Interlocal Agreement as described in Title 23 USC §134, Title 49 USC §5303, and Section 339.175, F.S. This may also be referred to as a Transportation Planning Organization (TPO).

Regional Planning Council means and refers to the Treasure Coast Regional Planning Council created pursuant to Section 186.504 and 186.505, F.S., and the 2006 Amended and Restated Interlocal Agreement.

Transportation Improvement Program (TIP) is the staged multi-year program of transportation improvement projects developed by a metropolitan planning organization consistent with the Long Range Transportation Plan, developed pursuant to Titles 23 USC §134, 49 USC §5303, 23 CFR §450 and Section 339.175, F.S.

Unified Planning Work Program (UPWP) is a biennial program developed in cooperation with the Department and public transportation providers, that identifies the planning priorities and activities to be carried out within a metropolitan planning area to be undertaken during a 2-year period, together with a complete description thereof and an estimated budget, as required by Title 23 CFR §450, and Section 339.175, F.S.

ARTICLE 2

PURPOSE

Section 2.01. Coordination with public transportation system operators. This Agreement is to provide for cooperation between the MPO, the Department, and the operator of the public transportation systems, i.e. the BOCC, in the development and preparation of the UPWP, the TIP, the LRTP, and any applicable Corridor or Subarea Studies.

Section 2.02. Intergovernmental coordination; Regional Planning Council. Further, this Agreement is to provide a process through the RPC for intergovernmental coordination and review and identification of inconsistencies between proposed MPO transportation plans and local government comprehensive plans adopted pursuant to Chapter 163, F.S., and reviewed by the Division of Community Development within the Florida Department of Economic Opportunity.

Section 2.03. Dispute resolution. This Agreement also provides a process for conflict and dispute resolution through the RPC.

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 MPO shall cooperate with the operator of the public transportation systems, i.e. the BOCC, to optimize the planning and programming of an integrated and balanced intermodal transportation system for the Metropolitan Planning Area.
- (b) The MPO shall implement a continuing, cooperative, and comprehensive transportation planning process that is consistent, to the maximum extent feasible, with port and aviation master plans, and public transit development plans of the units of local governments whose boundaries are within the Metropolitan Planning Area.
- (c) As a means towards achievement of the goals in paragraphs (a) and (b) and in an effort to coordinate intermodal transportation planning and programming, the MPO may include, but shall include no later than July 6, 2014 if within a transportation management area, as part of its membership officials of agencies that administer or operate major modes or systems of transportation, including but not limited to transit operators, sponsors of major local airports, maritime ports, and rail operators per

Federal regulations. The representatives of the major modes or systems of transportation may be accorded voting or non-voting advisor status. In the Metropolitan Planning Area if authorities or agencies are created by law to perform transportation functions and that are not under the jurisdiction of a general purpose local government represented on the MPO, the MPO may request the Governor to designate said authority or agency as a voting member of the MPO in accordance with the requirements of Section 339.175, F.S. If the new member would significantly alter local government representation in the MPO, the MPO shall propose a revised apportionment plan to the Governor to ensure voting membership on the MPO to be an elected official representing public transit authorities which have been, or may be, created by law.

The MPO shall ensure that representatives of ports, transit authorities, rail authorities, and airports within the Metropolitan Planning Area are provided membership on the MPO Technical Advisory Committee.

Section 3.02. Preparation of transportation related plans.

- (a) Although the adoption or approval of the UPWP, the TIP, and the LRTP is the responsibility of the MPO, development of such plans or programs shall be viewed as a cooperative effort involving the Department and the operator of the public transportation systems, i.e. the BOCC. In developing its plans and programs, the MPO shall solicit the comments and recommendations of the parties to this Agreement in the preparation of such plans and programs.
- (b) When preparing the UPWP, the TIP, or the LRTP, or preparing other than a minor amendment thereto (as determined by the MPO), the MPO shall provide notice to the Department and the operator of the public transportation systems, i.e. the BOCC, advising them of the scope of the work to be undertaken and inviting comment and participation in the development process. The MPO shall ensure that the chief operating officials of the Department and the operator of the public transportation systems, i.e. the BOCC, shall receive at least 15 days written notice of all public workshops and hearings, or specified number of days per MPO bylaws, or public participation plan, relating to the development of such plans and programs.
- (c) Local government comprehensive plans.
 - (1) In developing the TIP, the LRTP, or Corridor or Subarea studies, or preparing other than a minor amendment thereto (as determined by the MPO), the MPO and the operator of the public transportation systems, i.e. the BOCC, shall analyze for each local government in the Metropolitan Planning Area:
 - (i) each comprehensive plan's future land use element;
 - (ii) the goals, objectives, and policies of each comprehensive plan; and
 - (iii) the zoning, of each local government in the Metropolitan Planning Area.
 - (2) Based upon the foregoing review and a consideration of other growth management factors, the MPO and the operator of the public transportation systems, i.e. the BOCC, shall provide written recommendations to local governments in the Metropolitan Planning Area in the development, amendment, and implementation of

their comprehensive plans. A copy of the recommendations shall be sent to the RPC.

- (3) The MPO agrees that, to the maximum extent feasible, the LRTP and the projects and project-phases within the TIP shall be consistent with the future land use element and goals, objectives, and policies of each comprehensive plan of the local governments in the Metropolitan Planning Area. If the MPO's TIP is inconsistent with a local government's comprehensive plan, the MPO shall so indicate, and the MPO 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, the LRTP, or Corridor or Subarea studies, or preparing other than a minor amendment thereto (as determined by the MPO), the MPO shall analyze the Airport Master Plan, the Transit Development Plan, and BOCC master or development plans. Based upon the foregoing review and a consideration of other transportation-related factors, the MPO, shall from time to time and as appropriate, provide recommendations to the parties to this Agreement as well as local governments within the Metropolitan Planning Area, for the development, amendment, and implementation of their master, development, or comprehensive plans.
 - (2) In developing or revising their respective master, development, or comprehensive plans, the parties to this Agreement shall analyze the draft or approved Unified Planning Work Program, Transportation Improvement Program, Long Range Transportation Plan, or Corridor or 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 MPO with regard to development, amendment, and implementation of the plans, programs, and studies.
 - (3) The MPO agrees that, to the maximum extent feasible, the Transportation Improvement Program shall be consistent with the affected master plans and development plans of the parties to this Agreement.

ARTICLE 4

INTERGOVERNMENTAL COORDINATION AND REVIEW

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

- (a) Within 30 days of receipt, the RPC shall review the draft TIP, LRTP, Corridor and Subarea studies, or amendments thereto, as requested by the MPO, to identify inconsistencies between these plans and programs and applicable local government comprehensive plans adopted pursuant to Chapter 163, F.S., for counties and cities within the Metropolitan Planning Area and the adopted Strategic Regional Policy Plan.
 - (1) The parties recognize that, pursuant to Florida law, the LRTP and the TIP of the MPO must be considered by cities and counties within the Metropolitan Planning Area in the preparation, amendment, and update/revision of their comprehensive plans. Further, the LRTP 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 Planning Area. Upon completion of its review of a draft TIP or LRTP, the RPC shall advise the MPO and each county or city of its findings;

- (2) The RPC shall advise the MPO in writing of its concerns and identify those portions of the submittals which need to be reevaluated and potentially modified if the RPC review identifies inconsistencies between the draft TIP or LRTP and local comprehensive plans; and
 - (3) Upon final adoption of the proposed Transportation Improvement Program, Long Range Transportation Plan, Corridor and Subarea studies, or amendments thereto, the MPO may request that the RPC consider adoption of regional transportation goals, objectives, and policies in the Strategic Regional Policy Plan implementing the adopted Transportation Improvement Program, 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 RPC, the MPO will identify the change in the final adopted plan intended to resolve the adverse comment, or alternatively, the MPO shall identify the reason for not amending the plan as suggested by the RPC.
- (b) Provide the availability of 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. Initial resolution. The affected parties to this Agreement shall, at a minimum, ensure the attempted early resolution of conflicts relating to such matters. Early resolution shall be handled by direct discussion between the following officials:
- Florida Department of Transportation: District Director for Planning and Programs
 - Martin MPO: MPO Administrator
 - TCRPC: TCRPC Executive Director
 - BOCC: Martin County Engineering Department Director
- Section 5.03. Resolution by senior agency official. If the conflict remains unresolved, the conflict shall be resolved by the following officials:
- Florida Department of Transportation: District Secretary

Martin MPO: MPO Administrator
TCRPC: TCRPC Executive Director
BOCC: Martin County Administrator

Section 5.04. Resolution by the Office of the Governor. If the conflict is not resolved through conflict resolution pursuant to Sections 5.02, 5.03, and 5.04 of this Agreement, the parties shall petition the Executive Office of the Governor for resolution of the conflict pursuant to its procedures. Resolution of the conflict by the Executive Office of the Governor shall be binding on all parties.

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 (5) years and the parties hereto shall examine the terms hereof and agree to amend the provisions or reaffirm the same in a timely manner. 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 MPO, 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:

Florida Department of Transportation, District 4

3400 West Commercial Boulevard
Fort Lauderdale, FL 33309-3421

Martin County Board of County Commissioners
County Administrative Center
2401 SE Monterey Road
Stuart, FL 34996

Martin Metropolitan Planning Organization
County Administrative Center
2401 SE Monterey Road
Stuart, FL 34996

Treasure Coast Regional Planning Council
421 SW Camden Avenue
Stuart, FL 34994

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 costs and 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 recording 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 as required.
- Section 6.10. Parties not obligated to third parties. No party hereto shall be obligated or be 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 MPO 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 MPO, 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.
- Section 6.12. Data, records, reports and other documents. Subject to the right to claim an exemption from the Florida Public Records Law, Chapter 119, F.S., the parties shall provide to each other such data, reports, records, contracts, and other documents in its possession relating to the MPO as is requested. Charges are to be in accordance with Chapter 119, F.S.

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

Signed, Sealed, and Delivered in the presence of:

FLORIDA DEPARTMENT OF TRANSPORTATION

BY: _____
Gerry O'Reilly
District Four Secretary

Approved as to form and correctness:

Witness: _____

District Four General Counsel

TREASURE COAST REGIONAL PLANNING COUNCIL

BY: _____
MICHAEL BUSHA, EXECUTIVE DIRECTOR

Witness

Witness

**BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**

BY: _____
ANNE SCOTT, CHAIR

Approved as to Form and Legal Sufficiency:

Witness: _____

Michael D. Durham
County Attorney

MARTIN METROPOLITAN PLANNING ORGANIZATION

BY: _____
TROY MCDONALD, CHAIR

Approved as to Form and Legal Sufficiency:

Witness: _____
Beth Beltran, MPO Administrator

Michael D. Durham
County Attorney