

**INTERLOCAL AGREEMENT FOR
ADMINISTRATIVE SERVICES AND FACILITIES**

THIS INTERLOCAL AGREEMENT FOR ADMINISTRATIVE SERVICES AND FACILITIES (this "Agreement"), dated as of January 1, 2004, between the Jacksonville Transportation Authority, a body politic and corporate and an agency of the State of Florida (the "JTA"), and the First Coast Metropolitan Planning Organization (formerly, the Metropolitan Planning Organization for the Jacksonville Urbanized Area) (the "MPO").

WITNESSETH

WHEREAS, Section 339.175(1), Florida Statutes, provides for the designation of a metropolitan planning organization for each urbanized area of the state and the creation and operation of such metropolitan planning organizations pursuant to an interlocal agreement entered into pursuant to Section 163.01, Florida Statutes;

WHEREAS, such metropolitan planning organization has been designated pursuant to that certain Interlocal Agreement dated March 13, 1978 by and among the Florida Department of Transportation, the Clay County Board of County Commission, the St. Johns County Board of County Commission, the Jacksonville Area Planning Board and the Jacksonville Transportation Authority (the "Interlocal Agreement");

WHEREAS, pursuant to the Interlocal Agreement, the MPO has been designated as the metropolitan planning organization for the Jacksonville and St. Augustine urbanized areas, which includes all of Duval County and portions of Clay and St. Johns Counties (the Jacksonville and St. Augustine Urbanized Areas and the surrounding area expected to be urbanized over the next twenty year, collectively the "Urban Area") and is a legally independent governmental entity with the authority to contract with local and state agencies and other public entities, including but not limited to the JTA, for the provision of certain services;

WHEREAS, the MPO wishes to obtain certain support and facilities services from the JTA to assist the MPO staff in managing the continuing, cooperative, and comprehensive transportation planning process mandated by state and federal law and is authorized by Sections 339.175(5)(g) and 163.01, Florida Statutes, to contract with the JTA for same; and

WHEREAS, the JTA has the authority to enter into said Agreement and to provide the services hereinafter described;

WHEREAS, it is declared to be the purpose of this Agreement to define the services to be provided to the MPO by the JTA and to fix the compensation to the JTA for such services;

NOW, THEREFORE, in consideration of the promises and mutual covenants and

undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto to hereby agree as follows:

1. MPO STAFFING SERVICES

The MPO shall appoint an Executive Director for the MPO (the "Executive Director"). The Executive Director shall employ such staff as deemed necessary to carry out the functions of the MPO. The JTA shall provide to the MPO staffing services as provided below:

- (a) The JTA shall provide payroll and employment services for the staff of the MPO, which shall include (a) record-keeping of hours worked, vacation earned, sick days, wages earned and paid, payroll taxes paid, and federal tax information, and (b) general human resource support (recruiting, record-keeping, review procedures and forms, and the like).
- (b) All direct and indirect costs (exclusive of JTA or JTM management and staff time and overhead, which are both recovered through the fee set forth in Section 4 below) are the sole responsibility of the MPO, payable monthly in arrears for all such costs incurred in the then-ending month.
- (c) In either alternative, such staff shall serve at the pleasure of the Executive Director of the MPO, and the JTA shall have no management or control over, or responsibility for such employees. Employment policies, including recruitment, retention, supervision, discipline and evaluation of MPO employees, shall be provided by the MPO, and the JTA may assist the MPO in developing and updating such policies. JTA's human resources and administrative staff shall be available to the MPO's Executive Director as needed to develop and maintain staffing service and other procedures. The MPO shall be permitted to participate in personnel-related training courses or programs, including drug testing, offered by the JTA.
- (d) The parties acknowledge and agree that certain staff of the MPO shall be covered by a separate agreement with respect to continuation of pension benefits under one or more pension benefit programs of the City of Jacksonville, Florida. The JTA services shall include only the processing and payment (at the sole cost of the MPO or the respective employee) of the employer and employee contributions to such plan(s), and the associated record-keeping with respect to such payments. Benefits under such plan(s) are the sole responsibility of the City of Jacksonville.

2. ADMINISTRATIVE SUPPORT SERVICES

The JTA will provide the following administrative support services to the MPO and the MPO staff to assist in managing the continuing, cooperative and comprehensive transportation planning process for the Urban Area:

- (a) The JTA shall establish and operate a cost center within the budgetary system of the JTA for the MPO and provide financial management of federal, state and local monies granted to the MPO in accordance with accepted accounting procedures. Such cost center shall include accounts payable and receivable, and shall be operated as a separate segregated fund with self-balancing accounts. The cost center accounting system shall be capable of providing monthly reconciliations to budget figures. Notwithstanding the foregoing, the parties agree that the MPO, as a distinct legal entity, shall bear the ultimate responsibility to ensure that all required financial reporting, including the filing of applicable tax returns, has been done, regardless of whether such functions are performed by the JTA staff and outside auditor, or privately.
- (b) The JTA shall provide technical support services to the MPO for procurement of all types in accordance with the JTA's purchasing policies.
- (c) The JTA use reasonable efforts to procure general liability insurance for the MPO and its operations, in amounts determined by the MPO and subject to such retentions as the MPO may direct. The cost of such insurance shall be paid or reimbursed by the MPO.
- (d) The JTA shall cause to be provided to the MPO information technology services to maintain the computer system described herein and to upgrade such system from time to time, as well as web-site hosting services and web-site updating from time to time. The initial set-up services and on-going maintenance for the computer system and the web-site shall be managed by the JTA and shall be billed to the MPO at the actual invoice amounts of the outside providers. In addition, any on-going maintenance, upgrades, service or repairs with respect to the telephone system provided pursuant to Section 3(d) below shall be billed to the MPO at the actual invoice amounts of the outside providers.
- (e) The JTA shall provide grant writing and such other services to the MPO on an as-requested basis and for such compensation as the parties shall agree.

3. FACILITIES AND FACILITIES SERVICES

The JTA shall lease to the MPO, and the MPO hereby leases from the JTA, the real property described on Exhibit A attached hereto (the "Facility"), for a term (including renewals) matching the term of this Agreement as set forth in Section 6, on the terms and conditions set forth below:

- (a) The JTA shall design and construct tenant improvements to the Facility adequate to provide to the MPO staff offices, reception area, rest room facilities, break room, and meeting rooms (to accommodate not less than 30 persons), and parking for up to 40 vehicles, in substantially the configuration shown on Exhibit B attached hereto. The Facility contains approximately 5,500 square feet of rentable area, which the parties agree shall be the figure used to compute base rent for the purposes of this Agreement. Facility features shall include a T-1 line or the equivalent to provide telephone and Internet services, and all offices, reception area and meeting space shall be wired for computer networking. The cost of such design and construction shall be borne by the JTA, up to a maximum amount of \$56,000; any costs associated with such design and construction in excess of such amount shall be paid (or reimbursed to the JTA) by the MPO within 30 days of receipt of an invoice from the JTA in respect thereof. In addition, the JTA shall make available to the MPO, on an as-available basis, the board room facility of the JTA for MPO Board meetings and functions, at no charge. The meeting room within the Facility shall be fitted with audio equipment adequate to record meetings and provide amplification for speakers at such meetings. Such construction shall be commenced upon execution and delivery by both parties of this Agreement, and shall use all reasonable efforts to complete such construction within 30 days of commencement. The JTA shall provide painted, unlit signage at the Facility as part of the construction budget, with the design therefor provided by the MPO. The construction costs paid by the JTA shall be deemed to be recovered through the monthly rental payments at the rate of \$1,000 per month, which is in addition to the base rent rate as described in subsection (b) below. Notwithstanding the early termination of this Agreement or any other terms set forth herein, in the event that this Agreement is terminated for any reason (other than by the JTA without cause) prior to the complete reimbursement to the JTA as set forth in this clause (a), the unreimbursed portion shall be immediately due and payable on such date of notice of termination, and shall bear interest from such date until paid in full at the rate of 6% per annum.

- (b) The MPO shall pay to the JTA base rent at the rate of \$10 per annum per square foot of gross rentable area of the Facility to be occupied by the MPO (i.e., 5,500 square feet), which rent shall payable monthly in advance commencing on the first day of the first calendar month of the term of the lease. In addition, the MPO shall pay all utilities, including electric, water, sewer, telephone, Internet and security, for the Facility monthly in arrears. The base rent rate shall be reviewed annually by the parties to determine if such rate is representative of market conditions for similar properties, taking into account all relevant factors.
- (c) The JTA shall provide, at no additional charge to the MPO, basic building maintenance, janitorial and security services.
- (d) In addition to the foregoing, the JTA shall provide (i) a fixed telephone system, with 15 handsets, (ii) a van-type vehicle accommodating up to 9 persons, (iii) a computer system consisting of a central server with operating system and tape back-up, networking hardware and software, 11 desk-top computers and 4 printers, configured and installed by the JTA (including an email system), (iv) 2 cell phones, and (v) a web-site and web-site hosting. All of the equipment and software referenced in this subsection (d) shall be purchased by the JTA, and the MPO shall reimburse the JTA on a monthly basis over the initial term of this Agreement, with an interest factor of 6% per annum. Any necessary outside labor charges for the installation and initial set-up of the foregoing shall be included in the reimbursable cost of the equipment. Notwithstanding the early termination of this Agreement or any other terms set forth herein, in the event that this Agreement is terminated for any reason prior to the complete reimbursement to the JTA as set forth in this clause (d), the unreimbursed portion shall be immediately due and payable on such date of notice of termination, and shall bear interest from such date until paid in full at the rate of 6% per annum.
- (e) In the event of condemnation or casualty loss to the Facility, the JTA shall use reasonable efforts to repair the Facility so that its use as provided hereunder may continue; provided however that if such cannot be accomplished within 120 days in the reasonable opinion of the JTA, then the JTA shall not be required to effect such repairs and the portions of this Agreement relating to the Facility shall be deemed to be null and void. During the time, if any, that the JTA is effecting such repairs, the JTA shall use reasonable efforts to secure other office space for the use of the MPO, at the expense of the MPO, and the rental obligations of the MPO hereunder shall be abated.

4. FEES AND ADVANCES

- (a) The JTA fee for the staffing and administrative support services described in Sections 1 and 2 above shall be \$50,000.00 for the first six months of the term of this Agreement. During such period, the parties shall review the resource requirements of the JTA necessary to the provision of such services and the Executive Directors of each party are hereby authorized to and shall negotiate a fee for such services for the balance of the initial term of this Agreement. In the event that the Executive Directors are unable to reach agreement, the JTA shall select a management consulting or accounting firm to analyze the resource requirements and to establish a fee structure for the balance of the initial term of this Agreement, to which the parties shall adhere.
- (b) The JTA shall, to the extent that adequate funds of the MPO are not available therefor, advance funds for the payment of the expenses of the MPO in accordance with the budget of the MPO provided to the JTA, subject to monthly reimbursement by the MPO. To the extent that reimbursement by the MPO of monthly advances from the JTA are not made on or before the first business day of each month in respect of advances made in the prior month, such un-reimbursed amount shall bear interest from the date due until the date paid in full at an annual rate equal to 6%. The JTA is authorized to enter into agreements with federal, state and local governmental units providing funding to metropolitan planning organizations to direct funding for the MPO to the JTA to be held and applied pursuant to the terms of this Agreement.
- (c) To secure such reimbursement obligation and the payment of fees to the JTA as provided herein (and the payment of rent and other amounts under Section 3 above), the MPO hereby grants to the JTA a first priority security interest in and to the gross revenues of the MPO.
- (d) Rent and other payment or reimbursement obligations of the MPO under Section 3 above are in addition to the payment obligations under this Section 4.
- (e) There shall be a late fee of 5% (but not in excess of \$250) for each payment owing by the MPO to the JTA hereunder which is not paid within 5 calendar days of the date due, which late fee is not a penalty but represents the estimated cost of processing late payments.

5. MPO OBLIGATIONS

All administrative support of the MPO's functions not expressly assigned to the JTA by the terms of this Agreement shall be provided by the MPO. Such matters include, but are not limited to, budgeting, travel policies, personnel policies, planning, studies, and other operational functions required of or permitted to the MPO under state or federal law. In addition, the MPO is responsible for obtaining and maintaining adequate funding to support its budget, including the payment of the fees, expenses and rents due hereunder. The MPO shall either maintain a funded reserve balance in an amount not less than one month's budgeted expenditures, or provide other evidence satisfactory to the JTA, to assure the ability of the MPO to meet its financial obligations to the JTA hereunder.

6. DURATION AND TERMINATION

This Agreement shall have an initial term of three years, commencing on January 1, 2004 and ending December 31, 2006. This Agreement is subject to renewal at the option of the MPO for two one-year renewal periods, provided that such renewal option is exercised (in each case) not less than six months prior to the then-upcoming termination date of this Agreement by written notice to the Executive Director of the JTA. The second renewal option may only be exercised if the first renewal option is exercised. Either party may terminate this Agreement at any time upon not less than two hundred-seventy days prior written notice to the other party. The JTA may terminate this Agreement upon thirty days written notice to the MPO of a default hereunder by the MPO if such default is not cured within such thirty day period. Upon termination of this Agreement for any reason, the JTA shall turn over to the MPO all records held by it with respect to this Agreement, and shall release all funds of the MPO then held by the JTA after application thereof to any outstanding amounts owed hereunder to the JTA. Thereupon, this Agreement shall be of no further continuing effect and the parties shall have no obligations to each other hereunder except those arising on or before the date of termination and as expressly provided otherwise in Section 3 above.

7. EFFECTIVE DATE

This Agreement shall be effective as of January 1, 2004, and either party is hereby authorized to file a fully executed copy of this Agreement with the Clerks of the Circuit Courts of Duval, Clay and St. Johns Counties, Florida, pursuant to Chapter 163, Part I, Florida Statutes.

8. MISCELLANEOUS

8.1. Incorporation by Reference: The "Whereas" recitals, at the beginning of this Agreement are true and correct and, by this reference, are made a part hereof and are incorporated herein. Similarly, all exhibits and other attachments to this agreement that are

referenced in this Agreement are, by this reference made a part hereof and are incorporated herein.

8.2. Governing State Law; Venue. The rights, obligations and remedies of the parties as specified under this Agreement shall be interpreted and governed in all aspects by the laws of the State of Florida. Should any provision of this Agreement be determined by the courts to be illegal or in conflict with any law of the State of Florida, the validity of the remaining provisions shall not be impaired. Venue for litigation of this Agreement shall be in courts of competent jurisdiction located in Jacksonville, Duval County, Florida.

8.3. Severability. If any term, provision or remedy of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each other term, provision or remedy of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

8.4. Article Headings. Article and section headings appearing herein are inserted for convenience or reference only and shall in no way be construed to be interpretations of text.

8.5. Construction. Both parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Therefore any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared this Agreement. The rule sometimes referred to as "*Fortius Contra Preferentum*" shall not be applied to the interpretation of this Agreement.

8.6. Entire Agreement/Amendments. This Agreement constitutes the entire agreement between the parties hereto. No statement, representation, writing, understanding, agreement, course of action or course of conduct, made by either party, or any representative of either party, which is not expressed herein shall be binding. All changes to, additions to, modifications of, or amendment to this Agreement, or any of the terms, provisions and conditions hereof, shall be binding only when in writing and signed by the authorized officer, agent or representative of each of the parties hereto.

IN WITNESS WHEREOF, the authorized representatives of the parties hereto have executed and delivered this Agreement as of the date first above written.

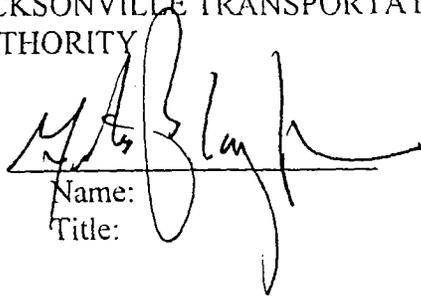
JACKSONVILLE TRANSPORTATION
AUTHORITY

ATTEST:

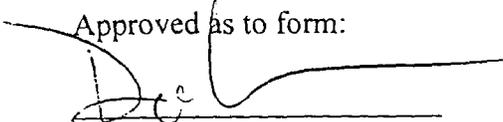
By: 

Print Name: MARI DOMINY

By:


Name:
Title:

Approved as to form:


JTA Counsel

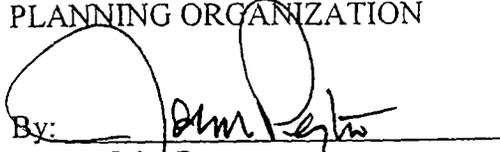
ATTEST:

By: 

Print Name: DENISE BUNKEWITZ

FIRST COAST METROPOLITAN
PLANNING ORGANIZATION

By:


John Peyton
Chairman