

*Mayor Susan Haynie*  
Chairperson

**Governing Board**

**Date:** Thursday, October 30, 2014  
**Time:** 3:00 p.m. – 6:00 p.m.  
**Location:** Orlando Airport Marriott Hotel, 7499 Augusta National Drive,  
Orlando, Florida 32822

**Mayor Susan Haynie, Chairperson, Presiding**

---

1. Call to Order and Pledge of Allegiance
2. Approval of Minutes: July 24, 2014
3. Public Comments
4. Executive Director's Report
5. Agency Reports
  - A. Florida Department of Transportation
  - B. Federal Highway Administration
6. Secretary's Initiative and Complete Streets
7. Florida Chamber of Commerce Activities
8. Pedestrian Safety Through Environmental Design
9. Communications
10. Member Comments
11. Adjourn

---

*Howard Glassman, Executive Director*

605 Suwannee Street, MS 28B · Tallahassee, Florida 32399-0450  
1-866-374-3368 x 4037 or 850-414-4037 · Fax 850-414-4895  
[www.mpoac.org](http://www.mpoac.org)

Any person who desires or decides to appeal any decision made by this Council with respect to any matter considered at this meeting will need a record of the proceedings. For such purposes, such person may need to ensure that a verbatim record of the proceedings is made which record includes testimony and evidence upon which appeal is to be based.

The needs of hearing or visually impaired persons shall be met by contacting the Council sponsoring such meeting at least 48 hours prior to the meeting. Please contact Brigitte Messina at (850) 414-4037 or by email to [brigitte.messina@mpoac.org](mailto:brigitte.messina@mpoac.org).

**Draft Minutes of the Florida MPO Advisory Council  
Governing Board  
July 24, 2014**

**Governing Board Members in Attendance:**

Mayor Susan Haynie, Palm Beach MPO, Chairperson  
Vice Mayor Bryan Caletka, Broward MPO  
Mayor Walter T. Kelley, Bay County TPO  
Councilmember Delores Madison, Capital Region TPA  
Councilman Sam Saad, III, Collier MPO  
Councilmember Lara Bradburn, Hernando/Citrus MPO  
Councilman Jim Burch, Lee County MPO  
Councilman James Wood, Okaloosa-Walton TPO  
Commissioner Nat Birdsong, Polk TPO  
Councilman Jim Bennett, Sarasota/Manatee MPO  
Mayor Kathy Meehan, Space Coast TPO  
Ms. Kathryn Hensley, St. Lucie TPO School Board member

**Others in Attendance:**

Howard Glassman, MPOAC Executive Director  
Paul Gougelman, MPOAC General Counsel  
Brigitte Messina, MPOAC  
Jeff Kramer, USF/CUTR  
Karen Seggerman, USF/CUTR  
Karen Brunelle, FHWA  
Jim Wood, FDOT Policy Planning  
Mark Reichert, Florida Transportation Commission  
John Robert Smith, T4America  
Greg Stuart, Broward MPO  
Harry Reed, Capital Region TPA  
Bob Herrington, Charlotte County-Punta Gorda MPO  
Lucie Ayer, Collier MPO  
Mary Bo Robinson, Florida-Alabama, Okaloosa-Walton and Bay County TPOs  
Donald Scott, Lee County MPO  
Johnny Limbaugh, Lee County MPO  
Harold W. Barley, MetroPlan Orlando  
Tom Deardorff, Polk TPO  
Lois Bollenback, River To Sea TPO  
Peter Buchwald, St. Lucie TPO  
Ned Baier, Jacobs Engineering

## **1. Call to Order**

Mayor Susan Haynie, Palm Beach MPO, Chair called the meeting to order at 3:50 p.m. The Chair welcomed those in attendance. All stood for the Pledge of Allegiance. Madame Chair thanked the Lee County MPO for hosting the meeting. She noted the need to reorder the agenda to accommodate the schedule of one of the speakers suggesting Item #7 be heard before Item #4. Mayor Walter T. Kelley, Bay County TPO, made the motion and Councilman Jim Burch, Lee County MPO seconded. The motion carried unanimously.

## **2. Approval of Minutes**

Mayor Kathy Meehan, Space Coast TPO, made a motion to approve the minutes of the April 24, 2014 Joint Meeting of Governing Board & Staff Directors' Advisory Committee. Councilmember Delores Madison, Capital Region TPA, seconded the motion. The motion was approved unanimously.

## **3. Public Comments**

No public comments were made.

## **4. Executive Director's Report**

Mr. Howard Glassman, MPOAC Executive Director, provided a status report on the MPOAC budget referring to Attachment 1 of the MPOAC agenda package under the Executive Director's Report. He noted that \$444,937 were spent over the fiscal year ending on June 30, 2014 with \$10,563 remaining.

Mr. Glassman then discussed the MPOAC legislative policy positions and related them to the outcome of the 2014 Florida legislative session. He reviewed the policy development process, noting that the MPOAC Priorities and Policy Positions were streamlined and made more descriptive for the 2014 session. Noting that the MPOAC Policy and Technical Subcommittee meeting will be held on August 20<sup>th</sup> in Port St. Lucie, he welcomed those interested in attending and suggested members make their legislative issues and suggestions known to their staff director. A written summary of transportation-related State Legislation passed in 2014 was provided as Attachment 2 in the agenda packet. Mr. Glassman noted that during the last session, he made a number of presentations and distributed a brochure around the state regarding the MPOAC Legislative Priorities and Policy Positions.

1. *Implement key recommendations of 2012 MPOAC transportation revenue study.*
  - a. *Redirect 2009 additional tag and title fees from General Revenue to State Transportation Trust fund – partially successful two years ago. The House Finance and Tax Committee did propose that \$100 million be moved from the*

General Revenue Fund to the State Transportation Trust Fund. Instead, a reduction was approved equal to the remaining 2009 tag and title fees.

- b. Expand Charter County Surtax to include cities over 150,000 in population and all MPO counties - no action*
  - c. Index local option gas taxes in a manner similar to indexing of state gas taxes - no action*
  - d. Direct FDOT to plan for a mileage based user fee approach in lieu of the traditional fuel tax, without using GPS technology as a tracking device.- activity at the federal level*
- 2. Restore funding to the Transportation Regional Incentive Program (TRIP) to promote regional planning and project development. – no action this session; however TRIP was considered in the \$100 million from General Revenue and will likely be discussed again next year.*
  - 3. Allow Strategic Intermodal System (SIS) funds to be used on non-SIS facilities if it will enhance mobility or support freight transportation on the SIS – no activity.*
  - 4. Allow State Transportation Trust Fund to be used for capital expenses associated with the development of multi-use regional trails. – passed, approximately \$15 million success!*
  - 5. Reduce distracted driving by regulating as a Primary offence the use of electronic wireless communication devices while operating a motor vehicle. – some activity; however nothing passed.*
  - 6. Remove the 19 member cap on the number of board members who can serve on an MPO. – Cap was raised to 25 members as part of the major transportation bill along with discretion in appointing other members such as transit organizations; some success.*
  - 7. Promote universal, interoperable and multi-modal fare payment technology systems. – FDOT given discretion to work with local governments to use their fare collections systems and allows FDOT to return those proceeds back to the local entity, expanding interoperability. Some success.*
  - 8. Encourage growth of car-sharing services by exempting program from rental car surcharge. – Obtained reduction. Some success.*

*Other transportation-related legislation that passed included:*

- ▶ \$10.1 billion FDOT budget (\$9.3 billion in WP)*
- ▶ Strategic airport investments up to 100% of project costs*
- ▶ \$15 million for interconnected multiuse trails*
- ▶ \$10 million for quiet zone grant program*

- ▶ *Intermodal Logistics Center Infrastructure Support Program minimum funding \$5 million per year*
- ▶ *Access road improvements to state parks*
- ▶ *Conveyance of surplus property by FDOT*
- ▶ *Repeal of Statewide Passenger Rail Commission*
- ▶ *Parking meter revenue study by FTC*
- ▶ *Autonomous vehicle testing*

The MPOAC Policy Committee will meet on August 20, 2014 in Port St. Lucie to develop draft 2015 legislative priorities and policy positions. They will be presented to the Staff Directors and the MPOAC Governing Board for action at the October 30, 2014 meeting in Orlando. MPOAC staff will meet with key legislators and seek bill sponsors and work with stakeholders and partner organizations to advance legislative initiatives for the adopted MPOAC legislative priorities and policy positions.

He drew the member's attention to an FDOT customer satisfaction survey that was distributed and asked that they fill it out at their convenience.

Mr. Glassman then informed the members that he is in Florida's Deferred Retirement Option Program (DROP) and his last day will be the end of May 2015. (Note: information regarding DROP is available at [http://www.dms.myflorida.com/workforce\\_operations/retirement/members/deferred\\_retirement\\_option\\_program\\_drop](http://www.dms.myflorida.com/workforce_operations/retirement/members/deferred_retirement_option_program_drop)). He further noted a number of critical legislative issues coming up in the coming year and expressed an interest in continuing to work for the MPOAC. The Chair stated that the MPOAC has not had to replace its Executive Director since its inception 19 years ago. The Executive Committee made up of Chair and Vice-Chair of the Staff Directors and the Governing Board as well as Paul Gougelman, Legal Counsel, and Howard Glassman met on Wednesday, July 23<sup>rd</sup>, to discuss the situation.

Madame Chair reviewed the options discussed by the Executive Committee for a clear, transparent process to be developed including:

- Have an analysis or study performed by CUTR to lay out the different options available and the benefits of those options.
- Proposed Timeline: If the Staff Directors approve of this direction, the scope for the proposed study would be developed during the Policy Committee meeting on August 20<sup>th</sup> and brought before the Staff Directors and the Governing Board for action during the October 30<sup>th</sup> meeting. The report would be distributed in December for consideration at the January meeting. A decision would be made

regarding the best way to move forward and a final decision would need to be made in April.

A discussion ensued at the Governing Board meeting that included the following comments:

- concern regarding both the need for and cost of a study,
- the importance of having a known presence in Tallahassee,
- concern that May was not the most opportune time for a transition and that an interim contract might be desirable, along with the suggestion that the April MPOAC meeting in Tallahassee be an earlier date so that MPOAC members have an opportunity for dialogue with legislators earlier in the session.
- rehiring restrictions within the Florida Retirement System and Deferred Retirement Option Program (DROP),
- concern regarding attitudes toward "double-dipping" (receiving retirement benefits and drawing a salary at the same time),
- interest in beginning a search for a new executive director and requesting letters of interest and resumes,
- the importance of mentoring the next director, and
- the importance of establishing a transparent process.

The Chair explained that no action could be taken because the item did not appear on the agenda. She suggested that the Board direct Mr. Gougelman to look into the legal requirements of the FRS and DROP. She further suggested that Mr. Glassman perform a salary review of the directors of similar organizations. Madame Chair stated that the process could be further refined through the Policy and Technical Subcommittee and a direction discussed at the October meeting.

Mr. Paul Gougelman, General Counsel, drew attention to the draft 2014 Rules of Procedure that were distributed to the members during the meeting as well as by email earlier in the week. Because the MPOAC is no longer governed by the Administrative Procedures Act, the Governing Board will be asked to repeal the existing rules and replace them with new draft Rules of Procedure at a future meeting. The draft was provided for a 45-day comment period from Monday, July 20, 2014 to Thursday, September 11, 2014. Mr. Gougelman stressed that Governing Board members work through their MPO to submit comments rather than providing individual comments that may place them at odds with the Florida Sunshine Law. Mr. Gougelman asked that each MPO ensure that the correct legal name of the MPO is listed in Rule 3 (per their adopted interlocal agreement) of the proposed Rules of Procedure. He noted that Rules 1-9 have been in effect since the mid-1990s and that only minor revisions have been

made to them over the years. He further noted that Rules 10-12 were recently adopted by the MPOAC Governing Board. Comments should be sent to Howard Glassman or Paul Gougelman.

Mr. Greg Stuart, Broward MPO, summarized the Freight Committee meeting that took place earlier in the day regarding performance standards. Mr. Stuart thanked everyone who attended and participated in the lively discussion regarding performance measures. The next meeting will be held in Orlando on October 30<sup>th</sup>.

#### **5. Transportation for America (previously 7)**

John Robert Smith presented *Saving the Nation's Transportation Fund* reinforcing that the National Highway Trust Fund is headed for insolvency. He noted that MAP-21 consolidated 90 funding programs into 10 programs, thus increasing competition for dollars within fewer categories. Stressing that the transportation trust fund is bankrupt, he described some reasons including changes in driving habits and increase in fuel efficiency. The gas tax has stayed fixed with no increase along with inflation. He presented the various proposals that have recently been put forth in Congress to address transportation funding, including a short term patch (8 months) using pension smoothing over 10 years (LUST funds). Other solutions include: just taking the 40% budgetary hit; turning the program over to the states; funding transportation through a one-time boost from tax reform; implementing a 15-cent gas tax increase and conducting a VMT pilot study. Other ideas include replacing the gas tax with a per barrel oil fee, increasing the gas tax by 12 cents, and indexing the fuel gas tax.

He stressed the need to secure \$30 billion in funding along with additional steps including:

- Fixing what we need to fix,
- Improving communities and expanding opportunity,
- Spurring local innovation, and
- Increasing accountability and local control.

He presented the concept of in-state competitive grants for local transportation projects through H.R. 4726, the Innovation in Surface Transportation Act. This Act would provide \$254 million for local projects in Florida which would be selected by a new, diverse selection panel. The details of this proposal are in Item 7, Attachments 1-3 of the agenda packet.

Mr. Smith asked members to endorse the Innovation in Surface Transportation Act, H.R. 4726.

Discussion ensued in which members raised concerns regarding the creation of another layer of government and many felt that the cooperation between FDOT and MPOs is working well for Florida's MPOs.

A motion was made by Councilmember Lara Bradburn, Hernando/Citrus MPO and seconded by Councilman Sam Saad, III, Collier MPO to not send a letter of support for H.R. 4726. The motion carried. Mayor Kathy Meehan, Space Coast TPO, voted against the motion.

## **6. Agency Reports (previously Item #5)**

### **a. FDOT Agency Report**

Mr. Jim Wood, Florida Department of Transportation (FDOT), provided an update of FDOT activities. He encouraged those in attendance to fill out the customer satisfaction survey that Mr. Glassman mentioned earlier in the meeting.

He mentioned that the visioning process for the Florida Transportation Plan (FTP) and the Strategic Intermodal System (SIS) Strategic Plan updates are being addressed in a combined process and are expected to be complete in 2015. FDOT looks forward to the continued participation of the MPOs in the visioning process and the Steering Committee process to follow. He noted that activity is continuing regarding the Future Corridor study area of the Tampa through Central Florida corridor focusing on the Pilot Study Area between Orlando and Brevard Counties. He showed a map illustrating unfunded needs, concepts, and proposals for this corridor. The East Central Florida Task Force is on a short timeline to evaluate potential multimodal corridors illustrated through Orange, Osceola, and Brevard Counties as part of the Deseret Ranch selected area plan. [www.ecfcorridortaskforce.org](http://www.ecfcorridortaskforce.org). He noted the meeting schedule Task Force would be as follows:

- August 22 – Osceola Heritage Park
- September 15 – MetroPlan Orlando
- October 9 – Brevard Zoo
- November 13 – Osceola County location to be announced
- *December 1 – Final Report to Governor*
- FDOT Pilot Study Evaluation Report will be developed after Task Force Report

The Task Force Report will include guiding principles, a framework for moving forward, and a general discussion of corridors, including statements of purpose and need.

In regard to the Tampa-to-Northeast Florida corridor, operational improvements are being examined, including improvements to the interchange at I-75 and the Florida Turnpike; managed lanes on I-75; a US 301 study, and, the extension of the Suncoast Parkway. These actions will set the stage for longer term projects connecting to Gainesville and northeast Florida.

FDOT has been following the planning performance measure rulemaking and FDOT staff, David Lee in particular, has played a lead role in the review of the Notice of Proposed Rulemaking by the American Association of State Highway and Transportation Officials (AASHTO). The draft

AASHTO comments will be completed soon. Those comments will be used as the basis for the Department's comments. The Performance Measures Collaboration Task Force composed of District and an MPO representative from each District will continue to meet regarding NPRMs and other performance measure issues. FDOT will host a webinar on Thursday, August 7<sup>th</sup> at 2:00 pm ET to brief all Florida MPOs on the key areas of concern identified in the planning NPRM. Issues include confirming state discretion in establishing the performance targets and clarifying certain terminology.

The Quiet Zone Grant Program contains \$10 million for July 1, 2014 – June 30, 2015. Funding will not exceed 50 percent of the total costs of any Quiet Zone capital improvement project. FDOT will distribute the funds with consideration of:

- Percentage \$ contributed by Quiet Zone Applicant
- Number of rail crossing closures to enhance safety
- Availability of funds within the fiscal year deadline

For further information, contact Andre Goins with FDOT Rail Office at [Andre.Goins@dot.state.fl.us](mailto:Andre.Goins@dot.state.fl.us).

FDOT will hold the Florida Transportation Data Symposium on September 25-26, 2014 in Orlando. The event will bring together public and private transportation data providers to share knowledge regarding data needs, availability and methods for sharing and integrating data to provide optimum value. For more information, contact Kaitlin Porter with FDOT Systems Planning at [Kaitlin.Porter@dot.state.fl.us](mailto:Kaitlin.Porter@dot.state.fl.us).

The second Florida Automated Vehicles Summit will be held December 15-16 in Orlando (The first was held in November 2013). The first day will be in a conference setting and the second day will be held on the Disney Raceway. More information is available at <http://www.dot.state.fl.us/agencyresources/meetings/automatedvehicles.shtm>). More information regarding automated vehicles information is available at [www.automatedfl.com](http://www.automatedfl.com).

Mr. Wood stated that \$15.9 million will be programmed for improvements to the Coast to Coast Connector covering eleven projects in nine counties. FDOT's goal was to move all of the gaps forward to the next phase resulting in the programming of \$15.9 million rather than the required \$15.5 million.

Councilmember Lara Bradburn, Hernando/Citrus MPO, expressed concern about a portion of the Coast to Coast Connector in Hernando County that is not correctly depicted and asked to meet with Mr. Wood to discuss the issue.

**b. FHWA Agency Report**

Ms. Karen Brunelle, Director, Federal Highway Administration (FHWA) Office of Project Development shared FHWA activities. Ms. Brunelle reminded members of the Notice of Proposed Rulemaking (NPRM) related to planning and encouraged MPOs to participate in the process. Comments are due September 2<sup>nd</sup>. Action regarding the Highway Trust Fund is anticipated; however, if Congress does not take action, federal government offices will implement cash management procedures as the federal government will be unable to refund the states for expenditures. Florida would be allowed reimbursement of 4.81% on eligible expenditures. FHWA will also implement travel and administrative restrictions.

FHWA received 797 TIGER Grant applications totaling \$9.5 billion for the \$600 million available. Applications are being assessed at this time. She noted that the annual Statewide Assessment will take place on July 30th wherein FHWA examines the State planning process as part of the State Transportation Improvement Program (STIP) approval process. FHWA makes a determination or Planning Finding as to whether the State is in compliance with all federal rules and requirements. All MPOs are welcome to comment and/or participate in the meeting. Contact Ms. Brunelle if interested.

Ms. Brunelle stated that an Everyday Counts (EDC) regional summit will be held in Charlotte, NC for this region during October or November. Of interest is the topic entitled Regional Models of Cooperation being addressed by a team that includes Yvonne Arens, FDOT. Filing of environmental impact statements (EIS) is now required electronically through e-NEPA website (<http://www.epa.gov/compliance/nepa/submiteis/index.html>).

**7. Florida Transportation Commission (previously Item #6)**

Mr. Mark Reichert, Assistant Director of the Florida Transportation Commission, gave a presentation on fuel tax sustainability. He reminded members that the FTC is a nine-member, Governor-appointed Board that oversees the Florida Department of Transportation and 10 of the state's expressway and regional transportation authorities.

The presentation was in regard to the fuel tax, Florida's primary source of transportation funding. For decades, this consumption-based tax has provided a steady stream of revenue for funding the state's transportation needs. However, economic pressures associated with the recession that began in 2006 resulted in a seismic shift in driving habits which, combined with increased fuel economy standards, have rendered the fuel tax as an unsustainable primary source of funding for our transportation system.

Mr. Reichert stressed that we must begin the process of identifying viable alternative funding sources to replace or supplement the fuel tax before diminishing fuel tax receipts reaches a

crisis level. Transportation funding shortfalls will grow more acute in the coming years as improved vehicle fuel efficiency and more alternatives fuel vehicles reduce federal, state, and local fuel tax receipts by billions of dollars.

Finally, Mr. Reichert indicated that the FTC would like the MPOs to help in getting the word out on this looming funding crisis even as he noted that the discussion of alternatives is temporarily on hold during the current election season. A member cautioned MPOs in regard to showing a constant growth in gas tax revenue through 2040 which has the effect of suggesting that there is no issue to be addressed. Mr. Glassman noted that when the MPOAC began presentations on this topic, we were essentially a lone voice in the state and that support from the FTC would be greatly appreciated. Mr. Reichert noted that Florida Legislative leadership chose not to address the issue during previous legislative sessions, but that the FTC anticipates more cooperation in the future.

#### **8. Lee County Complete Streets Initiative TIGER Grant**

Mr. Donald Scott, Executive Director of the Lee County MPO gave a presentation on the Lee County Complete Streets Initiative TIGER Grant. The MPO received a grant in the amount of \$10,473,900 toward the total project cost of \$13,210,918. Local match dollars totaling \$2.7 million were provided from the County, City, and State on projects within the area. US DOT Sec. Foxx came to present the grant. The project will complete three sections of the regional trail network: the Tour de Parks Loop, the University Loop, and the Bi-County Connector covering areas from Northern Lee County to Collier County. Projects include filling network gaps with bicycle and pedestrian ways, paved shoulders, and access to transit. A goal was to make bicycle and pedestrian travel safer in the County. A design-build approach is being used. He outlined the project schedule which should be complete by September of 2016 noting annual performance measures must be reported from November 2017 through November 2022. Measures include average daily bicycle/pedestrian counts, annual non-vehicle crash rates by type and severity, transit passenger counts, and customer survey.

#### **9. Communications**

Mr. Howard Glassman noted the communications for the quarter were included in the agenda packet:

- Letter to Jim Wood, FDOT Office of Policy Planning, from James Christian, FHWA Division Administrator, approving the MPOAC Unified Planning Work Program, dated June 4, 2014.
- Letter to Senator Andy Gardiner from Howard Glassman, MPOAC, on passage of SB 2514 on multiuse trails and the Coast-to-Coast Connector, dated June 19, 2014.
- Letter to Senator Jeff Brandes from Chairman Karen Seel, Pinellas County MPO, on the Florida Ban on Texting While Driving Law, dated June 25, 2014.

- Letter to U.S. Department of Transportation from DeLania Hardy, AMPO Executive Director on the NPRM for the National Performance Management Measures: Highway Safety Improvement Program, dated June 25, 2014.
- Letter to Howard Glassman, MPOAC, from Joanna Turner, NARC Executive Director on NARC membership renewal, dated June 17, 2014.

#### **10. Member Comments**

Councilmember Lara Bradburn thanked the hosts and suggested an annual visit to the area. She also reiterated the need to meet in Tallahassee earlier in the spring to provide members with an opportunity to meet with members of the state legislature earlier in the legislative session. It was agreed that this would be discussed at the next meeting.

Councilman Jim Burch directed everyone to ideal locations to watch the sunset.

Councilman James Wood noted that Northwest Regional TPO organized the Emerald Coast Transportation Symposium held May 29<sup>th</sup> and 30<sup>th</sup> in Pensacola Beach, including participation by Howard Glassman, Mark Reichert, Carl Mikyska, and Harry Reed.

Madame Chair informed the membership that the Urban Land Institute (ULI) held their Southeastern and Caribbean Transportation Symposium last week in Fort Lauderdale. Greg Stuart, Nick Urhen, and Wilson Fernandez gave a presentation on the region during the symposium.

The Policy Committee will be meeting on August 20<sup>th</sup> in Port St. Lucie. The next MPOAC meeting will be Thursday, October 30, 2014 at the Orlando Airport Marriott, 7499 Augusta National Drive, Orlando, FL.

**The meeting was adjourned at 6:22 pm.**

**Item Number 3  
Public Comments**

**DISCUSSION:**

Comments or recommendations by the public

**REQUESTED ACTION:**

As may be desired

**ATTACHMENTS:**

None

**Item Number 4**  
**Executive Director's Report**

**DISCUSSION:**

Mr. Howard Glassman, MPOAC Executive Director will be presenting the following items:

1. Budget Report: July 1 - September 30, 2014
2. 2015 MPOAC Meeting Schedule
3. General Counsel services contract with Mr. Paul R. Gougelman, III
4. MPOAC 2014 Agency Bylaws
5. MPOAC 2015 State Legislative Policy Positions
6. MPOAC Executive Director Services beginning June 1, 2015
7. MPOAC Freight Committee Report – Greg Stuart, Chair

**REQUESTED ACTION:**

1. Approve MPOAC 2015 Meeting Schedule
2. Approve MPOAC General Counsel services contract
3. Approve 2014 MPOAC Agency Bylaws
4. Approve MPOAC 2015 State Legislative Policy Positions
5. Select an option to provide MPOAC Executive Director Services beginning June 1, 2015

**ATTACHMENTS:**

1. Budget Report: July 1 – September 30, 2014
2. MPOAC 2015 Meeting Schedule
3. Letter to Mayor Susan Haynie from Paul R. Gougelman dated September 16, 2014 and General Counsel Services Contract
4. Memorandum from General Counsel Paul Gougelman, dated September 20, 2014 and Draft 2014 MPOAC Agency Bylaws
5. MPOAC 2015 State Legislative Policy Positions (underlined and ~~stricken through~~ version)
6. MPOAC 2015 State Legislative Policy Positions (Clean version)
7. Providing Executive Director Services to the MPOAC, dated October 30, 2014
8. Letter from General Counsel Paul Gougelman regarding Florida Retirement System & Deferred Option Retirement Program (DROP), dated October 13, 2014

**Florida Metropolitan Planning Organization Advisory Council  
FY 2014/2015 Budget  
July 1, 2014 to June 30, 2015**

Category	Annual Allocation	1st Qtr Expenditures 7/1/14-9/30/14	2nd Qtr Expenditures 10/1/14-12/31/14	3rd Qtr Expenditures 1/1/15-3/31/15	4th Quarter Expenditures 4/1/15-6/30/15	Expenditures to Date	Remaining Balance
<b>Salaries/Benefits</b>	\$ 200,000	\$ 46,324				\$ 46,324	\$ 153,676
<b>Expense</b>	\$ 56,000						
Travel	\$ 30,000	\$ 3,028				\$ 3,028	\$ 26,972
Meetings	\$ 20,000	\$ 5,542				\$ 5,542	\$ 14,458
Administrative	\$ 4,080	\$ 1,659				\$ 1,659	\$ 2,421
Membership Dues *	\$ 1,920	\$ 1,920				\$ 1,920	\$ -
<b>Contracted Services</b>	\$ 18,000						
General Counsel	\$ 18,000	\$ 8,125				\$ 8,125	\$ 9,875
<b>Transp.Planning</b>	\$ 165,000						
Univ. South FL (CUTR)	\$ 80,000	\$ 20,000				\$ 20,000	\$ 60,000
MPOAC Institute	\$ 85,000	\$ 5,950				\$ 5,950	\$ 79,050
<b>Total Federal Funds</b>	\$ 439,000	\$ 92,548				\$ 92,548	\$ 346,452
<b>Advocacy Activities Local Funds</b>	\$ 7,500	\$ 850				\$ 850	\$ 6,650
<b>Total Budget</b>	\$ 446,500	\$ 93,398				\$ 93,398	\$ 353,102

\* FBT, FPTA, ITSFL

# **2015 MPOAC MEETING SCHEDULE**

**January 22, 2015**                      **DoubleTree by Hilton**  
**5555 Hazeltine National Drive, Orlando**  
**(407) 856-0100**

**April 9, 2015**                        **FDOT Auditorium**  
**605 Suwannee Street, Tallahassee**  
**(850) 414-4037**

**July 23, 2015**                        **Orlando Airport Marriott Hotel**  
**7499 Augusta National Drive**  
**(407) 851-9000**

**October 22, 2015**                    **Orlando Airport Marriott Hotel**  
**7499 Augusta National Drive**  
**(407) 851-9000**

PAUL R. GOUGELMAN, III  
ATTORNEY-AT-LAW

2220 Front Street - Suite 204  
Melbourne, Florida 32901  
Telephone (321) 508-7800

September 16, 2014

The Honorable Susan Haynie, Chair  
Florida Metropolitan Planning  
Organization Advisory Council  
605 Suwannee St. - MS-28B  
Tallahassee, FL 32399-0450

Re: Change in Status

Dear Mayor Haynie:

I am writing to advise you that after 27 years of representing the City of Melbourne and other local governments in Brevard County, I have decided to accept an offer to join the law firm of Weiss, Serota, Helfman, Pastoriza, Cole & Boniske, P.L., as a partner.

I will be headquartered in the firm's Ft. Lauderdale office. As you know, the firm specializes in local government practice, land use, and zoning, representing numerous municipalities.

For me the opportunity to join the firm is an exciting move as a new chapter in my professional life. My change in status will occur effective December 1<sup>st</sup>. I expect that my practice of local governmental and transportation law will expand.

I have represented the MPOAC since 1993, and with your permission and that of the Governing Board, I would like to continue that representation. I would offer to continue with the exact same contract terms and the exact same billing rates and structure as is currently in force. I ask only that the Governing Board agree that the existing contract be transferred from my name to that of the Weiss, Serota law firm effective December 1st.

The Honorable Susan Haynie, Chair  
Florida Metropolitan Planning  
Organization Advisory Council  
September 16, 2014  
Page 2

To date the Space Coast TPO has already agreed to a similar arrangement, and I will continue to be available to work with other MPOs around the state.

Should you have questions or any of the Governing Board Members have questions, feel free to contact me at the above address and telephone number. After December 1<sup>st</sup>, I will be available at:

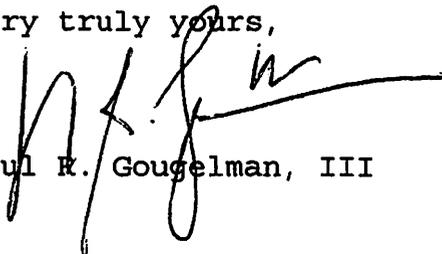
Weiss, Serota, et al.  
200 East Broward Blvd. - Suite 1900  
Fort Lauderdale, FL 33301  
954-763-4242  
pgougelman@wsh-law.com

With regard to changes such as this, my contract provides that I must afford the MPOAC at least sixty (60) days notice. I would ask that the Governing Board consider this matter at their October meeting.

I am ready to continue to serve. Alternatively, if the Governing Board prefers other representation, I will work to provide a smooth transition to new counsel, whomever you may select.

Please feel free to call upon me at any time.

Very truly yours,



Paul R. Gougelman, III

PRG/-

pc: Howard Glassman, Executive Director

**AGREEMENT FOR LEGAL SERVICES**

THIS AGREEMENT FOR LEGAL SERVICES is entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, in the City of Tallahassee, Leon County, Florida, by an between the State of Florida, Florida Metropolitan Planning Organization Advisory Council, a Council of the State of Florida organized and existing pursuant to Section 339.175(11), Florida Statutes (hereinafter alternatively: the "MPOAC" or "AGENCY"), 605 Suwannee Street - MS-28B, Tallahassee, Florida 32399-0450; and Weiss Serota Helfman Pastoriza Cole, & Boniske, P.L. (hereinafter: the "CONTRACTOR"), 200 East Broward Blvd. - Suite 1900, Ft. Lauderdale, Florida 33301. This Agreement shall bind the parties upon its execution by their representatives.

**RECITALS:**

WHEREAS, this Agreement is entered into pursuant to Section 287.059, Florida Statutes, and Chapter 2-37, Florida Administrative Code, and for the purposes of setting forth the duties and responsibilities of the CONTRACTOR and compensation to be paid for performance of said duties;

WHEREAS, appended hereto is ATTACHMENT A FOR PRIVATE ATTORNEY SERVICES, which is hereby incorporated herein by this reference;

WHEREAS, this Agreement is brought about, because the MPOAC needs an attorney who understands procedures under the Florida Administrative Procedure, Chapter 120, Florida Statutes; has a working knowledge in local government/municipal law; has knowledge with regard to provisions of Federal transportation-related law under the U.S. Code and Code of Federal Regulations; has a working knowledge in Florida planning, zoning, and transportation law; and is knowledgeable with regard to Federal-State-Local transportation funding, planning, and general requirements of law; and

WHEREAS, the CONTRACTOR has the expertise necessary to perform the duties and responsibilities outlined in this Agreement and has competently represented the MPOAC for over twenty (20) years.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the parties agree as follows:

ARTICLE 1. ENGAGEMENT OF THE CONTRACTOR. The MPOAC hereby agrees to engage the CONTRACTOR, and the CONTRACTOR agrees to perform the services set forth below. The CONTRACTOR understands and agrees that all services contracted for are to be performed solely by the CONTRACTOR and may not be subcontracted for or assigned without the prior written consent of the MPOAC Governing Board or the MPOAC Executive Director.

ARTICLE 2. SCOPE OF SERVICES.

A. The CONTRACTOR agrees under the direction of the MPOAC Chairman or MPOAC Executive Director to perform certain professional legal services as follows:

1. Draft proposed rules and rule amendments, resolutions, contracts, and correspondence;

2. Review and analyze AGENCY legal files, data, documents and other materials concerning the above matter and advise on a recommended legal course of action;

3. Prepare and file pleadings, motions, or briefs which may be required and represent the AGENCY in any related litigation;

4. Initiate and conduct discovery including depositions on behalf of the AGENCY and represent the AGENCY in discovery initiated by opposing parties;

5. Represent the AGENCY at trial or on appeal;

6. Attend and participate in meetings, conference calls, field trips or the like and report on the status of the legal matters;

7. Perform legal research and render legal advice;

8. Review and analyze MPOAC legal files, data, documents and other materials concerning the matters referenced in this paragraph A. and advise on a recommended legal course of action;

9. Act as an intermediary between the MPOAC and counsel for other agencies or legal entities; and

10. Perform other legal services as directed by the MPOAC Governing Board.

B. As CONTRACTOR deems appropriate and in specialized matters, the CONTRACTOR may recommend to the MPOAC use of special legal counsel for defined purposes.

C. The CONTRACTOR shall be bound by the requirements of Section 287.059, Florida Statutes, and Chapter 2-37, Florida Administrative Code. The CONTRACTOR shall represent no private individual or legal entity before the MPOAC in any proceeding or matter.

ARTICLE 3. TIME OF PERFORMANCE. This Agreement shall begin on December 1, 2014 and shall continue until June 30, 2015.

ARTICLE 4. CONSIDERATION.

A. Compensation - Fees and Expenses. Fees and expenses shall be paid in accordance with the provisions of ATTACHMENT A FOR PRIVATE ATTORNEY SERVICES, including Exhibit 1.

B. Travel. Justified and reasonable travel expenses which are directly and exclusively related to the professional services rendered under this contract will be reimbursed in accordance with Section 112.061, Florida Statutes. For the

purpose of computing travel expenses, the CONTRACTOR's place of business shall be that listed in the preamble to this Agreement and all travel expenses shall be computed on that basis.

Pursuant to Section 112.061, Florida Statutes, attorneys of the Contractor's firm, or are named in this Agreement as approved counsel, are designated as authorized travelers during the life of this Agreement.

C. Sales Tax. The MPOAC is exempted from payment of Florida state sales and use taxes and Federal Excise tax. The CONTRACTOR, however, shall not be exempted from paying Florida state sales and use taxes to the appropriate governmental agencies or for payment by the CONTRACTOR to suppliers for taxes on materials used to fulfill its contractual obligations with the MPOAC. The CONTRACTOR shall not use the MPOAC's exemption number in securing such materials or services. The CONTRACTOR shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.

D. The CONTRACTOR shall not pledge the MPOAC's credit or make the MPOAC a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness.

E. Payment for services shall be issued in accordance with Section 215.422, Florida Statutes. Pursuant to Section 215.422(5), Florida Statutes (2014), the Department of Banking and Finance has established a Vendor Ombudsman to act as an advocate for vendors. The Vendor Ombudsman may be reached at (850) 410-9724 or by calling the State Comptroller Hotline, 1-800-848-3792. In accordance with the provisions of Section 287.0582, Florida Statutes, the State of Florida, MPOAC's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature, if the terms of this Agreement extend beyond the current fiscal year.

ARTICLE 5. DOCUMENTATION.

A. The CONTRACTOR shall submit monthly written invoices, in accordance with the requirements of Attachment A for Private Attorney Services, paragraph D, Format for Invoices, for all fees or other compensation for services or expenses in detail sufficient for a proper pre-audit and post-audit. All invoices shall be submitted to the Executive Director at the MPOAC office as set forth in the preamble to this Agreement.

B. The CONTRACTOR shall maintain a file(s), available for inspection by the MPOAC, containing documentation of all costs and fees incurred in connection with this Agreement. The

file(s) shall be maintained for a period of two years after the cost or fee is incurred by the CONTRACTOR, unless otherwise notified in writing by the MPOAC specifying the document which may be exempted from being maintained.

ARTICLE 6. PUBLIC RECORDS. All documents prepared pursuant to this Agreement are subject to Florida's Public Record Law. Refusal of the Contractor to allow public access to such records as required by such law shall constitute ground for unilateral cancellation of this Agreement by the MPOAC; provided, however that this Agreement shall not be terminated if the Contractor, pursuant to direction of the MPOAC governing board or the MPOAC Executive Director, withholds access to said public record, because it is confidential or exempt from disclosure pursuant to Federal or Florida law.

ARTICLE 7. TERMINATION OF AGREEMENT. The MPOAC governing board may terminate this Agreement for its convenience or cause by giving five (5) days written notice by registered mail to the Contractor, specifying the effective date of termination. If this Agreement is terminated, the Contractor shall be reimbursed for services satisfactorily performed subject to any damages sustained by the MPOAC. All finished or unfinished documents, data, studies, correspondence, reports and other products prepared by or for the CONTRACTOR under this Agreement shall be

made available to and for the exclusive use of the MPOAC. Notwithstanding the above, the Contractor shall not be relieved of liability to the MPOAC for damages sustained by the Agency by virtue of any termination or breach of this Agreement by the Contractor. The CONTRACTOR may terminate this Agreement upon thirty (30) days written notice.

ARTICLE 8. AMENDMENTS. Either party may, from time to time request changes to this Agreement, but this shall not bind the other party to agree to said amendment. Any changes must be mutually agreed upon and shall be incorporated in written amendments to this Agreement.

ARTICLE 9. INDEPENDENT CONTRACTOR. Consistent with the Code of Professional Responsibility, the CONTRACTOR, and any of its employees, agents, or assigns, are independent contractors and not employees or agents of the MPOAC. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the MPOAC and the CONTRACTOR, its employees, agents, subcontractors, or assigns, during or after the performance of this Agreement.

ARTICLE 10. LIABILITY. To maintain the low rates of compensation charged by the CONTRACTOR and because of the nature of the Contractor's work with the MPOAC, the MPOAC acknowledges that the CONTRACTOR is not covered pursuant to a professional

liability insurance policy or policies affording professional liability coverage for the professional services to be rendered under this Agreement.

ARTICLE 11. NONDISCRIMINATION AND COMPLIANCE. The Contractor shall comply with all Federal, state and local laws and ordinances applicable to the work and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work.

ARTICLE 12. ADMINISTRATION OF AGREEMENT.

A. The MPOAC contract administration is Howard Glassman, MPOAC Executive Director. The Contractor contract administrator is Paul R. Gougelman. All written and verbal approvals referenced in this Agreement (unless otherwise specified as being required to be obtained from the MPOAC) must be obtained from the parties' contract administrators or their designees. All notices must be given to the parties' contract administrator. From time to time either party may notify the other, making a unilateral change in the person named by said party as the contract administrator for said party. This contract shall be governed by and construed under the laws of the State of Florida.

B. Any attorney of the firm with whom the CONTRACTOR is affiliated may provide legal representation under this

Agreement to the MPOAC, its officers and employees. The CONTRACTOR may refer work under this contract to attorneys in the CONTRACTOR's law firm.

C. The names of the addresses of the parties or their Contract Administrators may be unilaterally changed from time to time by giving notice to the other party to this Agreement.

ARTICLE 13. AGREEMENT AS INCLUDING ENTIRE AGREEMENT. This instrument, including any attachments, embodies the entire Agreement of the parties. There are no other provisions, terms, conditions, or obligations. This Agreement supersedes all previous oral or written communications, representations, or agreements on this subject.

ARTICLE 14. SPECIAL CONDITIONS. The Contractor agrees to permanently refrain from using or mentioning its association with the MPOAC in advertisements, letterhead, business cards, etc. The MPOAC's services to the MPOAC may be generally described in the Contractor's professional resume. The Contractor may not give the impression in any manner, that the MPOAC recommends or endorses the MPOAC. All contracts with the news media pertaining to the subject of this Agreement shall be referred to the MPOAC contract administrator. Anything, by whatsoever designation it may be known, that is produced by or developed in connection with this Agreement shall remain the

exclusive property of the MPOAC and may not be copyrighted, patented, or otherwise restricted as provided by law. Neither the CONTRACTOR nor any other individual employed under this Agreement shall have any proprietary interest in any product(s) developed or delivered under this Agreement.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the date set forth below.

MPOAC:

FLORIDA METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL, a Council of the State of Florida organized and existing pursuant to Section 339.175(10), Florida Statutes

By: \_\_\_\_\_  
Susan Haynie, its  
Chair

ATTEST: \_\_\_\_\_  
Howard M. Glassman,  
Agency Clerk

CONTRACTOR:

WEISS SEROTA HELFMAN  
PASTORIZA COLE, & BONISKE,  
P.L.

By: \_\_\_\_\_  
Paul R. Gougelman, III

OFFICE OF THE ATTORNEY GENERAL  
ATTACHMENT A FOR  
PRIVATE ATTORNEY SERVICES

A. SCOPE OF SERVICES.

The CONTRACTOR shall:

1. Draft proposed rules and rule amendments, resolutions, contracts, and correspondence;
2. Review and analyze AGENCY legal files, data, documents and other materials concerning the above matter and advise on a recommended legal course of action;
3. Prepare and file pleadings, motions, or briefs which may be required and represent the AGENCY in any related litigation;
4. Initiate and conduct discovery including depositions on behalf of the AGENCY and represent the AGENCY in discovery initiated by opposing parties;
5. Represent the AGENCY at trial or on appeal;
6. Attend and participate in meetings, conference calls, field trips or the like and report on the status of the legal matters;
7. Perform legal research and render legal advice;
8. Review and analyze MPOAC legal files, data, documents and other materials concerning the matters referenced in this paragraph A. and advise on a recommended legal course of action;
9. Act as an intermediary between the MPOAC and counsel for other agencies or legal entities; and
10. Perform other legal services as directed by the MPOAC Governing Board.

B. COMPENSATION-FEES.

1. The AGENCY shall be billed in accordance with the rate set forth in Exhibit 1. Fees shall not exceed \$199.00 per hour

for work by the Contractor or attorneys named in this Agreement, and fees in excess of such amount shall not be compensable. The CONTRACTOR shall notify the AGENCY, in writing, when fees for billable services reach \$9,000.00, including costs. Said notification shall be made as soon as is practical and prior to the next monthly invoice. Failure to comply with these provisions will result in non-payment.

2. Billable hours shall be measured in one-tenth hour increments. For example, a telephone conversation lasting 6 minutes shall be recorded on billings to the AGENCY as .1 hours. All time shall be rounded up to the next highest one-tenth hour increment. For example, a telephone call lasting 8 minutes would be rounded up to .2 hours, and the billings to the AGENCY would depict the telephone call as being billed for .2 hours. Except as provided above, compensation of attorney hours will be for actual time spent providing attorney services to the AGENCY.

3. Premium rates will not be paid for overtime work.

4. Attorney time while traveling will be compensated at 75 percent of the hourly rates reflected in Exhibit 1.

5. Telephone conversations will be billed as follows. For a telephone call made by the CONTRACTOR but not reaching the person called or leaving a message to call back, no charge shall be made. For a short telephone conversation, a minimum charge of .2 hours or two-tenths of an hour time will be made. For a long telephone conversation, a minimum charge of .3 hours or three-tenths of an hour time will be made. For telephone conversations lasting in excess of .3 hours or 18 minutes, the call will be charged based on the actual time spent on the telephone conversation, expressed in tenths of an hour as provided in paragraph B.2. above.

#### C. COMPENSATION-COSTS.

1. Reimbursement of costs for such items as exhibits, transcripts and witness fees requires prior oral authorization by the MPOAC and shall be reimbursed based upon documented third party vendor charges. The MPOAC shall not pay for firm surcharges added to third party vendor charges.

2. Routine expenses such as local phone calls, local facsimile transmissions, routine postage, copy work, local

travel expenses, printed library materials and local courier, word processing, clerical or secretarial services are overhead and will not be separately compensated.

3. Non-routine office overhead expenses such as long distance phone calls, long distance facsimile transmissions, long distance courier services, bulk mailings, bulk third party copying, blueprints, x-rays, photographs must be justified to the MPOAC and shall be reimbursed based on documented third party vendor charges. Computer assisted legal research shall be billed at a flat charge of 2.5% of each billing. If these charges exceed \$ 1,000.00, prior written approval from the MPOAC's contract administrator must be obtained. In-house bulk mailings and bulk copying expenses must be supported by usage logs or similar documentation. Firm surcharges are not reimbursable.

3. The CONTRACTOR shall only bill the MPOAC for a proportionate share of the cost of legal research, attending hearings or engaging in client representation of any type, which is applicable to other clients.

4. The Contractor shall only bill the MPOAC for a proportionate share of the cost of legal research, attending hearings or engaging in client representation of any type, which is applicable to other clients.

5. Reimbursable costs shall not exceed \$3,000.00 under this AGREEMENT. The CONTRACTOR shall notify the AGENCY contract administrator when costs reach \$2,500.00. Said notification shall be made as soon as is practicable and prior to the next monthly invoice.

D. FORMAT FOR INVOICES.

1. [Reason for deviation from contract: Contractor's work for the MPOAC is sporadic. Consequently, billing usually comes in 2 or 3 month increments. To do otherwise might waste state resources by submitting billings for \$25.00 for one telephone call, or similar small amounts.] Each statement for fees and costs shall be submitted in one copy, after the services have been rendered, in a format that includes, at a minimum, the following information:

- a. Case name and number, if applicable, or other legal matter reference;
- b. Invoice number for the particular bill;
- c. CONTRACTOR taxpayer identification number;
- d. CONTRACTOR and MPOAC contract administrators' names;
- e. Inclusive dates of the month covered by the invoice;
- f. Itemization of the date; hours billed (if hourly); a concise, meaningful description of the services rendered, with sufficient detail to enable the AGENCY to evaluate the services rendered and costs; the person(s) who performed the services for each day during which the CONTRACTOR performed work; their hourly rate (if hourly) as specified in Exhibit 1, and any billing rate that is for some reason different from the one furnished in Exhibit 1, e.g., travel at a reduced hourly rate.
- g. A listing of all invoiced costs to be accompanied by copies of actual receipts.
- h. The total of only the current bill. Prior balances or payment history should be shown separately, if at all.
- i. Any other information as may be requested by the AGENCY's contract administrator.

E. ADMINISTRATION OF AGREEMENT.

1. The AGENCY contract administrator is the AGENCY Executive Director.
2. The CONTRACTOR contract administrator is Paul Gougelman.
3. All oral approvals referenced in this AGREEMENT must be obtained from the parties' contract administrators or their designees. All notices must be given to the parties' contract administrators.

4. This contract shall be governed by and construed under the laws of the State of Florida.

F. OTHER AVAILABLE SERVICES.

Upon receiving approval from the MPOAC, the Contractor shall use existing MPOAC agreements, when available and cost effective, to acquire services (e.g., computer assisted legal research) and the assistance of professionals (e. g., court reporters, expert witnesses) at reduced rates.

G. PUBLIC RECORDS.

All documents prepared pursuant to the Agreement are subject to Florida's Public Record Law. Refusal of the Contractor to allow public access to such records as required by such law shall constitute ground for unilateral cancellation of this Agreement by the MPOAC; provided, however that this Agreement shall not be terminated if the Contractor, pursuant to direction of the MPOAC governing board or the MPOAC Executive Director, withholds access to said public record, because it is confidential or exempt from disclosure pursuant to Federal or Florida law.

H. SPECIAL CONDITIONS.

1. The Contractor will make affirmative efforts to achieve cost effectiveness by consolidating court hearings, limiting travel, streamlining case processing, using printed forms, using the appropriate level of attorney or staff experience required by task, and taking other actions to improve efficiency.

2. Multiple staffing at meetings, hearings, depositions, trials, etc., by the Contractor will not be compensated unless prior written approval from the MPOAC has been obtained.

3. The Contractor agrees that all documents shall be promptly returned at the termination of the Contractor's involvement in the case or matter at hand.

4. MPOAC in-house staff shall be used in the legal matter to the maximum extent possible.

5. The Contractor will provide immediate notice by facsimile transmission or telephone regarding significant case developments which will likely result in media inquiries.

6. The Contractor shall provide the MPOAC immediate notice of any representation undertaken by the Contractor in matters where the client is suing or being sued by the state or state entities in any civil or adversarial administrative action.

EXHIBIT 1 - Fee Schedule

I. HOURLY BILLING SCHEDULE:

A. The CONTRACTOR's attorney and paralegal staff to be used under this contract include the following individuals at the hourly rates indicated:

NAME	Hourly Rate
1. Paul Gougelman	\$199.00
2. Alan Gabriel	\$199.00
3. Paralegal Rate	\$ 55.00

The above rates may be adjusted if both parties agree, and shall be documented in writing by amendment to this Agreement.

III. ALTERNATE BILLING SCHEDULE: NONE.

MEMORANDUM

TO: Members of the Governing Board;  
Members of the Staff Directors' Advisory Board

FROM: Paul Gougelman, General Counsel

SUBJECT: New Agency By-Laws

DATE: September 20, 2014

For the last 20+ years the MPOAC was governed by MPOAC adopted rules adopted consistent with the Administrative Procedure Act ("APA").<sup>1</sup> The MPOAC is no longer subject to the APA, and Florida Statutes now permit the MPOAC to adopt rules and by-laws without following the cumbersome Administrative Procedure Act procedures.<sup>2</sup>

Consequently, we will be repealing all of our APA adopted rules and adopting new governing by-laws. Repeal of the APA adopted rules will likely occur at the January, 2015, MPOAC Governing Board meeting. Final adoption of the new by-laws will occur at the same meeting.

In July, the draft 2014 by-laws were issued for comment. A 45-day comment period ending on Friday, September 12<sup>th</sup> was utilized to obtain input from member MPOs and other interested parties. At the August 20, 2014, MPOAC Technical and Policy Committee meeting, the draft by-laws were discussed in detail, and numerous comments were made.

Attached for your review is the revised draft 2014 By-Laws. The underlined and ~~stricken through~~ language is based on the comments received during the comment period. It is proposed that the Governing Board signal its acceptance of the draft by-laws.

It may be helpful to know that Rules 1 through 9 have been in effect since the mid-1990s, but various revisions have been made to update the rules. Rules 10 through 12 were previously adopted last year by the MPOAC Governing

---

<sup>1</sup> Chapter 120, Florida Statutes.

<sup>2</sup> §339.175(11)(c)4., Fla.Stat., as amended by §17, Chap. 2014-223, Laws of Fla.

Members of the Governing Board;  
Members of the Staff Directors' Advisory Board  
September 20, 2014  
Page 2

Board.<sup>3</sup> When you review Rule 3(a), please check to make certain that we have the correct wording of the legal name of your MPO.

PRG/-

pc: Howard Glassman, MPOAC Executive Director

---

<sup>3</sup> Rule 10(a) regarding the use of Robert's Rules of Order was adopted in the 1990s by the MPOAC Governing Board.

**Draft 2014 MPOAC Agency Bylaws**

**Section Rule 1. Definitions.** As used in these bylaws ~~rules~~, the following terms shall be defined as follows:

(a) "MPO" means and refers to a metropolitan planning organization as provided for in 23 U.S.C. Section 134 and Section 339.175, Florida Statutes.

(b) "MPOAC" shall mean the State of Florida, Metropolitan Planning Organization Advisory Council as provided for in Section 339.175, Florida Statutes.

(c) "Record" shall include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by the MPOAC. A record shall be as specified in Section 119.011, Florida Statutes, or as determined pursuant to judicial interpretation of Chapter 119, Florida Statutes.

(d) "TPO" or "Transportation Planning Organization" refers to a MPO.

**Section Rule 2. MPOAC Organization.**

(a) The Governing Board of the MPOAC is composed of a twenty-six (26) member Governing Board. Each individual MPO or TPO selects one representative and one alternate representative to serve on the Governing Board. Alternate representatives shall vote, participate for the purpose of forming a quorum, make or second motions, and otherwise act as a member of the MPOAC Governing Board, only in the absence of the representative that the alternate has been appointed to serve in place of; provided, however, that alternate representatives may always attend Governing Board meetings and participate in debate.

(b) Organizational structure.

(1) Executive Committee. The Executive Committee consists of the MPOAC Governing Board Chair and Vice-Chair, a member of the Governing Board serving at-large, the Staff Directors' Advisory Committee Chair and Vice-Chair.

(2) In addition to the Governing Board, the MPOAC will be composed of at least one (1) committee, the Staff Directors' Advisory Committee, which is advisory to the Governing Board. The MPOAC will be staffed by an executive

director who hires, supervises, and may terminate or suspend MPOAC staff or consultants. The executive director serves as the, agency clerk., and the The MPOAC may retain a general counsel and other staff as necessary to perform adequately the functions of the MPOAC within budgetary limitations.

(c) Executive Committee.

(1) The at-large Governing Board member of the Executive Committee will be selected at the same time that the Governing Board Chair and Vice-Chair are selected. If the at-large member position shall become vacant, the Governing Board shall select an at-large member to complete the term of the individual being replaced. Said replacement member shall serve until such time as the election is held for Governing Board Chair, Vice-Chair, and the Executive Committee at-large member.

(2) The Executive Committee shall provide policy direction for the MPOAC between Governing Board meetings and provide an annual evaluation of the MPOAC Executive Director.

(d) ~~(e)~~ Staff Directors' Advisory Committee. The Staff Directors' Advisory Committee is responsible for providing guidance to the MPOAC Governing Board regarding transportation issues and agency operation. It may assist in the preparation of the MPOAC agenda. In addition, the Staff Directors' Advisory Committee may serve as a forum for the discussion and formulation of recommendations to the Governing Board which will later be forwarded to appropriate governmental bodies or other individuals. Recommendations shall relate to statewide concerns regarding all transportation-related issues.

(e) ~~(d)~~ Executive Director. The MPOAC Governing Board may appoint an executive director. The executive director shall be responsible for carrying out policy determinations and directives of the MPOAC Governing Board. ~~The executive director~~ The executive director shall have authority to hire, supervise, and terminate other subordinate employees of the MPOAC. The executive director reports for day-to-day supervision to the Chair of the Governing Board.

(f) ~~(e)~~ Agency Clerk. As a part of the duties of the position of Executive Director, the executive director shall serve *ex officio* as the agency clerk. The duties and responsibilities of the agency clerk shall be to: index and file agency resolutions, orders, and by laws ~~rules~~ in a manner not inconsistent with applicable provisions of the Florida Rules of Appellate Procedure; send notices of workshops and meetings; transcribe minutes of the Governing Board, committee, and

subcommittee meetings and workshops; maintain all agency files and records; make certifications of true copies and actions; attest to the signatures of MPOAC officers; and perform such other duties as determined by the MPOAC Governing Board.

(g) ~~(f)~~ General Counsel. The MPOAC Governing Board may also appoint and retain ~~employ~~ a general counsel. The general counsel shall be responsible for assisting the MPOAC in legal matters and representation of the MPOAC in legal proceedings. The MPOAC general counsel shall at all times be a member of the Florida Bar and shall have been a practicing attorney for at least five (5) years prior to assuming the position of general counsel. The Governing Board may ~~shall~~ also retain special legal counsel from time to time as necessary for the handling of specialized legal matters.

**Section Rule 3. MPOAC Governing Board.**

(a) The MPOAC Governing Board consists of one representative from each of the following MPOs:

- (1) Bay County Transportation Planning Organization
- (2) Broward Metropolitan Planning Organization
- (3) Capital Region Transportation Planning Agency
- (4) Charlotte County-Punta Gorda Metropolitan Planning Organization
- (5) Collier Metropolitan Planning Organization
- (6) Florida-Alabama Transportation Planning Organization
- (7) Hernando/Citrus Metropolitan Planning Organization
- (8) Hillsborough Metropolitan Planning Organization
- (9) Indian River County Metropolitan Planning Organization
- (10) Lake-Sumter Metropolitan Planning Organization
- (11) Lee County Metropolitan Planning Organization
- (12) Martin Metropolitan Planning Organization
- (13) MetroPlan Orlando
- (14) Metropolitan Transportation Planning Organization for the Gainesville Urbanized Area
- (15) Miami-Dade Metropolitan Planning Organization
- (16) North Florida Transportation Planning Organization
- (17) Ocala-Marion County Transportation Planning Organization
- (18) Okaloosa-Walton Transportation Planning Organization

- (19) Pasco County Metropolitan Planning Organization
- (20) Palm Beach Metropolitan Planning Organization
- (21) Pinellas County Metropolitan Planning Organization
- (22) Polk Transportation Planning Organization
- (23) River to Sea Transportation Planning Organization
- (24) Sarasota/Manatee Metropolitan Planning Organization
- (25) Space Coast Transportation Planning Organization
- (26) St. Lucie Transportation Planning Organization

(b) Appointment of Governing Board representatives.

(1) Each MPO or TPO shall appoint one (1) representative and one (1) alternate representative to serve on the MPOAC Governing Board. Regular Governing Board members or alternate members may be reappointed from time to time by their appointing MPO or TPO.

(2) The term for a representative and an alternate representative shall be from January 1st to December 31st of each calendar year. By no later than December 31st of each calendar year, each MPO or TPO shall appoint its representative to the MPOAC to serve for the succeeding calendar year.

(3) No individual shall be eligible to vote on the MPOAC until the appointing MPO or TPO certifies in writing or electronically by e-mail to the MPOAC that such individual is authorized to act as the representative or alternate representative of the certifying MPO or TPO.

(4) Each representative and each alternate representative of a MPO or TPO shall serve at the pleasure of the appointing MPO or TPO; provided, that a representative or an alternate representative on the MPOAC Governing Board must at all times be a representative sitting on the Governing Board of the appointing MPO or TPO.

(5) Vacancies shall be filled only by an appointment by the original appointing MPO or TPO.

(c) Upon the creation of a new MPO pursuant to Section 339.175, Florida Statutes, said MPO or TPO is entitled to the appointment of one representative and one alternate representative to serve as a member of the MPOAC Governing Board.

**Section Rule 4. Organization of the Governing Board.**

(a) The MPOAC Governing Board shall at its first meeting of the calendar year elect a chairperson and vice-chairperson, as its officers. The chairperson and vice-chairperson shall take office as of the time and date set for the MPOAC Governing Board regularly scheduled meeting in the third quarter of the calendar year (historically the meeting held in July), (or as soon thereafter as possible, if a meeting is not held in July) and shall serve until the time and date set for the beginning of the regularly scheduled MPOAC Governing Board meeting in the third quarter of the calendar year, (or as soon thereafter as possible if a meeting is not held in July) of the next succeeding year, or until a successor is thereafter elected, whichever event shall first occur. The chairperson and vice-chairperson must at all times during their term of office be members of the MPOAC Governing Board.

(b) If a vacancy occurs in any MPOAC Governing Board office, the MPOAC Governing Board shall fill the vacancy, and the individual filling the vacancy shall serve until the time set for the beginning of the July MPOAC Governing Board meeting held in the third quarter of the calendar year (or as soon thereafter as possible if a meeting is not held in July), or until a successor is thereafter elected, whichever event shall first occur.

(c) Chairperson; Vice-Chairperson. The chairperson of the MPOAC shall call and preside at all meetings of the MPOAC Governing Board. The chairperson is authorized to execute on behalf of the MPOAC all documents which have been approved by the MPOAC Governing Board. The vice-chairperson shall act as chairperson in the absence of the chairperson.

(d) Agenda preparation. After consultation with the Chairperson of the Governing Board, the Executive Director is responsible for the preparation of agendas for future meetings.

(e) Quorum. At least seven (7) of the voting members of the MPOAC Governing Board must be present for the MPOAC Governing Board to conduct business. All votes must pass by a vote of a majority of those members present and voting or by five (5) votes, whichever number shall be greater.

(f) Meetings.

(1) The MPOAC shall meet no less often than once each calendar quarter during the year based on an annual schedule established by the Governing Board which schedule may be amended from time to time by the Governing Board on the fourth Thursday in the months of January, April, July, and October of each year, unless said meeting is cancelled or rescheduled by the chairperson. The chairperson shall be empowered to cancel any of the foregoing regular meetings, as necessary.

(2) Special meetings may be called by the Governing Board chairperson or through a letter of petition from at least four (4) members of the Governing Board; provided, that all public notice requirements are satisfied. The letter shall state the purpose of the special meeting.

(3) Emergency meetings may be called as provided in Section 9.

(4) Joint meetings of the Governing Board and the Staff Directors' Advisory Committee. At the call of the Governing Board Chair or after consultation between the Governing Board Chair and the Staff Directors' Advisory Committee Chair at the call of the Staff Directors' Advisory Committee Chair, meetings of the Staff Directors' Advisory Committee may be held simultaneous with a Governing Board meeting.

(g) Subcommittees as necessary to assist the Governing Board may be established by the chairperson or by a majority vote of those present and voting at a Governing Board meeting. Sub-committee members shall be appointed by the Governing Board Chairperson.

**Section Rule 5. Staff Directors' Advisory Committee and Subcommittees.**

(a) Appointment of Committee representatives.

(1) The MPOAC Staff Directors' Advisory Committee is comprised of one staff person from each of the MPOs or TPOs listed in Section Rule 2. One (1) member representative to serve on the Staff Directors' Advisory Committee shall be designated by each MPO or TPO. In addition, each MPO that designates a member representative to the Staff Directors' Advisory Committee shall also designate one (1) alternate member representative. Alternate member representatives shall vote,

participate for the purpose of forming a quorum, make or second motions, and otherwise act as a member representative of the Staff Directors' Advisory Committee only in the absence of the member representative that the alternate has appointed to serve in place of; provided, however, that alternate member representatives may always attend committee meetings and participate in debate.

(2) Regular Staff Directors' Advisory Committee Member representatives or alternate member representatives may be reappointed from time to time by their appointing MPO or TPO.

(3) Each Staff Directors' Advisory Committee member representative and each alternate member representative of a MPO or TPO shall serve at the pleasure of the appointing MPO or TPO. Vacancies shall be filled only by an appointment by the original appointing MPO or TPO.

(4) Upon the creation of a new MPO pursuant to Section 339.175, Florida Statutes, said MPO or TPO is entitled to the appointment of one member representative and one alternate member representative to serve on the Staff Directors' Advisory Committee.

(b) The term of service for a member representative on the Staff Directors' Advisory Committee shall be for a period of time beginning on January 1st and ending on December 31st of each year. Members and alternate members are eligible for reappointment. By no later than December 31st of each calendar year, each MPO or TPO shall designate its representative and an alternate representative to the MPOAC.

(c) No individual shall be eligible to vote on the Staff Directors' Advisory Committee until the appointing MPO or TPO certifies in writing or electronically by e-mail to the MPOAC that such individual is authorized to vote as the representative, or alternate, of the certifying entity. Each member and alternate member of the committee shall serve at the pleasure of the appointing MPO or TPO. Each individual appointed to serve, as a regular member or an alternate member of the Staff Directors' Advisory Committee, as a representative of a MPO or TPO must be an employee of the MPO or TPO represented or the governmental agency staffing a MPO or TPO.

(d) Officers. The officers of the Staff Directors' Advisory Committee shall be the chairperson and the vice-chairperson. The chairperson and vice-chairperson shall be

selected by a majority vote of the membership of the Staff Directors' Advisory Committee present and voting. The chairperson and vice-chairperson shall take office as of the time and date set for the MPOAC Staff Directors' Advisory Committee meeting in July (or as soon thereafter as possible if a meeting is not held in July) and shall serve until the time and date set for the beginning of the Staff Directors' Advisory Committee meeting in July (or as soon thereafter as possible if a meeting is not held in July) of the next succeeding year, or until a successor is thereafter elected. The chairperson and vice-chairperson must be members of the Staff Directors' Advisory Committee.

(e) Chairperson; Vice-Chairperson. The chairperson of the Staff Directors' Advisory Committee shall call and preside at all meetings of the Staff Directors' Advisory Committee. The chairperson is authorized to implement on behalf of the Staff Directors' Advisory Committee all decisions which have been approved by the Staff Directors' Advisory Committee, and the chairperson is authorized to execute on behalf of the Staff Directors' Advisory Committee all documents which have been approved by the Staff Directors' Advisory Committee. The vice-chairperson shall act as chairperson in the absence of the chairperson.

(f) Agenda preparation. After consultation with the Chairperson of the Staff Directors' Advisory, Committee, the Executive Director is responsible for the preparation of agendas for future meetings.

(g) Quorum. At least seven (7) of the voting members of the Staff Directors' Advisory Committee must be present for the Staff Directors' Advisory Committee to conduct business. All votes must pass by a vote of a majority of those members present and voting or by five (5) votes, whichever number shall be greater.

(h) Meetings. Regular meetings of the Staff Directors' Advisory Committee shall be held at least once each calendar year quarter based on an annual schedule established by the MPOAC Governing Board which schedule may be amended from time to time by the MPOAC Governing Board on the fourth Thursday of January, April, July, and October, unless cancelled or rescheduled by the Staff Directors' Advisory Committee chairperson. The chairperson may cancel a meeting as a result of a lack of business to bring to the committee. Regular meetings shall be held immediately prior to, or at ~~as~~ the option

of the Chairperson simultaneous with the meetings of the Governing Board. Joint meetings of the Staff Directors' Advisory Committee and Governing Board may be conducted, and those meetings may be called as provided in Section 4(f)(4). Meetings shall be held in the same location as the Governing Board meeting. The chairperson shall set the time and location of special meetings. Special meetings shall be called by the Staff Directors' Advisory Committee chairperson or through a letter of petition from at least four (4) members; provided, that applicable public requirements are satisfied. This letter shall state the purpose of the special meeting.

(i) ~~(j)~~ Subcommittees may be established by the chairperson or by a majority vote of those present and voting at a Staff Directors' Advisory Committee meeting as necessary to assist the Staff Directors' Advisory Committee. Sub-committee members shall be appointed by the committee chairperson.

**Section Rule 6. Open Meetings; Public Records; and Principal Office of the MPOAC.**

(a) Open Meetings. All meetings of the Governing Board, its advisory committee, and any sub-committee, will be open to the public, except as provided by applicable federal or Florida law, if any.

(b) Records. All MPOAC records shall be open to the general public, unless such records are subject to an exemption from Chapter 119, Florida Statutes, or are confidential as required by law. The general public can review, or obtain copies of records (provided said public records are not non-reproducible pursuant to 17 U.S.C. §101 et seq.), unless said records are exempt or confidential pursuant to Section 119.071, Florida Statutes, or other provisions of federal or Florida law. Charges for copies may be made pursuant to Chapter 119, Florida Statutes. Public records shall be made available to the public for inspection at the principal office of the MPOAC.

(c) Principal Office of the MPOAC. The principal office of the MPOAC is located at such location as designated from time to time by the Governing Board ~~605 Suwannee Street, Tallahassee, Florida. The office is open between the hours of 8:00 a.m. and 5:00 p.m. during regular business days. The official mailing address of the agency is 605 Suwannee Street Mail Station 28 B, Tallahassee, Florida 32399-0450. The address, e-mail address, and telephone number of the principal office shall be displayed on the MPOAC internet web-site on the worldwide web.~~

The MPOAC executive director and ~~staff agency clerk~~ are located at the principal office. MPOAC official records, other than records of the general counsel, shall be maintained in the principal office of the MPOAC. Interested parties may receive copies of agency records from the agency clerk at the principal office of the MPOAC.

**Section Rule 7. Setting the Agenda.**

(a) Governing Board meeting. At least fifteen (15) days prior to a meeting or workshop, the MPOAC executive director, in consultation with the Governing Board Chairperson, shall prepare the agenda for the Governing Board meeting.

(b) Staff Directors' Advisory Committee or other committee.

(1) At least fifteen (15) days prior to a meeting or workshop, the MPOAC executive director, in consultation with the Staff Directors' Advisory Committee Chairperson, shall prepare the agenda for the Staff Directors' Advisory Committee meeting.

(2) At least fifteen (15) days prior to a meeting or workshop of any MPOAC committee, the MPOAC executive director, in consultation with the committee chairperson, shall prepare the agenda for the committee meeting.

(c) Subcommittees. At least fifteen (15) days prior to a meeting or workshop of a subcommittee, the MPOAC executive director, in consultation with the subcommittee chairperson, shall prepare the agenda for the subcommittee meeting.

(d) Upon completion of the preparation of an agenda for the Governing Board, any committee, or any subcommittee, the agency clerk shall make available the agenda for the meeting for distribution on request by any interested person who pays the reasonable cost for a copy of said agenda; to any person named in said agenda; and to any class of individuals to whom intended action is directed.

(e) Any person desiring to have an item placed on the agenda of a meeting of the MPOAC Governing Board, an advisory committee, or a subcommittee, shall request in writing that the item be considered at the next regularly scheduled meeting of the Governing Board, advisory committee, or a subcommittee, as appropriate; provided, however, such request must be received thirty (30) days in advance of said regularly scheduled meeting.

Written requests for placing an item on the agenda must describe and summarize the item and shall be mailed, e-mailed, or hand delivered to the MPOAC executive director.

(f) The agenda shall be specific as to items to be considered. All matters involving the exercise of agency discretion and policy making shall be listed on the agenda. The agenda shall include a disclaimer as required pursuant to Section 286.0105, Florida Statutes. Any items added to an agenda after its publication should be for information or reporting and not for action, unless the item is added as an emergency business item, an item that must be acted on because of a time deadline and which item was not known or available at the time that the agenda was prepared, or for consideration of solely ministerial or internal-administrative matters, which do not affect the interests of the public generally.

(g) The order of business for a regular meeting of the Governing Board or the Staff Directors' Advisory Committee shall be as follows:

1. Call to Order & Pledge of Allegiance
2. Approval of Minutes
3. Public Comments (non-agenda items)
4. Executive Director's Report
5. Agency Reports
  - A. Florida Department of Transportation
  - B. Federal Highway Administration
  - C. Federal Transit Administration
6. Business Items & Presentations
7. Communications
8. Member Comments
9. Adjournment

In preparing the agenda, the Executive Director may vary the order of items.

(h) The agenda shall list the items in the order they are to be considered; provided, however, that for good cause stated in the record by the person who is designated to preside at the event, items may be considered out of their listed order.

**Section Rule 8. Notice of Meetings and Workshops.**

(a) Governing Board Meetings.

(1) Except in the case of an emergency meeting, the

MPOAC agency clerk shall give written notice that will ensure receipt of said notice by all members and the general public at least seven (7) days prior to any non-emergency meeting or workshop of the Governing Board or the Executive Committee. In addition, the agency clerk shall prepare and make available a copy of said notice: for distribution on request to any interested person who pays the reasonable cost for a copy of said notice; to any person named in said notice; and to any class of individuals to whom action is directed. Meeting notices shall be advertised on the MPOAC web-site at least seven (7) days prior to any non-emergency meeting. Meeting notices given pursuant to this paragraph shall include a copy of the meeting agenda. All notices to members shall be sent to the official address of the MPO or such other current address on file with the agency clerk.

(2) Notices of regular meetings and travel and accommodation information shall be sent to Governing Board members at least thirty (30) days prior to the meeting date.

(3) The notice of meetings or workshops shall, at a minimum, provide:

A. The date, time, and place of the meeting or workshop.

B. ~~Advise said notice shall advise~~ the general public that at the meeting or workshop the agency will accept written or oral comment from the public with regard to agenda items; that agenda items may be reviewed by the public; the location, days, and time during which the agenda items may be examined by the public; and that anyone wishes to appeal any action of the agency with regard to a decision made at the meeting may need a verbatim transcript of the hearing and that said person shall be responsible for furnishing said transcript, as well as the cost of furnishing the transcript.

(4) Except as otherwise provided herein, notice may be given by regular U.S. mail, postage paid, nationally recognized overnight courier (delivery prepaid), or by e-mail. Governing Board agenda packages, including backup information for all agenda items, shall be provided by regular U.S. mail, postage paid or nationally recognized overnight courier (delivery prepaid).

(b) Staff Directors' Advisory Committee, and other committees, and sub-committees. The provisions of sub-section

(a) above shall apply to the Staff Directors' Advisory Committee, any other MPOAC committee, and any subcommittees.

**Section Rule 9. Emergency Meetings.**

(a) The MPOAC Governing Board, the Executive Committee, an advisory committee, or one of its subcommittees, may hold an emergency meeting, notwithstanding the provisions of any other section of these bylaws ~~rule~~ for the purpose of acting upon matters affecting the public health, safety, or welfare. The form of notice shall be as set forth in Section Rule 8. The form of the agenda shall be as prescribed in Section Rule 7(g) and (h).

(b) Whenever an emergency meeting is scheduled to be held, the agency clerk shall notify, as soon as possible prior to the meeting, at least one major newspaper of general circulation in the area where the meeting will take place, stating the time, date, place and purpose of the meeting or workshop.

(c) Following an emergency meeting the agency clerk shall cause to be published on the MPOAC web-site, notice as set forth in Section Rule 8(a)(3), a statement setting forth the reasons why an emergency meeting was necessary, and a statement setting forth the action taken at the meeting.

**Section Rule 10. Rules of Procedure; Action by Consent.**

(a) Rules of Procedure. All meetings of the Governing Board, any advisory committee, or any sub-committee shall be governed by Robert's Rules of Order as most recently revised.

(b) By general, unanimous, or silent consent, the Governing Board, or the Staff Directors' Advisory Committee, can do business with little regard for the rules of procedure, as they are made for the protection of the minority, and when there is no minority to protect, there is little need for the restraint of the rules, except such as to protect the rights of absent members. In the former case the consent of the absentees cannot be given. A single objection defeats a request for general consent. By the legitimate use of the principle that the rules are designed for the protection of the minority, and generally need not be strictly enforced when there is no minority to protect, business may be greatly expedited. When there is evidently no opposition, except in the case of state law requiring a recorded vote or when a written resolution is being adopted in final form, the formality of voting can be

avoided by the Chairman asking if there is any objection to the proposed action, and if there is none, announcing the result. The action thus taken is said to be done by general consent, or unanimous or silent consent. Thus, after an order has been adopted limiting the speeches to three minutes each, if a speaker is so interesting that when his time has expired there is a general demand for him to go on, the Chairman as the presiding officer, instead of waiting for a motion and taking a vote, could accept it as the will of the assembly that the speaker's time be extended, and would direct him to proceed. Or, he might say that if there is no objection, the member's time will be extended two minutes, or some other time. (Excerpted from Robert's Rules of Order).

**Section Rule 11. Public Comment.**

(a) Public Comment with regard to Non-Agenda Items.

(1) In the early stages of a Governing Board or Staff Directors' Advisory Committee meeting, time will be reserved for comment by members of the general public and other non-agency individuals. Individuals speaking during "Public Comment" will limit their comments to items not on the agenda. Members of the public and non-agency personnel comments are limited to not more than three (3) minutes per person, although the speaker is permitted to submit commentary in writing of any length provided that copies are made for all members of the board or committee being addressed by the speaker and the board secretary. No members of the public or non-agency personnel may lend speaking time to another speaker. The "Public Comment" period is limited to not more than 15 minutes duration. The Chairman of the Governing Board or Staff Directors' Advisory Committee, as applicable, may extend the time for an individual person speaking, or the overall "Public Comment" period, for limited periods and for good cause shown.

(2) During a presentation by a member of the public or other non-agency personnel, other members of the public, non-agency personnel, Governing Board Members, Members of the Staff Directors' Advisory Committee, or agency staff members (other than the meeting Chairman in said individual's role as the presiding officer) shall avoid interrupting the speaker. After all speakers have completed comments or a presentation, the Chairman, Governing Board Members, members of the Staff Directors' Advisory Committee, and agency staff may question the speakers. Time for question and answer of a speaker will not be

deducted from the speaker's three (3) minute speaking limitation.

(b) Public Comment with regard to Agenda Items.

(1) With regard to an agenda item, time will be reserved for comment by members of public comment and other non-agency personnel. Members of the public and non-agency individuals will limit their comments to the specific agenda item under consideration or ~~will~~ the individual's comments will be considered to be out of order. Comments by members of the public and non-agency personnel are limited to not more than three (3) minutes per person, although the speaker is permitted to submit commentary in writing of any length provided that copies are made for all members of the board or committee being addressed by the speaker and the board secretary. No members of the public or non-agency individuals may lend speaking time to another speaker making comment. The Chairman of the Governing Board or Staff Directors' Advisory Committee, as applicable, may extend the time for an individual making comment for limited periods for good cause shown.

(2) During a presentation by a member of the public or other non-agency personnel, other members of the public, non-agency personnel, Governing Board Members, members of the Staff Directors' Advisory Committee, or agency staff members (other than the Chairman in said individual's role as the presiding officer) shall avoid interrupting the speaker. After all speakers have completed comments or a presentation, the Chairman, Governing Board Members, and agency staff may question the speakers. Time for question and answer of a speaker will not be deducted from the speaker's three (3) minute speaking limitation.

(c) Addressing the Governing Board; Decorum. Members of the public or non-agency personnel seeking to address the Governing Board or the Staff Directors' Advisory Committee should prepare their remarks before addressing the Governing Board or the Staff Directors' Advisory Committee in an effort to be concise and to the point. Speakers must come to the lectern to speak, but they may come to the lectern only after they have been recognized by the presiding Chairman. Members of the public shall not address individual members of the Governing Board or individual members of the Staff Directors' Advisory Committee but shall address the board or committee being addressed as a whole through the presiding Chairman. Any speaker who becomes unruly, screams, uses profanity, or shows

poor conduct, may be asked to leave the lectern and return to the speaker's seat by the presiding Chairman. Should the speaker refuse to leave the lectern and return to speaker's seat, the Chairman, as the presiding officer, may rule the speaker "out of order." Should the speaker still refuse to leave the lectern and return to the speaker's seat, the Chairman may ask a law enforcement officer to remove the speaker from the meeting.

(d) Sign-up Sheets to be used. Sign-up sheets will be provided for each member of the public or non-agency personnel addressing the Governing Board or the Staff Directors' Advisory Committee, as applicable, during public comment on non-agenda items or during public comment on an individual agenda item. For public comment on non-agenda items, the person seeking to speak must present a sign-up sheet to the board or committee secretary not later than the beginning of the public comment on non-agenda items. For public comment on an agenda item, the person seeking to speak must present a sign-up sheet to the board or committee secretary not later than the beginning of the agenda item. Sign up sheets shall provide that the speaker identify the speaker's name, address, who the speaker is representing (if anyone), the agenda item that the speaker wishes to address, and the sign-up sheet must include the signature of the person seeking to comment. If a speaker wishes to speak with regard to more than one agenda item, individual sign up sheets must be submitted for each agenda item. The street address for individuals under the age of eighteen (18) may be omitted from being completed on a sign up sheet.

**Section Rule 12. Amendment of ~~By Laws~~ Rules of Procedure.**

(a) These policies and procedures may be adopted, amended, or repealed by amending the adopting resolution. These policies and procedures shall supplement and supervene Robert's Rules of Order to the extent of a conflict.

(b) These policies and procedures may be adopted, amended, or repealed by a two-thirds vote of the Governing Board members voting.

**FLORIDA METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL**  
**2015 2014 DRAFT LEGISLATIVE POLICY POSITIONS**

**Priority Policy Positions**

***The MPOAC supports State Legislation that:***

1. Implements the recommendations from the MPOAC transportation revenue study and other options for expanding transportation revenue sources.
  - In 2012, the MPOAC completed a two-year study to address the ever widening gap between the cost of needed transportation infrastructure along with declining and unsustainable revenue sources. The study identified a \$74 billion funding shortfall in MPO areas over the next 20 years. It also proposed 14 policy recommendations that are intended to restore the purchasing power of Florida's transportation dollar to the year 2000 and to move Florida toward a Mileage Based User Fee in lieu of the traditional fuel tax.

**Key Recommendations:**

- Redirect \$100 million annually to the State Transportation Trust Fund from General Revenue as was passed by the Florida House of Representatives during the 2014 legislative session in HB 5601 the additional motor vehicle tag and title fees that were enacted by the 2009 Legislature and used for general revenue purposes to the State Transportation Trust Fund.
  - Expand the Charter County and Regional Transportation System Surtax to allow municipalities over 150,000 in population (or the largest municipality in a county) and all counties located in MPO areas to enact up to a one cent local option surtax by referendum.
  - Index local option fuel taxes to the consumer price index in a manner similar to the current indexing of state fuel taxes.
  - Direct the Florida Department of Transportation to develop a plan to move Florida toward a Mileage Based User Fee, which protects individual privacy, in lieu of the traditional fuel tax ~~which does not rely on GPS technology as a tracking device.~~
2. Restores funding for the Transportation Regional Incentive Program in order to promote regional planning and project development.
    - The purpose of the Transportation Regional Incentive Program (TRIP) is to encourage regional planning by providing state matching funds (up to 50% of total project costs) for improvements to regionally significant transportation facilities identified and prioritized by regional partners. TRIP is funded through documentary stamp tax proceeds which have declined substantially over the past several years as a result of the economic decline in Florida's housing and land development industry. Starting on July 1, 2014, Funds available for TRIP have been ~~will be~~ further reduced as the first \$60 million of the funds that would otherwise be allocated to TRIP are ~~will~~ instead be allocated to the Florida Rail Enterprise.
  3. ~~Allows funds from the State Transportation Trust Fund to be used for capital expenses associated with the development of multi-use regional trails. Enacted by the 2014 Florida Legislature in SB 2514~~

- ~~There has been growing interest over the past several years to increase regional mobility through improved connections of multi-use trails. One example is the Coast to Coast Connector project which would result in a continuous multi-use trail that would extend from Brevard County on the Atlantic Coast to Pinellas County on the Gulf Coast. Once completed, the 275 mile multi-use trail system will draw thousands of tourists and spark new businesses in communities along the route. However, current state law does not specifically provide for the expenditure of funds from the State Transportation Trust Fund to build or improve regional multi-use trails.~~
4. Protects existing transportation programs from negative financial impacts that may arise from the passage of the 2014 Florida Water and Land Conservation Initiative and directs funds intended for recreational trails in a manner consistent with MPO plans and programs.
- The Florida Water and Land Conservation Initiative (Amendment 1 on the November 4, 2014 ballot), upon voter approval, would dedicate 33 percent of net revenues (an estimated \$648 million in FY 2015-16, growing to \$1.268 billion in FY 2034-35) from the existing excise tax on documents to the Land Acquisition Trust Fund. The funds will be used to acquire and improve conservation easements and other land, water, geological and historical sites, including recreational trails and parks. If approved, this diversion of revenues from the existing excise tax on documents could result in a substantial reduction in funds currently dedicated to the Transportation Regional Incentive Program, the Strategic Intermodal System, the New Starts Transit Program, the Florida Rail Enterprise and the Small County Outreach Program. This proposal seeks to protect those existing transportation programs in a manner consistent with MPO plans and programs.
5. Reduces distracted driving by regulating as a *primary* offense the use of electronic wireless communications devices and other similar distracting devices while operating a moving motor vehicle.
- The 2013 Florida legislature enacted the “Florida Ban on Texting While Driving Law.” The law prohibits operation of a moving motor vehicle while manually typing, sending or reading interpersonal communication (texting, e-mailing, instant messaging, etc.) using a wireless communications device, with certain exceptions. The law provides for enforcement of the ban as a secondary offense, meaning a driver would have to be pulled over for some other violation to get a ticket for violating the ban on texting. The 2014 Florida Legislature underscored the severity of distracted driving by considering a bill that would have substantially increased the penalty for distracted driving resulting in a fatality. This legislative proposal would seek to strengthen the enforcement mechanism for the texting while driving ban by making it a primary offense.

### Additional Policy Positions

*The MPOAC supports State Legislation that:*

6. ~~Removes the cap on the number of board members who can serve on a Metropolitan Planning Organization. Enacted substantially by the 2014 Florida Legislature in HB 7175 by increasing the cap from 19 to 25 members~~
- ~~Federal law provides general guidance relative to the board membership of Metropolitan Planning Organizations (MPOs). In contrast, Florida law includes extensive provisions on the voting membership of MPO boards. For example, state law authorizes no more than 19 voting members on~~

an MPO, even in cases where an MPO boundary expands to include a new urbanized area or when two or more existing MPOs consolidate.

7. Allows Strategic Intermodal System (SIS) funds to be used on roads and other transportation facilities not designated on the SIS if the improvement will enhance mobility or support freight transportation on the SIS.

- Current state law does not permit SIS funds to be spent on roads or other transportation facilities that are not part of the SIS, even if proposed improvements would directly benefit users of SIS facilities by enhancing mobility options or supporting freight movement in a SIS corridor. This legislative proposal would broaden the State's ability to improve passenger and freight mobility on SIS corridors by making eligible the expenditure of SIS funds on non SIS roads and other transportation facilities where the benefit to users of SIS facilities can be demonstrated.

8. Promotes interoperable and multi-modal fare-payment technologies that must be compatible, universal and accessible for use by all other technology systems. *Enacted in part by the 2014 Florida Legislature in HB 7175 by authorizing FDOT to use its electronic toll and video billing systems to collect certain charges for an owner of transportation facilities*

- Ideally, Florida's citizens would be able to use a single fare-payment technology to drive on a toll road, ride a transit vehicle, park a car, cross a toll bridge or use any other transportation facility or service anywhere in the state, regardless of the owner or operator of the system. However, a variety of technological and institutional barriers stand in the way of implementing universal, multi-modal fare-payment technologies. This proposal would provide support for a wide range of legislative initiatives intended to remove those barriers.

9. ~~Encourages the growth of carsharing services in the state of Florida by exempting carsharing program vehicles from the rental car surcharge. Enacted substantially by the 2014 Florida Legislature in HB 343 by reducing the rental car surcharge for carsharing services~~

- ~~A mode of transportation growing in popularity across the country is "carsharing," which provides mobility similar to personal vehicle ownership. A simple definition of carsharing is that it is a service that provides members with short-term car rental and access to a fleet of vehicles on an hourly basis. In this way individuals gain the benefits of private cars, but without the fixed costs and responsibilities of ownership. Hourly carsharing costs are typically under \$10 per hour. Currently, all rental cars in Florida are subject to a rental car surcharge of \$2.00 per day, including carsharing vehicles being used for as little as a single hour. When considered on a percentage basis, that is a surcharge of 20 percent or more, an amount that has the potential to negatively impact the growth of carsharing services.~~

10. Authorizes a county, or two or more contiguous counties, to form a regional transportation finance authority for the purpose of financing, constructing, maintaining, and operating transportation projects that are coordinated with MPO plans and programs.

- The 2013 Florida Legislature introduced legislation titled the "Florida Regional Transportation Finance Authority Act" that was contained in SB 1132. In 2014, the Florida Legislature considered SB 1052 which was a similar bill for a specific region of the state that would create the Northwest Florida Regional Transportation Finance Authority. Both legislative proposals would have established the governance and powers and duties of the authority and named FDOT as the agent of

each authority for the purpose of performing all phases of a project, including constructing improvements and extensions to the system, and for the purpose of operating and maintaining the system. This proposal would authorize the creation of Regional Transportation Finance Authorities, subject to approval by the Legislature and the county commission of each county that will be part of the authority, and specify that there be only one authority created and operating within the area served by the authority.

**FLORIDA METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL**  
**2015 DRAFT LEGISLATIVE POLICY POSITIONS**

**Priority Policy Positions**

***The MPOAC supports State Legislation that:***

1. Implements the recommendations from the MPOAC transportation revenue study and other options for expanding transportation revenue sources.
  - In 2012, the MPOAC completed a two-year study to address the ever widening gap between the cost of needed transportation infrastructure along with declining and unsustainable revenue sources. The study identified a \$74 billion funding shortfall in MPO areas over the next 20 years. It also proposed 14 policy recommendations that are intended to restore the purchasing power of Florida's transportation dollar to the year 2000 and to move Florida toward a Mileage Based User Fee in lieu of the traditional fuel tax.

**Key Recommendations:**

- Redirect \$100 million annually to the State Transportation Trust Fund from General Revenue as was passed by the Florida House of Representatives during the 2014 legislative session in HB 5601.
  - Expand the Charter County and Regional Transportation System Surtax to allow municipalities over 150,000 in population (or the largest municipality in a county) and all counties located in MPO areas to enact up to a one cent local option surtax by referendum.
  - Index local option fuel taxes to the consumer price index in a manner similar to the current indexing of state fuel taxes.
  - Direct the Florida Department of Transportation to develop a plan to move Florida toward a Mileage Based User Fee, which protects individual privacy, in lieu of the traditional fuel tax.
2. Restores funding for the Transportation Regional Incentive Program in order to promote regional planning and project development.
    - The purpose of the Transportation Regional Incentive Program (TRIP) is to encourage regional planning by providing state matching funds (up to 50% of total project costs) for improvements to regionally significant transportation facilities identified and prioritized by regional partners. TRIP is funded through documentary stamp tax proceeds which have declined substantially over the past several years as a result of the economic decline in Florida's housing and land development industry. Funds available for TRIP have been further reduced as the first \$60 million of funds that would otherwise be allocated to TRIP are instead allocated to the Florida Rail Enterprise.
  3. Protects existing transportation programs from negative financial impacts that may arise from the passage of the 2014 Florida Water and Land Conservation Initiative and directs funds intended for recreational trails in a manner consistent with MPO plans and programs.
    - The Florida Water and Land Conservation Initiative (Amendment 1 on the November 4, 2014 ballot), upon voter approval, would dedicate 33 percent of net revenues (an estimated \$648 million

in FY 2015-16, growing to \$1.268 billion in FY 2034-35) from the existing excise tax on documents to the Land Acquisition Trust Fund. The funds will be used to acquire and improve conservation easements and other land, water, geological and historical sites, including recreational trails and parks. If approved, this diversion of revenues from the existing excise tax on documents could result in a substantial reduction in funds currently dedicated to the Transportation Regional Incentive Program, the Strategic Intermodal System, the New Starts Transit Program, the Florida Rail Enterprise and the Small County Outreach Program. This proposal seeks to protect those existing transportation programs in a manner consistent with MPO plans and programs.

4. Reduces distracted driving by regulating as a *primary* offense the use of electronic wireless communications devices and other similar distracting devices while operating a moving motor vehicle.
  - The 2013 Florida legislature enacted the “Florida Ban on Texting While Driving Law.” The law prohibits operation of a moving motor vehicle while manually typing, sending or reading interpersonal communication (texting, e-mailing, instant messaging, etc.) using a wireless communications device, with certain exceptions. The law provides for enforcement of the ban as a secondary offense, meaning a driver would have to be pulled over for some other violation to get a ticket for violating the ban on texting. The 2014 Florida Legislature underscored the severity of distracted driving by considering a bill that would have substantially increased the penalty for distracted driving resulting in a fatality. This legislative proposal would seek to strengthen the enforcement mechanism for the texting while driving ban by making it a primary offense.

#### **Additional Policy Positions**

##### ***The MPOAC supports State Legislation that:***

5. Allows Strategic Intermodal System (SIS) funds to be used on roads and other transportation facilities not designated on the SIS if the improvement will enhance mobility or support freight transportation on the SIS.
  - Current state law does not permit SIS funds to be spent on roads or other transportation facilities that are not part of the SIS, even if proposed improvements would directly benefit users of SIS facilities by enhancing mobility options or supporting freight movement in a SIS corridor. This legislative proposal would broaden the State’s ability to improve passenger and freight mobility on SIS corridors by making eligible the expenditure of SIS funds on non SIS roads and other transportation facilities where the benefit to users of SIS facilities can be demonstrated.
6. Promotes interoperable and multi-modal fare-payment technologies that must be compatible, universal and accessible for use by all other technology systems.
  - Ideally, Florida’s citizens would be able to use a single fare-payment technology to drive on a toll road, ride a transit vehicle, park a car, cross a toll bridge or use any other transportation facility or service anywhere in the state, regardless of the owner or operator of the system. However, a variety of technological and institutional barriers stand in the way of implementing universal, multi-modal fare-payment technologies. This proposal would provide support for a wide range of legislative initiatives intended to remove those barriers.

7. Authorizes a county, or two or more contiguous counties, to form a regional transportation finance authority for the purpose of financing, constructing, maintaining, and operating transportation projects that are coordinated with MPO plans and programs.
  - The 2013 Florida Legislature introduced legislation titled the “Florida Regional Transportation Finance Authority Act” that was contained in SB 1132. In 2014, the Florida Legislature considered SB 1052 which was a similar bill for a specific region of the state that would create the Northwest Florida Regional Transportation Finance Authority. Both legislative proposals would have established the governance and powers and duties of the authority and named FDOT as the agent of each authority for the purpose of performing all phases of a project, including constructing improvements and extensions to the system, and for the purpose of operating and maintaining the system. This proposal would authorize the creation of Regional Transportation Finance Authorities, subject to approval by the Legislature and the county commission of each county that will be part of the authority, and specify that there be only one authority created and operating within the area served by the authority.

## **Providing Executive Director Services to the MPOAC**

October 30, 2014

### **Issue:**

The MPOAC needs to decide which direction and steps it should take in order to secure the services of an Executive Director. The current Executive Director will be finishing the Deferred Retirement Option Program on May 31, 2015. The Executive Committee requested information on various options for the MPOAC to consider and to have those options discussed at the August 20, 2014 Policy Committee meeting and presented as an action item at the October 30, 2014 MPOAC meeting. The MPOAC should complete the steps necessary to secure the services of an Executive Director by its April 2015 meeting in order to have continuous Executive Director services.

### **Option 1:**

#### **Employ an Executive Director for the Select Exempt Service Position (Option currently used by MPOAC)**

The MPOAC Executive Director Select Exempt Service position #14281 would be advertised by the State of Florida in "People First" and could also be posted on the AMPO and NARC job announcement websites. The MPOAC would work with FDOT to advertise the position but would be solely responsible for the interviewing and selection of an Executive Director along with the development of the position description, "knowledge, skills and abilities" and other materials.

#### **Pros:**

- Select Exempt Service position was allocated to the MPOAC by the Florida Department of Management Services
- Able to fill position through People First; position reports directly to MPOAC Governing Board
- Does not require a UPWP or budget amendment
- FDOT provides office space and administrative services

#### **Cons:**

- Administrative reliance on FDOT and budgetary constraints

### **Option 2:**

#### **Expand the MPOAC Transportation Planning Services Agreement with the Center for Urban Transportation Research**

The Center for Urban Transportation Research (CUTR) at the University of South Florida provides a variety of transportation planning services to the MPOAC through a transportation planning services agreement that's been in place since 2002. The services agreement is funded in the MPOAC Unified Planning Work Program by PL funds from FHWA and 5305 funds from FTA.

Expand the MPOAC's current services agreement with CUTR by adding a task to provide short-term Executive Director services to the MPOAC for a period of six to twelve months. The MPOAC would decide whether to further extend this task for a specified period of time or to discontinue the task and take the steps necessary to appoint an Executive Director. The MPOAC would request the FDOT to retain

for a period of least six months the Select Exempt Service Position #14281 currently used for the MPOAC Executive Director. This option would not have significant impacts on the MPOAC or CUTR in such areas as equipment, office space, and supervision of the MPOAC Administrative Assistant

**Pros:**

- Provides the opportunity to explore another alternative for providing Executive Director services
- Can extend the timeline for making a final decision relative to the Executive Director position
- Utilizes an existing services agreement between the MPOAC and CUTR and would not require a new consultant selection process
- CUTR overhead rate is competitive compared to the private sector

**Cons:**

- Requires a UPWP amendment and possibly a budget amendment by FDOT in order to transfer MPOAC funds into a consultant category
- Position would not report directly to the MPOAC Governing Board for supervisory purposes (CUTR employee)

**Option 3:**

**Retain a Consultant to serve as the Executive Director**

The FDOT Procurement Office could be requested to provide guidance to the MPOAC in the selection of a consultant to serve as Executive Director. The Procurement Office is knowledgeable about the requirements of the Consultants' Competitive Negotiation Act (CCNA) [s. 287.055(4) and s. 337.1075, F.S] and the administrative rules regarding the qualification, selection, and performance evaluation for professional services. According to the Procurement Office it typically takes about five months to complete the process. The MPOAC could consider a Consultant experienced in transportation planning related activities or instead retain the services of a Consultant that's experienced in providing management services to statewide associations and organizations. The MPOAC would need to consider whether to vacate the Select Exempt Service Position # 14281 currently used for the Executive Director.

**Pros:**

- Provides the opportunity to explore another alternative for providing Executive Director services
- Provides the opportunity to hire an experienced transportation professional service organization
- Can extend the timeline for making a final decision relative to the Executive Director position
- A Temporary Employment Agency (TEA) could be considered for this option. TEAs provide Program Manager services and using a TEA could expedite the employment selection process.

**Cons:**

- Requires a UPWP amendment and possibly a budget amendment by FDOT in order to transfer MPOAC funds into a consultant category
- Requires the MPOAC to lead and conduct a consultant selection process
- Private sector overhead rate is less competitive than CUTR
- Position would not report directly to the MPOAC Governing Board for supervisory purposes (consultant firm employee)

LAW OFFICES

PAUL R. GOUGELMAN, III  
ATTORNEY-AT-LAW

2220 Front Street - Suite 204  
Melbourne, Florida 32901  
Telephone (321) 508-7800  
Email pgougelman@CFL.RR.Com

October 13, 2014

The Honorable Susan Haynie and  
Members of the Governing Board  
Florida Metropolitan Planning  
Organization Advisory Council  
605 Suwannee St. - MS-28B  
Tallahassee, FL 32399-0450

RE: Executive Director; DROP Program

Dear Mayor Haynie and Members of the Governing Board:

At the July, 2014, meeting of the Florida Metropolitan Planning Organization Advisory Council ("MPOAC" I was asked to conduct a brief examination of the Florida Retirement System ("FRS") Deferred Retirement Option Program ("DROP") as it relates to Howard Glassman continuing to serve as Executive Director.<sup>1</sup>

Mr. Glassman has served as the MPOAC's Executive Director since the early 1990s. In this position, he has served as an employee covered by the FRS. When he reached eligibility, Mr. Glassman entered the DROP program. His period of permissible employment under DROP terminates in May, 2015.

The central problem raised is with regard to Mr. Glassman's continuing to serve as Executive Director after he terminates his participation in DROP after May, 2015.

---

<sup>1</sup> The minutes of the July 24<sup>th</sup> meeting state:

The Chair explained that no action could be taken because the item did not appear on the agenda. She suggested that the Board direct Mr. Gougelman to look into the legal requirements of the FRS and DROP. She further suggested that Mr. Glassman perform a salary review of the directors of similar organizations. Madame Chair stated that the process could be further refined through the Policy and Technical Subcommittee and a direction discussed at the October meeting.

MPOAC Minutes at 4 (July 24, 2014).

The Honorable Susan Haynie and  
Members of the Governing Board  
October 13, 2014  
Page 2

If he continues to serve after that date, both he and the MPOAC face certain contingencies. They are as follows:

1) If a DROP-covered employee returns to work during the first six calendar months after the employee's DROP termination date, the employee's retirement application is voided, and all retirement benefits, including any funds accumulated during the employee's DROP participation, must be repaid to the FRS Trust Fund.<sup>2</sup>

2) In addition, the DROP covered employee may not receive both a salary and a retirement benefit in the same month after an employee's DROP termination date for twelve months.<sup>3</sup>

A point of caution for the MPOAC is in order. A retiree initially reemployed in violation of the FRS law and an employer that employs or appoints such person are jointly and severally liable for reimbursement of any retirement benefits paid in violation of the law.

In examining this situation, I also reviewed this situation with Allison Olson, who is a Benefits Administrator with FRS. She confirmed the foregoing.

However, there are instances when a DROP participant terminates employment and is back at work for the previous FRS employer within a matter of days after terminating participation in DROP. How does this happen?

Ms. Olson confirmed to me that the current interpretation of the law by the Division of Retirement is that a DROP covered employee who terminates employment with a FRS agency is not considered as having returned to work with the FRS agency, if the employee goes to work for a private contractor who stations the former FRS employee on a full-time basis at the former FRS job site.

The way in which this could happen in Mr. Glassman's case would be Mr. Glassman goes to work for a private transportation consulting firm under contract with the MPOAC to perform certain activities, such as stationing a manager at the MPOAC offices. Another way in which this could occur, according to Ms. Olson, is that a former employee could work for a private personnel agency which supplies personnel to the FRS employer for varying periods

---

<sup>2</sup> See Florida Dept. Of Management Services, Workforce, Retirement, Members, Deferred Retirement Option Program (DROP) on the world-wide web.

<sup>3</sup> *Id.*; see, e.g., §§121.021(39)(b)2., and 121.091(9)(c), Fla.Stat.

The Honorable Susan Haynie and  
Members of the Governing Board  
October 13, 2014  
Page 3

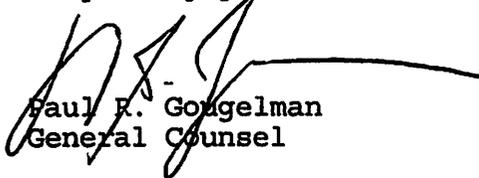
of time.

The common thread running throughout both of the foregoing alternatives is that the former DROP participant is an employee of a private firm, and the private firm pays all salary money and benefits to the employee.

I advised Ms. Olson that if the MPOAC decided to follow this approach, the MPOAC would probably like written verification from someone in authority at the Division of Retirement. Ms. Olson recommended seeking a written authorization from Cindy P. Randolph, who is the Bureau Chief for the Bureau of Retirement Calculations.

I trust that this letter has been helpful. If I can provide further information, please let me know.

Very truly yours,



Paul R. Gougelman  
General Counsel

PRG/

pc: Howard Glassman, Executive Director,  
Florida Metropolitan Planning  
Organization Advisory Council

**Item Number 5A**  
**Florida Department of Transportation Report**

**DISCUSSION:**

Mr. Jim Wood, Director, Office of Policy Planning at FDOT will be presenting the following:

1. Statewide Transportation Planning Update
2. Other Issues / Calendar Items

**REQUESTED ACTION:**

As may be desired

**ATTACHMENTS:**

None

**Item Number 5B**  
**Federal Highway Administration Report**

**DISCUSSION:**

Ms. Lee Ann Jacobs, Planning and Programs Coordinator at the FHWA Florida Division Office will be presenting the following items:

1. MAP-21 Update
2. Approval of 2015-2018 STIP and Statewide Planning Finding
3. Other various FHWA announcements

**REQUESTED ACTION:**

As may be desired

**ATTACHMENTS:**

1. Approval of FY 2015 – 2018 STIP and Statewide Planning Finding, FHWA Florida Division Office and Federal Transit Administration Region 4 Office, dated September 30, 2014



**Federal Highway Administration**  
Florida Division Office  
545 John Knox Road, Suite 200  
Tallahassee, Florida 32303  
(850) 553-2200  
[www.fhwa.dot.gov/fldiv](http://www.fhwa.dot.gov/fldiv)

**Federal Transit Administration**  
Region 4 Office  
230 Peachtree Street NW, Suite 800  
Atlanta, Georgia 30303  
(404) 865-5600

September 30, 2014

Mr. Ananth Prasad  
Secretary of Transportation  
Florida Department of Transportation  
605 Suwannee Street / MS-59  
Tallahassee, Florida 32399-0450

Subject: Approval of FY 2015-2018 STIP and Statewide Planning Finding

Dear Mr. Prasad:

The following is in response to the Department's transmittal of the Fiscal Year (FY) 2014/2015 – 2017/2018 Transportation Improvement Programs (TIPs) for Florida's 26 Metropolitan Planning Organizations (MPOs) for our review, which includes the letter of approval for the MPO TIPs, Florida's FY 2015-2018 Statewide Transportation Improvement Program (STIP), and the certification of the state planning process, dated September 16, 2014. Our various metropolitan and statewide planning process findings and actions are summarized below:

**1. Metropolitan Transportation Planning Processes and TIPs:**

Based upon our review of the annual "self-certification" statements jointly developed between each of the MPOs and the Department and our joint certification reviews of Transportation Management Areas (TMAs) during 2014, we hereby determine that the FY 2014/2015 – 2017/2018 TIPs developed and adopted by each of Florida's 26 MPOs are based on a continuing, cooperative, and comprehensive planning process. We also hereby conclude that the content and elements of each of the TIPs generally satisfy the requirements of 23 U.S.C. 134, 49 U.S.C. 5303, 23 CFR Part 450 (Subpart C) and 49 CFR Part 613 (Subpart C).

**2. Statewide Transportation Planning Process and the STIP:**

23 U.S.C. 135(f)(4) and 23 CFR 450.218 require that the Federal Highway Administration / Federal Transit Administration (FHWA / FTA) approval of the STIP include a finding that the process from which the STIP was developed is consistent with the provisions of 23 U.S.C. 134 and 135 and 49 U.S.C. 5303 – 5305. Since 1995, an "annual assessment" of various aspects of the statewide transportation planning process has been a key source of information in supporting this FHWA/FTA statewide planning finding.

On July 30, 2014, a meeting was conducted with various members of your staff to discuss Florida's statewide transportation planning process. Enclosed for your reference and information is a copy of the summary report that concludes that the statewide transportation planning process largely satisfies the above requirements.

Mr. Ananth Prasad  
September 30, 2013

2

In summary, our review of the STIP, TIPs, and supporting documentation concludes that the FY 2015-2018 STIP substantially meets the process and content requirements of 23 U.S.C. 134 and 135, 49 U.S.C. 5303 - 5305, 23 CFR Part 450 (Subparts B and C) and 49 CFR Part 613 (Subparts B and C), including the provisions on public involvement and fiscal constraint. Therefore, on behalf of both agencies (FHWA / FTA), Florida's FY 2014/15-2017/18 STIP is hereby approved.

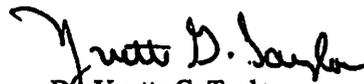
We look forward to continuing our coordination with the Department, the MPOs, the local/regional transit service providers, and Florida's other transportation stakeholders in further implementing the various transportation planning and environmental provisions in federal law.

If you have any questions, please do not hesitate to contact Ms. LeeAnn Jacobs at (850) 553-2219 or Andres Ramirez at (404) 865-5611.

Sincerely,



James Christian  
Division Administrator  
Federal Highway Administration



Dr. Yvette G. Taylor  
Regional Administrator  
Federal Transit Administration

Enclosure: Annual Statewide Assessment Report (1ea Hard copy attached, cc: will receive electronic copy)

cc: Ms. Lora Hollingsworth, FDOT (MS-57)

Ms. Lisa Saliba, FDOT (MS-21)  
Mr. James Jobe, FDOT (MS-21)  
Mr. Jim Wood, FDOT (MS-28)  
Mr. Howard Glassman, MPOAC (MS-28B)  
Mr. Billy Hattaway, Secretary, FDOT (District 1)  
Mr. Greg Evans, Secretary, FDOT (District 2)  
Mr. Tommy Barfield, Secretary, FDOT (District 3)  
Mr. Jim Wolfe, Secretary, FDOT (District 4)  
Ms. Noranne Downs, Secretary, FDOT (District 5)  
Mr. Gus Pego, Secretary, FDOT (District 6)  
Mr. Paul Steinman, Secretary, FDOT (District 7)  
Ms. Diane Gutierrez-Scaccetti, Executive Director, Florida's Turnpike Enterprise



**2014  
Florida  
Federal Planning  
Finding  
(Statewide Annual  
Assessment)**

Federal Highway Administration  
Federal Transit Administration  
Region 4

**Prepared by:  
Federal Highway  
Administration  
  
Federal Transit  
Administration  
Region 4**

September 2014

## Table of Contents

<b>I. BACKGROUND</b> .....	3
<b>II. FORMAT</b> .....	4
<b>III. TOPICS OF INTEREST</b> .....	4
A. FINDINGS AND RECOMMENDATIONS FROM THE 2013 STATEWIDE ANNUAL ASSESSMENT .....	4
B. FY 2014/15- FY 2017/18 STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.....	7
C. SUMMARY OF THE 2014 ANNUAL FDOT / MPO CERTIFICATIONS .....	9
D. SUMMARY OF THE 2014 FHWA/FTA CERTIFICATION REVIEWS OF THE TRANSPORTATION MANAGEMENT AREAS (TMA).....	12
E. PROGRAM ACCOUNTABILITY REVIEW RESULTS.....	14
F. TRAINING / TECHNICAL ASSISTANCE NEEDS .....	15
<b>IV. FINDINGS AND RECOMMENDATIONS</b> .....	15
<b>APPENDIX A - MEETING AGENDA</b> .....	18
<b>APPENDIX B – LIST OF MEETING PARTICIPANTS</b> .....	19

## I. BACKGROUND

The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) have joint stewardship responsibilities to ensure that both the statewide and metropolitan transportation planning processes satisfy the requirements of 23 U.S.C. 134, 135, 303 and 315; 49 U.S.C. 5303-5305, 23 CFR Part 450 and 500 (Subparts B, C and appendix A), and 49 CFR Part 613 (Subparts B, C and Appendix A). From a statewide planning perspective, the State certifies the process through the submittal of the Statewide Transportation Improvement Program (STIP), while Metropolitan Planning Organizations (MPOs) and the State jointly certify the metropolitan transportation planning processes through the submittal of the MPO's Transportation Improvement Programs (TIPs). Based on our review of the STIP, TIPs, our annual program and risk assessments, and our day to day stewardship and oversight activities, FHWA and FTA are responsible for issuing the following types of planning findings and approvals:

- A. *Metropolitan planning findings based on review of MPO TIPs and certification statements.* Pursuant to 23 CFR 450.328(a), the FHWA/FTA must jointly find that each metropolitan TIP is based on a "3-C" (continuing, comprehensive, and cooperative) planning process by the MPO, State Department of Transportation, and transit service provider(s). In Florida, this finding primarily has been based on the annual MPO/Florida Department of Transportation (FDOT) joint certification statements on the respective metropolitan planning processes. Information collected from the quadrennial FHWA/FTA certification reviews of the planning processes in Florida's Transportation Management Areas (TMAs), pursuant to 23 CFR 450.334(b), also has provided substantial input for FHWA/FTA to issue these annual "3-C" planning findings.
- B. *FHWA/FTA review of the statewide planning process and issuance of a related statewide planning finding to support FHWA/FTA approval of the STIP.* As outlined under 23 CFR 450.218, the FHWA/FTA Statewide planning finding, made in conjunction with the FHWA/FTA approval of the STIP, ensures, at a minimum, that the process from which the STIP was developed is consistent with the provisions of 23 U.S.C. 134 and 135 and 49 U.S.C. 5303-5305. A joint FHWA/FTA planning finding accompanies the annual FHWA/FTA approval of Florida's STIP. In Florida, this process was formerly known as the "annual assessment" of the statewide planning process. Per FHWA Headquarters' recommendation, it will now be known officially as the "Federal Planning Finding".

The primary objective of this report is to substantiate the issuance of the FHWA/FTA Statewide Planning Finding for supporting FHWA/FTA approval of Florida's Fiscal Year (FY) 2014/15- 2017/18 STIP.

## II. FORMAT

The findings in this report are based in part on the information received during the annual statewide assessment meeting held on July 30, 2014 with the Florida Department of Transportation (FDOT) staff responsible for the topic area activities. The numerous topics discussed are related to FDOT's statewide planning process and are listed in the **Meeting Agenda shown in Appendix A**. The **list of meeting participants is provided in Appendix B**. Documentation received from FDOT on the topics covered during the Statewide Assessment Review process meeting was used to support the Findings and is on file at the FHWA Division Office.

## III. TOPICS OF INTEREST

### A. Findings and Recommendations from the 2013 Statewide Annual Assessment

Provided below are the overall findings from the 2013 annual assessment report, and the status of the corrective actions/recommendations.

1. **STIP** – FHWA and FTA will continue to work with FDOT to address and implement improvements to the STIP document, the development and amendment processes to more effectively meet federal requirements. These areas may include documentation of processes on the website, the inclusion of local projects, documentation of the advance construction (AC) process, and issues with revisions to projects approved in prior STIPs.

**Update:** The STIP website has been rewritten and updated for added clarity. Language has been added on the process of developing the STIP and the relationship of the STIP to the FDOT Five Year Work Program, full project costs, and the AC process. Projects which are exclusively locally funded and in which FDOT has no involvement continue to be incorporated by reference to the appropriate MPO TIP.

2. **Total Project Costs** – Continue the efforts to further refine and expand the identification of estimated total project cost(s) for projects presented in the STIP and MPOs' TIPs, which may extend beyond the timeframe of the TIP and STIP in accordance with 23 CFR450.216(i)(2) and 450.324(e)(2). Specifically, information related to how to obtain full project costs for projects in the STIP has not been added to the STIP webpage. This information was previously developed by FDOT's Office of Policy Planning and agreed to by FHWA/FTA, and can simply be added to the website to assist the reader in locating total project costs for specific projects.

**Update:** Language has been added to the STIP website relative to FDOT's efforts to include, to the maximum extent feasible, full project cost in the STIP.

3. **MAP-21** –Moving Ahead for Progress in the 21st Century (MAP-21) presents challenges and opportunities for meeting the growing transportation needs for the citizens of Florida. We recommend that FHWA, FTA, FDOT and Florida’s MPOs continue to work closely together to understand and achieve compliance with MAP-21 as guidance and rulemaking are developed and presented.

**Update:** FDOT recognizes the importance of MPO collaboration as MAP-21 rulemaking is promulgated and finalized. The Office of Policy Planning (OPP) closely tracks, coordinates with other states and the MPOs to comment during rulemaking as a result of MAP-21 changes affecting State and MPO planning processes. OPP will continue to meet with and update the MPOs through the MPOAC Policy and Technical Committee and Board meetings. Performance measurement, historically tracked for FDOT, has become an integral part of the MAP-21 notices of proposed changes and rulemaking for both States and MPOs. A FDOT/FHWA/FTA/MPO Statewide Meeting was held in April, 2014. A major part of that workshop was to establish collaboration with MPOs on performance measurement. The workshop resulted in a collaboration report which can be accessed at: <http://www.dot.state.fl.us/planning/policy/metrosupport/annual2014/default.shtm> A committee of stakeholders, including MPOs, has been actively meeting and discussing tools and strategies that both the State and MPOs can utilize to meet the final performance measurement requirements.

4. **STIP Approval Planning Consistency** – As part of the Division’s Standard Operating Procedure for the STIP approval process, FHWA randomly selects a few projects in the proposed STIP from each MPO throughout the state to review for general consistency among the TIP, STIP and LRTP documents. The results of this review indicate that emphasis is still needed in this area to ensure that projects are accurately reflected in both the TIP and STIP and that these projects are flowing from and are found to be consistent with the LRTP. FHWA will work with FDOT and the MPOs to stress this concept as a topic of discussion at statewide and/or regional meetings with these parties.

**Update:** FDOT will continue to offer opportunities to FHWA and FTA to participate in quarterly FDOT/FHWA/FTA/MPO video conferences. There are plans for a statewide face to face meeting in 2015 with all agencies participating.

5. **LRTP Amendment Thresholds /NEPA Approval** - During the last few months, FHWA, FTA, and FDOT have successfully worked together to develop LRTP amendment thresholds to assist with determining planning consistency between planning documents, and initiated visual representations of acceptable funding scenarios to obtain NEPA approval. FHWA and FDOT plan to visit the FDOT Districts over the next few months to further discuss and respond to questions and concerns related to this process. We recommend that FHWA and FDOT continue these efforts to develop and provide direction that will assist the FDOT Districts in providing the information needed to make this process more efficient.

**Update:** FDOT and FHWA held workshops in all of the Seven FDOT Districts in 2013 and 2014. FDOT will work with FHWA over the coming year to identify processes which will expedite NEPA approval.

6. **TIPs** – Federal requirements related to the demonstration of fiscal constraint do not appear to be fully addressed within all MPOs. FHWA will be working with FDOT and the MPOs in the coming year to develop a way to better and more easily illustrate and convey the demonstration of fiscal constraint for TIPs (displaying costs vs. revenue) beyond simply stating in the document that the TIP is constrained by year and that it can be implemented using the proposed revenue sources.

**Update:** MPOs have continually been informed of the need to show fiscal constraint in the MPO TIP documents. The communication has been via email and quarterly video conferences. FDOT, during review and comment of the TIPs this cycle has emphasized the need for, and how to demonstrate fiscal constraint, through FDOT comments on the TIPs to the MPOs.

7. **LRTP Expectations Letter** - The “LRTP Expectations Letter”, issued jointly by FHWA and FTA in the fall of 2012, provides clarification to FDOT and Florida’s MPOs regarding our expectations for meeting some of the requirements to be addressed in the next cycle of Long Range Transportation Plan (LRTP) updates. The letter also highlights notable areas for improvement, as well as those of potential concern, and is intended to assist the MPOs in meeting federal planning requirements. We recommend that this information be considered during the development of the next LRTP updates.

**Update:** FDOT reviews and comments on draft LRTPs. The comments have highlighted the Expectation Letters and the FDOT LRTP checklist which is contained in the MPO Administrative Handbook. Throughout this five year LRTP cycle, all 27 draft LRTPs will be reviewed by both District and Central Office staff.

8. **Training** – As noted previously, the need for overall state and federal grants administration training is much needed due to turnover and the arrival of new FDOT MPO liaisons and MPO staff throughout the state. We recommend that FDOT, FTA and FHWA work together to develop and provide the necessary training on a statewide and/or district level as appropriate. Discussions have already begun among these parties to hold a statewide meeting in 2014, to include a training component. The consideration of adding mini-training sessions to the quarterly videoconference agendas is also encouraged. These sessions could also highlight MAP-21 implementation or other areas of particular need and/or interest.

**Update:** FDOT has developed a training program for new and existing MPO District Liaisons. A team of trainers has been formed, including District Seven staff, Central Office staff and a former MPO staff person. The training team will visit each of the Districts over the coming two years to provide training in all areas of MPO program management. Eventually, this training may be opened to MPO staff. In addition, FDOT is committed to

adding “mini-trainings” covering issues needing attention, during the FDOT/FHWA/FTA/MPO quarterly statewide video conferences.

#### **B. FY 2015 - FY 2018 Statewide Transportation Improvement Program**

Title 23 U.S.C. requires the State to develop a Statewide Transportation Improvement Program (STIP). The portion of the program that is urbanized must be developed in cooperation with the metropolitan planning organizations. The state must also have a process for developing priorities with local officials in the rural areas. The STIP is a list of priority projects for the next four fiscal years. The projects are expected to be consistent with the Florida Transportation Plan (FTP), which serves as the statewide plan, and to incorporate the TIPs as adopted from within each metropolitan area. When the FDOT began using the Work Program as the STIP, it was not feasible to search and print the entire STIP as one document. Since FY 2004, the document has been submitted in Adobe PDF format on cd and is available on FDOT website at: <http://www.dot.state.fl.us/programdevelopmentoffice/Federal/stip.shtm>. STIP modifications are also captured daily and displayed in the current STIP document as noted online.

Before the STIP was required under Intermodal Surface Transportation Efficiency Act (ISTEA), the state of Florida had developed a process for having a statewide improvement program. This document is the Five-Year Work Program and essentially serves as the STIP. Section 339.135, Florida Statutes, authorizes and sets the guidelines for the FDOT to develop a State Transportation Five-Year Work Program. It is the State’s project-specific list of transportation activities and improvements that meets the goals and objectives of the FTP. Although FDOT’s Five-Year Work Program serves as the basis for creating the STIP, it is important to note that FHWA and FTA only recognize the 4-year element of the STIP, which is derived from FDOT’s Work Program, for the purposes of programming federal funds.

Since the FDOT Work Program serves as the basis for creating the STIP, FHWA and FTA look to the FDOT’s Work Program development process to ensure compliance with Federal law. There are summary documents that are helpful in understanding how the work program is developed and financed, and more detailed documents and procedures that provide specific instructions for Work Program development. Some of these documents are located on FDOT’s website: <http://www.dot.state.fl.us/programdevelopmentoffice/>. Other resources are also available upon request from FDOT’s Work Program Office.

Public Participation is also a major component in the development of the STIP. The Work Program is developed by the Districts and Central Office, working with the MPOs and local governments. Input is also included from the Legislature, Governor’s office, and public hearings.

The FY 2015-2018 STIP needs to be fiscally constrained by year. In an effort to demonstrate how much funding is available for projects, FDOT has developed a process and summary tables to show the available funds including balance forward, estimated new funds, and the programmed projects.

The Performance Accountability Report Summaries are provided annually by FDOT to demonstrate financial constraint for the new STIP to the funding levels that can reasonably expect to be available over the four years of the STIP. This new STIP is based on the Five Year Work Program adopted by FDOT on July 1, 2014 (the beginning of the state fiscal year 2014). Ending balances in each of the major categories are positive in each of the years of the STIP.

Please note the following points regarding these summaries:

- Annual funding amounts are presented net of Obligation Authority Constraints.
- The underlying funds supporting the rollups include the MAP-21 categories extrapolated through FY2018. This assumes MAP-21 will be continued in the same program structure through FY2018.
- The pre-MAP-21 Equity Bonus funds are broken out separately this year instead of being included in other MAP-21 program categories.
- The MAP-21 Transportation Alternatives Program is also shown separately this year.
- Planning and Research Programs are also shown separately this year.
- This year bridge projects are included in the National Highway System Performance Program fund rollup, except for bridges off the NHS but still on the federal aid system, which are included in the STP Program rollup.
- Also included this year is a breakout, by major rollup category, of the estimated AC conversions anticipated to be done each year to fully consume the annual Obligation Authority subject to lapse at each fiscal year end.

Based on this and other documentation received throughout the year, the FY 2015 – FY 2018 is shown to be fiscally constrained.

**2015 STIP P.A.R. Rollups**

	Fiscal Years			
	2015	2016	2017	2018
<b>Congestion Mitigation/Air Quality Program</b>				
Balance Forward from Prior Year	1,591,658	8,520	8,520	3,692
Net Annual Allocations Available	12,337,319	12,337,319	12,337,319	12,337,319
Less: Program of Projects	(13,010,960)	(12,337,319)	(12,342,156)	(12,341,011)
Balance Forward to Next Year	8,520	8,520	3,692	0
<b>Discretionary and Other Programs</b>				
Balance Forward from Prior Year	28,695,126	2,988,239	290,000	145,000
Net Annual Allocations Available	1,121,285	821,824	821,824	821,824
Less: Program of Projects	(26,730,172)	(3,518,083)	(968,824)	(968,824)
Balance Forward to Next Year	2,988,239	290,000	145,000	-
<b>Equity Bonus Program</b>				
Balance Forward from Prior Year	90,147,050	54,740,149	29,740,149	-
Net Annual Allocations Available	-	-	-	-
Less: Program of Projects	(35,400,901)	-	-	-
Funds Available before AC conversions	54,740,149	54,740,149	29,740,149	-
Planned AC Conversions	-	(25,000,000)	(29,740,149)	-
Balance Forward to Next Year	54,740,149	29,740,149	-	-
<b>National Highway System Performance Program</b>				
Balance Forward from Prior Year	435,439,970	(0)	(0)	(0)
Net Annual Allocations Available	963,694,940	991,569,366	1,006,320,096	936,072,961
Less: Program of Projects	(339,043,177)	(87,338,108)	(55,415,000)	(59,280,999)
Funds Available before AC conversions	1,060,091,733	904,231,170	950,905,096	876,791,962
Planned AC Conversions	(1,060,091,733)	(904,231,170)	(950,905,096)	(876,791,962)
Balance Forward to Next Year	(0)	(0)	(0)	(0)
<b>Planning and Research Programs</b>				
Balance Forward from Prior Year	20,160,708	3,177,547	1,238,093	1,238,093
Net Annual Allocations Available	55,356,460	55,356,458	55,356,459	55,356,459
Less: Program of Projects	(72,339,621)	(57,297,912)	(55,356,459)	(54,670,185)
Balance Forward to Next Year	3,177,547	1,238,093	1,238,093	1,722,367
<b>Safety Programs</b>				
Balance Forward from Prior Year	38,737,992	(0)	(0)	(0)
Net Annual Allocations Available	116,796,068	116,800,360	116,842,819	116,632,770
Less: Program of Projects	(155,534,060)	(116,800,360)	(116,842,819)	(116,632,770)
Balance Forward to Next Year	(0)	(0)	(0)	(0)
<b>Surface Transportation Program</b>				
Balance Forward from Prior Year	275,232,104	74,368,601	0	0
Net Annual Allocations Available	534,093,662	526,212,764	511,395,946	581,658,725
Less: Program of Projects	(734,959,365)	(562,287,163)	(487,395,946)	(459,791,629)
Funds Available before AC conversions	74,368,601	38,292,202	44,000,000	121,867,096
Planned AC Conversions	-	(38,292,202)	(44,000,000)	(121,867,096)
Balance Forward to Next Year	74,368,601	0	0	0
<b>Transportation Alternatives Program</b>				
Balance Forward from Prior Year	23,354,175	10,955,466	486,274	486,274
Net Annual Allocations Available	47,910,085	47,911,988	47,930,771	47,826,327
Less: Program of Projects	(60,308,794)	(58,361,178)	(47,830,771)	(48,412,601)
Funds Available before AC conversions	10,955,466	486,274	486,274	-

**C. Summary of the 2014 Annual FDOT / MPO Certifications**

Each FDOT district and MPO must jointly certify annually that the metropolitan transportation planning process is addressing the major issues facing the metropolitan area.

The purpose of the MPO certification review is to establish that the MPO's planning process is being conducted in accordance with 23 CFR 450.334.

Many of the joint certification statements listed findings, such as noteworthy achievements and areas for future emphasis. Listed below is a general compilation of the topic areas from the FDOT/MPO certification reviews conducted this year and do not necessarily apply to every MPO.

Best Practices/Noteworthy Achievements	Example
Public Involvement & Outreach	An MPO concluded its first ever "Transportation School", educating citizens about the TPO's planning process. Seven classes were held, covering topics such as transportation funding, complete streets, ITS, and TPO plans and products. Classes were taught by TPO staff and expert speakers, and were designed to include interactive exercises. The school will be held annually.
Public Transportation	An MPO initiated a Transit Bus Stop ADA Assessment Report. This report will help to assess and prioritize ADA the implementation of ADA improvements for the Transit system.
Bicycle/Pedestrian Coordination	An MPO has conducted Safety Rodeos at all 13 public elementary schools for 3 years in a row now, training over 10,000 students in basic bicycle and pedestrian safety. In addition, the MPO is now extending the training to Charter schools.
ITS	A groundbreaking for a new Regional Transportation Management Center was held this past January (2014). Recognizing the need for this type of facility to meet the region's transportation goals. This project was funded with SU funds.
Safety	A TPO has continued its Yield to Life – Look All Ways campaign. The campaign includes the installation of safety messages on roadways and sidewalks, distribution of safety tips and information through utility bill inserts and at local businesses, placement of campaign posters in the windows of local businesses, outreach events, and crosswalk enhancements.
Congestion Mitigation and Air Quality	A TPO sponsored an Alternative Fuels Expo in October 2013, featuring demonstrations of several alternative fuel vehicles and various speakers. In addition, the Coalition is furthering its mission of petroleum reduction through alternative fuels through the programming of \$1 million of CMAQ funds in 2014/15 and placing a request for \$2.2 million of Transportation Regional Incentive Program (TRIP) funding on the TPO's prioritized list of TRIP projects.

Climate Change	A MPO is administering the South Florida Climate Change Vulnerability and Adaption Pilot Project, a regional project with a goal of determining the impact of extreme weather on the regional transportation network based on sea level rise, storm surge, and precipitation induced flooding. The focus of the pilot project is to develop of a consistent methodology for integrating vulnerability into the MPO transportation decision making process.
Transportation Improvement Program-Interactive TIP	The bulk of the MPOs across the state now have an Interactive TIP, a web application that provides easy-to-access project maps and funding information.
Long Range Transportation Plan	A MPO has developed an innovative and extensive marketing campaign titled Imagine 2040 for its 2040 LRTP update. The campaign has consisted of digital and print media, kiosks, public meetings, meeting-in-a-box, teacher lesson plans, and mass mailing.
UPWP	For this most recent UPWP update, a MPO has worked to increase the user-friendliness of this traditionally complex document through the enhanced use of graphics and tables.
Regional Coordination	In September 2013, a MPO hosted the first meeting of the Treasure Coast Transportation Council technical advisory committee in five years.
GIS	A MPO provided expert GIS support and training to its member governments and partner agencies, and led the effort to create a Lake and Sumter County GIS Users Group.

There were a few recommendations administered throughout the state. The bulk of these fell into the same broad categories:

Recommendations:	Example
Communication	Maintaining an effective working relationship with FDOT, primarily through their Liaison.
Regional Coordination	Continuing regional coordination efforts.
Information Exchange	Ensuring that MPO Board and committee members are kept well-informed of MPO and FDOT initiatives.
Documentation	Ensuring that planning documents that are being updated meet all federal and state requirements.
Performance Measurement	Preparing to incorporate MAP-21 performance-based planning requirements into the MPO planning documents.

**Corrective Actions (State Issued): There were no corrective actions issued this year.**

**D. Summary of the 2014 FHWA/FTA Certification Reviews of the Transportation Management Areas (TMA)**

During the past federal fiscal year (Oct. 2013 – Sept. 30, 2014), FHWA/FTA completed TMA certification reviews for the Cape Coral (Lee County MPO), Palm Bay- Melbourne (Space Coast TPO), Sarasota-Bradenton (Sarasota-Manatee MPO) and Pensacola Florida-Alabama (Florida-Alabama TPO) Urbanized Areas. The observations presented below are provided in a general format and are not attributable to any specific TMA.

Noteworthy Achievements	Example
Communication	Overall the staffs of the MPOs were pleased with their interaction with their Florida DOT liaison staff and Florida DOT central office staff. There appeared to be a strong partnership occurring at both the District and Central Office level which adds value to the metropolitan transportation planning process and products.
Certification Review Site Visits	MPO staffs seemed to be well prepared for the site visit portion of their certification review. This advance effort helped to make the site visits go more smoothly and conversation was focused. The preparation by the MPO staffs resulted in efficient site visits. The Federal Review Teams appreciate the advance planning of the MPO staffs and participation by the FDOT Liaisons as well as the participation by the FDOT central office.
Bicycle/Pedestrian Coordination	The MPO staffs reviewed this past year were all advanced in their bicycle and pedestrian planning efforts. This topic area has received a great deal of attention from MPOs and users are benefitting from this added planning effort. FDOT's focus on the safety aspect of vulnerable users has undoubtedly added focus on this topic area and the emphasis by FDOT has added value to the planning process.
Safety	Safety planning has seen a tremendous increase since reviews of the subject TMAs occurred 4 years ago. The recognition of the impact that can be made by local planning organizations is evident and the MPOs see themselves as an integral part of the solution. The MPO staffs all seemed to be very aware of not only the issue of safety, but were familiar with what types of safety issues were specific to their areas and this in-depth knowledge of crash data allowed each MPO to tailor their efforts

in a manner that was most effective.

Title VI Title VI and related requirements documents have improved tremendously. It is evident that both FHWA and FDOT staff have devoted considerable time and travel to outreach to any MPO requesting assistance and that MPOs have taken advantage of this opportunity to improve.

As a result of these reviews, numerous recommendations were made to improve planning processes

Recommendations	Example
Freight	The MPOs seem to be struggling to integrate freight planning into their documents. Freight is typically a private sector function and freight shippers are very guarded about their information because of the fear that the information will be public and competitors would use it to gain an advantage in the marketplace. Moving forward, the FHWA, in partnership with FDOT, will work to provide examples of freight integration in transportation planning to help assist with this endeavor.
Environment	Integrating environment into the Long Range Plans in a manner other than through the Efficient Transportation Decision Making (ETDM) tool has been difficult for MPOs. The LRTP Expectations Letter issued jointly by FHWA and FTA in November of 2012 provides guidance on this topic area.
Public Participation	MPOs are encouraged to detail their processes for amending planning documents in their Public Participation Plans. Providing this information assists in the transparency of the transportation planning process and also ensures a detailed process for how changes to planning documents are documented.
Public Participation Measures of Effectiveness	The development of evaluation measures and collection of data seems to be occurring within the MPOs. How the data is interpreted and applied needs to be enhanced. MPOs struggled to explain how evaluations were used to improve documents and processes.
Security	How the issue of security is integrated into planning products seems to be an area of difficulty. Most TMAs have a transit system with cameras on busses and at transit stations. There are cameras on the highway system as the result of building out ITS within the regions, but beyond this MPOs struggle to bring security into the process.
COOP	All MPOs reviewed have Continuity Of Operations Plans (COOPs), however most had not regularly exercised their COOP. Regular testing of the COOP will help to identify changes needed in the document and internal processes. It is recommended that

COOPs be tested at least once per year

**MPO Websites**

All MPOs reviewed have websites that are operational. However it was somewhat difficult to find planning documents on many of them. The presumption is that if the Federal Review Team has difficulty finding items on the website, so will the general public. MPOs are asked to consider how easily the public can navigate their websites in order to improve public outreach opportunities.

Copies of the TMA reports with complete details are available from the FHWA Florida Division office.

**E. Program Accountability Review Results**

Program Accountability Reviews (PARs) are conducted annually to verify that federal planning and programming requirements per 23 CFR 450.324, 326, 328 and 330 are being met as they pertain to the Metropolitan Planning process, specifically related to the Transportation Improvement Program (TIP) and TIP amendments. The PAR reviews primarily center on consistency between the Long Range Transportation Plan (LRTP) and TIP, the TIP amendment process, the Public Participation Plan (PPP), the STIP and project authorizations. Results of the FY 2014 PARs indicated:

- All of the randomly selected projects were included in the applicable MPO's LTRP Cost Feasible Plan, either specifically or categorically;
- All of the randomly selected projects' authorized work and obligated federal funding in FMIS was consistent with the estimated project cost in the fiscally constrained TIP or within the limits approved as an administrative adjustment to the TIP for the metropolitan planning area.
- All of the projects randomly selected as identified and included in the STIP were consistent with the Long Range Statewide Transportation Plan.
- The majority of Public Participation Plans reviewed addressed TIP amendments; this is an area that we have been working on improving Statewide.
- About 40% (a decrease from 75% in 2013) of the affected MPOs touched by these reviews do not have procedures addressing emergency meetings. It is advisable that all MPOs consider the development and documentation of how they will handle emergency meetings, if necessary, for public knowledge and distribution;
- 100% of the projects reviewed were in an approved STIP at the time it was authorized in FMIS (Fiscal Management Information System).
- The reviews also revealed that FHWA handled FMIS authorizations in a manner consistent with 23 CFR 450.328 and 330.

We have conducted PARs related to the Metropolitan Planning process, more specifically the Transportation Improvement Program (TIP) and TIP amendments process since 2012 and have not found any significant deficiencies. Therefore, we will select a different topic area to focus on and develop a corresponding checklist to use in our PAR reviews for FY 15.

## **F. Training / Technical Assistance Needs**

During the Statewide Assessment, FDOT announced that they are in the process of finalizing a New FDOT Liaison Training. This training is expected to launch this fall. During the site visit, there were also discussions about having an introductory planning training be included as a part of an annual Statewide Conference. Future discussion may include how FHWA and FDOT can partner on this kind of training. In addition, the following training needs were identified:

- Planning Grants Administration
- 2 CFR 200 “Super Circular”
- Rule-makings on Performance Measures (specifically collaborative efforts)
- Transit consideration/collaboration with performance measures

## **IV. FINDINGS AND RECOMMENDATIONS**

The review team noted the following noteworthy practices conducted by FDOT this year.

1. **FDOT/MPO Collaboration-** FDOT is recognized for its efforts to collaborate with and support Florida’s MPOs on topics related to transportation planning, particularly through the development and hosting of a Statewide planning workshop in April 2014. Both at the District level as well as Central Office, FDOT’s planning staff continues to be responsive on MPO issues. The workshop featuring performance measurement was well attended by Florida’s 26 MPOs and staff from FHWA (Division and Headquarters) and FTA. A report developed from that workshop can be found at the following : <http://www.dot.state.fl.us/planning/Policy/metrosupport/annual2014/report.pdf>
2. **Florida Transportation and SIS Update:** FDOT is recognized for its efforts related to the update of the Florida Transportation Plan (FTP) and Strategic Intermodal Systems (SIS) Strategic Plan. This year, in an effort to more closely align the policies included in these plans, the FDOT convened a combined steering committee whose charge is to guide both the stakeholder and public input processes for both plans’ development. According to staff, the FTP provides the vision and the SIS provides the policy for the State’s transportation planning process. To help gauge feedback on the upcoming FTP update, the FDOT has conducted over 25 State Partner Briefings. In the future FDOT plans to convene a Statewide Summit which will allow for even more stakeholder feedback. It is anticipated that both plan updates will be completed by the end of 2015.
3. **Freight Planning-** FDOT is recognized for its efforts related to Freight Planning. Currently the Department is undergoing the development of the State’s first ever Freight Mobility and Trade Plan. The Freight Mobility and Trade Plan is being developed in two phases. The Policy Element was adopted on June 19, 2013 and included a policy framework as well as the identification of those responsible for implementation. The Investment Element, currently in development, will include a detailed assessment of freight investment needs, as well as criteria for setting priorities among these needs.

4. **Future Corridors Planning-** FDOT is recognized for its efforts related to Future Corridor Planning. Future Corridors is FDOT's long-term, large-scale planning process. The initiative is a statewide effort led by the FDOT to plan for the future of the major transportation corridors critical to the State's economic competitiveness and quality of life over the next 50 years. The Future Corridors initiative is a cooperative planning effort between FDOT and statewide, regional, and local partners. To date the FDOT has identified five initial study areas and have begun work on two of them.

**The following recommendations are made to continue implementing improvements to the transportation planning process within the State of Florida:**

1. **Performance and Expenditure Reports** – In accordance with 23 CRF 420.117, "Reports which document the results of activities performed with FHWA planning and research funds must be prepared by the State DOT or subrecipient and submitted for approval." Currently, invoices and quarterly reports are being submitted to Division Planners on an infrequent basis. Therefore, we recommend the Department work with their district MPO liaisons to ensure this information is submitted in a timely and consistent basis. We recognize that this may be in part due to staff turnover. Perhaps, submittal of invoices and quarterly reports can be discussed during the Department's New Liaison Training.
2. **Statewide Public Involvement Process** -In accordance with 23 CFR 450.210(a) "In carrying out the statewide transportation planning process, including development of the long range statewide transportation plan and the STIP, the State shall develop and use a documented public involvement process that provides opportunities for public review and comment at key decision points." In assessing how the Department met this requirement, we were directed to the PD&E Manual, Part I, Chapter 11 . While this chapter addresses public involvement, it is at the project/PD&E level, and does not address the public involvement for the FTP, STIP, or other statewide planning process public participation opportunities. The Department's public involvement efforts are noted in various processes and procedures. However, documentation that clearly describes/references the overall opportunities available for public participation within the transportation planning process for the State needs improvement. There, we recommend that by September 30, 2015, the Department create a document(s) which clearly details the public participation process for soliciting and providing input on the key state planning documents, at a minimum for the FTP and STIP.
3. **STIP** – FHWA and FTA will continue to work with FDOT to address and implement improvements to the STIP document, development and amendment processes to more effectively meet federal requirements. These areas may include documentation of processes on the website and issues with revisions to projects approved in prior STIPs.
4. **MAP-21** –Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21) presents challenges and opportunities for meeting the growing transportation needs for the citizens of Florida. We recommend that FHWA, FTA, FDOT and Florida's MPOs continue to work closely

together to understand and achieve compliance with MAP-21 as guidance and rulemaking are developed and presented.

5. **STIP Approval Planning Consistency** – As part of the Division’s Standard Operating Procedure for the STIP approval process, FHWA randomly selects a few projects in the proposed STIP from each MPO throughout the state to review for general consistency among the TIP, STIP and LRTP documents. The results of this review indicate that emphasis is still needed in this area to ensure that projects are accurately reflected in both the TIP and STIP and that these projects are flowing from and are found to be consistent with the LRTP. FHWA will work with FDOT and the MPOs to stress this concept as a topic of discussion at statewide and/or regional meetings with these parties.

Based on routine coordination throughout the year with the various statewide planning participants, discussions at the “annual assessment” meeting, and the review of statewide summary and planning documents provided by participating and affected offices, FHWA and FTA hereby conclude that past “annual assessment” recommendations have been, or are being, satisfactorily addressed. Additionally, as federal questions/concerns are identified, FDOT continues to demonstrate that they address our concerns.

Therefore, it is hereby determined that Florida’s Statewide transportation planning process continues to substantially satisfy the requirements of 23 U.S.C. 134, 135, 303 and 315; 49 U.S.C. 5303-5305, and 23 CFR Part 450 (Subparts B, C and appendix A) and 500; and 49 CFR Part 613 (Subparts B, C and appendix A). FHWA and FTA will continue working with Florida’s various planning participants (e.g., FDOT, the 26 MPOs, local /regional transit service providers, local governments, State/local resource agencies, and the public) to further address and complete the activities and commitments contained in this report.

APPENDIX A



U.S. Department of Transportation  
Federal Highway Administration

AGENDA



Federal Certification of Statewide Planning Process

Wednesday, July 30, 2014

Executive Conference Room, FDOT Burns Building

9:30 a.m. to 3:15 p.m.

Time	Item	Participants
9:30-9:40	Welcome and Introductions	Yvonne Arens Karen Brunelle
9:40-10:20	MAP-21 Performance Measures	David Lee Doug McLeod
10:20-10:35	FTP and SIS Update	Jim Wood
10:35-10:50	Break	
10:50-11:05	PL Update	Lee Calhoun Stacie Blizzard
11:05-11:25	TMA Profile	Sarah Ward-Pinellas MPO Brian Beaty-District 7
11:25-11:40	Safe Routes to School	Sarita Taylor
11:45-1:00	Lunch	
1:00-1:30	Transit	Diane Quigley
1:30-1:45	Freight Plan Update	Ed Lee
1:45-2:00	Non-Metropolitan Planning Process Update	Huiwei Shen
2:00-2:20	New Grants Section	Lisa Wilkerson Sandy Watson
2:20-2:30	Status of New Urbanized Areas	Yvonne Arens
2:30-2:40	Summary of Joint Certifications	Sean Santalla
2:40-2:55	Summary of TMA Certifications	Carl Mikyska
2:55-3:05	Prior Findings Update	Yvonne Arens
3:05-3:15	Training and Technical Assistance	Shundreka Givan
3:15	Closing / Preliminary Findings	Shakira Crandol

## **APPENDIX B**

### **Participants List**

#### **FDOT Central Office**

Jim Wood, Policy Planning  
Yvonne Arens, Policy Planning  
Sean Santalla, Policy Planning  
Diane Quigley, Transit  
Doug McLeod, Transportation Statistics  
Dave Lee, Policy Planning  
Regina Colson, Policy Planning  
Mike Neidhart, FDOT/Gannett Fleming  
Lee Calhoun, Work Program and Budget  
Rob Vickers, FDOT/CDM Smith  
Huiwei Shen, FDOT Policy Planning  
Lisa Wilkerson, FDOT Office of Comptroller, Grants Section  
Ed Lee, Rail and Motor Carrier Operations  
Sarita Taylor, Safe Routes to School/Safety Office  
Brian Watts, Strategic Intermodal System (SIS)

#### **FDOT District Office**

Brian Beaty, D-7

#### **USDOT**

Stacie Blizzard, FHWA  
Shakira Crandol, FHWA  
Carl Mikyska, FHWA  
Shundreka Givan, FHWA  
Trinette Ballard, FHWA  
Karen Brunelle, FHWA

#### **MPOAC**

Howard Glassman

#### **MPO**

Harry Reed, CRTPA  
Sarah Ward, Pinellas MPO

**Item Number 6**  
**Secretary's Initiative and Complete Streets**

**DISCUSSION:**

District Secretary Billy Hattaway, District 1 FDOT will be in attendance to present the Secretary's Initiative and Complete Streets. The presentation will cover the Department's Initiative to improve safety for pedestrians and bicyclists, including a culture change in our design community to design our streets and highways to be more supportive to all users.

**REQUESTED ACTION:**

As may be desired

**ATTACHMENTS:**

None

**Item Number 7**  
**Florida Chamber of Commerce Activities**

**DISCUSSION:**

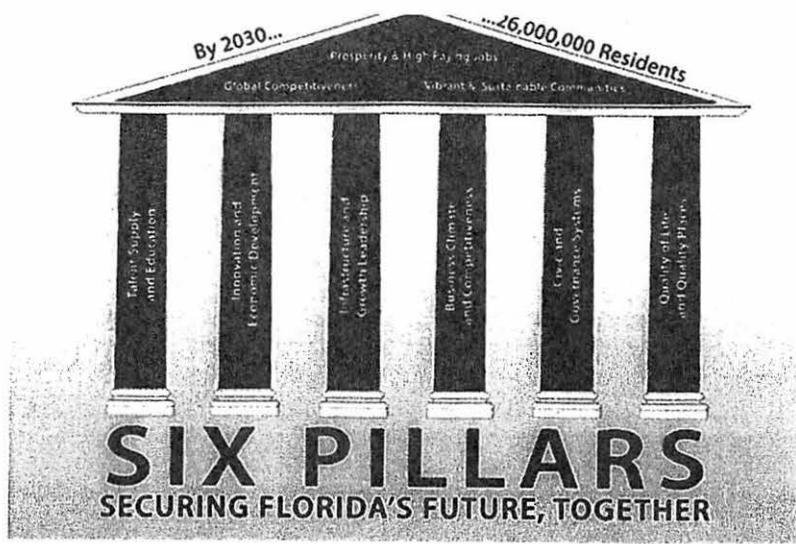
Ms. Alice Ancona, Director of Global Outreach at the Florida Chamber of Commerce will be in attendance to present an overview of the Florida Chamber of Commerce activities.

**REQUESTED ACTION:**

As may be desired

**ATTACHMENT:**

1. Six Pillars, Securing Florida's Future Together, Florida Chamber of Commerce



Florida Chamber of Commerce

## Overview

### Six Pillars™

For nearly a century, the Florida Chamber of Commerce has fought for free enterprise and worked to secure Florida's future. Through research, advocacy and leadership, the Florida Chamber Foundation, the Florida Chamber of Commerce and the Florida Chamber Political Operations work together to help make our vision of Florida's future a reality.

Our vision for Florida encompasses vibrant communities enjoying prosperity and high-paying jobs realized through competitive advantage in a global economy. Such a view calls us to an attainable future. It also creates a practical challenge for those who demand that their aspirations correspond with common sense.

The framework offered to accomplish such a task is known simply as the Six Pillars™. The product of years of collaboration and research by the Florida Chamber Foundation, the Six Pillars identifies the critical factors determining Florida's future:

- Talent Supply & Education
- Innovation & Economic Development
- Infrastructure & Growth Leadership
- Business Climate & Competitiveness
- Civic & Governance Systems
- Quality of Life & Quality Places

The Six Pillars incorporates the work of a diverse range of stakeholders and their strategic thinking, including Century Commission for a Sustainable Future, Florida Council of 100, Enterprise Florida, Florida State University System, Workforce Florida, and 1000 Friends of Florida, among others.

This framework serves as an organizing force for strategic planning at local, regional and state levels. Its real power is in the efficiency of harnessing fragmented viewpoints into a common and consistent conversation. The Florida Chamber Foundation, along with its Six Pillars Caucus System™, released the first iteration of the Six Pillars 20-year Strategic Plan to accomplish the vision set forth above.

### Six Pillars Communities Set Example of How to Effectively Plan for a New Economy

Even as you read this, community leaders from Jackson, Columbia, Palm Beach, Marion, Broward, Collier and Lee counties—as well as regional efforts, such as the Central Florida Partnership's myregion.org—are using the framework to guide their local dialogue. And the list of adopting partners is growing. The resulting local priorities will differ, but the parameters and focus of the discussion is identical. Imagine the power of an economic agenda communicated throughout the local and state political process empowered by the simplicity of a common language. [Learn more here.](#)

### The Florida Scorecard: The Metrics That Help Florida's Leaders Secure Florida's Future

While the Six Pillars offer a powerful tool for strategic planning at all levels, the Florida Chamber Foundation's objective to develop a state-wide, 20-year plan requires a commitment to measuring our current status and progress toward stated goals. The Foundation offers The Florida Scorecard, a dynamic online tool that seeks to identify and track those factors identified within each of the Six Pillars as indicative of our situation. The Scorecard's structure has fully identified issues and ideas within each of the Six Pillars and consists of more than 120 metrics to best communicate key issues. You can view the current version of this tool at [www.TheFloridaScorecard.com](http://www.TheFloridaScorecard.com).

**Item Number 8**  
**Pedestrian Safety Through Environmental Design**

**DISCUSSION:**

Mayor Richard J. Kaplan will be presenting Pedestrian Safety Through Environmental Design (PEDSTED).

**REQUESTED ACTION:**

As may be desired

**ATTACHMENTS:**

1. Pedestrian Safety Through Environmental Design (PEDSTED) by Mayor Richard J. Kaplan, City of Lauderhill, Florida.

# PEDSTED

## PEDESTRIAN SAFETY THROUGH ENVIRONMENTAL DESIGN

BY MAYOR RICHARD J. KAPLAN  
CITY OF LAUDERHILL, FL  
October 30, 2014

# STATISTICS

## FLORIDA TRAFFIC CRASH STATISTICS REPORT 2010

7894 CRASHES INVOLVING PEDESTRIANS  
7290 PEDESTRIANS INJURED  
499 PEDESTRIANS KILLED

## 2011

7039 CRASHES INVOLVING PEDESTRIANS  
6194 PEDESTRIANS INJURED  
497 PEDESTRIANS KILLED

IN 2011, SOUTH FLORIDA RANKED #4 AS MOST DANGEROUS PLACE FOR PEDESTRIANS. THERE WERE 1555 PEDESTRIAN DEATH IN BROWARD FROM 2000-2009. IN 2012, 180 PEDESTRIAN DEATHS IN BROWARD.

**“NO SINGLE FACTOR IS COMPLETELY RESPONSIBLE FOR THE PROBLEM OF PEDESTRIAN-VEHICLES CRASHES RESULTING IN INJURIES AND FATALITIES. A COMBINATION OF UNSAFE PEDESTRIAN BEHAVIOR, VEHICLE AND DRIVER FACTORS, PROBLEMATIC PHYSICAL ENVIRONMENTS AND OTHER SPECIAL CONDITIONS ALL CONTRIBUTE TO THEM.”**

Campbell, B.C. Zegeer, H. Husang and M. Cynnecki (2004), A Review of Pedestrian Safety Research in the United States and Abroad. USDOT, FHA

**“IN A RECENT STUDY OF 7,000 PEDESTRIAN-VEHICLE CRASHES IN FLORIDA, RESEARCHERS DISCOVERED THAT PEDESTRIANS WERE AT FAULT IN 80% OF THESE INCIDENTS.”**

Lee, C, and M. Abdel-Aty (2005) “Comprehensive Analysis of Vehicle-Pedestrian Crashes at Intersections in Florida.” Accident Analysis and Prevention.

# Florida: Types of Pedestrian Crashes

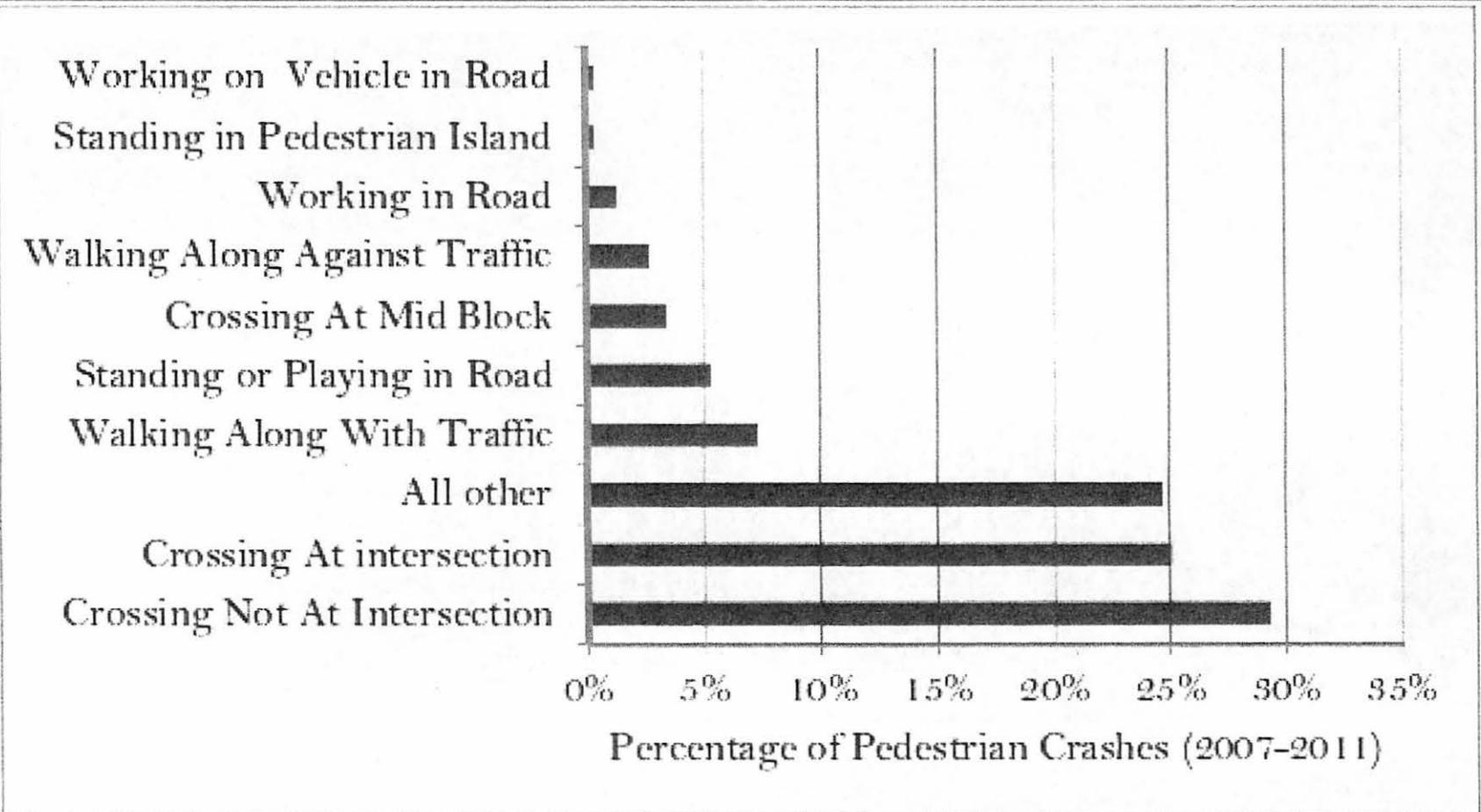
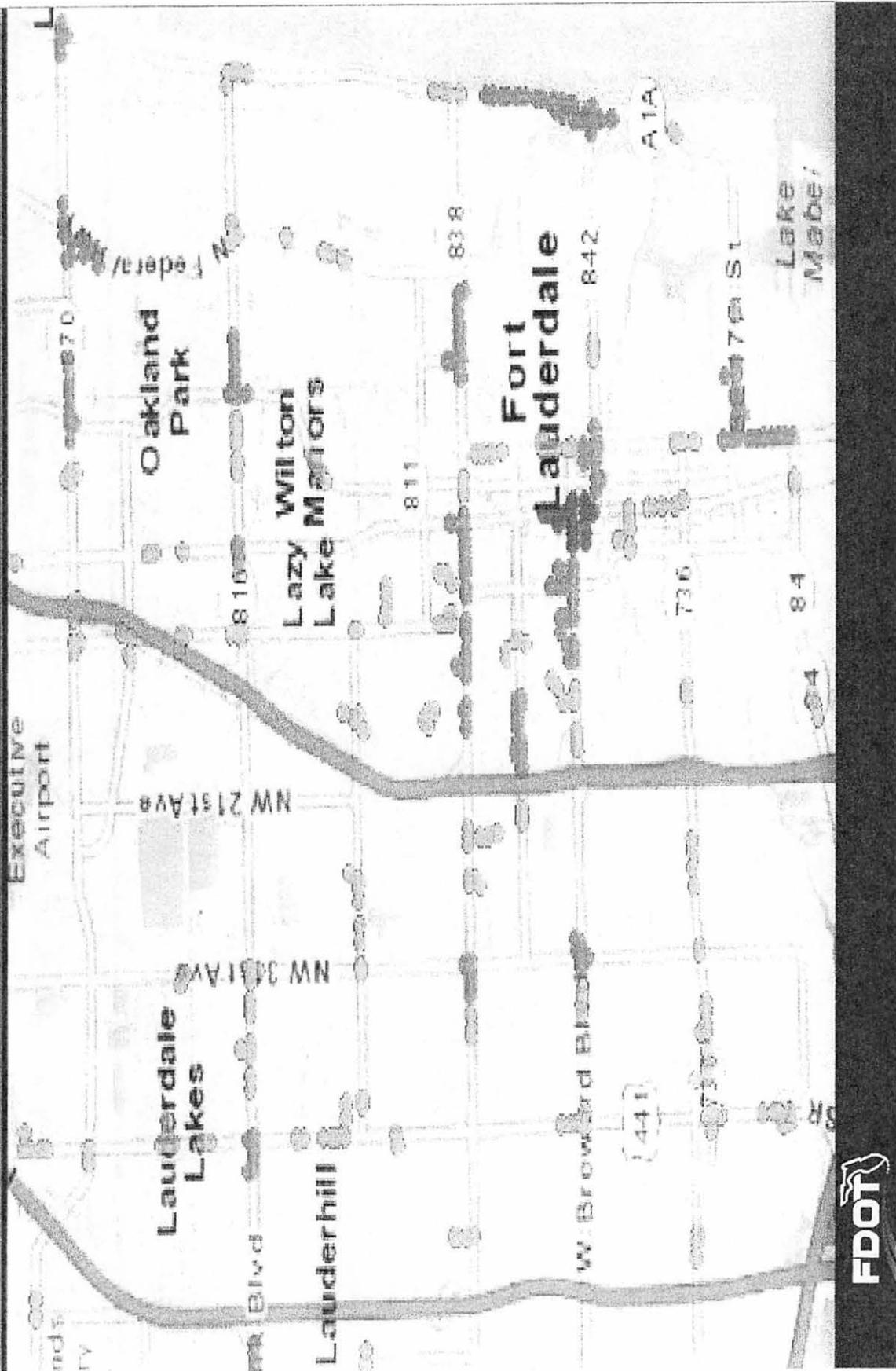


Figure 2-12. Statewide pedestrian crashes by pedestrian action.

Source: FDOT CAR System.



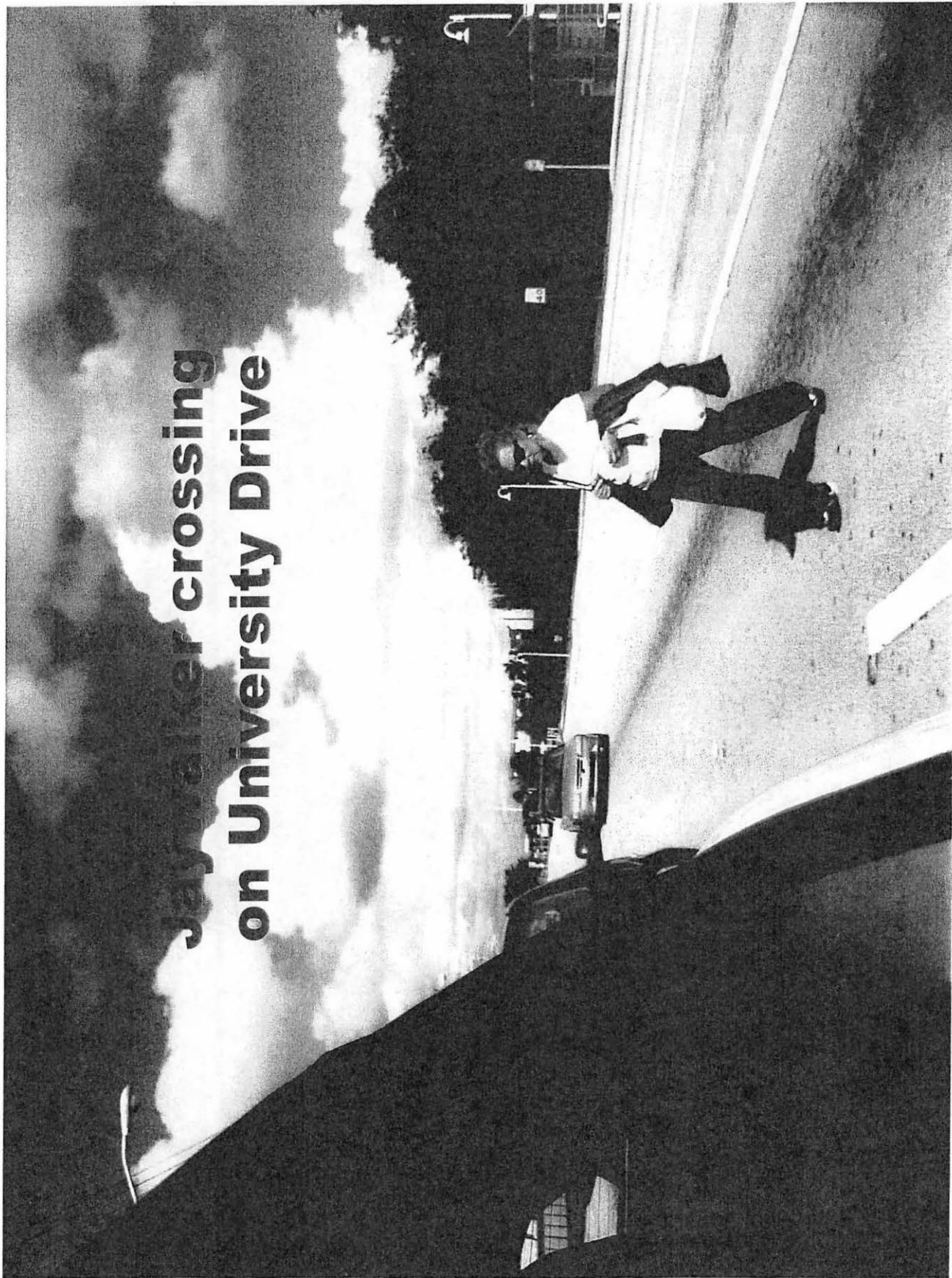
# District 4: Where are PED Crashes Recurring



**“JAYWALKING IS OFTEN CITED AS A POOR  
PEDESTRIAN BEHAVIOR THAT LEADS TO  
PEDESTRIAN INJURIES AND FATALITIES.”**

Mullen, B., C. Cooper, and J. Driskell (1990) “Jaywalking as a Function  
of Model Behavior.” *Personality and Social Psychology Bulletin*

**Jaywalker crossing  
on University Drive**



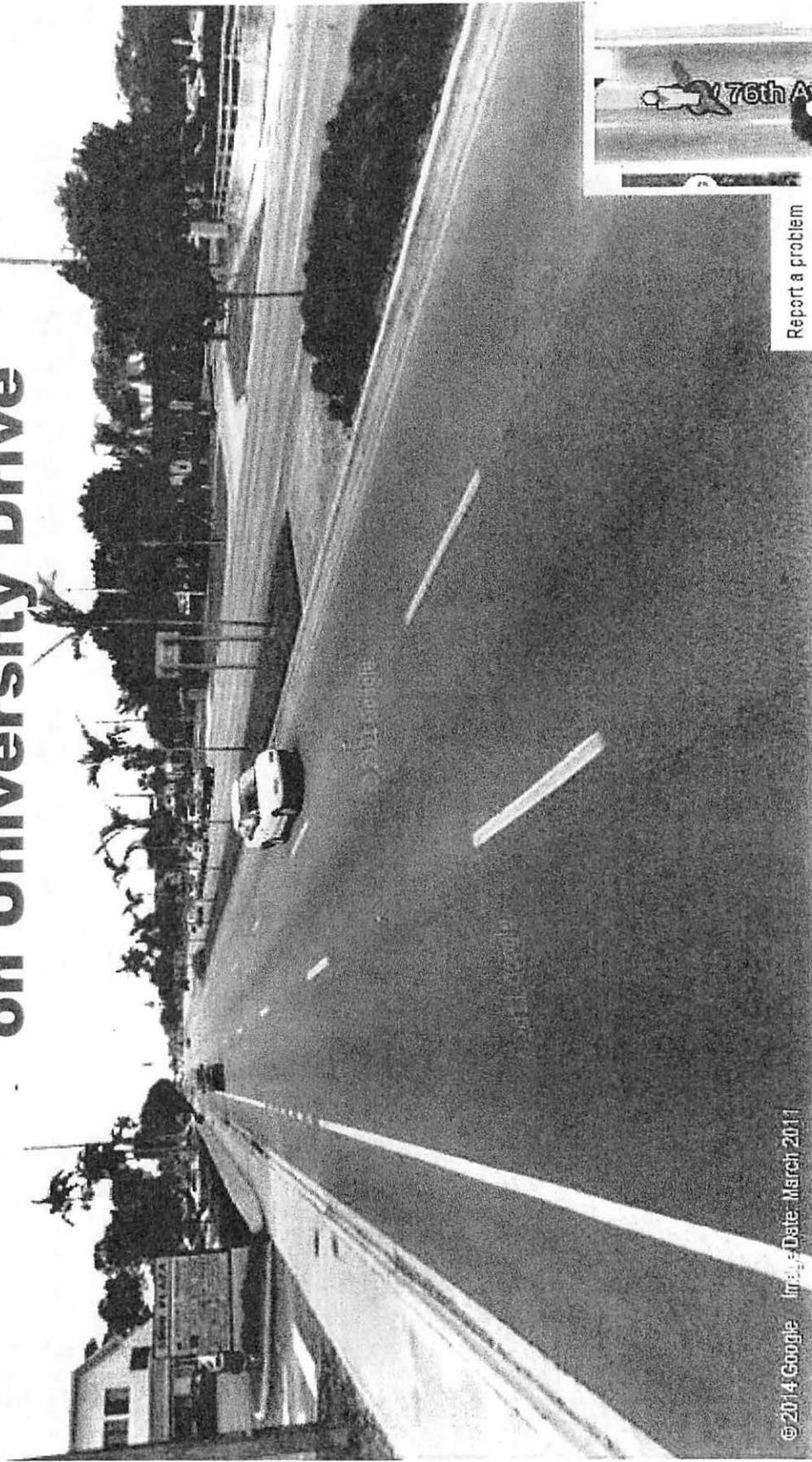
**“MIDBLOCK CROSSING IS IMPLICATED IN 55 PERCENT OF ALL FATAL PEDESTRIAN-VEHICLE CRASHES.”**

Cui, Z., and S. Nambisan (2003). “Methodology for Evaluating the Safety of Midblock Pedestrian Crossings.” Transportation Research Record.

**“IF CONVENIENT MIDBLOCK CROSSWALKS WERE AVAILABLE AT POPULAR CROSSING POINTS, PEDESTRIANS COULD CROSS THESE AREAS THAT WOULD OTHERWISE BE UNSAFE AND ILLEGAL.”**

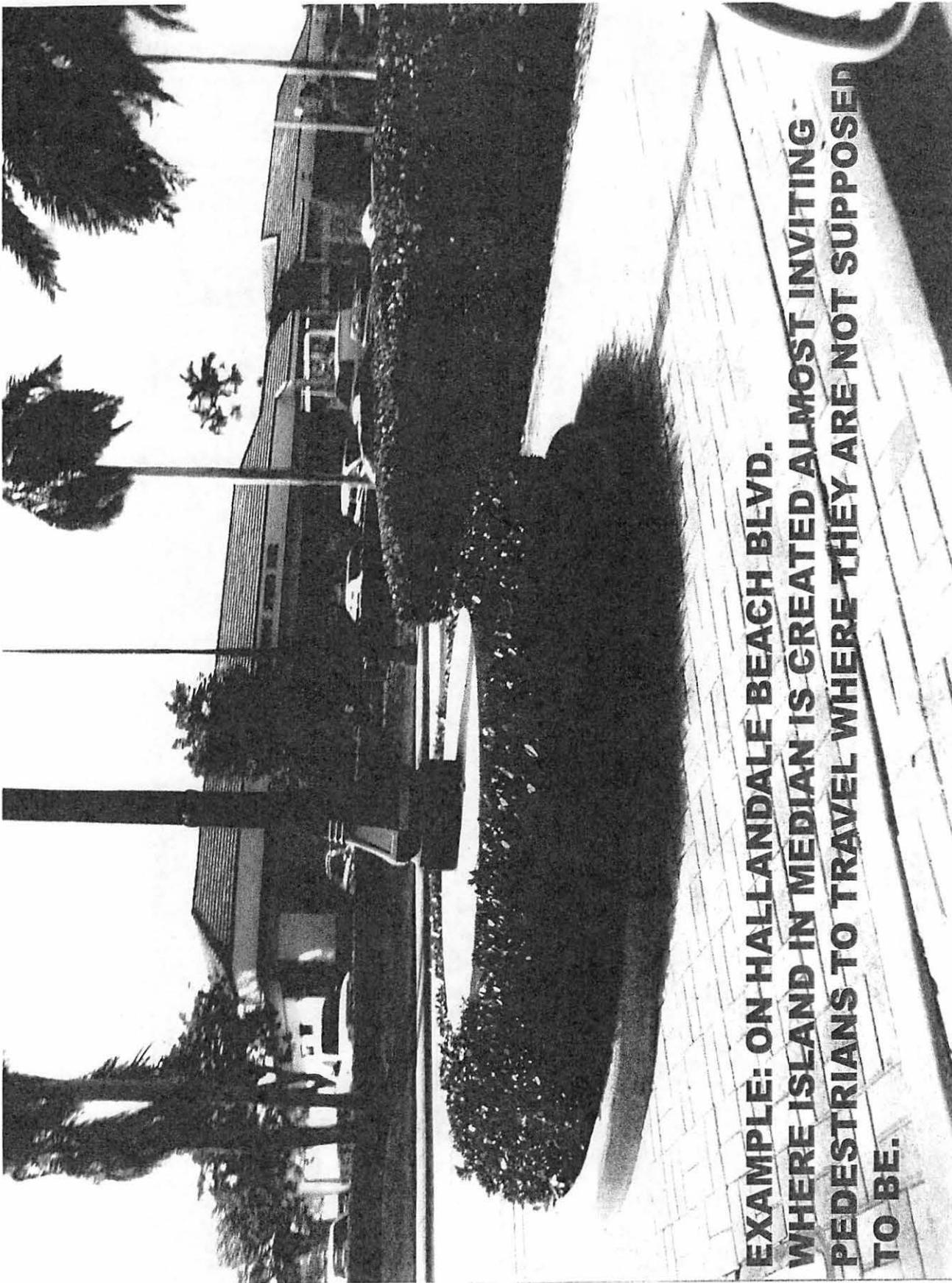
Heinonen, Justin A., and John E. Eck (2007). “Pedestrian Injuries and Fatalities Guide No. 51.” Center for Problem-Oriented Policing.

# Median brick walkway located in area which is not designated for a midblock crossing on University Drive



Report a problem

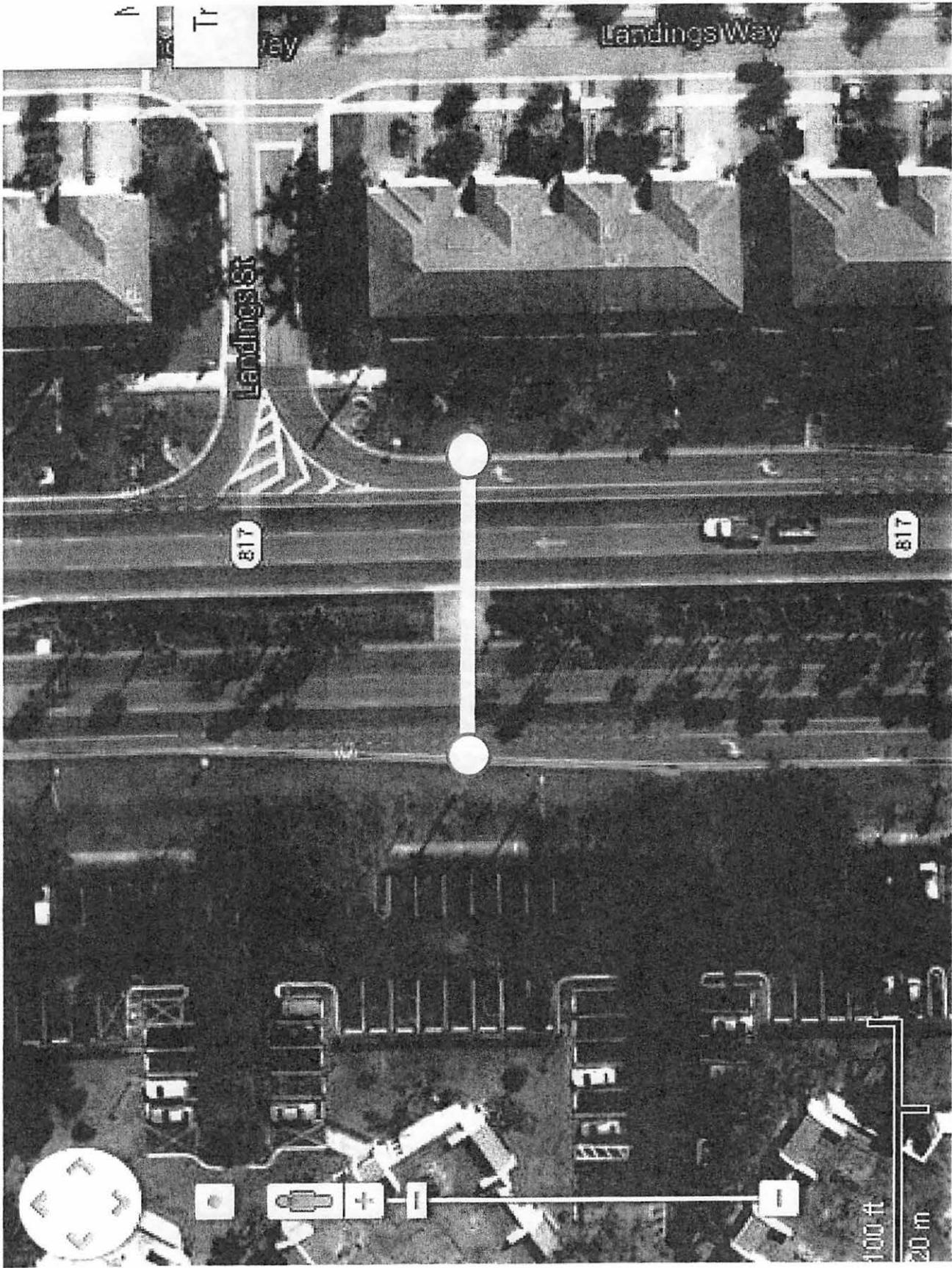
© 2014 Google. Image Date: March 2011



**EXAMPLE: ON HALLANDALE BEACH BLVD.  
WHERE ISLAND IN MEDIAN IS CREATED ALMOST INVITING  
PEDESTRIANS TO TRAVEL WHERE THEY ARE NOT SUPPOSED  
TO BE.**

**“THE SHORTEST DISTANCE BETWEEN TWO  
POINTS IS A STRAIGHT LINE.”**

**CONSIDER LAND USE DESIGN AND  
PEDESTRIAN INGRESS/EGRESS TO  
PROPERTIES**



HISTORICALLY TRANSPORTATION PLANNING HAS APPROACHED PEDESTRIAN SAFETY PRIMARILY IN TWO WAYS.

- 1) WORKING WITH DRIVERS TO CHANGE THEIR DRIVING HABITS AS WELL AS IMPROVING DRIVER AWARENESS.
- 2) BY CREATING SAFE CROSSING ZONES FOR PEDESTRIANS.

RARELY IS THE PEDESTRIAN'S OWN BEHAVIOR INCLUDED IN TRANSPORTATION PLANNING BY TRYING TO DISCOURAGE DANGEROUS SITUATIONS. STUDIES HAVE SHOWN THAT IN MANY CASES THE FAULT LIES WITH THE PEDESTRIAN.

# NON PEDSTED APPROACH

METHODS OF IMPROVING PEDESTRIAN WALKING BEHAVIOR WITHOUT MAKING ENVIRONMENTAL CHANGES:

- 1) ENFORCE JAYWALKING LAWS- OFTEN A LOW PRIORITY FOR POLICE, CREATING CONFLICTS BETWEEN RESIDENTS AND CITY OFFICIALS. CONSIDERED A NUISANCE TO ENFORCE.
- 2) EDUCATION- CREATING PROGRAMS TO TEACH SCHOOL CHILDREN HOW TO PROPERLY CROSS A STREET REQUIRE SCHOOLS TO BE INVOLVED. THE PROBLEM IS THAT MANY ADULTS ARE THE ONES THAT NEED THE EDUCATION AND TEACH THEIR CHILDREN BAD PEDESTRIAN BEHAVIOR. ALSO, ANY EDUCATIONAL CAMPAIGN REQUIRES SUBSTANTIAL MEDIA EXPOSURE.

# NEW APPROACH - PEDSTED

METHODS OF IMPROVING PEDESTRIAN WALKING BEHAVIOR BY MAKING ENVIRONMENTAL CHANGES:

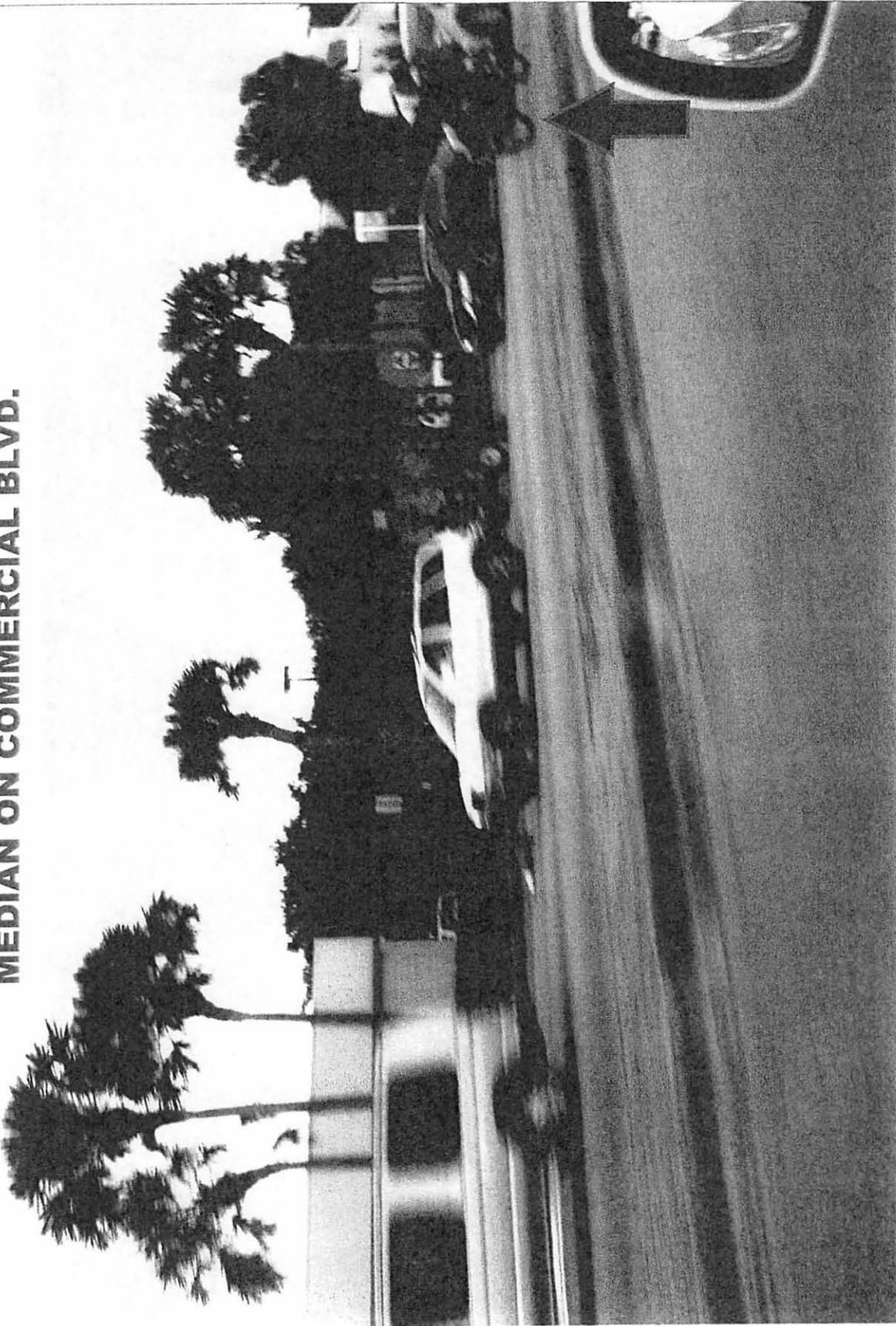
PEDSTED- PEDESTRIAN SAFETY THROUGH ENVIRONMENTAL DESIGN

APPROACHING THE PROBLEM IN THE SAME WAY AS,

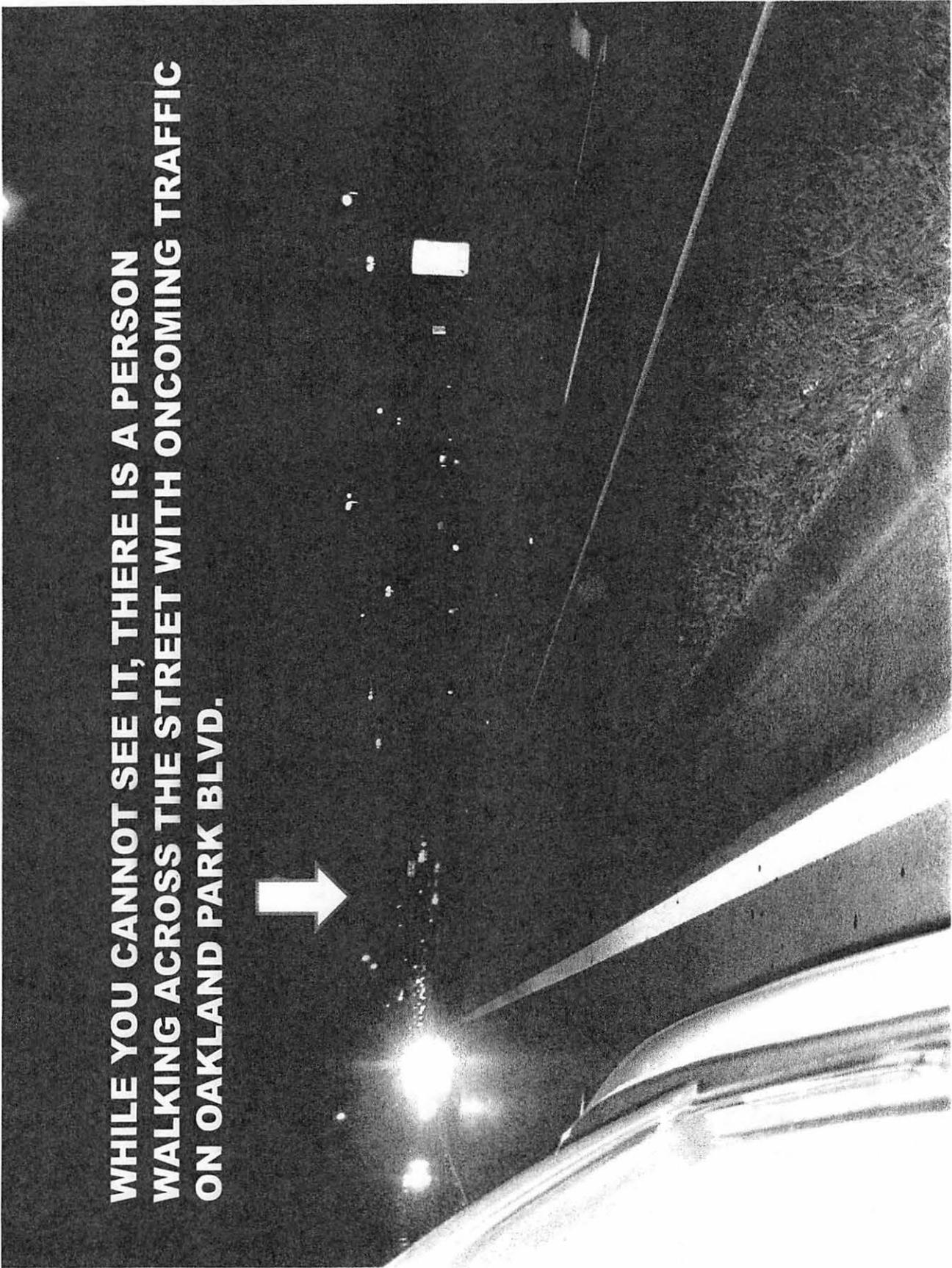
CPTED- CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

NO METHOD WILL COMPLETELY SOLVE THE PROBLEM, BUT COMBINING DIFFERENT APPROACHES WILL HELP TO CHANGE OR PREVENT UNWANTED BEHAVIOR. IF SOMEONE WANTS TO VIOLATE THE LAW AND IGNORE SAFETY PRECAUTIONS, THEY WILL FIND A WAY TO DO IT.

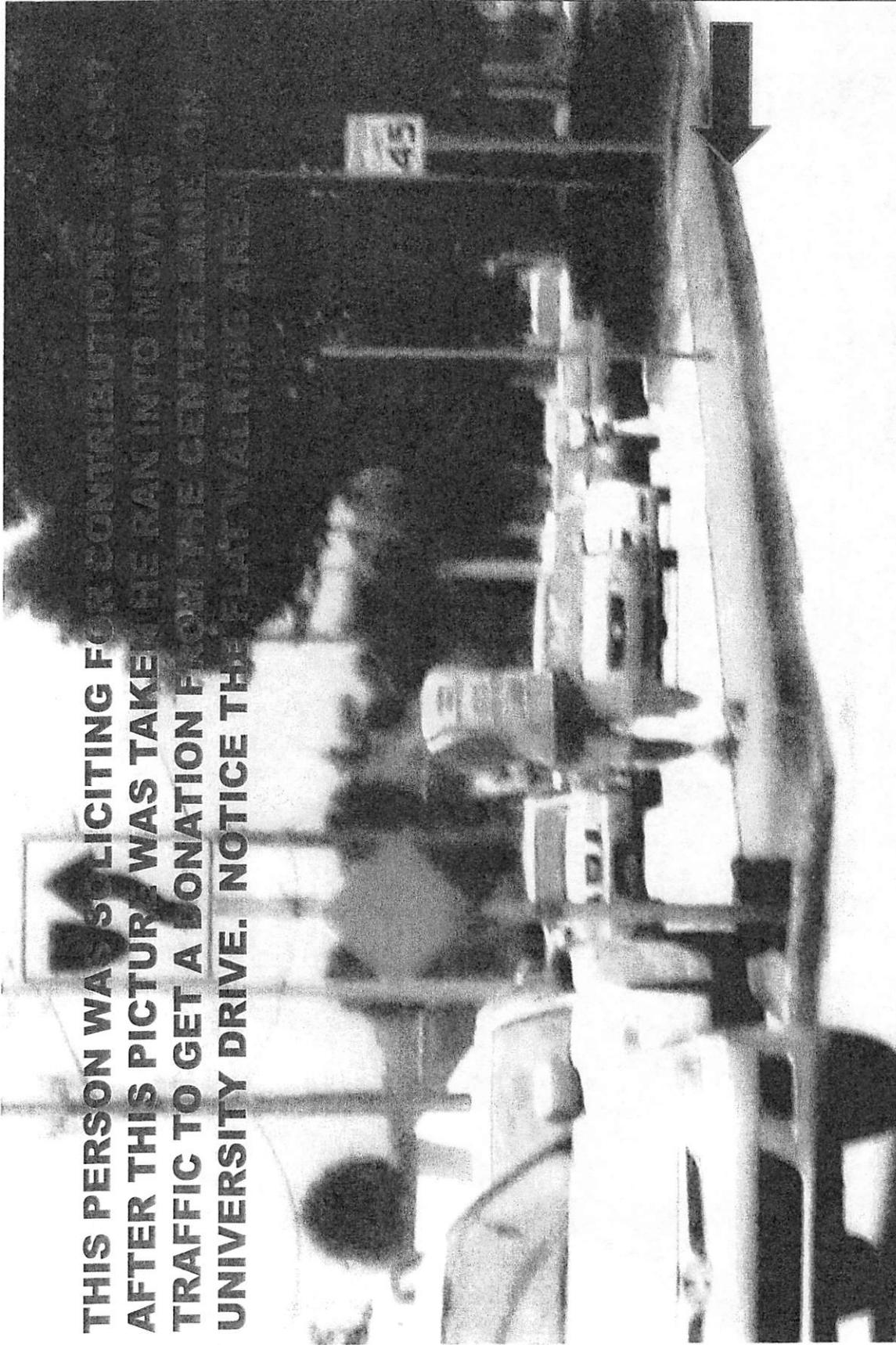
**FLAT BRICK MEDIUM IS PERFECT TO RIDE OR  
WALK ON. NOTICE THE BICYCLIST RIDING ON THE  
MEDIUM ON COMMERCIAL BLVD.**



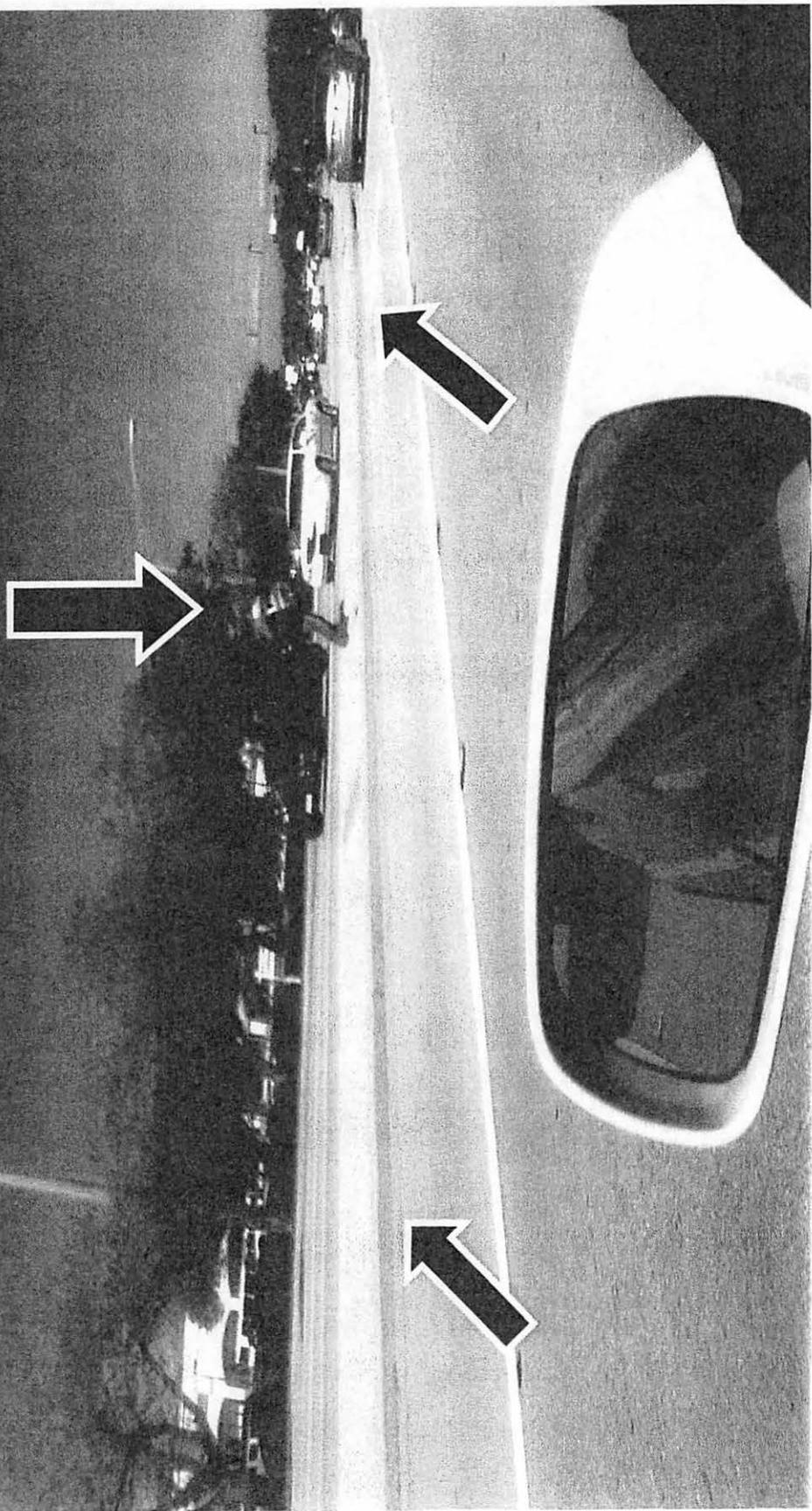
**WHILE YOU CANNOT SEE IT, THERE IS A PERSON  
WALKING ACROSS THE STREET WITH ONCOMING TRAFFIC  
ON OAKLAND PARK BLVD.**



**THIS PERSON WAS SOLICITING FOR CONTRIBUTIONS AFTER THIS PICTURE WAS TAKEN. THE RAIN INTO MOUNTAIN TRAFFIC TO GET A DONATION FROM THE CENTRAL UNIVERSITY DRIVE. NOTICE THE**



**NOTICE PERSON SOLICITING ALONG ENTIRE TRACK OF FLAT  
MEDIAN. PERSON WAS DARTING IN AND OUT OF TRAFFIC TO  
SOLICIT**

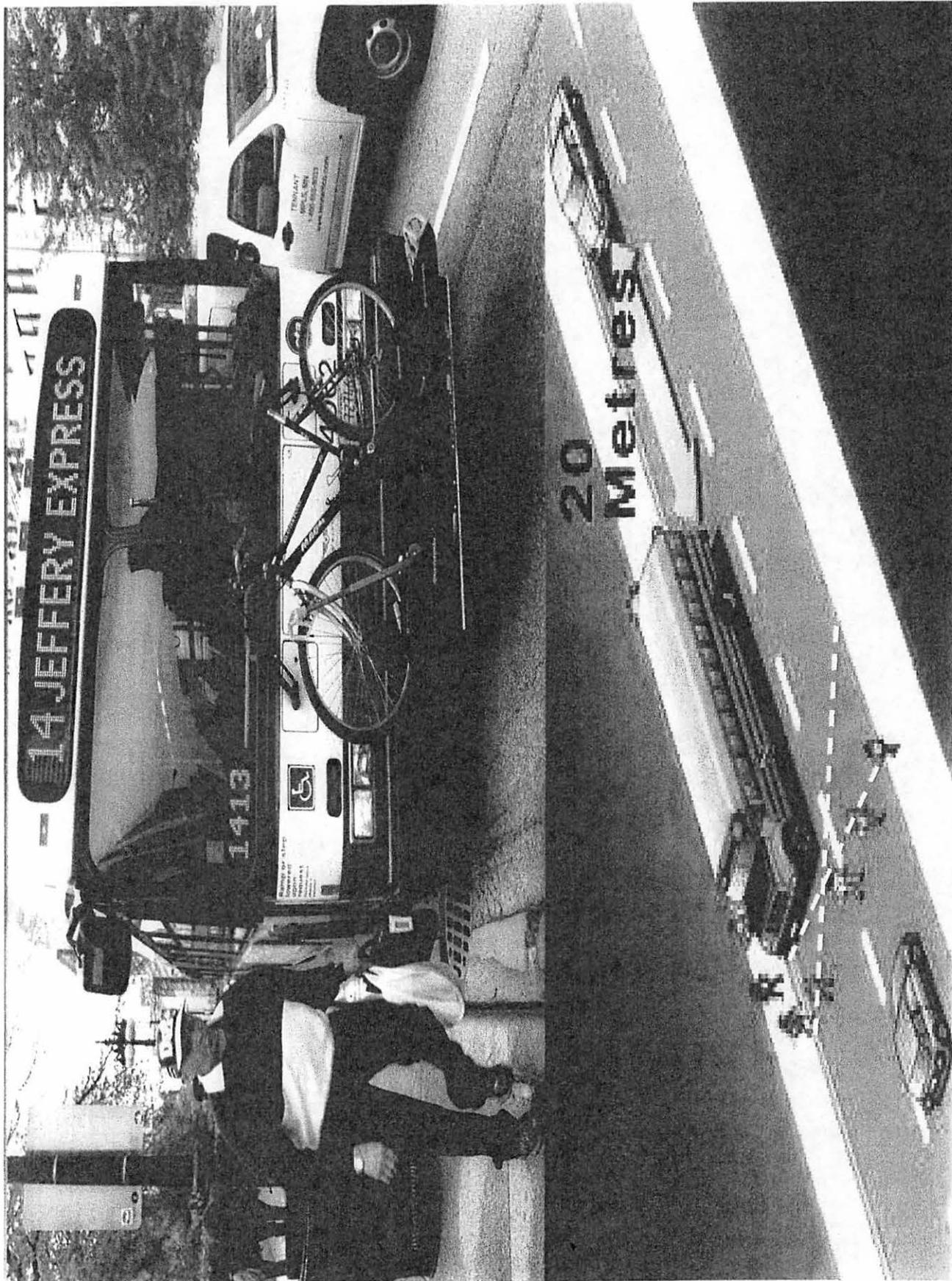


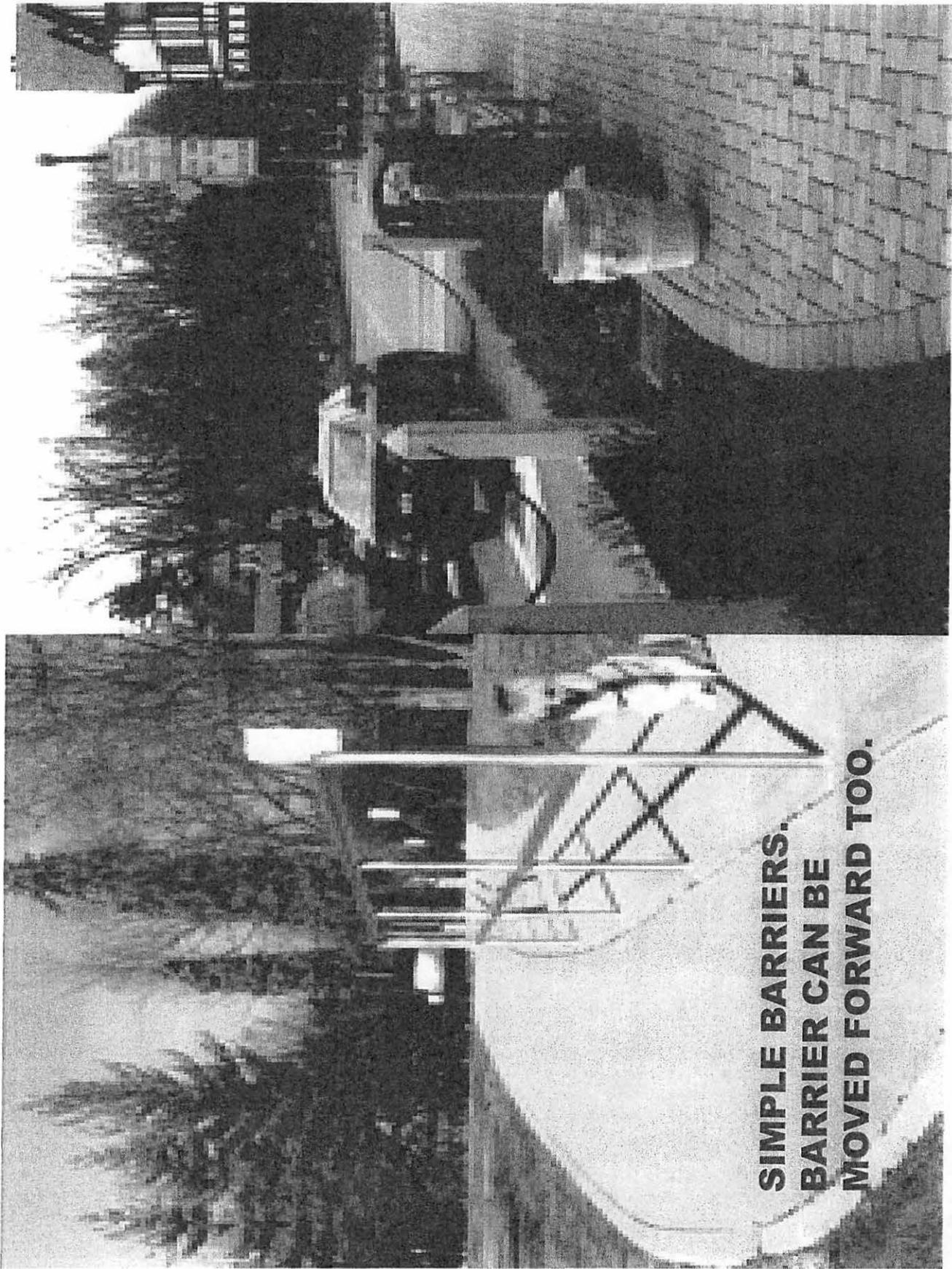
## APPLYING PEDSTED PRINCIPALS:

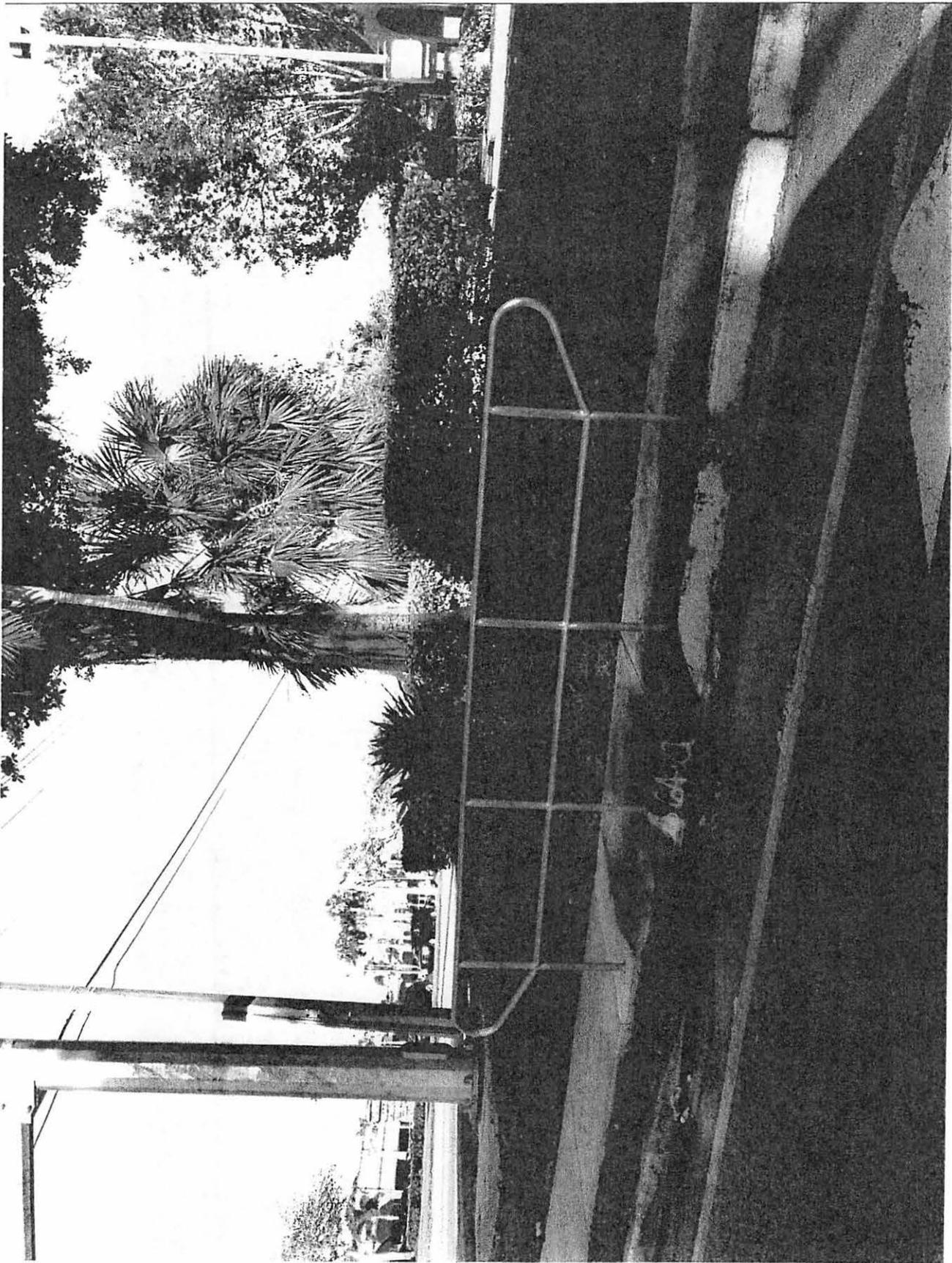
PROBLEM #1: PEOPLE CROSSING IN FRONT OF A BUS WHEN THEY GET OFF. DRIVERS CAN'T SEE PEDESTRIANS COMING INTO STREET, AND PEDESTRIANS DO NOT CROSS AT CROSSWALKS SINCE IT MAKES THE WALK A BIT FARTHER.

SOLUTION: PLACING A SAFETY BAR IN FRONT OF THE BUS LIKE SCHOOL BUSES OR RAILING ALONG SIDEWALKS

RESULT: TO FORCE PEOPLE TO WALK TO A LOCATION SO THEY WOULD BE MORE VISIBLE TO DRIVERS AND MAY HAVE TO USE DESIGNATED CROSSWALKS. ALTERNATIVE, IF THEY INSIST ON GOING AROUND THE SAFETY BAR THEY ARE MORE LIKELY TO BE SEEN BY DRIVERS GIVING ADDITIONAL EARLY WARNING.







**PROBLEM #2: PEDESTRIANS CROSSING STREETS IN LOCATIONS OTHER THAN AT CROSSWALKS**

**SOLUTION #1: MID-CROSSING BARRIERS USING LANDSCAPING, FENCES AND HUMPS**

Berger, in R. Retting, S. Ferguson and A. McCartt, (2003). "A Review of Evidence-Based Traffic Engineering Measures Designed to Reduce Pedestrian-Motor Vehicle Crashes." American Journal of Public Health

**SOLUTION #2: RAILING ALONG SIDEWALKS**

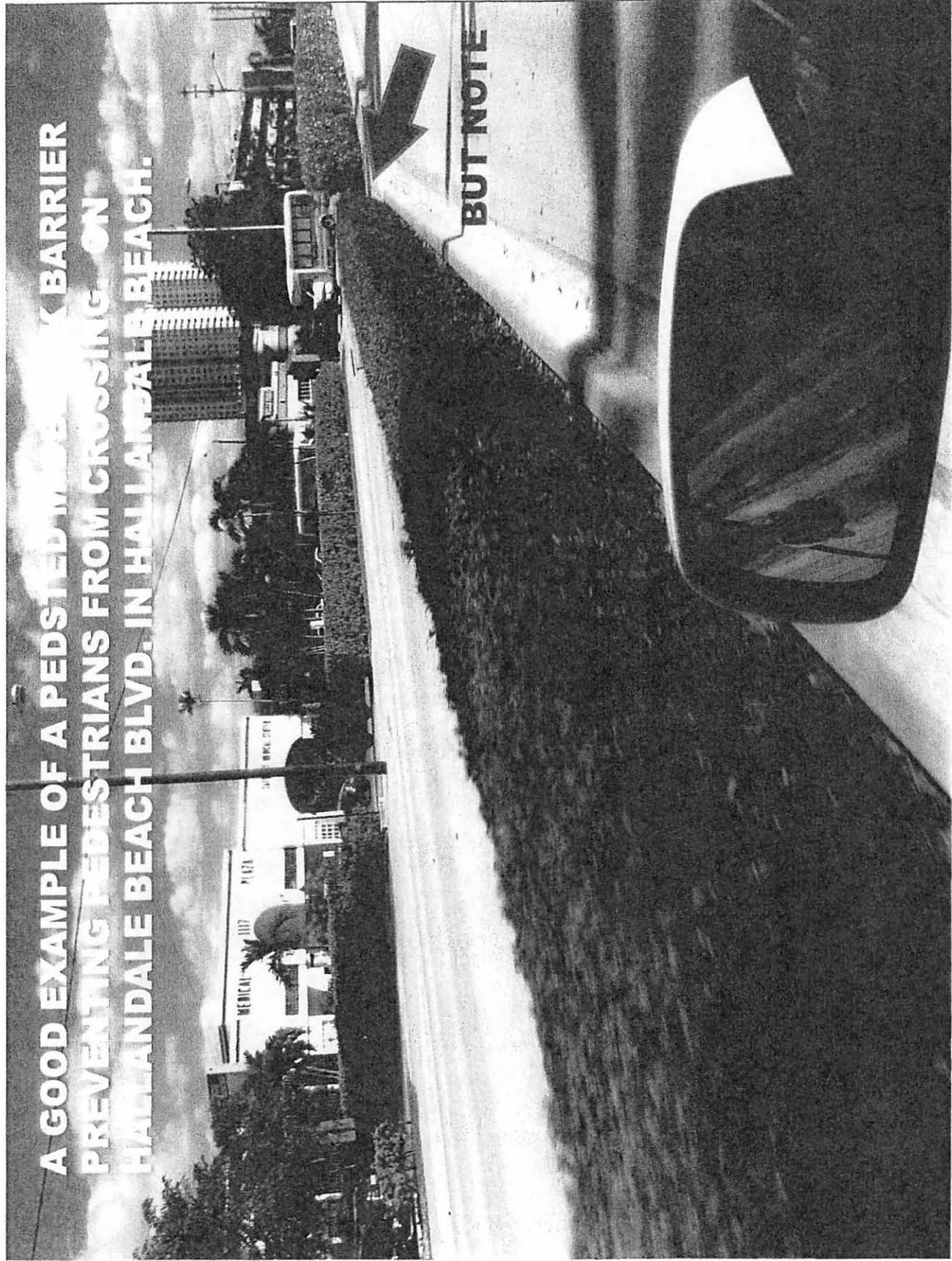
**RESULT: BY PREVENTING PEDESTRIANS FROM CROSSING IN DANGEROUS, UNDESIGNATED AREAS THEY WILL BE FORCED TO CROSS AT SAFER DESIGNATED PLACES.**

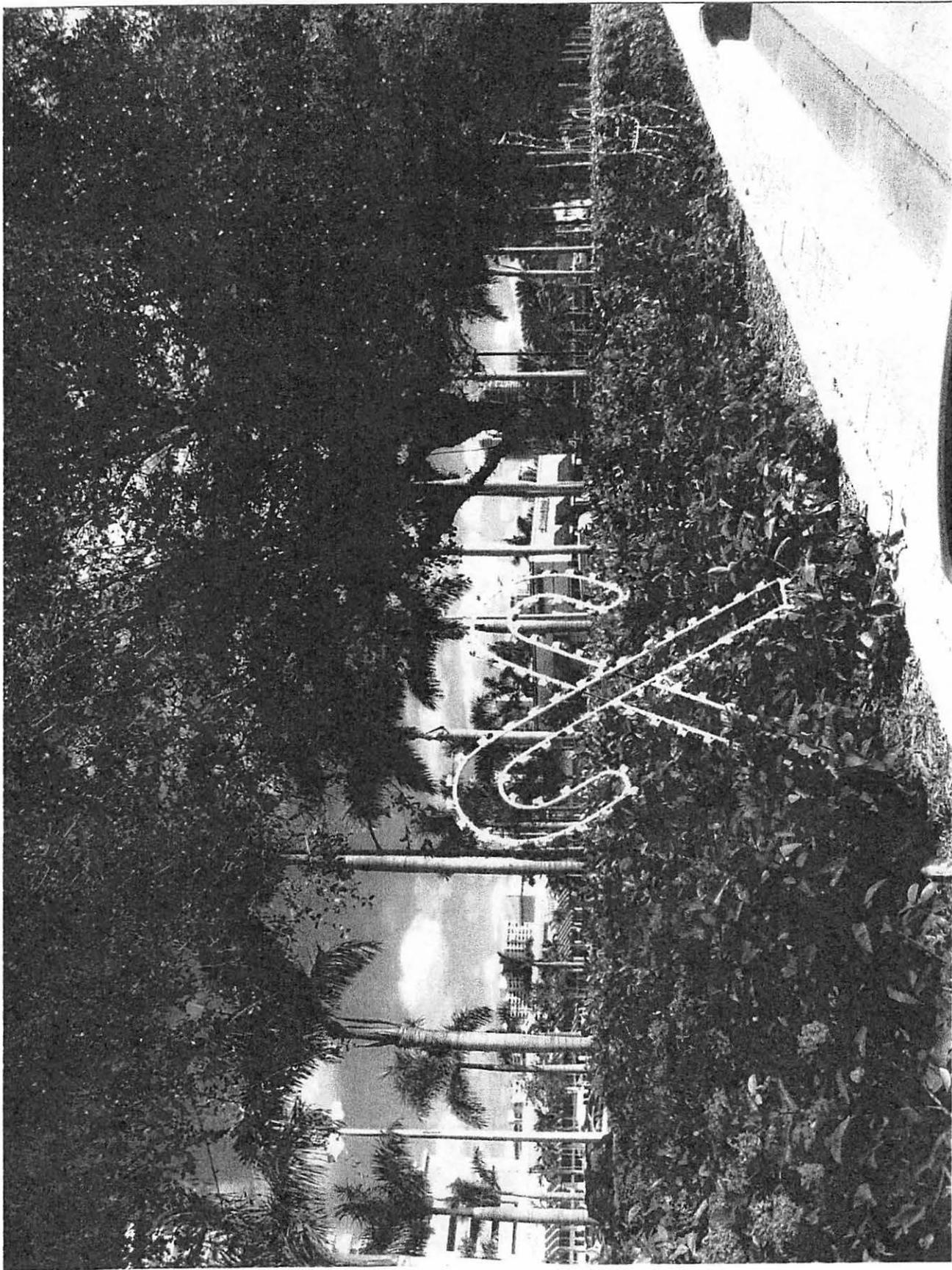
**MEDIAN FENCE BARRIERS WERE INSTALLED IN DC (4FT) AND NY (6 FT). 61% OF PEDESTRIANS IDENTIFIED THE BARRIER AS THE REASON FOR USING THE CROSSWALK. 48% SAID IT FORCED THEM TO USE THE CROSSWALK. BEFORE THE MIDBLOCK BARRIER WAS INSTALLED 61% CROSSED MIDBLOCK OUT OF CONVENIENCE.**

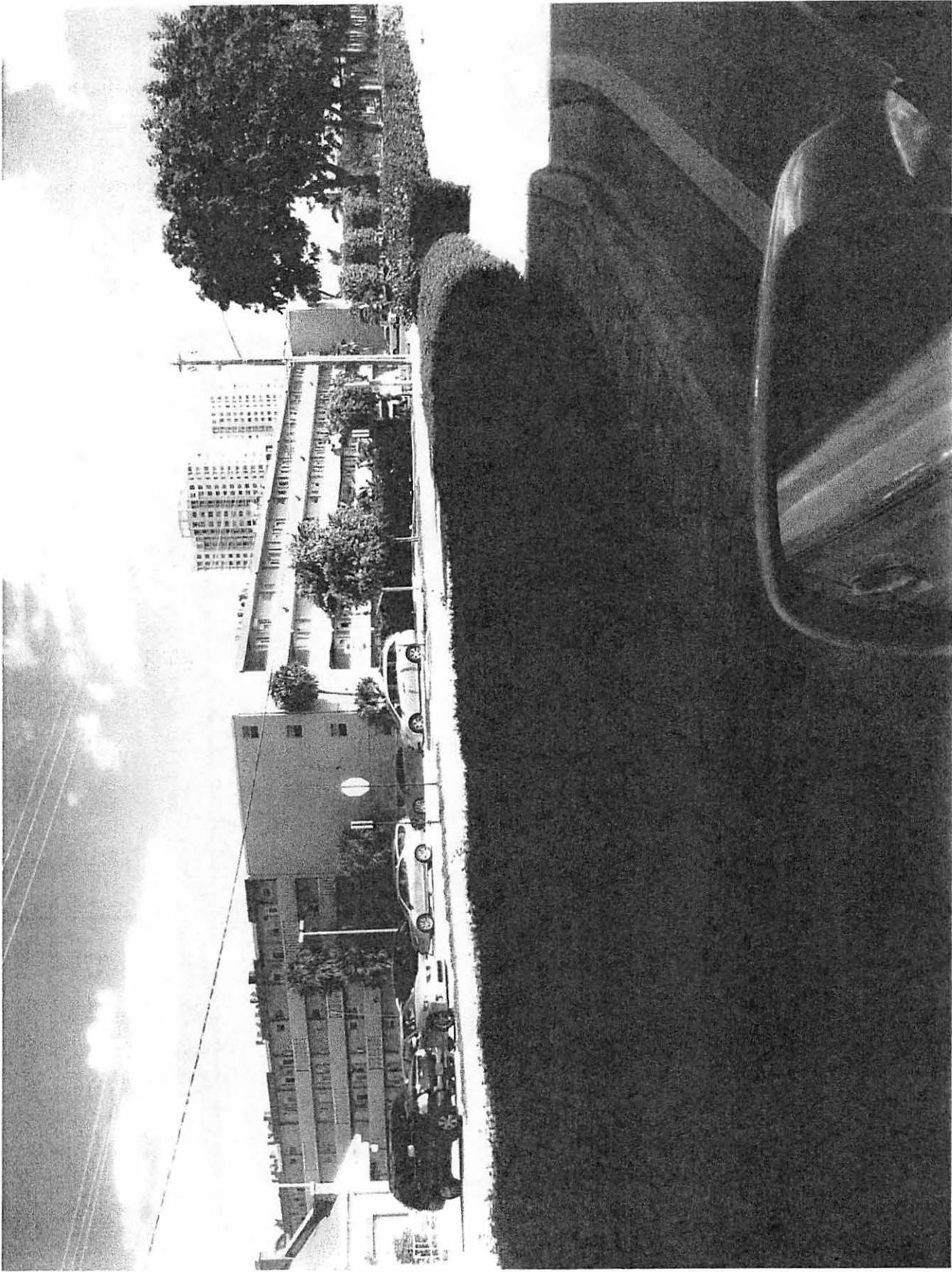
Berger, W.G., Urban Pedestrian Accident Countermeasure Experimental Evaluation Study, National Highway Traffic Safety Administration, Fed. (1975)

**A GOOD EXAMPLE OF A PEDSTEED WALK BARRIER  
PREVENTING PEDESTRIANS FROM CROSSING ON  
HALLANDALE BEACH BLVD. IN HALLANDALE BEACH.**

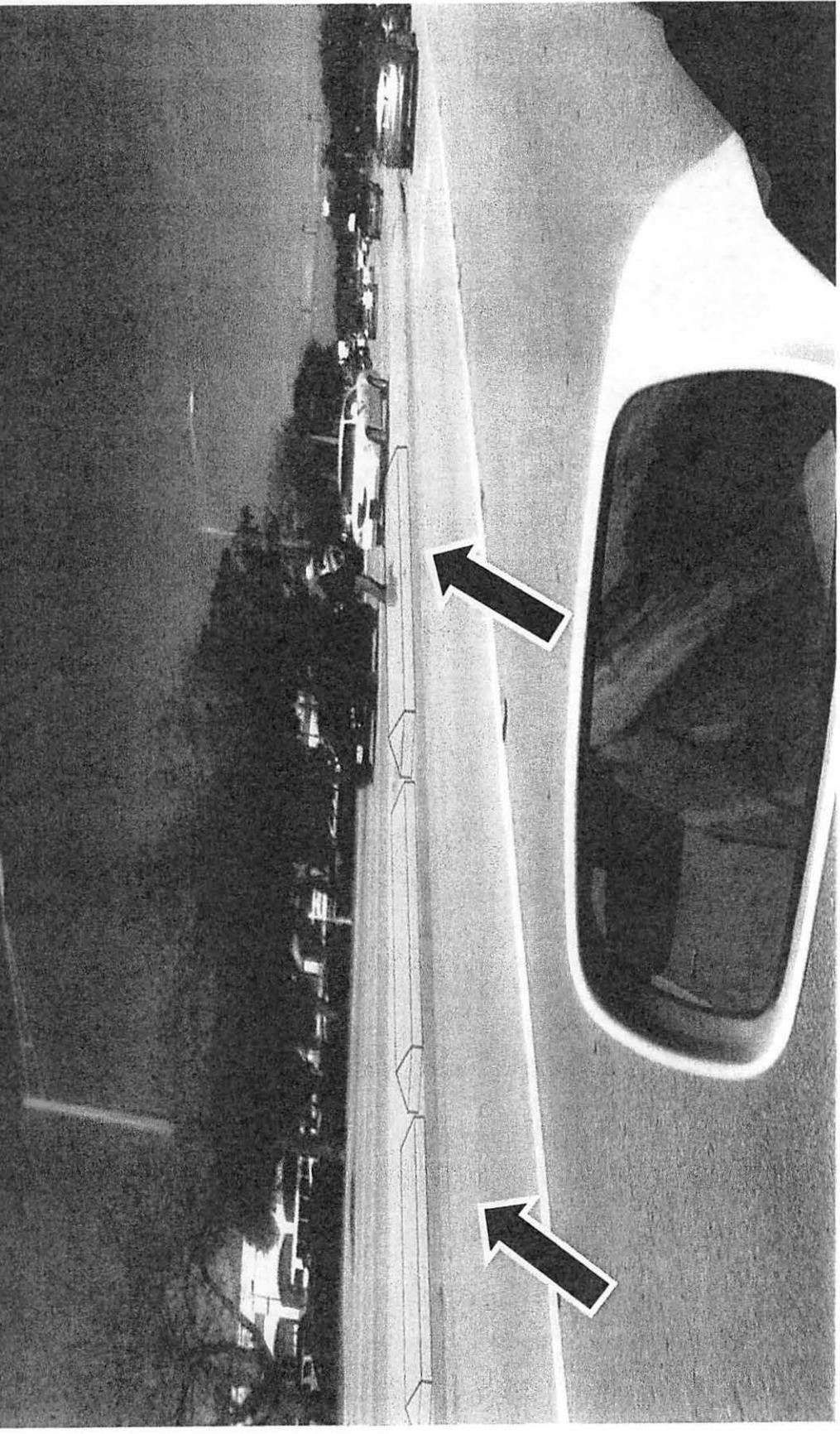
**BUT NOTE**

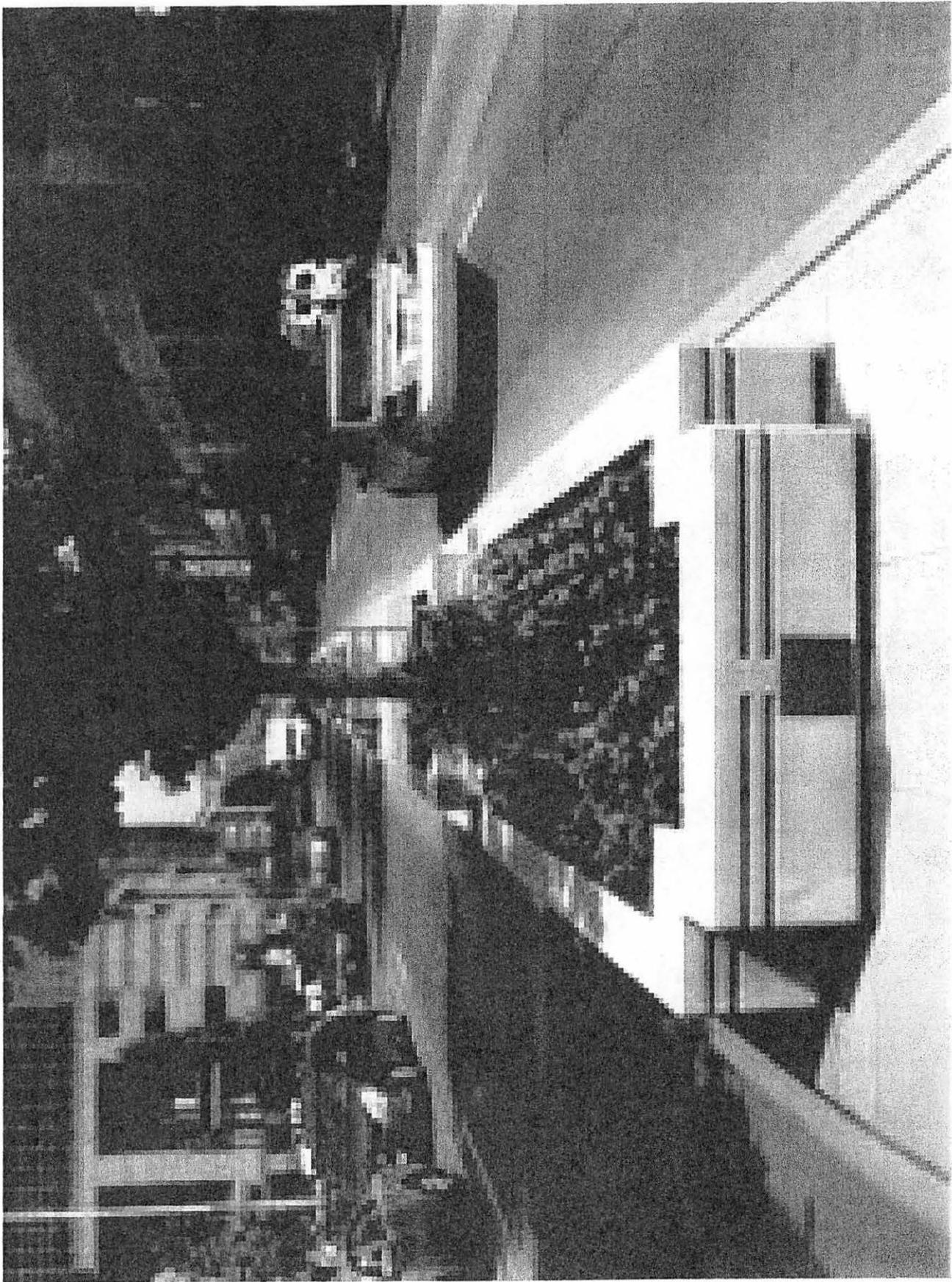




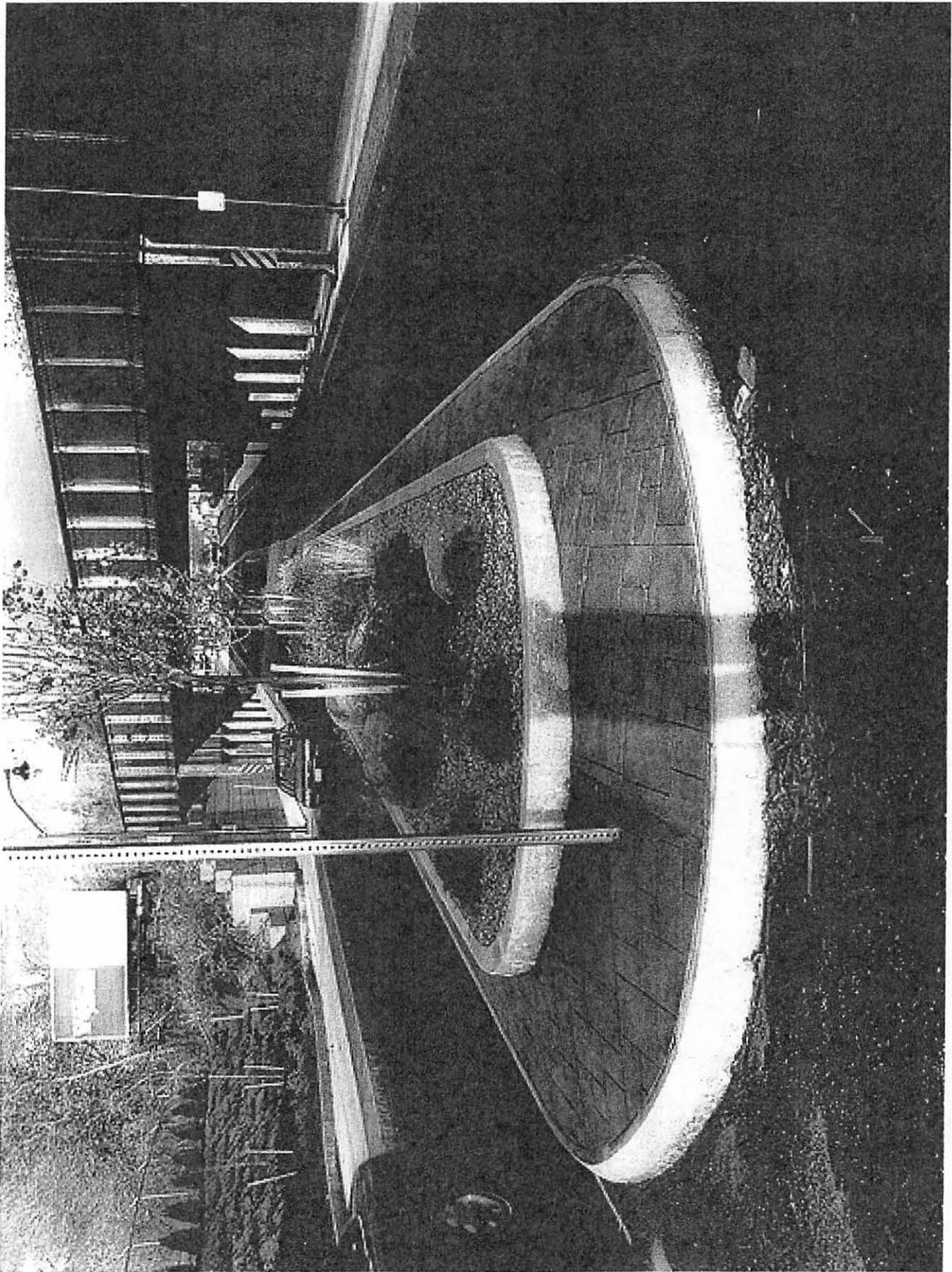


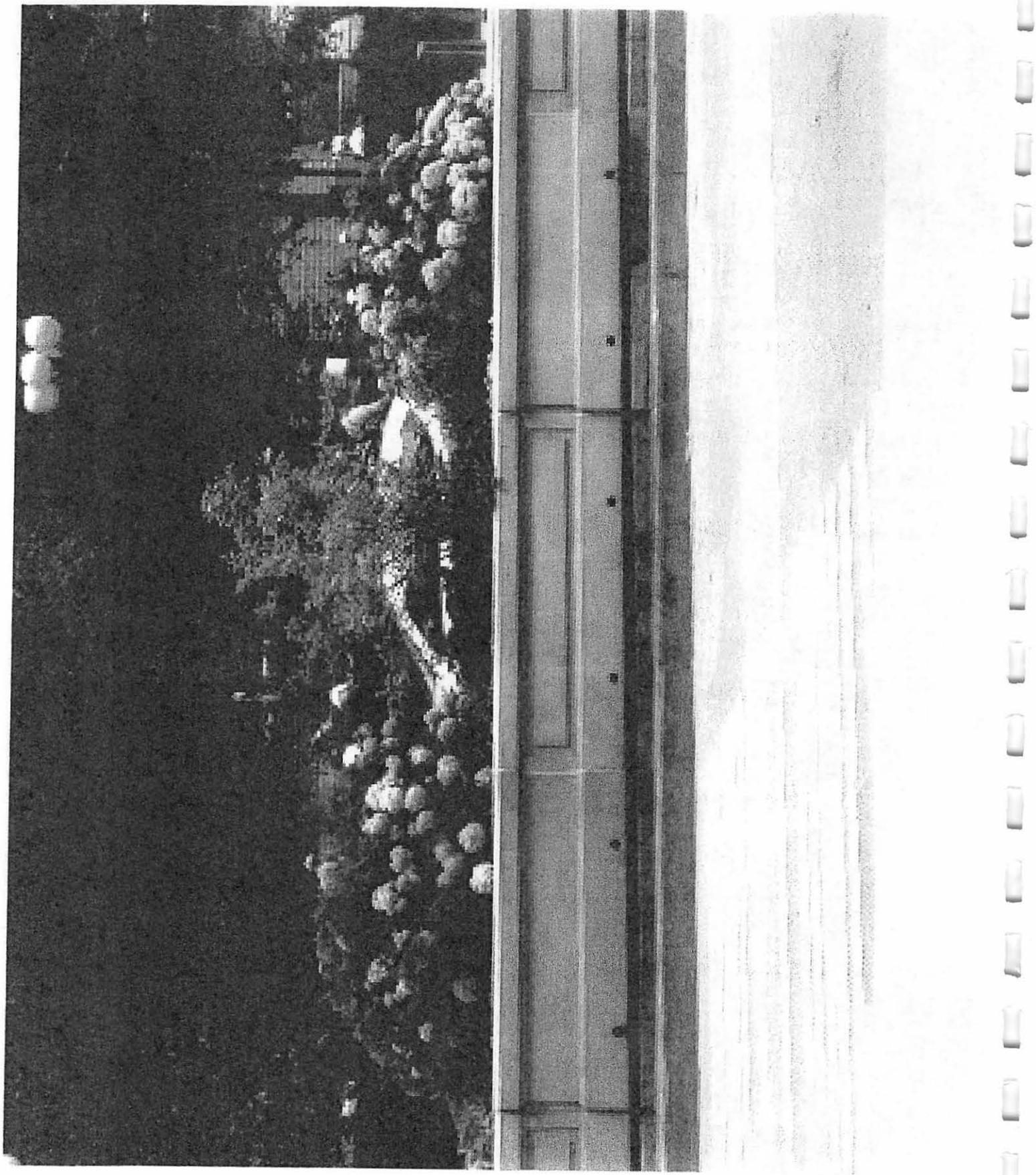
**CAPS PLACE ON FLAT MEDIAN SURFACES PREVENT  
PEDESTRIANS FROM STANDING ON THEM**



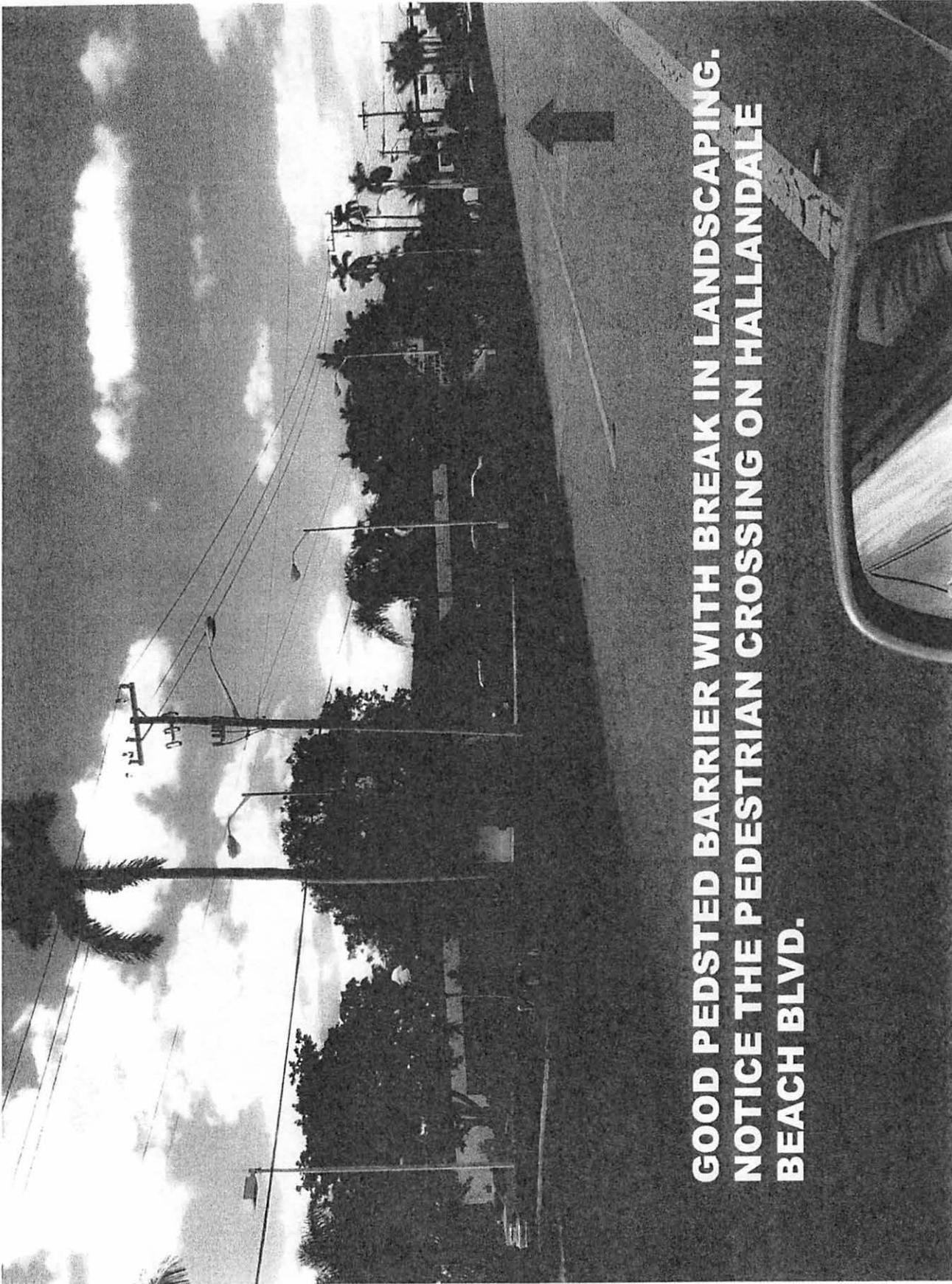








HOWEVER, AS PREVIOUSLY  
STATED, EVEN IF PEDSTED  
PRINCIPALS ARE APPLIED,  
THERE ARE THOSE THAT WILL  
IGNORE SAFETY MEASURES



**GOOD PEDSTED BARRIER WITH BREAK IN LANDSCAPING.  
NOTICE THE PEDESTRIAN CROSSING ON HALLANDALE  
BEACH BLVD.**



**THE END**

**COMMENTS?**

**Item Number 9  
Communications**

1. Letter from Lisa Bacot, Executive Director, Florida Public Transportation Association to Mary Bo Robinson, West Florida RPC regarding FPTA membership, dated August 8, 2014.
2. Letter from Secretary Ananth Prasad, FDOT to James Christian, FHWA Division Administrator regarding approval of MPO transportation improvement programs, dated September 16, 2014.
3. Letter to Brandi Whitehurst, West Florida RPC from Paul R. Gougelman, MPOAC General Counsel regarding virtual meetings, dated September 29, 2014.
4. Letter to Docket Management Facility, USDOT from DeLania Hardy, Executive Director, Association of MPOs regarding federal notice of proposed rulemaking on statewide, nonmetropolitan and metropolitan transportation planning, dated September 2, 2014.



Florida Public Transportation Association

August 8, 2014

Mary Bo Robinson  
West Florida RPC  
4081 East Olive Road Suite A  
Pensacola, FL 32514

Dear Ms. Robinson:

The Florida Public Transportation Association (FPTA) represents all fixed route transit systems in the State of Florida, providing over 270 million passenger trips in a safe, efficient and cost effective manner. Our mission is to continuously support improved public transportation in Florida through advocacy, innovation, education, and partnerships.

I am writing to request that you consider joining FPTA as an Associate Member of our organization. The annual fee is only \$150.00 per year and not only will you be helping to support public transportation, you will also receive the following tangible benefits of being a member of our Association:

- \$50.00 off for every staff person who attends the FPTA Annual Conference being held on October 26-28, 2014 in Naples, Florida.
- Opportunity to earn AICP credits at several sessions during our Annual Conference.
- Free registration to the Annual Professional Development Workshop (PDW) held in Tampa each year.
- Weekly State and Federal Transit Information and Updates each Friday.

Attached you will find a full list of FPTA Member Benefits, along with a Membership Form for you to complete. Please consider joining FPTA to assist with improving public transportation not only in your community, but throughout the state.

If you have any questions, please feel free to reach out to me directly at [lisabacot@floridatransit.org](mailto:lisabacot@floridatransit.org) or 850.445.8329. Thank you for considering!

Sincerely,

A handwritten signature in cursive script that reads 'Lisa M. Bacot'.

Lisa M. Bacot  
Executive Director

Executive Director: Lisa M. Bacot  
Phone 850.878.0855 > Fax 850.878.0725  
PO Box 10168 > Tallahassee, FL 32302 > E-mail [LisaBacot@FloridaTransit.org](mailto:LisaBacot@FloridaTransit.org) > Web [www.floridatransit.org](http://www.floridatransit.org)

## FPTA Membership Benefits



Florida Public Transportation Association

### History of FPTA

Since 1974, the Florida Public Transportation Association (FPTA) has represented and advocated for all public transit agencies in Florida, as well as interested citizens and businesses. FPTA's membership is composed of numerous fixed route systems, Community Transportation Coordinators, commuter rail systems, and several people mover systems. Many members also conduct paratransit operations to meet ADA and state requirements.

### Mission of FPTA

To continuously support improved public transportation in Florida through advocacy, innovation, education, and partnerships.

### Vision of FPTA

Through the support of innovative public transportation and transit-supported land use, improve the quality of life in Florida.

### Joining FPTA

If you are not currently a member of FPTA, now is the time to join! We are a growing agency and provide many member benefits that are sure to assist you with your daily operations!

#### **Transit System/CTC Member Benefits (Annual dues based on previous year's operating budget):**

- Discounts at several FPTA and FDOT sponsored events throughout the year.
- Advocacy on your behalf to educate the State and Federal Government on the need for increased support for local public transportation projects, programs and services.
- Access to educational public transportation conferences, workshops and seminars for policy makers, transportation professionals, businesses and community leaders.
- Up-to-date information is provided to members on useful and relevant public transportation happenings around the state.
- Free subscription to the FPTA Quarterly Newsletter, FPTA Weekly Update, and other types of communication and information.

#### **Associate Member Benefits (\$150.00 a year):**

- Discounts at several FPTA and FDOT sponsored events throughout the year.
- Access to educational public transportation conferences, workshops and seminars for policy makers, transportation professionals, businesses and community leaders.
- Up-to-date information is provided to members on useful and relevant public transportation happenings around the state.
- Free subscription to the FPTA Quarterly Newsletter, FPTA Weekly Update, and other types of communication and information.

#### **Business Class Member Benefits (\$300.00 a year):**

- Discounts and opportunities to display products at our Annual Conference and EXPO.
- Opportunities to meet transit and transportation professionals who have decision making power.
- Free listing in our Membership Directory and web page, with contact information.
- Advertising opportunities, such in our quarterly newsletter or our Annual Membership Directory.
- Free registration to the Mid-Year Professional Development Workshop (held in June in Tampa) and other activities.
- Receive email information from me and others on important information pertinent to the industry.

**Fill out the form on reverse side to Join Today!**

# FPTA Membership Form



Florida Public Transportation Association

## Type of Membership

- Transit System/CTC Membership** - Annual dues are based on the previous year's Operating Budget (.00055 times the operating budget or a minimum of \$500.00/maximum of \$20,000.00 per year).  
Amount of previous year's Operating Budget: \$ \_\_\_\_\_ x .00055 = \$ \_\_\_\_\_  
(min \$500.00/max \$20,000.00)
- Associate Membership** - \$150.00 a year (Non-profit associations, individuals, community supporters, or planning organizations.)
- Business Class Membership** - \$300.00 a year (Organizations engaged in supplying goods and services to transit systems, professional consultation services, or construction of public transit facilities.)

Name of Organization: \_\_\_\_\_

Main Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Office Phone Number: \_\_\_\_\_ Cell Phone (optional): \_\_\_\_\_

Email of Contact Person: \_\_\_\_\_

Fax: \_\_\_\_\_ Web Page: \_\_\_\_\_

Type of Business: \_\_\_\_\_

## Payment Method

- Credit Card Number (Visa or M/C only): \_\_\_\_\_ Expiration Date: \_\_\_\_\_
- Pay by Check

## Billing Information Check if same contact information as above

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State/Province: \_\_\_\_\_ Zip/Postal Code: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

## Please complete and return to:

Lisa M. Bacot, Executive Director, Florida Public Transportation Association  
PO Box 10168 • Tallahassee, FL 32302  
Please send via fax to 850.878.0725 or scan and email to: lisabacot@floridatransit.org



**Florida Department of Transportation**

RICK SCOTT  
GOVERNOR

605 Suwannee Street  
Tallahassee, FL 32399-0450

ANANTH PRASAD, P.E.  
SECRETARY

September 16, 2014

Mr. James Christian  
Division Administrator  
Federal Highway Administration  
545 John Knox Road, Suite 200  
Tallahassee, Florida 32303

**Re: Approval of FY 2014-15 through FY 2018-19 Transportation Improvement Programs**

Dear Mr. Christian:

The Department has completed the review of the Transportation Improvement Programs (TIPs) for Florida's Metropolitan Planning Organizations (MPOs) and has concluded that all are consistent with federal and state law. The reviews were conducted pursuant to the processes outlined in the MPO Administrative Handbook.

Through the authority delegated by the Governor, I hereby approve the TIPs for 26 of the 26 MPOs in Florida. These TIPs will be effective upon the joint approval of the 2015 State Transportation Improvement Program (STIP) by the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA).

If the Department can be of further assistance in providing additional information, please contact Mr. Jim Wood, Director, Office of Policy Planning at 414-4800.

Sincerely,

Ananth Prasad, P.E.  
Secretary

AP:ya

cc: Shakira Crandol, FHWA  
MPO Staff Directors  
Howard Glassman, MPOAC  
FDOT District Directors of Intermodal Systems Development  
Brian Blanchard, Assistant Secretary for Engineering and Operations, FDOT  
Brian Peters, Assistant Secretary for Finance and Administration, FDOT  
Jim Wood, Director, Office of Policy Planning, FDOT  
James Jobe, Manager, Federal Aid Office, FDOT

[www.dot.state.fl.us](http://www.dot.state.fl.us)



*Florida Department of Transportation*

RICK SCOTT  
GOVERNOR

605 Suwannee Street  
Tallahassee, FL 32399-0450

ANANTH PRASAD, P.E.  
SECRETARY

**FLORIDA DEPARTMENT OF TRANSPORTATION  
CERTIFICATION OF PROJECTS FOR FEDERAL FISCAL YEAR 2015**

In accordance with Title 23, U.S. Code, Section 105 and Section 134, the District Secretaries have certified to the following statements, and I do hereby certify for the Department that the projects in the Five Year Work Program have been developed consistent with the Department's goals and policies as defined in the statewide transportation plan (i.e. Florida Transportation Plan).

I further certify that:

1. All projects carried out within the boundaries of each transportation management area with Federal participation pursuant to Title 23, USC are selected by the State in cooperation with the Metropolitan Planning Organizations (MPOs). MPOs in transportation management areas, in consultation with the State, select projects for implementation from the approved Transportation Improvement Program (TIP), with the exception of National Highway System projects.
2. Projects undertaken in areas of 50,000 to 200,000 population have been selected by the State in cooperation and/or consultation with the Metropolitan Planning Organizations and are in conformance with the TIP for each area.
3. Projects undertaken in areas of less than 50,000 population have been selected by the State in cooperation with the affected local officials.

**CERTIFIED BY:**

\_\_\_\_\_  
Ananth Prasad, P.E.  
Secretary  
Florida Department of Transportation

9/22/14

\_\_\_\_\_  
Date

[www.dot.state.fl.us](http://www.dot.state.fl.us)

## A Summary of Major Federal-Aid Programs and Project Selection/Implementation Requirements from Title 23, USC<sup>1</sup>

The state (department of transportation) selects projects for all federal-aid programs in cooperation with MPOs and consultation with nonmetropolitan areas of the state, as well as Indian tribal areas. MPOs in transportation management areas select projects for implementation from the approved TIP<sup>2</sup>, with the exception of National Highway System projects.

Program Funds	TMA (Areas Over 200,000 Population)	Areas 50,000 – 200,000 Population	Areas under 50,000 Population
National Highway Performance Program	By the state, in <i>cooperation</i> with MPOs.		By the state, in <i>consultation</i> with affected local officials.
Surface Transportation Program (STP) and all other Federal Participation	By the MPO for implementation, in <i>consultation</i> with the state and any affected public transportation operator.	By the state, in <i>cooperation</i> with the MPOs.	By the state, in <i>cooperation</i> with the affected local officials.
Congestion Mitigation and Air Quality Improvement Program (CMAQ)	By the MPO for implementation, in <i>consultation</i> with the state.	By the state, in <i>cooperation</i> with the MPOs.	By the state, in <i>cooperation</i> with the affected local officials.
Transportation Alternatives (TA)	By the MPO for implementation, in <i>consultation</i> with the state		By the state, in <i>cooperation</i> with the affected local officials.
Safety	By the MPO for implementation, in <i>consultation</i> with the state	By the state, in <i>cooperation</i> with the MPOs.	By the state, in <i>cooperation</i> with the affected local officials.

### Definitions from 23 CFR Part 450, §450.104

**Consultation** means that one or more parties confers with other identified parties in accordance with an established process and, prior to taking action(s), considers the views of the other parties and periodically informs them about action(s) taken.

**Cooperation** means that the parties involved in carrying out the transportation planning and programming processes work together to achieve a common goal or objective.

<sup>1</sup> §134(j)(5), §134(k)(4), §135(g)(6), §213(c)(5)

<sup>2</sup> The TIP is approved by the MPO and Governor.

LAW OFFICES

PAUL R. GOUGELMAN, III

ATTORNEY-AT-LAW

2220 Front Street - Suite 204  
Melbourne, Florida 32901  
Telephone (321) 508-7800  
pgougelman@CFL.RR.Com

September 29, 2014

Ms. Brandi Whitehurst,  
Regional Planner  
West Florida Regional  
Planning Council  
4081 East Olive Road - Suite A  
Pensacola, FL 32514  
Brandi.whitehurst@wfrpc.org

Re: Our File: Can TACs and CACs conduct Virtual Meetings

Dear Ms. Whitehurst:

On behalf of the Metropolitan Planning Organization Advisory Council ("MPOAC"), I am responding to a question posed through Yvonne Arens, Florida Department of Transportation ("FDOT") Public Transportation Manager.

You ask:

**Can TAC and CAC meetings be held by teleconference or video?**

**Based on my review of Florida law, I conclude that TAC and CAC meetings may not be conducted by teleconference or video, if the purpose of the meeting is for the TAC/CAC to achieve a quorum and vote on any issue.<sup>1</sup>**

---

<sup>1</sup> The Attorney General has determined that once a quorum is physically present at the place where a meeting is to be held that a member not physically present may participate by telephone or otherwise. A member may participate, if a quorum is physically present and there is an extraordinary reason for the member's need to participate by telephone. In AGO 2003-41 at 3, the Attorney General stated:

Accordingly, it is my opinion that where a rule or statute contemplates that a meeting will be held in a public place with the members physically present, the participation of an absent member in the meeting by telephone conference should be permitted only in extraordinary circumstances and when a quorum of the board

Ms. Brandi Whitehurst,  
Regional Planner  
September 29, 2014  
Page 2

There does not appear to be any appellate court cases confronting the issue that you have raised. However, the Florida Attorney General ("AG") has issued a number of opinions that directly respond to the question that you have raised. AGO 2006-20 provides a good summary of the law and an excellent history of prior AG opinions. The opinion is also instructive, because it involves CAC meetings for various MPOs operating jointly.

The opinion cites AGO 2001-66 in which the Attorney General answered a query whether an airport authority could conduct discussions or meetings over the internet when such discussions or meetings were noticed to the general public, viewable by the general public, open to input by the general public, and recorded for public inspection. The Attorney General concluded that the Leesburg Regional Airport Authority members could conduct informal discussions and workshops over the internet; provided, that proper notice was given and interactive access by members of the public was provided. There are some issues regarding public attendance by internet or teleconference however.

The Attorney General cautioned that the

interactive access must include not only public access via the internet but also designated at places within the authority boundaries at which the airport authority makes computers with internet access available to members of the public who may not otherwise have internet access. It was advised that notice of such discussions and workshops should also include the locations at which computers with internet access would be located.

AGO 2001-66.

---

members is physically present at the meeting. Whether the absence of a member due to a scheduling conflict constitutes such a circumstance is a determination that must be made in the good judgement [sic] of the board.

The Attorney General has been asked on several occasions to provide assistance to local boards regarding the participation of their members in public meetings via electronic means. See AGOs 2003-41, 2002-82, ad 98-28. In one instance, it was determined that a county commissioner who was physically unable to attend a commission meeting due to a serious medical condition could vote by an interactive video and telephone system when a quorum of the commission members was present at the designated public facility. AGO 92-44; AGO 2002-82 (2002) (physically disabled member of municipal board may attend meeting electronically if quorum is otherwise physically present at meeting). The system allowed the commissioner to see the other members of the board and the audience at the meeting, and the board and audience could see her.

Ms. Brandi Whitehurst,  
Regional Planner  
September 29, 2014  
Page 3

The AG opinion related to *informal* meetings of a *workshop* nature at which no action would be taken. The Attorney General stated that for meetings at which action was to be taken, a quorum was necessary, and the physical presence of the members making up the quorum would be required in the absence of a statute providing otherwise. For regional airport authority members participating by electronic means who were not at the meeting, each individual's situation for not being present would have to be analyzed.<sup>2</sup>

In a more recent informal opinion in 2005 issued at the request of Monroe County Commissioner Charles "Sonny" McCoy, Asst. Attorney General Lagran Saunders commented on the use of video conferencing and digital audio for members of the Monroe County Commission to conduct special meetings or workshops at which no official action was to be taken.<sup>3</sup> The opinion noted Monroe County's unique geography spanning 120 miles connected by bridges and confronted a situation in which the board of county commissioners was exploring the use of electronic communication to hold special and workshop meetings in order to minimize the travel time and expense of commissioners and staff.

After discussing the limitations on the use of such technology for regular meetings at which official actions would be taken, it was concluded that electronic media technology could be used for *workshops or special meetings where no formal action would be taken*. Asst. Attorney General Saunders advised that the County Commission needed "to be vigilant in adhering to the requirements of the Sunshine Law and to ensure that the meetings or workshops using electronic media technology were not forums for the Commission to undertake formal decisionmaking [sic]."

In AGO 2006-20, the Attorney General was asked to opine to the Hillsborough County MPO whether a board known as the Joint Citizens Advisory Committee ("JCAC")<sup>4</sup> could hold its meetings by linking simultaneous meetings of the CACs for a number of West coast MPOs, networked via

---

<sup>2</sup> The Attorney General explained that "[t]he use of interactive electronic media to increase public participation in meetings and the use of such media to allow members of a board or commission to participate in a duly noticed public meeting does not necessarily raise Sunshine Law issues, but rather implicates the ability of an entity to conduct official business with a quorum." AGO 2001-66 at 2.

<sup>3</sup> Inf. AGO to Monroe County Commissioner Charles "Sonny" McCoy, 2005 WL 3262434 (Nov. 29, 2005).

<sup>4</sup> It should be stressed that the JCAC referenced in the opinion is an actual organization constituting members of the Pinellas County CAC and the Hillsborough County CAC. The JCAC in turn advises a statutory body known as the Chairs Coordinating Committee. See §339.175(6)(i), Fla.Stat. The JCAC was exploring expanding to include CACs for the Hernando MPO, the Manatee/Sarasota MPO, the Pasco MPO, and the Polk TPO.

computers, conference call, video or some other electronic media technology, so that all members of the committees and the public could hear and participate at the meeting, when each individual CAC has a quorum present for its meeting.

The opinion confirmed that

In the instant situation, the individual CACs or their members would be creating a larger multi-county JCAC. All of the individual meetings of the CACs would be electronically connected and no single location would be designated as the one at which the JCAC would meet. While the individual CACs may have a quorum present at each location for purposes of their meeting, their participation from remote locations would not appear to constitute a quorum for the JCACs meeting.

AGO 2006-20 at 1.

The Attorney General concluded that the Legislature has provided authority for the use of electronic media technology for participation in meetings of statewide boards or commissions.<sup>5</sup> However, there is apparently no authority allowing a MPO-created body, such as the JCAC or other MPO committee, to use such technology to consolidate multiple meetings at remote locations by electronic technology to form a single meeting of the committee. AGO 2006-20 at 3. The Attorney General suggested that if the JCAC wanted to accomplish it's goals of using electronic media technology legislative change was the best approach.

Accordingly, the Attorney General concluded by stating:

it is my opinion that the Joint Citizens Advisory Committee whose members are representatives from several county metropolitan planning organizations may use electronic media technology to link simultaneously held public meetings of citizens' advisory committees allowing all members of the committees and the public to hear and participate at workshops. The use of electronic media technology, however, does not satisfy quorum requirements necessary for official action to be taken by the joint committee.

AGO 2006-20 at 3.<sup>6</sup>

---

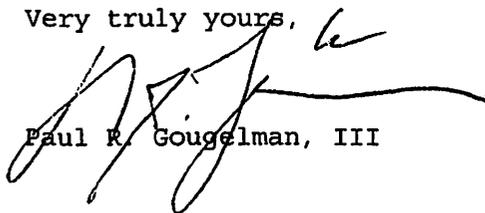
5 §120.54(5)(b)(2), Fla.Stat.

6 Other opinions have examined the issue of an internet bulletin board by

Ms. Brandi Whitehurst,  
Regional Planner  
September 29, 2014  
Page 5

I trust that this letter furnishes guidance on this matter.

Very truly yours,



Paul R. Gougelman, III

PRG/

pc: Howard Glassman, MPOAC  
Executive Director  
Ms. Yvonne Arens, Public  
Transportation Manager  
MPOAC/Virtual Meeting of TAC-CAC.Lt1

---

which members of a decision-making body could discuss issues freely over an electronic bulletin board which could be viewed by the public and in which the public could not participate in the discussion. In AGO 2002-32, the Attorney General responded to a request for permission to utilize the internet in this fashion, which request was submitted by the Southwest Florida Water Management District. The Attorney General concluded that this would be a violation of the Government-in-the-Sunshine Law. Of particular concern was the fact that the public could not receive reasonable notice of the discussions or responses to issues, and the public would have to continuously monitor the internet. See also Inf. Advisory Opinion prepared by Asst. Atty. Gen. Joslyn Wilson, 2007 WL 1054632 (April 6, 2007).

However, in AGO 2008-65, the City of Delray Beach had taken sufficient steps to partially overcome the Attorney General's concerns with an internet "on-line bulletin board." In this opinion, the City Commission proposed to have fully noticed workshop meetings lasting no longer than two hours at which the public could raise issues relating to "green" or environmentally-oriented matters. Computers would be available at the City's library with the use of two electronic bulletin boards, one for the public and one for the Commission. While the Attorney General approved the concept, he raised several concerns relating to making sure all people who wished to participate had access to the internet. He also noted that citizens with a disability might have a problem participating and that not all members of society knew how to access the internet or had computers. AGO 2008-65 at 2.



September 2, 2014  
Via Electronic Docket

Docket Management Facility  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
Washington, DC 20590

RE: Notice of Proposed Rulemaking – Statewide, Nonmetropolitan, and Metropolitan Transportation Planning – Docket No. FHWA-2013-0037 (FHWA RIN 2125-AF52; FTA RIN 2132-AB10), 79 Fed. Reg. 31784

## **I. Introduction**

The Association of Metropolitan Planning Organizations (AMPO) is pleased to offer the following comments and recommendations to the proposed rulemaking on Statewide, Nonmetropolitan, and Metropolitan Transportation Planning to the U.S. Department of Transportation's (USDOT) Federal Highway Administration (FHWA) and Federal Transit Administration (FTA). AMPO thanks the USDOT and its dedicated staff for their hard work and coordination with stakeholders.

As the notice of proposed rulemaking (NPRM) states in the executive summary, the Moving Ahead for Progress in the 21st Century Act (MAP-21) legislation leaves the planning process framework largely untouched. MAP-21 includes, however, key changes requiring States, MPOs and providers of public transportation to establish and use a performance based approach that supports national goals. The proposed rule affirms the statute's intent of linking investment priorities to achieving performance targets while requiring coordination between States, MPOs, and providers of public transportation.

As part of AMPO's preparation of these comments, a large number of AMPO members provided feedback and recommendations through an internal survey covering key provisions in the rule affecting MPOs. The diversity of responses reinforce our position that MPOs, large and small, need the maximum flexibility and resources to meet new requirements.

## **II. Overarching Comments on the Proposed Rulemaking**

AMPO provides the following overarching comments on the proposed rulemaking:

- The transition to performance based planning will be challenging. These regulations should support the new partnerships of States, MPOs and transit providers while recognizing the range of differing structures, organizations and priorities.
- The regulations should strive to avoid adding unfunded burdens of data collection and analysis. They should avoid imposing ramifications for not meeting targets in a time of such uncertain funding.

- AMPO strongly disagrees with the agencies' interpretation of MAP-21's language regarding representation of providers of public transportation on MPO boards. This interpretation improperly reads into the federal-state relationship a prescriptive, burdensome change to MPO voting structures as reflected in both the proposed rulemaking and the agencies' accompanying policy guidance. This change is not warranted by MAP-21 and would be inconsistent with Congressional intent.

### III. Responses to Specific Sections in the NPRM

#### **Definitions** (Regulatory Section 450.104)

- 1) In Section 450.104, the proposed rule revises the definition of conformity used in the existing rule by adding the phrase "or any required interim emission reductions or other milestones in any area." The use of the term "any area" could lead to confusion. AMPO suggests the phrase "or any required interim emission reductions or other milestones as included in an adequate or approved SIP in a nonattainment or maintenance area."
- 2) In Section 450.104, the proposed rule includes a new definition of "major modes of transportation." The definition is added to clarify the use of the term as it relates to the changes in structure to each MPO serving a TMA, which now includes providers of public transportation. The new definition is too broad and could apply to any mode of transportation or non-major forms of public or private (on behalf of a public agency) transportation providers. If the goal of the proposed definition is to provide clarity for the addition of providers of public transportation within the structure of an MPO, then the definition should be narrowly focused on major providers of public transportation. AMPO recommends that MPOs continue to determine what constitutes a "major mode of transportation" and strike the new definition. USDOT should continue to work with MPOs to specifically define a "major mode" as it pertains to operators of modes that represent a significant amount of travel and the associated need for facilities and services.

#### **Performance Based Planning and Programming** (Regulatory Sections 450.306; 450.314; 450.318; 450.322; 450.324; 450.326; 450.332, and 450.340)

- 1) Section 450.306(d)(4) states, "An MPO shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State transportation plans and transportation processes..." AMPO recognizes the statutory language from MAP-21 §1201(h)(2)(D). We are concerned with the meaning of "integrate" in this context. The term is not defined in MAP-21, nor in §450.104. FHWA and FTA may presume that MPOs will accept, without change, the content of these various statewide plans. While MPOs may have been involved as stakeholders in the development of some of these State plans, the State plans may not reflect the policies or priorities of the MPOs. This contradicts longstanding federal policy empowering the local officials on MPO boards to establish priorities in their metropolitan area.
- 2) Performance Management regulations should utilize existing data collection and reporting mechanisms whenever possible and not create standards outside of the existing structure. Creating new data collection and reporting requirements would be expensive, unclear, potentially duplicative, and ultimately counterproductive.
- 3) These regulations must recognize the challenge and obstacles of varying requirements, timelines and priorities for States, MPOs and public transportation providers. This includes the differences

AMPO 2

in fiscal constraint requirements for State and MPO plans. The rulemaking should address the related planning cycles and durations for State, MPO and public transportation provider plans.

- 4) A performance driven outcome based approach should be judged on system-wide performance, not project-by-project. Achieving progress should be conducted on a long-term basis to better match lengthy project delivery timelines.
- 5) USDOT should set a single effective date for all MAP-21 performance measure rules or other rulemakings affecting metropolitan planning. If States, MPOs, and providers of public transportation are to coordinate on measures, targets, and investments, then all measures need to be final and in effect.
- 6) States, MPOs, and public transportation providers should not be judged on achievement of goals with varying targets set by jurisdictions and/or states or possible outcomes related to future funding uncertainties. There should be no financial consequences or additional reporting requirements for not achieving established targets under these circumstances.

**Funding for Non-Metropolitan Planning Purposes** (Regulatory Sections 450.208 and 450.210)

- 1) AMPO strongly recommends restrictions on diverting metropolitan planning funds (PL) for non-metropolitan planning requirements.

**Metropolitan Planning Agreements** (Regulatory Sections 450.314)

- 1) AMPO strongly recommends against expanding the universe of providers of public transportation required to be included in the Metropolitan Planning Agreements (MPA).

**Scenario Planning** (Regulatory Sections 450.324)

- 1) AMPO supports the voluntary use of scenario planning, but recommends that certification of the planning process should not be impacted by an MPO choosing to use all or a single provision under this section. The use of scenario planning must not be a factor in the certification process.

**Programmatic Mitigation** (Regulatory Sections 450.320)

- 1) MAP-21 allows programmatic mitigation both through the State and MPO planning process, as well as outside of them. The proposed rule, however, limits the mitigation to within the planning process. The development of programmatic mitigation plans should not be limited to the statewide and metropolitan planning process.

**MPO Designation and Redesignation** (Regulatory Sections 450.310)

- 1) MAP-21 did not change the designation process of MPO policy boards. The regulations and/or guidance must avoid being unnecessarily prescriptive. It should allow as much latitude as possible for the many ways that transit is currently, successfully represented on MPO Boards.
- 2) The regulations must recognize that many MPOs are subject to state laws governing the MPO policy board membership and that compliance may require amendments to state law. At a minimum, the rule must include more time for these MPOs to work with their states to adjust policy boards if necessary.

- 3) The NPRM proposes that transit representatives have equal decisionmaking rights and authorities as other officials who are on the MPO policy board. However, the NPRM states "It is up to the MPO, in cooperation with providers of public transportation, to determine how the representation will be structured and established." The MPO should determine the authorities and rights of its policy board members. This is consistent with the intent of MAP-21.
- 4) The regulations should not include more MPO structure and governance requirements. AMPO recommends that MPOs continue to determine if staff members or other alternates meet the representation requirements.

#### IV. Conclusion

Metropolitan transportation planning is rooted in a cooperative and collaborative relationship with our partners at the State level, within the public transportation arena, as well as with other stakeholders. AMPO believes that developing the FHWA/FTA regulatory provisions to meet the spirit and intent of MAP-21 must continue in this fashion. MPOs, large and small, need the support and resources from federal and State governments to implement the new planning rules. Without this support, MPOs will not achieve the desired, and needed, success.

Metropolitan areas have many transportation needs and choose to address these needs in a variety of ways. Flexibility is required to establish reasonable and appropriate targets. Additionally, the MPO fiscal constraint requirements must be considered as performance based planning is implemented. This rule must be integrated with others related to MAP-21. A single effective date predicated on reauthorization of MAP-21, including sufficient planning funds, is paramount.

In a 2010 report by FHWA, approximately 50% of MPOs reported that existing federal resources were insufficient to complete the current 3-C planning and programming process. Without adequate resources to conduct the performance-based planning expected by Congress and anticipated in this rule, MPO's may fall short of meeting the intended purpose of MAP-21. Many MPOs are concerned that the rule will result in an unfunded mandate if it does not provide the commensurate funding, time, and flexibility for MPOs to address the requirements under the rule.

Thank you for the opportunity to provide our input and comments. We look forward to working with FHWA/FTA and USDOT to implement MAP-21's performance provisions.

Should you have any questions or seek further input from AMPO on the information provided, please contact me at (202) 634-3680 or at [dhardy@ampo.org](mailto:dhardy@ampo.org).

Respectfully submitted,



DeLania Hardy, Executive Director

**Item Number 10**  
**Member Comments**

**DISCUSSION:**

Comments or recommendations by members

**REQUESTED ACTION:**

As may be desired

**ATTACHMENTS:**

None

**Item Number 11  
Adjournment**

**The next meeting of the MPOAC Staff Directors' Advisory Committee and Governing Board will be held on Thursday, January 22, 2015 at the DoubleTree by Hilton Hotel Orlando Airport, 5555 Hazeltine National Drive, Orlando, FL 32812. Room reservation cut-off date is December 30, 2014. Please call (407) 856-0100 for reservations.**

