



# The Florida Metropolitan Planning Organization Advisory Council

*Mayor Susan Haynie*  
*Chair*

## **MPOAC Governing Board Meeting**

**Date:** Thursday, April 06, 2017  
**Time:** 1:30 p.m. – 4:00 p.m.  
**Location:** DoubleTree by Hilton, 2080 N. Atlantic Avenue  
Cocoa Beach, FL 32931

**Mayor Susan Haynie, Presiding**

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- 1. Call to Order & Pledge of Allegiance**
  - 2. Approval of Minutes: January 26, 2017 Meeting**
  - 3. Public Comments (non-agenda items)**
  - 4. Executive Director's Report**
    - A. UPWP Report**
    - B. Florida Legislative Update**
    - C. MPO Collaboration and Planning Area Reform Rule Update**
    - D. SIS Project Prioritization Criteria and Funding Policy Overview**
    - E. Strategic Plan Committees Update**
  - 5. Agency Reports**
    - A. Florida Department of Transportation**
    - B. Federal Highway Administration**
    - C. Florida Transportation Commission**
  - 6. Business Items & Presentations**
    - A. Approval of Legal Services Contract**
    - B. Requirement to include FL Turnpike Enterprise projects in the TIP**
    - C. Request for FDOT funding for Review of LRTPs**
    - D. Amount of PL Reserve Distribution by MPO**
    - E. Safety Performance Measure Target Setting**
    - F. Space Florida Master Plan Presentation**
    - G. All Aboard Florida Project Presentation**
  - 7. Communications**
  - 8. Member Comments**
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## **9. Adjournment**

**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).**

## **Item Number 2**

### **Approval of Minutes: January 26, 2017**

#### **DISCUSSION:**

Review and comments from members.

#### **REQUESTED ACTION:**

Approval of Meeting Minutes from the January 26, 2017 Governing Board Meeting.

#### **ATTACHMENT:**

1. January 26, 2017 MPOAC Governing Board Minutes

**Florida MPO Advisory Council  
Meeting of the Governing Board  
January 26, 2017  
Draft Meeting Minutes**

**GOVERNING BOARD MEMBERS IN ATTENDANCE:**

**Mayor Susan Haynie, Chair, Palm Beach MPO  
Commissioner Nick Maddox, Vice-Chair, Capital Region TPA  
Councilmember Bryan Caletka, Broward MPO  
Commissioner Rodney Friend, Bay County TPO  
Commissioner James Herston, Charlotte County-Punta Gorda MPO  
Councilmember Brian Spencer, Florida-Alabama TPO  
Councilmember Doreen Caudell, Forward Pinellas  
Commissioner James Brooks, Heartland Regional TPO  
Commissioner Nicholas Nicholson, Hernando/Citrus MPO  
Mr. Charles Klug, Hillsborough County MPO  
Councilmember Pat Kelley, Lake-Sumter MPO  
Commissioner Troy McDonald, Martin MPO  
Commissioner David Moore, Ocala/Marion County TPO  
Councilmember Dick Rynearson, Okaloosa-Walton TPO  
Commissioner Nat Birdsong, Polk TPO  
Councilmember Pat Patterson, River to Sea TPO  
Mayor Willie Shaw, Sarasota/Manatee MPO  
Mayor Kathy Meehan, Space Coast TPO**

**OTHERS IN ATTENDANCE:**

**Carl Mikyska, MPOAC  
Paul Gougelman, MPOAC General Council  
Brigitte Messina, MPOAC  
Karen Brunelle, Federal Highway Administration  
Lee Ann Jacobs, Federal Highway Administration  
James Haley, Florida Department of Transportation Aviation Office  
Mark Reichert, Florida Department of Transportation  
Jennifer Weeks, Florida Department of Transportation  
Jeff Kramer, Center for Urban Transportation Research  
Christen Miller, Center for Urban Transportation Research  
Mary Beth Washnock, Bay County TPO, Florida-Alabama TPO, Okaloosa-Walton TPO  
Austin Mount, Bay County TPO, Florida-Alabama TPO, Okaloosa-Walton TPO  
Greg Slay, Capital Region TPA  
Bob Herrington, Charlotte County-Punta Gorda MPO**

Whit Blanton, Forward Pinellas  
Michael Escalante, Gainesville MTPO  
Sherry Carver, Heartland Regional TPO  
Steve Diez, Hernando/Citrus MPO  
Dennis Dix, Hernando/Citrus MPO  
Beth Alden, Hillsborough County MPO  
Michael Woods, Lake-Sumter MPO  
Beth Beltran, Martin MPO  
Carlos Roa, Miami-Dade MPO  
Denise Bunnewith, North Florida TPO  
Michael Daniels, Ocala/Marion County TPO  
Renee Cross, Palm Beach MPO  
Nick Uhren, Palm Beach MPO  
Ronnie Blackshear, Polk TPO  
Lois Bollenback, River to Sea TPO  
David Hutchinson, Sarasota/Manatee MPO  
Georganna Gillette, Space Coast TPO  
Peter Buchwald, St. Lucie TPO  
Wally Blain, Tindale Oliver

## 1. CALL TO ORDER

Mayor Susan Haynie, Chair, Palm Beach MPO, called the meeting to order at 3:37pm. The Chair welcomed those in attendance and self-introductions were made. All stood for the Pledge of Allegiance.

Mayor Haynie thanked the Broward and Palm Beach MPOs for hosting. She then introduced Councilmember Bryan Caletka, Broward MPO, who welcomed the members to Broward County.

Mayor Haynie introduced Stacie Miller, Florida Department of Transportation (FDOT), District 4, Director of Transportation Development. Ms. Miller made a presentation about the distinctive successes and projects found in District 4, highlighting several unique projects. Ms. Miller concluded her remarks by giving examples of successful collaborations between MPOs and FDOT in District 4.

## 2. APPROVAL OF MINUTES

Mayor Kathy Meehan, Space Coast TPO, moved to approve moved to approve the minutes of the July 2016 Governing Board meeting. Councilmember Doreen Caudell, Forward Pinellas, seconded the motion. The motion carried unanimously.

### 3. PUBLIC COMMENTS

No public comments were made.

### 4. EXECUTIVE DIRECTOR'S REPORT

#### A. UPWP REPORT

Mr. Mikyska, MPOAC Executive Director, notified the members that he will be processing a Unified Planning Work Program (UPWP) modification to include additional clarity relative to the annual dues for the Association of Metropolitan Planning Organizations (AMPO) and the National Association of Regional Councils (NARC).

Carl Mikyska reported on the MPOAC budget. During the 2<sup>nd</sup> Quarter (October 1 – December 31, 2015), approximately \$179,711 was spent, of the total \$532,048 budget.

#### B. FLORIDA LEGISLATIVE UPDATE

Mr. Mikyska then presented the legislative status report. Mr. Mikyska distributed the Legislative Update for the week ending 01/27/2017 and stated that legislative updates will be sent out weekly once the legislative session has started.

#### C. WEEKEND INSTITUTE DATES FOR 2017

Mr. Mikyska announced the dates and locations for the 2017 MPOAC Weekend Institute for Elected Officials. The first Institute will take place April 21 - 23, 2017 and will be located at the FLC University Training Center in Orlando, Florida. The following Institute is scheduled for May 19 - 21, 2017 and is located at the Renaissance Hotel International Plaza in Tampa, Florida.

### 5. AGENCY REPORTS

#### A. FLORIDA DEPARTMENT OF TRANSPORTATION

Mark Reichert, FDOT Office of Policy Planning, updated the members on FDOT activities and brought forward topics of interest to the MPOs.

- Secretary Jim Boxold will be leaving the Department for a position in the private sector.

- Rachel Cone, the current Assistant Secretary of Finance and Administration, will be taking over as Interim FDOT Secretary.
- The legislature will begin meeting early next year, commencing in January 2018,
  - FDOT will be undertaking an accelerated work program cycle. Therefore, the due date for MPO lists of Priority Projects will be August 01, 2017.
- Mr. Reichert explained that it is his sixth week on the job and that he is currently focusing on fostering relationships with the members. He stated that he will be visiting all the MPOs and District Offices this year.

Mayor Haynie then called upon Ms. Jennifer Weeks, FDOT State Infrastructure Bank (SIB), Program Manager, to continue the FDOT update with a presentation about the SIB program.

- Ms. Weeks explained that the State Infrastructure Bank is a revolving loan and credit enhancement program consisting of two separate accounts and is used to leverage funds to improve project feasibility. The SIB can provide loans and other assistance to public or private entities carrying out, or proposing to carry out, projects eligible for assistance under federal and state law. The SIB cannot provide assistance in the form of a grant.

The SIB can assist with multiple modes of transportation including highway, airport, rail, seaport, and other multimodal facilities.

The federally-funded account is capitalized using federal money, matched with state money as required by federal law. All repayments are made to the federally-funded SIB account and revolved for future loans. Projects must be eligible for assistance under title 23, United States Code (USC) or capital projects as defined in Section 5302 or title 49 USC. Projects must be included in the adopted long range transportation plan (LRTP) of the applicable Metropolitan Planning Organization (MPO) and must conform to all federal and state laws, rules and standards.

State-funded projects must be on the State Highway System or provide increased mobility on the State system, or provide intermodal connectivity with airports, seaports, rail facilities or other transportation terminals. Here again, these projects should be included in the MPO LRTP and conform to policies and procedures within applicable Florida Statutes.

The SIB accepts Letters of Interest (LOI) and Applications on an annual basis. The LOI and Application processes are coordinated a year in advance. Each selected SIB project is programmed in the Department's 5-Year Work Program and goes through the normal legislative and budget process. The awarded funds will not be available until July 1 of the subsequent state fiscal year.

Ms. Weeks ended her presentation by directing the members to the SIB website (<http://www.fdot.gov/comptroller/PFO/sib.shtm>) where they can find additional details.

A discussion took place amongst the members about the SIB program in general and how the MPOs could be a part of it.

Mayor Haynie then introduced Mr. Jim Halley, FDOT Aviation System Manager, who presented the upcoming Florida Aviation System Plan.

- Mr. Halley started his presentation by describing the current status of aviation in Florida, stating that 8.5% of Florida's gross state product (GSP) is from aviation-dependent businesses. He continued by providing an overview of the Florida Aviation System Plan (FASP).

In 2005, The Florida Department of Transportation in cooperation with the Federal Aviation Administration (FAA) and Florida's Public Airports, through the Continuing Florida Aviation System Planning Process (CFASPP), developed the Florida Aviation System Plan (FASP). The system plan incorporates the traditional aviation system planning elements provided for in most state aviation system plans.

Presently, the FASP is undergoing a strategic plan update, which will focus on updating goals and objectives from the previous plan. This plan will examine regional capacity constraints, investment policies and priorities, system utilization, best opportunities and development costs by District and statewide. The full system plan is expected to be completed in April-July 2017. For more information, visit [www.cfaspp.com](http://www.cfaspp.com).

Mr. Halley then asked for members to consider their local airports in their regional planning activities and to be active stakeholders in Florida's statewide, regional, and local airport planning processes.

A discussion took place amongst the members about the importance of coordination with the aviation system plan when planning and programming surface transportation system funding.

## B. FEDERAL HIGHWAY ADMINISTRATION

Ms. Karen Brunelle, Director, Federal Highway Administration (FHWA) Florida Division, Office of Project Development, started her presentation by making a few announcements:

- United State Secretary of Transportation designate Chao's nomination was scheduled to be considered by the US Senate on January 31, 2017.

- **Fostering Advancements in Shipping and Transportation for the Long-term Achievement of National Efficiencies (FASTLANE) grants were announced in September 2016. FASTLANE grants are tools used to address America’s infrastructure deficit.**
  - **FDOT received nearly \$11 million for the Parking Availability System, an information-distribution system to be deployed first on the I-4 and I-95 corridors with the aim to distribute parking-availability data to professional truck drivers in real-time.**
- **Transportation Investment Generating Economic Recovery (TIGER) Awards were announced in August 2016. Over 500 applications were received in the last cycle.**
  - **The Broward MPO received \$11.5 million for their Complete Streets Initiative.**

**Ms. Brunelle then gave an update on legislation and regulations:**

- **The Manual on Uniform Traffic Control Devices (MUTCD) was recently updated to include a newly approved traffic control device (a bicycle box) to improve bicycle safety at signalized intersections. A bicycle box is a designated area at the head of a traffic lane at a signalized intersection that provides bicyclists with a safe and visible way to get ahead of queuing traffic during the red signal phase. The bicycle boxes are now available to be implemented within all Florida’s cities and counties.**
- **The final Transportation Performance Measures (TPM) rules were issued on January 18, 2017. One rule establishes regulations to assess the condition and performance of bridges on the National Highway System (NHS) and of pavement on the Interstate and non-Interstate NHS. The other final rule establishes regulations to assess the performance of the National Highway System (NHS), Freight Movement on the Interstate System, and the Congestion Mitigation and Air Quality Improvement (CMAQ) Program.**
  - **Webinars, FAQs, and fact sheets on the two final rules are forthcoming.**
- **The National Highway Institute (NHI) has a new training course called the Steps to Effective Target Setting. This is a two day course that explains the elements of target setting and focuses on how to set reasonable, attainable targets.**

**Ms. Lee Ann Jacobs, Planning Team Leader, FHWA Office of Project Development, made several announcements of interest to the members:**

- **Ms. Jacobs congratulated MetroPlan Orlando. On January 18, 2017, MetroPlan Orlando was awarded \$50K for the Infrastructure Voluntary Evaluation Sustainability Tool (INVEST) Implementation Projects - Round 3. Transportation agencies receiving funding will benefit from this opportunity through additional resources for assessing current levels of sustainability and analyzing options for sustainability improvements.**

- FHWA has hired Teresa Parker to take the position of Transportation Planning Specialist in the Orlando office. Ms. Parker will be responsible for Districts 5 and 7 and the State Planning and Research (SP&R) program.
- Ms. Jacobs called attention to a report entitled *Planning Summary Report, Program Accountability*, found in the meeting agenda package.
- The Highway Asset Management Final Rule was published in October 2016.
- The Metropolitan Planning Organization Coordination and Planning Area Reform Final Rule was published in December 2016.
- The FHWA Office of Planning, Environment, and Realty (HEP) launched a new video, *Building Better Multimodal Networks*, on the FHWA website and on the FHWA YouTube channel. This video highlights the many ways that the Federal Highway Administration is investing in pedestrian and bicycle research to help communities build connected networks, improve safety, promote equity and encourage more people to walk and bike.
- The US Department of Transportation (DOT) designated 10 proving ground pilot sites to encourage testing and information sharing around automated vehicle technologies. These proving ground designations are intended to foster innovations that can safely transform personal and commercial mobility, expand capacity, and open new doors to disadvantaged people and communities. Among the 10 pilot sites selected was a test site proposed by the Central Florida Automated Vehicle Partners.

This group will openly share best practices for the safe conduct of testing and operations as they are developed, enabling the participants and the general public to learn at a faster rate and accelerating the pace of safe deployment. The proving grounds will also provide critical insights into optimal big data usage through automated vehicle testing and will serve as a foundation for building a community of practice around automated vehicle research.

The proving grounds were narrowed from an applicant pool of more than 60, which included a range of different types of organizations, including privately held facilities, state transportation departments, municipalities and cities and academic institutions.

A brief discussion ensued with one member asking for more details about the bicycle box and other members asking clarifying questions about the final MPO Coordination and Planning Area Reform final rule.

## 9. BUSINESS ITEMS & PRESENTATIONS

### A. BYLAWS REVISIONS

Carl Mikyska, MPOAC Executive Director, provided an overview of the MPOAC Bylaws and Rules. He relayed a request from the MPOAC Policy and Technical Subcommittee to consider changing the MPOAC Staff Directors' Advisory Committee meeting format. Instead of occurring immediately before the MPOAC Governing Board meeting, the Staff Directors would instead meet a month in advance. This would allow for more in-depth meetings, allow for suggestions to be vetted and formally presented to the MPOAC Governing Board, and double as a Policy and Technical Committee meeting.

Mr. Mikyska continued by identifying other revisions to the Bylaws:

- Expanded definition of MPO, eliminated TPO definition
- No more Chairperson, Chairman, etc. – only Chair and Vice-Chair
- Allow for two alternates to represent MPOs at meetings
- No more sub-committees, just committees
- Align the appointment of leadership positions with elections
- Flexibility in naming member organizations
- Agendas distributed 10 days in advance of meeting

Mr. Gougelman, MPOAC General Council, also mentioned a few minor text changes that would be made in the Bylaws.

Commissioner Troy McDonald, Martin MPO, voiced some concern on the presented meeting schedule change referring to the cost increase resulting from increased travel.

Councilmember Doreen Caudell, Forward Pinellas, moved to approve the Bylaws revisions. Commissioner David Moore, Ocala/Marion County TPO, seconded the motion. The motion carried unanimously.

### B. ELECTION OF OFFICERS

Mayor Susan Haynie, current chair of the Governing Board, Palm Beach MPO, relinquished the Chair position to Mr. Mikyska, MPOAC Executive Director, who introduced the election of officers – Chair and Vice-Chair – for the MPOAC Governing Board. Mr. Mikyska noted for the record that the election was for a one-year term to begin immediately.

At the direction of Paul Gougelman, MPOAC General Counsel, Mr. Mikyska informed the membership that the Florida Sunshine Laws require the membership present to take formal

action to allow a member to participate remotely by phone as a voting member. He then informed the membership that Commissioner Nick Maddox, current Vice-Chair, Capital Region TPA, was connected remotely by phone to the meeting and wanted to participate in the meeting as a voting member. Commissioner Troy McDonald, Martin MPO, made a motion to allow Commissioner Maddox to participate in the meeting by phone. Commissioner David Moore, Ocala/Marion County TPO, seconded. The motion passed.

Mr. Mikyska asked Mayor Haynie if she would be willing to continue to serve if nominated. Mayor Haynie responded that she serves at the will of the Governing Board and would certainly do so again. Commissioner Nat Birdsong, Polk TPO, nominated Mayor Susan Haynie to continue to serve as Chair and moved to close the nominations. Commissioner Nicholas Nicholson, Hernando/Citrus MPO, seconded. Mr. Mikyska closed the nominations and called the question by unanimous acclimation. The motion passed.

Mayor Haynie asked Commissioner Nick Maddox if he would be willing to continue to serve as Vice-Chair of the MPOAC Governing Board if nominated and Commissioner Maddox indicated that he would. Commissioner Nicholas Nicholson, Hernando/Citrus MPO, nominated Commissioner Nick Maddox, Capital Region TPA, to continue serving as Vice-Chair of the Governing Board and moved to close the nominations. Councilmember Doreen Caudell, Forward Pinellas, seconded. Mayor Haynie closed the nominations and called the question by unanimous acclimation. The motion passed.

Mayor Haynie asked Councilmember Bryan Caletka, Broward MPO, if he would be willing to continue to serve the MPOAC Executive Committee if nominated. Councilmember Caletka responded that he would. Commissioner Nicholas Nicholson, Hernando/Citrus MPO, nominated Commissioner Bryan Caletka, Broward MPO, to continue serving as a member of the MPOAC Executive Committee and moved to close the nominations. Commissioner Rodney Friend, Bay County TPO, seconded. Mayor Haynie closed the nominations and called the question by unanimous acclimation. The motion passed.

#### C. PL RESERVE AND POLICY

Carl Mikyska, MPOAC Executive Director, provided information on approximately \$2 million in federal planning funds (PL) that had been held in reserve and which will now be made available for a one-time allocation to Florida's MPOs if that were the will of the membership.

Many comments were made on how the available funds could be used, including a suggestion by David Hutchinson, Sarasota/Manatee MPO, that a portion of the funds be made available for a study to benefit all MPOs in the state. Councilmember Caletka indicated that he had heard the discussion during the Staff Directors meeting and agreed with their

final recommendation to distribute the funds to the MPOs, in whole, based on population as is the case for the statewide PL formula.

Commissioner Troy McDonald, Martin MPO, moved to approve the distribution of the PL Reserve funds. Commissioner Rodney Friend, Bay County TPO, seconded the motion. The motion carried.

#### D. REQUEST FOR FDOT FUNDING FOR REVIEW OF LRTPS

Jeff Kramer, Center for Urban Transportation Research (CUTR), made a presentation on a research proposal to provide funding for a Review of MPO Long Range Transportation Plans (LRTPs) and Estimate of Statewide 2040 Metropolitan Area Financial Shortfall. CUTR has conducted comprehensive reviews of FL LRTPs four separate times in the past 20 years (1997, 2002, 2008, and 2013), each time following the conclusion of the MPO LRTP update cycle. The purpose of the review is to identify current transportation planning practices and changes in practice over time, and to make suggestions in practice in advance of the next LRTP update cycle. Additionally, CUTR develops a statewide long range funding shortfall estimate for Florida's metropolitan areas based on the financial information provided in the LRTPs. The estimated long range financial shortfall has been used in the past to improve MPO LRTP financial planning and reporting practices and to demonstrate the need for increased transportation funding in Florida's metropolitan transportation systems.

Mr. Kramer noted that the last LRTP of the 2040 update cycle will be adopted by the Okaloosa-Walton TPO in February 2017. There is an estimated 18 month schedule to review the 2040 MPO LRTPs and Mr. Kramer suggested that the review would need to begin soon if it were to be concluded in advance of the next update cycle (nine MPOs will be adopting their 2045 LRTPs in the fall of 2019). When asked, Mr. Kramer indicated that the Florida Department of Transportation (FDOT) had funded the four previous review projects. Mr. Kramer requested that the MPOAC and FDOT consider funding mechanisms for the review of MPO 2040 LRTPs and funding shortfall estimate.

Councilmember Bryan Caletka, Broward MPO, mentioned that the Staff Directors decided to push the decision to the next meeting and that it will be reviewed by the Best Practices Committee. He continued by suggesting that a letter be sent to the FDOT requesting their continued financial support for this research project.

Councilmember Bryan Caletka, Broward MPO, made a motion to discuss the FL LRTP Review funding during the next MPOAC meeting and with consideration to be brought before the Best Practices Committee. Commissioner David Moore, Ocala/Marion County TPO, seconded the motion. The motion carried.

## E. LEGISLATIVE PRIORITIES FOR 2017

Mr. Mikyska summarized and made recommendations for the current policy positions:

1. Implements the recommendations from the MPOAC transportation revenue study and other options for expanding transportation revenue sources.
2. Regulates distracted driving as a primary offense by prohibiting the use of electronic wireless communications devices and other similar distracting devices while operating a moving motor vehicle.
3. Restores funding to 2007 levels for the Transportation Regional Incentive Program (TRIP).
4. 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.

Mr. Mikyska continued by identifying a new policy as directed by the Policy and Technical Committee:

5. Establishes flexible and predictable funding for transit projects (capital and operating) identified through the metropolitan transportation planning process by removing various funding limitations for the State Transportation Trust Fund (STTF).

Mr. Mikyska then proposed a potential sixth policy as directed by the Executive Committee:

6. Recognizes that federal metropolitan transportation planning funds shall not be regarded as state funds for purposes of expenditure.

Mr. Mikyska recommended that the MPOAC advance with the four policies from previous years, the recently created fifth policy, and to add the potential sixth policy.

Lastly, Mr. Mikyska brought attention to a potential seventh policy that would focus on transportation network companies (TNCs) such as Uber and Lyft. He noted that a bill is currently being presented before the legislature to regulate such companies on a statewide basis. Under the proposal, TNCs would be required to pay a yearly registration fee for the entire company. Mr. Mikyska proposed that the MPOAC support any revenue source proposed to support this legislation. Mr. Mikyska requested that this be a verbal direction and to not include this policy in the MPOAC Policy Position brochure.

Councilmember Bryan Caletka, Broward MPO, asked for the third bullet under the first policy position regarding mileage based user fees, to be removed in the policy positions. He continued by stating that he does not support directing the MPOAC Executive Director to

carry out a policy position that is not formally adopted as such as has been suggested regarding the regulation of TNCs. Mayor Haynie agreed with Councilmember Caletka regarding the TNCs position. Commissioner Troy McDonald, Martin MPO, suggested modifying and broadening the bullet relating to mileage based user fees to instead recognize that the current motor fuels tax is not fully supporting the needs of the transportation system, and to encourage the exploration of other revenue source options.

Commissioner Troy McDonald, Martin MPO, made a motion to approve the proposed 2017 Policy Positions, as amended. Councilmember Bryan Caletka, Broward MPO, seconded the motion. The motion carried unanimously.

#### F. MPOAC STRATEGIC PLAN WORKING GROUPS

Mayor Haynie requested a formal recommendation for the MPOAC Governing Board to establish two new working groups based on the recommendations of the new MPOAC Strategic Directions Plan.

Carl Mikyska, MPOAC Executive Director, presented survey results that showed the most popular working groups amongst the members. Mr. Mikyska recommended the formation of the top two committees:

- Bicycle & Pedestrian Committee
- Best Practices Committee

Based on input provided by the membership, Mr. Mikyska recommended two members to assume the role of Committee Host and Chair, Nick Uhren, Palm Beach MPO, for the Bicycle and Pedestrian Committee and Beth Alden, Hillsborough MPO, for the best Practices Committee. Mr. Mikyska stated that he would work with each Chair to develop a working plan for committee approval.

Commissioner Troy McDonald, Martin MPO, volunteered to be on the Bike/Ped group. Councilmember Pat Kelley, Lake-Sumter MPO, suggested that someone from Lake-Sumter should also be a member of the Bicycle & Pedestrian Committee.

Councilmember Bryan Caletka, Broward MPO, moved to approve the recommendation to the Governing Board to create the MPOAC Strategic Plan Working Groups (Committees) and appoint Nick Uhren and Beth Alden as Chairs. Commissioner Troy McDonald, Martin MPO, seconded the motion. The motion carried unanimously.

#### G. STAFF DIRECTOR'S MEETING DATES FOR 2017

Carl Mikyska, MPOAC Executive Director, presented proposed MPOAC Staff Directors' Advisory Committee meeting dates for 2017. He announced that no changes will be made to the Governing Board meeting dates:

- 1<sup>st</sup> Quarter No Change (January 26<sup>th</sup> Meetings)
- 2<sup>nd</sup> Quarter -Staff Directors - March 2, 2017  
-Governing Board – April 6, 2017 in Cocoa Beach
- 3<sup>rd</sup> Quarter -Staff Directors - June 1, 2017  
-Governing Board – July 19, 2017 in Boca Raton
- 4<sup>th</sup> Quarter -Staff Directors – October 12, 2017  
-Governing Board – November 7, 2017 in Panama City Beach

Mr. Mikyska stated that meeting locations would be determined at a later date based on the availability of appropriate meeting accommodations.

Councilmember Pat Kelley, Lake-Sumter MPO, moved to approve the MPOAC Staff Directors' advisory Committee meeting dates for 2017. Councilmember Bryan Caletka, Broward MPO, seconded the motion. The motion carried unanimously.

#### H. NARC DUES INCREASE

Carl Mikyska, MPOAC Executive Director, requested approval of a proposed dues increase for the National Association of Regional Councils (NARC) from \$50,000 per year to \$85,000 per year.

The MPOs in Florida have elected to pay dues for NARC by taking these expenses "off the top" of the annual statewide PL allotment, along with other expenses such as the operation of the MPOAC, research support, the MPOAC Institute, and annual dues for the Association of Metropolitan Planning Organizations (AMPO). The membership dues paid to NARC currently, which covers membership fees for all 27 members and the MPOAC itself, is \$50,000.

The NARC Board of Directors approved a new membership dues rate of \$0.005 per capita on September 20, 2016 for implementation effective January 1, 2017 and phased in over a two year period. This raises the statewide dues for Florida MPOs to \$85,500 (subject to a small adjustment for population growth when figures for the new year are released). This is in line with current AMPO membership dues for Florida MPOs and the MPOAC. Mr. Mikyska recommended that the following actions be taken:

1. The Florida MPOAC acknowledge the new NARC membership dues structure and that this be used in preparing future UPWPs and budgets for the organization.

2. The UPWP budget for FY2017/2018 be updated to reflect a NARC membership dues expense of \$67,750 (which is mid-way between our current dues of \$50,000 and the \$85,500 that it would be using the new formula) to take advantage of the two year transition period provided for in the new membership dues structure.
3. NARC will be informed that Florida MPOAC funding is based on a fiscal year starting July 1 and our annual payments for each calendar year will be made in the July-August timeframe.

Commissioner David Moore, Ocala/Marion County TPO, moved to approve the National Association of Regional Councils (NARC) dues increase. Councilmember Bryan Caletka, Broward MPO, seconded the motion. The motion carried unanimously.

#### I. EXECUTIVE DIRECTOR PERFORMANCE REVIEW

Carl Mikyska, MPOAC Executive Director, provided background information about the MPOAC Executive Director performance review process and noted that it is a requirement within the MPOAC Bylaws.

Mayor Susan Haynie, Chair, Palm Beach MPO, explained how the Executive Committee evaluated Mr. Mikyska using the template found in the Agenda Package under Item Number 6, Attachment 10. The Executive Committee was in agreement that Mr. Mikyska has done a terrific job of elevating the organization within the state and nationally. Mayor Haynie continued by listing several of Mr. Mikyska's accomplishments achieved over the past 18 months.

The Executive Committee scored Mr. Mikyska an overall score of 3.256 out of a possible 4.0. Based on his high score, a 3.5% salary increase was recommended for Mr. Mikyska and a \$1000 annual salary increase was also recommended for Brigitte Messina.

Mayor Haynie stated the 2017 objectives for the MPOAC Executive Director:

- Find opportunities to continue to empower the MPOAC Governing Board to the maximum extent possible and allowable under federal regulations
- Increase MPO revenues, as well as revenues being available and directed to local agencies, to address transportation needs while minimizing the interference from the flow of federal funds to the MPOs
- Assist the MPOs by acting as a "clearing house" and connecting MPOs who are in need of assistance
- Clean up legislation
- Strengthen the work program download to the MPOs directly and more regularly

- Continue to improve the agenda packets (have the agenda packets become fully electronic in the future)

Many members praised Mr. Mikyska on how well he has been doing in his position.

Commissioner Nat Birdsong, Polk TPO, made a motion to approve salary increases for Mr. Carl Mikyska, MPOAC Executive Director, and for Ms. Brigitte Messina. Commissioner Rodney Friend, Bay County TPO, seconded the motion. The motion carried unanimously.

## 10. COMMUNICATIONS

Mayor Susan Haynie, Chair, Palm Beach MPO, mentioned the communication items in the agenda packets.

## 11. MEMBER COMMENTS

Commissioner Troy McDonald, Martin MPO, thanked Carl and the MPOAC staff for their hard work.

## 12. ADJOURNMENT

The meeting was adjourned at 5:50pm. The next meeting of the MPOAC Governing Board will be held on April 6, 2017.

### **Item Number 3**

#### **Public Comments**

**DISCUSSION:**

Recommendations or comments by the public.

**REQUESTED ACTION:**

As may be desired.

**ATTACHMENT:**

None

## **Item Number 4A**

### **Executive Director's Report UPWP Report**

#### **DISCUSSION:**

Mr. Carl Mikyska, MPOAC Executive Director, will be presenting the UPWP Report for the January through April 2017 timeframe.

#### **REQUESTED ACTION:**

None requested. For discussion and action as may be desired.

#### **ATTACHMENTS:**

1. January 2017 to April 2017 UPWP report
2. Budget Report – January 1 through March 31, 2017

# MPOAC Quarterly UPWP Report

## January 2017 – March 2017

### Task 1.2 – Quarterly Reports

- Quarterly reports are on track – included in your meeting package

### Task 1.3 – Research and Support Services

- Reviewed and advised the Executive Director on correspondence
- Advised the Executive Director in the development of MPOAC meeting content and materials
- Prepared meeting minutes of the January Staff Director's Committee Meeting and the MPOAC Governing Board Meeting
- Produced a final version of Legislative Policy Positions brochure for printing

### Task 1.4 – Legal Services

- Completed meeting minutes and materials for the January MPOAC Executive Committee Meeting
- Represented MPOAC at the January quarterly meetings of the Staff Director's Committee and the Governing Board
- Advised the Executive Director on Sunshine Laws related to establishing two new committees of the MPOAC.

### Task 1.5 – Membership Dues

- ITS FL membership bill received and paid
- Processed and paid the AMPO membership dues
- Processed and am working through Florida Department of Financial Services on the NARC membership dues

### Task 1.6 – MPOAC Administration

- Ongoing task, payment of invoices, requisitions, travel vouchers and expenses of MPOAC – occurring quarterly

### Task 2.1 – Intergovernmental and Regional Coordination

- Coordinated with MPO membership, MPOs outside of Florida, FDOT, FTC, FBT, FRCA, FLC, FAC, AMPO and NARC on potential federal legislation to revoke the MPO Collaboration and Planning Area Reform Rulemaking.
- Spoke at the Tampa Bay Regional Transportation Summit on a panel with FDOT and FHWA
- Gave the Keynote address at the Gulf Coast Regional Trails Summit
- Attended the NARC National Conference of Regions in Washington DC

### Task 2.2 – MPOAC Agenda Packages & Meetings

- Hosted the January 2017 meetings
- Produced the agenda packages for the March 2017 meeting of the Staff Directors and the April 2017 meeting of the MPOAC Governing Board

#### Task 2.4 – MPOAC Freight Committee

- Hosted the January 2017 meeting
- Produced the agenda for the April 2017 meeting

#### Task 3.2 – MPOAC Website

- Maintained and updated as necessary the MPOAC.org website

#### Task 3.3 – MPOAC Institute Training Activities

- Continue to register attendees for the two 2017 trainings
- Continued the update of institute materials

#### Task 4.1 – Assessment of Documents, Regulations, Policies and Legislation

- Reviewed, researched, coordinated and wrote comments on the two Federal NPRMs, Performance Measures and MPO Collaboration and Planning Area Reform
- Printed Legislative Policy Positions brochure and distributed the brochure to legislators and partners

#### Task 4.5 – MPOAC Strategic Plan and Implementation

- Established the Best Practices and Bike/Ped Working Groups
- Hosted the March 2017 meetings
- Produced the agenda packages for the March 2017 meetings for the Best Practices and Bike/Ped Working Groups

**Florida Metropolitan Planning Organization Advisory Council**  
**FY 2016/2017 Budget**  
**July 1, 2016 to June 30, 2017 \*\***

Category	Annual Allocation	1st Qtr Expenditures 7/1/16-9/30/16	2nd Qtr Expenditures 10/1/16-12/31/16	3rd Qtr Expenditures 1/1/17-3/31/17	4th Quarter Expenditures 4/1/17-6/30/17	Expenditures to Date	Remaining Balance
<b>Salaries/Benefits</b>	\$ 170,661	\$ 43,584	\$ 47,512	\$ 40,448		\$ 131,544	\$ 39,117
<b>Expense</b>	\$ 42,624						
Travel	\$ 19,544	\$ 8,006	\$ 3,126	\$ 3,795		\$ 14,927	\$ 4,617
Meetings	\$ 18,000	\$ 1,000	\$ 2,738	\$ 6,679		\$ 10,417	\$ 7,583
Administrative	\$ 5,080	\$ 2,835	\$ 734	\$ 1,068		\$ 4,637	\$ 443
Membership Dues *	\$ 1,920	\$ 500	\$ -	\$ -		\$ 500	\$ 1,420
<b>Contracted Services</b>	\$ 22,000						
General Counsel	\$ 22,000	\$ 1,100	\$ 286	\$ 8,486		\$ 9,872	\$ 12,128
<b>Transportation Planning</b>	\$ 165,000						
Univ. South FL (CUTR)	\$ 80,000	\$ 20,000	\$ 20,000	\$ 20,000		\$ 60,000	\$ 20,000
MPOAC Institute	\$ 85,000	\$ 18,700	\$ 9,350	\$ 14,450		\$ 42,500	\$ 42,500
<b>Strategic Plan</b>	\$ 6,500						
Florida State University	\$ 6,500	\$ -	\$ -	\$ -		\$ -	\$ 6,500
<b>Total Federal Funds</b>	\$ 406,785	\$ 95,725	\$ 83,746	\$ 94,926		\$ 274,397	\$ 132,388
<b>Advocacy Activities</b>							
Local Funds	\$ 10,500	\$ -	\$ 740	\$ 1,363		\$ 2,103	\$ 8,397
<b>Total Budget</b>	\$ 417,285	\$ 95,725	\$ 84,486	\$ 96,289		\$ 276,500	\$ 140,785

\* FBT, FPTA, ITSFL

\*\* As of 03/17/2017

## **Item Number 4B**

### **Executive Director's Report Florida Legislative Update**

#### **DISCUSSION:**

Mr. Carl Mikyska, MPOAC Executive Director, will be presenting an update on legislation before the Florida House of Representatives and the Florida Senate. The official start of the 60 day legislative session began March 07, 2017. Prior to the session officially beginning committees and sub-committees had been meeting.

#### **REQUESTED ACTION:**

None requested. For discussion and action as may be desired.

#### **ATTACHMENT:**

None – to be provided at the meeting

## **Item Number 4C**

### **Executive Director's Report MPO Collaboration and Planning Area Reform Rule Update**

#### **DISCUSSION:**

Carl Mikyska will present a letter prepared jointly by the National Association of Regional Councils (NARC) and the Association of Metropolitan Planning Organizations (AMPO) for consideration by the membership. Our national organizations have crafted a form letter which is intended for individual members to send to their members of Congress.

Legislation has been introduced in Congress which would repeal the MPO Collaboration and Planning Area Reform Rulemaking. The legislation has passed the Senate and is now pending in the United States House of Representatives.

#### **STAFF DIRECTORS RECOMMENDATION:**

The legislation is moving along well and has plenty of national support, therefore no action by MPOAC is necessary at this time.

#### **REQUESTED ACTIONS:**

For member consideration and recommendation.

#### **ATTACHMENT:**

1. Draft letter prepared by NARC and AMPO

Date

The Honorable....  
Address

Dear Representative/Senator

I am writing to request that Congress use its legislative authority to repeal the Metropolitan Planning Organization Coordination and Planning Area Reform final rule. The Federal Highway Administration and Federal Transit Administration published the final rule in the Federal Register on December 20, 2016 with an effective date of January 19, 2017.

Our organization, along with hundreds of others, submitted comments to the docket explaining our opposition to both the substance of the rule and the manner in which it was developed (our comments are enclosed/attached). Of the 612 comment letters filed to the docket, only 16 commenters expressed support for the rule. The final rule retained every provision we opposed and even created new authority for the Secretary of USDOT. The final rule did provide a longer implementation period and an exception to the requirement to jointly develop planning products. However, the exception can only be granted by the Secretary of USDOT under new authority created under the final rule, and only if the Governor(s) and MPOs can provide documentation and other materials to support such a request. Much like the proposed rule the final rule creates and implements new regulations that we believe should only be established by Congress through changes in the law. Therefore we respectfully request that that rule be repealed.

### **Summary of Concerns**

#### **Planning Process Disruption**

- The final rule will slow down planning and disrupt implementation, delaying projects that are crucial for the economic vitality of local communities and the nation as a whole.
- The final rule will diminish the local voice in the regional planning process, negatively impact local control of transportation resources, make public engagement more challenging, and cause significant problems for multistate MPOs.
- The final rule conflicts with State law in a number of places.
  - The final rule would cause an unknown number of MPO mergers, yet is silent on how these mergers could conflict with state laws regarding MPO board membership.
  - Also, the use of Census-designated urbanized areas ignores site-specific planning criteria and demographic data that are the foundation of sound regional and long-term planning.

- Mandating MPO mergers or unified planning documents would result in the loss of local input in unworkable megaregions, weaken the voice for some urban areas that are subsumed within larger MPOs, and complicate the overall planning process.

### **Conflict with Existing Law**

- The final rule mandates changes to the planning process that are contrary to current law and counter to the intent of Congress. The changes anticipated by the final rule are beyond the scope of the rulemaking process, and are subject to Congressional oversight and adoption, if they are deemed necessary.
  - USDOT's own longstanding interpretation of Section 134 and its recent attempt (in its GROW AMERICA Act proposal) to persuade Congress to require more unified planning within MPAs reveals USDOT's recognition that the statute, as written, does not allow USDOT to mandate unified planning. Further, Congress rejected the GROW AMERICA MPO planning changes.
- Specifically, the mandate of a single plan, single TIP, and a single set of performance targets for a single MPA with more than one MPO are in direct conflict with the statutory requirements under 23 U.S.C. § 134.
  - The current statutory provisions under 23 U.S.C. § 134 have long been interpreted to mean that **each MPO** prepares its own transportation plan and develops its own TIP.
  - At least four subsections of 23 U.S.C. § 134 demonstrate that the statute does not contemplate a mandate requiring multiple MPOs within an MPA to create a single set of planning documents.
- **Nothing under current law or regulations would prevent MPOs from merging or jointly developing a single plan, TIP, and performance targets.**

### **Conflict with other Regulatory Obligations**

- The changes to the planning process will be highly disruptive to existing and ongoing regulatory obligations, and create unknown and potentially problematic conflict with new performance management regulations. The final rule will also complicate the transition to performance based planning.
- The final rule creates potentially significant conflict with other legislative requirements, in particular the Clean Air Act. The rule does little to anticipate these problems or discuss how this proposal will interplay with requirements of the Act.
  - The regional conformity process is likely to be significantly impacted by the final rule's mandates.

### **High Implementation Costs**

- The new requirements imposed by the final rule will force MPOs to spend significant amounts of money, negatively impacting budgets and disrupting tasks to which funding was already designated. That 80 percent of the cost of meeting the final rule's requirements can be reimbursed from federal funds is inconsequential because no new

federal money will be made available. Fulfilling these requirements means other things do not get done.

- The final rule's mandates are likely to shift significant resources away from MPOs' core planning functions, resulting in potential new financial burdens for MPOs and States, including but not limited to, staffing and administrative costs, technical support and additional public outreach.
- Calculating costs is challenging because there have been relatively few mergers of MPOs, but one example from Connecticut resulted in \$1.7 million in direct costs, required 4,000 staff hours, and took several years to complete.
- The additional costs imposed by the final rule would far outweigh the benefits.
- MPOs are concerned about the lack of specifics in the final rule regarding the distribution of future planning funds and the effect on suballocation of Surface Transportation Block Grant Program (STBGP) and other funding.

### **Poorly Defined Problem**

- There is a lack of comprehensive research defining the breadth and depth of MPO coordination across the nation. Effective collaboration occurs under existing authority, which could be harmed by the final rule.
- Isolated examples where coordination between MPOs, states, and others should be improved may exist, but the sweeping revisions made by this final rule are not warranted. USDOT provides no examples of where the coordination concerns stem from, but implies there is a systemic problem.

We/I appreciate your attention to this matter and respectfully request that you use all available legislative authorities to repeal this unnecessary rule. If you have any questions about our comments, or the rule, please feel free to contact xxxxxxxx at #####. We look forward to hearing from you.

Sincerely,

## **Item Number 4D**

### **Executive Director's Report SIS Project Prioritization Criteria and Funding Policy Overview**

#### **DISCUSSION:**

Carl Mikyska will present a summary of this topic which was discussed at the Staff Director's meeting on March 02, 2017. Florida DOT is looking at the process and there may be some changes implemented to the program, however Florida DOT staff is in the beginning stages of considering if the current approach is still appropriate for Florida.

#### **STAFF DIRECTORS RECOMMENDATION:**

No recommendation was made regarding SIS project prioritization criteria and funding policy.

#### **REQUESTED ACTIONS:**

For member consideration and recommendation.

#### **ATTACHMENT:**

None

## **Item Number 4E**

### **Executive Director's Report Strategic Plan Committees Update**

#### **DISCUSSION:**

Carl Mikyska will present an overview of the efforts to date of the Best Practices Working Group and the Bicycle & Pedestrian Working Group.

The Bicycle & Pedestrian Working Group will request a name change and the addition of new members to their Working Group as well as alternates.

#### **STAFF DIRECTORS RECOMMENDATION:**

This item was not presented to the Staff Directors as the meetings occurred after the Staff Directors had met.

#### **REQUESTED ACTIONS:**

Approval of a Working Group name change from Bicycle & Pedestrian Working Group to the Complete Streets Working Group. Approval of one new member, two alternate members and the conversion of one member to an alternate.

#### **ATTACHMENT:**

1. List of Working Group membership, both new and existing members

**Currently:**

**Bike & Pedestrian Working Group**

Nick Uhren, Committee Host

**Members**

- Michelle Ogilvie - Hillsborough MPO
- Mighk Wilson - MetroPlan Orlando
- Elizabeth DeJesus - North Florida TPO
- Ed DeFini - St. Lucie TPO
- Whit Blanton - Forward Pinellas
- Steve Diez - Hernando/Citrus TPO
- Valerie Neilson - Palm Beach MPO
- Greg Stuart - Broward MPO
- Mike Wood – Lake-Sumter MPO

**Requested (changes in red):**

**Complete Streets Working Group**

Nick Uhren, Committee Host

**Members**

- Michelle Ogilvie - Hillsborough MPO
- Mighk Wilson - MetroPlan Orlando (Nick Lepp – Alternate)
- Elizabeth DeJesus - North Florida TPO
- Ed DeFini - St. Lucie TPO
- Whit Blanton - Forward Pinellas
- Steve Diez - Hernando/Citrus TPO
- Valerie Neilson - Palm Beach MPO – Changed to Alternate for Nick Uhren
- Greg Stuart - Broward MPO (Peter Gies – Alternate)
- Mike Wood – Lake-Sumter MPO
- David Henderson – Miami-Dade TPO (Carlos Roa – Alternate)
- Bob Herrington – Charlotte County-Punta Gorda MPO (Gary Harrell – Alternate)

## **Item Number 5A**

### **Agency Reports – Florida Department of Transportation**

#### **DISCUSSION:**

Mr. Mark Reichert, Administrator for Metropolitan Planning, will update the members on the activities of FDOT and bring forward topics of interest to the MPOs.

#### **REQUESTED ACTION:**

As may be desired.

#### **ATTACHMENT:**

None

## **Item Number 5B**

### **Agency Reports – Florida Division of Federal Highway Administration**

#### **DISCUSSION:**

Ms. Karen Brunelle, Director, Office of Project Development and Ms. Lee Ann Jacobs, Planning Team Leader will present items of interest to the MPOs.

#### **REQUESTED ACTION:**

As may be desired.

#### **ATTACHMENT:**

None

## **Item Number 5C**

### **Agency Reports – Florida Transportation Commission**

#### **DISCUSSION:**

Mr. Matt Ubben, Executive Director of the Florida Transportation Commission will present an overview of the Florida Department of Transportation Work Program and the annual FDOT performance evaluation.

At this time, the Florida Transportation Commission is reviewing candidates for the position of Florida DOT Secretary. This process may require Mr. Ubben to hold a commission meeting which may conflict with the MPOAC Governing Board Meeting. Should a scheduling conflict arise, Mr. Ubben will present these materials to the MPOAC Governing Board at a future meeting.

#### **REQUESTED ACTION:**

As may be desired.

#### **ATTACHMENT:**

None

## **Item Number 6A**

### **Business Items & Presentations Approval of Legal Services Contract**

#### **DISCUSSION:**

Carl Mikyska will present the proposed Legal Services agreement to the membership. Paul Gougelman serves as the legal counsel to MPOAC and his contract is a one year contract. Paul has presented a contract which is similar to his previous contract.

Key details: There is no change in his hourly rate or the total amount of the agreement.

#### **STAFF DIRECTORS RECOMMENDATION:**

Approval of the contract with Paul Gougelman is recommended.

#### **REQUESTED ACTION:**

Approval of the contract for legal services provided by Paul Gougelman for the coming fiscal year.

#### **ATTACHMENT:**

1. Draft Contract for legal services provided by Paul Gougelman

**AGREEMENT FOR LEGAL SERVICES**

THIS AGREEMENT FOR LEGAL SERVICES is entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, 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 Cole & Bierman, P.L., a Florida Professional Limited Liability Company (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, and CONTRACTOR's lead counsel, has the expertise necessary to perform the duties and responsibilities outlined in this Agreement and the lead counsel under this Agreement will be Paul Gougelman, who 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. Generally, legal services under this Agreement will be performed by CONTRACTOR's lead counsel, Paul Gougelman.

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 July 1, 2017 and shall continue until June 30, 2018.

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 as are named in this Agreement are approved counsel, and 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 (2016), 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 certified 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. The CONTRACTOR maintains 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 the 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 CONTRACTOR. 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: \_\_\_\_\_  
Carl Mikyska,  
Agency Clerk

CONTRACTOR:

WEISS SEROTA HELFMAN  
COLE & BIERMAN, P.L., a  
Florida Professional  
Limited Liability Company

By: \_\_\_\_\_  
Joseph H. Serota, Member

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 \$220.00 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 \$22,000.00, 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. This compensation does not include the compensation for cost of travel.

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 (Ft. Lauderdale) phone calls, local (Ft. Lauderdale) facsimile transmissions, routine postage, copy work, local (Ft. Lauderdale) travel expenses, printed library materials and local (Ft. Lauderdale) courier, word processing, computer assisted legal research, and clerical or secretarial services are overhead and will not be separately compensated. However, the MPOAC shall be billed a flat charge of 2.5% for each billing for these types of expenses.

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. 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. Generally, the MPOAC will be billed on a monthly basis, unless a billing for any one month is less than \$100. 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.

1. The CONTRACTOR agrees to keep and maintain public records in the CONTRACTOR's possession or control in connection with the CONTRACTOR's performance under this Agreement. The CONTRACTOR additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. The CONTRACTOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the MPOAC.

2. Upon request from the MPOAC's custodian of public records, the CONTRACTOR shall provide the MPOAC with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.

3. Unless otherwise provided by law, any and all records,

including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the MPOAC.

4. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the CONTRACTOR shall be delivered by the CONTRACTOR to the MPOAC, at no cost to the MPOAC, within seven (7) days (unless the MPOAC already has copies of those public records). Unless the MPOAC already has copies of those public records, all such records stored electronically by the CONTRACTOR shall be delivered to the MPOAC in a format that is compatible with the MPOAC's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the CONTRACTOR shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

5. Any compensation due to the CONTRACTOR shall be withheld until all records are received as provided herein.

6. The CONTRACTOR's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the MPOAC.

7.

**Section 119.0701(2)(a), Florida Statutes**

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.**

**Custodian of Records: Carl Mikyska, MPOAC Executive Director**

**Mailing address: 605 Suwannee Street - MS-28B, Tallahassee, Florida 32399-0450.**

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 (lead counsel)	\$220.00
2. Alan Gabriel (alternate)	\$220.00
3. Daniel Abbott (litigation)	\$220.00
4. Brett Schneider (labor)	\$220.00

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.

## **Item Number 6B**

### **Business Items & Presentations**

#### **Requirement to include FL Turnpike Enterprise projects in the TIP**

#### **DISCUSSION:**

Carl Mikyska will present an overview of this topic. The Florida Statutes require that a project may not be removed from a TIP by an MPO when the project reaches preliminary engineering.

#### **STAFF DIRECTORS RECOMMENDATION:**

For your information, no action is requested at this time.

#### **REQUESTED ACTIONS:**

None – Discussion and action as desired.

#### **ATTACHMENTS:**

1. Memo to Harry Barley from Steven Bechtel
2. Cite from Florida Statutes 339.175 (8) 7 (d)

## MEMORANDUM

**TO:** Harry Barley, Executive Director, MetroPlan Orlando

**FROM:** Steven R. Bechtel  
Mateer & Harbert, P.A.

**DATE:** July 25, 2016

**RE:** RELATIONSHIP OF FLORIDA TURNPIKE ENTERPRISE PROJECTS  
TO MetroPlan ORLANDO TRANSPORTATION IMPROVEMENT  
PROGRAM (TIP)

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This will enumerate the Florida statutes and provisions of the federal law which pertain to the relationship of Florida Turnpike Enterprise Projects and the requirement for those projects to be included in the MetroPlan TIP.

1. The Florida Statutes which pertain to Florida Turnpike Enterprise projects are as follows:

Section 338.22 et. seq., the "Florida Turnpike Enterprise Law" provides:

Section 338.22 (1) No governmental entity other than the Department may acquire, construct, maintain or operate the turnpike system subsequent to the enactment of this law, except upon specific authorization of the Legislature.

Section 338.223(1)(b) Turnpike projects that add capacity, alter access, affect feeder roads, or affect the operation of the local transportation system shall be included in the transportation improvement plan of the affected metropolitan planning organization.

2. Federal law that is pertinent is as follows:

23 U.S.C. 134 and 49 U.S.C. 5303 (the Federal Transit Acts) of the federal statutes establish metropolitan planning organizations and authorize the promulgation of regulations. 23 C.F.R. Section 450.326 dealing with TIP requirements provides in subsection (f) the TIP shall contain "all regionally significant projects requiring an action by the FHWA or the FTA whether or not the projects are to be funded under title 23 U.S.C. Chapter 1 and 2 or Title 49 U.S.C. Chapter 53 (e.g. addition of an interchange to the interstate system with State, local and/or private funds if designated projects not funded under 23 U.S.C. or 49 U.S.C. Chapter 53). For public information and conformity purposes the TIP shall include all regionally significant projects proposed to be funded with federal funds other than those measured by the FHWA or the FTA as well as all regionally significant projects to be funded with non-federal funds.

3. Section 339.175 Florida Statutes pertains to metropolitan planning organizations. Section 339.175(8) provides that an MPO shall in cooperation with the State develop a TIP.

Section 339.175(8)(d) provides that projects included in the transportation improvement program and that have advanced to the design stage of preliminary engineering may be removed from or rescheduled in a subsequent transportation improvement program only by joint action of the MPO and the department.

It may appear that this statute provides an opportunity for the MetroPlan Board to remove a project from the TIP which has not advanced to the design stage of preliminary engineering without the consent of the department. However, to be consistent with section 338.223 and in accordance with the principle of *in pari materia*, a rule of statutory construction which says that the laws of the same matter and on the same subject must be construed with reference to each other so as to promote uniformity and predictability, Section 339.175(8)(d) should be construed so as to not apply to Florida Turnpike Enterprise projects but only to other projects in the TIP.

**Conclusion:** The MetroPlan Orlando TIP must include all Florida Turnpike Enterprise Projects. These may be shown as for informational purposes only.

Innovative financing techniques may include the assessment of tolls, the use of value capture financing, or the use of value pricing. The transportation improvement program may include a project or project phase only if full funding can reasonably be anticipated to be available for the project or project phase within the time period contemplated for completion of the project or project phase.

4. Group projects and project phases of similar urgency and anticipated staging into appropriate staging periods.
5. Indicate how the transportation improvement program relates to the long-range transportation plan developed under subsection (7), including providing examples of specific projects or project phases that further the goals and policies of the long-range transportation plan.
6. Indicate whether any project or project phase is inconsistent with an approved comprehensive plan of a unit of local government located within the jurisdiction of the M.P.O. If a project is inconsistent with an affected comprehensive plan, the M.P.O. must provide justification for including the project in the transportation improvement program.
7. Indicate how the improvements are consistent, to the maximum extent feasible, with affected seaport, airport, and spaceport master plans and with public transit development plans of the units of local government located within the jurisdiction of the M.P.O. If a project is located within the boundaries of more than one M.P.O., the M.P.O.'s must coordinate plans regarding the project in the transportation improvement program.
  - (d) Projects included in the transportation improvement program and that have advanced to the design stage of preliminary engineering may be removed from or rescheduled in a subsequent transportation improvement program only by the joint action of the M.P.O. and the department. Except when recommended in writing by the district secretary for good cause, any project removed from or rescheduled in a subsequent transportation improvement program shall not be rescheduled by the M.P.O. in that subsequent program earlier than the 5th year of such program.
  - (e) During the development of the transportation improvement program, the M.P.O. shall, in cooperation with the department and any affected public transit operation, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.
  - (f) The adopted annual transportation improvement program for M.P.O.'s in nonattainment or maintenance areas must be submitted to the district secretary and the Department of Economic Opportunity at least 90 days before the submission of the state transportation improvement program by the department to the appropriate federal agencies. The annual transportation improvement program for M.P.O.'s in attainment areas must be submitted to the district secretary and the Department of Economic Opportunity at least 45 days before the department submits the state transportation improvement program to the appropriate federal agencies; however, the department, the Department of Economic Opportunity, and a metropolitan planning organization may, in writing, agree to vary this submittal date. The Governor or the Governor's designee shall review and approve each transportation improvement program and any amendments thereto.
  - (g) The Department of Economic Opportunity shall review the annual transportation improvement program of each M.P.O. for consistency with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of each M.P.O. and shall identify those projects that are inconsistent with such comprehensive plans. The Department of Economic Opportunity shall notify an M.P.O. of any transportation projects contained in its transportation improvement program which are inconsistent with the approved local government comprehensive plans of the units of local government whose boundaries are within the metropolitan area of the M.P.O.
  - (h) The M.P.O. shall annually publish or otherwise make available for public review the annual listing of projects for which federal funds have been obligated in the preceding year. Project monitoring systems must be maintained by those agencies responsible for obligating federal funds and made accessible to the M.P.O.'s.
  - (9) UNIFIED PLANNING WORK PROGRAM. — Each M.P.O. shall develop, in cooperation with the department and public transportation providers, a unified planning work program that lists all planning tasks to be undertaken

## **Item Number 6C**

### **Business Items & Presentations Request for FDOT funding for Review of LRTPs**

#### **DISCUSSION:**

At the direction of the MPOAC meetings on January 26<sup>th</sup>, the MPOAC Executive Director inquired with FDOT about funding the study. At this time the department is not able to fund the study. At the MPOAC meetings on January 26<sup>th</sup> direction was given to present the scope to the Best Practices Working Group for consideration of changes desired by the membership. The Best Practices Working Group decided that until a funding source is found, work to revise the scope would be fruitless. The scope and funding was discussed by the Staff Directors at their March 02, 2017 meeting.

#### **STAFF DIRECTORS RECOMMENDATION:**

MPOAC should send a formal request to Florida DOT asking them to provide funding for the study.

#### **REQUESTED ACTIONS:**

Motion to request funding from Florida DOT for the LRTP Review Study.

#### **ATTACHMENT:**

None

## **Item Number 6D**

### **Business Items & Presentations Amount of PL Reserve Distribution by MPO**

#### **DISCUSSION:**

At the MPOAC meetings of January 26<sup>th</sup>, direction was given to have the \$2 Million of PL funds held in reserve distributed to the MPOs based upon population formula. This additional distribution of funds is expected to be available to the MPOs after the beginning of the new State Fiscal Year, which begins July 1<sup>st</sup>.

#### **REQUESTED ACTIONS:**

None – Discussion and action as desired.

#### **ATTACHMENT:**

1. Table showing PL funds to be distributed by MPO

MPO	Distribution
CHARLOTTE-PUNTA GORDA MPO	\$17,537
COLLIER COUNTY MPO	\$31,813
HEARTLAND REGIONAL TPO	\$7,286
LEE COUNTY MPO	\$71,803
POLK TPO	\$56,141
SARASOTA/MANATEE MPO	\$80,777
GAINESVILLE MTPO	\$22,275
NORTH FLORIDA TPO	\$137,802
BAY COUNTY TPO	\$16,902
CAPITAL REGION TPA	\$28,708
FLORIDA-ALABAMA TPO	\$47,848
OKALOOSA-WALTON TPO	\$16,883
BROWARD MPO	\$211,077
INDIAN RIVER MPO	\$15,049
MARTIN MPO	\$15,144
PALM BEACH MPO	\$152,340
ST. LUCIE TPO	\$31,985
LAKE-SUMTER MPO	\$35,411
METROPLAN (Orlando)	\$217,410
OCALA-MARION COUNTY TPO	\$24,166
RIVER TO SEA TPO	\$63,509
SPACE COAST TPO	\$61,368
MIAMI-DADE MPO	\$304,648
HERNANDO-CITRUS MPO	\$25,411
HILLSBOROUGH COUNTY MPO	\$147,012
PASCO COUNTY MPO	\$50,781
PINELLAS COUNTY MPO	\$108,915
<b>Total</b>	<b>\$2,000,001</b>

## **Item Number 6E**

### **Business Items & Presentations Safety Performance Measure Target Setting by FDOT**

#### **DISCUSSION:**

Mr. Mark Reichert will present the activities of the Florida DOT to establish a performance measure target for the Safety Measure. Florida DOT will first establish statewide targets in their August 31, 2017 HSIP Annual Report for calendar year 2018. The MPOs will set their targets 180 days later.

The Safety PM Final Rule establishes five performance measures as the five-year rolling averages to include:

1. Number of Fatalities
2. Rate of Fatalities per 100 million Vehicle Miles Traveled (VMT)
3. Number of Serious Injuries
4. Rate of Serious Injuries per 100 million VMT
5. Number of Non-motorized Fatalities and Non-motorized Serious Injuries

#### **REQUESTED ACTIONS:**

None – Discussion and action as desired.

#### **ATTACHMENT:**

1. FHWA Safety Fact Sheet – Metropolitan Planning Organization Safety Performance Measures
2. FHWA Safety Fact Sheet – Safety Performance Management Measures

U.S. Department of Transportation

## Federal Highway Administration

1200 New Jersey Avenue, SE

Washington, DC 20590

202-366-4000

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### Safety

## Metropolitan Planning Organization Safety Performance Measures Fact Sheet

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### Safety Performance Measures

The Safety Performance Management Measures regulation supports the Highway Safety Improvement Program (HSIP) and requires State Departments of Transportation (DOTs) and Metropolitan Planning Organizations (MPOs) to set HSIP targets for 5 safety performance measures. This document highlights the requirements specific to MPOs and provides a comparison of MPO and State DOT responsibilities.

### How do MPOs establish HSIP targets?

Coordination is the key for all stakeholders in setting HSIP targets. Stakeholders should work together to share data, review strategies and understand outcomes. MPOs must work with the State DOT. MPOs should also coordinate with the State Highway Safety Office, transit operators, local governments, the FHWA Division Office, National Highway Transportation Safety Administration (NHTSA) Regional Office, law enforcement and emergency medical services agencies, and others. By working together, considering and integrating the plans and programs of various safety stakeholders, MPOs will be better able to understand impacts to safety performance to establish appropriate HSIP targets. Coordination should start with the Strategic Highway Safety Plan (SHSP). More information on the SHSP is available at <http://safety.fhwa.dot.gov/hsip/shsp/>.

### HSIP Safety Targets Established by MPOs

- 1 Number of fatalities
- 2 Rate of fatalities
- 3 Number of serious injuries
- 4 Rate of serious injuries
- 5 Number of non-motorized fatalities and non-motorized serious injuries

### *MPOs establish HSIP targets by either:*

1. Agreeing to plan and program projects so that they contribute toward the accomplishment of the State DOT HSIP target or
2. Committing to a quantifiable HSIP target for the metropolitan planning area.

To provide MPOs with flexibility, MPOs may support all the State HSIP targets, establish their own specific numeric HSIP targets for all of the performance measures, or any combination. MPOs may support the State HSIP target for one or more individual performance measures and establish specific numeric targets for the other performance measures.

If an MPO agrees to support a State HSIP target, the MPO would...	If an MPO establishes its own HSIP target, the MPO would...
<ul style="list-style-type: none"> <li>• Work with the State and safety stakeholders to address areas of concern for fatalities or serious injuries within the metropolitan planning area</li> <li>• Coordinate with the State and include the safety performance measures and HSIP targets for all public roads in the metropolitan area in the MTP (Metropolitan Transportation Plan)</li> <li>• Integrate into the metropolitan transportation planning process, the safety goals, objectives, performance measures and targets described in other State safety transportation plans and processes such as applicable portions of the HSIP, including the SHSP</li> <li>• Include a description in the TIP (Transportation Improvement Program) of the anticipated effect of the TIP toward achieving HSIP targets in the MTP, linking investment priorities in the TIP to those safety targets</li> </ul>	<ul style="list-style-type: none"> <li>• Establish HSIP targets for all public roads in the metropolitan planning area in coordination with the State</li> <li>• Estimate vehicles miles traveled (VMT) for all public roads within the metropolitan planning area for rate targets</li> <li>• Include safety (HSIP) performance measures and HSIP targets in the MTP</li> <li>• Integrate into the metropolitan transportation planning process, the safety goals, objectives, performance measures and targets described in other State safety transportation plans and processes such as applicable portions of the HSIP, including the SHSP</li> <li>• Include a description in the TIP of the anticipated effect of the TIP toward achieving HSIP targets in the MTP, linking investment priorities in the TIP to those safety targets</li> </ul>

**Volumes for HSIP Rate Targets:** MPOs that establish fatality rate or serious injury rate HSIP targets must report the VMT estimate used for such targets, and the methodology used to develop the estimate, to the State DOT. For more information on volumes for HSIP rate targets, see [https://www.fhwa.dot.gov/planning/processes/tools/technical\\_guidance/index.cfm](https://www.fhwa.dot.gov/planning/processes/tools/technical_guidance/index.cfm).

**Roads addressed by MPO HSIP Targets:** HSIP targets cover all public roadways within the metropolitan planning area boundary regardless of ownership or functional classification, just as State HSIP targets cover all public roads in the State.

### How do MPOs with multi-State boundaries establish HSIP targets?

MPOs with multi-State boundaries must coordinate with all States involved. If an MPO with multi-State boundaries chooses to support a State HSIP target, it must do so for each State. For example, an MPO that extends into two States would agree to plan and program projects to contribute to two separate sets of HSIP targets (one for each State). If a multi-State MPO decides to establish its own HSIP target, the MPO would establish the target for the entire metropolitan planning area.

## When do MPOs need to establish these targets?

States establish HSIP targets and report them for the upcoming calendar year in their HSIP annual report that is due August 31 each year. MPOs must establish HSIP targets within 180 days of the State establishing and reporting its HSIP targets. Since FHWA deems the HSIP reports submitted on August 31, MPOs must establish HSIP targets no later than February 27 of each year.

## Where do MPOs report targets?

While States report their HSIP targets to FHWA in their annual HSIP report, MPOs do not report their HSIP targets directly to FHWA. Rather, the State(s) and MPO mutually agree on the manner in which the MPO reports the targets to its respective DOT(s). MPOs must include baseline safety performance, HSIP targets and progress toward achieving HSIP targets in the system performance report in the MTP.

Whether an MPO agrees to support a State HSIP target or establishes its own HSIP target the MPO would include in the MTP a systems performance report evaluating the condition and performance of the transportation system with respect to the safety performance targets described in the MTP including progress achieved by the MPO in achieving safety performance targets.

## Assessment of Significant Progress

While FHWA will determine whether a State DOT has met or made significant progress toward meeting HSIP targets, it will not directly assess MPO progress toward meeting HSIP targets. However, FHWA will review MPO performance as part of ongoing transportation planning process reviews including the Transportation Management Area certification review and the Federal Planning Finding associated with the approval of the Statewide Transportation Improvement Program.

## Top 5 Things to Know about MPO HSIP Safety Performance Targets

- ✓ All MPOs must set a target for each of the 5 HSIP Safety Performance Measures
- ✓ MPOs may adopt and support the State's HSIP targets, develop their own HSIP targets, or use a combination of both
- ✓ MPOs must establish their HSIP targets by February 27 of the calendar year for which they apply
- ✓ MPO HSIP targets are reported to the State DOT
- ✓ MPO HSIP targets are not annually assessed for significant progress toward meeting targets; State HSIP targets are assessed annually



Logos for the Federal Highway Administration and the Office of Safety

FHWA-SA-16-084

Page last modified on February 1, 2017



U.S. Department of Transportation

## Federal Highway Administration

1200 New Jersey Avenue, SE  
 Washington, DC 20590  
 202-366-4000

### Safety

## Safety Performance Management Measures

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## Safety Performance Measures

### Number of Fatalities:

The total number of persons suffering fatal injuries in a motor vehicle crash during a calendar year.

### Rate of Fatalities:

The ratio of total number of fatalities to the number of vehicle miles traveled (VMT, in 100 Million VMT) in a calendar year.

### Number of Serious Injuries:

The total number of persons suffering at least one serious injury in a motor vehicle crash during a calendar year.

### Rate of Serious Injuries:

The ratio of total number of serious injuries to the number of VMT (in 100 Million VMT) in a calendar year.

### Number of Non-motorized Fatalities and Non-motorized Serious Injuries:

The combined total number of non-motorized fatalities and non-motorized serious injuries involving a motor vehicle during a calendar year.

## Data Sources

### Five Performance Measures

✓	Number of Fatalities
✓	Rate of Fatalities per 100 million VMT
✓	Number of Serious Injuries
✓	Rate of Serious Injuries per 100 million VMT
✓	Number of Non-motorized Fatalities and Non-motorized Serious Injuries

**Fatality Data:** Fatality Analysis Reporting System (FARS). Final FARS data is to be used if it is available, otherwise FARS Annual Report File (ARF) data may be used, which is generally available one year before Final FARS data.

**Volume Data:** State VMT data is derived from the Highway Performance Monitoring System (HPMS). Metropolitan Planning Organization (MPO) VMT, if applicable, is estimated by the MPO.

**Serious Injury Data:** State motor vehicle crash database. Agencies must use the definition for "Suspected Serious Injury (A)" from the MMUCC, 4th edition by April 15, 2019. Prior to April 15, 2019 agencies may use injuries classified as "A" on the KABCO scale through use of serious injury conversion tables. However, agencies are encouraged to begin using the MMUCC, 4th edition definition and attributes at the beginning of 2019 for a complete and consistent data file for the calendar year.

**Number of Non-motorized Fatalities and Non-motorized Serious Injuries:** FARS and State motor vehicle crash database. The number of non-motorized fatalities is the total number of fatalities with the FARS person attribute codes: (5) Pedestrian, (6) Bicyclist, (7) Other Cyclist, and (8) Person on Personal Conveyance. The number of non-motorized serious injuries is the total number of serious injuries where the injured person is, or is equivalent to, a pedestrian (2.2.36) or a pedalcyclist (2.2.39) as defined in ANSI D16.1-2007.

## What You Need to Know About Establishing Targets

### States:

- States will first establish statewide targets in their August 31, 2017 HSIP Annual Report for calendar year 2018, and annually thereafter.
- Targets are applicable to all public roads regardless of functional classification or ownership.
- For common performance measures (number of fatalities, rate of fatalities and number of serious injuries), targets must be identical to the targets established for the NHTSA Highway Safety Grants program in the Highway Safety Plan.
- States also have the option to establish any number of urbanized area targets and one non-urbanized area target for any or all of the measures. If a State chooses to do so, it is required to report the urbanized area boundaries used and evaluate and report progress for each target. Urbanized and non-urbanized area targets are not included in the significant progress determination.

### Coordination and Collaboration:

- Performance management connects the Highway Safety Improvement Program (HSIP) and Highway Safety Plan (HSP) to the Strategic Highway Safety Plan (SHSP) to promote a coordinated relationship for common performance measures, resulting in comprehensive transportation and safety planning.
- The State DOT and MPOs in the State must coordinate when establishing targets, to the maximum extent practicable.
- A wide range of stakeholders should work together to establish targets. This includes, the State DOT, State Highway Safety Office, MPOs, FHWA Division Office, NHTSA Regional Office, Law Enforcement Agencies and EMS (include all 4 E's of Highway Safety)
- Set targets that are data-driven and realistic, maintain momentum and remain focused.

**MPOs:**

- MPOs must establish targets specific to the MPO planning area for the same five safety performance measures for all public roads in the MPO planning area within 180 days after the State establishes each target. MPOs may select one of the following options for each individual safety performance measure:
  - agreeing to support the State target; **OR**
  - establishing specific numeric targets for a safety performance measure (number or rate).
- MPOs that choose to establish a rate target must report the VMT estimate used to establish that target and the methodology to develop the VMT estimate. MPOs should make maximum use of data prepared for HPMS when preparing the rate-based target denominator. If an MPO develops data specifically for the denominator, it should use methods to compute VMT that are consistent with those used for other Federal reporting purposes.
- MPO targets are reported to the State DOT, and made available to FHWA, upon request. MPO targets are not included in the assessment of whether a State met or made significant progress toward meeting its targets.



Table. For each performance measure listed, table indicates state target, which is broken out into the target reported in HSIP annual report for FHWA and the target reported in the highway safety plan for NHTSA, as well as the MPO target.

**Example Target Calculations**

**5-Year Rolling Average:** Each target is based on a 5-year rolling average, which is the average of 5 individual, consecutive points of data. The 5-year rolling average provides a better understanding of the overall data over time without eliminating years with significant increases or decreases; and provides a mechanism for accounting for regression to the mean. If a particularly high or low number of fatalities and/or serious injuries occur in one year, a return to a level consistent with the average in the previous year may occur.

The **number targets** are calculated by adding the number for the measure for each of the most recent 5 consecutive years ending in the year for which the targets are established, dividing by 5, and rounding to the **tenth** decimal place. The **rate targets** are calculated similarly yet rounded to the **thousandth** decimal place. This more accurately reveals the change from one 5-year average to another that might otherwise be obscured if the number was truncated.

**Example: Number of Fatalities**

Year	2011	2012	2013	2014	2015
Number of Fatalities	471	468	493	468	462*

\*From FARS Annual Report File, if Final FARS is not available

To determine the target for number of fatalities:

- Add the number of fatalities for the most recent 5 consecutive calendar years ending in the year for which the targets are established:  $471 + 468 + 493 + 468 + 462 = 2,362$
- Divide by five and round to the nearest tenth decimal place:  $2,362 / 5 = 472.4$

**Example: Rate of Fatalities per 100 Million VMT**

Year	2011	2012	2013	2014	2015
Number of Fatalities	471	468	493	468	462*
VMT per 100 Million	454	490	466	492	495
Rate of Fatalities	1.04	0.96	1.06	0.95	0.93

\*From FARS Annual Report File, if Final FARS is not available

To determine the target for rate of fatalities:

- Add the rate of fatalities for the most recent 5 consecutive calendar years ending in the year for which the targets are established:  $1.04 + 0.96 + 1.06 + 0.95 + 0.93 = 4.94$
- Divide by five and round to the nearest thousandth decimal place:  $4.94 / 5 = 0.988$



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## **Item Number 6F**

### **Business Items & Presentations Space Florida Master Plan Presentation**

#### **DISCUSSION:**

Mr. Steve Szabo will present to the Board an overview of the Space Florida Master Plan update. Space Florida is an Independent Special District of the State of Florida, created by Chapter 331, Part II, Florida Statutes, for the purposes of fostering the growth and development of a sustainable and world-leading space industry in Florida.

#### **REQUESTED ACTIONS:**

None – Discussion and action as desired.

#### **ATTACHMENT:**

None

## **Item Number 6G**

### **Business Items & Presentations All Aboard Florida Project Presentation**

#### **DISCUSSION:**

All Aboard Florida will share with the Board an overview of their efforts to bring passenger rail service between Miami and Orlando. The service is also known as Brightline and would operate on the Florida East Coast Railway corridor and along State Route 528. Service between Miami and Palm Beach is expected to begin in 2017.

#### **REQUESTED ACTIONS:**

None – Discussion and action as desired.

#### **ATTACHMENT:**

None

## **Item Number 7**

### **Communications**

#### **DISCUSSION:**

Comments or recommendations by MPOAC members.

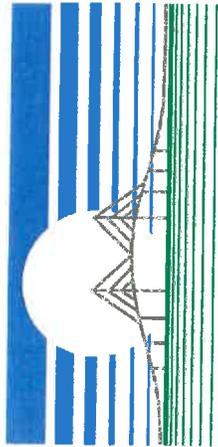
#### **REQUESTED ACTION:**

As may be desired.

#### **ATTACHMENT:**

1. Thank you note from Sean Sullivan, Tampa Bay Regional Planning Council Executive Director, to Carl Mikyska expressing his thanks to MPOAC for speaking at their regional transportation summit

TAMPA BAY  
REGIONAL  
PLANNING COUNCIL



Tampa Bay Regional Planning Council  
ESTABLISHED 1962

**Sean T. Sullivan**  
Executive Director

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Pinellas Park, Florida 33782  
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[www.tbipc.org](http://www.tbipc.org)

Carl,

On behalf of the Tampa  
Bay Regional Planning  
Council please accept my  
thanks for participating  
in our Regional Transportation  
Summit.

Sean Sullivan

## **Item Number 8**

### **Member Comments**

#### **DISCUSSION:**

Comments or recommendations by MPOAC members.

#### **REQUESTED ACTION:**

As may be desired.

#### **ATTACHMENT:**

None

## **Item Number 9**

### **Adjournment**

The next meeting of the MPOAC Governing Board will be held on Thursday, July 19, 2017 in Boca Raton, FL. We will be meeting in conjunction with the Floridians for Better Transportation annual Transportation Summit.