

No. 998896

## MEMORANDUM OF AGREEMENT

BETWEEN

**CITY OF TALLAHASSEE**

AND

**LEON COUNTY**

AND

**FLORIDA DEPARTMENT OF TRANSPORTATION**

This Memorandum of Agreement ("MOA") is made and entered into by and between the City of Tallahassee ("City"), Leon County ("County"), and the State of Florida Department of Transportation ("FDOT") for the collection and use, with the concurrence of FDOT, of proportionate fair share funds on the projects identified herein as providing a "significant benefit" to the transportation network.

1. WHEREAS, Section 163.3180, Florida Statutes, was amended to create more stringent transportation concurrency requirements by tracking de minimis exemptions and requiring capacity on roadways be available at the time of building permit issuance; and

2. WHEREAS, the City and County desire to allow development in areas that suffer capacity deficiencies by implementing a proportionate fair share; and

3. WHEREAS, roadway construction and right-of-way costs have increased dramatically over recent years such that many large scale capital improvement projects may no longer be financially feasible; and

4. WHEREAS, Section 163.3180, Florida Statutes, authorizes development to pay its "proportionate fair share" to mitigate development impacts to the transportation network, provided the local government has a financially feasible plan to complete the required transportation improvement; and

5. WHEREAS, the County adopted Ordinance 06-36 and the City adopted Ordinance 06-O-75AA establishing proportionate fair share; and

6. WHEREAS, the City approved a Concurrency Management System Policy and Procedures Manual (Concurrency Manual) (dated July 21, 2006), and the County approved the Concurrency Management Policies and Procedures Manual (dated October 24, 2006) which are amended from time to time and which implements the City's and County's concurrency requirements; and

7. WHEREAS, Section 163.3180(16)(f), Florida Statutes, as amended, includes provisions for pipelining proportionate fair share funds from several development projects toward one capital improvement project that provides a "significant benefit" to the transportation network; and

8. WHEREAS, the inclusion and funding of these "significant benefit" projects will meet the statutory requirements of a financially feasible comprehensive plan; and

9. WHEREAS, the parties find that it is in the best interest of the public to fund transportation improvements, including multi-modal projects; to improve levels of service on the area roadway networks; and to generally support economic growth and housing in the area that is generated by well-managed growth; and

10. WHEREAS, development in the City and/or County may trigger concurrency requirements on a component of the Strategic Intermodal System (SIS) or the State Highway System; and

11. WHEREAS, mitigation of development impacts on any part of the SIS requires the concurrence of FDOT under Section 163.3180, Florida Statutes, and mitigation of development impacts on the SHS requires coordination with FDOT; and

12. WHEREAS, the parties desire to reach agreement on a methodology for applying proportionate share funds to significant benefit projects on City, County and SIS roadways pursuant to Section 163.3180, Florida Statutes.

THEREFORE, the City of Tallahassee, Leon County, and the Florida Department of Transportation agree to the following:

1. Incorporation of Recitals. The foregoing recitals are true and correct, and are hereby incorporated by the parties as part of this MOA as if fully set forth herein.

2. Proportionate Fair Share Allocation:

a. The methodology identified below applies when there are no roadway capacity projects in the Capital Improvements Plan (CIP) of either the City, County, or FDOT to address the capacity deficiency of an impacted roadway segment. For impacts to road segments that have a roadway capacity project in the CIP for which proportionate fair share funds are collected, the proportionate fair share funds will be directed toward that project.

b. The City of Tallahassee and Leon County are divided into five zones, as shown in Attachment A, which is incorporated by reference herein. The fifth zone is the Multimodal Transportation District and will be established by amendment to the Tallahassee-Leon County Comprehensive Plan in the 2008-1 cycle. Any changes to the Multimodal Transportation District Boundary would require additional amendment to the Tallahassee-Leon County Comprehensive Plan but would not require amendment to this Agreement. Attachment A will be updated automatically to reflect the most current, adopted boundaries of the Multimodal Transportation District upon adoption of any future Comprehensive Plan amendments.

c. The calculation of the proportionate fair share funds that a development project is required to pay shall be based upon the impact the development has on deficient roadway segments as identified in the transportation analysis for the development. The

proportionate fair share funds that are collected within a zone are to be allocated to the tier project located within that zone.

d. A tiered list of transportation projects is created for each of the five zones. The top or first priority projects are designated as Tier A, and the second priority projects as Tier B. This list, along with estimated costs and governmental jurisdiction of each project, is included below as Attachment B, which is incorporated by reference herein.

e. The roadway capacity projects in Attachment B shall be included in a CIP approved by at least one of the parties hereto within one year from the date of this MOA.

f. Where there are no roadway capacity projects identified in the CIP to address the capacity deficiency of an impacted roadway segment, 100% of the proportionate fair share funds generated within each zone will go to Tier A substantial benefit projects until 100% of the project funds are collected.

g. Once a Tier A substantial benefit project is 100% funded, a Tier B substantial benefit project for the affected zone may be moved to Tier A. This cycle will repeat automatically with no approvals required by the City or the County, and no additional concurrence required by FDOT as long as the roadway capacity project is in a CIP approved by at least one of the parties. Addition of new roadway capacity projects to Attachment B must be approved pursuant to subparagraph k below.

h. Should 100% funding not be collected by any party for the top, or first, Tier A projects in each zone as shown on the Attachment B attached to this MOA on the date this MOA is first approved by the end of the tenth year after this MOA is signed, that party's CIP reflecting the Tier A projects approved in this MOA must be extended for an additional five-year period. The extension shall not require approval by the other parties to this MOA. Continuances beyond the fifteenth year shall be approved by the City, County and FDOT in the same manner as this MOA is approved. The City, County, and FDOT may, at any time, add additional project priorities for future funding pursuant to subparagraph k below.

i. Upon approval of this MOA, the City and County will inform the Capital Region Transportation Planning Agency so that the 5-year Transportation Improvement Plan will be updated as required to reflect this MOA.

j. City and County proportionate share funds that are allocated for identified significant benefit transit, bicycle facilities, and sidewalks projects shall be directed to the jurisdiction, either City or County, in which the impact of the proposed development occurs. However, the City and County may enter into an interlocal agreement to jointly fund and prioritize transit, bicycle facilities and sidewalks within the applicable zones.

k. Amendments to Attachments A and B must be approved in writing by all parties.

### 3. Effective period

a. The term of this MOA shall run for ten years, with one automatic five-year extension pursuant to subparagraph 2.h., contingent upon approval of any necessary CIP

under paragraph 2.h. Further extension of the MOA shall require approval of the City, County and FDOT in the same manner as this MOA is approved.

b. At the end of the term of this MOA, if any Tier A project on the version of Attachment B approved in this initial MOA is not fully funded, the City and County must agree, and obtain the renewed concurrence of FDOT, regarding the terms for completion of the project and/or the expenditure of the proportionate fair share funds collected. The failure to fully fund a Tier A project by the conclusion of this MOA results in the revocation of FDOT's initial concurrence.

4. Concurrence of FDOT. FDOT concurs with the roadway capacity projects shown in Attachment B hereto and the methodology for determining proportionate fair-share allocation as set forth in this MOA.

5. Reporting. The City and County shall provide an annual report to all parties by March 1<sup>st</sup> of each year, beginning March 1, 2009. The annual report shall provide a detailed accounting of proportionate share funds collected as well as include a listing of all transit, transportation, bicycle facilities, and sidewalk capital projects added within each zone in which proportionate share funds are directed.

6. Tier A project accounts. Proportionate share funds for Mahan Drive will be held by the Leon County Clerk; funds for County Tier A projects will be held by Leon County; and funds for City Tier A projects will be held by the City.

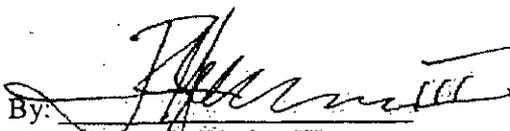
7. AMENDMENTS. No amendment, modification, or other changes in this MOA shall be binding upon the parties unless in writing executed by all of the parties.

8. NOTICES. All notices which are required or permitted under this MOA shall be given to the parties by certified mail with return receipt requested, hand delivery, or express courier, and shall be effective upon receipt when delivered to the parties at the addresses set forth below:

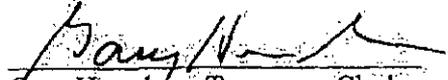
As to City: Anita Favors-Thompson City Manager City of Tallahassee	With a copy to: Jim English City Attorney 300 S. Adams Street Tallahassee, Florida 32301
As to County: Parwez Alam County Administrator 301 S. Adams Street Tallahassee, Florida 32301	With a copy to: Herbert WA Thiele County Attorney 301 S. Adams Street Tallahassee, Florida 32301
As to FDOT:	With a copy to: Katie S. Buchanan Assistant General Counsel Florida Department of Transportation 605 Suwannee Street, MS 58 Tallahassee, Florida 32399

**CITY OF TALLAHASSEE, FLORIDA**

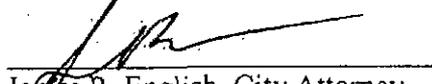
Approved by the City Commission on October 22, 2008.

By:   
Mayor John R. Marks, III  
Date: 11-19-08

ATTEST:

  
Gary Herndon, Treasurer-Clerk

APPROVED AS TO FORM:

  
James R. English, City Attorney

APPROVED BY CITY COMMISSION  
October 22, 2008

LEON COUNTY, FLORIDA

Approved by the County Commission on November 18, 2008.

LEON COUNTY, FLORIDA

BY: [Signature]  
Bryan Desloge, Chairman  
Board of County Commissioners

ATTEST:  
Bob Inzer, Clerk of the Court  
Leon County, Florida

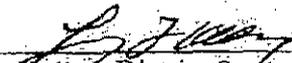


BY: [Signature]

Approved as to Form:  
Leon County Attorney's Office

BY: [Signature]  
Herbert N. A. Thiele, Esq.  
County Attorney

FLORIDA DEPARTMENT OF TRANSPORTATION

By:   
Larry Kelley, District Secretary  
Date: 1-27-09

ATTEST:

By: 

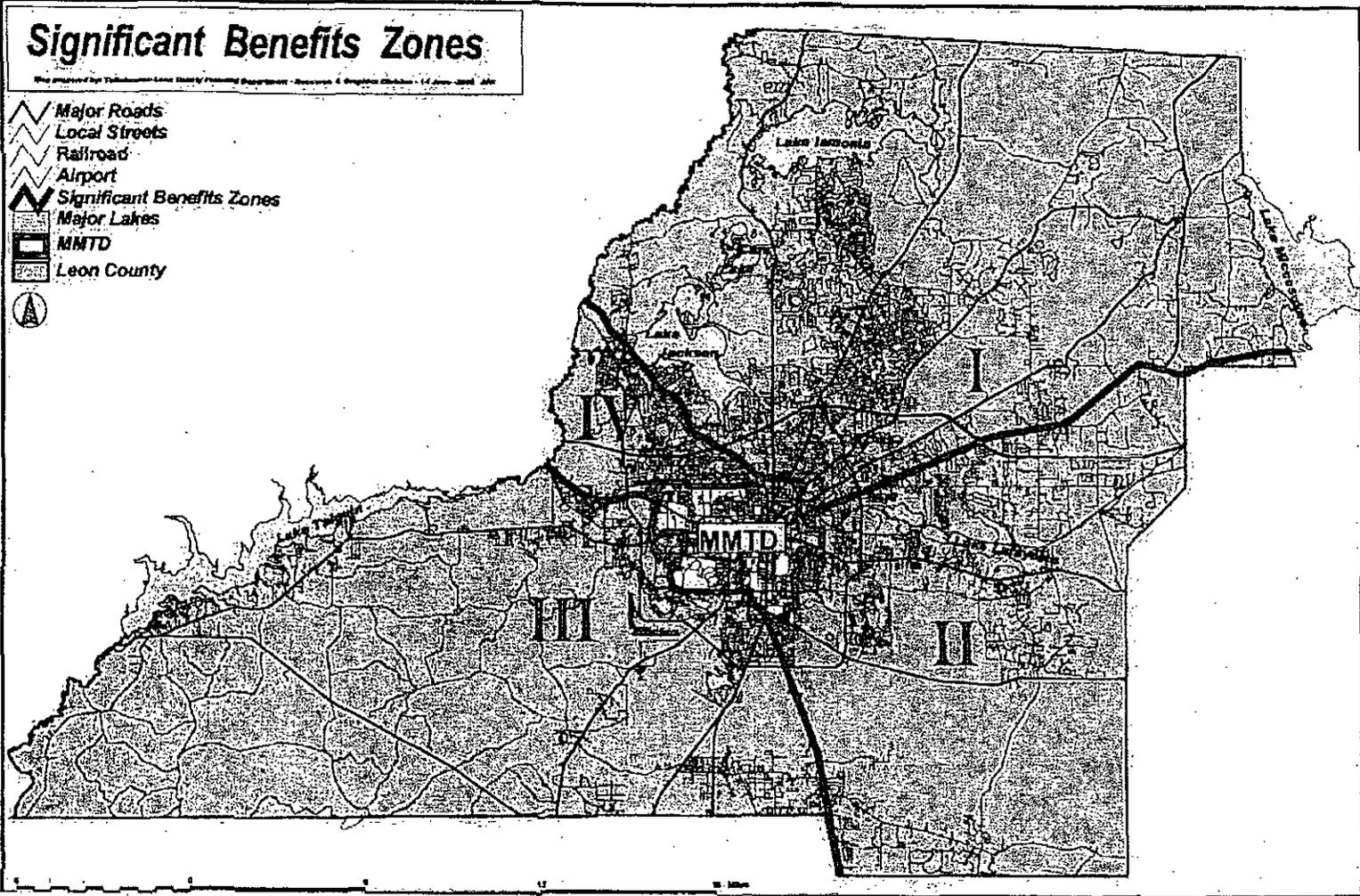
APPROVED AS TO FORM:

By:   
\_\_\_\_\_, FDOT Attorney

# Significant Benefits Zones

Map prepared by Transportation-Land Use Planning Department - Revision 4 English Edition - 11 June 2005 - JLR

-  Major Roads
-  Local Streets
-  Railroad
-  Airport
-  Significant Benefits Zones
-  Major Lakes
-  MMTD
-  Leon County



Attachment A

\* Note: The Multimodal Transportation District (MMTD) Boundaries, as represented by the center, fifth district, require a formal Comprehensive Plan amendment to be established, and any future changes to that boundary would also require a formal Comprehensive Plan amendment. The Comprehensive Plan amendment process will require formal approvals by the City, County, and FDOT. Therefore, as stated in 2(b) of this agreement, any changes to this boundary will not require amendment to this Memorandum of Agreement, and Attachment A will be automatically updated to reflect the most current, adopted MMTD boundaries. Until the adoption of the MMTD Comprehensive Plan Amendment, the boundaries shown above shall apply.

**Attachment B**

**Significant Benefit Project Priority List**

<b>DISTRICT 1</b>		
<b>Tier A</b>	<b>Tier B</b>	<b>Tier C</b>
<p><b><u>Mahan Drive</u></b>                      Section: Dempsey Mayo to I-10                      Jurisdiction: State                      Includes: construction, &amp; ROW                      Estimated Cost: \$40 million                      Justification: #1 CRTPA Project Priority; SIS Connector                      *20% of funds will support transit/bike/pedestrian facilities</p>	<p><b><u>Bannerman (Phase 1)</u></b>                      Section: Thomasville to Tekesta                      Jurisdiction: County                      Includes: TBD                      Estimated Cost: TBD                      Justification: Alternate route to relieve Thomasville, an SIS Collector                      *20% of funds will support transit/bike/pedestrian facilities</p>	<p><b><u>Bannerman (Phase 2)</u></b>                      Section: Tekesta to Preservation Point                      Jurisdiction: County                      Includes: TBD                      Estimated Cost: TBD                      Justification: Alternate route to relieve Thomasville, an SIS Collector                      *20% of funds will support transit/bike/pedestrian facilities</p>
<b>DISTRICT 2</b>		
<b>Tier A</b>	<b>Tier B</b>	<b>Tier C</b>
<p><b><u>Mahan Drive</u></b>                      Section: Dempsey Mayo to I-10                      Jurisdiction: State                      Includes: PD&amp;E, construction, &amp; ROW                      Estimated Cost: \$40 million                      Justification: - #1 CRTPA Project Priority; SIS Connector                      *20% of funds will support transit/bike/pedestrian facilities</p>	<p><b><u>Woodville Highway</u></b>                      Section: Gaile Avenue to 1000 feet north of Capital Circle SE                      Jurisdiction: State                      Includes: PD&amp;E, Design, ROW &amp; Construction                      Estimated Cost: \$53 million                      Justification: #5 CRTPA Project Priority                      *20% of funds will support transit/bike/pedestrian facilities</p>	<p><b><u>Weems Road</u></b>                      Section: Mahan to Capital Circle NE                      Jurisdiction: City                      Includes: PD&amp;E, construction, &amp; ROW                      Estimated Cost: \$17.5 million                      Justification: - Alternate route to relieve Mahan/CCNE intersection on SIS Collector                      *20% of funds will support transit/bike/pedestrian facilities</p>
<b>DISTRICT 3</b>		
<b>Tier A</b>	<b>Tier B</b>	
<p><b><u>North South Connector</u></b>                      Section: Orange to Jackson Bluff                      Jurisdiction: (City)                      Includes: PD&amp;E, construction, &amp; ROW                      Estimated Cost: \$15 million                      Justification: Relieve CCSW; In City 5-Year CIP                      *20% of funds will support transit/bike/pedestrian facilities</p>	<p><b><u>Pensacola Street</u></b>                      Section: Capital Cir SW to Appleyard                      Jurisdiction: (State)                      Includes: PD&amp;E, construction, &amp; ROW                      Estimated Cost: \$40 million                      Justification- #12 CRTPA Project Priority; Parallel Route to Tennessee                      *20% of funds will support transit/bike/pedestrian facilities</p>	
<b>DISTRICT 4</b>		
<b>Tier A</b>	<b>Tier B</b>	
<p><b><u>Tharpe Street (Phase 1)</u></b>                      Section: Blountstown Highway to Ocala                      Jurisdiction: (County)                      Includes: PD&amp;E, construction, &amp; ROW                      Estimated Cost: \$33 million                      Justification: In LRTP; Parallel I-10 &amp; Tennessee; 60% design complete                      *20% of funds to support transit/bike/pedestrian facilities</p>	<p><b><u>Tharpe Street (Phase 2)</u></b>                      Section: Blountstown Highway to Capital Circle                      Jurisdiction: (County)                      Includes: PD&amp;E, construction, &amp; ROW                      Estimated Cost: \$16 million                      Justification: In LRTP; Parallel I-10 &amp; Tennessee; 60% design complete                      *20% of funds to support transit/bike/pedestrian facilities</p>	
<b>DISTRICT 5 (Multimodal District)</b>		
<b>Tier A</b>	<b>Tier B</b>	
<p>80% - District Bike/Ped/Transit Facilities                      20% - FAMU Way bike/ped facilities</p>	<p>100% - District Bike/Ped/Transit Facilities</p>	



## Florida Department of Transportation

CHARLIE CRIST  
GOVERNOR

1074 Hwy. 90  
Chipley, FL 32428

STEPHANIE C. KOPELOUSOS  
SECRETARY

January 29, 2009

Ms. Cherie Horne AICP  
Special Projects Manager  
Tallahassee/Leon County Planning Department  
300 South Adams Street  
Tallahassee, FL 32301

Re: Executed Originals – Tallahassee/Leon County Significant Benefit  
Memorandum of Agreement with FDOT

Dear Ms. Horne:

The Florida Department of Transportation (FDOT) has completed the execution of the Proportionate Fair Share (PFS) Agreement with Tallahassee/Leon County. The final execution date of the agreement was January 27, 2009. I am keeping two of the originals (one for my file and one for D3 Legal) and returning three to you for distribution.

Thank you for your assistance and patience with the execution of this agreement.

Sincerely,

Glenda D. Duncan  
Planning Administrator, Growth Management

GD

Enclosures: Three (3) executed originals of the Tallahassee/Leon County Significant Benefit Memorandum of Agreement with FDOT

Copies: Bob Deal (D3 Legal) – With one (1) original agreement enclosed  
Jimmy Smith – Cover letter only