

**JOINT MEETING OF THE
ESCAMBIA COUNTY BOARD OF COUNTY COMMISSIONERS
AND THE
SANTA ROSA COUNTY BOARD OF COUNTY COMMISSIONERS**

**Tuesday, April 29, 2008 – 8:30 a.m.
Board Chambers, 221 Palafox Place**



COUNTY COMMISSIONERS

**John Broxson, Chair
Don Salter, Vice Chair
Tom Stewart
Robert Cole
Gordon Goodin**



COUNTY COMMISSIONERS

**Mike Whitehead, Chair
Gene Valentino, Vice Chair
Marie Young
Grover Robinson
Kevin White**

AGENDA ITEMS

- 1. Call to Order
(PLEASE TURN YOUR CELL PHONE TO THE VIBRATE, SILENCE, OR OFF SETTING)**
- 2. Invocation – Commissioner Whitehead**
- 3. Pledge of Allegiance to the Flag – Commissioner White**
- 4. Was the Meeting Properly Advertised?**
- 5. Opening Remarks - Chairman Whitehead**
- 6. Opening Remarks - Chairman Broxson**
- 7. Tanker Program – Steve Nodine, Chairman, Mobile County BCC / Leroy Barnidge, Northrop Grumman – 20 minutes**
- 8. Joint Resolution to Congressman Miller – Robert McLaughlin - 30 minutes**
- 9. Regional Transportation Finance Authority – Comr. Valentino – 30 minutes**
- 10. Scheduling of Second Joint County Meeting – Robert McLaughlin**
- 11. Adjourn**

If any person decides to appeal any decision made with respect to any matter considered at such meeting, he will need a record of the proceedings, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Escambia County adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to county services, programs, and activities. Please call 595-4916 for further information. Requests must be made at least 48 hours in advance of the event in order to allow the county time to provide the requested services.

ALISON PERDUE ROGERS
County Attorney
Board Certified City, County, and
Local Government Law

CHARLES V. PEPLER
Chief Litigation Attorney
Board Certified Civil Trial Attorney

STEPHEN G. WEST
Assistant County Attorney
Board Certified Real Estate Law

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ESCAMBIA COUNTY, FLORIDA
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DEPARTMENT: County Attorney's Office

THROUGH: Alison Perdue Rogers, County Attorney

FROM: Stephen G. West, Assistant County Attorney

DATE: April 25, 2008

ISSUE: Joint Resolution of Escambia County and Santa Rosa County Requesting Support from Congressman Jeff Miller to Sponsor Federal Legislation to Release the Restrictions on Conveyance of Properties on Santa Rosa Island.

RECOMMENDATION:

That the Board adopt the attached Joint Resolution of the Escambia County Board of County Commissioners and the Santa Rosa County Board of County Commissioners requesting the support of Congressman Jeff Miller to sponsor federal legislation to release the restrictions on conveyance of property on Santa Rosa Island (SRI).

BACKGROUND:

The deed to SRI conveyed from the United States of America to Escambia County in 1947 permits the County to lease but not convey the property. Enlisting Congressman Miller's support is the first step in developing a plan and process to release the restriction and convey the County's interest in Navarre Beach to Santa Rosa County and the remaining portions of SRI to other persons and entities having a leasehold interest. The attorney for Santa Rosa County, Tom Dannheisser, has no objections to the form of the resolution.

APR:SGW/el

RESOLUTION R2008-___

A JOINT RESOLUTION OF THE ESCAMBIA COUNTY BOARD OF COUNTY COMMISSIONERS AND THE SANTA ROSA COUNTY BOARD OF COUNTY COMMISSIONERS REQUESTING THE SUPPORT OF CONGRESSMAN JEFF MILLER TO RELEASE CERTAIN RESTRICTIONS ON CONVEYANCE FOR PROPERTY ON SANTA ROSA ISLAND; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on January 15, 1947, the United States of America conveyed to Escambia County, Florida, a portion of Santa Rosa Island, more particularly described in that deed recorded in Deed Book 248 at page 161 of the public records of Escambia County, Florida; and

WHEREAS, the deed recites that the property shall “always be subject to regulation by said County whether leased or not leased but never to be otherwise disposed of or conveyed”; and

WHEREAS, Santa Rosa County has an interest in the easternmost four miles of the property conveyed to Escambia County (Navarre Beach) pursuant to that certain Lease Agreement between the Santa Rosa Island Authority, an agency of Escambia County, Florida, and Santa Rosa County, Florida, dated February 11, 1956; and

WHEREAS, the Lease Agreement contemplates that Escambia County will convey Navarre Beach to Santa Rosa County and that the parties will cooperate “in obtaining such conveyance and congressional and legislative approval therefore”; and

WHEREAS, Escambia County and Santa Rosa County agree that it would be in the interests of both counties to release the restrictions on conveyance to facilitate transfer of Escambia County’s interest to Santa Rosa County and other persons and entities having leasehold interests on Santa Rosa Island; and

WHEREAS, the counties wish to express their intent to cooperate in drafting proposed legislation to release the restriction on conveyances and developing a process to convey Escambia County’s interest to Santa Rosa County and persons and entities with a leasehold interest on Santa

Rosa Island, and to request the support of Congressman Jeff Miller to sponsor federal legislation to release the restrictions on conveyance; and

WHEREAS, the counties will direct their respective staffs and attorneys to cooperate in drafting proposed language for the legislation; and

WHEREAS, each County, through its Board of County Commissioners, has considered this Resolution at public meetings of their respective Boards.

NOW, THEREFORE, BE IT JOINTLY RESOLVED BY THE BOARDS OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA, AND SANTA ROSA COUNTY, FLORIDA:

1. The above recitals are true and correct and incorporated herein by reference in the body of this Resolution.
2. Escambia County and Santa Rosa County hereby request the support of Congressman Jeff Miller to sponsor legislation to release the restriction on conveyances for property on Santa Rosa Island, which shall be mutually agreed upon and drafted by the counties.
3. Each County's staff and attorneys shall cooperate in drafting the legislation, which will be approved by each of the Boards at future public meetings and subsequently forwarded to Congressman Jeff Miller for consideration.
4. The Clerk of the Board of the Escambia County Board of County Commissioners shall furnish a certified copy of this Resolution to Congressman Jeff Miller immediately upon its adoption and execution by both counties.
5. This Resolution shall become effective upon the date last adopted by each of the Boards of County Commissioners.

ADOPTED by the Escambia County Board of County Commissioners on the ____ day of _____, 2008.

BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA

D. M. "Mike" Whitehead, Chairman

ATTEST: ERNIE LEE MAGAHA
Clerk of the Circuit Court

Deputy Clerk

Approved as to form:

Escambia County Attorney

ADOPTED by the Santa Rosa Board of County Commissioners on the ____ day of _____, 2008.

BOARD OF COUNTY COMMISSIONERS
SANTA ROSA COUNTY, FLORIDA

John Broxson, Chairman

ATTEST: MARY M. JOHNSON
Clerk of the Circuit Court

Deputy Clerk

Approved as to form:

Santa Rosa County Attorney

HIGHWAY SYSTEM FINANCING SUMMARY

I. DESCRIPTION OF CURRENT FUNDING METHODOLOGY

Currently, the four Florida counties in the Northwest Florida Regional Transportation Planning Organization (“RTPO”) receive a portion of the annual appropriation of state and federal highway moneys. These funds are set aside each year for projects of FDOT on the State road system, in accordance with the allocation made by the Florida Department of Transportation to the 16-County FDOT District III, headquartered in Chipley. These allocations are used to pay for required resurfacing and maintenance projects on State roads within the District, and to pay for Strategic Intermodal System roadways (i.e., roadways that connect one mode of transportation to another, such as a highway to port or airport). After the annual costs of all of these required projects are paid, the remaining funds from the allocation (the remaining funds are known as “Capacity Funds”) are divided up by Chipley District III and parceled out to the regional (“RTPO”) and local (formerly, “MPO” but now called “TPO”s) planning organizations, for input as to which state road projects should receive funding from the Capacity Funds. Over the past several years, the average allocation has been around \$12-\$17 Million for the 4-county Northwest Florida RTPO.

The state is not allowed to bond against the annual Capacity Funds amount. The Capacity Funds are used for pay-as-you-go State road projects, in accordance with priorities established by the RTPO and the local member TPO’s. Since only \$12-\$17 Million is typically available each year, it is impossible for the Capacity Funds to pay for major projects. The projects on the priority list (the “Capacity Projects”) involve a total cost of more than \$1.5 Billion. From this, its apparent that no major projects can be accomplished, except possibly one major project spanning a lengthy period of years, and even then only if all of the RTPO and TPO members agree year after year to keep that project as the number one project for the annual Capacity funds.

Normally, instead of applying the Millions in annual Capacity Funds to accumulate toward payment for a large project, the Counties within the RTPO simply jockey for position to get some of their smaller projects placed on the priority list to be funded from Capacity Funds. It is their hope that their chosen projects will eventually move up the priority list to the number 1 position, as the years go by and higher-priority projects are funded and removed from the list. However, (i) the priority lists are re-prioritized annually, making it possible that new projects will be moved ahead of projects that have been waiting on the list for years, and (ii) no meaningful progress can be made toward completing the Capacity Projects on the \$1.5 Billion list because the allocated Millions per year is simply too small of an amount to apply toward a major project. Moreover, in excess of allocated annual Millions of new Capacity Projects are added to the list annually. Accordingly, the annual Capacity Funds tend to be used on small improvements such as turn-outs, median closures, acceleration and deceleration lanes,

signalization and other ancillary projects, so that the Capacity Millions can be utilized for something in each of the Counties on a regular basis.

II. PROBLEM RECOGNIZED

FDOT and the Counties have come to recognize that the funding mechanism for Capacity Projects is hopelessly inadequate. Interest in the annual process of prioritizing possible road projects has deteriorated to the point that most Counties believe that the exercise is a waste of time. The funds available are insignificant compared to the current needs. Funding for anticipated needs is not even considered. It has become apparent to all concerned that this funding system for critical, significant projects does not work. While it does nothing to increase the annual appropriation of Capacity Funds, the FDOT is now promoting “regionalism”, in hopes that each regional TPO will be able to convince each of its members that some single project of regional significance will be funded with Capacity Funds coming in over several years. The possibility that the TPO members could agree on such a regional project is remote at best. The TPO members prefer to see some money spent in their own counties, rather than forfeit their share of Capacity Dollars for a number of years, just so the regional project, perhaps none of which is located within its jurisdiction, can be completed.

III. ADDRESSING THE PROBLEM

FDOT has encouraged the transportation planning organizations to become innovative in developing plans that address the present funding system. At a meeting of FDOT officials and representatives of the Northwest Florida RTPO held in June, ideas were discussed as to how to fund the back-log of Capacity Projects currently languishing on the priority list awaiting some future funding from Capacity Funds. Since the FDOT cannot issue bonds to leverage the annual Capacity Funds, one solution would be for the four Florida counties of the Northwest Florida RTPO to create a bonding program of their own. The goal would be for the four-county region to leverage the annual expected appropriation of Capacity Funds into a significant amount that could address a substantial number of the needed projects at once. Under this concept, an interlocal agreement under Chapter 163, Part I, Florida Statutes, would be approved by the 4 counties. The interlocal agreement would establish a separate administrative entity (the “Regional Transportation Finance Authority” or “RTFA”) to issue bonds for large projects, and repay the Bonds from the future expected annual Capacity Funds coming to the 4 counties. [For example], if the Authority issued Bonds having debt service of only \$10 Million per year, the estimated \$12-\$17 Million of Capacity Funds would be more than enough to repay the annual debt service on the Bonds. For a 30-year bond, the RTFA could finance a bond issue of more than \$130 Million (+/-).

The \$130 Million (+/-) of projects would begin significant progress toward the \$1.5 Billion of un-funded roads. The proposed interlocal agreement would give each County that chooses to participate, a portion of the \$130 Million (+/-) to be used for the FDOT projects of its choice. The RTFA would receive the desired list of projects from each County and forward them on to FDOT, along with the money to pay for the projects.

FDOT would immediately proceed to design, construct, acquire right-of-way and complete the projects funded from the RTFA bond funds.

In order to successfully issue \$130 Million (+/-) of Bonds, the investors who purchase the bonds will have to be satisfied that there will always be enough money to pay the \$10 million in annual debt service on the RTFA Bonds. The annual appropriation of \$17 Million cannot be relied upon because there is no legal obligation for the Legislature to appropriate any particular amount. Although the Legislature has historically appropriated enough highway money each year to provide Capacity Funds averaging \$17 Million to the four counties, it is possible that in any particular year, the State might not appropriate enough to entitle the RTF, on behalf of the 4 counties, to receive the full \$10 million needed for the proposed bond debt service. Thus, no investor would be willing to purchase bonds secured only by Capacity Funds, with the risk that the Capacity Funds could be reduced to an amount in any year that is less than the bond debt service.

One important element of the RTFA interlocal agreement is that each County will be expected to guaranty repayment of a portion of the debt service on the RTFA bonds, in the event the annual appropriation for Capacity Projects in a particular year ever dropped below the \$10 Million. Each of the 4 counties would choose an amount that it wished to guaranty. Since the \$10 Million would be a significant reduction from currently available Capacity Funds of \$17 Million, it is unlikely that there would be a year in which the Capacity Funds were insufficient to pay the \$10 Million annual debt service. If an annual deficiency in Capacity Funds did occur, each County would have to bear a share of the shortage between what the RTFA received, and the \$10 Million needed for debt service. For example, if the capacity funds received by RTFA were only \$8 Million, then the member counties would have to make up the \$2 Million difference in that year.

The RTFA interlocal agreement would have each County agree to pay its portion of any shortfall whenever the annual appropriation was less than the bond debt service. A County's proportionate share would be determined by the percentage of the debt service that corresponds to the amount of debt service for only those bond projects within the County's jurisdiction. For example, if a County agreed to guarantee 25% of the bond debt service, then it would have the right to direct 25% of the bond proceeds to projects within its jurisdiction. It would also assume the obligation to pay 25% of the shortfall in the event the Capacity Funds received by the 4 Counties was less than the \$10 million in debt service. Since the annual Capacity Funds are typically over \$17 Million per year, the Counties can confidently assume that at least \$10 Million will be appropriated each year. If there were to be a shortfall, the County would be obligated to pay from its own revenue sources, its pro-rata share of the shortfall. Thus if in a particular year only \$8 Million of Capacity Funds were appropriated, then a County that had received 25% of the benefits of the bond program would have to pay 25% of the \$2 Million shortfall, or \$500,000. Of course, an \$8 Million annual appropriation for Capacity Funds would mean that less than half of the normal \$17 Million was received. For this reason, it is unlikely that the Counties would ever be called upon to pay their portion of the debt service in any year. Furthermore, any funds paid by a County to cover a shortfall would be reimbursable

from future Capacity Funds to the extent such funds are available after payment of current year debt service.

The RTFA program addresses the futility that Counties currently face in obtaining FDOT funding from Capacity Funds. By applying a portion of the annual Capacity Fund appropriation to debt service, Counties receive, as an immediate benefit, the funding for large projects within their jurisdiction. In addition, since only a portion of the Capacity Funds are to be used for debt service, there will still be almost half of the existing annual Capacity Funds for pay-as-you-go projects.

The RTFA also fulfills the goal of regional cooperation. Every participating County will bear a share of the risk of an appropriation shortfall. No participating County will have to bear the entire annual funding risk. And by cooperating through the RTFA, the amount of the likely liability for any funding shortfalls is significantly minimized. The regional plan assures that each County will receive far more dollars for immediate funding of projects within its borders, thus greatly reducing the inflationary increases in construction costs that accompany a pay-as-you-go methodology. The RTFA also enables the Counties to simultaneously fund their respective shares of a multi-county project. Without this regional approach, a large project located across more than one County could never be funded because the annual Capacity Funds would never be sufficient to pay for more than the costs within a single County. And committing all of the Capacity Funds in one year to a single county would never be accepted by the other Counties.

IV. IMPROVING THE HIGHWAY FUNDING METHOD IMPROVES THE REGION

The RTFA proposal will eliminate the need for Counties to fight for their share of each year's Capacity Funds. Every County will receive its allocation of bond proceeds in proportion to its guarantee of RTFA's annual bond debt service. Moreover, because the annual Capacity Funds for the 4-county region will be used first in each year to pay RTFA's bonds, it is unlikely that any County will ever be called upon to pay anything under its guarantee. If shortfalls do occur, it would only be in a circumstance when the normal funding of \$17 Million is instead less than the \$10 Million needed for the Bonds. And even then, each county is only liable for its share of an annual shortfall.

By empowering the Counties to establish their own priority lists for Projects within their borders, RTFA assures that (i) each county receives its share of the Capacity Funds, and (ii) each county is assured that FDOT will immediately proceed with its chosen projects, without further risk of changes in the regional project priorities. This greatly improved funding methodology benefits the entire region by getting projects underway that would otherwise have to wait many years to receive funding. Perhaps most importantly, it allows the residents of each County to enjoy the benefits of highway projects while they are paying being paid for.

No doubt the best feature of the RTFA program is that it does not require *any* new taxes. Accelerating the project schedule is achieved through the regional bonding of

future FDOT Capacity Funds. And costs containment will be realized because the RTFA plan will allow FDOT to lock in today's costs for projects. This will ultimately free up additional Capacity Funds for future bonding programs, or for continuing, small-scale Capacity Projects in addition to the projects funded by the RTFA program.

The RTFA proposal lays the groundwork for the regionalization of transportation planning and construction. The next step is for the Counties adopt the Interlocal Agreement so that FDOT can begin developing the project costs for the chose projects of each County. The RTFA Agreement itself does not obligate any County to make any payments. Counties will only become responsible for their guarantee of a pro-rata share of the Bonds only after the projects are identified, the costs are established, and the County approves the project costs and the terms of the bonds. If the County adopts the Interlocal Agreement, but never selects projects or agrees to the terms of the bond financing for its projects, it will not responsible for any payments due on the RTFA bonds.

**INTERLOCAL AGREEMENT FOR CREATION OF THE
NORTHWEST FLORIDA REGIONAL TRANSPORTATION FINANCE AUTHORITY**

THIS INTERLOCAL AGREEMENT is made and entered into as of the ____ day of _____, 2007, by and among the undersigned counties, as the initial Members (as hereinafter defined) for the purpose of creating a Regional Transportation Finance Authority as a separate legal and administrative entity empowered to exercise the powers that the Members have in common with respect to certain transportation programs and projects in the counties, including their municipalities.

RECITALS:

WHEREAS, the Northwest Florida Regional Transportation Planning Organization (the “Northwest Florida RTPO”) has determined that the estimated cost for needed transportation capacity improvement projects for the current 20-year planning cycle within the area of responsibility of the Northwest Florida RTPO is currently at least \$2 billion, and only a minimum of \$17 million in legislative appropriations can be forecast by the District III Office of the Florida Department of Transportation to be available annually through the year 2037 to plan, develop, acquire and build these capacity improvements projects; and

WHEREAS, the Members of the Northwest Florida RTPO joining into this Interlocal Agreement desire to leverage a portion of the anticipated future receipts of appropriations from the State of Florida for such capacity improvement projects (the “County Projects”, as hereinafter defined) so that urgently needed capacity projects within such Member counties can be financed and completed in advance of the times that such capacity improvement projects would be funded if completion of the phases thereof were to await the receipt of annual appropriations; and

WHEREAS, the Members of other Regional Transportation Planning Organizations within the District may also wish to join into this Interlocal Agreement to leverage a portion of the anticipated future receipts of appropriations from the State of Florida for their own County Projects so that urgently needed capacity projects within such Member counties can also be financed and completed in advance of the times that such capacity improvement projects would be funded if completion of the phases thereof were to await the receipt of annual appropriations; and

WHEREAS, the parties to this Interlocal Agreement desire to participate cooperatively in the process of advancing the various phases of developing, planning, designing, acquiring and building transportation projects in each of the Member counties by identifying the specific projects within each respective county that urgently require funding, and committing certain financial resources for the financing of such County Projects; and

WHEREAS, Florida Statutes provide several methodologies for local governments to create transportation finance authorities, including, without limitation, the Florida Interlocal Cooperation Act of 1969; and

WHEREAS, it is the intent of the parties hereto that the Northwest Florida Regional Transportation Finance Authority created hereby be a public body corporate and politic, and, for purposes of Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), constitute an instrumentality and political subdivision of the State of Florida acting on behalf of each of the Member counties; and

WHEREAS, based upon the amount of legislative appropriations of transportation funds historically allocated through the Florida Department of Transportation (the “Department”), and its division designated as District III, (“the District”) to the Member counties of the Northwest Florida RTPO for capacity improvement projects, each of the Member counties has determined that such amounts are likely to continue to be allocated for the next 30 years to the Member counties; and

WHEREAS, the initial Members have determined that, due to expected inflationary increases in the future costs of the capacity improvement projects, it is more economical to fund such capacity improvement projects currently from the proceeds of borrowed moneys, and to repay such borrowed moneys from the future allocations from the Department to the District of moneys for use within the Members to fund such capacity improvement projects; and

WHEREAS, the Northwest Florida RTPO has recommended that the power of the Members in dealing with the Department and the District can best be exercised through a separate legal and administrative entity exercising the powers jointly held by the Members; and

WHEREAS, the initial Members wish to follow the recommendation of the RTPO and create the Regional Transportation Finance Authority (the “Authority” as hereinafter defined) as a vehicle for uniting and advancing the common interests of the Members with respect to the transportation issues identified in this agreement and as may be further identified in each Funding Agreement with a Member; and

WHEREAS, the future Members may wish to join the Authority to share in the common interest of dealing with regional transportation needs and capacity projects within their own region of the District; and

WHEREAS, the County Projects are to be submitted to and approved by the respective local transportation planning organizations and by the applicable RTPO, for the purpose of assuring that such County Projects receive first priority funding from the Capacity Funds (as hereinafter defined) derived from the annual appropriations to the Department for the region of the District in which such Counties are located; and

WHEREAS, without a commitment from the Department assuring that the first use of annually appropriated Capacity Funds will be to make deposits to the trust fund for the payment of the annual amounts due in respect of the County Project Financings, the RTFA would not be able to successfully finance the County Projects; and

WHEREAS, the Members intend to enter into Funding Agreements (as hereinafter

defined) to identify the County Projects and provide security for the repayment of the financing for such County Projects; and

WHEREAS, the RTFA expects to issue Bonds or make other financing arrangements from time to time pursuant to an agreement with the Department (the “Department Participation Agreement”) whereby the proceeds of such financing are deposited with the Department for the funding of the County Projects of the Members, and the Capacity Funds allocable to the Member Counties are deposited in trust for use to repay the County Project Financings included in the Funding Agreements; and

WHEREAS, it is the intent and purpose of each of the Members that none of them, whether jointly or severally, shall be deemed to incur any legal responsibility, or financial or pecuniary liability or obligation of any kind, or be bound to provide any moneys or funds on account of this Interlocal Agreement or the creation of the Authority, nor shall the Authority have the power to obligate any of the Members, whether directly or indirectly, for any such liability or for the repayment of any bonds, borrowed moneys, debt or other obligation of any kind, except to the extent that (i) a Member shall expressly agree and undertake such liability, debt or obligation by its execution and delivery of a Funding Agreement or other separate instrument, duly authorized by the governing board of such Member in accordance with official action taken at a public meeting of the governing board of such Member; or (ii) the Members shall share the expenditures of the Authority’s annual budget as approved by the Members in accordance with Section 4.01(c) hereof; and

WHEREAS, except for County Projects expressly designated and approved by a Member county pursuant to a Funding Agreement or other separate written agreement, any public work, Project or activity of the Authority shall be the sole responsibility, liability and obligation of the Authority and not of the Members; and

WHEREAS, to the extent that the governing boards of each of the Members determine by official action at a public meeting that the Authority may also finance Projects payable from funds allocated by the Department for the Strategic Intermodal System (“SIS”), the provisions hereof relating to Capacity Funds shall likewise apply to such SIS Funds; and

WHEREAS, it is further the intent of the undersigned Counties that the Authority shall have the power to provide financing for transportation programs described in Chapter 339, Florida Statutes, and to enter into agreements to provide financing for the Northwest Florida Transportation Corridor Authority, and the municipalities, if any, participating in any Projects or other improvements described in Chapter 343, Florida Statutes;

NOW THEREFORE, in consideration of the mutual covenants, promises, and representation herein, the parties desiring to be legally bound, do agree as follows:

ARTICLE I DEFINITIONS

Section 1.01. This Interlocal Agreement shall be known and may be cited as the “Northwest Florida Regional Transportation Finance Authority Agreement.”

Section 1.02. The following words when used in this Agreement (unless the context shall clearly indicate the contrary) shall have the following meanings:

“Advance” means, (i) with respect to a County Project or phase thereof, the funding of the cost of such County Project or phase thereof pursuant to a Funding Agreement between the County in which such County Project is located, and the Authority; and (ii) with respect to any other Project, the funding of such Project or a component thereof from sources other than Capacity Funds or obligations issued in anticipation of repayment from Capacity Funds.

“Agreement” means and refers to this Interlocal Agreement, an instrument, as amended from time to time, entered into according to provisions of Chapter 163, Part I, Florida Statutes and other provisions of Florida law.

“Authority” means the Northwest Florida Regional Transportation Finance Authority, a body politic and corporate created pursuant to this Agreement.

“Bonds” means and includes the loans, notes, bonds, loan agreements, revenue certificates, certificates of participation, financing leases, and any other form of evidence of indebtedness, or any other form of evidences of indebtedness or obligations to repay borrowed moneys, or to make payments under any Lease Purchase Agreement. “Bonds” shall also including any refunding bonds or other device or instrument which may be established or issued to refinance or refund outstanding Bonds or other indebtedness of either the Authority, or, with respect to any Member or the Department, any Project.

“Capacity Funds” means that portion of the annual legislative appropriation of transportation funds which are available to pay for County Projects within the Counties of a Regional Transportation Planning Organization, after all legally mandated expenditures from such annual appropriations (including, among other things, required road resurfacing and maintenance expenditures) have been provided for.

“Cost Feasible Plan” means the official list of transportation capacity projects designated as “cost feasible” and approved by the applicable RTPO for submission to the Department.

“County” means any County entering into, and undertaking the responsibilities of, a County hereunder.

“County Project” means any transit or transportation improvement, or any phase thereof, including without limitation, planning, development, engineering, design, right-of-way acquisition, permitting, or construction, the Costs of which are eligible to be funded from Capacity Funds and the completion of which is to be implemented and carried out

by the Department from the proceeds of a County Project Financing.

“Cost” means, with respect to any Project, the costs properly allocable by the Department to such Project, including the costs and expenses of planning, designing, engineering, developing, acquiring and constructing the Project, the allocable share of administrative, overhead and employee expenses of the Department; the costs of outside consultants, engineers, surveyors, appraisers, contract managers and other professionals providing services for such Project; the amounts paid to contractors, materialmen, suppliers, laborers, landscapers and the like for the cost of acquiring, constructing and completing all components of the Project; and the costs of the Project Financing for such Project, including such expenses as the fees of fiscal agents, financial advisors or consultants; legal and administrative expenses relating solely to the Project Financings, the premiums and other costs of obtaining insurance on the Project Financings; the creation and establishment of reasonable reserves or surety instruments for debt service; discount on sale of Bonds; auction administration, remarketing, liquidity or credit support costs, disclosure compliance expenses, repayment of interim advances and indebtedness, if any; debt service and interest hedging payments, the costs of carry of investments, and such other costs and expenses as may be necessary or incidental to a Project Financing or the refinancing thereof.

“County Project Financing” means Project Financing which the Authority is authorized to issue, incur or arrange on behalf of a Member, pursuant to this Agreement and a Funding Agreement with the respective Member.

“Department” shall mean and refer to the Florida Department of Transportation, an agency of the State of Florida created pursuant to Section 20.23, Florida Statutes.

“District” means District III of the Department, which district includes, among other things, the Members, and is currently headquartered in Chipley, Florida, and any successor to such District III as it applies to the Members.

“FDOT Lease Purchase Agreement” means any lease or lease purchase agreement of any Project whereby the FDOT undertakes responsibility for operation or maintenance of a Project.

“Funding Agreement” means a written undertaking between the Authority and one of the Members which provides for a County Project Financing, and which contemplates that the respective County Project Financing is to be repaid primarily from a first lien on such County’s Pro-rata Share of the Capacity Funds, together with a funding source designated in the Funding Agreement. No Funding Agreement shall become effective until accepted in writing by the Department.

“Lease Purchase Agreement” means any lease or lease purchase agreement providing for the lease or lease purchase financing, including the use of certificates of participation in such financing arrangements, for any facilities or Projects of or for the Authority.

“Long Range Transportation Plan” means the 20-year plan developed and

adopted by the Northwest Florida Regional Transportation Planning Organization, as required by 23 USC Section 134(g), 23 CFR Section 450.322, and Section 339.175(6), Florida Statutes.

“Member” means each of the Counties initially comprising the Authority and executing this Agreement, and any other Counties within the District who may hereafter become Members pursuant to the terms of Section 10.01 hereof.

“Project” means any County Project, or any other undertaking for the acquisition, construction, planning, development, or engineering of roads, bridges, avenues of access, thoroughfares and boulevards within the area of operation of the Authority, including, without limitation any other roadway or bridge transportation or transit system improvement, including any phase thereof, together with any other transportation or transit project or transportation facilities undertaken by the Authority; **provided** that except to the extent expressly approved by the governing board of a Member and incorporated in a separate written agreement between the Member and the Authority, no such undertaking, nor the financing thereof by the Authority, shall in any way obligate any Member for any liability, responsibility or obligation whatsoever, and the cost of such other transportation or transit projects or Systems shall be self-liquidating or otherwise paid from sources independent of payments by the Members; and **provided, further**, that no such undertaking shall adversely affect the annual amount of Capacity Funds available to be used pursuant to any Funding Agreement for the financing of any County Project. Notwithstanding the foregoing, nothing herein shall be deemed to prohibit any one or more Members from entering into a separate agreement with the Authority for the financing of any Project.

“Project Financing” means the use of any financing structure, financial obligation, bond, Lease Purchase Agreement or other arrangement whereby the proceeds produce by such financing are applied to pay Costs of a Project.

“Pro-Rata Share” of a Member means, as of any date of calculation, a proportion determined by dividing the total future value of all outstanding obligations of the Authority supported by Funding Agreements with such Member, by the aggregate amount of the total future value of all outstanding obligations of the Authority supported by Funding Agreements with all Members.

“Public Agency” means any public agency as defined and described in Chapter 163, Part I, Florida Statutes.

“Regional Transportation Area” means that area the boundaries of which are identical to the boundaries of jurisdiction of the Regional Transportation Planning Organizations serving the Members; provided that, with the consent of a majority of the Members upon such conditions as they may establish, the Regional Transportation Area may be expanded to include the jurisdiction of additional public agencies outside the boundaries of the then-existing Regional Transportation Area.

“Representative” means any person residing within the Regional Transportation Area who is appointed by the governing body of a Member to serve on the governing board

of the Authority as provided herein; except that with respect to the District Secretary, Representative shall mean the Secretary of the District or an employee of the District designated by such Secretary from time to time to serve as the ex-officio representative on the governing board of the Authority. One additional Representative shall serve as Chairman of the Authority, as provided in Section 2.02 hereof.

“RTPO” means and refers to the regional transportation planning organization established within the District for one or more of the Members pursuant to Chapter 339, Florida Statutes.

“Strategic Intermodal System” shall have the meaning set forth in Section 339.61, Florida Statutes.

“State” means the State of Florida.

“TPO” means and refers to the metropolitan planning organization formed pursuant to Section 339.175, Florida Statutes, for the respective transportation planning area of the applicable Members.

ARTICLE II
MEMBERSHIP, TERM OF OFFICE, STAFF

Section 2.01. Pursuant to Section 163.01, Florida Statutes, and other applicable provisions of law, there is hereby created and established a body politic and corporate, and an agency of the State, to be known as the Northwest Florida Regional Transportation Finance Authority, Inc., hereinafter referred to as the "Authority." The Authority shall be and constitute a public instrumentality of and for the benefit of each of the several Members, and shall be incorporated under and pursuant to Section 617, Florida Statutes, as amended. No part of the net income of the Authority shall ever inure to the benefit of any individual or private association or corporation. Upon full payment of the expenses, amounts due or to become due in respect of Bonds and any other financial obligations of the Authority, and any other legal encumbrances or obligations of the Authority, and after making provision for reasonable working capital, financial reserves, depreciation or maintenance reserves and the like therefor, including payment of all amounts to the extent required, to comply with any applicable provisions of Sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended, and having due regard for the costs of additional Projects; the Pro-Rata Share of all excess amounts determined by the Authority to be surplus moneys not needed for such purposes shall be applied and paid to the Members.

It is the intention of the parties that the Authority shall have and enjoy the same privileges and immunities enjoyed by any Member as a Public Agency of the State of Florida. Nothing herein shall be deemed to limit the rights of the holders and owners of obligations issued by the Authority hereunder from exercising or enforcing any right or remedy granted to such holders or owners under or in connection with such obligations.

Section 2.02. The governing body of the Authority shall consist of one Representative appointed by each of the Members. One additional Representative shall be the person serving as Chairman of the Northwest Florida RTPO as of the date of creation of the Authority, who shall also serve as chair of the governing board of the Authority until such time as the first issue of Bonds of the Authority has been outstanding for a period of six months. There shall also be an ex officio representative of the Department, who shall be the designee of the District secretary. All representatives other than the ex-officio representative, shall have voting privileges. The term of office of Representatives shall be for four (4) years or until such later time as their successor shall have been appointed, except that the initial Representatives of the initial Representative of every other alternating County becoming a Member shall have initial terms of two years. The designee of the District secretary shall serve as ex officio representative for the district secretary's term of service. Upon expiration of the initial term of office of the Chairman or should such office become vacant for any reason, the Chairman shall be elected by the Members. Any Representative may be removed at any time, with or without cause, by the same method that such Representative was appointed. Members shall fill appointments and vacancies in their respective Representative as soon as practicable. A vacancy occurring during a term shall be filled only for the balance of the unexpired term. Any qualified Representative serving on the Authority is eligible for reappointment. Upon the effective date of his or her appointment, or as soon as practicable thereafter, each representative shall enter upon his duties. Each representative of the Authority, before

entering upon his or her official duties, shall take and subscribe to an oath, before some official authorized by law to administer oaths, that he or she will faithfully, honestly, and impartially perform the duties devolving upon him or her in office as a representative of the governing body of the Authority and that he or she will not neglect any duty imposed upon him or her by this part. Representatives of the Authority may be removed from office by the Governor of the State of Florida for misconduct, malfeasance, misfeasance, or nonfeasance in office.

All Representatives shall be deemed to be acting in their official capacity when conducting the business of the Authority.

Section 2.03. The chair of the Authority will preside over meetings. The Authority shall elect from the Representatives, a vice chair to perform duties of the chair in his absence, a secretary and a treasurer. The vice chair, secretary, and treasurer shall hold offices for two (2) year terms, and may be re-elected by the Representatives of the Authority.

Section 2.04. A simple majority of the Representatives shall constitute a quorum and the vote of a simple majority of the Representatives at a meeting at which a quorum is present shall be necessary for any action taken by the Authority. No vacancy in the Authority shall impair the right of a quorum of the Authority to exercise all the rights and perform all of the duties of the Authority. Unless specifically stated otherwise in this Agreement, Roberts Rules of Order shall be used in the conduct of meetings and business of the Authority.

Section 2.05. The Chairman shall act as the initial executive officer of the Authority, and shall engage, and establish the compensation for, financing professionals for the financing of the County Projects. If necessary, upon recommendation of the Chairman, the Authority may employ an executive director, an executive secretary, its own counsel and legal staff, technical experts, such engineers, and such employees, permanent or temporary, as it may require and may determine the qualifications and fix the compensation of such persons, firms, or corporations and may employ a fiscal agent and/or agents, provided, however, that the Authority shall select professional services as required by be subject to Section 287.055, Florida Statutes (the Consultants' Competitive Negotiation Act) to the extent the same is applicable to the professional service being so engaged. The costs of the foregoing described services shall not be an obligation of any Member, except to the extent a Member may, by separate instrument, agree in writing to the payment thereof. Any Member, the Department, the District and any other Public Agency may contribute meeting and office space, and contribute the use of one or more of its staff, to serve as support staff for the RPFA.

Section 2.06. Representatives appointed by a Member of the Authority shall be entitled to receive from the Authority their travel and other necessary expenses incurred in connection with the business of the Authority as provided in Section 112.061, Florida Statutes, but they shall draw no salaries or other compensation. Upon approval of the Authority, the Chairman may receive such compensation as the Authority shall establish, but only at such times during which the Chairman is not entitled to receive compensation as an official of any other Public Agency.

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Rev 08/08/07
Rev 10/12/07 Rev 11/05/07
Rev 11/29/07-8027-ilartfa v6

ARTICLE III PURPOSES AND POWERS

Section 3.01. The Authority created and established by this Agreement shall not possess the power or authority to levy any type of tax within the boundaries of any Member.

Section 3.02. The Authority created and established by this Agreement is granted the plenary authority to provide or arrange for the provision of financing for Projects. The Authority, at its option, may finance, purchase, operate, own, lease, construct, improve, maintain, or provide for the operation of other Projects, and including all associated facilities related thereto or necessary or convenient in connection with providing, maintaining or managing all or any portion of any Project. In no event shall the Authority commit, encumber or otherwise obligate any portion of the Capacity Funds, except as approved by a Funding Agreement with a Member.

Section 3.03. It is the express intention of this Section 3.03 that the Authority shall be authorized to finance or provide or arrange for the financing of the advance of any County Project or any phase thereof. Any such financing shall be subject to the provisions of the applicable Funding Agreement between the Authority and the respective Member. At the time of issuance of each County Project Financing, the Chairman shall certify that the maximum annual debt coming due on all outstanding obligations of the Authority which are payable from Capacity Funds, taking into account bonds with respect to which such certificate is being issued, is not more than either (i) 70% of the annual amount of Capacity Funds actually allocated to the Counties within the applicable RTPO in the highest four out of the most recent five preceding fiscal years or (ii) such greater percentage as all Representatives attending a meeting at which a quorum is present may unanimously approve.

Section 3.04. The Authority shall have the power of eminent domain, provided that such power of eminent domain may only be exercised within the boundaries of a Member with such Member's express written consent, upon such conditions, if any, as such Member may specify in such written consent. Any such exercise of the power of eminent domain shall apply only within the jurisdiction of such respective Member granting such written consent, and shall also be subject to any limitations set forth in statute or rules of the Authority and in any Funding Agreement. The Authority may also conduct studies, contract with other governmental agencies, private companies and individuals for any purpose or function reasonably related or ancillary to the functions and powers of the Authority granted herein, and to develop, promote and enter into agreements for alternative funding or public-private partnership type arrangements for Projects.

Section 3.05. The Authority is hereby authorized and granted the power to exercise all powers necessary, appurtenant, convenient or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers, subject, in the case of every County Project, to the provisions of the applicable Funding Agreement:

- (a) To sue and be sued, implead and be impleaded, complain and defend in all courts.
- (b) To adopt, use and alter at will a corporate seal.
- (c) To acquire by donation or otherwise, purchase, hold, lease as a lessee and use any franchise, property, real, personal or mixed, tangible or intangible, or any options thereof in its own name or in conjunction with others, or interest therein, necessary or desirable for carrying out the purposes of the Authority, and to sell, lease as lessor, transfer and dispose of any property or interest therein acquired by it.
- (d) To enter into and make leases for terms not exceeding 40 years, as either lessee or lessor, in order to carry out the right to lease as set forth in this part.
- (e) To enter into and make Department Lease-Purchase Agreements and other agreements with the Department or the District, and to enter into other Agreements with Public Agencies, for terms not exceeding forty (40) years, or until any bonds secured by a pledge of rentals or other payments thereunder, and any refundings thereof, are fully paid as to both principal and interest, whichever is longer.
- (f) To enter into interlocal agreements with any Member or other Public Agencies for the joint performance, or performance by one unit on behalf of the other, of any of either agency's authorized purposes.
- (f) To fix, alter, charge, and establish rates, fares, and other charges for the services and facilities of any Project (other than County Projects), which rates, fees, and charges shall always be sufficient, together with any other sources of moneys received or receivable by or available to the Authority to comply with any covenants made with the holders of any Bonds issued pursuant to this Agreement; provided, however, that such right and power may be assigned or delegated, by the Authority, to the Department.
- (g) To make contracts of every name and nature, including, but not limited to, financing agreements, Department Participation Agreements, Funding Agreements for County Projects, partnership agreements providing for participation in ownership and revenues, and such other contracts, agreements, permits, licenses, documents or instruments as the Authority may find necessary or convenient in the exercise of its duties and powers hereunder, and to execute all instruments necessary or convenient for the carrying on of its business.
- (h) Without limitation, to borrow money, make and issue negotiable notes, bonds, refunding bonds, and other evidences of indebtedness or obligations, either in temporary or definitive form, including any Bonds, as defined in Article I hereof, of the Authority, for the purpose of Advancing any Project, financing all or part of the development, design, engineering, acquisition, improvement or extension of any Project and appurtenant facilities, including all approaches, streets, roads, bridges

and avenues of access for said Project and for any other purpose consistent with the provisions of this Agreement or as may authorized by law, said bonds to mature in not exceeding forty (40) years from the date of the issuance thereof. Such Bonds may be secured by a pledge of any or all of its revenues, rates, fees, rentals or other charges, amounts received or receivable under any interlocal agreement, Funding Agreement, Lease Purchase Agreement, Department Participation Agreement or public-private partnership agreement, and any other source of funds derived by the Authority, all as may be specified in writing as security for such Bonds; ***provided***, that in each year in which Bonds for Capacity Projects within the jurisdiction of an RTPO are outstanding, the Members served by such RTPO hereby direct, acknowledge, consent and agree that, to the fullest extent permitted by law, all Capacity Funds for such RTPO shall be used first to provide for all required payments in respect of Bonds for County Projects (including reimbursements for any deficiencies in prior payments); and the balance may be used for the payment of the costs of any other Projects (including debt service requirements on obligations incurred for such Projects), or shall be remitted to Department for application to transportation projects within the jurisdiction of the applicable RTPO of the District, all in accordance with applicable law. All Members within an RTPO shall be obligated to take all action necessary to assure that the County Projects within such RTPO which are funded by County Project Financings shall receive the highest priority for funding from Capacity Funds allocable for Capacity Projects in such RTPO, until Capacity Funds shall have been applied to satisfy all amounts due in connection with such County Project Financings.

(i) Without limitation, to borrow money and accept grants from, and to enter into contracts, leases, interlocal agreements or other transactions with any federal agency, the state, any agency of the state, any Public Agency in furtherance of any Project.

(j) To pledge, hypothecate or otherwise encumber all or any part of the revenues, rates, fees, rentals or other charges, amounts received or receivable under any Interlocal Agreement, Department Participation Agreement, Funding Agreement or Lease Purchase Agreement, public-private partnership agreement, any revenue-producing Project and any other source of funds derived by the Authority, as security for all or any of the obligations of the Authority; ***provided*** that neither the credit nor that taxing power of any Member shall be encumbered thereby, nor shall any amounts paid by a Member to the Authority be encumbered therefor, without the express written agreement of such Member.

(k) To enter into partnership and other agreements respecting ownership and revenue participation in order to facilitate financing and constructing any portion of the a Project, other than a County Project.

(l) To develop transportation plans, and to coordinate its planning and programs with those of appropriate municipal, county, and state agencies and other Public Agencies of the state. All transportation plans shall be subject to review and approval by the Department of Transportation, by the applicable transportation planning organization, and by the regional transportation planning organization for

consistency with programs or planning for the area and region, to the extent provided by law.

(m) To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the Authority in order to carry out the powers granted to it by this part or any other law to carry out the purposes of this Agreement and in furtherance thereof, to exercise any powers or authorities granted to municipalities or counties under any provision of law.

(o) To prescribe and promulgate necessary rules and regulations consistent with the provisions of this part.

Section 3.06. The Authority shall have no power at any time or in any manner to pledge the credit or taxing power of the state or any political subdivision or agency thereof; nor shall any of the Authority's obligations be deemed to be obligations of the state or of any political subdivision or agency thereof; nor shall the state or any political subdivision or public agency thereof, except the Authority, be liable for the payment of the principal of or interest on such obligations. Nothing in herein shall be deemed to prohibit the Authority from securing its bonds or other obligations by a pledge of moneys to be received from any Public Agency pursuant to an Interlocal Agreement or Funding Agreement with such Public Agency, or from trust funds established for such purposes pursuant to agreements with the Department or the District, provided such Interlocal Agreement expressly provides for payment to the Authority of such moneys.

Section 3.07. Anything in this part to the contrary notwithstanding, acquisition of right-of-way for a project of the Authority which is within the boundaries of any municipality in the Regional Transportation Area shall not be begun unless and until the route of said project within said municipality has been given prior approval by the governing body of said municipality.

ARTICLE IV
FINANCING OF THE AUTHORITY

Section 4.01. (a) The Authority will seek funding from the Legislature, the Department, the Members and the Public Agencies of the Regional Transportation Area to pay for administrative costs of the Authority. The Authority shall seek funding for County Projects through the Federal Infrastructure Bank and the State Infrastructure Bank, as well as financial market sources and public-private partnerships. In the event the Authority shall determine the need for any Project, the Authority shall seek financing from all sources in addition to the foregoing, for which it may be eligible, including, without limitation, the State Toll Facilities Revolving Trust Fund, under Section 338.251, Florida Statutes, funds created by Section 338.251, Florida Statutes, and the Toll Facilities Revolving Trust Fund, and may apply for funding to pay any eligible expenses for Projects.

(b) Until such time as the Authority shall have established a sufficient level of income to support its operations, the Members shall appropriate funds necessary to enable the Authority to perform its functions hereunder. In order to receive such appropriations for operations, the Authority shall submit an annual budget to the governing board of each County for its approval. Such budget shall be submitted not later than May 15th of each year, for the ensuing fiscal year commencing October 1. Upon approval of the Authority's budget by a majority of the Members, each Member shall be obligated to appropriate and pay over to the Authority not later than December 1 of each year, its share of such annual budget, allocated on the basis of the relative populations of each Member as of the date of the most recently published census information by the United States Census Bureau.

(c) The Authority may establish and impose reasonable fees and charges for its services, including initiation of Projects, Systems or Bonds, and the continuing administration of outstanding Bonds; *provided*, that any fees and charges imposed upon any Member in connection with the financing of a Project, shall be as agreed in writing in the applicable Funding Agreement between the Authority and any such Member.

**ARTICLE V
ISSUANCE OF BONDS**

Section 5.01. The Authority may issue Bonds or utilize other Project Financings to carry out the authorized powers or purposes of this Agreement. In the creation of bonded indebtedness the procedure therefore shall be in conformity with the constitution and laws of the state.

Section 5.02. In addition to the powers granted to the Authority by other provision of this Agreement, the Authority also shall have the power and it is hereby authorized to provide by Resolution, at one time or from time to time for the borrowing of money or to obtain Project Financing, and the issuance of Bonds and any other form of evidence of such indebtedness, all for the purpose of paying all or a part of the cost of any Project or portion thereof. The principal of, premium, if any, and interest on such obligations shall be payable solely from revenues to be derived from or in connection with any Project and/or the operation thereof, and/or any or all funds of the Authority derived from sources, in such manner as the Authority shall provide by Resolution prior to the issuance thereof. The Authority shall determine the form of the Bonds and the manner of executing the Bonds, subject to any applicable requirements of the Florida Registered Public Obligations Act. The Authority shall establish the place or places for payment of the principal, premium, if any, purchase price and interest on such obligations. The Authority may sell such obligations in accordance with the provisions of Section 215.385, Florida Statutes. All obligations of the Authority shall be limited and special obligations of the Authority, payable solely from the revenues of the Authority pledged therefor, and shall not constitute a general obligation or a pledge of the faith, credit or taxing power of the State of Florida or any political subdivision thereof, or any Member, within the meaning of any constitutional or statutory provision but shall be payable solely from the revenues of the Authority pledged therefor. Neither the State of Florida nor any political subdivision thereof, nor any Member, shall be obligated (i) to exercise its ad valorem taxing power or any other taxing power in any form on any real or personal property in the Issuer to pay the principal of such obligations or other costs incident thereto, or (ii) to pay the same from any funds except the revenues of the Authority pledged therefor, in the manner provided in the resolution of the Authority providing for such obligations. Nothing in this section shall be deemed to prohibit any Public Agency, at its option, from securing its obligations under any Lease-Purchase Agreement or Interlocal Agreement with any funds or bonds which may lawfully be pledged by such Public Agency for such purposes.

Section 5.03. In connection with any financing of a Project by the Authority, and the issuance of Bonds or other obligations to evidence the same, the Authority is hereby authorized at one time or from time to time, to enter into such other agreements and instruments, including, without limitation, indentures, trust agreements, Lease Purchase Agreements, interlocal agreements, escrow agreements, agreements or financial products for the management, offset or mitigation of the risks of interest rate changes or other risks relating to the financing or the Project, investment agreements, bond insurance commitments or agreements, financial guaranty agreements, auction and remarketing agreements, broker/dealer agreements, reserve surety agreements, reimbursement agreements, loan agreements, purchase agreements, and other contracts, investments

and financial instruments as may be necessary or desirable in connection with such financing. Any such agreement, contract or instrument, may be secured by the revenues of the Authority to the same extent as for bonds of the Authority.

ARTICLE VI DEPARTMENT AGREEMENTS

Section 6.01. In order to effectuate the purposes of this part and as authorized by this part, the Authority may enter into Department Participation Agreements with the Department relating to and covering all or any portion of any Project.

Section 6.02. With respect to the County Projects, the Authority shall enter into one or more Department Participation Agreements providing for an Advance of a County Project and prepayment to the Department or the District for the costs of the County Projects of a Member, and the transfer and payment to the Authority or its order, in trust, of legally available Capacity Funds for such County Projects. The Capacity Funds in respect of the Members served by a particular RTPO shall be allocated annually pro-rata to the repayment of Bonds for each respective County Project in the proportion that such amount due in respect of such Bonds in such year bears to the total amount due in respect of all Bonds of the Authority issued for County Projects within the jurisdiction of such RTPO.

Section 6.03. Such agreements may include such other provisions, agreements and covenants as the Authority and the Department deem advisable or required, including, but not limited to, provisions as to the Bonds to be issued for the County Projects, acceptance of such County Projects in the approved work program of the Department, the commitment of the first legally available Capacity Funds for the payment of the debt service requirements with respect to such Bonds, compliance with applicable federal securities and income tax laws, and for other purposes of Article V; and, as to other Projects, the completion, extension, improvement, operation and maintenance of the Project or portion thereof and the expenses and the cost of operation of said Authority, the charging and collection of tolls, rates, fees, and other charges for the use of the services and facilities of any Project, the application of federal or state grants or aid which may be made or given to assist the Authority in financing the completion, extension, improvement, operation and maintenance of any Projects or such portion thereof, which the Authority is hereby authorized to accept and apply to such purposes, the enforcement of payment and collection of rentals and any other terms, provisions or covenants necessary, incidental or appurtenant to the making of and full performance under such agreement. Nothing herein shall be deemed to authorize the establishment of any toll facilities for any County Projects, without the unanimous approval of the Members served by the RTPO having jurisdiction over the area where such County Projects are located.

Section 6.04. The Department as lessee under any FDOT Lease Purchase Agreement, is hereby authorized to pay as rentals thereunder any rates, fees, charges, funds, moneys, receipts or income accruing to the Department from the operation of the Project or such portion thereof; and the Department is further authorized to pay, as repayments for any Advance, all Capacity Funds to the Authority to the extent necessary

to enable the Authority to repay or arrange for the repayment of any Bonds for such Advances for the County Projects of the Members served by the RTPO where such Project is located. Notwithstanding the foregoing, nothing herein nor in any agreement or FDOT Lease Purchase Agreement shall require the Legislature of the State of Florida to make or continue annual appropriations, nor shall any holder of Bonds issued for the County Projects ever have any right to compel the making or continuance of such State appropriations.

Section 6.05. The Department shall have power to covenant in any agreement with the Authority with respect to County Projects, that it will pay to the Authority from the first available Capacity Funds in each year all or any part of the cost of County Projects from Capacity Funds. The Department may also agree to make such other payments from any moneys available to the Department, or the applicable Member in connection with the construction, completion, operation and maintenance of any Project as shall be deemed by the Department to be fair and proper under any such covenants heretofore or hereafter entered into.

ARTICLE VI
DEPARTMENT MAY SERVE AS CONSTRUCTION AGENT

Section 7.01. Upon agreement between the Department and the Authority with respect to the County Projects, the Department shall be responsible for planning, developing, engineering, acquiring and constructing the County Projects. As to any other Projects, the Authority may agree that the Department will act as agent of the Authority for planning, developing, engineering, acquiring and constructing such other Projects. With respect to all Projects financed by or through the Authority, if the Department is to do such construction work, or any phase thereof, including the planning, surveying, right-of-way acquisition and actual construction of the completion, extensions and improvements to the Project and the Authority shall transfer to the credit of an account of the department in the treasury of the state the necessary funds therefor and the thereupon the Authority shall authorize, empower and direct the Department to proceed with such construction and to use said funds for such purpose in the same manner that it is now authorized to use the funds otherwise provided by law for its use in construction of roads and bridges.

ARTICLE VIII
INTERGOVERNMENTAL COORDINATION

Section 9.01. The Authority will coordinate its plans and Projects with the transportation plans and transportation elements of local government comprehensive plans of the applicable TPO and RTPO, regional planning council, counties, and municipalities included in the regional transportation area.

ARTICLE IX
EXEMPTION FROM TAXATION

Section 9.01. As the Authority created by this Agreement is a cooperation of local governments of the state, which are exempt from taxation; and since the effectuation of the authorized purposes of the Authority created under this Agreement is, shall and will be, in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions; and since such Authority will be performing essential governmental functions in effectuating such purposes, it is the intent of the Members that such Authority shall not be required to pay any taxes or assessments of any kind or nature whatsoever upon any property acquired or used by it for such purposes, or upon any rates, fees, rentals, receipts, income or charges at any time received by it, and the Bonds issued by the Authority, their transfer and the income therefrom, including any profits made on the sale thereof shall at all times be free from taxation of any kind by the state, or by any political subdivision, or taxing agency or instrumentality thereof. The Members acknowledge that this section shall not be applicable to any tax imposed by Chapter 220 on interest, income, or profits on debt obligations owned by corporations.

ARTICLE X
ADDITIONAL MEMBERS

Section 10.01. Upon a resolution adopted by the governing body of any Public Agency within the Regional Transportation Area, the Authority may, by a majority vote of its membership, include such Public Agency as a Member of the Authority; subject in every case, to the provisions of Section 2.02 hereof.

**ARTICLE XI
MISCELLANEOUS PROVISIONS**

Section 11.01. This Agreement shall not be construed to authorize the delegation of the constitutional or statutory duties of any of the parties. In addition, this Agreement does not relieve any of the parties of an obligation or responsibility imposed upon them by law, except to the extent of actual and timely performance thereof by one or more of the parties to this Agreement or any legal or administrative entity created or authorized by this Agreement, in which case this performance may be offered in satisfaction of the obligation or responsibility.

Section 11.02. Amendments or modifications of this Agreement may only be made by written agreement signed by all parties here to with the same formalities as the original Agreement.

Section 11.03. This Agreement shall remain in effect until terminated by the parties to this Agreement, subject to the provisions hereof regarding the impairment of the contractual rights.

Section 11.04. Any Member may withdraw from this Agreement after presenting, in written form, a notice of intent to withdraw to the Authority and the other parties to this Agreement at least ninety (90) days prior to the intended date of withdrawal. Upon receipt of the intended notice of withdrawal, the withdrawing Member and the Authority shall execute a memorandum reflecting the withdrawal of the member, settle any financial obligation of the withdrawing member, and alter the list of member governments that are signatories to this Agreement. The memorandum shall be filed in the Office of the Clerk of the Circuit Court of each county in which a party hereto is located. So long as any Bonds or other obligations of the Authority shall be outstanding and unpaid, nothing herein shall permit any Member to withdraw upon such circumstances as would adversely affect the interests of the obliges, owners and holders thereof, or to impair or abrogate such Member's obligations under any Funding Agreement.

Whenever the governing board of the Authority determines that the purposes for which the Authority was formed have been substantially accomplished and that all Bonds, and other obligations theretofore issued or incurred by the Authority have been fully paid or payment has been provided therefor, the Board shall dissolve the Authority in the manner provided by law, subject to the limitation that there shall be no impairment of contracts of the Authority. Upon any such dissolution, such dissolution proceedings shall transfer title to the Pro-Rata Share of all funds and other property then owned by the Authority, after satisfaction of all claims against the Authority has been made, to the Members then comprising the parties to this Agreement.

Section 11.05. All notices, demands and correspondence required or provided for under this Agreement shall be in writing and delivered in person or dispatched by certified mail, postage prepaid, return receipt requested. Notice required to be given shall be addressed as follows:

Escambia County Board of County Commissioners
Post Office Box 1591 (223 Palafox Place)
Pensacola, Florida 32597-1591
11

Santa Rosa County Board of County Commissioners
6495 Caroline Street
Milton, Florida 32570-4592
Okaloosa County Board of County Commissioners

Crestview, Florida 32____
Walton County Board of County Commissioners

Defuniak Springs, Florida 32____

A party may unilaterally change its address or addressee by giving notice in writing to the other parties as provided in this section. Thereafter, notices, demands and other pertinent correspondence shall be addressed and transmitted to the new address.

Section 11.06. The members of the Authority were each represented by or afforded the opportunity for representation by legal counsel and participated in the drafting of this Agreement and in choice of wording. Consequently, no provision hereof should be more strongly construed against any party as drafter of this Agreement.

Section 11.07. Invalidation of any one of the provisions of this Agreement or any part, clause or word hereof, or the application thereof in specific circumstances, by judgement, court order, or administrative hearing or order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect; provided, that such remainder would then continue to conform to the terms and requirements of applicable law.

Section 11.08. In interpreting this Agreement, the following rules of construction shall apply unless the context indicates otherwise:

- (a) The singular of any word or term includes the plural;
- (b) The masculine gender includes the feminine gender; and
- (c) The word “shall” is mandatory, and “may” is permissive.

Section 11.09. In the event of any judicial or administrative action to enforce or interpret this Agreement by any party hereto, each party shall bear its own attorney’s fees in connection with such proceeding.

Section 11.10. This Agreement, and any amendments hereto, may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

Section 11.11. This Agreement shall become effective upon its filing in the Office of the Clerks of the Circuit Court for each county in which a party hereto is located. Any amendment hereto shall become effective only upon its filing in the Office of the Clerks of the Circuit Court for each county in which a party hereto is located.

Section 11.11. The Board of County Commissioners of each initial Member hereby agrees to pay their Pro-Rata Share for any costs of incorporating the Authority and recordation or filing of this Agreement in the Office Clerk of the Circuit Court in each of their respective counties. The recorded or filed originals hereof, and any amendments, shall be returned to the Authority for filing in its records.

IN WITNESS WHEREOF, the undersigned parties have executed this Interlocal Agreement on behalf of the referenced legal entities and hereby establish the Northwest Florida Regional Transportation Finance Authority.

Signed, Sealed and Delivered in the presence of:

**BOARD OF COUNTY COMMISSIONERS
FOR ESCAMBIA COUNTY, FLORIDA**

**BOARD OF COUNTY COMMISSIONERS
FOR SANTA ROSA COUNTY, FLORIDA**

BY: _____
TITLE: Chairman

BY: _____
TITLE: Chairman

ATTEST: _____
TITLE: Deputy Clerk

ATTEST: _____
TITLE: Deputy Clerk

(SEAL)

(SEAL)

**BOARD OF COUNTY COMMISSIONERS
FOR OKALOOSA COUNTY, FLORIDA**

**BOARD OF COUNTY COMMISSIONERS
FOR WALTON COUNTY, FLORIDA**

BY: _____
TITLE: Chairman

BY: _____
TITLE: Chairman

ATTEST: _____
TITLE: Deputy Clerk

ATTEST: _____
TITLE: Deputy Clerk

(SEAL)

(SEAL)

Benefits of RTFA for the COUNTY

- **Acceleration of FDOT approved projects**, reducing inflation costs.
- **Counties' efforts "Pool" their FDOT funds for greater financial strength:**
 - **Creditworthy revenue source to pledge for repayment of bonds**
 - **Less risk for payments from each separate Member County**
- **Realistic Regional approach: TPOs have vital importance because they have meaningful resources for funding roads NOW!**
- **Future possible RTFA financings, if requested:**
 - **MARITIME**
 - **AVIATION**
 - **COUNTY or LOCAL, NON-STATE PROJECTS**
 - **TRANSIT**
 - **SIS**
 - **Participating Municipalities**

Member Safeguards in RTFA Structure

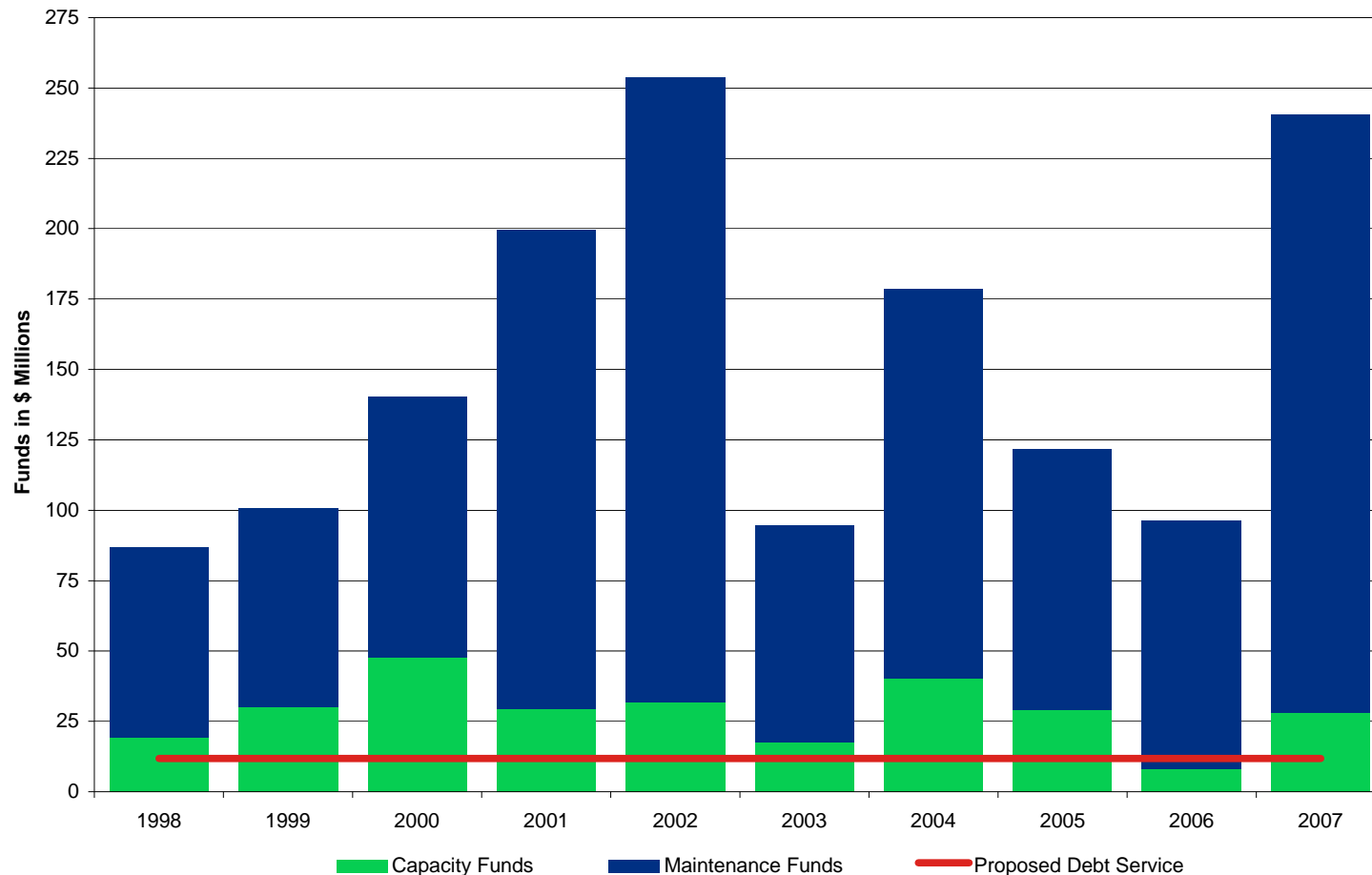
- **Bonds will be paid from FDOT Capacity Funds. New roads, but no new taxes.**
- **Avenues to back-stop payment of the Bonds are to be negotiated with FDOT.**
 - **Surplus capacity funds being held as a reserve**
 - **Deferral of maintenance projects to free-up maintenance moneys**
 - **Payment from funded reserve from FDOT**
 - **Payment from surety bond purchased with bond proceeds**
 - **Re-amortize principal due on the bonds**
 - **Prevail on legislature to appropriate the shortfall**

Member Safeguards in RTFA Structure (2)

- **No Member County will ever be obligated to pay debt service on any bonds unless it decides to go forward with a Funding Agreement for a particular Project of its choosing, and agrees in writing to take responsibility for its share of bonds, if all other backstops fail.**

Aggregate Managed Funds Fluctuate from Year by Year

- RTFA Bonds would be structured to ensure historic capacity funds would be sufficient to cover debt service
- Pledging both Capacity & Maintenance Funds would significantly increase debt service coverage (subject to FDOT approval)



Estimated Bond Proceeds from RTFA Bond Issue

- Assumes:
 - FDOT amends STIP to accelerate construction of projects funded with bond proceeds
 - Forecasted capacity payments from FDOT incorporate year-to-expenditure construction inflation which exceeds debt service borrowing costs

