

MEMORANDUM

January 10, 2014

TO: Honorable Mayor and City Commission

VIA: Kenneth Fields, City Manager

FROM: Clara VanBlargan, City Clerk, MMC

RE: Resolution 2014-01, Supporting TPO Membership Apportionment Plan

SYNOPSIS: The adoption of Resolution 2014-01 endorses the TPO Membership Apportionment Plan and authorizes the Mayor to execute an updated Interlocal Agreement for the creation of the TPO upon approval of the Plan by the Governor.

RECOMMENDATION

The recommendation is for the City Commission to take the following action:

1. Adopt Resolution 2014-01, endorsing the Polk Transportation Planning Organization (TPO) Membership Apportionment Plan for submittal to the Governor for review and approval.
2. Authorize the Mayor to execute a new Interlocal Agreement with the TPO upon the Governor's approval of the plan.

The TPO Plan is based on the 2010 Census and consistent with the Federal and State requirements.

BACKGROUND

The Polk Transportation Planning Organization (TPO) is the lead transportation planning agency for Polk County. It develops transportation plans and programs for Polk County as mandated by federal and state legislation, which are designed to meet our community's short and long-term travel needs. Transportation projects, e.g., road widening projects or bus service expansions, are planned and programmed (federal and state funding) by the TPO in cooperation with the Florida Department of Transportation (FDOT), transportation operators and local governments. Staff support is provided by the Growth Management Department of the Polk County Board of County Commissioners.

The TPO provides a forum for cooperative decision-making regarding countywide transportation issues. It is comprised of a 19-member policy board of local elected officials, staff, and advisory committees. The member governments include the Polk County Board of County Commissioners and the cities of Lakeland, Winter Haven, Auburndale, Bartow, Haines City, Lake Wales, Fort Meade, Mulberry, Frostproof, Lake Alfred, Dundee, Eagle Lake, Davenport, Polk City, and Lake Hamilton. Other public agencies such as the Central Florida Regional Planning Council, and the Florida Department of Community Affairs (DCA), Environmental Protection (DEP), and the Florida Department of Transportation (FDOT), are also represented on its advisory committees.

Following each decennial census, it is required that the TPO submit a new Membership Apportionment Plan that is based on the new census and consistent with the federal and state requirements for review and approval by the Governor. The TPO Board formally approved a plan through the adoption of TPO Resolution 2013-06. The TPO is requesting that each member government adopt a resolution endorsing the Plan and authorizing the Mayor to execute a new Interlocal Agreement for creation of the Polk Transportation Planning Organization upon the approval of the plan by the Governor.

OTHER OPTIONS

The City Commission could choose not to adopt Resolution 2014-01 in support of the new Membership Apportionment Plan and discontinue its membership on the TPO Board. The City would lose vital future representation. The Mayor currently serves as a member to the Board.

FISCAL IMPACT

There is no fiscal impact in adopting the resolution.

ATTACHMENTS

Resolution 2014-01

Polk TPO Membership Apportionment Plan

“Draft” Interlocal Agreement for Creation of the Polk Transportation Planning Organization

TPO request and TPO Resolution 2013-06

RESOLUTION 2014-01

A RESOLUTION OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, ENDORING THE MEMBERSHIP APPORTIONMENT PLAN FOR THE POLK TRANSPORTATION PLANNING ORGANIZATION AND AUTHORIZING THE MAYOR TO EXECUTE AN UPDATED INTERLOCAL AGREEMENT

WHEREAS, Section 134 of Title 23 of the United States Code and Section 339.175 of Florida Statutes requires the designation of metropolitan planning organizations (MPO) in urbanized areas, as defined by the US Bureau of the Census; and

WHEREAS, the Polk Transportation Planning Organization serves as the MPO for the Lakeland and Winter Haven Urbanized Areas and is the agency designated to conduct a continuing, coordinated, and comprehensive transportation planning process; and

WHEREAS, the Governor has requested the Polk Transportation Planning Organization (TPO) to submit a Membership Reapportionment Plan that is based on the 2010 Census and consistent with federal and state requirements; and

WHEREAS, Section 339.175 of the Florida Statutes describes the membership of the MPO, including the authority of the Governor to apportion membership based on agreement with local governments, geographic location and equitable population distribution; and

WHEREAS, the Polk TPO endorsed its current membership structure as the best means to maximize local government participation in the TPO planning process; and

WHEREAS, the Polk TPO has prepared a Membership Apportionment Plan using the results of the 2010 Census, and this Plan demonstrates that the current membership structure continues to apportion voting members on an equitable geographic-population basis; and

WHEREAS, under the MPO designation procedure, member local governments are required to adopt a resolution accepting or rejecting the proposed reapportionment; and

WHEREAS, federal and state laws require the member local governments to enter into an interlocal agreement with the Florida Department of Transportation to create a MPO and delineate provisions for its operation; and

WHEREAS, the current Interlocal Agreement for Creation of the Polk Transportation Planning Organization was executed on August 11, 2004; and

WHEREAS, there will be a need to update this Interlocal Agreement to reflect the new Membership Apportionment Plan based on the 2010 Census and new federal provisions for the MPO planning process.

NOW, THEREFORE, BE IT RESOLVED by the Lake Wales City Commission at its regular meeting on January 21, 2014:

1. That the City of Lake Wales City Commission endorses the TPO Membership Apportionment Plan approved by the TPO Board on October 10, 2013, and as listed below:

JURISDICTION

VOTING MEMBERS

Polk County Board of County Commissioners	Five (5)
City of Lakeland	Six (6)
City of Winter Haven	Two (2)
City of Auburndale	One (1)
City of Bartow	One (1)
City of Haines City	One (1)
City of Lake Wales	One (1)
City of Fort Meade	One (1)*
City of Mulberry	One (1)*
City of Frostproof	One (1)*
City of Lake Alfred	One (1)**
City of Dundee	One (1)**
City of Eagle Lake	One (1)**
City of Davenport	One (1)**
City of Polk City	One (1)**
City of Lake Hamilton	One (1)**

*Alternate Voting Membership – South County Bloc

**Alternate Voting Membership – East Bloc

2. That the City of Lake Wales City Commission authorizes its Mayor to execute the updated Interlocal Agreement for the Creation of the Polk Transportation Planning Organization pending the Governor’s approval of the Membership Apportionment Plan.

 Mayor, City of Lake Wales

 Date

ATTEST:

 City Clerk

 Date

Membership Apportionment Plan

Polk Transportation Planning Organization

October 10, 2013



CURRENT VOTING MEMBERSHIP

The Polk Transportation Planning Organization’s (TPO) current Membership Apportionment Plan was adopted on October 9, 2003. The TPO currently has 19 voting members. These members are apportioned as follows:

Table 1. Current Voting Membership

Local Government	Voting Members
Polk County Board of County Commissioners	5
Lakeland	6
Winter Haven	2
Haines City	1
Bartow	1
Lake Wales	1
Auburndale	1
South County Bloc	
Fort Meade	1
Mulberry	
Frostproof	
East County Bloc	
Lake Alfred	1
Dundee	
Davenport	
Eagle Lake	
Polk City	
Lake Hamilton	

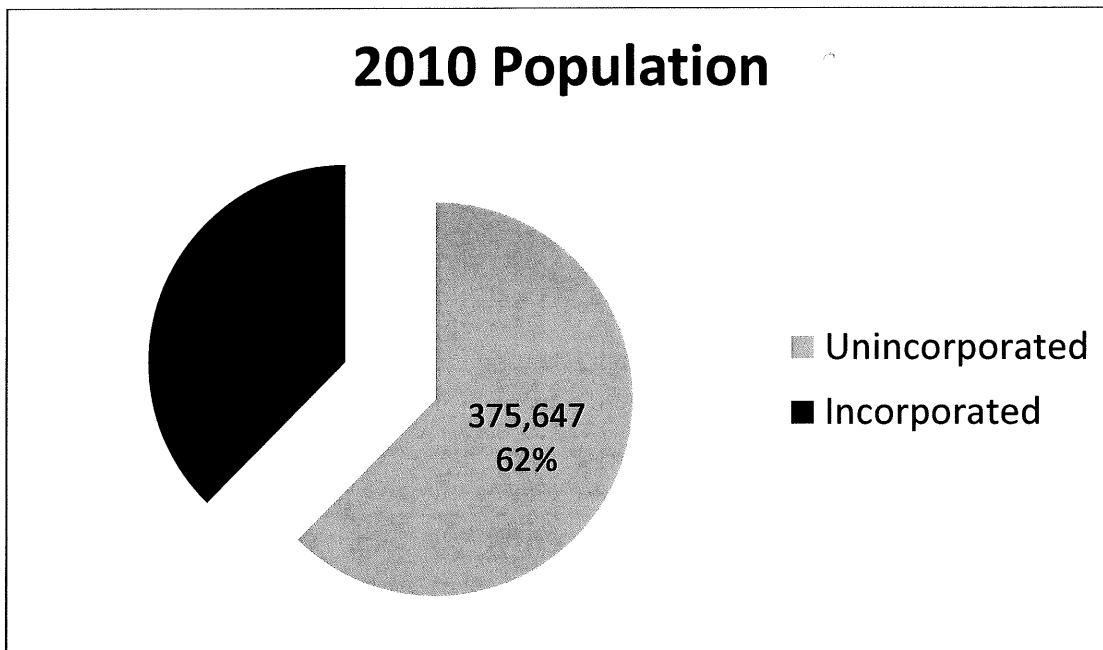
Section 339.175(3)(a), Florida Statutes, allows MPO (or TPO) members who represent municipalities to alternate with representatives from other municipalities within the metropolitan planning area that do not have members on the MPO. To provide more direct representation for smaller municipalities, the current voting membership includes alternate voting memberships for a South County Bloc and an East County Bloc. The cities that comprise these voting blocs share a voting membership on the TPO Board.

This shared voting membership is rotated among the respective cities on an annual basis. In the year that a city has not been assigned the voting membership, its representative may serve as an alternate voting member. Alternate voting members may vote at a TPO Board Meeting when the voting member for the same bloc is not present. Additionally, city representatives serve as non-voting members when their city has not been assigned a voting membership for a particular year. The city representatives within a voting bloc are invited to participate in all TPO Board Meetings as voting, alternate or non-voting members.

Figure 1. depicts the Lakeland and Winter Haven Urbanized Areas as defined by the US Bureau of the Census. The corresponding Metropolitan Statistical Area (MSA) includes all of Polk County. **The Polk TPO has defined its Metropolitan Planning Area to include the entirety of Polk County, the MSA.**

According to the 2010 Census, the total population of Polk County as of April 1, 2010 was 602,095. This total includes 375,647 residents in unincorporated Polk County (62%) and 226,448 persons residing in municipalities (38%).

Figure 2. 2010 Population by Incorporated Area



The Polk County Board of County Commissioners is elected at-large within Polk County, and County Commissioners, therefore, are considered to be representatives of the entire county as they serve on the TPO Board. It is appropriate for all 5 County Commissioners to serve as voting members since almost two-thirds of the county's residents live in unincorporated areas. Moreover, Florida Statutes do not allow county commission members to comprise less than one-third of the MPO membership unless there are more than 15 members (and all county commissioners are members).

Municipal Representation

There are 17 municipalities in Polk County. Table 2. identifies the year 2010 population for these municipalities and identifies those cities currently represented on the TPO Board. The cities shaded in blue are a part of the Lakeland Urbanized Area, while those shaded in red are in the Winter Haven Urbanized Area. As part of the 2010 Census, the City of Bartow was added to the Lakeland Urbanized Area.

Table 2. Year 2010 Municipal Population and Representation

Municipality	2010 Population	Percent	TPO Member
Lakeland	97,419	43.0%	Yes
Winter Haven	33,874	15.0%	Yes
Haines City	20,552	9.1%	Yes
Bartow	17,298	7.6%	Yes
Lake Wales	14,225	6.3%	Yes
Auburndale	13,507	6.0%	Yes
Fort Meade	5,626	2.5%	Yes
Lake Alfred	5,015	2.2%	Yes
Mulberry	3,817	1.7%	Yes
Dundee	3,717	1.6%	Yes
Frostproof	2,992	1.3%	Yes
Davenport	2,888	1.3%	Yes
Eagle Lake	2,255	1.0%	Yes
Polk City	1,562	0.7%	Yes
Lake Hamilton	1,231	0.5%	Yes
Subtotal	225,964	99.8%	

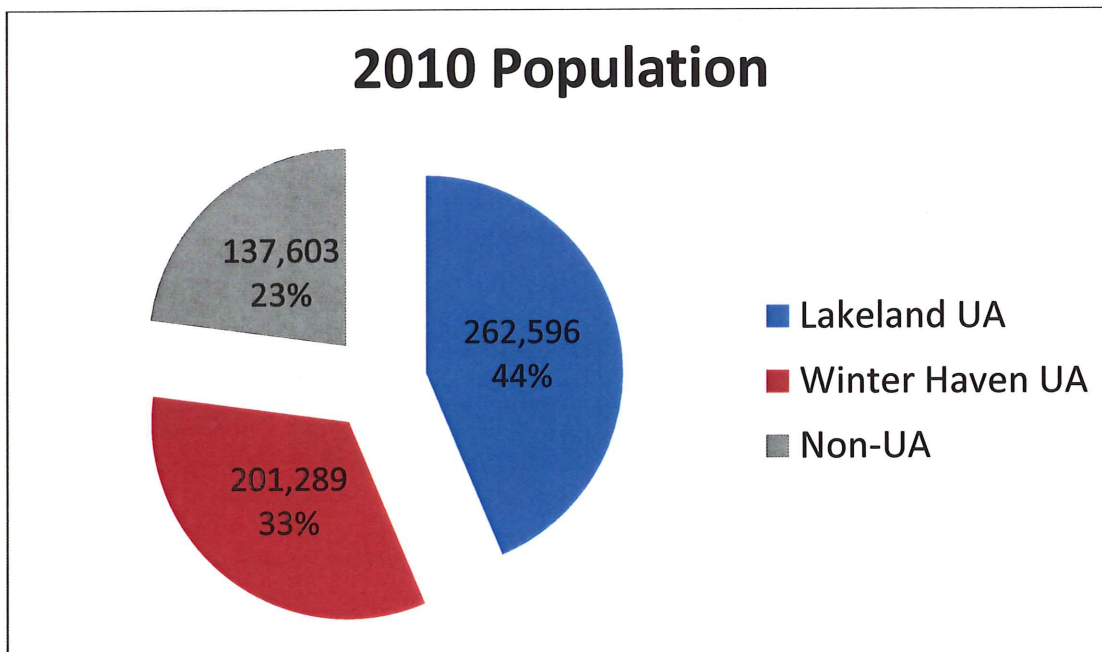
Hillcrest Heights	254	0.1%	No
Highland Park	230	0.1%	No
Subtotal	484	0.2%	
Total	226,448	100%	

With the exception of Hillcrest Heights and Highland Park, the Polk TPO includes all of the municipalities as member jurisdictions. These cities represent almost 100% of the total municipal population in Polk County.

Urbanized Area Population

With the 2010 Census, the urbanized areas comprised over 75% of the total population for Polk County with Lakeland Urbanized Area accounting for 44% and the Winter Haven Urbanized Area, 33%.

Figure 3. Population by Urbanized Area (UA)



PROPOSED VOTING MEMBERSHIP

The proposed voting membership retains the current total of 19 voting members and reflects the current membership plan or status quo. The proposed membership and population per member is listed by jurisdiction in Table 3.

Table 3. Proposed Voting Membership Based on 2010 Census

Local Government	Members	2010 Municipal Population	Population Per Member
Board of County Commissioners	5	N/A	N/A
Lakeland	6	97,419	16,237
Winter Haven	2	33,874	16,937
Haines City	1	20,552	20,552
Bartow	1	17,298	17,298
Lake Wales	1	14,225	14,225
Auburndale	1	13,507	13,507
South County Bloc			
Fort Meade	1	12,435	12,435
Mulberry			
Frostproof			
East County Bloc			
Lake Alfred	1	16,668	16,668
Dundee			
Davenport			
Eagle Lake			
Polk City			
Lake Hamilton			
Average Population Per Member			16,489

This table demonstrates that the current membership structure continues to apportion members on an equitable geographic-population basis.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**INTERLOCAL AGREEMENT FOR CREATION OF THE
POLK TRANSPORTATION PLANNING ORGANIZATION**

THIS INTERLOCAL AGREEMENT for the formation of a Metropolitan Planning Organization is made and entered into on this [insert day of month] day of [insert month and year], by and between the FLORIDA DEPARTMENT OF TRANSPORTATION; POLK COUNTY; CITY OF AUBURNDALE, CITY OF BARTOW, CITY OF DAVENPORT, TOWN OF DUNDEE, CITY OF EAGLE LAKE, CITY OF FORT MEADE, CITY OF FROSTPROOF, CITY OF HAINES CITY, CITY OF LAKE ALFRED, TOWN OF LAKE HAMILTON, CITY OF LAKELAND, CITY OF LAKE WALES, CITY OF MULBERRY, TOWN OF POLK CITY, and the CITY OF WINTER HAVEN, collectively known as “the parties.”

RECITALS

WHEREAS, the federal government, under the authority of Title 23 United States Code (USC) §134 and Title 49 USC §5303, requires each metropolitan area, as a condition for the receipt of federal capital or operating assistance, to have a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs consistent with the comprehensively planned development of the metropolitan area;

WHEREAS, the parties to this Interlocal Agreement desire to participate cooperatively in the performance, on a continuing basis, of a coordinated, comprehensive transportation planning process to assure that highway facilities, mass transit systems, bicycle and pedestrian facilities, rail systems, air transportation and other facilities will be properly located and developed in relation to the overall plan of community development;

WHEREAS, Title 23 USC §134 and Title 49 USC §§5303-5305, as amended by the Moving Ahead for Progress in the 21st Century Act (MAP-21) and Section 339.175, Florida Statutes (F.S.), provide for the creation of Metropolitan Planning Organizations to develop transportation plans and programs for urbanized areas;

WHEREAS, pursuant to Titles 23 USC §134(d), 49 USC §5303, 23 CFR §450.310(b), and Section 339.175(2), F.S., a determination has been made by the Governor and units of general purpose local government representing at least 75 percent of the affected population (including the largest incorporated city, based on population as named by the Bureau of Census) in the urbanized area to designate a Metropolitan Planning Organization;

WHEREAS, pursuant to this Interlocal Agreement, the parties wish to collectively participate in the metropolitan planning process as the Polk Transportation Planning Organization serving as the metropolitan planning organization for the Lakeland and Winter Haven Urbanized Areas, herein after referred to as “the Transportation Planning Organization” or “the TPO”. Further, the parties approved by unanimous vote an apportionment and boundary plan for presentation to the Governor on the 12th day of December 2013;

WHEREAS, pursuant to Section 339.175(4), F.S., the Governor, by letter dated the [insert day of month] day of [insert month and year], approved the apportionment and boundary plan submitted by the MPO;

WHEREAS, pursuant to Title 23 CFR §450.314(a), and Section 339.175(10), F.S., an agreement must be entered into by the Department, the TPO, and the governmental entities and public transportation operators to identify the responsibility of each party for cooperatively carrying out a comprehensive transportation planning process;

WHEREAS, this Interlocal Agreement is required to create the Polk Transportation Planning Organization and delineate the provisions for operation of the TPO;

WHEREAS, the undersigned parties have determined that this Interlocal Agreement is consistent with Section 339.175(10), F.S.;

WHEREAS, the undersigned parties have determined that this Interlocal Agreement is consistent with statutory requirements set forth in Section 163.01, F.S., relating to Interlocal Agreements; and

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

ARTICLE 1 RECITALS; DEFINITIONS

Section 1.01. Recitals. Each and all of the foregoing recitals are incorporated herein and acknowledged to be true and correct to the best of the parties' knowledge. Failure of any of the foregoing recitals to be true and correct shall not operate to invalidate this Interlocal Agreement.

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

Interlocal Agreement means and refers to this instrument, as may be amended from time to time.

Department means and refers to the Florida Department of Transportation, an agency of the State of Florida created pursuant to Section 20.23, F.S.

FHWA means and refers to the Federal Highway Administration.

FTA means and refers to the Federal Transit Administration.

Long Range Transportation Plan (LRTP) is the 20-year transportation planning horizon which includes transportation facilities; identifies a financial plan that demonstrates how the plan can be implemented and assesses capital improvements necessary to preserve the existing metropolitan transportation system and make efficient use of existing transportation facilities; indicates proposed transportation activities; and in ozone/carbon monoxide nonattainment areas is coordinated with the State Implementation Plan, all as required by Title 23 USC §134(c), Title 49 USC §5303, Title 23 CFR §450.322, and Section 339.175(7), F.S.

Metropolitan Planning Area means and refers to the planning area determined by agreement between the MPO and the Governor for the urbanized area containing at least a population of 50,000 as described in Title 23 USC §134(b)(1), Title 49 USC §5303, and Section 339.175(2)(c) and (d), F.S., and including the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period, which shall be subject to the Metropolitan Planning Organization's planning authority.

TPO means and refers to the Polk Transportation Planning Organization formed pursuant to this Interlocal Agreement as described in 23 USC §134(b)(2), 49 USC §5303, and Section 339.175(1), F.S.

Transportation Improvement Program (TIP) is the staged multi-year program of transportation improvement projects developed by a Metropolitan Planning Organization consistent with the Long Range Transportation Plan, developed pursuant to 23 USC §134(j), 49 USC §5303, 23 CFR §450.324 and Section 339.175(8), F.S.

Unified Planning Work Program (UPWP) is the biennial program developed in cooperation with the Department and public transportation providers, that identifies the planning priorities and activities to be carried out within a metropolitan planning area to be undertaken during a 2-year period, together with a complete description thereof and an estimated budget, all as required by 23 CFR §450.308, and Section 339.175(9), F.S.

ARTICLE 2 PURPOSE

Section 2.01. General Purpose. The purpose of this Interlocal Agreement is to establish the TPO and recognize the boundary and apportionment approved by the Governor. This Interlocal Agreement shall serve:

- (a) To assist in the development of transportation systems embracing various modes of transportation in a manner that will maximize the mobility of people and goods within and through this metropolitan planning area and minimize, to the maximum extent feasible for transportation-related fuel consumption and air pollution;
- (b) To develop transportation plans and programs, in cooperation with the Department, which plans and programs provide for the development of transportation facilities that will function as a multi-modal and intermodal transportation system for the metropolitan planning area;
- (c) To implement and ensure a continuing, cooperative, and comprehensive transportation planning process that results in coordinated plans and programs consistent with the comprehensively planned development of this affected metropolitan planning area in cooperation with the Department;
- (d) To assure eligibility for the receipt of federal capital and operating assistance pursuant to Title 23 USC §134 and Title 49 USC §§5303, 5304, 5305, 5307, 5309, 5310, 5311, 5314, 5326, 5337 and 5339, 5340; and
- (e) To carry out the metropolitan transportation planning process, in cooperation with the Department, as required by federal, state and local laws.

Section 2.02. Major TPO Responsibilities. The TPO is intended to be a forum for cooperative decision making by officials of the governmental entities which are parties to this Interlocal Agreement in the development of transportation-related plans and programs, including but not limited to:

- (a) The LRTP;
- (b) The TIP;
- (c) The UPWP;

- (d) Incorporating performance goals, measures, and targets into the process of identifying and selecting needed transportation improvements and projects;
- (e) A congestion management process for the metropolitan area and coordinated development of all other transportation management systems required by state or federal law;
- (f) Assisting the Department in mapping transportation planning boundaries required by state or federal law;
- (g) Supporting the Department in performing its duties relating to access management, functional classification of roads, and data collection; and
- (h) Performing such other tasks required by state or federal law.

Section 2.03. Coordination with the Department and Consistency with Comprehensive Plans. Chapter 334, F.S., grants broad authority for the Department's role in transportation. Section 334.044, F.S., includes the legislative intent declaring that the Department shall be responsible for coordinating the planning of a safe, viable, and balanced state transportation system serving all regions of the State. Section 339.155, F.S., requires the Department to develop a statewide transportation plan, which considers, to the maximum extent feasible, strategic regional policy plans, TPO plans, and approved local government comprehensive plans. Section 339.175(5), F.S., specifies the authority and responsibility of the TPO and the Department to manage a continuing, cooperative, and comprehensive transportation planning process for the metropolitan area.

In fulfillment of this purpose and in the exercise of the various powers granted by Chapters 334 and 339, F.S., the parties to this Interlocal Agreement acknowledge that decisions made by the TPO will be coordinated with the Department. All parties to this Interlocal Agreement acknowledge that actions taken pursuant to this Interlocal Agreement will be consistent with local government comprehensive plans.

ARTICLE 3 TPO ORGANIZATION AND CREATION

Section 3.01. Establishment of TPO. The TPO for the metropolitan planning area as described in the membership apportionment plan approved by the Governor is hereby created and established pursuant to this Interlocal Agreement to carry out the purposes and functions set forth in Articles 2 and 5. The legal name of this Metropolitan Planning Organization shall be the Polk Transportation Planning Organization.

Section 3.02. TPO to operate pursuant to law. In the event that any election, referendum, approval, permit, notice, other proceeding or authorization is required under applicable law to undertake any power, duty, or responsibility hereunder, or to observe, assume, or carry out any of the provisions of this Interlocal Agreement, the TPO will, to the extent of its legal capacity, comply with all applicable laws and requirements.

Section 3.03. Governing board to act as policy-making body of TPO. The governing board established pursuant to Section 4.01 of this Interlocal Agreement shall act as the policy-making body for the TPO, and will be responsible for coordinating the cooperative decision-making process of the TPO's actions, and will take required actions as the TPO.

Section 3.04. Data, reports, records, and other documents. Subject to the right to claim an exemption from the Florida Public Records Law, Chapter 119, F.S., the parties shall provide to each other such data, reports, records, contracts, and other documents in its possession relating to the TPO as is requested. Charges are to be in accordance with Chapter 119, F.S.

Section 3.05. Rights of review. All parties to this Interlocal Agreement and the affected federal funding agencies (e.g., FHWA, FTA, and FAA) shall have the rights of technical review and comment on MPO's projects.

**ARTICLE 4
 COMPOSITION; MEMBERSHIP; TERMS OF OFFICE**

Section 4.01. Composition and membership of governing board.

- (a) The membership of the MPO shall consist of nineteen (19) voting members and eight (8) non-voting advisors. The names of the member local governmental entities and the voting apportionment of the governing board as approved by the Governor shall be as follows:

<u>JURISDICTION</u>	<u>VOTING MEMBERS</u>
Polk County Board of County Commissioners	Five (5)
City of Lakeland	Six (6)
City of Winter Haven	Two (2)
City of Auburndale	One (1)
City of Bartow	One (1)
City of Haines City	One (1)
City of Lake Wales	One (1)
City of Fort Meade	One (1)*
City of Mulberry	One (1)*
City of Frostproof	One (1)*
City of Lake Alfred	One (1)**
Town of Dundee	One (1)**
City of Eagle Lake	One (1)**
City of Davenport	One (1)**
Town of Polk City	One (1)**
Town of Lake Hamilton	One (1)**

* Alternate Voting Membership – South County Bloc

** Alternate Voting Membership – East County Bloc

The Florida Department of Transportation shall have one (1) non-voting advisor on the TPO.

- (b) All voting representatives shall be elected officials of general purpose local governments, except to the extent that the TPO includes, as part of its apportioned voting membership, a member of a statutorily authorized planning board or an official of an agency that operates or administers a

major mode of transportation. All individuals acting as a representative of the governing board of the county, the city, or authority shall first be selected by said governing board.

- (c) The voting membership of an M.P.O. shall consist of not fewer than 5 or more than 19 apportioned members, the exact number to be determined on an equitable geographic-population ratio basis by the Governor, based on an agreement among the affected units of general-purpose local government as required by federal rules and regulations and shall be in compliance with 339.175(3) F.S.
- (d) In the event that a governmental entity that is a member of the TPO fails to fill an assigned appointment to the TPO within sixty days after notification by the Governor of its duty to appoint a representative, the appointment shall then be made by the Governor from the eligible individuals of that governmental entity.

Section 4.02. Terms. The term of office of members of the TPO shall be four years. The membership of a member who is a public official automatically terminates upon said official leaving the elective or appointive office for any reason, or may be terminated by a majority vote of the total membership of the governmental entity represented by the member. A vacancy shall be filled by the original appointing entity. A member may be appointed for one or more additional four year terms.

ARTICLE 5 AUTHORITIES, POWERS, DUTIES AND RESPONSIBILITIES

Section 5.01. General authority. The TPO shall have all authorities, powers and duties, enjoy all rights, privileges, and immunities, exercise all responsibilities and perform all obligations necessary or appropriate to managing a continuing, cooperative, and comprehensive transportation planning process as specified in Section 339.175(5) and (6), F.S.

Section 5.02. Specific authority and powers. The TPO shall have the following powers and authority:

- (a) As provided in Section 339.175(6)(g), F.S., the TPO may employ personnel and/or may enter into contracts with local or state agencies and private planning or engineering firms to utilize the staff resources of local and/or state agencies;
- (b) As provided in Section 163.01(14), F.S., the TPO may enter into contracts for the performance of service functions of public agencies;
- (c) As provided in Section 163.01(5)(j), F.S., the TPO may acquire, own, operate, maintain, sell, or lease real and personal property;
- (d) As provided in Section 163.01(5)(m), F.S., the TPO may accept funds, grants, assistance, gifts or bequests from local, state, and federal resources;
- (e) The TPO may promulgate rules to effectuate its powers, responsibilities, and obligations enumerated herein; provided, that said rules do not supersede or conflict with applicable local and state laws, rules and regulations; and

- (f) The TPO shall have such powers and authority as specifically provided in Section 163.01 and Section 339.175(5) and (6), F.S., and as may otherwise be provided by federal or state law.

Section 5.03. Duties and responsibilities. In addition to those duties and responsibilities set forth in Article 2, the TPO shall have the following duties and responsibilities:

- (a) As provided in Section 339.175(6)(d), F.S., the TPO shall create and appoint a technical advisory committee;
- (b) As provided in Section 339.175(6)(e), F.S., the TPO shall create and appoint a citizens' advisory committee;
- (c) As provided in Section 163.01(5)(o), F.S., the TPO membership shall be jointly and severally liable for liabilities, and the TPO may respond to such liabilities through the purchase of insurance or bonds, the retention of legal counsel, and, as appropriate, the approval of settlements of claims by its governing board;
- (d) As provided in Section 339.175(9), F.S., the TPO shall establish an estimated budget which shall operate on a fiscal year basis consistent with any requirements of the UPWP;
- (e) The TPO, in cooperation with the Department, shall carry out the metropolitan transportation planning process as required by Title 23 CFR Parts 420 and 450, and Title 49 CFR Part 613, Subpart A, and consistent with Chapter 339, F.S., and other applicable state and local laws;
- (f) As provided in Section 339.175(10)(a), F.S., the TPO shall enter into agreements with the Department, operators of public transportation systems and the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan area. These agreements will prescribe the cooperative manner in which the transportation planning process will be coordinated and included in the comprehensively planned development of the area;
- (g) Perform such other tasks presently or hereafter required by state or federal law;
- (h) Execute certifications and agreements necessary to comply with state or federal law; and
- (i) Adopt operating rules and procedures.

ARTICLE 6 FUNDING; INVENTORY REPORT; RECORD-KEEPING

Section 6.01. Funding. The Department shall allocate to the TPO for performance of its transportation planning and programming duties, an appropriate amount of federal transportation planning funds consistent with the approved planning funds formula.

Section 6.02. Inventory report. The TPO agrees to inventory, to maintain records of and to insure proper use, control, and disposal of all nonexpendable tangible property acquired pursuant to funding under this Interlocal Agreement. This shall be done in accordance with the requirements of Title 23 CFR Part 420, Subpart A, Title 49 CFR Part 18, Subpart C, and all other applicable federal regulations.

Section 6.03. Record-keeping and document retention. The Department and the ~~TMPO~~ shall prepare and retain all records in accordance with federal and state requirements, including but not limited to 23 CFR Part 420, Subpart A, 49 CFR Part 18, Subpart C, 49 CFR §18.42, and Chapter 119, F.S.

Section 6.04 Compliance with laws. All parties shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the parties in conjunction with this Agreement. Specifically, if a party is acting on behalf of a public agency the party shall:

- (a) Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the services being performed by the party.
- (b) Provide the public with access to public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- (d) Meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the party upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

ARTICLE 7 MISCELLANEOUS PROVISIONS

Section 7.01. Constitutional or statutory duties and responsibilities of parties. This Interlocal Agreement shall not be construed to authorize the delegation of the constitutional or statutory duties of any of the parties. In addition, this Interlocal 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 Interlocal Agreement or any legal or administrative entity created or authorized by this Interlocal Agreement, in which case this performance may be offered in satisfaction of the obligation or responsibility.

Section 7.02. Amendment of Interlocal Agreement. Amendments or modifications of this Interlocal Agreement may only be made by written agreement signed by all parties here to with the same formalities as the original Interlocal Agreement. No amendment may alter the apportionment or jurisdictional boundaries of the ~~MPO-TPO~~ without approval by the Governor.

Section 7.03. Duration; withdrawal procedure.

- (a) Duration. This Interlocal Agreement shall remain in effect until terminated by the parties to this Interlocal Agreement. The Interlocal Agreement shall be reviewed by the parties at least every five years, concurrent with the decennial census, and/or concurrent with a new Federal Reauthorization bill, and updated as necessary.
- (b) Withdrawal procedure. Any party, except Polk County and the United States Bureau of the Census designated largest incorporated city, may withdraw from this Interlocal Agreement after

presenting in written form a notice of intent to withdraw to the other parties to this Interlocal Agreement and the MPO, at least 90 days prior to the intended date of withdrawal. Upon receipt of the intended notice of withdrawal:

(1) The withdrawing member and the TPO shall execute a memorandum reflecting the withdrawal of the member and alteration of the list of member governments that are signatories to this Interlocal 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; and

(2) The TPO shall contact The Office of the Governor and the Governor, with the agreement of the remaining members of the TPO, shall determine whether any reapportionment of the membership is appropriate. The Governor and the TPO shall review the previous TPO designation, applicable federal, state and local law, and TPO rules for appropriate revision. In the event that another entity is to be afforded membership in the place of the member withdrawing from the TPO, the parties acknowledge that pursuant to Title 23 CFR §450.310(l)(2), adding membership to the TPO does not automatically require redesignation of the TPO. In the event that a party who is not a signatory to this Interlocal Agreement is afforded membership in the TPO, membership shall not become effective until this Interlocal Agreement is amended to reflect that the new member has joined the TPO.

Section 7.04. Notices. All notices, demands and correspondence required or provided for under this Interlocal 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 set forth in Exhibit “A” attached hereto and made a part thereof.

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 7.05. Interpretation.

- (a) Drafters of the Interlocal Agreement. The Department and the members of the TPO were each represented by or afforded the opportunity for representation by legal counsel and participated in the drafting of this Interlocal Agreement and in choice of wording. Consequently, no provision should be more strongly construed against any party as drafter of this Interlocal Agreement.
- (b) Severability. Invalidation of any one of the provisions of this Interlocal Agreement or any part, clause or word, or the application thereof in specific circumstances, by judgment, 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.
- (c) Rules of construction. In interpreting this Interlocal Agreement, the following rules of construction shall apply unless the context indicates otherwise:
 - (1) The singular of any word or term includes the plural;
 - (2) The masculine gender includes the feminine gender; and

(3) The word “shall” is mandatory, and “may” is permissive.

Section 7.06. Enforcement by parties hereto. In the event of any judicial or administrative action to enforce or interpret this Interlocal Agreement by any party hereto, each party shall bear its own costs and attorney’s fees in connection with such proceeding.

Section 7.07. Interlocal Agreement execution; Use of counterpart signature pages. This Interlocal 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 7.08. Effective date; Cost of recordation.

- (a) Effective date. This Interlocal Agreement shall become effective upon its filing in the Office of the Clerk of the Circuit Court of each county in which a party hereto is located. Any amendment hereto shall become effective only upon its filing in the Office of the Clerk of the Circuit Court for each county in which a party hereto is located.
- (b) Recordation. The TPO hereby agrees to pay for any costs of recordation or filing of this Interlocal Agreement in the Office of the Circuit Court for each county in which a party is hereto located. The recorded or filed original, or any amendment, shall be returned to the TPO 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 above designated TPO.

Signed, Sealed and Delivered in the presence of:

**BOARD OF COUNTY COMMISSIONERS
OF POLK COUNTY, FLORIDA**

BY: _____

ATTEST: _____

CITY OF LAKELAND

BY: _____

ATTEST: _____

ATTEST: _____

CITY OF WINTER HAVEN

BY: _____

ATTEST: _____

CITY OF AUBURNDALE

BY: _____

ATTEST: _____

CITY OF BARTOW

BY: _____

ATTEST: _____

CITY OF LAKE WALES

BY: _____

ATTEST: _____

CITY OF MULBERRY

BY: _____

ATTEST: _____

CITY OF LAKE ALFRED

BY: _____

ATTEST: _____

CITY OF EAGLE LAKE

BY: _____

ATTEST: _____

TOWN OF POLK CITY

BY: _____

ATTEST: _____

**FLORIDA DEPARTMENT OF
TRANSPORTATION**

BY: _____

ATTEST: _____

LEGAL REVIEW:

DISTRICT GENERAL COUNSEL

CITY OF HAINES CITY

BY: _____

ATTEST: _____

CITY OF FORT MEADE

BY: _____

ATTEST: _____

CITY OF FROSTPROOF

BY: _____

ATTEST: _____

TOWN OF DUNDEE

BY: _____

ATTEST: _____

CITY OF DAVENPORT

BY: _____

ATTEST: _____

TOWN OF LAKE HAMILTON

BY: _____

ATTEST: _____

EXHIBIT "A"
NOTICES

This exhibit forms an integral part of that certain Interlocal Agreement between the State of Florida,
Department of Transportation and:

Polk County Board of
County Commissioners
Drawer BC01, P.O. Box 9005
Bartow, FL 33831-9005

Polk Transportation Planning Organization
Drawer TS05
P.O. Box 9005
Bartow, FL 33831-9005

City of Lakeland
228 South Massachusetts Avenue
Lakeland, FL 33801-5086

City of Frostproof
P.O. Box 308
Frostproof, FL 33843

City of Winter Haven
P.O. Box 2277
Winter Haven, FL 33883-2277

City of Lake Alfred
120 East Pomelo Street
Lake Alfred, FL 33850

City of Auburndale
P.O. Box 186
Auburndale, FL 33823

Town of Dundee
P.O. Box 1000
Dundee, FL 33838

City of Bartow
P.O. Box 1069
Bartow, FL 33831-1069

City of Eagle Lake
P.O. Box 129
Eagle Lake, FL 33839

City of Haines City
P.O. Box 1507
Haines City, FL 33845

City of Davenport
P.O. Box 125
Davenport, FL 33836

City of Lake Wales
P.O. Box 1320
Lake Wales, FL 33859

Town of Polk City
P.O. Box 1139
Polk City, FL 33868-1139

City of Fort Meade
P.O. Box 856
Fort Meade, FL 33841

Town of Lake Hamilton
P.O. Box 126
Lake Hamilton, FL 33851

City of Mulberry
P.O. Box 707
Mulberry, FL 33860-0707



RECEIVED
JAN 10 2014
BY: KK

January 2, 2014

Mayor Eugene Fultz
City of Lake Wales
P.O. Box 1320
Lake Wales, FL 33859

RE: TPO Membership Apportionment Plan

Dear Mayor Eugene Fultz,

The Governor has requested the Polk Transportation Planning Organization (TPO) submit a Membership Apportionment Plan based on the 2010 Census. Through its adoption of TPO Resolution 2013-06, the TPO Board formally approved a TPO Membership Apportionment Plan for submission to the Governor. This plan is consistent with the current membership structure and maintains the status quo. Copies of the resolution and membership plan are enclosed for your review.

Following each decennial census, the member local governments must re-designate the TPO. There are four steps to this re-designation process as follows:

1. The Polk TPO prepares a Membership Apportionment Plan consistent with federal and state requirements;
2. The member local governments endorse the Membership Plan;
3. The Plan is submitted to the Governor's Office for review and approval; and
4. The member local governments execute an updated Interlocal Agreement for the Creation of the Polk Transportation Planning Organization.

At this time, we respectfully request the City of Auburndale to adopt a resolution in support of the TPO Membership Apportionment Plan. The TPO staff has prepared a sample resolution for your use. This resolution endorses the membership plan and authorizes the mayor's execution of the new interlocal agreement upon the Governor's approval of said plan. Copies of the sample resolution and the draft interlocal agreement are enclosed as well.

We appreciate your attention to this matter. If you have any related questions, feel free to contact me directly at 863.534.6454 or tomdeardorff@polk-county.net.

Sincerely,

Tom Deardorff
TPO Director

CC: City Manager

RESOLUTION 2013-06

**RESOLUTION OF THE POLK TRANSPORTATION PLANNING ORGANIZATION APPROVING
THE TPO MEMBERSHIP APPORTIONMENT PLAN FOR SUBMITTAL TO MEMBER
JURISDICTIONS AND THE GOVERNOR'S OFFICE**

WHEREAS, Section 134 of Title 23 of the United States Code and Section 339.175 of Florida Statutes requires the designation of metropolitan planning organizations (MPO) in urbanized areas, as defined by the US Bureau of the Census; and

WHEREAS, the Polk Transportation Planning Organization serves as the MPO for the Lakeland and Winter Haven Urbanized Areas and is the agency designated to conduct a continuing, coordinated, and comprehensive transportation planning process; and

WHEREAS, the Governor has requested the Polk Transportation Planning Organization (TPO) to submit a Membership Reapportionment Plan that is based on the 2010 Census and consistent with federal and state requirements; and

WHEREAS, Section 339.175 of the Florida Statutes describes the membership of the MPO, including the authority of the Governor to apportion membership based on agreement with local governments, geographic location and equitable population distribution; and

WHEREAS, the Polk TPO endorsed its current membership structure as the best means to maximize local government participation in the TPO planning process; and

WHEREAS, the Polk TPO has prepared a Membership Apportionment Plan using the results of the 2010 Census, and this Plan demonstrates that the current membership structure continues to apportion voting members on an equitable geographic-population basis; and

WHEREAS, under the MPO designation procedure, member local governments are required to adopt a resolution accepting or rejecting the proposed reapportionment; and

WHEREAS, federal and state laws require the member local governments to enter into an interlocal agreement with the Florida Department of Transportation to create a MPO and delineate provisions for its operation; and

WHEREAS, the current Interlocal Agreement for Creation of the Polk Transportation Planning Organization was executed on August 11, 2004; and

WHEREAS, there will be a need to update this Interlocal Agreement to reflect the new Membership Apportionment Plan based on the 2010 Census and new federal provisions for the MPO planning process.

NOW, THEREFORE, BE IT RESOLVED by the Polk Transportation Planning Organization at its regular meeting convened on December 12, 2013:

1. That the TPO Membership Apportionment Plan, to be based on the membership structure listed below, is approved for submittal to member jurisdictions and to the Governor's Office.

<u>JURISDICTION</u>	<u>VOTING MEMBERS</u>
Polk County Board of County Commissioners	Five (5)
City of Lakeland	Six (6)
City of Winter Haven	Two (2)
City of Auburndale	One (1)
City of Bartow	One (1)
City of Haines City	One (1)
City of Lake Wales	One (1)
City of Fort Meade	One (1)*
City of Mulberry	One (1)*
City of Frostproof	One (1)*
City of Lake Alfred	One (1)**
City of Dundee	One (1)**
City of Eagle Lake	One (1)**
City of Davenport	One (1)**
City of Polk City	One (1)**
City of Lake Hamilton	One (1)**

*Alternate Voting Membership – South County Bloc

**Alternate Voting Membership – East County Bloc

2. That the TPO Executive Director is authorized to submit the required supporting documentation for the TPO Membership Apportionment Plan.
3. That the TPO Executive Director is directed to seek local government support of the Membership Apportionment Plan and authorization for the appropriate local government representatives to execute the updated Interlocal Agreement for the Creation of the Polk Transportation Planning Organization pending the Governor's approval of the Membership Apportionment Plan.

Signed:



Commissioner Roy Tyler, Chairman
Polk Transportation Planning Organization

December 12, 2013

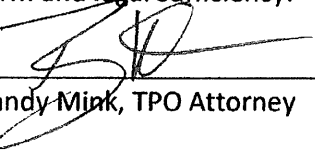
Date

ATTEST:



Thomas M. Deardorff, AICP, TPO Director

Approved by the TPO Attorney as to
form and legal sufficiency:



Randy Mink, TPO Attorney