

RESOLUTION NO. 23-141

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF A TRANSFER AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF PANAMA CITY BEACH, FOR A PORTION OF STATE ROAD (SR) 30 (FRONT BEACH ROAD SEGMENT 4.1).

WHEREAS, the City has requested the transfer of State Road (SR) 30 (Front Beach Road) (Roadway ID 46010000) from 442' East of Lullwater Drive (Beginning Mile Post 7.856) to 350' East of Hills Road (Ending Mile Post 9.178) for an approximate net length of 1.322 miles (the "Roadway Segment") from the State Highway System to the City Street System, and this transfer is mutually agreed upon, between the City and the Department; and

WHEREAS, the City desires to accept the transfer of the Roadway Segment from the State Highway System to the City Street System.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Panama City Beach, that the appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Roadway Transfer Agreement between the City and the Florida Department of Transportation (FDOT), relating to the FDOT's transfer of the Roadway Segment to the City, in substantially the form **attached** and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 23rd day of March, 2023.

CITY OF PANAMA CITY BEACH

By: 
Mark Sheldon, Mayor

ATTEST:


Lynne Fasone, City Clerk

Florida Department of Transportation/City of Panama City Beach

ROADWAY TRANSFER AGREEMENT

State Road 30 Front Beach Road Segment 4.1

State Highway System to the City Street System

THIS AGREEMENT, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter called the "DEPARTMENT," and the CITY OF PANAMA CITY BEACH, hereinafter called the "CITY." The DEPARTMENT and the CITY are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

WITNESSETH

WHEREAS, the CITY has requested the transfer of State Road (SR) 30 (Front Beach Road) (Roadway ID 46010000) from 442' East of Lullwater Drive (Beginning Mile Post 7.856) to 350' East of Hills Road (Ending Mile Post 9.178) for an approximate net length of 1.322 miles (the "Road Segment") from the State Highway System to the City Street System, and as depicted on the map attached hereto as Exhibit "A", and this transfer is mutually agreed upon between the CITY and the DEPARTMENT, and

WHEREAS, 23 U.S.C. 116 requires that a maintenance agreement be entered into between the DEPARTMENT and the CITY if the right-of-way to be transferred to the CITY contains a project constructed using federal funds. If applicable, this requirement is satisfied by execution of this Agreement, and

WHEREAS, section 335.0415, Florida Statutes, authorizes the Parties to enter this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the CITY and DEPARTMENT agree as set forth below:

1. The Recitals set forth in the Whereas clause above are true and are by reference made a part of this Transfer Agreement.
2. This Transfer Agreement sets forth the terms and conditions under which the CITY and the DEPARTMENT will abide.
3. By resolution, attached hereto as Exhibit "B", the CITY has authorized its representative to enter this Transfer Agreement.

4. This Agreement and transfer of the Roadway are subject to final written approval by the Secretary of the Department, which date shall serve as the effective date of this Agreement. The commencement of jurisdictional and maintenance responsibilities is the date of approval of the roadway transfer by the Secretary of the Department.

5. With respect to the Road Segment:
 - (a) The CITY accepts all responsibility for the right of way and for operation and maintenance of the roadway. In addition to the roadbed, this Agreement includes all curbs, culverts, mast arms (including 46M011 and 46M010) and drainage structures within the right of way at the time of transfer.
 - (b) The CITY shall be responsible for maintenance of the right of way and of public sidewalks, bike paths, and other ways in the right of way.
 - (c) The DEPARTMENT gives up all rights to the Road Segment, including the right of way, except as may be specified in this Agreement.
 - (d) It is agreed that all obligations of the DEPARTMENT, under any maintenance, utility, or railroad crossing agreement, permit or other agreement, relating to the Road Segment, shall be transferred at the same time and in the same manner as jurisdictional responsibility and regulatory authority over all pedestrian crossing permits (including, but not limited to, FDOT Permits # 03-K-391-0005, 05-K-391-0004 and the Airspace Agreement with Crimson Tide I, LLC dated December 1, 2016) are assigned to the CITY. If the agreements were made between the DEPARTMENT and the CITY, and the DEPARTMENT will no longer be involved after the transfer takes place, new agreements or amended agreements shall be made between the DEPARTMENT and the CITY. These agreements shall be negotiated and signed prior to District Secretary approval of the final Transfer Agreement. The DEPARTMENT acknowledges that copies of any existing permits, agreements, and easements have been turned over to the CITY for their records prior to the execution of this agreement.
 - (e) Disposition of telemetered traffic monitoring sites will be determined on an individual basis. The Traffic Data Section of the Transportation Data and Analytics Office in cooperation with the District Office will determine if polling the sites is still desirable even if the traffic data are no longer needed for State Highway System reporting.
 - (f) If there is evidence of historical or archaeological resources that could be adversely impacted after a transfer, the CITY agrees to maintain the resources in accordance with the Cultural Resource Management Coordinator (CRMC)

recommendations, attached hereto as Exhibit "C". If no evidence is found, the CITY agrees not to adversely affect any such resources if found after the transfer.

- (g) Transfer of the Roadway from the Department to the CITY shall be by right-of-way map transfer ("Map Transfer"). The Department shall deliver the Map Transfer to the CITY within sixty (60) days of the Effective Date of this Agreement, or as soon thereafter as practicable. The CITY shall record the Map Transfer at the CITY's sole cost and expense in the Bay County Public Records within 60 days of its receipt and provide the Department with a copy of the recorded conveyance document upon receipt of the same from the recording office.
6. Funding associated with projects located upon the Road Segment and included in the DEPARTMENT'S current work program shall remain available for expenditure on the newly assigned city road. However, this availability is contingent upon both the availability of funding and the eligibility of that funding to be used for projects located off of the state highway system, as well as the expenditure of such funds is otherwise permissible in accordance with applicable laws, rules, regulations and policies.
 7. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.
 8. This Transfer Agreement embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Transfer Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto.
 9. This Transfer Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
 10. The Parties may be reached at the following addresses and phone numbers.

Florida Department of Transportation
Director, Transportation Development
Post Office Box 607
1074 Highway 90
Chipley, FL 32428
Telephone: (850) 330-1214
Fax: (850) 330-1761

City of Panama City Beach
Drew Whitman
City Manager
17007 Panama City Beach Parkway
Panama City, FL 32413
Telephone: (850) 223-5100

11. Each Party is an independent contractor and is not an agent of the other Party. Nothing contained in this Transfer Agreement shall be construed to create any fiduciary relationship between the Parties, during or after the performance of this Transfer Agreement. Neither Party shall have the authority to bind the other Party to any obligation whatsoever to any third party without the express specific written consent of the other.
12. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
13. If any part of this Transfer Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Transfer Agreement shall remain in full force and effect provided that the part of this Transfer Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Transfer Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Transfer Agreement to be executed, the day and year below written.

Signature page follows.

CITY OF PANAMA CITY BEACH

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

BY: 
City Manager, *Drew Whitman*

BY: _____
Philip Gainer, P.E.
District Secretary

Date: 3-24-23

Date: _____

ATTEST: 

ATTEST: _____

Title: City Clerk

Title: _____

Date: 03-24-23

Date: _____

LEGAL REVIEW:

LEGAL REVIEW:


City Attorney

Office of General Counsel
Department of Transportation

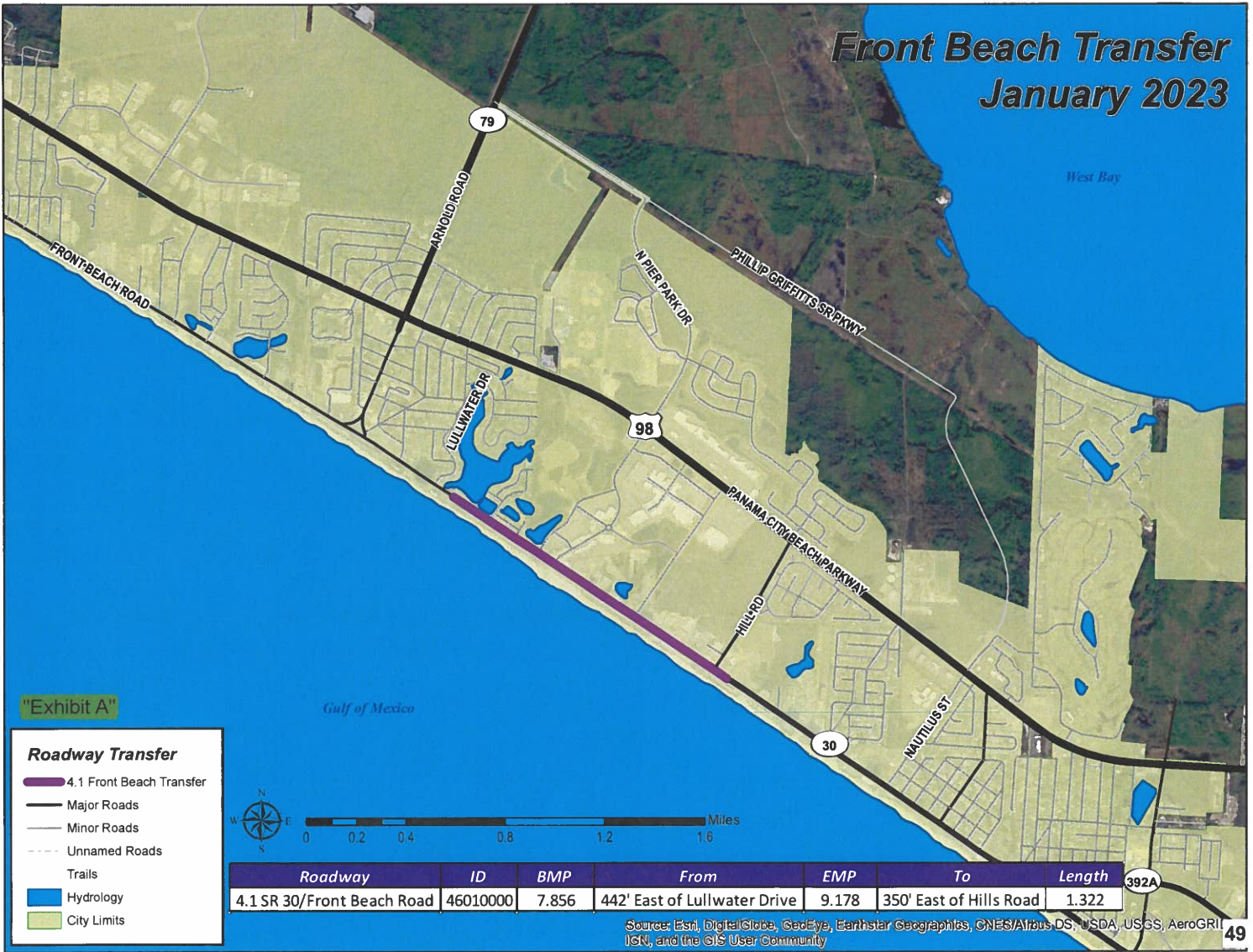
FINAL APPROVAL BY THE SECRETARY OF TRANSPORTATION

The Secretary of the Florida Department of Transportation approves the transfer and all provisions listed in this executed Transfer Agreement and the supporting Resolution between the Department and the City.

Signed _____
Jared W. Perdue, P.E.
Secretary
State of Florida, Department of Transportation

Date: _____

Front Beach Transfer January 2023



FLORIDA DEPARTMENT OF TRANSPORTATION
SECTION 106 PA MINIMAL IMPACT DETERMINATION

Project Name: State Road 30/Front Beach Road Roadway Jurisdictional Transfer
FM#: N/A **FAP#:** _____
Project Review Date: 9/9/2021
FDOT District: 3
County(ies): Bay
Project Description: The Florida Department of Transportation (FDOT) District 3 is proposing a roadway jurisdictional transfer of the potential transfer of State Road 30/Front Beach Road from 442 feet east of Lullwater Drive to 350 feet east of Hills Road in Bay County, Florida. Jurisdictional responsibilities of SR 30/Front Beach Road would transfer from the State Highway System to the City of Panama Beach City Street System. The proposed transfer is located in Section 20 of Township 3 South, Range 16 West.

Classification Category (Stipulation V or VI): Stipulation VI - Minor Project Considered Unlikely to Affect Historic Properties

Additional Information for Projects with No Potential to Affect Historic Properties
 Used for projects classified under Stipulation V of Florida’s Section 106 Programmatic Agreement.

Activity Types with No Potential to Affect Historic Properties select all that apply (Section 106 Programmatic Agreement Exhibit 1):

- 1. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
- 2. In kind replacement or ordinary repair of existing lighting, guardrails, traffic signals, curbs, and sidewalks.
- 3. Activities included in the State's highway safety plan under 23 USC 402.
- 4. Preventive maintenance activities such as joint repair, pavement patching, shoulder repair, and the removal and replacement of old pavement structure.
- 5. Restoration, rehabilitation, and/or resurfacing of existing pavement.
- 6. Restoration and rehabilitation of existing bridge (including painting, crack sealing, joint repair, scour repair, scour counter measures, fender repair, bridge rail or bearing pad replacement, seismic retrofit, etc.).

Confirmed Conditions:

- | YES | NO | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | The activity is a stand-alone project |
| <input type="checkbox"/> | <input type="checkbox"/> | The activity does not occur on tribal lands |
| <input type="checkbox"/> | <input type="checkbox"/> | The activity does not include and is not located in or adjacent to any historic resource of 50 years of age or older; nor listed on the National Register of Historic Places; nor is it listed as a National Historic Landmark |
| <input type="checkbox"/> | <input type="checkbox"/> | The activity is limited to activities specified in Exhibit 1 of Florida’s Section 106 Programmatic Agreement, 2016 |

FLORIDA DEPARTMENT OF TRANSPORTATION
SECTION 106 PA MINIMAL IMPACT DETERMINATION

IMPORTANT: If all answers are **Yes**, the project meets the conditions set forth in Stipulation V of the Programmatic Agreement. If the answer to any of these questions is **No**, evaluate the project pursuant to the conditions in Stipulation VI of the Programmatic Agreement on page 2 of this form.

Description of internal review methodologies used to verify compliance with Stipulation V conditions:

Additional Information for Projects Considered Unlikely to Affect Historic Properties
Used for projects classified under Stipulation VI of Florida's Section 106 Programmatic Agreement.

Identify activity types with No Potential to Affect Historic Properties, as appropriate (Section 106 Programmatic Agreement Exhibit 1):

- 1. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
- 2. In kind replacement or ordinary repair of existing lighting, guardrails, traffic signals, curbs, and sidewalks.
- 3. Activities included in the State's highway safety plan under 23 USC 402.
- 4. Preventive maintenance activities such as joint repair, pavement patching, shoulder repair, and the removal and replacement of old pavement structure.
- 5. Restoration, rehabilitation, and/or resurfacing of existing pavement.
- 6. Restoration and rehabilitation of existing bridge (including painting, crack sealing, joint repair, scour repair, scour counter measures, fender repair, bridge rail or bearing pad replacement, seismic retrofit, etc.).

Activity Types Considered Unlikely to Affect Historic Properties:

Include number(s) and description(s), as appropriate, from **Exhibit 2** of Florida's Section 106 Programmatic Agreement, 2016 for project activities.

2.1, 2.4

Confirmed Conditions:

- | YES | NO | |
|------------|--------------------------|---|
| ✓ | <input type="checkbox"/> | The activity is a stand-alone project |
| ✓ | <input type="checkbox"/> | The activity does not occur on tribal lands |
| ✓ | <input type="checkbox"/> | The activity is limited to the activities specified in Exhibits 1 or 2 of Florida's Section 106 Programmatic Agreement, 2016 |
| ✓ | <input type="checkbox"/> | The desktop analysis and/or field review efforts discussed below resulted in the identification of no historic resources within the project APE |
| ✓ | <input type="checkbox"/> | There are no National Historic Landmarks within or adjacent to the project APE |

IMPORTANT: If all answers are **Yes**, the project meets the conditions set forth in Stipulation VI of the Programmatic Agreement. If the answer to any of these questions is **No**, this form cannot be used. Evaluate the project pursuant to Stipulation VII of the Programmatic Agreement.

FLORIDA DEPARTMENT OF TRANSPORTATION
SECTION 106 PA MINIMAL IMPACT DETERMINATION

650-050-17
ENVIRONMENTAL MANAGEMENT
01/17

Area of Potential Effect (APE) Description and Justification:

The APE is limited to the existing ROW for length of transfer, from 442 feet east of Lullwater Drive to 350 feet east of Hills Road. As no construction activities are proposed and there is no potential for indirect effects, adjacent parcels are not included in the APE.

FLORIDA DEPARTMENT OF TRANSPORTATION
SECTION 106 PA MINIMAL IMPACT DETERMINATION


650-050-17
ENVIRONMENTAL MANAGEMENT
01/17

Description of the desk top and field review methodologies used to confirm the conditions set forth in Stipulation VI:

Review of the project plans, the Florida Master Site File (FMSF) database, modern and historical USGS topographic maps and aerial photographs, NRCS soil survey data, and Google Earth imagery.

Based on the review summarized above, FDOT has determined that the State Road 30/Front Beach Road Roadway Jurisdictional Transfer project will not cause effects to historic properties.

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Signature:  for Joy Swanson Pleas Date: 9/9/2021
Environmental Manager, or designee

Processing Instructions: To notify the State Historic Preservation Officer and the Florida Division of Historical Resources of minor projects having no effects to historic properties under stipulations V and VI of Florida's Section 106 Programmatic Agreement, email the completed form to the Compliance and Review Section of the Bureau of Historic Preservation at CompliancePermits@dos.myflorida.com. Use the following standard text in the subject line:

*Notification of Minor Project per Stipulations V and VI of
the statewide Section 106 Programmatic Agreement*

Link to Section 106 PA:

[http://www.fdot.gov/environment/pubs/Section%20106%20PA%20Executed%20Version%201%20via%20Email%20%2015mar16%20\(3\).pdf](http://www.fdot.gov/environment/pubs/Section%20106%20PA%20Executed%20Version%201%20via%20Email%20%2015mar16%20(3).pdf)