



**SPACE COAST TRANSPORTATION PLANNING ORGANIZATION
EXECUTIVE COMMITTEE
MEETING / AGENDA NOTICE**

DATE: Thursday, April 12, 2018

TIME: 2:00 p.m.

LOCATION: Brevard County Government Center
2725 Judge Fran Jamieson Way, Melbourne
Building C, 3rd floor, Florida Room

Chairwoman Kathy Meehan, Presiding

AGENDA

- 1. Call to Order of the Space Coast TPO Executive Committee**
- 2. Approval RE: SCTPO Executive Director 2017 Performance Evaluation *(page 1)***
- 3. Approval RE: SCTPO Executive Director Employment Contract with Mrs. Georganna Gillette *(page 2)***
- 4. Public Comment**
- 5. Adjourn**

Any person who desires or decides to appeal any decision made by this agency with respect to any matter considered at this meeting or hearing will need a record of the proceedings. For such purpose, such person may need to insure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which the appeal is to be based. Any questions about this meeting should be directed to Lisa Hickman, (321)690-6890 or Email: tpostaff@spacecoasttpo.com.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Space Coast TPO Office no later than 48 hours prior to the meeting at (321) 690-6890 for assistance.

***** CELL PHONES SHOULD BE SILENCED DURING THE MEETING *****

ITEM NUMBER 2

Approval RE: SCTPO Executive Director 2017 Performance Evaluation

DISCUSSION:

The Executive Committee has been designated to perform an evaluation of the SCTPO Executive Director for the period of January 1, 2017 through December 31, 2017. The Executive Committee's recommendation shall be brought to the full TPO Board for approval at the April 12, 2018 board meeting.

Mr. Paul Gougelman, general counsel for the TPO, has compiled and averaged the scores from each Executive Committee member, and will present his summary. As provided for in the Executive Director's contract, the Executive Committee may also consider a lump sum bonus based on the Director's performance.

REQUESTED ACTION:

Approve the Performance Evaluation for the SCTPO Executive Director for the period of January 1, 2017 through December 31, 2017.

ATTACHMENTS:

- Memorandum: Paul Gougelman to TPO Executive Committee; RE: Executive Director's Performance Evaluation for 2017. *(To be distributed)*

ITEM NUMBER 3

Approval RE: SCTPO Executive Director Employment Contract with Mrs. Georganna Gillette

DISCUSSION:

In December, 2018, the SCTPO Governing Board approved the appointment of Mrs. Georganna Gillette as the Executive Director upon Mr. Bob Kamm's retirement. Mr. Kamm provided notice of his intent to move up his retirement from August 31 to April 27, 2018.

The TPO's general council has coordinated with Mrs. Gillette on the development of a contract. General council will summarize the contract and request guidance on specific items that are up for negotiation. These include term of employment, annual salary, and accrual of annual leave.

REQUESTED ACTION:

Approve the employment contract with Mrs. Georganna Gillette to fulfill duties of SCTPO Executive Director.

ATTACHMENTS:

- Draft Employment Contract between the SCTPO and Mrs. Georganna Gillette

EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2018, by and between the **SPACE COAST TRANSPORTATION PLANNING ORGANIZATION**, a governmental agency created and operating pursuant to Section 339.175, Florida Statutes, with post office address at 2725 Judge Fran Jamieson Way - Building B, Room 105, Viera, Florida, 32940, hereinafter called "TPO," as party of the first part, and **GEORGANNA GILLETTE**, with post office address at 3815 Savannahs Trail, Merritt Island FL 32953, hereinafter called "EXECUTIVE DIRECTOR".

WITNESSETH:

WHEREAS, the TPO wishes to continue the employment of the services of GEORGANNA GILLETTE as Executive Director of the TPO, as provided by the TPO Policies and Procedures and Section 339.175(6)(g), Florida Statutes, whereby each Metropolitan Planning Organization ("MPO") shall have an executive or staff director who reports directly to the MPO governing board for all matters regarding the administration and operation of the MPO; and

WHEREAS, the TPO is the MPO for Florida's Space Coast; and

WHEREAS, it is the desire of the governing body of the TPO, hereinafter called the "Governing Board", to provide certain benefits, establish certain conditions of employment, and to set working conditions and requirements of said EXECUTIVE DIRECTOR; and

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

SECTION 1. DUTIES.

A. The TPO hereby employs the said GEORGANNA GILLETTE as Executive Director of said TPO to perform the functions and duties specified by State and Federal law, TPO Policies and Procedures and pertinent policy directives, the duties as described in the EXECUTIVE DIRECTOR's job description, and to perform other legally permissible and proper duties and functions as the Governing Board or the Executive Committee shall from time to time assign. The EXECUTIVE DIRECTOR shall be employed to perform work pursuant to this Agreement, as a salaried/full-time employee routinely performing at least thirty-five (35) hours of work, usually Monday through Friday, TPO holidays excluded.

B. The job description of the EXECUTIVE DIRECTOR may be revised from time to time at the discretion of the TPO as determined by its Governing Board. At the request of the EXECUTIVE

DIRECTOR, issues such as compensation may be re-opened for further negotiation by the TPO operating through its Governing Board and the EXECUTIVE DIRECTOR, if the job description is materially amended or amended to add additional job duties.

C. The Governing Board shall be the sole judge of the performance of the EXECUTIVE DIRECTOR; provided, that the Governing Board may from time to time delegate oversight of performance to the TPO Governing Board Chairman or the TPO's Executive Committee.

D. The EXECUTIVE DIRECTOR shall be responsible for insuring performance of:

1. All duties set forth in Section 4.0 of the Interlocal Agreement for Services by and Between Brevard County and the Space Coast Transportation Planning Organization recorded on September 20, 2010, in Official Records Book 6244, Page 1262, Public Records of Brevard County, Florida, as amended by that certain First Amendment to the Interlocal Agreement for Services by and Between Brevard County and the Space Coast Transportation Planning Organization recorded on September 8, 2011, in Official Records Book 6449, Page 2602, Public Records of Brevard County, Florida, and further amended by that certain Second Amendment to the Interlocal Agreement for Services by and Between Brevard County and the Space Coast Transportation Planning Organization recorded on January 13, 2015, in Official Records Book 7281, Page 2094, Public Records of Brevard County, Florida, and as may be further amended from time to time;

2. All of the duties of the Executive Director as set forth in the Executive Director's job description, as amended from time to time. A copy of the job description is attached hereto as **Exhibit "A"**, which exhibit is incorporated herein by this reference; and

3. Direct and supervise the preparation by the TPO staff of the Unified Planning Work Program, Transportation Improvement Plan, Long-Range Transportation Plan, and preparation any other contracts or documents, all as provided in Section 339.175, Florida Statutes, and 23 CFR Part 450, Subpart C, all as amended from time to time. The EXECUTIVE DIRECTOR is authorized to coordinate with and use the services of the TPO General Counsel or other transportation-related planning contractors to assist in this task.

SECTION 2. TERM OF EMPLOYMENT.

A. The term of employment of the EXECUTIVE DIRECTOR under this Employment Agreement shall be for a period of approximately

five (5) years commencing May 1, 2018, and terminating June 30, 2023.

B. The EXECUTIVE DIRECTOR agrees to remain in the exclusive employ of TPO during the term of this Agreement, and neither to accept other employment nor to become employed by any other employer without the express consent of the GOVERNING BOARD until the foregoing termination date, unless the term of this Employment Agreement is earlier terminated as provided in Section 5 or Section 6. However, the EXECUTIVE DIRECTOR may teach educational classes at the secondary or post-secondary levels and accept remuneration from avocations of interest to the EXECUTIVE DIRECTOR. Notwithstanding the foregoing, the EXECUTIVE DIRECTOR acknowledges that her work for the TPO shall be her top priority in the event of work or time conflicts.

SECTION 3. COMPENSATION. The TPO agrees to compensate the EXECUTIVE DIRECTOR for her services rendered pursuant hereto with a salary of \$ [REDACTED] per year for each year of this Employment Agreement; provided, however, that the amount of compensation payable to the EXECUTIVE DIRECTOR shall be increased equal with the percentage increment granted to the general employees of the TPO, as applicable, for a cost-of-living salary adjustment; or as provided for by Section 215.425(3), Florida Statutes, the EXECUTIVE DIRECTOR shall be eligible to receive one-time, lump-sum performance bonuses deemed appropriate by the Governing Board. Said bonuses or any adjustment in annual salary shall be awarded, if at all, pursuant to the standards and requirements set forth in the Pay for Performance Evaluation System Manual prepared by Cody & Associates, Inc. of Cocoa Beach, Florida and adopted by the TPO on November 10, 2011, as amended from time to time or superseded. Payment of the foregoing annual salary shall be made in substantially equal installments on a bi-weekly basis or in the same manner as paid to general employees of the TPO. If the EXECUTIVE DIRECTOR is ever terminated, terminates this Agreement, or is suspended without pay, further payments of wages are terminated or suspended, except as otherwise provided in this Agreement. The foregoing sentence shall survive the termination of this Agreement.

SECTION 4. SUSPENSION.

A. The Governing Board, or its designee the TPO Executive Committee, reserves the right to suspend the EXECUTIVE DIRECTOR with or without compensation under the conditions of the Personnel Policy of the TPO, as amended from time to time. A copy of the TPO regulations relating to suspension and applicable to the EXECUTIVE DIRECTOR are Space Coast TPO Policies and Procedures, PLC-2, Sections 12.2, 12.4, and 12.5, as amended from time to time, which sections are in effect as of the initial date of this Agreement are

attached hereto as **Exhibit "B"** and by this reference incorporated herein. Where the term "Executive Director/Supervisor", or the term "Supervisor", is used in PLC-2, Sections 12.2, 12.4, and 12.5, that term for the purposes of this Employment Agreement shall be interpreted to mean the "Governing Board, or its designee the TPO Executive Committee".

B. Notwithstanding the foregoing and in addition thereto, the EXECUTIVE DIRECTOR may be temporarily suspended with or without pay from her employment while the Governing Board, or its designee the TPO Executive Committee, investigates any facts or circumstances which might constitute a basis for a "for cause" termination, for malfeasance, for misfeasance, or for neglect of duty.

C. In the event of any suspension, the TPO shall give the EXECUTIVE DIRECTOR written notice thereof stating in reasonable detail the nature of such facts or circumstances it is investigating.

D. Although a suspension pursuant to sub-sections A. or B. shall take place immediately, the EXECUTIVE DIRECTOR may contest the suspension and has a right to a prompt hearing within a reasonable period of time before the Governing Board, the Executive Committee, or either bodies' designee. Disciplinary hearings shall be as provided in Space Coast TPO Policies and Procedures, PLC-2, Section 12.3 set forth in Exhibit "B" as amended from time to time. In Section 12.3, where it references the "Executive Director" as being the "Hearing Officer" or setting the hearing date and notifying the employee, such task shall be accomplished by the TPO Governing Board, the TPO Executive Committee, or either bodies' designee.

SECTION 5. TERMINATION.

A. Termination for Convenience. The TPO, by a majority of the entire Governing Board membership (*i.e.*, 10 affirmative votes) at a properly noticed meeting, may terminate the employment of EXECUTIVE DIRECTOR without cause by directing written notice of termination to EXECUTIVE DIRECTOR by certified U.S. mail, return receipt requested and postage prepaid or by hand delivery to the EXECUTIVE DIRECTOR. Such termination may be accomplished without a disciplinary hearing other than for name clearing purposes, and the right to seek such a hearing shall be as set forth in the Space Coast TPO Policies and Procedures, PLC-2, Section 12.3(D). See Exhibit "B" to this Agreement.

In the event of such termination while the EXECUTIVE DIRECTOR is ready, willing and able to perform the duties of TPO Executive Director, and although the TPO does not need cause for termination as provided in Subsection B. hereof, the TPO shall pay EXECUTIVE

DIRECTOR a sum equal to 20 weeks of severance pay (*i.e.*, calculated based on the then current rate of pay divided by 52 weeks times 20 weeks) that the EXECUTIVE DIRECTOR would earn for employment pursuant to this Agreement. Consistent with Section 215.425, Florida Statutes (2017), as used in this Section 5., the term "severance pay" means the actual or constructive compensation, including salary, benefits, or perquisites, for employment services yet to be rendered which is provided to an employee who has recently been or is about to be terminated. The term does not include compensation for:

1. Earned and accrued annual, sick, compensatory, or administrative leave;

2. Early retirement under provisions established in an actuarially funded pension plan subject to part VII of Chapter 112, Florida Statutes; or

3. Any subsidy for the cost of a group insurance plan available to an employee upon normal or disability retirement that is by policy available to all employees of the unit of government pursuant to the unit's health insurance plan. This subparagraph may not be construed to limit the ability of the TPO to reduce or eliminate such subsidies.

Payment of the severance pay shall be paid to the EXECUTIVE DIRECTOR after deductions for income tax, social security, and other applicable payments due, if any. This termination or severance pay shall be paid in lump sum within thirty (30) days from the notice of termination.

Upon termination and payment of the severance pay, the TPO shall be relieved of any further liability to the EXECUTIVE DIRECTOR for pay, charges, penalties, damages, compensation or otherwise. Pursuant to Section 215.425(4), Florida Statutes, the EXECUTIVE DIRECTOR may not receive severance pay when the EXECUTIVE DIRECTOR has been fired for misconduct as defined in Section 443.036(29), Florida Statutes, by the TPO.

B. Termination for Cause. In the event the TPO terminates the EXECUTIVE DIRECTOR for cause then the EXECUTIVE DIRECTOR will be given a written copy of the particulars and shall have the right to appear in public before the Governing Board and present evidence and argument concerning said allegations. After such hearing, if a majority of the entire Governing Board (*i.e.*, 10 affirmative votes) finds there is cause to terminate the EXECUTIVE DIRECTOR and terminates the EXECUTIVE DIRECTOR, then the EXECUTIVE DIRECTOR shall not be entitled to severance pay. Said hearing shall be held within sixty (60) days of the notice of termination.

For the purpose of this Section 5. B., the term "for cause" shall include any of the following:

Malfeasance;

Misfeasance;

Neglect of duty;

Conviction for, or admission to having committed the crime of a misdemeanor or a felony. A plea of *nolo contendere* shall for the purposes of this Agreement be construed to be the admission to having committed the crime of a misdemeanor or a felony. A determination by a court of law withholding judgment for the purposes of this Agreement shall be construed to be the conviction of a misdemeanor or a felony;

Unprofessional, unethical, immoral, or fraudulent conduct, if said conduct has a material adverse effect on the TPO's business or reputation;

Engaging in sexual harassment as admitted to by the EXECUTIVE DIRECTOR or as determined by a governmental body or a judicial or administrative forum, after a hearing at which the EXECUTIVE DIRECTOR was given an opportunity to be heard in her defense;

A material failure or refusal by the EXECUTIVE DIRECTOR to comply with the TPO policies and procedures or directives of the TPO Governing Board or Executive Committee, which failure or refusal is not cured by the EXECUTIVE DIRECTOR within thirty (30) days after written notice to him from the TPO Governing Board, or Executive Committee, of such failure or refusal;

The EXECUTIVE DIRECTOR's sanctioning of conduct by any TPO employee under her authority that constitutes a material violation of the TPO Policies and Procedures or directives of the TPO Governing Board, or Executive Committee, that is not reprovved by the EXECUTIVE DIRECTOR in a manner within a reasonable period of time after notice to him by the TPO Governing Board or Executive Committee;

A material failure or refusal by the EXECUTIVE DIRECTOR to faithfully and diligently perform the usual and customary duties of her employment and to adhere to the provisions of this Agreement, which failure or refusal is not cured by the EXECUTIVE DIRECTOR within thirty (30) days after written notice to him from the TPO Governing Board, or Executive Committee, of such failure or refusal;

Misconduct as defined in Section 443.036(29), Florida Statutes. "Misconduct" is defined in Section 443.036(29), as irrespective of whether the misconduct occurs at the workplace or during working hours, includes, but is not limited to, the following, which may not be construed *in pari materia* with each other:

(a) Conduct demonstrating conscious disregard of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee. Such conduct may include, but is not limited to, willful damage to an employer's property that results in damage of more than \$50, or theft of employer property or property of a customer or invitee of the employer.

(b) Carelessness or negligence to a degree or recurrence that manifests culpability or wrongful intent, or shows an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his or her employer.

(c) Chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or one or more unapproved absences following a written reprimand or warning relating to more than one unapproved absence.

(d) A willful and deliberate violation of a standard or regulation of this state by an employee of an employer licensed or certified by this state, which violation would cause the employer to be sanctioned or have its license or certification suspended by this state.

(e)1. A violation of an employer's rule, unless the claimant can demonstrate that:

a. She did not know, and could not reasonably know, of the rule's requirements;

b. The rule is not lawful or not reasonably related to the job environment and performance; or

c. The rule is not fairly or consistently enforced.

2. Such conduct may include, but is not limited to, committing criminal assault or battery on another employee, or on a customer or invitee of the employer or committing abuse or neglect of a patient, resident, disabled person, elderly person, or child in her or his professional care; or

(f) Any of the grounds set forth in PLC 2, Section 12.2 of the TPO Policies & Procedures, excepting sub-section (xxi).

C. Permanent Disability. If the EXECUTIVE DIRECTOR is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health for a period of thirty (30) days beyond any accrued sick leave and annual leave, the TPO shall have the option to terminate this Agreement. The EXECUTIVE DIRECTOR shall be compensated upon termination as provided in Section 5. A. above.

D. This section shall survive the termination of this Agreement.

SECTION 6. TERMINATION BY EXECUTIVE DIRECTOR. The EXECUTIVE DIRECTOR may terminate her employment with the TPO by directing *written* notice of termination to the Chairman of the Governing

Board by personal, hand delivery or by certified U.S. mail, return receipt requested and postage prepaid. In the event of such termination, the EXECUTIVE DIRECTOR shall not be entitled to receive the severance pay provided for in Section 5. of this Agreement. The EXECUTIVE DIRECTOR agrees to give sixty (60) calendar days notice from the date of dispatch of the aforementioned notice prior to termination, unless the Governing Board waives all or part of said time period. If the EXECUTIVE DIRECTOR gives less than sixty (60) calendar days' notice of her intent to terminate her employment, the TPO shall be entitled to retain as liquidated damages any sums that would otherwise be due the EXECUTIVE DIRECTOR as termination compensation or severance pay under Sections 9. and 10. of this Agreement. This section shall survive the termination of this Agreement.

SECTION 7. AUTOMOBILE AND EQUIPMENT

A. The TPO shall provide the EXECUTIVE DIRECTOR with a laptop computer for business use. Upon termination of this Agreement, the laptop computer shall be returned to the TPO in the same condition as when the computer was issued, normal wear and tear accepted. The TPO shall also provide a monthly stipend of \$40 for the EXECUTIVE DIRECTOR to obtain her own cell phone. The stipend may be amended from time to time by the Executive Committee to reflect market conditions and TPO policy. The stipend may be taxable income pursuant to Internal Revenue Service requirements and if in the discretion of the TPO it is so determined, the EXECUTIVE DIRECTOR will be taxed as for this item income prior to payment to the EXECUTIVE DIRECTOR. Based on the EXECUTIVE DIRECTOR's use of her cell phone for TPO-related business use, the TPO Chair or the Executive Committee may, from time to time, adjust upward or downward the monthly stipend.

B. The EXECUTIVE DIRECTOR shall receive no automobile reimbursement, but the EXECUTIVE DIRECTOR is eligible to receive travel reimbursement for TPO-related business travel subject to applicable Federal, State of Florida, and TPO policy requirements and provided that funds have been budgeted in the TPO's annual budget document.

SECTION 8. INSURANCE COVERAGE. The TPO shall make all life, health and short and long term disability insurance coverage which is generally available to the TPO staff available to the EXECUTIVE DIRECTOR upon the same terms and conditions; provided, that the EXECUTIVE DIRECTOR meets all health and insurance screening criteria routinely applied to similarly situated employees.

SECTION 9. ANNUAL LEAVE. The EXECUTIVE DIRECTOR shall have the same annual leave benefits as are generally available to the TPO's other similarly situated employees as described in the Space

Coast TPO Policies and Procedures, PLC-2, Section 8.3, as amended from time to time by the TPO Governing Board. As of the commencement date of this Agreement, the EXECUTIVE DIRECTOR shall be credited with any available, uncompensated annual leave time which is carried over from her employment with Brevard County, if any, (approximately two months) and her employment with the Space Coast TPO. The Governing Board recognizes that the EXECUTIVE DIRECTOR served the TPO for many years and is accepting an executive position. In recognition of this service, the EXECUTIVE DIRECTOR shall be compensated at an annual leave accrual rate equal to an employee with 11 to 15 years of service which is currently eighteen (18) days of annual leave per year or six (6) hours per pay period (based on 24 per year).

Once the EXECUTIVE DIRECTOR surpasses 15 years of work with the TPO, on August 7, 2025, (based on hire date of August 7, 2010) annual leave shall be calculated using the formula set forth in PLC-2, Section 8.3(B) of the Space Coast TPO Policies and Procedures, as amended or increased from time to time.

SECTION 10. SICK LEAVE. The EXECUTIVE DIRECTOR shall have the same sick leave benefits as the TPO's other similarly situated employees as described in the TPO Personnel Policy, as amended from time to time by the TPO Governing Board. As of the commencement date of this Agreement, the EXECUTIVE DIRECTOR shall be credited with any available, uncompensated for sick leave time which time is carried over from her employment with Brevard County, if any, (approximately two months) and her employment with the Space Coast TPO. The Governing Board recognizes that the EXECUTIVE DIRECTOR served the TPO for many years and is accepting an executive position. In recognition of this service, the EXECUTIVE DIRECTOR shall be compensated at the maximum sick leave accrual rate for total number of years served, which shall be based on an original hire date of August 7, 2010, and equates to eight (8) years of service and over, currently accruing twelve (12) work days of sick leave per year. The rate of accrual for sick leave during the duration of this Agreement will be as described in PLC-2, Section 8.3 of the Space Coast TPO Policies and Procedures, as amended and increased from time to time.

SECTION 11. TERMINATION PAY.

A. The EXECUTIVE DIRECTOR shall receive, upon termination or resignation, compensation at termination equal to all accrued and unused annual leave time to which the EXECUTIVE DIRECTOR is entitled under the terms of this Agreement, plus any accrued benefits, including sick leave, that the EXECUTIVE DIRECTOR would be entitled to under the then existing TPO policies applicable to the TPO's employees.

B. The EXECUTIVE DIRECTOR shall upon termination of her employment at the end of the term of this Agreement (e.g. - June 30, 2021), shall not be entitled to receive any severance pay for termination for convenience of the TPO.

SECTION 12. BUSINESS EXPENSES. Subject to Federal and applicable Florida State grant restrictions and provided that funding has been provided in the TPO's annual budget, the TPO shall pay or reimburse the EXECUTIVE DIRECTOR for employment-related expenses including, but not limited to meals, parking, tolls, hotel, and similar types of expenses at transportation-related conferences and meetings, subject to any requirements of TPO pre- or post-expenditure approval, as amended from time to time.

SECTION 13. PERFORMANCE EVALUATION. The Governing Board, or its designee (e.g. - the Executive Committee), shall evaluate the job performance of the EXECUTIVE DIRECTOR during the month of July, or as soon thereafter as may be convenient to the Governing Board or its designee, on an annual basis. Evaluation of the EXECUTIVE DIRECTOR's job performance shall be based upon criteria related to the elements of the EXECUTIVE DIRECTOR's position, which criteria shall be established by Governing Board (or its designee) and furnished to the EXECUTIVE DIRECTOR prior to commencement of an evaluation period (i.e. - July 1st to June 30th of the following year). A copy of the EXECUTIVE DIRECTOR's job performance evaluation shall be furnished to the EXECUTIVE DIRECTOR.

SECTION 14. CONFERENCES, TRAINING AND EDUCATION.

A. Subject to Federal and applicable Florida State grant restrictions, the EXECUTIVE DIRECTOR shall be paid or reimbursed for the cost of attending national, state and local associational conferences; provided, that said conferences are budgeted in the TPO's annual budget document and attendance has been approved by the Chair or TPO Executive Committee. Reimbursement for travel and expenses shall be subject to the policy and procedures set forth in the Travel Policy of the TPO. See PLC-4, Space Coast TPO Policies and Procedures, as amended from time to time.

B. Provided, that said expenses are budgeted in the TPO's annual budget document and subject to Federal and applicable Florida State grant restrictions, the TPO shall pay for the cost of registration, course fees, books and materials, travel, and subsistence relating to training programs which serve to continue the professional and educational development of the EXECUTIVE DIRECTOR. Any reimbursement or expenditures by the TPO for this purpose is subject to any requirements of TPO pre- or post-expenditure approval, as amended from time to time.

SECTION 15. AVAILABILITY OF NEW BENEFITS. In the event that a new fringe benefit is made available to other similarly situated TPO employees, at the request of the EXECUTIVE DIRECTOR, this Agreement may be re-opened for negotiation of a possible extension of that benefit to the EXECUTIVE DIRECTOR.

SECTION 16. PENSION PLAN. The TPO and the EXECUTIVE DIRECTOR agree that the EXECUTIVE DIRECTOR shall continue as a participant in the Florida Retirement System. The TPO shall designate the EXECUTIVE DIRECTOR as a member of the Senior Management Service Class, or its equivalent.

SECTION 17. INDEMNIFICATION. To the extent permitted by Section 111.07, Florida Statutes, the TPO will provide an attorney to defend any civil action arising from a complaint for damages or injury suffered as a result of any act or omission of action of any the EXECUTIVE DIRECTOR for an act or omission arising out of and in the scope of her employment or function, unless, the EXECUTIVE DIRECTOR acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. Defense of such civil action includes, but is not limited to, any civil rights lawsuit seeking relief personally against the EXECUTIVE DIRECTOR for an act or omission under color of state law, custom, or usage, wherein it is alleged that the EXECUTIVE DIRECTOR has deprived another person of rights secured under the Federal Constitution or laws. Any attorney's fees paid from public funds for the EXECUTIVE DIRECTOR who is later found to be personally liable by virtue of acting outside the scope of her employment, or was acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, may be recovered by the TPO in a civil action against the EXECUTIVE DIRECTOR. This section shall survive the termination of this Agreement.

SECTION 18. RESTRICTIONS, PROHIBITIONS, CONTROLS, AND LABOR PROVISIONS.

A. Federal Participation. It is understood and agreed that, in order to permit TPO participation in the expenditure of Federal PL Funds, this Agreement may be subject to the approval of Federal Highway Administration ("FHWA") or the Florida Department of Transportation ("FDOT"). It is understood and agreed that, in order to permit TPO participation in the expenditure of Federal PL Funds, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the work to be performed hereunder without the approval of FHWA or as otherwise provided for in this section.

B. Inspection, Review, Approval, and Audit. It is

understood and agreed that all rights of the FDOT or FHWA relating to inspection, review, approval, and audit of the work, tracings, plans, specifications, maps, data, and cost records relating to this Agreement shall also be reserved and held by authorized representatives of the United States of America.

C. Record-keeping and documentation retention. The Department of Transportation and the TPO shall prepare and retain all records in accordance with the federal and state requirements, including but not limited to 2 CFR Part 200, 23 CFR Part 420, 49 CFR Part 18, 49 CFR 18.42, and Chapter 119, Florida Statutes, all as amended from time to time.

D. Prohibited Interests. Neither the TPO nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement in connection with this Agreement, in which a member, officer, or employee of the TPO, either during his or her tenure or for one year thereafter, has any interest, direct or indirect. If any such present or former member, officer, or employee involuntarily acquired or had acquired prior to the beginning of his or her tenure any such interest, and if such interest is immediately disclosed to the TPO and such disclosure is entered in the minutes of the TPO, the TPO may waive the prohibition contained in this paragraph; provided, that any such present member, officer, or employee shall not participate in any action by the TPO or the locality relating to such contract, subcontract, or arrangement.

The TPO shall insert in all contracts entered into in connection with this Agreement, and shall require its contractors to insert in each of their subcontracts, the following provision:

No member, officer, or employee of the TPO either during his or her tenure or for one year thereafter shall have any interests, direct or indirect, in this Agreement or the proceeds thereof.

The provisions of this paragraph shall not be applicable to any agreement between the TPO and its fiscal depositories, or to any agreement for utility services, the rates for which are fixed or controlled by a governmental agency.

SECTION 19. ENTITY CRIME. Pursuant to Section 287.133(3)(a), Florida Statutes, the following is applicable to contracts the TPO enters into in connection with this Agreement. Section 287.133(2)(a), Florida Statutes, states: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on

leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

SECTION 20. UNAUTHORIZED ALIEN WORKERS. The TPO will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a (Section 274a of the Immigration and Nationality Act "INA"). Upon a contractor's employment of unauthorized aliens, the TPO may immediately terminate this Agreement.

SECTION 21. USE OF FEDERAL FUNDS. No Federal appropriated funds in connection with the obtaining of this Agreement have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL "disclosure Form to Report lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into.

Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SECTION 22. NONDISCRIMINATION.

A. *Compliance with Regulations.* The TPO and the EXECUTIVE DIRECTOR shall comply with the regulations of the U.S. Department of Transportation (U.S. DOT) relative to non-discrimination in

federally assisted programs of the U.S. Department of Transportation, which are herein incorporated by reference and made a part of the Agreement.

B. *Nondiscrimination.* The TPO and the EXECUTIVE DIRECTOR, with regard to the work performed by the EXECUTIVE DIRECTOR after award and prior to completion of the contract work will not discriminate on the grounds of race, color, religion, sex or national origin in the selection and retention of contractors and subcontractors, including procurements of material and leases of equipment. The TPO and the EXECUTIVE DIRECTOR will not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5, including employment practices when the contract covers a program set forth in 49 CFR part 21, Appendix B.

The TPO will take such action with respect to any sub-contract or procurement as the Federal Highway Administration (FHWA) may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that, in the event the TPO becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the TPO may request the State of Florida to enter into such litigation to protect the interests of the State, and, in addition, may request the United States to enter into such litigation to protect the interests of the United States.

C. As required by 49 CFR 26.13, the EXECUTIVE DIRECTOR is advised that the TPO shall not discriminate on the basis of race, color, national origin, religion, gender, age or disability in the award and performance of any DOT-assisted contract or in the administration of its DBE ("Disadvantage Business Enterprise") program or the requirements of 49 CFR Part 26. The TPO shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

The TPO's DBE program, as required by 49 CFR Part 26 and as approved by U.S. DOT, is incorporated by reference in the Planning Funds agreement between the TPO and the Florida Department of Transportation ("FDOT"). Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of the TPO's agreement with the FDOT. Upon notification to the TPO of its failure to carry out its approved program, the U.S. DOT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

SECTION 23. NO GOVERNMENT OBLIGATION TO THIRD PARTIES.

A. The EXECUTIVE DIRECTOR agrees, absent express written consent of the Federal Government, that the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to any third party contractor, or any sub-recipient, or any other party pertaining to any matter resulting from this Employment Agreement or purchase order related thereto. The EXECUTIVE DIRECTOR agrees to include a similar provision in each subcontract (if any) which must be approved by the TPO and which is financed in whole or in part with federal assistance provided by the Federal Transit Administration ("FTA").

B. Program Fraud and False or Fraudulent Statements. The EXECUTIVE DIRECTOR acknowledges that the provisions of the program Fraud Civil Remedies Act of 1986, as amended, 31 USC §3801, *et seq.*, and U.S. Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its activities in connection with this Agreement. Upon execution of this Agreement, the EXECUTIVE DIRECTOR certifies and affirms the truthfulness and accuracy of any statement it has made, causes to be made, makes, or may make pertaining to the Agreement or the underlying FTA assisted project for which this Agreement or any Work Order is being performed. In addition to other penalties that may apply, the EXECUTIVE DIRECTOR acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on it to the extent the Federal Government may deem appropriate. The EXECUTIVE DIRECTOR also acknowledges that if she makes or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with an urbanized area formula project financed with federal assistance authorized for 49 USC §5307, the Federal Government reserves the right to impose the penalties of 18 USC §1001 and 49 USC §5307(n) (1), to the extent the Federal Government deems appropriate. The EXECUTIVE DIRECTOR agrees to include the above stated provisions in each subcontract financed in whole or in part with federal assistance provided by the FTA. The EXECUTIVE DIRECTOR shall not modify the above stated provisions except to identify the subcontractor who will be subject to the provision.

C. Federal Changes. The EXECUTIVE DIRECTOR shall at all times comply with all applicable FTA regulations, policies, procedures, and directives, as they may be promulgated or amended from time to time during the term of this Agreement. The EXECUTIVE DIRECTOR's failure to so comply shall constitute a material breach of this Agreement. The EXECUTIVE DIRECTOR agrees to include the above stated provision in each subcontract; provided, that this provision shall not be interpreted to authorize a subcontract.

D. Incorporation of FHWA and FTA Terms. This Agreement shall be deemed to include and does hereby incorporate by reference all standard terms and conditions required by the U.S. DOT, FHWA, and FTA, regardless of whether expressly set forth in this Agreement and include, but are not limited to, all of the duties, obligations, terms and conditions applicable to the work arising from this Agreement as described in FTA Circular 4220.1F, and applicable federal law. Anything to the contrary herein notwithstanding, all FHWA and FTA mandated terms shall be deemed to control in the event of a conflict with any other provisions contained in this Agreement. The EXECUTIVE DIRECTOR shall not perform any act, fail to perform any act, or refuse to comply with any requirement which would cause the TPO to be in violation of its Joint Planning Agreement with FDOT or any FHWA or FTA terms and conditions applicable to this Agreement. The EXECUTIVE DIRECTOR agrees to include the above stated provision in each subcontract financed in whole or in part with FTA assisted funding; provided, that this provision shall not be construed to authorize any subcontract without TPO approval.

SECTION 24. CONSTRUCTION OF AGREEMENT. The parties hereby acknowledge that they have fully reviewed this Agreement, its attachments and had the opportunity to consult with legal counsel of their choice, and that this Agreement shall not be construed against any party as if it or they were the drafter of this Agreement.

SECTION 25. BINDING EFFECT. This Agreement shall be binding on the TPO and Executive Director and the successors, assigns and heirs of each respectively.

SECTION 26. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties and there are no unwritten agreements or understandings between the parties that are not set forth in this instrument. Any subsequent amendment, alteration or modification of this Agreement shall be in writing, signed by both TPO and Executive Director, in order to have any force or effect.

IN WITNESS WHEREOF, the TPO has caused this Agreement to be signed by its authorized officer, and this Agreement has been executed in duplicate, the day, month, and year set forth below.

TPO:

SPACE COAST TRANSPORTATION
PLANNING ORGANIZATION, a
governmental agency created
and operating pursuant to
Section 339.175, Florida Statutes

By: _____
Kathy Meehan, Chair

ATTEST: _____ (TPO SEAL)

TPO Secretary Date Executed: _____, 2018
EMPLOYMENT AGREEMENT for Georganna Gillette with Space Coast TPO
Commencing May 1, 2018.

EXECUTIVE DIRECTOR:

Georganna Gillette

Date Executed: _____, 2018

EXHIBIT "A" TO EMPLOYMENT AGREEMENT FOR GEORGINA GILLETTE
Commencing May 1, 2018

SPACE COAST TRANSPORTATION PLANNING ORGANIZATION

EXECUTIVE DIRECTOR JOB DESCRIPTION

CHARACTERISTICS OF THE CLASS: Performs skilled technical and administrative work implementing the federally mandated transportation planning process within Brevard County. Work includes working closely with the Space Coast Transportation Planning Organization (SCTPO) board and advisory committees. Supervise professional and administrative staff members.

EXAMPLES OF DUTIES: (NOTE: The listed duties are illustrative only and are not intended to describe each and every function which may be performed in the job class. The omission of specific statements does not preclude management from assigning specific duties not listed herein if such duties are logical assignment to the position.)

Plans, assigns, directs and coordinates activities of the SCTPO staff. Oversees staff assignments, implementation strategies and performance objectives for SCTPO planning programs and projects.

Monitors staff implementation of SCTPO strategic plan. Maintains a qualified staff and organizational structure that facilitates meeting SCTPO's goals and state and federal requirements.

Develops the work plan and budget used by the SCTPO. Oversees development of a Unified Planning Work Program that complies with state and federal regulations. Ensures SCTPO financial management is accurate, timely and properly documented. Monitors the status and compliance of SCTPO agreements and contracts.

Participates in SCTPO Board and advisory committee meetings. Directs the preparation of the SCTPO meeting agenda and support materials. Provides technical and policy guidance to SCTPO and Advisory Committees during meetings. Conducts briefings with SCTPO members as requested. Provides technical and policy assistance on transportation matters to the SCTPO, as requested.

Initiates and oversees intergovernmental and interagency coordination of planning programs, project implementation and technical support. Serves as the primary SCTPO liaison to State, federal and local transportation planning agencies. Participates with state, regional, local governments and agencies to develop and implement multi-modal transportation plans, programs and policies of mutual benefit.

Ensures the SCTPO planning process is performed in compliance with applicable state and federal regulations and planning requirements. Manages and participates in developing and implementing local and regional multi-modal transportation plans and programs. Oversees preparation of project priorities and the Transportation Improvement Program. Monitors implementation of major transportation projects.

Participates in regional and state transportation policymaking through involvement with the Central Florida MPO Alliance and the Florida MPO Advisory Council.

Facilitates public involvement in the SCTPO planning process. Monitors effectiveness of social media, website and project-specific public outreach efforts. Makes presentations to community groups on transportation issues. Serves as the SCTPO's primary media spokesperson.

Performs related work as required.

REQUIREMENTS:

EDUCATION AND EXPERIENCE: Graduation from an accredited college or university with a Master's degree in Transportation Planning, Civil Engineering, Urban Planning, Geography or closely related field PLUS four (4) years of progressively responsible experience in Urban/Regional Planning including two (2) years of supervisory experience.

Transportation planning experience with Florida local governments or State and Federal agencies involved in Florida sub-state regional transportation planning is preferred.

Additional qualifying education and/or experience which provides the necessary knowledge, skills and abilities may be substituted one for the other on a year for year basis.

KNOWLEDGE, SKILLS AND ABILITIES: (NOTE: The knowledge, skills, and abilities identified in this class specification represent those needed to perform the duties of this class. Additional knowledge, skills and abilities may be applicable for individual positions.)

Thorough knowledge of the principles, practices and methods of multi-modal transportation planning and programming.

Thorough knowledge of state and federal transportation planning program requirements.

Thorough knowledge of state and federal requirements governing the operation and funding of metropolitan planning organizations including financial management procedures.

Thorough knowledge of Brevard County and Central Florida transportation issues and facilities that influence the SCTPO planning process.

Good knowledge of federal, state and local transportation funding sources.

Good knowledge of the process required to implement transportation improvements.

Good knowledge of methods to improve corridor-level mobility.

Good knowledge of public involvement techniques.

Ability to interpret applicable federal, State and local planning legislation and regulations.

Ability to establish and maintain effective internal and external working relationships.

Ability to effectively communicate complex ideas both orally and in writing.

Ability to organize, direct and implement transportation planning programs.

Ability to effectively manage SCTPO grant funds and budget.

Ability to organize and lead meetings involving local officials, external agencies and/or the public.

Ability to direct and supervise the work of others.

Ability to interact effectively with print and electronic media.

Ability to manage SCTPO consultants.

Effective May 1, 2018.

EXHIBIT "B" TO EMPLOYMENT AGREEMENT FOR GEORGINA GILLETTE
Commencing May 1, 2018

Terms used in this PLC-2, Section 12.0 of the Space Coast TPO Policies and Procedures are as defined in PLC-1, Section 1.1 of the Space Coast TPO Policies and Procedures, as amended from time to time.

SECTION 12.0

FORMS OF DISCIPLINARY ACTION

12.1 GENERAL.

(A) Disciplinary action may include:

- (1) Reprimand given orally or in writing;
- (2) Suspension;
- (3) Demotion;
- (4) Reduction in compensation without change of classification or grade but not below the entrance rate for the classification; or
- (5) Dismissal

(B) All of the above listed forms of disciplinary action (except for oral reprimand) must be reduced to written format on a "Disciplinary Action Record" form.

12.2 JUST CAUSE.

(A) The appointing authority (SCTPO Executive Director/Supervisor) may initiate disciplinary action against an employee with at least 270 calendar days' full time employment, only for just cause. Just cause consists of but is not limited to:

(i) The employee has been convicted of an act that violates the criminal laws of the U.S. or any state or has been convicted of a felony or of a misdemeanor involving moral turpitude;

(ii) The employee has willfully, wantonly, unreasonably, unnecessarily or through culpable negligence been guilty of brutality or cruelty to a person, provided the act committed was not necessarily done in self defense or to protect the lives of others;

(iii) The employee has violated any of the principles of the merit system of these rules (*i.e.*, consistently poor evaluations of job performance of "Unsatisfactory" or "Needs Improvement");

(iv) The employee has willfully violated any lawful official regulation, order or policy or failed to obey proper direction made and given by the Executive Director or the employee's Supervisor; (v) The employee has possessed, consumed, or is under the influence of alcoholic beverages or controlled substance (as described in F.S. 893) while on duty;

(vi) The employee has been guilty of insubordination or of disgraceful conduct;

(vii) The employee is offensive in said employee's conduct or language in public or toward the public, officials, or employees;(viii) The employee is responsible for an intentional act or course of conduct violating duties or obligations of said employee's position;

(ix) The employee is careless or negligent with the monies or other property of the Space Coast Transportation Planning Organization; The employee has misappropriated or misused equipment, tools, funds, machines, etc.

(x) The employee has failed to pay or make reasonable provisions for future payment of said employee's debts to such an extent that such failure becomes detrimental to the reputation of the Space Coast Transportation Planning Organization service or the employee's ability to satisfactorily perform the duties of his/her position;

(xi) The employee has used or threatened to use, or attempted to use, personal or political influence in securing promotion, leave of absence, transfer, change in pay rate, or character of work;

(xii) The employee has induced or has attempted to induce an employee of the Space Coast Transportation Planning Organization to commit an unlawful act or to act in violation of any lawful departmental or official regulations or orders;

(xiii) The employee has taken for personal use from any person any fee, Gift, or other valuable thing in the course of said employee's or in connection with it, when such Gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that afforded other persons;

(xiv) The employee has engaged in outside activities on work time or has used the Space Coast Transportation Planning Organization property for personal gain;

(xv) The employee has failed to maintain a satisfactory attendance record. Proper use of personal leave shall not constitute grounds for any disciplinary action;

(xvi) The employee has violated a safety rule which resulted in or had the potential to damage the Space Coast Transportation Planning Organization property, vehicles or equipment, or result in an injury to a the Space Coast Transportation Planning Organization employee, other persons, or their property;

(xvii) The employee has refused to submit to alcohol/drug testing on the standards outlined in Section 15 of these rules;

(xviii) The employee was hired as a "provisional employee" and did not complete the provisional elements in the time allotted;

(xix) The employee has falsified SCTPO records, such as employment applications, accident records, work records, time sheets or any other report or record;

(xx) The employee has possessed, distributed, sold, transferred, or used dangerous or unauthorized materials, such as explosives or firearms, in the workplace or anywhere on SCTPO owned or leased property; or

(xxi) Unsatisfactory performance.

(xxii) The employee has knowingly making false statements during an administrative investigation or hearing, and/or refused to cooperate.

(xxiii) The employee has failed to report a personal injury or accident in which the employee was involved while on the job, pursuant to the Worker's Compensation policy.

(xxiv) The employee has engaged in concerted curtailment or restriction of production or interference with work in or about the SCTPO's property, including, but not limited to, instigating, leading or participating in any walkout, strike, sitdown, slowdown or refusal to return to work at the scheduled time for the scheduled shift.

(B) Appeal of a grievance by an employee may not of itself be used as grounds for disciplinary action.

12.3 DISCIPLINARY HEARINGS.

(A) Whenever the SCTPO Executive Director/Supervisor issues a "Disciplinary Action Record," a copy of the record must be furnished to the employee involved and to the personnel records keeper. The "Disciplinary Action Record" must outline the alleged offense(s), the dates involved, citation of the personnel rules that have been violated, all pertinent details, and the proposed disciplinary action to be taken. Said charges are restricted to actions occurring within two (2) years prior to the date of the "Disciplinary Action Record", except for charges involving criminal violations which can be considered as applicable.

(B) Regular employees with 270 calendar days or more of continuous full time employment who receive "Disciplinary Action Records," shall have the opportunity for a pre-or post-disciplinary hearing before the Space Coast Transportation Planning Organization. The SCTPO Executive Director shall serve as the Space Coast Transportation Planning Organization "Hearing Officer" in all cases except for cases in which a conflict of interest is apparent. Should the SCTPO Executive Director not be able to serve as "Hearing Officer" due to conflict of interest, another "Hearing Officer" will be appointed by the SCTPO Governing Board. Employees with less than 270 calendar days of continuous full time employment shall not be entitled to a disciplinary hearing. The purpose of this hearing is a review to determine if there is just cause for the disciplinary action. Employees and supervisors will be allowed to present witnesses and other documentation during the hearing to support their respective positions.

(C) Immediately upon receipt of a "Disciplinary Action Record" against an employee, the employee shall be notified by registered or certified mail, or by hand delivery, that said

employee will be afforded an opportunity for a disciplinary hearing before a hearing officer.

(D) Within five (5) working days from receipt of the notification of the disciplinary action, it shall be the employee's duty and responsibility to notify the SCTPO Executive Director of said employee's intention to request, or to waive the right to a disciplinary hearing. The disciplined employee may waive hand delivery of registered/certified mail, and appear at the SCTPO staff offices and sign a receipt for proper notification of a request for a hearing. Failure to notify the SCTPO Executive Director within five (5) working days shall be construed as a waiver of any further right to a disciplinary hearing, and the action of the appointing authority shall be sustained.

(E) Upon receipt of the request for a disciplinary hearing from the employee, the SCTPO Executive Director shall set a hearing date and immediately notify the disciplined employee by registered or certified mail, hand delivery, or in person. Supervisory personnel shall also be notified.

(F) Depending on the outcome of the aforementioned hearing, employees may request a further appeal to the SCTPO Executive Committee; provided, that the employee has attained nine (9) months of service with the Space Coast Transportation Planning Organization and is no longer considered to be on probationary status.

(G) The SCTPO Executive Director does not have the right to appeal disciplinary actions as part of management.

12.4 CAUSES FOR IMMEDIATE SUSPENSION OR DISMISSAL.

(A) If the retention of the employee would result in any of the following extraordinary situations, an appointing authority (Executive Director/Supervisor) may immediately suspend an employee without pay or dismiss an employee pending a hearing date. The following are considered extraordinary situations:

(1) The retention of the employee would result in damage to the Space Coast Transportation Planning Organization property;

(2) The retention of the employee would be injurious to the employee himself/herself;

(3) The retention of the employee would be injurious to fellow employees;

(4) The retention of the employee would be injurious to the general public; or

(5) The retention of the employee would be detrimental to the interests of the Space Coast Transportation Planning Organization.

(B) Any of the following situations may be utilized and are examples of the type of criteria to be utilized to immediately suspend or dismiss any employee:

(1) Intoxication on the job;

(2) Possession of and/or use of alcohol, a controlled substance, or illegal narcotics while on duty;

(3) Possession of and/or use of a weapon while on duty or on SCTPO property at any time;

(4) Commission of an act, which constitutes a felony offense or a misdemeanor involving moral turpitude under the criminal laws of the U.S or the State of Florida;

(5) Brutality or cruelty to an employee or to the general public while on duty; or

(6) The employee has been absent for three (3) or more consecutive work days without notification or permission (also referred to as a voluntary quit or job abandonment).

(C) In any of the above situations, a Disciplinary Action Record of the charges shall be furnished to the employee and the personnel records keeper within twenty-four (24) hours after commencement of suspension or dismissal. Employees will have the opportunity for a postdisciplinary hearing in accordance with the provisions of Section 12.3.

12.5 CAUSES FOR SUSPENSIONS/DISMISSAL DUE TO VIOLATION OF STATE LAW.

When an employee has been suspended or dismissed as a result of committing an act which constitutes a felony offense or a misdemeanor involving moral turpitude under the criminal laws of the State of Florida, and criminal charges are pending against said employee, and it is considered by the appointing authority (SCTPO Executive Director) that the retention of the employee would result in damage to the Space Coast Transportation Planning Organization, and would be injurious to the employee himself/herself, to a fellow employee, or to the general public, or would be detrimental to the interests of the Space Coast Transportation Planning Organization or its government partners, then said employee may request the SCTPO Executive Director to postpone the scheduled disciplinary hearing until such criminal charges have been disposed of. Only if the employee is acquitted of all charges by the court, by final disposition, or all charges are dismissed, except when the dismissal is part of a plea arrangement or PTI Program, may he/she have the right of reinstatement to the same or similar position, without loss of pay or benefits.