

RESOLUTION 16-70

BE IT RESOLVED that the appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Agreement between the City and the Florida Department of Transportation, relating to the conveyance of the Front Beach Road Segment 1 right of way (from its intersection with Middle Beach Road west to South Thomas Drive), 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.

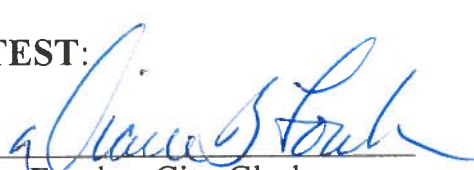
THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 14th day of April, 2016.

CITY OF PANAMA CITY BEACH

By: 
Gayle F. Oberst, Mayor

ATTEST:


Diane Fowler, City Clerk

**FOOT/CITY OF PANAMA CITY BEACH
ROADWAY TRANSFER AGREEMENT**

**SR 30 Front Beach Road Section No. 46010000 from South Thomas Drive
(Beginning Mile Post 13.415 to Ending Mile Post 13.694) to SR 392A**

THIS AGREEMENT, is by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida (the "DEPARTMENT"), and the CITY OF PANAMA CITY BEACH, FLORIDA, (the "CITY").

WITNESSETH

1. The DEPARTMENT has requested the transfer of SR 30 Front Beach Road Section No. 46010000 from South Thomas Drive (Beginning Mile Post 13.415 to Ending Mile Post 13.694) to SR 392A and as depicted on the map attached hereto as **Exhibit A** (the "Road"), from the State Highway System to the City Street System, and this transfer is mutually agreed upon between the CITY and the DEPARTMENT.

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 the DEPARTMENT agree as set forth below:

2. The recitals set forth in paragraph 1 above are true and correct, and are by reference made a part of this Agreement.

3. This Agreement sets forth the terms and conditions under which the CITY and the DEPARTMENT will abide.

4. By resolution, which is attached hereto, the CITY has authorized its representative whose name is signed below to enter into this Agreement.

5. The commencement of jurisdictional and maintenance responsibilities is the date of the approval of the roadway transfer by the Secretary of the DEPARTMENT.

6. With respect to the Road:

(a) The CITY accepts all responsibility for the right of way and for operation and maintenance of the roadway, including bridges. In addition to the roadbed, this Agreement includes all curbs, culverts, 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, including the right of way, except as may be specified in this Agreement.

(d) If there will be any road number changes, the DEPARTMENT will offer an opportunity for a public hearing.

(e) It is agreed that all obligations and rights of the DEPARTMENT under the agreements and permits attached as **Exhibit B**, to the extent that they apply to the Road, are transferred as part of this Agreement.

(f) Disposition of telemetered traffic monitoring sites will be determined on an individual basis. The Traffic Data Section of the Transportation Statistics 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.

(g) CITY agrees not to adversely affect historical or archaeological resources within the Road unless in full compliance with federal and State law and all permitting requirements. 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. If no evidence is found, the CITY agrees not to adversely affect any such resources if found after the transfer.

(h) If Federal-Aid funding has been used on the Road, the CITY agrees to enter into a project agreement with the Department in accordance with Topic Number 850-065-001, Inspection of Federal-aid Projects under Local Jurisdiction (State Maintenance Office).

(i) CITY shall record existing deeds or right-of-way maps will be recorded in the public land records of Bay County in which the right-of-way is located.

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 Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto.

9. This 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
Jason D. Peters, P.E.
Director, Transportation Development
Post Office Box 607
1074 Highway 90
Chipley, Florida 32428
Telephone: (850) 330-1203
Fax: (850)330-1761

City of Panama City Beach
Mario Gisbert
City Manager
110 South Arnold Road
Panama City Beach, Florida 32413
Telephone: (850) 233-5100
Fax: (850) 233-5108

11. Each party is an independent contractor and is not an agent of the other party. Nothing contained in this Agreement shall be construed to create any fiduciary relationship between the parties, during or after the performance of this 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 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 Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, on the dates set forth below:

CITY OF PANAMA CITY BEACH

**STATE OF FLORIDA
DEPARTMENT OF
TRANSPORTATION**

BY: _____

BY: _____

James T. Barfield, P.E.
District 3 Secretary

Date: _____

Date: _____

ATTEST: _____

ATTEST: _____

Executive Secretary

By: _____

APPROVED

BY: _____

Date: _____

LEGAL REVIEW

LEGAL REVIEW

City Attorney

Office of General Counsel

Exhibit A

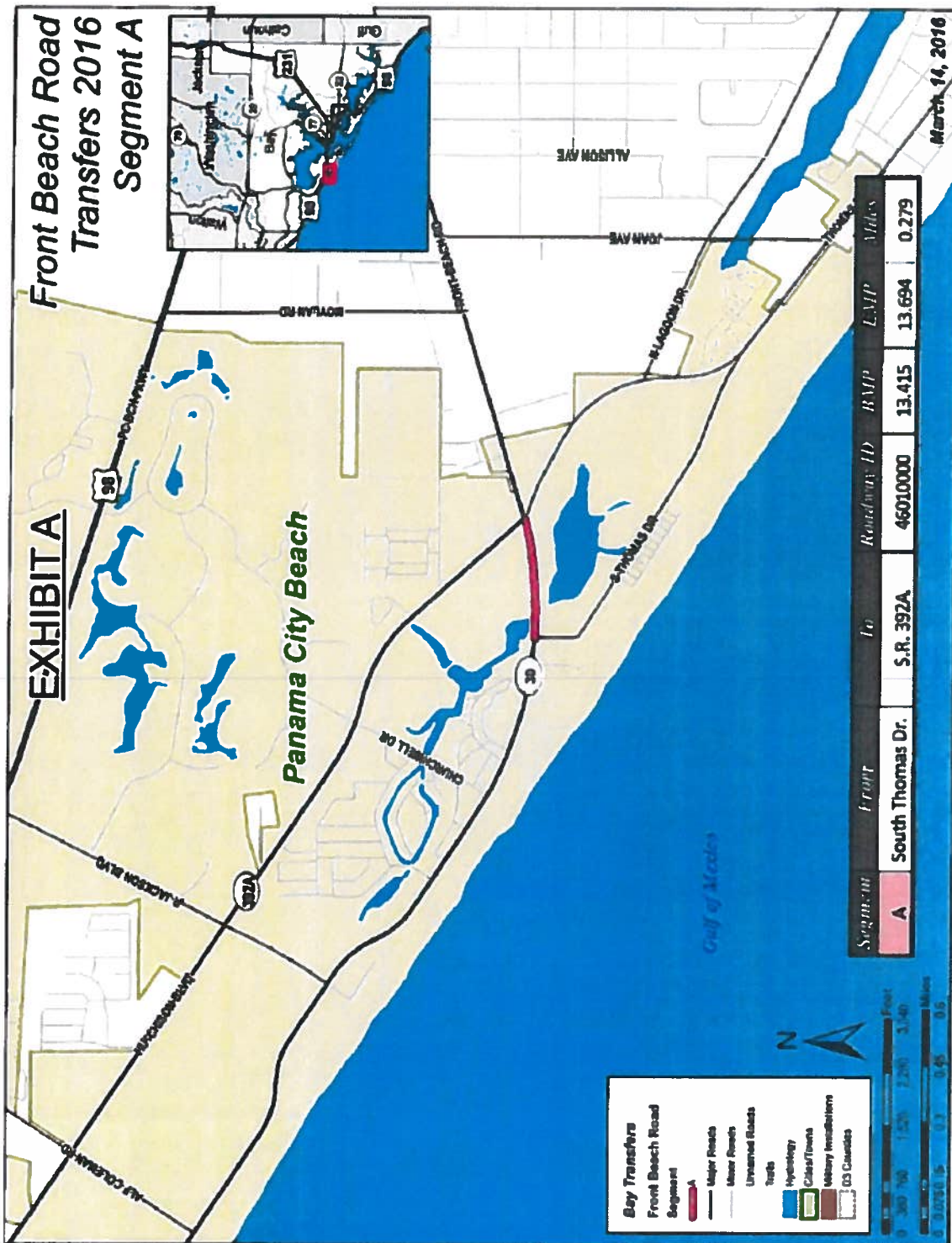


EXHIBIT B

FDOT Agreements and Permits

DRAFT