THE BOARD OF COUNTY COMMISSIONERS **ORDINANCE NO. 11-08**

AN ORDINANCE AMENDING CHAPTER 78, ARTICLE II, DIVISION 2 OF THE PASCO COUNTY CODE OF ORDINANCES, AND SECTION 402 OF THE PASCO COUNTY LAND DEVELOPMENT CODE, TO REPLACE TRANSPORTATION IMPACT FEES WITH MOBILITY FEES AND ESTABLISH A TRANSPORTATION CONCURRENCY EXCEPTION AREA; PROVIDING A PURPOSE AND INTENT; PROVIDING DEFINITIONS; PROVIDING FINDINGS; PROVIDING FOR THE ADOPTION OF MOBILITY FEE AND ADMINISTRATION FEE STUDIES; PROVIDING REVIEW AND UPDATE PROCEDURES; PROVIDING FOR APPLICABILITY; ESTABLISHING MOBILITY FEE ASSESSMENT DISTRICTS; PROVIDING PROCEDURES FOR IMPOSITION, CALCULATION AND COLLECTION OF MOBILITY FEES AND ADMINISTRATION FEES; PROVIDING FOR INDEPENDENT MOBILITY FEE STUDY PROCEDURES; PROVIDING FOR EXEMPTIONS AND CREDITS; PROVIDING FOR THE PAYMENT AND COLLECTION OF MOBILITY FEES; PROVIDING FOR COUNTY ENFORCEMENT OF THE MOBILITY FEE ORDINANCE; PROVIDING FOR THE ESTABLISHMENT OF MOBILITY FEE FUNDS AND COLLECTION/BENEFIT DISTRICTS; PROVIDING FOR THE APPROPRIATION OF MOBILITY FEE FUNDS; PROVIDING FOR REFUNDS; PROVIDING FOR THE EFFECT OF THE MOBILITY FEE ORDINANCE ON OTHER REGULATIONS AND DEVELOPMENT APPROVALS; PROVIDING A MOBILITY FEE OPT-OUT PROCEDURE; DESIGNATING THE URBAN SERVICE AREA OF PASCO COUNTY AS A TRANSPORTATION CONCURRENCY EXCEPTION AREA; PROVIDING IMPLEMENTATION PROCEDURES AND REQUIREMENTS FOR THE TRANSPORTATION CONCURRENCY EXCEPTION AREA; PROVIDING FOR INCLUSION INTO THE PASCO COUNTY CODE; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section (1)(f) of the Florida Constitution and Sections 125.01(l), (m) and (w), Florida Statutes, Pasco County has broad home rule powers to adopt ordinances to provide for and operate transportation systems, including roadways, transit facilities, and bicycle/pedestrian facilities in Pasco County ("Transportation Facilities"); and

WHEREAS, the Board of County Commissioners finds that the Transportation Facilities which currently support the use, availability and access to and from the many desirable locations within Pasco County are in need of improvement to adequately meet the current and future needs of the residents of the County and visitors and tourists to arrive in, and travel about Pasco County; and such needs are restricting the ability of Pasco County to realize its potential to become a community which can enjoy the many benefits afforded by Pasco County; and

WHEREAS, the Board of County Commissioners finds that it is necessary and desirable to address the Transportation Facilities in Pasco County, and to provide for substantial improvements thereto, in order for Pasco County to reach its full potential (i) to provide sound, clean economic development, (ii) to protect the natural beauty in a manner that enables the public and visitors to enjoy the immense opportunities for recreation, with a minimum of difficulty of access, (iii) to afford adequate and efficient traffic corridors so that Pasco County is more appealing and accessible as a locale and a destination for residents, workforce and visitors/tourists; and (iv) to establish evacuation routes that will help in meeting current and future demands, facilitate evacuation by minimizing and/or avoiding traffic backups, and reduce emergency response delays; and

WHEREAS, the County is experiencing growth and new development that necessitates the expansion of Transportation Facilities; and

WHEREAS, projected population growth and new development is expected to require a more sustainable transportation network with different mobility options; and

WHEREAS, the County presently subjects new development to transportation impact fees and transportation concurrency to partially address the impacts of new development on collector and arterial roadway capacity; and

WHEREAS, the County finds that the existing transportation impact fee/transportation concurrency system is complex, time-consuming, unpredictable, and too focused on roadways to the detriment of desired transportation alternatives and land use patterns; and

WHEREAS, Policies FLU 8.1.1 and 8.1.2 of the Pasco County Comprehensive Plan designate the West and South Market Areas of Pasco County as the Urban Concentration Area; and

WHEREAS, Goal FLU 9 and Objective FLU 9.1 of the Pasco County Comprehensive Plan designate the Urban Concentration Area as the focal point of development in Pasco County creating a live, work, play environment to attract high-quality development, and require that the majority of new development in Pasco County occur in the Urban Concentration Area; and

WHEREAS, Policy FLU 9.1.3 of the Pasco County Comprehensive Plan requires that Pasco County provide financial incentives for development located in the Urban Concentration Area, including differential mobility fees; and

WHEREAS, Policies FLU 9.1.7 and 9.2.2 of the Pasco County Comprehensive Plan create an Urban Service Area within the Urban Concentration Area, and state that the Urban Service Area will become a Transportation Concurrency Exception Area upon adoption of a mobility fee to address mobility needs in the Urban Service Area; and

WHEREAS, Policy TRA 1.7.2 of the Pasco County Comprehensive Plan requires the adoption of a multi-modal mobility plan and mobility fee that (a) is designed to encourage development of specific land uses in specific locations; (b) includes assessments for roadways, transit, and bicycle/pedestrian facilities, including assessments for roadway facilities on the Strategic Intermodal System; (c) promotes compact, mixed-use and energy efficient development; and (d) does not assess new development for transportation backlogs or an amount that is in excess of the amount that is proportionate to the impacts of the new development; and

WHEREAS, the Florida Legislature recently adopted Chapter 2011-139, Laws of Florida (HB 7207), which encourages local governments to develop tools and techniques to complement the application of transportation concurrency, including: (a) adoption of long-term strategies to facilitate development patterns that support multimodal solutions; (b) adoption of an areawide level of service not dependent on any single road segment function; (c) exempting or discounting impacts of locally desired development, such as development in urban areas, redevelopment, job creation, and mixed-use on the transportation system; (d) assigning secondary priority to vehicle mobility and primary priority to ensuring a safe, comfortable, and attractive pedestrian environment, with convenient access to transit; and (e) reducing impact fees to promote development within urban areas and a balance of mixed-use development in certain areas; and

WHEREAS, the Board of County Commissioners finds it appropriate to adopt, through this ordinance, a mobility fee program that achieves the goals, objectives and policies of the Comprehensive Plan and that utilizes the tools and techniques encouraged by Chapter 2011-139, Laws of Florida (HB 7207); and

WHEREAS, applicable law requires that revenue sources other than those derived from mobility fees be utilized to provide targeted discounts or reductions of mobility fees for development in urban areas, development that results in job creation, and compact, mixed use, energy efficient development; and

WHEREAS, for these purposes, the County has identified tax increment revenues, gas/fuel tax revenues and local government infrastructure surtax (Penny for Pasco) revenues that will be utilized to provide targeted mobility fee reductions; and

WHEREAS, the County has studied the necessity for, and implications of, the imposition of mobility fees for funding the capital expansion of the County's Transportation Facilities to serve new growth; and

WHEREAS, the County has found and determined that mobility fees are appropriate for funding the capital expansion of the County's Transportation Facilities to serve new growth; and

WHEREAS, the County has found and determined that most mobility fees will have certain common characteristics; and, therefore, the County will benefit from the adoption and use of a uniform procedure for the imposition, calculation, collection, expenditure, and administration of mobility fees; and

WHEREAS, all mobility fees collected will be deposited in mobility fee funds which clearly identify these monies as mobility fees; and

WHEREAS, pursuant to Section 78-29 of the Pasco County Code of Ordinances and Section 163.31801, Florida Statutes, the County is authorized to charge administration fees to recoup the cost of administering and implementing impact fees, provided that such fees do not exceed the County's actual cost of administering and implementing impact fees; and

WHEREAS, the County has studied the County's actual costs of administering and implementing the County's impact fee ordinances, and has separately identified the portion of such costs associated with the administration and implementation of mobility fees; and

WHEREAS, the Board of County Commissioners desires to establish a mobility fee administration fee as a part of the mobility fee program; and

WHEREAS, to the extent that the replacement of transportation impact fees with mobility fees and administration fees results in an impact fee increase for any development, or otherwise adversely affects any

development, the Board has determined that such development shall be entitled to opt-out of the mobility fee program and remain subject to the payment of transportation impact fees; and

WHEREAS, to the extent that the replacement of transportation impact fees with mobility fees and administration fees results in an impact fee reduction for any development, the Board does not desire to apply such reduction to buildings with building permits issued prior to March 1, 2011, because such buildings were issued building permits prior to the Board deciding to adopt reduced mobility fees and temporarily suspend other impact fees, and applying the reduction to such buildings would skew the Board's analysis of the effect of the mobility fee reduction and suspension on construction activity; and

WHEREAS, notice of the imposition of these amended impact fees effective June 1, 2011, or thereafter, and retroactive to all building permits applied for or issued on or after March 1, 2011 was published in a paper of general circulation in the County on February 27, 2011; and

WHEREAS, pursuant to law, notice has been given by publication in a paper of general circulation in the County, notifying the public of this proposed Ordinance and of a public hearing; and

WHEREAS, a public hearing before the Board was held pursuant to the published notice described above, at which the parties in interest and all other citizens so desiring had an opportunity to be and were in fact heard; and

WHEREAS, this Ordinance shall apply to the unincorporated area of Pasco County, and within Participating Municipalities (as defined herein), and shall be known as the "Mobility Fee Ordinance"; and

WHEREAS, the Board of County Commissioners, acting as the Local Planning Agency, finds this Ordinance is consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pasco County, Florida, that the Pasco County Code of Ordinances and Pasco County Land Development Code are hereby amended as follows:

SECTION I – <u>REVISIONS TO PASCO COUNTY CODE OF ORDINANCES</u>. Division 2 of Article II of Chapter 78 of the Pasco County Code of Ordinance is hereby amended and restated to read as follows:

DIVISION 2.—MOBILITY FEES

SECTION 78-36 - GENERAL.

(a) **PURPOSE AND INTENT.**

1. The Board of County Commissioners has determined and recognized through adoption of the Pasco County Comprehensive Plan that the growth rate which the County is experiencing will necessitate extensive, major transportation network improvements and make it necessary to regulate development activity generating new travel demands in order to maintain an acceptable level of transportation system capacity and quality of life in Pasco County. In order to finance the necessary new capital improvements and regulate travel generation levels, several combined methods of financing will be necessary, one of which will require development activity generating new transportation demands to pay a mobility fee which does not exceed a pro rata share of the reasonably anticipated expansion costs of transportation facilities.

2. Providing for and regulating transportation facilities to make them safer and more efficient is the recognized responsibility of the County through Sections 125.01(1)(l), (m) and (w), Florida Statutes and the Pasco County Comprehensive Plan, and is in the best interest of the public health, safety, and welfare.

3. It is the purpose of this division to establish a regulatory fee to assist in providing increased capacity for the transportation system to accommodate the increased impacts development will have on the transportation system. Development activity generating new travel demands will require the payment of a mobility fee which shall not exceed a pro rata share of the reasonably anticipated costs of new transportation facilities that its presence necessitates. This is accomplished by requiring a mobility fee upon commencement of any development activity generating new travel demands. This mobility fee is for the exclusive purpose of providing increased capacity for the transportation system.

4. It is the purpose of this division to implement many of the tools and techniques identified and encouraged by the State Legislature in Chapter 2011-139, Laws of Florida (HB 7207), and identified by the Board of County Commissioners in the Pasco County Comprehensive Plan. These tools and techniques will substantially advance the public purposes of job creation, and reduction of energy, infrastructure and

service costs (i.e. public safety) that typically result from lower density/sprawl-type development patterns. These tools and techniques include: (i) adoption of long-term strategies to facilitate development patterns that support multimodal solutions; (ii) adoption of an areawide level of service not dependent on any single road segment function; (iii) exempting or discounting impacts of development in urban areas, redevelopment, job creation, and mixed use on the transportation system; (iv) assigning a greater priority to ensuring a safe, comfortable, and attractive bicycle/pedestrian environment, with convenient access to transit; and (v) reducing mobility fees to promote development within existing and planned urban areas, development that results in job creation, and development of compact, mixed-use, energy efficient development, such as transit oriented development and traditional neighborhood development. Because applicable law requires that revenue sources other than those deriving from mobility fees be utilized to provide targeted discounts or reductions of mobility fees for development in urban areas; development that results in job creation; compact, mixed use, energy efficient development; and other locally desired development, it is the purpose of this division to ensure that revenue sources other than mobility fees are utilized to provide these targeted discounts/reductions.

5. It is the purpose of this division to implement Policy TRA 1.7.2 of the Pasco County Comprehensive Plan which requires the adoption of a multi-modal mobility plan and mobility fee that (a) is designed to encourage development of specific land uses in specific locations; (b) includes assessments for roadways, transit, and bicycle/pedestrian facilities, including assessments for roadway facilities on the Strategic Intermodal System; (c) promotes compact, mixed-use and energy efficient development; and (d) does not assess new development for transportation backlogs or an amount that is in excess of the amount that is proportionate to the impacts of the new development.

6. The purpose of this division is to continue to enable Pasco County to allow new development consistent with the adopted Comprehensive Plan and to regulate development activity generating new transportation demands so as to require new development to share in the burdens of growth by paying its pro rata share for the reasonably anticipated expansion costs of transportation facilities. This

will allow new growth to mitigate the burdens it places on County transportation facilities without unfairly or disproportionately placing this burden on the existing residents of Pasco County.

7. The purpose of this division is to ensure that the County general fund does not bear the full burden of administering and implementing a mobility fee program, and to ensure that, in addition to the mobility fee, an administration fee is charged to new development to administer and implement the mobility fee program, provided that the administration fee does not exceed the County's actual costs of administration and implementation.

8. It is not the purpose of this division to address all transportation impacts resulting from new development, or to guarantee that all new development will be approved upon payment of a mobility fee. New development has other site specific and cumulative impacts on the transportation system that are regulated through other County land development regulations, including, but not limited to, regulations relating to transportation corridor management, collector and arterial spacing, access management, substandard roads, secondary access, timing and phasing, and, where applicable, transportation concurrency and Development of Regional Impact (DRI) review. However, if such regulations require transportation mitigation for the same impacts addressed through the payment of mobility fees, such regulations provide for credits against mobility fees consistent with State and Federal law and this division.

9. It is not the purpose of this division to collect any money from development activity generating new transportation demands in excess of the actual amount necessary to offset the demand on the transportation system generated by the new development, plus an administration fee. It is specifically acknowledged that this division has approached the problem of determining the mobility fee in a conservative and reasonable manner. This ordinance will only partially recoup the governmental expenditures associated with growth. To the extent existing development will continue to bear a share of the cost of future improvements of the transportation system, mobility fees have been reduced.

(b) **DEFINITIONS.**

The words or phrases used herein shall have the meaning prescribed below and as defined in the General Definitions section of the Administrative Procedures Manual. By January 1, 2012, the

Board of County Commissioners shall adopt an update to the Administrative Procedures Manual to reflect any changes required by the conversion of Transportation Impact Fees to Mobility Fees. Words not defined below or in the Administrative Procedures Manual shall have the meaning prescribed in the current Pasco County Code of Ordinances or the Land Development Code.

"Accessory Building or Structure" shall mean a subordinate Building, or portion of a Building, the use of which is clearly incidental and related to that of the principal Building or use of the land and which is located on the same parcel, or in the same Building, as that of the principal Building or use. A Building, or portion of a Building, that is constructed prior to the principal Building or use, or that has its own outdoor signage, shall not be considered an Accessory Building or Structure, and shall be considered a free-standing independent Building for purposes of this division.

"Administration Fee" shall mean the fee for the administration and implementation of Mobility Fees as set forth in subsection 78-38(b)(3) of this division.

"Administration Fee Study" shall mean the study adopted pursuant to subsection 78-36(e) of this division which supports the imposition of the Administration Fee.

"Administrative Procedures Manual" shall mean the Administrative Procedures Manual adopted by Resolution 07-226, and which may be amended in the future by resolution.

"Alteration" shall mean the alteration, expansion, addition to, or replacement of a use, Building or dwelling unit, or the construction of an Accessory Building or Structure.

"Assessment Districts" shall mean the urban, suburban and rural districts utilized to calculate the Mobility Fee that a Building Permit or Development Permit is required to pay, as established in subsection 78-37(c) of this division.

"Bicycle/Pedestrian Facilities" shall mean transportation facilities that are primarily intended to be utilized by pedestrians and bicycles, including sidewalks, multi-use paths and trails, as well as the necessary infrastructure to support the construction of such facilities, such as drainage areas, wetland/floodplain mitigation areas, boardwalks, landscaping, bike racks, shelters/kiosks, benches and signage. For purposes of this division, a bicycle/pedestrian crossing area or bicycle lane constructed

contiguous to, or within, a vehicular travel lane shall be considered a Roadway Facility, and not a Bicycle/Pedestrian Facility.

"Bicycle/Pedestrian Mobility Fee" shall mean the portion of the Mobility Fee for Bicycle/Pedestrian Facilities, which is in the "Bike/Ped Share" column of the Mobility Fee Schedule.

"Budgeted" or "Budgeting" shall mean that funds are allocated or appropriated within the Capital Improvement Plan.

"Building" shall mean any structure having a roof and used or built for the enclosure or shelter of persons, animals, vehicles, goods, merchandise, equipment, materials, or property of any kind for a period of time in excess of four weeks in any one calendar year. This term shall include tents, trailers, mobile homes, or any vehicles serving in any way the function of a building. This term shall also include outdoor-patio seating provided as part of a restaurant or bar, whether such seating is covered by a roof or not.

"Building Permit" shall mean an official document or certificate issued by the authority having jurisdiction authorizing the construction of any Building. The term shall also include tie-down permits for those structures or buildings that do not require a Building Permit, such as a mobile home, in order to be occupied.

"Capital Improvement Plan" or "CIP" shall mean a multiyear schedule of Transportation Capital Improvements, including priorities and cost estimates budgeted to fit the financial resources of the County. This plan is incorporated into the Comprehensive Plan as part of the Capital Improvements Element.

"Collector and Arterial Roadways" shall mean those roadways classified as collector, arterial, controlled access, or freeway roadways on the Comprehensive Plan Future Traffic Circulation Map Series (presently maps 7-22, 7-24, 7-35, and 7-36), or classified as a collector, arterial, controlled access, or freeway roadway pursuant to the functional classification or reclassification procedures and criteria established pursuant to the Comprehensive Plan.

"Collection/Benefit Districts" shall mean the Mobility Fee expenditure districts established by subsection 78-39 of this division.

"County" shall mean the unincorporated area of Pasco County, a political subdivision of the State of Florida.

"County Administrator" shall mean the Pasco County Administrator or his designee.

"Development" shall mean the carrying out of any building activity or the making of any material change in the use or appearance of any structure or land that attracts or produces vehicular or person trip(s) over and above that produced by the existing use of the land.

"Development Approval" shall mean a Development of Regional Impact (DRI) Development Order, development agreement, PUD Planned Unit Development approval, MPUD Master Planned Unit Development approval, preliminary plan approval, or concurrency Certificate of Capacity.

"Development Permit" shall mean an official document or certificate, other than a Building Permit, issued by the authority having jurisdiction, authorizing commencement of Development. This term includes any site development permit, mining permit, landfilling permit, or other final plan approval for Development not involving construction of a Building.

"Encumber" or "Encumbered" shall mean an irrevocable commitment through an agreement or purchase order or a contract.

"External Trip" shall mean any vehicular or person trip which either has its origins from or its destination to the Development site and which impacts Transportation Capital Improvements.

"Gas Tax Revenues" shall mean the portion of the gas and fuel taxes expended by the County during a fiscal year for Transportation Capital Expenses, excluding the portion of such taxes for which a revenue credit was given to Development paying a Mobility Fee.

"Government Buildings" shall mean public schools (including charter schools), and Buildings or Developments leased or owned by the Federal Government, the State of Florida, a State or Federal government agency, Pasco County or a Participating Municipality. For Buildings or Developments with multiple tenants or uses, only the portion of such Buildings or Developments owned or leased by a governmental entity shall be considered a Government Building.

"Independent Mobility Fee Study or Studies" shall mean a study or studies conducted pursuant to subsection 78-38(c) of this division to calculate the Mobility Fee for a particular land use.

"Internal Trip" shall mean a vehicular or person trip that has both its origin and destination within the Development site without impacting Transportation Capital Improvements.

"ITE Manual" shall mean the most recent edition of the Institute of Transportation Engineers Trip Generation Report.

"Long Range Transportation Plan" or "LRTP" shall mean the Pasco County Metropolitan Planning Organization's most recently adopted Long Range Transportation Plan adopted pursuant to Section 339.175(7), Florida Statutes.

"Market Areas" shall mean the areas established pursuant to Objective FLU 8.1 of the Comprehensive Plan (presently shown on FLU Maps 2-17, 2-18, 2-19, 2-20, and 2-21).

"Master Developer" shall mean the primary person responsible for the planning and implementation of a Planned Development. If more than one person claims to be the Master Developer of a Planned Development, or the Master Developer for a Planned Development cannot be easily determined, the Master Developer shall be the person that has taken the most of the following actions with regard to the Planned Development:

(a) Filed any required annual or biennial reports for the Planned Development;

(b) Requested the most recent modification, change or amendment to the Planned Development;

(c) Established an impact fee credit account with the County for any required mitigation performed for the Planned Development;

(d) Paid the property taxes for the majority of the vacant land in the Planned Development; or

(e) Exercised majority voting control of any Community Development District, property owners association or other entity responsible for maintaining any common areas utilized by the entire Planned Development.

If the Master Developer cannot be determined based on the actions set forth above, the Master Developer shall be owner of the majority of the vacant land in the Planned Development, as determined by the Pasco County Property Appraiser's records.

"Mobility Fee" or "Mobility Fees" shall mean the multi-modal impact fees adopted and required to be paid in accordance with this division. The Mobility Fee is made up of three parts: (1) the Roadway Mobility Fee, (2) the Transit Mobility Fee, and (3) the Bicycle/Pedestrian Mobility Fee. Any reference to the Mobility Fee or Mobility Fees in this division which does not specifically reference one of the parts shall be considered a reference to the total of all three (3) parts.

"Mobility Fee Funds" shall mean the funds created pursuant to subsection 78-39 of this division.

"Mobility Fee Schedule" shall mean the fee schedule attached hereto as Exhibit A.

"Mobility Fee Study" shall mean the study adopted pursuant to subsection 78-36(e) of this division which supports the imposition of Mobility Fees.

"Mobility Fee Subsidy" shall mean the amount of Tax Increment Revenues to be transferred from the Pasco County Multi-Modal Transportation Fund into the Mobility Fee Funds to ensure payment for the portion of the Mobility Fees that were subsidized or bought-down with other revenue sources during the prior fiscal year. The Mobility Fee Subsidy is calculated for each Collection/Benefit District as the difference between the total amount of all Mobility Fees collected in the Collection/Benefit District during the prior fiscal year (not including any Administration Fees) and the amount of Mobility Fees that would have been collected in the Collection/Benefit District during the prior fiscal year (not including any Administration Fees) had there not been any subsidy or buy-down, plus the interest on such difference, less (a) the repayment of any bonds issued for Transportation Capital Expenses in the Collection/Benefit District during the prior fiscal year, and (b) Gas Tax Revenues and Sales Tax Revenues expended in the Collection/Benefit District during the prior fiscal year.

"Mobility Fee Subsidy Deficiency" or "Deficiency" shall mean there are insufficient Tax Increment Revenues in the Multi-Modal Transportation Fund during any fiscal year to make a Mobility Fee Subsidy transfer to any of the Mobility Fee Funds.

"Multi-Modal Tax Increment Ordinance" shall mean the County ordinance, adopted concurrently with this ordinance (as it may be amended from time to time), which creates the Multi-Modal Transportation Fund, and which provides for the funding of such Fund from Tax Increment Revenues.

"Multi-Modal Transportation Fund" shall mean the fund created pursuant to the Multi-Modal Tax Increment Ordinance and which is funded from the Tax Increment Revenues.

"Opt-Out Procedure" shall mean the procedure set forth in subsection 78-41 of this division for a Development to elect to be subject to Transportation Impact Fees in lieu of Mobility Fees.

"Opt-Out Developments" shall mean Developments or Planned Developments that have utilized the Opt-Out Procedure.

"Out-parcel" shall mean a parcel that is separate from, but contiguous to, a primary commercial Development. The parcel may or may not share common access and/or common parking areas with the primary commercial Development. Mainly consisting of a single freestanding unit, an out-parcel often is considered secondary in nature to the primary commercial Development. Out-parcels typically involve high convenience land uses, such as banks, high turnover or fast-food restaurants, or gas stations. However, extensions of specific land uses already in existence within the primary commercial Development would not be considered "out-parcels" (e.g., a freestanding Sears automotive repair shop located at a shopping mall that contains a Sears retail store).

"Participating Municipality" shall mean those Pasco County municipalities that have opted into the Pasco County mobility fee program by (i) adopting a mobility fee ordinance, (ii) repealing any inconsistent municipal ordinances, and (iii) entering into an interlocal agreement with the County governing collection and expenditure of Mobility Fees and Tax Increment Revenues.

"Participating Municipality Mobility Fees" shall mean those Mobility Fees collected within a Participating Municipality.

"Participating Municipality Tax Increment Revenues" shall mean the portion of the Tax Increment Revenues that is generated from the real property in the Participating Municipality (excluding any Community Redevelopment Areas), and calculated in accordance with the Multi-Modal Tax Increment Ordinance.

"Participating Municipality Transportation Capital Improvements" shall mean Transportation Capital Improvements that benefit the Participating Municipality, as determined by the interlocal agreement between the County and the Participating Municipality.

"Planned Development" shall mean a Development under unified control designed and planned to be developed in a single operation or by a series of prescheduled Development phases according to an officially approved final master land use plan, including Developments of Regional Impact, PUD Planned Unit Developments, MPUD Master Planned Unit Developments, PD land use classifications or other land use classifications with subarea policies, and other planned developments under a common preliminary site plan approval, plat or unified plan of development. If a Planned Development is part of a larger Planned Development (e.g. a preliminary site plan approval or plat within a larger Development of Regional Impact), the term Planned Development shall mean the larger Planned Development.

"Planned Development with Credits" shall mean a Planned Development that owns, or that is entitled to, Transportation Impact Fee Credits or Mobility Fee credits based on a Development Approval.

"Regional Transit Facilities" shall mean light rail, commuter rail, express bus, or bus rapid transit capital facilities included in the most recently adopted Tampa Bay Area Regional Transportation Authority Master Plan or Long Range Transportation Plan.

"Right-of-Way" shall mean land, property, or interest therein, that is necessary to accommodate all of the required elements for and to support the construction and/or improvement of Transportation Capital Improvements.

"Roadway Facility" or "Roadway Facilities" shall mean Collector and Arterial Roadway through-lanes, turn-lanes, bridges, curbs, gutters, medians, and/or shoulders; the construction of drainage facilities and/or mitigation areas for Collector and Arterial Roadways; and the installation of signage, advanced

traffic management systems and/or traffic signalization for Collector and Arterial Roadways. For purposes of this division, the term Roadway Facilities shall not include Bicycle/Pedestrian Facilities and Transit Facilities. However, bicycle/pedestrian crossing areas and bicycle lanes constructed contiguous to, or within, a vehicular travel lane shall be considered a Roadway Facility, and not a Bicycle/Pedestrian Facility.

"Roadway Mobility Fee" shall mean the portion of the Mobility Fee assessed for impacts to Roadway Facilities, which is identified on the Mobility Fee Schedule as "Road Share".

"Sales Tax Revenues" shall mean the portion of the local government infrastructure surtax (Penny for Pasco) expended by the County during a fiscal year for Transportation Capital Expenses, excluding the portion of such taxes for which a revenue credit was given to Development paying a Mobility Fee.

"SIS Mobility Fee" shall mean the portion of the Roadway Mobility Fee assessed for impacts to interstate/freeway Roadway Facilities in Pasco County (excluding freeways with tolls), and which has been reserved for Transportation Capital Improvements that benefit the Strategic Intermodal System. The SIS Mobility Fee is identified in the Mobility Fee Schedule as the "Interstate Share". The SIS Mobility Fee shall be considered a component of the Roadway Mobility Fee, except where this division specifically references the SIS Mobility Fee.

"Site-access Improvements" shall mean Roadway Facility improvements at or near the Development site which are necessary to interface the Development's External Trips with Collector and Arterial Roadways or which are necessary to interface the Development's Internal Trips with Collector and Arterial Roadways where a portion of such roadways is included within the Development (i.e., project drives, turn-lanes, signalization, etc.) It shall also include improvements designed to ensure safe and adequate ingress and egress to a Development site. For purposes of this division, site-access improvements include, but are not limited to, improvements required by the County's access management regulations and any right-of-way dedications necessary to construct the first four (4) lanes of Collector and Arterial Roadways within the Development site and design and construction of any portion of the first two (2) lanes of Collector and Arterial Roadways within the Development site, including all Roadway Facilities necessary for the design and

construction of Collector and Arterial Roadways. Site-access improvements also include Bicycle/Pedestrian Facilities and Transit Facilities at or near the Development site that are necessary to interface the Development's External Trips or Internal Trips with Bicycle/Pedestrian Facilities and Transit Facilities located outside the Development site, including, but not limited to, sidewalks, multi-use paths, bike racks and transit shelters/kiosks located internal or adjacent to the Development site; however, park and ride lots and Regional Transit Facilities shall not be considered site-access improvements.

"Square Feet" or "Square Footage" (also referred to as "sf") shall mean the area of a parcel upon which a land use required to pay a Mobility Fee is proposed for occupancy or storage, and which is used to calculate the square footage of the Building, including the gross area measured in square feet from the exterior faces or exterior walls or other exterior boundaries of the Building, excluding areas within the interior of the Building which are utilized for parking. With respect to dwelling units, the square footage shall be calculated as the living area under heat/air conditioning.

"Strategic Intermodal System" or "SIS" shall mean those transportation facilities identified in the Strategic Intermodal System Plan adopted pursuant to Section 339.64, Florida Statutes, and located within Pasco County.

"Tax Increment Revenues" shall mean the tax increment revenues calculated, generated and expended pursuant to the Multi-Modal Tax Increment Ordinance.

"Traditional Neighborhood Development" or "TND" shall mean Development in accordance with the County's Traditional Neighborhood Development Ordinance. Traditional Neighborhood Development shall also include the Longleaf MPUD and any portion of a Participating Municipality that satisfies the traditional neighborhood development design principles in the Traditional Neighborhood Development Ordinance, as determined by the County and Participating Municipality in the interlocal agreement between the County and Participating Municipality.

"Transit Facilities" shall mean transit capital infrastructure, including, but not limited to, buses, park and ride lots, bicycle racks, shelters/kiosks, and Regional Transit Facilities, as well as the necessary infrastructure to support the construction of such facilities, such as drainage areas,

wetland/floodplain mitigation areas, landscaping, benches, signage, and Bicycle/Pedestrian Facilities constructed to provide direct access to a transit stop.

"Transit Oriented Development" or "TOD" shall mean Development in areas identified in the Comprehensive Plan which are reserved for existing or planned Regional Transit Facilities. These areas must be compact, have moderate to high density developments, be of mixed-use character, interconnected, bicycle and pedestrian friendly, and designed to support frequent transit service operating through Regional Transit Facilities.

"Transit Mobility Fee" shall mean the portion of the Mobility Fee assessed for impacts to Transit Facilities, and which is identified in the Mobility Fee Schedule as "Transit Share."

"Transportation Capital Improvements" shall mean Roadway Facilities, Transit Facilities, and Bicycle/Pedestrian Facilities.

"Transportation Capital Expenses" shall consist of the following expenditures for Transportation Capital Improvements:

(a) The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness then outstanding.

(b) Administrative and overhead expenses necessary or incidental to the implementation of the Transportation Capital Improvements.

(c) Expenses of planning, corridor and alternatives analysis, route studies and pond siting analysis reports, soil borings, tests, surveys, construction plans, and legal and other professional advice or financial analysis relating to Transportation Capital Improvements, including the reimbursement of the County for such expenses incurred before the Transportation Capital Improvements were approved and adopted into the Capital Improvement Plan.

(d) The acquisition of Right-of-Way for the Transportation Capital Improvements, including the costs incurred in connection with the exercise of eminent domain.

(e) The clearance and preparation of any Transportation Capital Improvement site, including the demolition of structures on the site.

(f) All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.

(g) Costs of design and construction, including maintenance of traffic during construction.

"Transportation Operation and Maintenance Expenses" shall mean expenses associated with the operation and maintenance of Transportation Capital Improvements, including cleaning, repairs, mowing, landscape maintenance, resurfacing that does not expand transportation capacity, and fuel and salary costs for the operation of transit systems.

"Transportation Impact Fee" or "Transportation Impact Fees" shall mean the transportation impact fees in effect prior to the adoption of the Mobility Fee Ordinance, and which were adopted pursuant to the Transportation Impact Fee Ordinance.

"Transportation Impact Fee Credits" shall mean credits against Transportation Impact Fees issued by the County pursuant to the Transportation Impact Fee Ordinance.

"Transportation Impact Fee Ordinance" shall mean Ordinance No. 07-09, as it existed prior to the adoption of this amended and restated division.

"Transportation Impact Fee Schedule" shall mean the most recent transportation impact fee schedule adopted pursuant to the Transportation Impact Fee Ordinance, and which is attached hereto as Exhibit B.

"Trip" shall mean a one-way movement of vehicular or person travel from an origin (one trip end) to a destination (the other trip end). For the purpose of this division, trip shall have the meaning that it has in commonly accepted traffic engineering practice and which is substantially the same as that definition in the previous sentence.

"Trip Generation" shall mean the attraction or production of Trips caused by a given type of Development.

"Villages of Pasadena Hills" or "VOPH" shall mean the J. "Ben" Harrill Villages of Pasadena Hills Stewardship District, a dependent special district. The boundaries of the J. "Ben" Harrill Villages of Pasadena Hills Stewardship District shall be established in the ordinance creating the district.

"Villages of Pasadena Hills Financial Plan" shall mean the Financial Plan for the Villages of Pasadena Hills adopted pursuant to Policy FLU 6.5.10 of the Comprehensive Plan, as amended.

"Villages of Pasadena Hills Mobility Fees" shall mean those Roadway Mobility Fees and Bicycle/Pedestrian Mobility Fees collected within the Villages of Pasadena Hills.

"Villages of Pasadena Hills Tax Increment Revenues" shall mean the portion of the Tax Increment Revenues that is generated from the real property in the Villages of Pasadena Hills, and calculated in accordance with the Multi-Modal Tax Increment Ordinance.

"Villages of Pasadena Hills Transportation Capital Improvements" shall mean Transportation Capital Improvements that benefit the Villages of Pasadena Hills, as determined by the Villages of Pasadena Hills Financial Plan.

(c) **RESERVED**.

(d) **FINDINGS.**

It is hereby ascertained, determined, and declared that:

(1) The County has determined that Transportation Capital Improvements are necessary to maintain current and/or projected levels of service.

(2) The County has determined that currently available revenues will not be sufficient to provide the Transportation Capital Improvements that are necessary to accommodate growth resulting from Development.

(3) The County is required to adopt a Comprehensive Plan containing a Capital Improvements Element that considers the need and location of public facilities within its jurisdiction and the projected revenue sources that will be utilized to fund these facilities.

(4) The implementation of a Mobility Fee to require future growth to contribute its fair share of the cost of growth necessitated Transportation Capital Improvements is necessary and reasonably related to the public health, safety, and welfare of the people of Pasco County.

(5) Providing Transportation Capital Improvements that are adequate for the needs of growth is in the general welfare of all residents of the County and constitutes a public purpose.

(6) The State Legislature in Chapter 2011-139, Laws of Florida (HB 7207) identified the following tools and techniques to complement the application of transportation concurrency: (a) adoption of long-term strategies to facilitate development patterns that support multimodal solutions; (b) adoption of an areawide level of service not dependent on any single road segment function; (c) exempting or discounting impacts of locally desired development, such as development in urban areas, redevelopment, job creation, and mixed use on the transportation system; (d) assigning secondary priority to vehicle mobility and primary priority to ensuring a safe, comfortable, and attractive pedestrian environment, with convenient access to transit; and (e) reducing impact fees to promote development within urban areas and a balance of mixed use development in certain areas. Because applicable law requires that revenue sources other than those derived from Mobility Fees be utilized to provide targeted discounts or reductions of mobility fees for development in urban areas; development that results in job creation; mixed use development; and other locally desired development, this division and the Multi-Modal Tax Increment Ordinance ensures that revenue sources other than Mobility Fees are utilized to provide these targeted discounts/reductions.

(7) Policy TRA 1.7.2 of the Comprehensive Plan requires the adoption of a multi-modal mobility plan and Mobility Fee that (a) is designed to encourage development of specific land uses in

specific locations; (b) includes assessments for roadways, transit, and bicycle/pedestrian facilities, including assessments for roadway facilities on the Strategic Intermodal System; (c) promotes compact, mixed-use and energy efficient development; and (d) does not assess Development for transportation backlogs or an amount that is in excess of the amount that is proportionate to the impacts of the Development.

(8) Transit Oriented Development and Traditional Neighborhood Development are compact, mixed-use, bicycle/pedestrian friendly, and energy efficient forms of development encouraged by this division, the Mobility Fee and the Comprehensive Plan.

(9) Office, Industrial and Lodging land uses are locally desired development that result in, or support, high-paying job creation, and are encouraged by this division, the Mobility Fee and the Comprehensive Plan.

(10) Pasco County's South and West Market Areas, which make up the Urban Concentration Area designated pursuant to Policies FLU 8.1.1 and 8.1.2 of the Comprehensive Plan, and which are designed herein as the "Urban" Assessment District "A", shall be considered Pasco County's urban area, where development is encouraged by this division, the Mobility Fee and the Comprehensive Plan.

(11) The Long Range Transportation Plan shall be considered the multi-modal mobility plan required by Policy TRA 1.7.2 of the Comprehensive Plan, and the Mobility Fee Study and Mobility Fee are based on the Long Range Transportation Plan.

(12) The Mobility Fee Study, Mobility Fee, and this division comply with the requirements of Policy TRA 1.7.2 of the Comprehensive Plan and are consistent with the State Legislature's encouraged direction in Chapter 2011-139, Laws of Florida (HB 7207).

(13) This division earmarks Villages of Pasadena Hills Mobility Fees and Tax Increment Revenues consistent with the Villages of Pasadena Hills Financial Plan.

(14) This division ensures that any Participating Municipality that wishes to join in the Mobility Fee program has an opportunity to do so, but does not require any Participating Municipality to join in.

(15) Non-Participating Municipalities in Pasco County have existing, independent programs to fund and construct Transportation Capital Improvements, or any benefits resulting from Transportation Capital Expenses in non-Participating Municipalities will be incidental and *de minimis*.

(16) This division ensures that impacts to the Strategic Intermodal System are addressed consistent with the Comprehensive Plan, and requires consultation with the Florida Department of Transportation relating to SIS facilities consistent with the requirements of Section 163.3180(5)(h)1., Florida Statutes.

(17) The County shall be divided into separate Mobility Fee Assessment Districts and Collection/Benefit Districts.

(18) The Assessment Districts are based on the Market Areas in the Comprehensive Plan, and generally depict those areas where Pasco County has planned for urban, suburban and rural forms of development. The Assessment Districts shall be utilized to create the differential Mobility Fee structure encouraged by the Comprehensive Plan and Chapter 2011-139, Laws of Florida (HB 7207).

(19) Based on the typical travel characteristics in Pasco County set forth in the Mobility Fee Study, utilizing the Collection/Benefit Districts to regulate Mobility Fee expenditures is the best method of ensuring that the Transportation Capital Improvements funded by Mobility Fees benefit Development in the Collection/Benefit District paying the Mobility Fees.

(20) Mobility Fees paid pursuant to this division will be earmarked to separate Mobility Fee Funds for use within the Collection/Benefit Districts in which the Mobility Fees are collected, except as provided herein.

(21) The creation, implementation, and administration of a mobility fee program includes preparing and updating the Mobility Fee Study, Mobility Fee Schedule, Mobility Fee Ordinance, and Multi-Modal Tax Increment Ordinance; calculation and collection of Mobility Fees; conversion, creation and administration of Transportation Impact Fee Credits, Mobility Fee credits and Development Approvals relating to such credits; accounting systems for multiple Mobility Fee Funds and accounts; coordination with Participating Municipalities, the Metropolitan Planning Organization, the Florida Department of Transportation

and the Tampa Bay Area Regional Transportation Authority; calculation and tracking of Tax Increment Revenues and the required Mobility Fee Subsidy; transportation analysis to determine priorities for Mobility Fee expenditures; and administration of Mobility Fee refunds and transportation concurrency exemptions based on the Mobility Fee. The Administration Fee Study and Administration Fee place a portion of the burden of implementing and administering a Mobility Fee program on Development that creates the need for a Mobility Fee program, but also ensures that the Administration Fee does not exceed the County's actual cost of administration and implementation.

(22) The Mobility Fee Study, Administration Fee Study, Mobility Fee and Administration Fee shall be subject to review and update pursuant to Section 78-36(f) herein.

(23) To the extent that the replacement of Transportation Impact Fees with Mobility fees and Administration Fees results in an impact fee increase for any Development, or otherwise adversely affects any Development, this division ensures that such Development shall be entitled to opt-out of the Mobility Fee program and remain subject to the payment of Transportation Impact Fees. In addition to the Opt-Out Procedure, Development may mitigate any adverse impact resulting from the adoption of Mobility Fees through other avenues, including adjustments to land and rent prices, adjustments to entitlements, and sale or transfer of Transportation Impact Fee Credits and Mobility Fee credits.

(24) To the extent that the replacement of Transportation Impact Fees with Mobility Fees and Administration fees results in an impact fee reduction for any Development, the Board of County Commissioners does not desire to apply such reduction to Buildings with Building Permits issued prior to March 1, 2011, because such Buildings were issued Building Permits prior to the Board deciding to adopt reduced Mobility Fees and suspend other impact fees, and applying the reduction to such Buildings would skew the Board's analysis of the effect of the Mobility Fee reduction and suspension on construction activity.

(25) The Board of County Commissioners considered the short- and long-term public and private costs and benefits of the Mobility Fee Study, Administration Fee Study, Administration Fee and Mobility Fee, and has determined that sufficient information has been provided to enable the Board of County Commissioners to act.

(26) The Board of County Commissioners further finds that the provisions of this division are in compliance with the "dual rational nexus test" established by the Florida Supreme Court and other applicable law.

(e) **ADOPTION OF MOBILITY FEE AND ADMINISTRATION FEE STUDIES.**

The Board of County Commissioners hereby adopts and incorporates by reference the following studies:

Pasco County Multi-Modal Mobility Fee Study Final Report dated July 7th, 2011, prepared by Tindale-Oliver & Associates, Inc. (the "Mobility Fee Study").

Pasco County Calculation of County Cost to Administer Impact Fees dated December 7, 2009 and prepared by Maximus Consulting Services, Inc. (the "Maximus Study"), and Pasco County Calculation of County Cost to Administer Transportation Impact Fees or Mobility Fees, adapted from the Maximus Study, dated May 31, 2011, prepared by Daniel Risola, Pasco County Capital Project Planning Coordinator (collectively, the "Administration Fee Study")

(f) **REVIEW AND UPDATE.**

The Mobility Fee and Administration Fee are based on the assumptions and analysis in the Mobility Fee Study and Administration Fee Study. No later than three (3) years from the adoption of this amended and restated division, and no later than every three (3) years thereafter, the County shall conduct a full reevaluation and update of the assumptions and analysis in the Mobility Fee Study and Administration Fee Study and of all components of the Mobility Fee and Administration Fee. However, in the event that a full reevaluation is not complete within the required three (3) year period, the last-adopted Mobility Fee and Administration Fee shall remain in effect until the reevaluation is complete. If a Mobility Fee Subsidy Deficiency exists at the time Mobility Fees are reevaluated, a non-Mobility Fee repayment source for the Deficiency shall be identified in the next fiscal year following the completion of the reevaluation, and the amount of such Deficiency shall be transferred to the Mobility Fee Fund containing such Deficiency within a reasonable time period, not to exceed five (5) years from the date of the reevaluation. Nothing herein shall prevent the County from updating the Mobility Fee or Administration Fee earlier than every three (3) years if

the County determines that significant changes in the Mobility Fee Study or Administration Fee Study assumptions have occurred, and that such changes are likely to have a significant effect on the amount of the Mobility Fees or Administration Fees. In addition, nothing herein shall prevent the County from making Deficiency transfers to the Mobility Fee Funds at any time, in order to ensure that the requirements of this division are met and that adopted level of service standards are maintained, as provided herein and in the Mobility Fee Study.

SECTION 78-37 - APPLICABILITY.

(a) **AFFECTED AREA**

This Ordinance shall apply to all lands located within the County, and in any Participating Municipality.

(b) **MOBILITY FEE ASSESSMENT DISTRICTS**

(1) Consistent with the purpose and intent of this division, the County and Participating Municipalities have been divided or placed into three Assessment Districts, as depicted on Exhibit C. The Assessment District labeled "A" shall be considered the "Urban" Assessment District, and Development within such district is subject to the "Urban" Mobility Fees in the Mobility Fee Schedule. The Assessment District labeled "B" shall be considered the "Suburban" Assessment District, and Development within such district is subject to the "Suburban" Mobility Fees in the Mobility Fee Schedule. The Assessment District labeled "C" shall be considered the "Rural" Assessment District, and Development within such district is subject to the "Rural" Mobility Fees in the Mobility Fee Schedule. Generally, if any contiguous Building, Development or Planned Development is located in more than one Assessment District, the entire Building, Development or Planned Development shall be subject to the Mobility Fees in the Assessment District with the lower Mobility Fees. However, if the portion of a Development or Planned Development in the Assessment District with the lower Mobility Fees constitutes less than fifteen percent (15%) of the total Development or Planned Development gross land area, the entire Development or Planned Development shall be subject to the Mobility Fees in the Assessment District where the majority of the Development or Planned Development gross land area is located. If a Development or Planned Development is located in more than one

Assessment District, and a portion of the Development or Planned Development is not contiguous with the remainder of the Development or Planned Development (e.g. separated by a collector or arterial roadway or water body), the non-contiguous portion of the Development or Planned Development shall be subject to the Mobility Fees in the Assessment District in which it is located, regardless of where the remainder of the Development or Planned Development is located.

(2) The Mobility Fee Assessment Districts are to be utilized solely to determine which Mobility Fees a Building Permit or Development Permit is required to pay, and to determine the amount of the required Mobility Fee Subsidy. Mobility Fee Assessment Districts shall not be considered Collection/Benefit Districts.

(3) To ensure consistency with the Market Areas in the Comprehensive Plan, if any of the Comprehensive Plan Market Area boundaries are amended after the effective date of this amended and restated division, the ordinance adopting the amendment to such boundaries, or another ordinance adopted on the same day as the boundary amendment ordinance, shall also amend the Assessment District boundary map (Exhibit C).

SECTION 78-38 - <u>PROCEDURES FOR IMPOSITION, CALCULATION, AND COLLECTION OF MOBILITY FEES AND ADMINISTRATION FEES.</u>

(a) **IMPOSITION OF MOBILITY FEE AND ADMINISTRATION FEE.**

(1) The Mobility Fee and Administration Fee shall be assessed upon the issuance of a Building Permit for any Development and shall be collected and paid prior to issuance of the Certificate of Occupancy for the Development. In the event a Building Permit or Certificate of Occupancy is not required for Development which is subject to the provisions of this division, then the Mobility Fee and Administration Fee shall be assessed upon the issuance of a Development Permit authorizing commencement of the Development and collected and paid prior to final site inspection. The Mobility Fee and Administration Fee shall apply to complete applications for a Building Permit and Building Permits issued (or Development Permits where no Building Permit is required) on or after March 1, 2011, unless such Building Permit or Development Permit is part of an Opt-Out Development. Any person that submitted a complete application for a Building

Permit, or that was issued a Building Permit, on or after March 1, 2011, and that was assessed, or paid, the Transportation Impact Fee may elect to pay the applicable Mobility Fee and Administration Fee; however, such election shall be made in writing to the Building Construction Services Department no later than ninety (90) days after the issuance of the Certificate of Occupancy (or final site inspection where no Certificate of Occupancy is required). If such election is made after the Transportation Impact Fee has been paid, a refund shall be due for the difference between (a) the Transportation Impact Fee and (b) the Mobility Fee plus the Administration Fee. Such refund shall be applied for and paid in accordance with the refund procedures in section 78-28 of the Code of Ordinances. If the Transportation Impact Fee was paid using Transportation Impact Credits, the refund shall be issued to the credit account from which the credits originated, upon the County receiving proof acceptable to the County Clerk and Comptroller's Office that (1) the owner of such credits has provided a refund to the person that paid the Transportation Impact Fee with Transportation Impact Fee Credits, and (2) the Transit Mobility Fee and Administration Fee have been paid.

(2) Buildings with Building Permits issued prior to March 1, 2011 were assessed the applicable Transportation Impact Fee pursuant to the Transportation Impact Fee Ordinance, and shall pay the assessed Transportation Impact Fee prior to the issuance of the Certificate of Occupancy for such Building, even if the Building Permit for such Building expires, or is revoked. Opt-out Developments shall be assessed and pay the applicable Transportation Impact Fee in the Transportation Impact Fee Schedule. Building Permits and Opt-Out Developments required or electing to pay the Transportation Impact Fee shall not be assessed an Administration Fee, and shall otherwise be subject to the Transportation Impact Fee Ordinance.

(3) No Mobility Fee or Administration Fee shall be assessed upon the issuance of a commercial retail shopping center building permit, foundation permit, or a nonretail multiuse building permit for an unfinished building; i.e., a shell permit. Each individual use shall thereafter be assessed the applicable Mobility Fee and Administration Fee based on the calculations set forth below upon subsequent issuance of a Building Permit to finish each unit.

(b) **CALCULATION OF MOBILITY FEES AND ADMINISTRATION FEES.**

(1) Upon receipt of a complete application for a Building Permit (or prior to the issuance of a Development Permit where a Building Permit is not required) the County Administrator shall calculate the applicable Mobility Fee and Administration Fee, incorporating any applicable credits. If a person has received a credit pursuant to subsection 78-38(d)(2) of this division, that credit shall be subtracted from the otherwise applicable Mobility Fee, if such credit applies. Credits shall not be utilized for, or subtracted from, Administration Fees. A person may request at any time a nonbinding estimate of the Mobility Fee or Administration Fee due for a particular Development; however, such estimate is subject to change when a complete application for a Building Permit or Development Permit is made.

(2) The Mobility Fee shall be calculated by using (a) Independent Mobility Fee Studies in accordance with Section 78-38(c) herein; or (b) the Mobility Fee Schedule. The Mobility Fees in the Mobility Fee Schedule have been calculated using the formula(s) presented in the Mobility Fee Study. The Mobility Fee required to be paid by each land use is in the Mobility Fee Schedule column labeled "Net Mobility Fee", and this dollar amount shall be multiplied by the number of units in the Development seeking a Building Permit or Development Permit for such land use. The base unit for this calculation is set forth in the "Unit" column for each land use in the Mobility Fee Schedule. The applicable Assessment District for each Mobility Fee calculation shall be determined in accordance with subsection 78-37(b).

(3) The calculation of the Administration Fee is set forth in the Administration Fee Study, and shall be paid in addition to any required Mobility Fee. The Administration Fee shall be $396.00 for each Building Permit issued for a land use classified as Residential in the Mobility Fee Schedule, even if the "Net Mobility Fee" column in the Mobility Fee Schedule shows a $0 Mobility Fee for such land use. The Administration Fee shall be $198.00 for each Building Permit (or Development Permit if no Building Permit is required) issued for a land use classified as Lodging, Recreation, Institutions, Office, Retail or Industrial in the Mobility Fee Schedule, even if the "Net Mobility Fee" column in the Mobility Fee Schedule shows a $0 Mobility Fee for such land use. The Administration Fee for Alterations shall be $198.00 for each Building Permit issued for a land use classified as Residential in the Mobility Fee Schedule, even if the "Net Mobility Fee" column in the Mobility Fee Schedule shows a $0 Mobility Fee for such land use. The Administration Fee for Alterations

shall be $99.00 for each Building Permit (or Development Permit if no Building Permit is required) issued for a land use classified as Lodging, Recreation, Institutions, Office, Retail or Industrial in the Mobility Fee Schedule, even if the "Net Mobility Fee" column in the Mobility Fee Schedule shows a $0 Mobility Fee for such land use. The Administration Fee shall be calculated solely based on the number of Building Permits (or Development Permits if no Building Permit is required) issued for a Development, and the Square Footage or size of the Development shall not be a factor in the calculation of an Administration Fee. In addition, the Assessment District location of a Development shall not affect the calculation of the Administration Fee.

(4) A person shall not be entitled to any "Age Restricted" rate in the Mobility Fee Schedule until such person has recorded deed restrictions in a form acceptable to the County Attorney's Office ensuring that the property subject to the Mobility Fee will remain age restricted. In the event deed restrictions acceptable to the County Attorney's Office have not been recorded by the time the Certificate of Occupancy is issued, the person may pay the applicable non-age restricted rate, and, if the deed restrictions acceptable to the County Attorney's Office are later recorded, a refund shall be due to the extent the Mobility Fee paid was greater than the applicable age restricted rate. However, unless the person is entitled to a refund pursuant to another provision of this division, no refund shall be due for Mobility Fees or Transportation Impact Fees paid before the County adopted an age-restricted rate for the land use classification that paid the fees. Refunds shall be in accordance with the procedures in section 78-28 of the Code of Ordinances.

(5) A person shall be eligible for the "Less than 1,500 square feet and Annual Household Income less than 80% SHIP Definition" rate or "Low Income SHIP Defined Multi-Family" rate in the Mobility Fee Schedule ("Affordable Housing Rate") if the residence is a single family detached dwelling unit less than 1,500 square feet or a Multi-Family Building or dwelling unit that is affordable to a family with a median income that does not exceed eighty (80) percent of the median income for the Tampa-St. Petersburg-Clearwater Standard Metropolitan Statistical Area. To qualify for the Affordable Housing Rate, the dwelling unit, or the larger Planned Development that includes the dwelling unit, or the Multi-Family Building, as applicable, must be designated as affordable by the County's Community Development Manager consistent with the foregoing definition and applicable federal, state and local income and expense criteria for affordable housing, and must

be sold or leased to a family that satisfies the foregoing income criteria, as determined by the County Community Development Manager. The County shall impose deed restrictions, mortgage requirements and/or liens that ensure that any dwelling unit or Multi-Family Building that is assessed the Affordable Housing Rate remains affordable. The owner of any dwelling unit or Multi-Family Building that was assessed the Affordable Housing Rate that resells or leases such dwelling unit at a price that is no longer affordable, or resells or leases such dwelling unit to a family that does not satisfy the foregoing income criteria, as determined by the Community Development Manager consistent with the foregoing definition, shall be required to pay to the County the difference between the Affordable Housing Rate and the rate that such unit or building would have been assessed had such unit or building not qualified for the Affordable Housing Rate. Failure to pay the difference shall be considered a violation of this division which shall make the owner subject to the County Enforcement provisions of this division, in addition to any other remedies of the County as set forth in the County imposed deed restrictions, mortgage requirements and/or liens.

(6) Land uses that are not specifically listed in the Mobility Fee Schedule shall be assigned the Trip Generation rate of the most similar land use as listed in the Impact Fee Land Use Cross Reference Table, found in Appendix A of the Administrative Procedures Manual. If a similar land use is not listed in this table, then Trip Generation rates from the ITE Manual shall be used to determine the Trip Generation of the unlisted land use, and such land use shall be assigned the rate of the land use listed in the Mobility Fee Schedule with the most similar Trip Generation. If the unlisted land use is not listed in the ITE Manual, then the Trip Generation rates of the most similar land use in the ITE Manual shall be used to determine the Trip Generation rate of the unlisted land use.

(7) A Mobility Fee shall be imposed and calculated for an Alteration creating an increased demand for or impact on Transportation Capital Improvements, where the Alteration results in a higher assessment pursuant to the Mobility Fee Schedule and this division. The Mobility Fee for an Alteration shall be due and paid prior to the issuance of any permit issued by the County authorizing the Alteration, even if such permit is not a Building Permit. The Mobility Fee imposed under the Mobility Fee Schedule as a result of an Alteration shall be calculated as follows:

a. If the Alteration results in a higher assessment pursuant to the Mobility Fee Schedule, then the Alteration shall be assessed the current applicable Mobility Fee rate based on the new use of the property after the Alteration less the Mobility Fee that would be imposed on the most recent prior use of the property under the current applicable Mobility Fee rate prior to the Alteration. For purposes of this calculation, "most recent prior use of the property" shall mean the latest use of the property existing on or after January 1, 1985.

b. If the Square Footage of a dwelling unit is increased cumulatively by five-hundred (500) Square Feet or more from the Square Footage of the dwelling unit existing on or after October 1, 2007 (or the most recent dwelling unit in existence on or after January 1, 1985 if the dwelling unit did not exist on or after the effective date of October 1, 2007), and the result of which is a higher assessment pursuant to the Mobility Fee Schedule, then the Alteration shall be assessed the current applicable Mobility Fee rate based on the new dwelling unit after Alteration less the Mobility Fee that would be imposed on the most recent prior dwelling unit under the current applicable Mobility Fee rate prior to the Alteration. For purposes of this calculation, "most recent prior dwelling unit" shall mean the latest dwelling unit on the property existing on or after January 1, 1985.

(8) For multiuse Buildings or parcels and shopping centers, if one use occupies thirty-five (35) percent or more of the total, gross square feet of the Building, parcel or shopping center or one use is 30,000 square feet or more, that use shall be assessed at its specific-use rate. All uses that do not exceed thirty-five (35) percent or more of the total gross square feet of the Building, parcel or shopping center and that do not exceed 30,000 square feet or more shall be assessed the rate of the most predominate general use of the remainder of the Building, parcel or shopping center based on the size of the entire Building, parcel or shopping center. This rule does not apply to Out-parcels or uses classified as Residential in the Mobility Fee Schedule, which shall be assessed the applicable rate for the specific single use, and which shall not be used in the calculation of the size of the entire Building, parcel or shopping center. This rule also does not apply to uses classified in the Mobility Fee Schedule as Recreation, Institutions or Retail if the most predominate use of the remainder of the Building or parcel is Lodging, Office or Industrial; in such cases the Recreation,

Institutions or Retail use shall be assessed at its specific-use rate, regardless of the size of such use, unless the use is an Accessory Building or Structure.

(9) A Development shall not be entitled to the Transit Oriented Development rates in the Mobility Fee Schedule unless one of the following occurs:

a. The Development is a Transit Oriented Development that has completed, and received Board of County Commissioner approval of, a Transit Station Area Plan pursuant to Policy FLU 10.3.6 of the Comprehensive Plan; or

b. The Development is a Transit Oriented Development that (a) is located in a Transit Center Overlay established pursuant to Policy FLU 10.3.1 of the Comprehensive Plan, (b) complies with the TOD Design Principles in Policy FLU 10.3.6(f) of the Comprehensive Plan, and (c) complies, or agrees to comply, with the future TOD Design Ordinance required pursuant to Policy 10.2.1 of the Comprehensive Plan.

(10) Within the Villages of Pasadena Hills, the amount of the Mobility Fee may be modified, and surcharges may be assessed, to pay for Villages of Pasadena Hills Transportation Capital Improvements, as more fully set forth in the Villages of Pasadena Hills Financial Plan. These modifications and surcharges to the Mobility Fee shall be established in the ordinance creating the J. "Ben" Harrill Villages of Pasadena Hills Stewardship District.

(c) **INDEPENDENT MOBILITY FEE STUDY.**

(1) Any person a) who believes that any part of the demand component, comprised of trip length, trip rate, and percent new trips, that is used to calculate the Mobility Fee of the applicable land use is incorrect, or b) who has a unique or restrictive land use that can be verified through the County's Building Permit process and believes that this results in different demand characteristics than those of the land use the Development is to be assessed at, or c) whose land use is not listed in the Mobility Fee Schedule, or believes the use is incorrectly assigned in the Mobility Fee Schedule, shall have the option to provide an Independent Mobility Fee Study according to procedures set forth in the Administrative Procedures Manual. The Independent Mobility Fee Study is not intended to allow site-specific review of uses, which include a) conducting an Independent Mobility Fee Study on the same site for which the Mobility Fee is being challenged,

or b) conducting an Independent Mobility Fee Study on sites that may have differing trip characteristics than used in the Mobility Fee Schedule due to specific characteristics of the Development that cannot be tracked by the County's Building Permit process. For any Independent Mobility Fee Study, only the demand variables may be challenged, and all three demand variables, including trip length, trip rate, and percent new trips, must be reviewed as part of the Independent Mobility Fee Study. Requests for an Independent Mobility Fee Study must be received no later than sixty (60) days after the issuance of a Building Permit (or Development Permit where no Building Permit is required). If the Independent Mobility Fee Study cannot be completed, reviewed, and finally determined by the County Administrator, including any appeals, by the time the Certificate of Occupancy is issued for the Development, the applicant shall pay the applicable Mobility Fee in the Mobility Fee Schedule. However, if the Independent Mobility Fee Study is eventually accepted by the County after the issuance of the Certificate of Occupancy, a refund shall be due to the extent the Mobility Fee paid was higher than the Mobility Fee due pursuant to the Independent Mobility Fee Study. Refunds shall be in accordance with the procedures in section 78-28 of the Code of Ordinances.

(2) The Independent Mobility Fee Study shall follow the procedures and criteria in the Administrative Procedures Manual, and the County Administrator shall be authorized to reject any Independent Mobility Fee Study not meeting such criteria. The County may charge a review fee for the Independent Mobility Fee Study, as set forth in the Administrative Procedures Manual, which shall not exceed the actual cost of reviewing the Independent Mobility Fee Study. The Independent Mobility Fee Study review fee is in addition to the required Administration Fee.

(d) **EXEMPTIONS AND CREDITS.**

(1) The following shall be exempted from payment of the Mobility Fee and Administration Fee:

a. Alterations which do not result in a higher assessment pursuant to the Mobility Fee Schedule.

b. Alterations of a dwelling unit that after October 1, 2007 (or after the most recent dwelling unit in existence after January 1, 1985 if the dwelling unit did not exist after October 1, 2007) cumulatively equals an increase of less than five-hundred (500) square feet.

c. Government Buildings. However, any Mobility Fee exemption issued for a Government Building shall expire if an Alteration causes the Building or Development to no longer be a Government Building. Any Mobility Fee exemption issued for a Government Building shall be considered a subsidy or buy-down for the Government Building, and shall be included in the Mobility Fee Subsidy calculation and transfer required by subsection 78-39(a) of this division.

(2) Credits:

a. A person may elect or be required by a Development Approval to construct, convey Right-of-Way for, or pay cash for a Transportation Capital Improvement. Such person is eligible to receive credits on a dollar-for-dollar basis against the portion of the Mobility Fee mitigated by such construction, Right-of-Way conveyance or payment. However, Transit Facilities provided by a person shall only be eligible for a credit against the Transit Mobility Fee, Bicycle/Pedestrian Facilities provided by a person shall only be eligible for credit against the Bicycle/Pedestrian Mobility Fee, and Roadway Facilities provided by a person shall only be eligible for credit against the Roadway Mobility Fee. Construction, Right-of-Way conveyances and cash payments for Site-access Improvements are not eligible for credits against the Mobility Fee, unless specifically approved by the Board of County Commissioners in a Development Approval. To be entitled to credits, the Transportation Capital Improvement must be included in the CIP; however, the person shall not receive the credits until the year the Transportation Capital Improvements are scheduled for construction in the CIP, unless the County Administrator or Board of County Commissioners agrees in a Development Approval to provide credits at an earlier date. A person shall also be entitled to credits if the Transportation Capital Improvement is (a) included in the LRTP or Comprehensive Plan, and (b) a Mobility Fee credit is required pursuant to another land development regulation, such as the County's transportation corridor management or transportation concurrency regulations, or is specifically approved by the Board of County Commissioners in a Development Approval.

b. If a person elects or is required to construct Transportation Capital Improvements, the person shall submit evidence of payment for the construction to the County Administrator. The County Administrator shall determine if the construction is an appropriate substitute for the Mobility Fee, based on the provisions of this division, the amount of credit to be given, and the timetable for the credit. The amount of credit for Right-of-Way conveyances shall be 115 percent of the assessed value of the conveyed Right-of-Way as determined by the Pasco County Property Appraiser, unless the person and the County Administrator or Board of County Commissioners agrees in a Development Approval to another credit amount. The date of valuation shall be the date of the Development Approval requiring the conveyance of the Right-of-Way or the date of Right-of-Way conveyance, whichever occurs first, unless the person and the County Administrator or Board of County Commissioners agree to another date of valuation.

c. Application for credits shall be made within ninety (90) days of the completion of construction of the Transportation Capital Improvement eligible for the credit, unless the Board of County Commissioners agrees to another deadline for application. Failure to apply for a credit by the applicable deadline shall be deemed a waiver of the right to the credit.

d. Credits may be sold or transferred within the Collection/Benefit District in which the Mobility Fee is collected, or in an adjacent Collection/Benefit District if the County Administrator makes the written determination required by subsection 78-39(b)(1) for the Transportation Capital Improvement for which the credits were issued. If the credits were established for a Planned Development, the sale or transfer of such credits shall not be permitted outside of the Planned Development until (a) Buildings Permits for all of the entitlements in the Planned Development have been issued, as set forth in the Planned Development's Development Approvals, or (b) upon completion of 80% or more of a Development of Regional Impact Planned Development's entire proportionate share/pipeline project obligations (measured in terms of linear feet), if such obligations were 80% or more complete prior to the effective date of this amended and restated division. Notwithstanding the foregoing, Development of Regional Impact Planned Developments that are able to sell or transfer credits based solely on the completion of 80% or more of their entire proportionate share/pipeline project obligations shall not be entitled to sell or transfer credits to other Development of Regional Impact

Planned Developments that are able to sell or transfer credits based solely on the completion of 80% or more of their entire proportionate share/pipeline project obligations.

e. Any credit will be issued to the person who paid for or financed the construction of the Transportation Capital Improvement, or cash payment in lieu of construction, or who conveyed the Right-of-Way for which the credit was established, or his successor or assign, as determined by the County Administrator.

f. To transfer credits, the owner of the credits must submit to the County Administrator a letter, signed and notarized by the owner of the credits, which specifies the name of the person receiving the transfer of credits and the amount of the credit being transferred. Regardless of the date of transfer, the transfer of the credit shall not be effective until the transfer letter is received and accepted by the County Administrator.

g. After the effective date of this amended and restated division, existing established Transportation Impact Fee Credits shall be converted, on a dollar for dollar basis, to credits against the Roadway Mobility Fee and Bicycle/Pedestrian Mobility Fee, unless such credits are owned by an Opt-Out Development. Converted Transportation Impact Fee Credits may not be utilized to pay the Transit Mobility Fee or Administration Fee.

(e) **PAYMENT/COLLECTION.**

(1) Except for Opt-Out Developments, a person shall pay the Mobility Fees and Administration Fees as set forth in section 78-38 herein, unless, and only to the extent that:

a. The person is determined to be entitled to a credit pursuant to subsection 78-38(d)(2), or

b. The person is determined to be exempt from the payment of Mobility Fees pursuant to subsection 78-38(d)(1).

(2) The Mobility Fee shall be paid prior to the issuance of a Certificate of Occupancy. Where a Certificate of Occupancy is not required, the Mobility Fee shall be paid prior to final inspection.

(3) Mobility fees collected by the County shall be held in Mobility Fee Funds separate and distinct from all other County revenues, except for interest accruing on the accounts and the deposit of Mobility Fee Subsidy transfers into the Mobility Fee Funds, as provided expressly in this division.

(4) The payment of the Mobility Fee and Administration Fee shall be in addition to all other fees, impact fees, charges, or assessments due for the issuance of a Building Permit, a Development Permit, a Certificate of Occupancy, or a final inspection.

(5) The obligation for payment of the Mobility Fee shall run with the land.

(f) **COUNTY ENFORCEMENT.**

(1) Any person, firm, corporation, or partnership that violates any provision of this division may be punished by a fine of not more than $500.00, or 60 days in jail, or both. Enforcement of this division may be through the issuance of a citation, in accordance with the Pasco County Code of Ordinances.

(2) Violations include but are not limited to: failing, neglecting, or refusing to pay a Mobility Fee as required by this division and/or furnishing untrue, incomplete, false, or misleading information on any document, or to any County employee, concerning the calculation, exemption, or payment of a Mobility Fee or concerning the entitlement to, or calculation of, a Mobility Fee credit.

(3) The owner, tenant, or occupant of any land or part thereof for which a Mobility Fee is owed, and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this division, or who fails, neglects, or refuses to pay a Mobility Fee, or who furnishes any untrue, incomplete, false, or misleading information concerning the calculation, exemption, or payment of a Mobility Fee or concerning the entitlement to, or calculation of, a Mobility Fee credit, may be held responsible for the violation and be subject to the penalties and remedies provided for in this ordinance, the Land Development Code, and/or the Pasco County Code of Ordinances.

(4) In addition to enforcement of this division through issuance of a citation pursuant to the County Code of Ordinances, the County may bring suit to restrain, enjoin, or otherwise prevent violation of this division in any court of competent jurisdiction, to recover costs incurred by the County in whole or in part

because of violation of this division, and/or to compel payment of a Mobility Fee pursuant to this division. Issuance of and/or payment of a citation for violation of this division does not preclude the County from filing such a suit. Payment of any penalties imposed does not release a person or entity from payment of the Mobility Fee due but shall be in addition to the Mobility Fee.

(5) Failure to pay a Mobility Fee required by this division is a violation that is continuous with respect to time, and each day the violation continues, or the Mobility Fee remains unpaid, is hereby declared to be a separate offense.

SECTION 78-39 - <u>ESTABLISHMENT OF MOBILITY FEE FUNDS AND COLLECTION/BENEFIT DISTRICTS, APPROPRIATION OF MOBILITY FEE FUNDS, AND REFUNDS</u>.

(a) **MOBILITY FEE FUNDS AND COLLECTION/BENEFIT DISTRICTS**.

(1) There are hereby established three (3) separate Mobility Fee Funds, one for each Collection/Benefit District as shown in Exhibit D. The Mobility Fee Funds shall be considered special revenue funds. Within each Mobility Fee Fund, separate account numbers shall be established for the Roadway Mobility Fee, the Transit Mobility Fee, the Bicycle/Pedestrian Mobility Fee, and the SIS Mobility Fee. In addition, a separate fund shall be established for Villages of Pasadena Hills Mobility Fees, with separate account numbers for the SIS Mobility Fee, Roadway Mobility Fee and Bicycle/Pedestrian Mobility Fee. Mobility Fees shall, upon receipt by the County, be deposited into the Mobility Fee Fund for the Collection/Benefit District in which the Mobility Fee was collected, or the VOPH fund, and separated into the accounts and subaccounts set forth above. For example, if a Mobility Fee for an "Urban" Multi-Family dwelling unit is collected in Collection/Benefit District 1, $916 shall be deposited in the SIS Mobility Fee account in the Mobility Fee Collection/Benefit District 1 Fund; $2,873 shall be deposited in the Roadway Mobility Fee account in the Mobility Fee Collection/Benefit District 1 Fund; $10 shall be deposited in the Transit Mobility Fee account in the Mobility Fee Collection/Benefit District 1 Fund; and $172 shall be deposited in the Bicycle/Pedestrian Mobility Fee account in the Mobility Fee Collection/Benefit District 1 Fund. Similarly, if a Mobility Fee for a Multi-Family dwelling unit is collected in a non-TND portion of the Villages of Pasadena Hills, $1,129 shall be deposited in the SIS Mobility Fee account of the VOPH fund; $4,448 shall be deposited in the Roadway Mobility Fee

account of the VOPH fund; $254 shall be deposited in the Bicycle/Pedestrian Mobility Fee account of the VOPH fund; and $14 shall be deposited into the Transit Mobility Fee account in the Mobility Fee Collection/Benefit District 3 Fund.

(2) In addition to the foregoing deposits, the County shall calculate the Mobility Fee Subsidy required by the Multi-Modal Tax Increment Ordinance for each Collection/Benefit District, and transfer any required Mobility Fee Subsidy and Mobility Fee Subsidy Deficiency from the Multi-Modal Transportation Fund into the Mobility Fee Funds in accordance with the requirements of the Multi-Modal Tax Increment Ordinance. If a Mobility Fee Subsidy or Deficiency transfer is required pursuant to the Multi-Modal Tax Increment Ordinance for any Collection/Benefit District, the transfer shall be allocated among the Roadway, Transit, Bicycle/Pedestrian, and SIS Mobility Fee accounts, as applicable, within each Collection/Benefit District, based on the percentage of Mobility Fees deposited into each account within each Collection/Benefit District during the fiscal year(s) in which the Mobility Fee Subsidy or Mobility Fee Subsidy Deficiency was calculated. Notwithstanding the foregoing, if any portion of the Villages of Pasadena Hills Tax Increment Revenues is utilized for a Mobility Fee Subsidy or Mobility Fee Subsidy Deficiency transfer, such revenues shall be placed in the VOPH fund. In addition, if any portion of a Participating Municipality's Tax Increment Revenues is utilized for a Mobility Fee Subsidy or Mobility Fee Subsidy Deficiency transfer, such revenues shall be transferred to a separate fund earmarked for the Participating Municipality, or transferred to the Participating Municipality, and shall be utilized solely for the Participating Municipality's Transportation Capital Improvements, as more fully set forth in the County interlocal agreement with the Participating Municipality.

(3) Participating Municipality Mobility Fees shall be collected and deposited in accordance with the interlocal agreement with the Participating Municipality. If any portion of a Participating Municipality's Mobility Fees is transferred to the County (e.g. the Transit Mobility Fees or SIS Mobility Fees), such portion shall be deposited into the Mobility Fee Fund for the Collection/Benefit District in which the Participating Municipality is located.

(4) Assessment Districts shall not be utilized to determine where Mobility Fees, Mobility Fee Subsidies, or Mobility Fee Subsidy Deficiencies are appropriated or expended.

(5) Administration Fees shall be deposited into the County's Municipal Service Fund, and then allocated or transferred to other County funds based on the percentage that each fund or County department contributes to the administration and implementation of Mobility Fees. The allocation of the Administration Fee shall be based on the assumptions in the Administration Fee Study, or shall utilize another tracking method ensuring that (1) the Administration Fee is allocated among County departments based on the amount of time each department spends administering and implementing Mobility Fees, and (2) the Administration Fee does not exceed the County's actual cost of Mobility Fee administration and implementation.

(6) The Office of Management and Budget or County Clerk and Comptroller's Office shall establish and implement necessary accounting and reporting controls to ensure that all Administration Fees, Mobility Fees, and Mobility Fee Subsidy and Deficiency transfers, are properly deposited, accounted for, reported and appropriated in accordance with this division and any other applicable legal requirements.

(b) **APPROPRIATION OF MOBILITY FEE FUNDS**.

(1) Mobility Fee Funds shall be used by the County solely for Transportation Capital Expenses included in the CIP, LRTP or Comprehensive Plan, and that benefit new Development. Mobility Fee Funds shall not be used for any expenditure that would be classified as a Transportation Operation and Maintenance Expense. The Mobility Fee shall be used within the Collection/Benefit District from which the Mobility Fee is collected; however, to the extent that a Transportation Capital Improvement provides reasonable benefits beyond the Collection/Benefit District within which it is located, it may be funded with Mobility Fee Funds collected from an adjacent Collection/Benefit District. However, prior to Encumbering any Mobility Fee Funds in this manner, the County Administrator shall make a written determination that (a) the Transportation Capital Improvement will substantially benefit the Development in the Collection/Benefit District from which the Mobility Fees have been collected, (b) the planned Transportation Capital Improvement is of a nature such that it will add capacity to the transportation system beyond the Collection/Benefit District in which it is situated, and (c) the demand for the Transportation Capital Improvement is reasonably attributable to Development in the Collection/Benefit District from which the Mobility Fees have been collected.

(2) As a general rule, Transit Mobility Fees shall be used for Transit Facilities, Bicycle/Pedestrian Mobility Fees shall be used for Bicycle/Pedestrian Facilities, and Roadway Mobility Fees shall be used for Roadway Facilities. However, one or more types of Mobility Fees may be used to the extent that a Transportation Capital Improvement contains multiple facilities (e.g. a roadway project with a multi-use trail and transit shelters), or to the extent that a particular Transportation Capital Improvement provides a benefit to multiple facilities (e.g. a bus that reduces travel on a roadway or a sidewalk that accesses a transit stop), as determined by the County Administrator.

(3) The SIS Mobility Fee shall be reserved for Roadway Facilities, Transit Facilities and Bicycle/Pedestrian Facilities that provide a benefit to the Strategic Intermodal System. Prior to Budgeting the SIS Mobility Fees, the County shall consult with the Florida Department of Transportation to establish priorities for the expenditure of the SIS Mobility Fees, and to ensure that such expenditures provide a benefit to the Strategic Intermodal System. The priorities for expending the SIS Mobility Fees shall be consistent with the adopted LRTP. Consistent with the Villages of Pasadena Hills Financial Plan, the SIS Mobility Fee in the VOPH fund may be utilized for Transportation Capital Expenses associated with the planned future I-75/Overpass Road Interchange, and the Board of County Commissioners and Florida Department of Transportation have determined that this improvement provides a benefit to the Villages of Pasadena Hills and Strategic Intermodal System. To the extent the County or any Development is required to comply with the consultation requirement in Section 163.3180(5)(h)1., Florida Statutes, the consultation required by this subsection shall be considered the consultation required by Section 163.3180(5)(h)1., Florida Statutes for any Development required to pay the SIS Mobility Fee.

(4) Mobility Fee Funds shall not be utilized to purchase or buy back Transportation Impact Fee Credits or Mobility Fee credits.

(c) **REFUNDS BY THE COUNTY.**

The Mobility Fees collected pursuant to this division shall be returned to the then present owner if the Mobility Fees have not been Encumbered within eight (8) years of the date the Mobility Fees were paid. The present owner of the property for which the Mobility Fee was paid must petition the Board of County

Commissioners for the refund within one (1) year following the end of the eighth (8th) year from the date on which the Mobility Fee was paid. For the purposes of this section, Mobility Fees collected shall be deemed to be Encumbered or spent on the basis of the first Mobility Fee in shall be the first Mobility Fee out. In other words, the first money placed in a Mobility Fee Fund shall be the first money taken out of that account when withdrawals have been made. Refunds shall be in accordance with the procedures in section 78-28 of the Code of Ordinances.

SECTION 78-40 - <u>EFFECT ON OTHER REGULATIONS AND DEVELOPMENT APPROVALS</u>.

(a) Effect of Mobility Fees on other applicable County land development regulations and ordinances:

(1) If any County land development regulation, ordinance or resolution refers to Transportation Impact Fees or the Transportation Impact Fee Ordinance, such land development regulation, ordinance or resolution shall be deemed to refer to Mobility Fees or the Mobility Fee Ordinance. If any County land development regulation, ordinance or resolution refers to an inflation factor or index based on the Transportation Impact Fee Ordinance, the inflation factor or index in such land development regulation, ordinance or resolution shall be deemed to refer to the inflation factor or index in the Mobility Fee Ordinance and Mobility Fee Study, which is presently zero percent (0%). Any reference in a County land development regulation, ordinance or resolution to an "Option 1 Full Fee", maximum Transportation Impact Fee, or similar term, shall be deemed to refer to the Mobility Fees in the "Full Fee" column of the Mobility Fee Schedule. Any reference in a County land development regulation, ordinance or resolution to a Transportation Impact Fee Credit shall be deemed to refer to credit against the Roadway Mobility Fee and Bicycle/Pedestrian Mobility Fee. The changed references set forth above shall not apply to the Transportation Impact Fee Ordinance, or any resolution adopting a Transportation Impact Fee Schedule.

(2) The payment of a Mobility Fee is a necessary prerequisite to the transportation concurrency exemption for the Urban Service Area set forth in Section 402.6.F. of the Pasco County Land Development Code; accordingly, Opt-Out Developments shall not be entitled to rely on such exemption.

(3) The payment of Mobility Fees does not ensure compliance with other County land development regulations, including regulations relating to transportation corridor management, collector and arterial spacing, access management, substandard roads, secondary access, timing and phasing, and, where applicable, transportation concurrency and Development of Regional Impact (DRI) review. However, if such regulations require transportation mitigation for the same impacts addressed through the payment of Mobility Fees, such regulations provide for credits against Mobility Fees consistent with State and Federal law and this division.

(4) The listing of a land use in the Mobility Fee Schedule is solely for purposes of establishing the applicable Mobility Fee for such use, and such listing does not mean that the land use is permitted or available under applicable zoning and Comprehensive Plan requirements. In addition, the listing of the land use in the Mobility Fee Schedule shall not be considered evidence that the land use is appropriate in any Market Area, land use classification, or zoning district.

(b) Effect of Mobility Fees on Development Approvals:

(1) The adoption of Mobility Fees shall not affect Opt-Out Developments, and such Developments shall continue to be subject to the Transportation Impact Fee Ordinance, Transportation Impact Fee Schedule, and the applicable Development Approvals for the Opt-Out Development.

(2) If any Development Approval refers to Transportation Impact Fees or the Transportation Impact Fee Ordinance, such Development Approval shall be deemed to refer to Mobility Fees or the Mobility Fee Ordinance. If any Development Approval refers to an inflation factor or index based on the Transportation Impact Fee Ordinance, the inflation factor or index in such Development Approval shall be deemed to refer to the inflation factor or index in the Mobility Fee Ordinance and Mobility Fee Study, which is presently zero percent (0%). Any reference in a Development Approval to an "Option 1 Full Fee", maximum Transportation Impact Fee, or similar term, shall be deemed to refer to the Mobility Fees in the "Full Fee" column of the Mobility Fee Schedule. Any reference in a Development Approval to a Transportation Impact Fee Credit shall be deemed to refer to credit against the Roadway Mobility Fees and Bicycle/Pedestrian Mobility Fees. If any Development Approval did not require the payment of a transportation concurrency proportionate share

amount, because such amount was less than the estimated Transportation Impact Fees due, and such proportionate share amount is now greater than the estimated Mobility Fees due, the Development Approval shall, after the effective date of this amended and restated division, require the payment of the proportionate share amount to the extent such amount exceeds the estimated Mobility Fees due. These changes and changed references shall be by operation of law, and modifications or amendments to the Development Approvals shall not be required. The foregoing changes and changed references shall not apply to Opt-Out Developments or Building Permits issued prior to March 1, 2011.

SECTION 78-41 – <u>MOBILITY FEE OPT-OUT PROCEDURE</u>

(a) As a general rule, the payment of a Mobility Fee and Administration Fee upon the issuance of a Certificate of Occupancy shall be considered an election for the Building receiving the Certificate of Occupancy to pay Mobility Fees in lieu of Transportation Impact Fees. Such election shall not affect the remaining Buildings or persons in a Planned Development, and such Buildings and persons shall remain entitled to utilize the opt-out procedures set forth in this subsection.

(b) For a period of three (3) years from the effective date of this amended and restated division, any Building or person may elect to opt-out of Mobility Fees and remain subject to the payment of Transportation Impact Fees; however, such election shall not apply to any Building that has already received a Certificate of Occupancy when the election is made. Such election shall be made in writing to the County Administrator, and shall include the following information for the land area subject to the opt-out election: (a) the legal description, (b) the parcel identification numbers (or plat name and plat book and page if the land area is platted), and (c) an AutoCad file or ESRI shape file in West Florida State Plane coordinates. If a Building or Development is part of a Planned Development with Credits, the opt-out election may only be made by the Master Developer of the Planned Development. If a Master Developer of a Planned Development with Credits elects to opt-out of Mobility Fees and remain subject to the payment of Transportation Impact Fees, such election shall be binding on all Buildings, Development and persons within the Planned Development, unless and until the Master Developer revokes such election. An election to opt-out of Mobility Fees shall be evidenced through a recorded document acceptable to the County Attorney's Office that places subsequent landowners on notice of

the election. In addition, if the election is made by a Master Developer of a Planned Development with Credits, the Master Developer shall provide individual written notification of the election to all owners of vacant land in the Planned Development. Opt-Out Developments can revoke their opt-out election at any time, provided that they (a) notify the County Administrator in writing, (b) specify the land area subject to the revocation (including the same land area identification information required for an election), and (c) record a new document acceptable to the County Attorney's Office that revokes the prior election. For Planned Developments with Credits, only the Master Developer can revoke the opt-out election, and the Master Developer shall also provide individual notification of the revocation to all owners of vacant land in the Planned Development. Unless an opt-out election is revoked at an earlier date, all opt-out elections, and recorded documents evidencing such elections, shall expire on December 31, 2025; after such date all Developments and Planned Developments in Pasco County shall be subject to the payment of Mobility Fees.

(c) Opt-Out Developments utilizing the procedures in this subsection shall be subject to the "FY 2011" Transportation Impact Fees in the Transportation Impact Fee Schedule, and such Transportation Impact Fees shall not be subject to increases, decreases, reevaluations or updates as long as the Development remains an Opt-Out Development. Opt-Out Developments shall not be subject to Administration Fees, and shall be governed by the Transportation Impact Fee Ordinance in lieu of this division. Transportation Impact Fees received by the County from Opt-Out Developments shall be collected, appropriated and expended in accordance with the Transportation Impact Fee Ordinance and any applicable Development Approval for the Opt-Out Development.

(d) The Board of County Commissioners has chosen to adopt and update Mobility Fees as a replacement to Transportation Impact Fees, and shall ensure that Mobility Fees are reviewed and updated to ensure compliance with statutory and common law requirements for impact fees. The Board of County Commissioners has no intention of reevaluating or updating Transportation Impact Fees or the Transportation Impact Fee Ordinance, and has made the opt-out procedure in this subsection available solely to provide an option to persons that believe they are adversely affected by the adoption of Mobility Fees. An election to opt-out of Mobility Fees also provides tangible benefits to the Opt-Out Development, such as an assurance that the

Opt-Out Development will not be subject to Transportation Impact Fee or Mobility Fee increases. Accordingly, an election to be an Opt-Out Development shall be deemed a waiver of any right to challenge Transportation Impact Fees, or the Transportation Impact Fee Ordinance, based on statutory or common law requirements for impact fees. However, such election shall not affect the Opt-Out Development's rights to pursue any administrative remedies available in the Transportation Impact Fee Ordinance or Land Development Code, including independent fee studies.

ARTICLE II – <u>AMENDMENTS TO SECTION 402 OF THE PASCO COUNTY LAND DEVELOPMENT CODE</u>

Section 402.6.F. of the Pasco County Land Development Code is hereby amended and restated to read as follows:

F. USA/TCEA Exemption--The Pasco County Urban Service Area designated pursuant to Policy FLU 9.1.7 of the Comprehensive Plan, and depicted on FLU Map 2-22 and TRA Map 7-37 of the Comprehensive Plan, as it may be amended, is a Transportation Concurrency Exception Area (the 'USA/TCEA"). Projects in the USA/TCEA shall be exempt from the transportation concurrency and Traffic Study requirements of these regulations upon paying, or agreeing to pay, the mobility fees required by Division 2 of Article II of Chapter 78 of the Code of Ordinances ("Mobility Fees" or "Mobility Fee Ordinance"). Opt-Out Developments, as that term is defined in the Mobility Fee Ordinance, shall not be entitled to the USA/TCEA exemption. If any portion of a project is located partially within the USA/TCEA, and partially outside the USA/TCEA, such project shall be entitled to the USA/TCEA exemption if eighty five percent (85%) or more of the project gross land area is within the USA/TCEA. For purposes of applying this exemption, the term "project" shall be as defined in Section 402.5.C.5., and the land area of the project shall be the largest land area meeting that definition.

USA/TCEA exempt projects are relieved of any existing transportation concurrency obligations set forth in any development approval or Certificate of Capacity for the project, including any proportionate share payment obligations. However, if such obligations are set forth in a development agreement or DRI Development Order, the USA/TCEA exempt project shall not be relieved of such obligations unless the

development agreement or DRI Development Order is amended or rescinded by the Board of County Commissioners. In addition, if any proportionate share obligation has already been paid, or committed through an enforceable performance guarantee, as of the effective date of the USA/TCEA exemption, the project shall not be relieved of such obligation, unless the Board of County Commissioners specifically grants relief from such obligation. No project shall be entitled to a refund for any proportionate share payment paid, or proportionate share project constructed, prior to the effective date of the USA/TCEA exemption. For USA/TCEA exempt projects, any transportation related build-out date, transportation concurrency expiration date, or Traffic Study reevaluation date set forth in the development approvals or Certificate of Capacity for the project are hereby eliminated, unless such dates are regional or state build-out or reevaluation dates in a DRI Development Order, in which case such dates shall not be eliminated unless the DRI Development Order is rescinded or amended by the Board of County Commissioners.

The USA/TCEA exemption does not guarantee that all projects will be approved upon payment of a Mobility Fee. Development has other site specific and cumulative impacts on the transportation system that are regulated through other County land development regulations, including, but not limited to, regulations relating to transportation corridor management, collector and arterial spacing, access management, substandard roads, and secondary access. USA/TCEA exempt projects shall not be relieved of such requirements, even if such requirements are, or were, based on a Traffic Study. In addition, the Board of County Commissioners specifically reserves the right to deny, or time and phase, any request for a discretionary development approval (i.e. rezoning, Comprehensive Plan amendment, conditional use, or special exception) in the USA/TCEA based on the transportation impacts of the project seeking such an approval.

ARTICLE III - <u>INCLUSION IN CODE</u>.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pasco County Code of Ordinances in Chapter 78, Article II as an amended and restated Division 2, and a part of the Pasco County Land Development Code as an amended and restated Section 402.6.F. The sections of this Ordinance may be renumbered or relettered and the word "ordinance"

may be changed to "division", "section," "article," "regulation," or such other appropriate word or phrase in order accomplish such intentions. It is also the intent of the Board of County Commissioners that the provisions of this Ordinance may be moved to the Land Development Code as part of a larger rewrite of the Land Development Code, and this Ordinance may be restated, renumbered, relettered and reformatted to accomplish such intent.

ARTICLE IV – REPEAL.

Any and all ordinances in conflict herewith are hereby repealed to the extent of any conflict.

ARTICLE V -SEVERABILITY.

It is the intent of the Board of County Commissioners that if any section, subsection, sentence, clause, or provision of this Ordinance is held invalid, the remainder of the Ordinance shall be construed as not having contained the said section, subsection, sentence, clause, or provision and shall not be affected by such holding.

ARTICLE VI - EFFECTIVE DATE.

A certified copy of this Ordinance shall be filed with the Department of State by the Clerk to the Board within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect upon filing with the Department of State. However, the application of the Mobility Fee to specific building permits and building permit applications shall be in accordance with Section 78-38 of this Ordinance. In addition, any portion of this Ordinance relating to the Villages of Pasadena Hills shall not take effect until the ordinance creating the dependent district for the Villages of Pasadena Hills is effective.

ADOPTED with a quorum present and voting this 12th day of July, 2011.

(SEAL)

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

PAULA S. O'NEIL, Ph.D
CLERK & COMPTROLLER

ANN HILDEBRAND, CHAIRMAN

APPROVED

JUL 1 2 2011