

Appendix M
Agency Operating Agreement
Florida Department of Environmental Protection (DEP)

Part I. Introduction

This Appendix M is the Agency Operating Agreement (AOA) that describes the specific responsibilities of the Department of Environmental Protection (DEP), the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, the South Florida Water Management District (collectively, the WMDs) and the Florida Department of Transportation (FDOT) under the Efficient Transportation Decision Making (ETDM) process described in that certain Master Agreement (MA) between those parties and the Federal Highway Administration (FHWA) executed of even date herewith. This Appendix M also includes general provisions governing implementation of the ETDM process by the parties, and shall hereafter be referred to as the AOA.

DEP/WMD participation in the ETDM process will be commensurate with the level and duration of additional funding and staffing provided by FDOT. After experience is gained with the ETDM process, workload demands and staffing needs may need to be adjusted.

DEP and each WMD will appoint one or more representatives to the Environmental Technical Advisory Team (ETAT), to coordinate the agency's responsibilities under this AOA. The FDOT will appoint an ETAT representative, referred to as the "ETDM Coordinator," who will be responsible for the full implementation of Florida's ETDM process. If an ETAT representative (including the ETDM Coordinator) is unable to perform his or her duties, the represented agency will identify an alternate ETAT representative to complete its responsibilities within the agreed-upon timeframes. The desired qualifications of the ETAT representatives and ETDM Coordinator are specified in the MA.

This AOA includes tables that describe the parties' responsibilities from project planning through compliance with the National Environmental Policy Act (NEPA), the Coastal Zone Management Act (CZMA) and permit approvals, to construction and maintenance. The tables have been divided into the three basic phases of a transportation project: planning, programming, and project development. The parties anticipate that program and project efficiency will be gained by two environmental screening events that occur at the transportation planning and programming phases.

Each party will make available to the Florida Geographic Data Library (FGDL), by download from the party's website or otherwise, the Geographic Information System (GIS) data described in the tables below for which the party is the primary source and as maintained in the ordinary and normal course of business. The FGDL will review the GIS data annually and may ask the DEP and WMDs to make available to FGDL, by download from the appropriate party's website or otherwise, data that has been updated. In its sole discretion, the DEP or WMD may make updated data available to the FGDL more often than annually. Data that is exempt from public access will not be placed on the publicly available site, but will be available to ETAT members. Each state agency will make available to the public any and all public records in its possession that are requested pursuant to a public records request under Chapter 119, F.S. The tables reflect (a) the types of information available to the DEP/WMDs during the Planning and Programming Screens via the ETDM database and (b) the submittal, review and coordination responsibilities of the parties. The parties agree to use the data only for the uses identified in the metadata and recognize the limitations stated in the metadata on using such data.

All ETAT member comments and recommendations regarding a proposed transportation project and its potential environmental effects are made through the Planning and Programming Screens. The reviews will take place on the interactive ETDM Web site using the Environmental Screening Tool (EST) and all comments will be entered directly into the ETAT review database. The ETDM interactive database will have links to the project development Web sites for agencies to continue their electronic reviews. The DEP/WMD comments and recommendations will be used by the FDOT and FHWA to make early NEPA, CZMA consistency and permit-related decisions regarding project impacts, project alternatives, environmental mitigation and technical study needs, and will guide FDOT on the advisability of advancing a project to subsequent phases as proposed or with recommended modifications. DEP/WMD participation during the screening processes will include the identification of technical studies that may be necessary to facilitate permits at subsequent phases and to avoid advancing projects with significant unresolved regulatory or proprietary conflicts. The comments made during these screening events do not constitute binding permit decisions or final agency actions. All reviews performed and comments made by the DEP/WMDs throughout the ETDM Process shall be limited to, and based upon, their respective statutory responsibilities and authorities.

Part II. Planning Screen

With the exception of Florida Intrastate Highway System (FIHS) facilities, the Planning Screen will occur every three to five years in urban areas, during development of the Long-Range Transportation Plan (LRTP) by the Metropolitan Planning Organization (MPO). For the FIHS facilities, the Planning Screen will occur during development of the FIHS Cost Feasible Plan in both MPO and non-MPO areas. FDOT staff will be responsible for uploading the FIHS project information into the ETDM GIS database in both rural and urban areas.

During the Planning Screen, the DEP/WMDs will provide FDOT with preliminary comments on the potential environmental impacts of a proposed project. The review will take place on the interactive ETDM Web site using the Environmental Screening Tool (EST) described in Section 4 of the MA, and all comments will be entered directly into the ETAT review database. Comments made during the Planning Screen will guide FDOT and the MPOs on the advisability of advancing a project to the Programming Screen as proposed or with recommended modifications. These preliminary comments do not constitute a binding permit decision or final agency action.

The following table illustrates the normal process and specific responsibilities of the agencies during the project planning phase. The timing and scope of activities listed in the table below may vary, however, depending on the particular project or agency requirements, with some tasks overlapping or repeating throughout project planning. In the event of conflict between any timeframe stated in the table and those established by federal or state law, the latter will govern.

PLANNING SCREEN TABLE		
ETDM Database (MPO, FDOT, FGDL)	FHWA/FDOT Responsibilities	DEP/WMD Responsibilities ¹
<ul style="list-style-type: none"> ▪ Purpose and Need for proposed projects and system and network improvements ▪ Project limits (including end points) ▪ Mobility Alternatives 	<ul style="list-style-type: none"> ▪ FDOT will provide agencies with timely electronic notification of EST updates ▪ In MPO areas, assist in 	<ul style="list-style-type: none"> ▪ DEP will review and comment on Purpose and Need for proposed projects and system and network improvements

¹ Items referring to DEP denote responsibilities for which the DEP (only) is responsible.

PLANNING SCREEN TABLE		
ETDM Database (MPO, FDOT, FGDL)	FHWA/FDOT Responsibilities	DEP/WMD Responsibilities ¹
<ul style="list-style-type: none"> ▪ DEP/WMD plans and programs ▪ Demographics (Sociocultural Effects) ▪ Example GIS Data Sets (intended to represent best available information and including, but not limited to, the following information): <ul style="list-style-type: none"> – Agency-specific GIS data – Conservation and Recreation Lands, P2000, Florida Forever and other land acquisition programs – Outstanding Florida Waters (OFWs) – Publicly owned or controlled lands – Well information – Ecosystem Management Areas – EPA Water Quality Data – DEP/WMD Mitigation Banks – Regional Planning Council Boundaries – Sewage Treatment Facilities – Solid Waste Facilities – Trails – Existing – Trails – Proposed – Water Treatment Facilities – DEP/WMD Watershed Planning & Coordination – Water Quality Data – Ambient Air Monitoring Sites – Impaired Waters – Environmental Geology – Brownfield Areas – National Wetlands Inventory (polygons) – 100-Year Flood Plains – Historical Bridges – Archaeological and Historical Sites – Specific Soils – SSURGO – Hydric soils classified by NCRS – Wetlands – Drainage Basins – FFWCC Strategic Habitat Conservation – FFWCC Habitat and Landcover – FFWCC Biodiversity Hot Spots – FFWCC Critical Wildlife 	<ul style="list-style-type: none"> developing the Purpose and Need Statement and establishing project limits (including end points) ▪ In non-MPO areas, FDOT in consultation with FHWA establishes Purpose and Need Statement and project limits (including end points) ▪ In MPO and non-MPO areas, establish Purpose and Need for FIHS projects ▪ Ensure project information is available for ETAT review ▪ ETDM Coordinator will consult and resolve project issues, where feasible ▪ Produce the Planning Summary Report which will comprise the following key components: <ul style="list-style-type: none"> – Project Description(s) – Purpose and Need statements – Agency comments, issues and recommendations for potential water resource and wildlife impacts – System-wide GIS mapping depicting social, cultural, and natural resources – Summary of public involvement comments ▪ The Planning Summary Report will be made available to ETAT representatives through 	<ul style="list-style-type: none"> ▪ DEP will review and comment on mode choice and mobility alternatives (demand management, transit, highways) ▪ DEP will review and comment on air quality issues ▪ DEP will review and comment on order of magnitude of potential impacts for Class of Action Determination purposes ▪ Review and comment on alignment and project limits (including end points) ▪ Review and comment on potential impacts to OFWs, aquatic preserves, other specially designated water resources ▪ Review and comment on water quality, water quantity and other environmental resource issues ▪ Review and comment on opportunities for avoidance and minimization of impacts ▪ Identify potential mitigation issues ▪ Comment on potential impacts to state lands, sovereignty submerged lands, conservation easements, and other protected lands and identify necessary authorizations ▪ Recommend technical studies to be completed

PLANNING SCREEN TABLE		
ETDM Database (MPO, FDOT, FGDL)	FHWA/FDOT Responsibilities	DEP/WMD Responsibilities ¹
Designations <ul style="list-style-type: none"> - FFWCC Priority Wetlands Habitat - USGS 1:100,000 Hydrographic Features (or larger scale where available) - Seagrass Beds Along Coastline features (polygon) - Best available Aerial Photos or DOQQs ■ Example Secondary and Cumulative Impact GIS Data Sets (including, but not limited to the following information): <ul style="list-style-type: none"> - Existing Land Use Map - Future Land Use Map - Maps of approved population and employment projections by TAZ or Census Tract data - Density and growth maps - Location and type of approved developments, including DRIs (Regional Planning Council or Local Governments) - Delineated urban service area boundaries (MPO or Local Planning Agency) - Existing and future roadway network, Needs Plan (MPO or FDOT) - Location of existing and proposed public lands and conservation easements (DEP, WMD or RPC) - Existing and proposed Mitigation Areas (Resource Agencies) - Defined neighborhoods (MPO or Local Government) 	the ETDM Web site <ul style="list-style-type: none"> ■ The ETDM coordinator will flag in the EST any unresolved conflicts 	during the project development phase, and review and comment on scope-of-work development <ul style="list-style-type: none"> ■ Review and comment on FDOT's summary of community issues and public concerns ■ Review and comment on agency works, restoration projects, plans and programs that may affect or be affected by the project ■ Review and comment on resource management policies, goals and objectives that may be affected by the project ■ Review and comment on project concept ■ Review and comment on need for future agency involvement and anticipated agency coordination and consultation ■ Submit comments electronically within 45 calendar days of receipt of FDOT's notification that the data and information for this planning screen has been posted on the EST

Part III. Programming Screen

With the exception of FIHS facilities, the Programming Screen will be performed annually on major capacity improvement projects prior to inclusion in FDOT's Five-Year Work Program. FIHS facilities will be screened during FDOT's development of the FIHS Ten-Year Plan. FDOT staff will be responsible for uploading the FIHS project information into the ETDM GIS database in both rural and urban areas. The Programming Screen will also be performed annually on bridge projects contained in the Statewide Deficient Bridge List that may have the potential for significant environmental impacts.

The Programming Screen begins the Federal Consistency Review (FCR) process, which was heretofore initiated by issuance of an Advance Notification (AN). The FDOT District Office shall initiate the FCR process by notifying all ETAT members that the Programming Screen data has been uploaded and is ready for ETAT review. FDOT shall use the EST to distribute the Programming Screen FCR notice. Issuance of the electronic notice for the Programming Screen begins a 45-day comment period, to allow for the distribution, discussion and receipt of agency responses consistent with the Programming Screen and FCR review. Upon receipt of this notice, all ETAT representatives will perform the tasks associated with the Programming Screen, as more particularly described in the Programming Table below. The FCR process includes an evaluation of the proposed transportation project's consistency with the Florida Coastal Management Program. At the FCR stage, the conclusions resulting from the consistency evaluation do not constitute binding permit decisions or final agency actions.

The following table identifies the information available to the DEP/WMDs during the Programming Screen (via the EST). The table also addresses the respective review and coordination responsibilities of the parties. The Programming Screen provides an opportunity for supplemental comments on items initially reviewed during the Planning Screen, based on completed technical studies or other information, and changes or amendments made to the project. Comments made during the Programming Screen will guide FDOT on the advisability of whether or not to advance a project to the Project Development Phase as proposed or with recommended modifications. The comments made during this screening event do not constitute binding permit decisions or final agency actions.

The following table illustrates the normal process and specific responsibilities of the agencies during the project programming phase. The timing and scope of activities listed in the table below may vary, however, depending on the particular project or agency requirements, with some tasks overlapping or repeating throughout project programming and development. In the event of conflict between any timeframe stated in the table and those established by federal or state law, the latter will govern.

PROGRAMMING SCREEN TABLE		
GIS Database (MPO, FDOT, FGDL)	FHWA/FDOT Responsibilities	DEP/WMD Responsibilities²
<ul style="list-style-type: none"> ■ Federal Consistency Review (FCR) Process ■ Coastal Zone Consistency Determination ■ LGCP Consistency ■ Goals of the State ■ Clean Air Act Conformity Designation ■ Demographics (Sociocultural Effects) ■ Example GIS Data Sets (intended to represent best available information and including, but not limited to, 	<ul style="list-style-type: none"> ■ FDOT will provide agencies with timely electronic notification of EST updates ■ Distribute FCR to agencies, including all ETAT representatives ■ Determine Level of NEPA Environmental Documentation (Class of Action Determination) ■ Publish Notice of Intent for EIS ■ Establish an 	<ul style="list-style-type: none"> ■ Review and comment on CZMA consistency component of the FCR process ■ DEP review and comment on mode choice and mobility alternatives (demand management, transit, highways) ■ DEP review and comment on air quality issues ■ DEP review and comment on order of magnitude of potential impacts for Class of Action Determination

² Items referring to DEP denote responsibilities for which the DEP (only) is responsible.

PROGRAMMING SCREEN TABLE

GIS Database (MPO, FDOT, FGDL)	FHWA/FDOT Responsibilities	DEP/WMD Responsibilities ²
<p>the following information):</p> <ul style="list-style-type: none"> – Agency-specific GIS Database – CARL Projects – Conservation and Recreation Lands 1999 – Outstanding Florida Waters – Publicly owned lands – Well Information – Ecosystem Management Areas – EPA Water Quality Data – Mitigation Banks & Regional Offsite Mitigation Areas – Regional Planning Council Boundaries – Sewage Treatment Facilities – Solid Waste Facilities – Trails – Existing – Trails – Proposed – Water Treatment Facilities – DEP/WMD Watershed Planning & Coordination – Water Quality Data – Ambient Air Monitoring Sites – Impaired Waters – Environmental Geology – Brownfield Areas – National Wetlands Inventory (polygons) – 100-Year Flood Plains – Historical Bridges – Archaeological and Historical Sites – Specific Soils – SSURGO – Hydric soils classified by NCRS – Wetlands – Ecosystem Management 	<p>interdisciplinary project team</p> <ul style="list-style-type: none"> ■ ETDM Coordinator will consult and resolve project conflicts through Conflict Management Process (CMP) ■ Produce Programming Summary Report which will comprise the following key components: <ul style="list-style-type: none"> – Project Description(s) – Purpose and Need statement(s) – Class of Action Determination – System-wide mapping depicting social, cultural, and natural resources – Agency comments, issues, and recommendations for potential water resource and wildlife impacts – Preliminary outline of the PD&E scope(s) – Statement of conflicts – Summary of public involvement comments ■ The Programming Summary Report will be made available to the ETAT representatives through the ETDM Web site ■ In cases where ETAT agencies have objected to the project, the project will not be advanced in the Five-Year Work Program for any purpose other than technical studies and preliminary design to resolve the 	<p>purposes</p> <ul style="list-style-type: none"> ■ Review and comment on potential project impacts related to the conditions for issuance and additional conditions for issuance of the environmental resource permit or wetland resource permit ■ Review and comment on alignment and project limits (including end points) ■ Review and comment on potential impacts to OFWs, aquatic preserves, other specially designated water resources ■ Review and comment on water quality, water quantity and other environmental resource issues ■ Review and comment on opportunities for avoidance and minimization of impacts ■ Identify mitigation issues ■ Identify necessary sovereignty submerged lands authorizations and issues related to granting such authorizations ■ Review and comment on potential impacts to state lands, sovereignty submerged lands, conservation easements and other protected lands ■ Review and comment on alternative concepts and scope being considered, such as possible typical sections, preliminary footprint, and other needed provisions (e.g. sidewalks, bike lanes, kiosks, and bus

PROGRAMMING SCREEN TABLE		
GIS Database (MPO, FDOT, FGDL)	FHWA/FDOT Responsibilities	DEP/WMD Responsibilities ²
<ul style="list-style-type: none"> Areas – Drainage Basins – FFWCC Strategic Habitat Conservation – FFWCC Habitat and Land-cover – FFWCC Biodiversity Hot Spots – FFWCC Critical Wildlife Designations – FFWCC Priority Wetlands Habitat – USGS 1:100,000 Hydrographic Features – Seagrass Beds Along Coastline features (polygon) – Best available Aerial Photos or DOQQs 	<ul style="list-style-type: none"> objections ■ Commit to prepare agreed- upon technical studies ■ Flag unresolved issues that require resolution 	<ul style="list-style-type: none"> turnouts) ■ Recommend technical studies to be completed during the project development phase, and review and comment on scope-of-work development ■ Review and comment on FDOT's summary of community issues and public concerns ■ Review and comment on agency works, restoration projects, plans and programs that may affect or be affected by the project ■ Review and comment on resource management policies, goals and objectives that may be affected by the project ■ Review and comment on project concept ■ Identify need for future agency involvement and anticipated agency coordination and consultation ■ Participate in CMP , if necessary, to assist the ETDM Coordinator in identifying solutions to project concerns. ■ Participate in ETAT Review Subteam, as needed, to review and resolve conflicts at an informal local level ■ Submit comments electronically within 45 calendar days of receipt of FDOT's notification that data and information for this programming screen has been posted on the EST

Part IV. Conflicts in Decision-Making

This part establishes a process for resolving decision-making conflicts in both the Planning and Programming Screens. A diagram depicting the Conflict Management Process (CMP) is appended to the end of this document.

A. Planning Screen Conflicts: If conflicts are identified during the Planning Screen, the ETAT representatives and ETDM coordinator shall consult and resolve, where feasible, project conflicts and concerns before the approval of the relevant cost feasible LRTP. If a conflict cannot be resolved and the project is added to the transportation plan, the project will be “flagged” as having unresolved conflict(s) and will be so identified if the project becomes a priority for inclusion in FDOT’s Five-Year Work Program. Because of the preliminary nature of the project concept at this screen, the agencies may recommend additional studies that are needed, and it will be the responsibility of the FDOT/MPO to provide the agreed-upon studies.

B. Programming Screen Conflicts: Conflicts that arise early during the Programming Screen will be flagged for resolution. To the extent possible, the ETAT will attempt to resolve those conflicts. Conflicts that cannot be resolved by the ETAT shall be addressed through the Conflict Management Process (CMP) described in this part. Projects that have unresolved conflicts during the Programming Screen will not be advanced in the FDOT Five-Year Work Program for any purpose other than technical studies and preliminary design to resolve the objections. The ETDM Coordinator is responsible for working with the appropriate ETAT representatives to address all known conflicts or issues at the agency staff level. The following is a list of possible reasons for initiating the CMP:

- Project appears to be non-permittable or cannot be authorized under the sovereignty submerged lands program
- Project is contrary to a program, plan or initiative of the DEP/WMD
- Project has significant environmental issues
- DEP disputes the project’s Purpose and Need

1. Resolution Through Agreement With ETDM Coordinator: The ETDM Coordinator will have the authority to make FDOT commitments to further resolution of conflicts, such as requiring specific technical studies, considering alternative project concepts, and exploring mitigation options recommended by the ETAT. Any conflict that cannot be resolved through agreement with the ETDM Coordinator may be referred by the FDOT to the ETAT subteam for resolution.

2. Resolution by ETAT Subteam: Each disputing agency will designate a subteam representative to review conflicts that are not resolved through agreement with the ETDM Coordinator. Participation in a subteam is at the discretion of each agency depending on level of interest or concern, but the subteam must include those agencies that identified the issues in conflict for a given project.

The ETAT subteam may, without limitation:

- Resolve and document the issue or conflict through consultation;
- Require FDOT’s completion, correction, or expansion of plans and feasibility or technical studies for the disputing parties to review; or

- Advance a project, upon agreement of the disputing parties, into the Five-Year Work Program with specific “flags” and recommendations to be addressed during the Project Development phase. Any agreements, understandings or recommendations resulting from these proceedings shall be incorporated into the descriptive materials that accompany the project as it moves through the work program.

3. Resolution by Local Agency Heads: Any conflict not resolved by the ETAT subteam may be referred by FDOT to the local agency heads of the disputing parties for resolution. The local agency head for FDOT will be District management. For purposes of the CMP, the local agency heads for DEP and the WMDs will be the Director of District Management and the WMD program manager (respectively).

4. Resolution by Statewide or Regional Agency Heads: Any conflict not resolved by the local agency heads may be referred by FDOT to the statewide or regional agency heads of the disputing parties for resolution. The agency head for FDOT will be the District Secretary. For purposes of the CMP, the agency heads for DEP and the WMDs will be the Secretary of DEP and the Executive Director of the WMDs (respectively).

The disputing agency heads or statewide or regional agency heads may, without limitation:

- Modify the project concept to resolve environmental concerns and issues;
- Advance the project into the next phase; or
- Reject the project.

Nothing in this part affects the statutorily prescribed duties and obligations of any party to this AOA or any party’s responsibility or ability to discharge fully such duties and obligations under all applicable laws and regulations. Resolution of any issue does not constitute a binding permit decision or final agency action.

Part V. Project Development

One of the goals of the ETDM process is to facilitate better coordination of NEPA, CZMA consistency and permitting reviews during project development. This part describes the general sequence of events that will be followed by the parties during the project development phase. The DEP/WMD will do the following during project development:

- (a) Evaluate the project for compliance with the applicable DEP/WMD proprietary and regulatory laws and rules, as well as compliance with CZMA requirements;
- (b) Review and comment on NEPA/CZMA consistency documents to ensure they reflect project designs and commitments that are consistent with applicable proprietary and regulatory requirements under Chapters 253, 258, 373 and 403, F.S.; and
- (c) Process and take agency action on applications for permits and authorizations submitted pursuant to Chapters 253, 258, 373 and other applicable chapters of the Florida Statutes.

The FDOT will do the following during project development:

- (a) Submit and update the impact inventory information required by Section 373.4137, F.S.;
- (b) Provide copies of relevant NEPA/CZMA consistency documents to the DEP/WMDs and respond to their comments on those documents; and

(c) Submit required permit and sovereignty submerged lands applications under Chapters 253, 258, 373 and other applicable chapters of the Florida Statutes, and timely respond to questions and issues raised by the DEP/WMDs regarding those applications.

Mitigation development and implementation will be performed in accordance with the requirements of Section 373.4137, F.S., and is not tied to any particular phase of the ETDM process. Mitigation development and implementation is an ongoing effort that crosses timelines and review processes.

The EST will continue to be available for use by the agencies in performing their respective responsibilities. Nothing in the following tables (a) requires the DEP/WMDs to serve as a technical consultant to, or agent for, the FDOT or (b) imposes on the DEP/WMD additional responsibilities beyond those currently authorized by statute or rule.

PROJECT DEVELOPMENT TABLE	
<p>NOTE: The following table illustrates the normal sequential process of the agencies during the project development phase to facilitate coordination of NEPA/CZMA consistency reviews with project permitting reviews. The timing and scope of activities listed in the table below may vary, however, depending on the particular project or agency requirements, with some tasks overlapping or repeating throughout development of the project. The exchange of information and interagency coordination will be an ongoing process throughout project development. In the event of conflict between any timeframe stated in the table and those established by federal or state law, the latter will govern.</p>	
NEPA/CZMA Consistency Documentation	Permitting
<ul style="list-style-type: none"> ■ FDOT/FHWA develop and analyze preliminary alternatives and potential impacts of each ■ FDOT consults with ETAT agencies on potential alternatives ■ DEP reviews and comments on preliminary alternatives and analysis ■ FDOT/FHWA determine preferred alternative ■ FDOT consults with DEP/WMD on mitigation needs and the identification of potential mitigation projects³ ■ FDOT coordinates with DEP/WMD on possible schedule for concurrent NEPA/CZMA consistency/permit reviews ■ FDOT completes technical studies as defined in the Programming Summary Report, such as: <ul style="list-style-type: none"> – Wetland Evaluation Report (WER) – Cultural Resource Assessment (CRA) – Endangered Species Biological Assessment (ESBA) – Flood Plains and Hydrologic Assessment ■ FHWA reviews technical reports for completeness 	<ul style="list-style-type: none"> ■ FDOT, in consultation with DEP/WMD, documents boundaries of wetlands and other surface waters ■ FDOT, in consultation with DEP/WMD, develops WRP/ERP and sovereignty submerged lands (SSL) authorization pre-application package (including typical drawings, maps of alignment, and other project information), and meets with DEP/WMD to determine: <ul style="list-style-type: none"> – Level of permit design detail needed for application – Whether issues identified in planning

³ Mitigation coordination and documentation will be in accordance with Section 373.4137, F.S.

<ul style="list-style-type: none"> ■ FDOT incorporates WER and other technical reports into environmental document ■ FHWA approves EA/DEIS for public availability, publishes notice in Federal Register, and FDOT provides DEP/WMD with notice and online or electronic copy of EA/DEIS ■ DEP/WMD review and comment on EA or DEIS within 30 or 45 calendar days (respectively) of receipt of notice and online or electronic copy of EA or DEIS ■ FDOT consults with DEP/WMD regarding opportunities, constraints and the feasibility of Joint Public Notice and Hearing, if appropriate ■ FDOT conducts public hearing and DEP/WMD attend public hearing and participate as appropriate within their regulatory and proprietary authorities ■ FDOT documents decision in FONSI or FEIS, as applicable, submits to FHWA for approval, publishes notice of availability, and provides DEP/WMD with notice and online or electronic copy of FONSI or FEIS ■ DEP/WMD review FONSI or FEIS within 30 calendar days of receipt of notice and online or electronic copy of FONSI or FEIS ■ FHWA issues Record of Decision & Location-Design Acceptance 	<ul style="list-style-type: none"> and programming screens have been addressed – Whether additional technical studies are needed – Whether preliminary design appears to be consistent with DEP/WMD statutory authority and rule criteria related to WRP/ERP/SSL application ■ FDOT submits WRP/ERP/SSL application with mitigation plan, where required, and submits to DEP/WMD for review ■ DEP/WMD review WRP/ERP/SSL application under Chapters 253, 258 373, and other applicable chapters of the Florida Statutes, and request additional information as needed within 30 days of receipt of application ■ FDOT responds to request(s) for additional information to complete the application ■ DEP/WMD process application for WRP/ERP and SSL authorization to Final Agency Action within statutory time frames
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Part VI. Applications for Permits and Sovereignty Submerged Lands Authorizations

The level of engineering and project information to be supplied by FDOT as part of a permit or authorization application during the project development phase must be sufficient to meet the criteria for issuance of the applicable wetland resource permit, environmental resource permit, and sovereignty submerged lands authorization. The duration of each permit will be of sufficient length to allow the FDOT to complete the necessary project production phases and begin construction, to the extent consistent with DEP/WMD statutes and rules in effect at the time of permit issuance.

Part VII. Information Available during Project Development

During the planning and programming screens and project development phase, DEP and the WMDs will – to the maximum extent practical – make recommendations to the FDOT regarding data and information that would be necessary to support a permit application and sovereignty submerged lands authorization under laws and rules in effect at the time of agency action. The FDOT recognizes, however, that additional information may be required after completion of the planning and programming screens, once a formal permit application is prepared and submitted to the agencies for review. All parties agree that, ultimately, project-specific permit and sovereignty submerged lands authorization information will be required and evaluated at the level of detail necessary to provide reasonable assurance that the project complies with applicable statutes and rules in effect at the time of agency action. The FDOT further acknowledges that, should project redesign be

required following issuance of applicable permits and sovereignty submerged lands authorization, applicable modifications must be requested by FDOT and approved by the DEP or WMD, as applicable, prior to construction, operation, maintenance, removal, or abandonment of a system.

Part VIII. ETDM Performance Measures

ETAT representatives will meet annually with the FDOT ETDM Coordinator to review program issues and concerns including, without limitation, workload, staffing and resource needs. At the meeting, the participants shall exchange information related to the efficacy of the ETDM process, and identify both program deficiencies and ways to improve the process. Topics discussed at the annual meeting may include:

- role of cooperating agencies and levels of involvement;
- quality of submittals;
- number of permit application revisions;
- achievement of concurrent processing of NEPA/CZMA consistency documents and environmental permits;
- number of requests for substantive additional information;
- sufficiency of quality assurance protocols for digital information;
- interagency communication and coordination, including FCR process;
- sufficiency and quality of documentation of all actions designed to expedite NEPA/CZMA consistency reviews and permit approvals;
- timeliness of performance under the ETDM process; and
- efficacy of conflict resolution process.

In evaluating timeliness of performance under the ETDM process, the parties may use the following measures:

- FDOT responds to comments and inquiries resulting from the Planning and Programming Screens within 30 calendar days;
- DEP/WMDs review of environmental documents provided under NEPA within 30 or 45 calendar days of receipt of notice and online or electronic copy of documents (30 days for EA and 45 days for DEIS);
- Completion of Conflict Management Process (CMP) within 120 calendar days;
- FDOT responds to request(s) for additional information during permitting within legal time frames identified by rule;
- FDOT performs quality checks on ETDM database within 90 calendar days of completion of field reviews and technical reports.

Part IX. Agency Equipment Requirements

ETAT representatives shall have access to a computer with software and internet connectivity adequate to ensure effective use of the Environmental Screening Tool and to exchange emails messages with other ETAT members.

Part X. Acronyms

Acronyms used in this AOA are appended to this document.

Part XI. General Provisions

A. Modification of AOA

This AOA may be modified in writing at any time by mutual agreement of the parties. Any amendment may be made in whole or in part and, upon execution and adoption by the parties, such amended AOA shall supersede the corresponding provision(s) of previous versions. Any changes, amendments, corrections, or additions to this AOA shall be executed and approved by the same parties (or their designees) who execute and approve this original AOA, in accordance with applicable laws. No addendum, modification, or waiver of any of the terms of this AOA shall be effective unless in writing, signed by the parties, and executed in the same manner as this AOA. The parties agree that any attempt to modify this AOA orally or by conduct shall be ineffective. The failure of any party to insist in any one or more instances upon the strict performance by the other party of any of the terms or provisions of the AOA shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect.

B. Term; Renewals; Termination

The term of this AOA shall run, simultaneously with that of the Funding Agreement between the parties, for a period of five (5) years commencing January 1, 2007, unless terminated earlier in accordance with the terms of the Funding Agreement. Paragraph H. of this Part shall govern in the event of conflict between this AOA, the MA and the Funding Agreement. The parties contemplate that this AOA shall be renewable for additional 5-year terms; however, such renewal shall not be automatic, but shall require written modification or renewal by all parties within sixty days prior to the expiration of the operative term.

Any party may terminate its participation in this AOA with or without cause upon 120 days' prior written notice to the other party or parties and the ETDM Coordinator. During the 120-day notification period, the parties will endeavor to resolve any pending issues or conflicts, as applicable.

C. Notices and Reports

All notices required or permitted to be given under the terms and provisions of this AOA by a party to any other party shall be in writing and shall be made by electronic notice or sent by registered or certified mail, return receipt requested, to the parties' representatives whose titles, offices and addresses are listed below or to such other representatives or addresses as may hereafter be provided to the parties in writing. Notices by registered or certified mail shall be deemed received on the delivery date indicated by the U.S. Postal Service on the return receipt.

[Names and addresses continued on next page]

FDOT: Ms. Carolyn H. Ismart, Manager (or Successor)
Environmental Management Office
Florida Department of Transportation
605 Suwannee Street, MS 37
Tallahassee, FL 32399-0450
Telephone: (850) 414-4777
Facsimile: (850) 410-4443
Email: Carolyn.Ismart@dot.state.fl.us

FHWA: Mr. George Hadley (or Successor)
Environmental Coordinator
Federal Highway Administration
545 John Knox Road, Suite 200
Tallahassee, FL 32303
Telephone: (850) 942-9650
Facsimile: (850) 942-9691
Email: George.Hadley@fhwa.dot.gov

FDEP: Ms. Sally B. Mann (or Successor)
Director, Office of Intergovernmental Programs
Florida Department of Environmental Protection
3900 Commonwealth Blvd., MS 47
Tallahassee, FL 32399-3000
Telephone: (850) 245-2163
Facsimile: (850) 245-2189
Email: Sally.Mann@dep.state.fl.us

D. Rights of Others

Nothing in this AOA, express or implied, is intended to confer upon any person other than the parties hereto any rights or remedies under or by reason of this AOA. This AOA neither creates nor limits any point-of-entry to challenge agency decisions under Chapter 120, F.S.

E. Applicable Law

This AOA shall be governed by, and construed in accordance with, the laws of the State of Florida without giving effect to any principles of conflicts of law.

F. Entire Agreement

The MA, the Funding Agreement and this AOA constitute the entire agreement between the parties relating to the subject matter herein. There exist no representations or warranties other than those set forth herein.

G. Knowing and Voluntary Participation of Parties

Each party fully understands the matters described herein and that party's legal rights and obligations hereunder, and is signing this AOA freely and voluntarily, intending to be bound by it.


H. Conflict Between Agreements

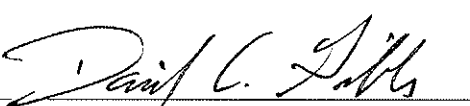
The MA, AOA, and Funding Agreement shall supersede any prior understanding, agreement, memorandum, letter, or other written or oral arrangement between the parties relating to the matters covered therein. In the event of a conflict between any provision of the MA and the AOA, the latter shall govern. In the event of a conflict between a Funding Agreement and the AOA, the latter shall govern, except that the Funding Agreement shall govern with regard to the period of performance. In the event of a conflict between a Funding Agreement and the MA, the latter shall govern, except that the Funding Agreement shall govern with regard to the period of performance.


I. Severability

If any part of this AOA is judicially, administratively, or otherwise determined to be invalid or unenforceable, the other provisions of this AOA shall remain in full force and effect, provided that all parties agree in writing that the material purposes of the MA, Funding Agreement and this AOA can be implemented.

IN WITNESS WHEREOF, the parties hereto have caused this Agency Operating Agreement to be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.


Secretary
Date: 12-21-06
Florida Department of
Transportation


Division Administrator
Date: 12/15/06
Florida Division
Federal Highway Administration


Secretary
Date: 12-08-06
Florida Department of
Environmental Protection

List of Acronyms

AN:	Advance Notification
AOA:	Agency Operating Agreement
CARL:	Conservation and Recreation Lands
CE:	Categorical Exclusion
CFR:	Code of Federal Regulations
CMP:	Conflict Management Process
COE:	United States Army Corps of Engineers
CRA:	Cultural Resource Assessment
CZMA:	Coastal Zone Management Act
DEIS:	Draft Environmental Impact Statement
DEP:	Florida Department of Environmental Protection
DOQQ:	Digital Ortho Quarter Quads
DRI:	Development of Regional Impact
DROD:	Draft Record of Decision
FCR:	Federal Consistency Review
EA:	Environmental Assessment
EIS:	Environmental Impact Statement
EPA:	United States Environmental Protection Agency
ERP:	Environmental Resource Permit
ESBA:	Endangered Species Biological Assessment
EST:	Environmental Screening Tool
ETAT:	Environmental Technical Advisory Team
ETDM:	Efficient Transportation Decision Making
FAC:	Florida Administrative Code
FDOT:	Florida Department of Transportation
FEIS:	Final Environmental Impact Statement
FFWCC:	Florida Fish and Wildlife Conservation Commission
FGDL:	Florida Geographic Data Library
FHWA:	Federal Highway Administration
FIHS:	Florida Intrastate Highway System
FNAI:	Florida Natural Areas Inventory
FONSI:	Finding of No Significant Impact
FR:	Federal Register

FS:	Florida Statutes
FTP:	Florida Transportation Plan
GIS:	Geographic Information System
ICAR:	Intergovernmental Coordination and Review
LGCP:	Local Government Comprehensive Plan
LRTP:	Long Range Transportation Plan
MA:	Master Agreement
MOU:	Memorandum of Understanding
MPO:	Metropolitan Planning Organization
NEPA:	National Environmental Policy Act
NGO:	Non-Government Organization
NRCS:	Natural Resources Conservation Service
NFWMD:	Northwest Florida Water Management District
OFW:	Outstanding Florida Waters
PD&E:	Project Development and Environment
ROD:	Record of Decision
RPC:	Regional Planning Council
SEIR:	State Environmental Impact Report
SFWMD:	South Florida Water Management District
SHPO:	State Historic Preservation Officer
SHS:	State Highway System
SJRWMD:	St. Johns River Water Management District
SRWMD:	Suwannee River Water Management District
SSL:	Sovereignty Submerged Lands
SSURGO:	Soil Survey Geographic Database
SWFMD:	Southwest Florida Water Management District
TAZ:	Traffic Analysis Zone
TEA-21:	Transportation Equity Act for the 21 st Century
URL:	Uniform Resource Locator
USFWS:	U.S. Fish and Wildlife Service
USGS:	U.S. Geological Survey
WER:	Wetland Evaluation Report
WMD(s):	Water Management District(s)
WRP:	Wetland Resource Permit