

**Master Agreement
Between FDOT, FHWA and DEP
for Continuing the Implementation of the Efficient
Transportation Decision Making Process in Florida**

Section 1: Background

On December 14, 2001, the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Natural Resource Conservation Service, U.S. Environmental Protection Agency, U.S. Coast Guard, Federal Transit Administration, Advisory Council on Historic Preservation, National Park Service, U.S. Forest Service, Florida Department of Environmental Protection, Northwest Florida Water Management District (WMD), Suwannee River WMD, St. Johns River WMD, Southwest Florida WMD, South Florida WMD, Florida Fish and Wildlife Conservation Commission, State Historic Preservation Office, Metropolitan Planning Organization Advisory Council, Florida Department of Community Affairs, Florida Department of Agriculture and Consumer Services, the Florida Department of Transportation (FDOT) and the Federal Highway Administration (FHWA), collectively referred to as Environmental Technical Advisory Team (ETAT), signed a Memorandum of Understanding agreeing to develop an Efficient Transportation Decision Making (ETDM) process in Florida.

ETDM is a supplemental environmental review process designed to accomplish the streamlining objectives identified in Section 1309 of the Transportation Equity Act for the 21st Century and Section 6002 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFTEA-LU). The ETDM process creates linkages between land use, transportation, and environmental resource planning initiatives, through early, interactive agency involvement. ETDM does not substitute for, but should enhance and streamline, the state regulatory and proprietary review processes. Objectives of the ETDM process include effective/timely decision-making without compromising environmental quality; full and early public and agency participation; coordination of project reviews under the National Environmental Policy Act (NEPA) and the Coastal Zone Management Act (CZMA) with project permitting reviews; and implementation of meaningful mechanisms to resolve conflicts. The goals of the ETDM process include concurrent reviews, interactive planning, efficiency gained from technology, and better transportation decisions. The agencies endorsed the ETDM concept and agreed to support, establish and implement the ETDM process within their respective agencies to the extent feasible, within existing legal authority, staffing capabilities and budget. The extent of supplemental services provided to FDOT through the ETDM process by the Florida Department of Environmental Protection (DEP) and the WMDs identified in Section 2 below 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.

Section 2: Agreement Framework and Regulatory Authority

Participation in the ETDM process by the Florida Department of Transportation (FDOT), the Federal Highway Administration (FHWA), the Florida Department of Environmental Protection (DEP), the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District and the South Florida Water Management District (collectively, the WMDs) is governed by the terms and conditions of this Master Agreement (MA), the Agency Operating Agreement attached hereto as Appendix M (AOA), and the Funding Agreements entered into individually by the DEP and the WMDs with the FDOT and FHWA, which documents are hereby incorporated by reference as if physically attached hereto and represent successor

documents to the initial MA, AOA and Funding Agreement executed by the parties in Fall 2004. The DEP and WMDs (including the Northwest Florida Water Management District) shall each execute a separate MA, AOA and Funding Agreement with FHWA and FDOT.

This MA generally explains – without assigning specific responsibilities or obligations – how transportation projects in the State of Florida will be planned, programmed and developed using the ETDM process in accordance with applicable laws and regulations. This MA describes the ETDM process, including the interactive geographic database and environmental screening tool, the creation of an Environmental Technical Advisory Team (ETAT) for each FDOT District, the planning and programming screen reviews and automated summary reports, the Conflict Management Process developed for the ETDM process, and ETDM training and educational components.

The specific obligations of the parties are set forth in the attached AOA. Individual AOAs have been developed with each agency involved with the ETDM process to identify, in greater detail, the Metropolitan Planning Organization (MPO) and FDOT deliverables and the specific agency reviews and responsibilities during the Planning and Programming Screens and Project Development phase. The AOAs list, in tabular format, the information to be uploaded into the ETDM database, the necessary Geographic Information Systems (GIS) datasets, the deliverables and review responsibilities of the MPO and FDOT, and the review responsibilities of the ETAT representatives.

Section 3: ETDM Process

The ETDM process creates linkages between land use, transportation, and environmental resource planning initiatives through early, interactive agency involvement, and is expected to improve transportation decisions and reduce the time, effort, and cost to implement transportation improvements. Program and project efficiency may be gained by two environmental screening events that occur at the transportation planning and programming phases. The transportation project types identified in the AOA will be subject to the ETDM screening process.

An Environmental Technical Advisory Team (ETAT), consisting of representatives from planning agencies, consultation agencies and regulatory agencies, has been created for each of the seven FDOT Districts. ETAT representatives will perform the ETDM screenings, which allow for concurrent review of NEPA, CZMA consistency and permit issues as part of the planning and programming processes. During the early phases of transportation planning, the ETAT representatives will provide advisory agency comments on proposed transportation improvements. DEP/WMD input will be limited to their respective areas of statutory authority. The DEP/WMDs will provide comments, information, guidance and recommendations on needed studies and data, but will not act as FDOT's consultants.

As projects move into the FDOT Five-Year Work Program and the project development phase, the ETAT representatives' role transitions to one of coordination within their respective agencies during the NEPA, CZMA consistency and permit application processes. The ETDM Geographic Information System (GIS) database or Environmental Screening Tool (as described in Section 4), will be used by the MPOs and the FDOT in developing, evaluating and prioritizing transportation plans and projects. The ETDM process diagram is depicted in Figure 1 appended to this MA.

During the planning, programming and project development phases, the ETAT will also serve as a cooperating entity with FHWA and FDOT. Responsibilities of the ETAT may include activities such as attending scoping and coordination meetings; attending joint field reviews; providing early substantive input on issues of concern; providing comments and recommendations to ensure compliance

with existing statutes and rules and on needed statutory and rule amendments; reviewing scopes-of-work for required technical studies; reviewing draft/final environmental documents; and others as mutually agreed-upon by the parties.

Section 4: Environmental Screening Tool

The State of Florida has developed a comprehensive digital information database, the Florida Geographic Data Library (FGDL), which is housed at the GeoPlan Center at the University of Florida. FDOT has developed an environmental screening application that utilizes the FGDL and provides for an interactive review of proposed transportation projects by ETAT representatives. The Environmental Screening Tool (EST) will be accessed through the Internet and used by ETAT representatives during project planning and programming reviews to perform standardized GIS analyses and queries using information (data) contained in the FGDL and transportation planning and project information provided by MPOs and FDOT. The EST will be used to:

- Integrate data pertinent to land use, human and environmental resources, and transportation programs from multiple sources into standard format;
- Provide information reviewers can use to analyze the effects of proposed projects on the environment;
- Disseminate information among ETAT representatives and to the public; and
- Store and report results of the ETAT review.

The EST will provide an automated electronic notice whenever new data or analyses are available and when review time frames specified in the AOA have been exceeded. A User's Guide and periodic training programs will be provided to all ETAT Representatives on the ETDM process.

Section 5: Public Involvement and Interagency Coordination

Public involvement will be a continuous effort throughout the ETDM process. Interested parties and non-government organizations (NGOs) will be able to obtain project information through a public access version of the EST, such as the project description, summarized GIS analysis graphics, summary of project impact analyses, and previously submitted public comments. FDOT will be responsible for storing and making available to the public all data and information accessible through the EST. Public comments will be submitted to the MPO or FDOT using existing public involvement channels during development of the MPO Long-Range Transportation Plan (LRTP) and FDOT Five-Year Work Program.

Section 6: DEP/WMD ETAT Representatives

DEP and each WMD will appoint one or more ETAT representatives to coordinate the agency's obligations under the AOA. ETAT representatives comment and coordinate during the ETDM planning and programming stages and facilitate during the permitting stage. The ETAT representative should have diverse skills and the ability to function effectively within the agency and to coordinate with other ETAT agencies. ETAT representatives will be involved with the full spectrum of agency actions related to transportation projects, and will be primary points-of-contact authorized to present an opinion or recommendation on behalf of the agency.

Section 7: ETDM Coordinator

Each FDOT District ETAT representative will be referred to as the “ETDM Coordinator” for that district and responsible for the full implementation of Florida’s ETDM process. The ETDM Coordinator will:

- Coordinate with District management, MPOs, project management teams and individual project managers to facilitate appropriate development of the ETAT screens at both the Planning and Programming phases.
- Submit the ETAT screens to the interagency ETAT representatives for integrated planning, early consultation and coordination, environmental review, and interagency technical assistance.
- Coordinate internally with project managers and partner externally with ETAT representatives, MPOs, and FHWA during project development – as described in the AOA – to facilitate development of transportation projects and technical studies in full compliance with NEPA, CZMA consistency and all environmental permit requirements.
- Coordinate and consult internally with District offices and externally with ETAT representatives in the review of federal and state legislation, federal and state regulations, environmental ordinances, rules, executive orders and internal agency procedures that affect the ETDM process.
- Conduct ETDM training and provides technical assistance to support ETAT representatives, the MPOs, and representatives of FDOT District Planning, FDOT Environmental Management and other offices, where appropriate.

Section 8: Planning Screen

The Planning Screen will occur every three to five years during development of the MPO’s LRTP, with the exception of Florida Intrastate Highway System (FIHS) facilities. For 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.

The Planning Screen allows the ETAT to identify and comment on the impact of projects very early in the planning process. It also allows the ETAT to provide plans, programs, and technical reports that are not contained in existing databases, but are an important part of an agency’s resource management and protection initiatives and may affect a proposed project. This will enable an MPO and/or FDOT to respond to identified resource impacts and adjust project concepts to avoid or minimize such impacts. During the Planning Screen, ETAT representatives will identify – to the extent possible – potential secondary and cumulative impacts. The LRTPs are updated by the MPOs every three to five years, depending on the air quality designation by the U.S. Environmental Protection Agency. The FIHS Cost Feasible Plan is updated by FDOT every five years depending on funding and legislative issues. The Planning Screen table contained in the respective agency appendices identifies the information available to the ETAT during the Planning Screen (via the environmental screening tool). The table also addresses the submittal, review and coordination responsibilities of the parties. The review will take place through the Internet and all comments will be entered directly into the environmental screening tool comment section and saved for subsequent review and use.

Section 9: Planning Summary Report

After the Planning Screen is completed, a Planning Summary Report will be prepared by the MPO, in concert with the ETDM Coordinator, or by the ETDM Coordinator in non-MPO areas. The ETDM Coordinator will facilitate resolution of any problems that arise during the Planning Screen. The report will be automatically generated, to the extent feasible; will summarize key information and recommendations on a system-wide basis for the LRTPs and FIHS Cost Feasible Plan; be provided to reviewing agencies; and made available to the public.

Section 10: 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. Details on the specific information available through the Programming Screen and agency responsibilities associated therewith are contained in the AOA.

Section 11: Programming Summary Report

After the Programming Screen is completed, a Programming Summary Report will be prepared by the ETDM Coordinator and provided to all reviewing agencies and made available to the public. The report will be automatically generated, to the extent feasible, and will include an outline of the project's scope of work based on the ETAT reviews and available project information. For those projects advanced into FDOT's Five-Year Work Program, a final report will be prepared, reflecting the project's Class of Action Determination, (*i.e.*, Categorical Exclusion, Environmental Assessment or Environmental Impact Statement), degree of resource impacts, a summary of public comments, and a description of issues and conflicts.

Section 12: Project Development Phase

During the project development phase, the ETAT will continue to provide input to and coordinate with the FDOT so that FDOT can design projects that comply with applicable legal and regulatory requirements. FDOT will formalize project design and prepare the applications for state and federal permits and state lands authorization during this phase. The NEPA documents and permit applications will address issues raised by the ETAT and be supported by technical studies, reports, assessments and preliminary engineering plans prepared or developed by the FDOT during the project development phase.

The ETDM/ETAT process does not alter the permit application and review process or modify the statutory authorities or responsibilities of the DEP/WMDs. Permit applications will be submitted by FDOT and reviewed by the DEP/WMDs in accordance with applicable rules and criteria. This phase should facilitate concurrent review of NEPA, CZMA consistency and permitting documents.

Section 13: Project Development Summary Report

A Project Development Summary Report will be prepared by the FDOT Project Manager at the conclusion of the NEPA and CZMA consistency reviews and after permit issuance. The report will contain a collection and summary of pertinent project information and documentation, including the

preferred alternative for construction; a summary of all environmental impacts, project permitting stipulations and mitigation requirements; and a list of all commitments and recommendations. This report will be provided to and discussed with the FDOT Design Project Manager for use in project scoping, plans preparation, and contracting.

Section 14: DEP/WMD Resource Requirements

DEP/WMD ETAT resource needs, including personnel, equipment and agency funding requirements will be determined based on each agency's specific needs as set forth in the AOA or Funding Agreement, as applicable. The extent of supplemental review services provided by the FDEP/WMDs in the ETDM process will be commensurate with the level and duration of additional funding and staffing provided by FDOT.

Section 15: ETDM Performance Measures

The success of the ETDM process will be based, in part, on the quality of the interactive ETDM database information, agency coordination and consultation, and timely review and completion of NEPA, CZMA consistency and permitting documents. Evaluation criteria for monitoring the success of the ETDM process are set forth in the AOA.

Section 16: Conflict Management Process

A process for resolving decision-making conflicts in both the Planning and Programming Screens is set forth in the AOA.

Section 17: Regulatory and Statutory Changes

The ETAT agencies will work with FHWA and FDOT to identify and support any mutually agreed-upon changes in federal or state laws, rules, or regulations that will further facilitate implementation of the ETDM process.

Section 18: Training and Educational Programs

A training program for ETDM participants will be jointly developed by FDOT and the University of Florida GeoPlan Center, with the participation of ETAT representatives from each respective agency, to explain the ETDM process and the use of the EST. An educational component will also be developed to inform non-governmental organizations, local governments, and citizens of the new ETDM process and how they can participate in and affect the transportation decision-making process.

Section 19: Periodic Review of ETDM Process

It is anticipated that the ETAT representatives will meet regularly with the ETDM Coordinator to review program issues and concerns including, without limitation, workload, staffing and resource needs. At the meeting, the participants will exchange information related to the efficacy of the ETDM process and identify any program deficiencies and ways to improve the process.

Section 20: Modification of Master Agreement or Agency Operating Agreement

This Master Agreement (MA), including the 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 MA or AOA shall supersede the corresponding provision(s) of previous versions. Any changes, amendments, corrections, or additions to this MA or AOA shall be

executed and approved by the same parties (or their designees) who execute and approve this original MA or AOA, in accordance with applicable laws. No addendum, modification, or waiver of any of the terms of this MA or the AOA shall be effective unless in writing, signed by the parties, and executed in the same manner as the MA or the AOA. The parties agree that any attempt to modify this MA or the 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 MA or 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.

Section 21: Conflict Between Agreements

The MA, AOA, and Funding Agreement shall supercede 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 provisions of the MA with 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.

Section 22: Rights of Others

Nothing in this MA, 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 agreement. This MA neither creates nor limits any point-of-entry to challenge agency decisions under Chapter 120, F.S.

Section 23: Term and Period of Performance

The term of this MA 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. Section 21 of this MA shall govern in the event of conflict between this MA, the AOA, and the Funding Agreement. The parties contemplate that this MA shall be renewable for additional five-year terms; however, subject to legislative appropriations, such renewal shall not be automatic, but shall require written modification or renewal by all parties within sixty (60) days prior to the expiration of the operative term.

Section 24: Termination

Any party may terminate its participation in the MA 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.

Section 25: Notices

All notices required to be given under the terms and provisions of this MA or the 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 on the return receipt by the U.S. Postal Service.

[Names and Addresses Continued on Next Page]


FDOT: Ms. Carolyn H. Ismart, Manager (or Successor)
Environmental Management Office
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605 Suwannee Street, MS 37
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Telephone: (850) 414-4447
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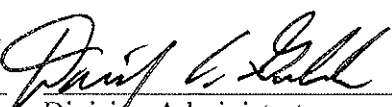
FHWA: Mr. George Hadley (or Successor)
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Federal Highway Administration
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Telephone: (850) 942-9650
Facsimile: (850) 942-9691
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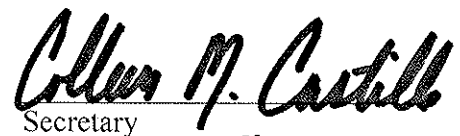
FDEP: Ms. Sally B. Mann, Director (or Successor)
Office of Intergovernmental Programs
Florida Department of Environmental Protection
3900 Commonwealth Blvd., MS 47
Tallahassee, FL 32399-3000
Telephone: (850) 245-2163
Facsimile: (850) 245-2189
Email: Sally.Mann@dep.state.fl.us

Section 26: Signatures

In witness thereof, the parties hereto have caused this Master Agreement to be executed in counter-parts, 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