

**Agency Operating and Funding Agreement for  
Continuing Participation in the Efficient Transportation Decision Making Process and  
Transportation Project Delivery in Florida**

**between**

**Southwest Florida Water Management District**

**and**

**Federal Highway Administration**

**and**

**Florida Department of Transportation**

**June 1, 2015**

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## Section 1. Introduction

The purpose of the Efficient Transportation Decision Making (ETDM) process is to incorporate environmental considerations into transportation planning to better inform project delivery. This process supports the environmental policy of the Florida Department of Transportation (FDOT) “to help preserve and enhance Florida’s natural, physical, cultural, and social environment as we develop, implement, and maintain transportation facilities and services” (Policy No.: 000-625-001-I). The ETDM process supports environmental streamlining objectives identified in Sections 135 and 139 of Title 23 United States Code (U.S.C.), as amended. The ETDM process promotes coordination of transportation and environmental resource planning and supports environmental reviews, through early interaction among transportation planners; federal, state, and local agencies; Native American Tribes; and affected communities. Florida established the ETDM process on December 14, 2001 through entry into a Memorandum of Understanding with state and federal resource agencies. These entities endorsed the ETDM concept and agreed to support, establish, and implement the ETDM process at their respective agencies to the extent feasible within existing legal authority and commensurate with the level of available funding. Intergovernmental coordination is accomplished through Environmental Technical Advisory Teams (ETATs). Each ETAT includes representatives from Metropolitan Planning Organizations (MPOs), federal and state agencies, and participating Native American Tribes.

The ETDM process described in this Agency Operating and Funding Agreement (AOFA) is consistent with the FDOT ETDM and Project Development and Environment (PD&E) Manuals. As shown in Figure 1, the ETDM process consists of two project screening events: Planning and Programming. The screening events apply only to qualifying capacity improvement projects, such as new roadways, new rail systems, and bridge projects (ETDM Manual, Chapter 2). The Planning Screen occurs when projects are evaluated for inclusion or prioritization within a Cost Feasible Long Range Transportation Plan (LRTP). The Programming Screen supports development of projects to be included in the FDOT Five Year Work Program. The results of the screening events ultimately link the transportation Planning phase and the PD&E phase. The Planning and Programming Screens help to:

- Determine the feasibility of proposed projects.
- Allow for early identification of potential avoidance, minimization, and mitigation opportunities.
- Focus the issues to be addressed during the PD&E phase.
- Create information and documentation which may be advanced into the PD&E phase.



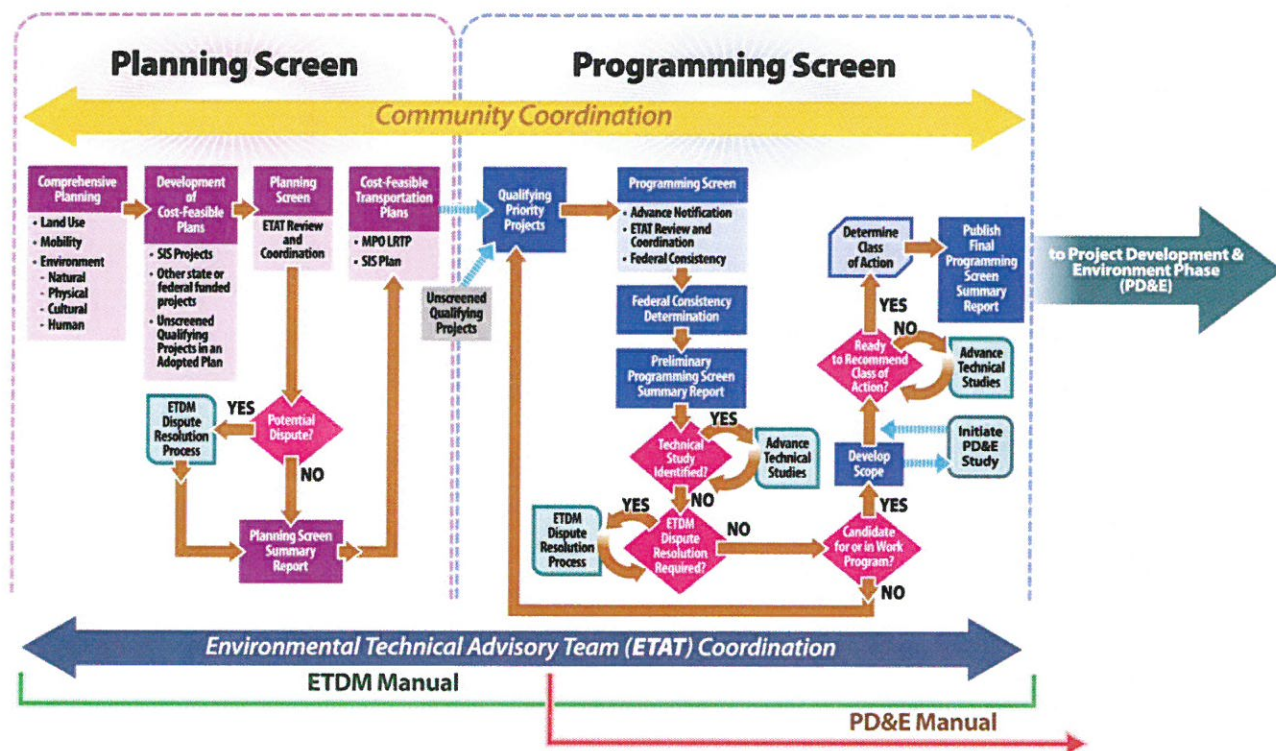


Figure 1 – ETDM Process

During the Planning and Programming Screens, ETAT members use the Environmental Screening Tool (EST) to review project information, identify potential project effects, and submit comments and considerations to FDOT. This web-based Geographic Information System (GIS) database and mapping tool provides access to information and data about natural, physical, cultural and community resources in a proposed project area. The comments and other information are made available to the public on the ETDM Public Access Site. The EST performs standardized GIS analyses and queries using information supplied by ETAT members and contained in the Florida Geographic Data Library (FGDL). Moreover, it:

- Integrates data pertinent to natural, physical, cultural, and community resources and transportation programs into a standardized format.
- Analyzes GIS data within project buffers to support ETAT commentary.
- Provides a platform for dissemination of information among ETAT representatives and the public.
- Provides storage and access to ETAT reviews.

## Section 2. Agreement Framework and Regulatory Authority

This AOFA is entered into voluntarily by the FDOT, Federal Highway Administration (FHWA), and Southwest Florida Water Management District (SWFWMD) to provide a framework to develop transportation projects in the state of Florida during the Planning and PD&E phases. SWFWMD shall serve as an ETAT member and participate by reviewing and commenting on those resources within its jurisdictional purview as cited in Appendix A. Moreover, this AOFA provides funding for SWFWMD's implementation of their role as an ETAT representative in the ETDM screenings, project development, and transportation project delivery processes, as defined herein.



## Section 3. Recitals

A. FDOT, FHWA, and SWFWMD originally executed a Master Agreement (MA) and Agency Operating Agreement (AOA) on September 29, 2004, followed by a Funding Agreement (FA) on October 1, 2004. These were subsequently renewed or extended through June 1, 2015. The parties to these agreements have consulted and agree to continue participating in the ETDM and transportation project delivery processes as signatories to this AOFA.

B. Pursuant to Chapters 253 and 258, Florida Statutes (F.S.), and Parts II and IV of Chapter 373, F.S., SWFWMD is authorized to review and manage activities which may affect the land and water resources within SWFWMD's regulatory authority.

C. FDOT and FHWA are committed to compliance with the statutes and rules under SWFWMD's jurisdiction as they relate to their transportation projects and activities. As such, FDOT and FHWA desire that the SWFWMD continue to provide expedited review during the ETDM, project development, and transportation project delivery processes, such that the SWFWMD reviews and technical assistance do not constitute unnecessary delays in FDOT project implementation.

D. Participation in the ETDM Process has increased the number of activities SWFWMD reviews. FDOT desires that SWFWMD maintain its timely responses, such that SWFWMD reviews do not unnecessarily delay FDOT project implementation.

E. SWFWMD has indicated that without continued funding it will be unable to provide FDOT with priority technical services and expedited project reviews during the ETDM screenings and the transportation project development process.

F. FDOT and FHWA have found it beneficial to provide funding which enables SWFWMD to serve as an ETAT representative and provide priority and expedited project review, so that transportation projects addressing Florida's needs can be implemented timely, while complying with the applicable laws and regulations that protect land and water resources.

G. In order to receive priority review of FDOT projects, FDOT will provide funding to support SWFWMD's ETAT representatives in meeting FDOT and FHWA expedited review requirements established in this AOFA.

H. FHWA will reimburse FDOT for funds paid by FDOT to SWFWMD for activities conducted pursuant to this AOFA.

I. SWFWMD will provide expedited project reviews and technical services consistent with its statutory authority and commensurate with the level of additional funding.

J. The parties desire to enter into this AOFA to provide for early coordination and identification of environmental considerations, expedite transportation project review, and provide for the personnel and/or funding to attain these goals.

NOW, THEREFORE, in consideration of the mutual promises set forth above, the parties agree to the following:

## Section 4. Statement of Work

A. SWFWMD agrees to provide its expertise and assist FDOT by expediting the review and evaluation of transportation projects consistent with AOFA for those matters within its statutory and regulatory authorities. SWFWMD will:

- Identify resources of concern and provide focused comments and actionable recommendations to avoid or minimize potential effects to jurisdictional resources. Within the EST, these issues are organized under the following categories: water quality and quantity, wetlands, floodplains, special designations (potential impacts to Outstanding Florida Waters and Aquatic Preserves), and recreation areas (areas managed by SWFWMD).
- Evaluate whether any identified resources can be eliminated from further detailed analysis during the PD&E study phase.

## FINAL - EXECUTED

- Provide Federal Consistency considerations to the clearinghouse in the EST on qualifying ETDM projects.
- Identify potential permits, mitigation opportunities, and technical studies necessary to advance transportation projects.
- Make recommendations and provide technical assistance to FDOT to support future permit applications.
- Participate in interagency issue resolution teams, as applicable.
- Inform the FDOT State Environmental Management Office (SEMO) and District environmental offices of SWFWMD's initiatives, programs, training opportunities, rule changes, resource management plans, and regulations that may impact FDOT projects.
- Attend and participate in ETAT and project coordination meetings.
- Verify that resource data provided by SWFWMD is current in the EST.
- Review project purpose and need and acknowledge understanding or ask for clarification.
- Review and comment on the Methodology Memorandum (MM) and Draft Alternatives Corridor Evaluation Report (ACER), during the Alternative Corridor Evaluation (ACE) process.

During ETDM Screenings, SWFWMD ETAT comments and recommendations regarding proposed transportation projects and their potential effects (direct, indirect, and cumulative) must be entered in the EST. FDOT will use SWFWMD's comments and recommendations to support project scoping and to identify coordination needs or additional activities in future project phases.

B. FDOT shall provide funding to SWFWMD to adjust or supplement its staff resources in order for them to review FDOT projects with qualified review specialist(s) and other personnel as detailed in Appendix B, attached and incorporated herein. The billable hours submitted by review specialists shall represent work spent exclusively (100%) on review of FDOT projects, providing expedited project review or coordination, technical assistance, document review and other authorized activities, as identified in this AOFA. Services provided under this AOFA will be in accordance with the terms hereof.

C. SWFWMD shall review and respond to information contained in FDOT's Planning and Programming Screens within forty-five (45) days of electronic notification that a project is ready for ETAT review. SWFWMD will review project information using available data both internal and external to the EST. For projects in the PD&E phase, SWFWMD shall review and respond to FDOT submissions within thirty (30) or forty-five (45) calendar days depending on the type of requested action. Tables 1, 2, and 3 in the sections below identify activities and project information available during the two ETDM screening events and the PD&E phase, which range from a project's purpose and need to technical reports and environmental documents.

D. SWFWMD shall provide FDOT with an invoice entered into the EST's invoicing module that contains reimbursable activities conducted during the billing period. Reimbursable activities are only those activities directly described in the AOFA.

E. SWFWMD shall participate in the ETDM Performance Management Program, which includes quarterly feedback reports and a biennial survey; metrics for these performance reports are identified in this AOFA (see Section 7). The information gathered through these activities helps verify program performance per AOFA performance metrics and the value of the AOFA in implementing the ETDM Process. SWFWMD shall also attend ETDM-related meetings, as appropriate.

F. The parties to this AOFA act in an independent capacity in the performance of their respective functions under this AOFA; no party shall be construed as the officer, agent, or employee of the other.

G. In no way shall it be construed or implied that FHWA, FDOT or SWFWMD is by this AOFA intending to abrogate its obligations and duties to comply with the regulations promulgated under NEPA, or any other federal, state, or local law that establishes duties and responsibilities for the agencies.

### 4.1. Planning Screen

Upon receipt of the Planning Screen notice, ETAT members review a project's purpose and need and provide comments about potential project effects to the natural, physical, cultural, and community resources related to their statutory and regulatory authority. ETAT members provide comments about a proposed project based on their expertise, respective agency plans, programs, and technical reports.



## FINAL - EXECUTED

At the conclusion of the Planning Screen, the ETDM Coordinator publishes the Planning Screen Summary Report. This report serves as feedback to the ETAT members and summarizes key recommendations and results from the screening event.

Table 1 outlines information contained in the EST from various sources, such as, FDOT, MPO, FGDL, and other agencies. It identifies SWFWMD review and comment responsibility during the Planning Screen and addresses agency coordination responsibilities.

**Table 1 – Planning Screen Information and Coordination Responsibilities**

EST	FHWA/FDOT	SWFWMD
<ul style="list-style-type: none"> <li>Project information (including but not limited to): <ul style="list-style-type: none"> <li>Purpose and Need</li> <li>Project description</li> <li>Preliminary Environmental Discussion (PED)</li> <li>Agency comments</li> <li>GIS analysis and resource maps (Social and Economic, Cultural, Natural, and Physical)</li> <li>Community characteristics</li> <li>Project limits and logical termini</li> <li>Mobility alternatives</li> </ul> </li> <li>Agency plans and programs</li> <li>Agency-specific GIS data</li> </ul>	<ul style="list-style-type: none"> <li>In MPO areas, FDOT assists in developing the purpose and need and logical termini.</li> <li>In non-MPO areas, FDOT in consultation with FHWA (when appropriate) establishes the purpose and need and logical termini.</li> <li>In MPO and non-MPO areas, FDOT assists in developing the purpose and need and logical termini for SIS projects.</li> <li>Establish an interdisciplinary project team, as appropriate.</li> <li>Develop and disseminate MM and resulting Alternative Corridor Evaluation Report (ACER).</li> <li>Ensure project information is available for ETAT review.</li> <li>Coordinate with SWFWMD on agency jurisdictional resource issues.</li> <li>Produce Planning Screen Summary Report, which includes: <ul style="list-style-type: none"> <li>Project Description</li> <li>Purpose and need</li> <li>PED</li> <li>Agency comments, issues, and recommendations for potential direct, indirect, and cumulative effects at the resource level</li> <li>GIS mapping and analysis</li> <li>Supplemental information supporting the project record</li> <li>Summary Degrees of Effect (SDOE) and FDOT ETDM Coordinator comments, including actions to address ETAT agency comments</li> <li>Summary of public involvement comments and identification of any</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Assign project reviewer.</li> <li>Develop an understanding of the proposed transportation project by reviewing the project description, purpose and need, PED (if provided), EST GIS analysis, project and resource maps, and comments from previous activities.</li> <li>Verify that information available in the EST from the SWFWMD is the best available. Identify information gaps or data needed to support further evaluation.</li> <li>Review project purpose and need and acknowledge understanding or ask for clarification.</li> <li>Review projects for potential direct and indirect effects to resources under the SWFWMD jurisdiction.</li> <li>Submit comments in the EST for each screened project alternative for the following issues: water quality and quantity, wetlands, floodplains, special designations (potential impacts to Outstanding Florida Waters and Aquatic Preserves), and recreation areas (areas managed by SWFWMD).</li> <li>Provide comments about potential effects and make recommendations to avoid or address them.</li> <li>If potential direct and indirect effects are identified, comment on the type, quality, and sensitivity of the resources involved in relation to their location to the proposed project and related activities. If the project does not impact resources of interest or a detailed evaluation</li> </ul>



EST	FHWA/FDOT	SWFWMD
	<p>community desired project features</p> <ul style="list-style-type: none"> <li>▪ Identification of anticipated technical studies, permits, and project recommendations.</li> <li>▪ Adopt planning products, as appropriate, for use in the NEPA process</li> </ul>	<p>is not necessary during the PD&amp;E phase, indicate this as well.</p> <ul style="list-style-type: none"> <li>▪ Supplement information in the EST with additional sources and personal knowledge, such as data gathered from site visits.</li> <li>▪ For scoping purposes, provide comments regarding potential cumulative effects to a resource and provide considerations to help the Lead Agency<sup>1</sup> determine evaluation requirements.</li> <li>▪ Provide information about agency plans, studies, regulatory information, or other data that may affect the project or be affected by the project. Fill in data gaps and validate data, as needed.</li> <li>▪ Provide specific recommendations to address resource concerns which may arise during permitting, such as potential avoidance, minimization, or mitigation opportunities based on statutory and regulatory responsibilities.</li> <li>▪ Specifically identify differences in potential resource impacts and preferences among alternatives.</li> <li>▪ Identify specific activities that FDOT or other ETAT member(s) could complete between Planning and Programming Screens to answer questions, address concerns, or fill in data gaps (e.g., seasonal studies, preliminary site inspections, or studies to support permitting process)..</li> <li>▪ Indicate a Degree of Effect (DOE) for each issue and alternative being reviewed. A DOE reflects the magnitude of both potential project effects (direct and indirect effects) caused by a particular alternative to a resource.</li> </ul>

<sup>1</sup> The Lead Agency holds primary responsibility for the environmental document, determining the preferred alternative in the PD&E phase, and inviting Cooperating and Participating Agencies. FDOT is the Lead Agency for non-federal projects; otherwise, a federal agency is the Lead Agency and per Title 23 CFR, FDOT serves as co-lead.

EST	FHWA/FDOT	SWFWMD
		<ul style="list-style-type: none"> <li>• Review and respond to a proposed MM, when applicable.</li> <li>• Review ACERs when available.</li> <li>• Indicate the need for future involvement (e.g., coordination/consultation, permits, and technical studies).</li> <li>▪ Submit comments via the EST within 45 calendar days of notification.</li> <li>▪ Respond to Participating and Cooperating Agency requests from the Lead Federal Agency.</li> <li>▪ Regularly communicate with ETDM Coordinator to exchange information and discuss project matters</li> <li>▪ Review the Planning Screen Summary Report and provide agency comments, if applicable, within 30 calendar days of notification.</li> </ul>

#### 4.2. Programming Screen

The Programming Screen builds upon the information produced during the Planning Screen, if applicable (not all projects complete a Planning Screen, see ETDM Manual, Chapter 2). The Programming Screen may initiate the Advance Notification (AN) process, which FDOT uses to inform agencies and other interested parties of a proposed transportation action, as well as Federal Consistency Review (as appropriate), and project scoping [NEPA or State Environmental Impact Reports (SEIR)]. The Programming Screen is required for all qualifying projects (defined in ETDM Manual, Chapter 2) being considered for inclusion in FDOT's Five Year Work Program, or prior to initiation of the PD&E study. During the Programming Screen, ETAT representatives provide technical assistance, comment about potential project effects, acknowledge understanding or ask for clarification about the purpose and need, and assist FDOT in scoping technical studies necessary to satisfy the requirements of the PD&E phase.

FDOT uses the EST to notify agencies and stakeholders to proceed with their review. When applicable, the 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 Federal Consistency Review. Upon receipt of this notice, all ETAT representatives will review and comment on the information associated with the Programming Screen. At the end of the Programming Screen, the ETDM Coordinator publishes the Preliminary Programming Screening Summary Report to document the initial screening event and the Final Programming Screen Summary Report when a class of action (COA) determination has been made. These reports serve as feedback to the ETAT members and document the results of the screening. The final report also supports development of a project's scope of work based on the ETAT reviews, considerations, and recommendations received from the agencies.

Table 2 outlines information for which SWFWMD has review and comment responsibility during the Programming Screen. It also addresses FHWA, FDOT, and SWFWMD review and coordination responsibilities.



**Table 2 – Programming Screen Information and Coordination Responsibilities**

EST (MPO, FDOT, FGDL, Agencies)	FHWA/FDOT	SWFWMD
<ul style="list-style-type: none"> <li>▪ Project information (including but not limited to):               <ul style="list-style-type: none"> <li>▪ Purpose and Need</li> <li>▪ Agency comments</li> <li>▪ Project description</li> <li>▪ PED</li> <li>▪ Refined GIS line work</li> <li>▪ Previous screening results, if applicable</li> <li>▪ Results of preliminary studies</li> <li>▪ GIS analysis and resource maps (Social and Economic, Cultural, Natural, and Physical)</li> <li>▪ Community characteristics</li> <li>▪ Project limits and logical termini</li> <li>▪ Mobility alternatives</li> </ul> </li> <li>▪ AN package</li> <li>▪ Coastal Zone Consistency Determination (only federal projects)</li> <li>▪ Clean Air Act Conformity Designation (only federal projects)</li> <li>▪ Agency plans and programs</li> <li>▪ Agency-specific GIS data</li> </ul>	<ul style="list-style-type: none"> <li>▪ In MPO areas, FDOT assists in developing the purpose and need and logical termini.</li> <li>▪ In non-MPO areas, FDOT in consultation with FHWA (when appropriate) establishes the purpose and need and logical termini.</li> <li>▪ In MPO and non-MPO areas, FDOT assists in developing the purpose and need and logical termini for SIS projects.</li> <li>▪ Distribute AN package to agencies including all ETAT agencies.</li> <li>▪ Determine type of Environmental Documentation/COA.</li> <li>▪ Establish an interdisciplinary project team, as appropriate.</li> <li>▪ Develop and disseminate MM and resulting ACER.</li> <li>▪ Continually consult with SWFWMD on agency jurisdictional issues.</li> <li>▪ Produce Summary Reports (Preliminary and Final) which includes:               <ul style="list-style-type: none"> <li>▪ Project description</li> <li>▪ Purpose and need</li> <li>▪ PED</li> <li>▪ COA Determination (i.e., Type 2 Categorical Exclusion [CE], Environmental Assessment [EA], Environmental Impact Statement [EIS], or SEIR</li> </ul> </li> <li>▪ Invite and approve cooperating and participating agencies, as appropriate</li> <li>▪ GIS analysis and mapping</li> <li>▪ Agency comments, issues, and</li> </ul>	<ul style="list-style-type: none"> <li>▪ Assign project reviewer.</li> <li>▪ Develop an understanding of the proposed transportation project by reviewing the project description, purpose and need, PED, EST GIS analysis, project and resource maps, and comments from previous activities.</li> <li>▪ Verify that information available in the EST from the SWFWMD is the best available. Identify information gaps or data needed to support further evaluation.</li> <li>▪ When applicable, review and comment on AN package, provide Coastal Zone Management Act (CZMA) consistency comments to State Clearinghouse through the EST, and assist with scoping activities. Review project purpose and need and acknowledge understanding or ask for clarification.</li> <li>▪ Review projects for potential direct and indirect effects to resources under the SWFWMD jurisdiction.</li> <li>▪ Provide comments about potential effects and recommendations to avoid or address effects. If potential direct or indirect effects are identified, comment on the type, quality, and sensitivity of the resources involved in relation to the resources' location to the proposed project and related activities. Be as specific as possible.</li> <li>▪ Provide comments in the EST for each screened project alternative for the following issues: water quality and quantity, wetlands, floodplains, special designations (potential impacts to Outstanding Florida Waters and Aquatic Preserves), and recreation areas (areas managed by SWFWMD).</li> <li>▪ Comments should not only list resources found within the standard EST buffers, but reflect historical documentation, previous studies, site visits, and personal knowledge of the project area.</li> <li>▪ Supplement information in the EST with additional sources and personal knowledge, such as data gathered from site visits.</li> </ul>



EST (MPO, FDOT, FGDL, Agencies)	FHWA/FDOT	SWFWMD
	<p>recommendations for potential direct, indirect, and cumulative effects</p> <ul style="list-style-type: none"> <li>▪ Dispute resolution issues, if any</li> <li>▪ SDOE and FDOT ETDM Coordinator comments, including actions to address ETAT agency comments</li> <li>▪ Summary of public involvement comments and identification of any community desired project features</li> <li>▪ Identification of technical studies, permits, and project recommendations.</li> <li>▪ Adopt planning products, as appropriate, for use in the NEPA process</li> </ul>	<ul style="list-style-type: none"> <li>▪ For scoping purposes, provide comments regarding potential cumulative effects to a resource to help the Lead Agency determine evaluation requirements.</li> <li>▪ Identify potential resource avoidance and minimization recommendations, issues which may arise during permitting, and mitigation needs based on statutory and regulatory responsibilities.</li> <li>▪ Specifically identify differences in potential resource impacts and preferences among alternatives.</li> <li>▪ Identify specific activities that FDOT or other ETAT member(s) could complete after the Programming Screen or during PD&amp;E to answer questions, address concerns, or fill in data gaps (e.g. seasonal studies, site inspections, and advancing technical studies).</li> <li>▪ Indicate a DOE for each issue and alternative being reviewed. A DOE reflects the magnitude of both potential project effects (direct and indirect effects) caused by a particular alternative to a resource.</li> <li>▪ Review and respond to a proposed MM, when applicable.</li> <li>▪ Review ACERs when available.</li> <li>▪ Identify potential permits which may be required and available mitigation opportunities.</li> <li>▪ Identify required technical studies.</li> <li>▪ Indicate the need for future involvement. Request Participating/Cooperating Agency status (see Section 4.4), if appropriate, for consideration by the Lead Federal Agency.</li> <li>▪ Respond to Participating and Cooperating Agency requests from the Lead Federal Agency.</li> <li>▪ Submit comments via the EST within 45 calendar days of notification.</li> <li>▪ Participate in dispute resolution, as needed, to assist the ETDM Coordinator in identifying solutions to project concerns.</li> </ul>

EST (MPO, FDOT, FGDL, Agencies)	FHWA/FDOT	SWFWMD
		<ul style="list-style-type: none"> <li>Review the Programming Screen Summary Report and provide agency comments, if applicable, within 30 calendar days of notification.</li> </ul>

## 4.3. Project Development & Environment Phase

During the PD&E phase, FDOT performs preliminary engineering, conducts environmental analysis and public involvement activities, and prepares necessary studies and reports as described in the FDOT PD&E Manual. During this phase, SWFWMD will provide technical assistance upon request by FDOT. The COA determination dictates the type of Environmental Document prepared during PD&E phase. Federal environmental documents are developed in compliance with the Council on Environmental Quality (CEQ) regulations implementing NEPA and 23 CFR 771; see PD&E Manual, Part 1, Chapter 2 for more information about environmental COA determinations. For non-federal transportation projects see Part 1, Chapter 10 of the PD&E Manual.

Table 3 outlines information for which SWFWMD has review and comment responsibility during the PD&E phase. It also addresses FHWA, FDOT, and SWFWMD review and coordination responsibilities.

**Table 3 – Project Development & Environment Phase Information and Responsibilities**

FDOT	FHWA	SWFWMD
<i>Alternatives Analyses</i>		
<ul style="list-style-type: none"> <li>Develop and analyze alternatives.</li> <li>Assess major impacts of alternatives.</li> <li>Consult with SWFWMD regarding potential impacts, avoidance and minimization recommendations, Best Management Practices (BMPs), and opportunities for mitigation.</li> </ul>	<ul style="list-style-type: none"> <li>Participate in the development of alternatives.</li> </ul>	<ul style="list-style-type: none"> <li>Review and comment on alternatives and analysis from jurisdictional resource perspective.</li> </ul>
<i>Technical Studies/Reports and Permits</i>		
<ul style="list-style-type: none"> <li>Complete technical studies and permits as appropriate, such as: <ul style="list-style-type: none"> <li>Endangered Species Biological Assessment;</li> <li>Wetlands Evaluation Report (WER); and</li> <li>Drainage Report;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Review and comment on relevant technical reports within 30 calendar days.</li> </ul>	<ul style="list-style-type: none"> <li>Review, comment, and/or provide recommendations from appropriate agency specialists on relevant technical reports within 30 calendar days of notification, as needed.</li> <li>Provide technical assistance, as needed.</li> </ul>
<i>Type 2 Categorical Exclusion (CE)/Environmental Assessment (EA)/Draft Environmental Impact Statement (DEIS)</i>		
<ul style="list-style-type: none"> <li>Incorporate information from technical reports and permits into the Environmental Document.</li> <li>Complete: <ul style="list-style-type: none"> <li>DEIS and submit for review to FHWA, Cooperating Agencies, and as appropriate Participating agencies; or</li> <li>Type 2 CE or EA and make publicly available.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Publish Notice of Intent for EIS, as applicable.</li> <li>Review and act on Type 2 CE, DEIS, or EA; and provide comments within 30 calendar days.</li> <li>Attend public hearing and participate, as appropriate.</li> <li>Submit Notice of Availability (NOA) of DEIS for</li> </ul>	<ul style="list-style-type: none"> <li>Review, comment, and/or provide recommendations from appropriate agency specialists on: <ul style="list-style-type: none"> <li>Type 2 CE or EA within 30 calendar days of notification; or</li> <li>If Cooperating Agency, 30 calendar days to review the DEIS prior to public availability; or</li> </ul> </li> </ul>



FDOT	FHWA	SWFWMD
<ul style="list-style-type: none"> <li>Identify opportunities, constraints and feasibility of Joint Public Notice and Hearing, if appropriate.</li> <li>Hold public hearing and prepare transcript and certification, as appropriate.</li> </ul>	<p>publication in Federal Register (FR).</p> <ul style="list-style-type: none"> <li>Identify, invite, and involve Cooperating and Participating Agencies.</li> </ul>	<ul style="list-style-type: none"> <li>Publically available DEIS within 45 calendar days of notification, as appropriate.</li> <li>Upon request, provide technical assistance regarding jurisdictional resources for use at public hearings.</li> <li>Review and comment on an environmental document, specifically identifying jurisdictional permit issues.</li> <li>Upon request, attend Public Hearing and participate, as appropriate.</li> </ul>
<i>SEIR</i>		
<ul style="list-style-type: none"> <li>Incorporate information from relevant technical reports into SEIR.</li> <li>Complete SEIR and make publicly available.</li> <li>Hold public hearing and prepare transcript and certification, as appropriate.</li> </ul>	<ul style="list-style-type: none"> <li>State document - No FHWA involvement.</li> </ul>	<ul style="list-style-type: none"> <li>Review, comment, and/or provide recommendations related to jurisdictional resources from appropriate agency specialists on publicly available SEIR within 30 calendar days.</li> <li>Upon request, attend Public Hearing and participate, as appropriate.</li> <li>Upon request, provide technical assistance regarding jurisdictional resources for use at public hearings.</li> <li>Review and comment on the SEIR, specifically identifying permit issues within existing statutory and regulatory authority.</li> </ul>
<i>Finding Of No Significant Impact (FONSI)/Final Environmental Impact Statement (FEIS)</i>		
<ul style="list-style-type: none"> <li>Complete and document decisions in FONSI or FEIS.</li> <li>Submit FEIS or FONSI for review to FHWA and/or other Lead agencies and Cooperating Agencies, and as appropriate to Participating Agencies.</li> <li>Respond to comments.</li> <li>Obtain project permits concurrent with NEPA approval, as appropriate.</li> <li>Make the EA with FONSI or FEIS publically available.</li> </ul>	<ul style="list-style-type: none"> <li>Review and act on FEIS or FONSI within 30 calendar days of notification.</li> <li>Submit NOA of FEIS for publication in FR.</li> <li>Issue Record of Decision (ROD) for FEIS.</li> <li>Determine preferred alternative.</li> <li>Location and Design Concept Acceptance.</li> </ul>	<ul style="list-style-type: none"> <li>If Cooperating Agency, 30 calendar days to review the FEIS.</li> <li>Review publicly available EA with FONSI or FEIS within 30 calendar days, as appropriate.</li> </ul>
<i>Environmental Reevaluation</i>		
<ul style="list-style-type: none"> <li>Environmental reevaluation and consultation with SWFWMD (as appropriate) on design modifications</li> </ul>	<ul style="list-style-type: none"> <li>Review and act on Environmental Reevaluation</li> </ul>	<ul style="list-style-type: none"> <li>Consult with FDOT on project impact determinations to assure compliance</li> </ul>



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FDOT	FHWA	SWFWMD
and any changes to SEIR, Type 2 CE, EA with FONSI, or FEIS commitments	<ul style="list-style-type: none"> <li>Participate in reviews to monitor implementation of Type 2 CE, EA with FONSI or FEIS commitments; (FHWA does not review SEIRs)</li> </ul>	with SEIR, Type 2 CE, EA with FONSI, or FEIS commitments, as appropriate.

#### 4.4. Participating/Cooperating Agency

SWFWMD may serve as a Participating or Cooperating Agency and partner with FHWA and FDOT on federal projects when approved based on agency expertise consistent with 40 CFR 1500, *et seq.*, and 23 U.S.C., as amended.

#### 4.5. Training and Educational Programs

FDOT will provide training to ETAT members to explain the ETDM process, PD&E process, use of the EST and various aspects of the transportation delivery process. Other training opportunities may be made available to ETAT representatives and FDOT staff regarding natural, historic, and sociocultural resource issues as available or needed to enhance the transportation decision-making process. ETAT representatives, to the extent feasible, are expected to attend relevant trainings.

SWFWMD will inform FDOT and FHWA regarding updates to regulations, policies, and procedures and provide training as needed. Where appropriate, SWFWMD will also involve FDOT and FHWA in coordination efforts.

#### 4.6. Periodic Agency Coordination

ETAT representatives will meet periodically with ETDM Coordinators and FDOT SEMO staff to coordinate and discuss ETDM program activities including, without limitation, workload, staffing, resource needs, and agency initiatives and directives. At these meetings and any District-wide ETAT meetings, the participants will exchange information related to the efficiency of the ETDM process, ETAT agency sponsored training opportunities, and proposed changes to law. Additionally, participants will discuss implications to FDOT and/or resource agencies from rule changes, program updates, and development of management plans.

### Section 5. Personnel

#### 5.1. ETAT Representative

SWFWMD agrees to provide two (2) ETAT representatives to support the ETDM process. Agency ETAT representatives coordinate and perform timely agency reviews of FDOT projects to ensure they satisfy agency statutory and regulatory requirements. ETAT Representatives should possess excellent communication skills, especially the ability to function effectively within their agency and coordinate with other ETAT members, when necessary. Moreover, agency ETAT representatives are responsible for all agency jurisdictional issues and functions related to transportation projects, as detailed in Tables 1, 2, and 3 of this AOFA. The individual(s) selected to serve in this capacity should be:

- Knowledgeable in agency statutory authority and regulatory requirements.
- Knowledgeable of their agency's role in reviewing transportation projects (e.g., planning, PD&E, permitting, construction, post-construction, monitoring).
- Able to perform and understand environmental effects analyses.
- Respected within the agency, afforded access to key decision-makers, able to coordinate internally to develop the agency position, and entrusted to represent the agency.
- Cognizant of the different, yet related, perspectives of other agencies and able to formulate solutions and function as a problem solver.
- Effective in resolving disputes.

## FINAL - EXECUTED

- Proficient in computer usage, including the internet.
- An effective verbal and written communicator.
- Able to anticipate agency actions required as projects proceed through phases and to prepare those responsible for prompt, efficient review of the project to minimize delays in permitting and other agency authority.
- Able to coordinate and expedite agency permitting processes.
- Able to effectively communicate within the agency and convey agency's comments on projects regarding resources within SWFWMD's jurisdictional authority.

If the ETAT representative is unable to perform their duties, the agency will identify an alternate to complete review responsibilities in the agreed upon timeframes.

### 5.2. FDOT ETDM Coordinator

FDOT agrees to provide ETDM Coordinators to chair the ETATs. Each of FDOT's seven District offices and the Florida's Turnpike Enterprise (FTE) have identified an ETDM Coordinator responsible for administering the ETDM process, as specified in Tables 1, 2, and 3 of this AOFA. FDOT ETDM Coordinator duties are further described in the ETDM Manual.

If the ETDM Coordinator is unable to perform their duties, the applicable FDOT District Office or the FTE will identify an alternate ETDM Coordinator to complete the FDOT/FTE responsibilities in the agreed upon timeframes.

## Section 6. Technology Requirements

The successful implementation of the ETDM process relies on the quality of information within the EST. As such, each agency's ETAT representatives will serve as the contact for the agency and be responsible for obtaining digital information about the agency's jurisdictional resources, as well as for ensuring that SWFWMD information remains current and available to the University of Florida's GeoPlan Center for use with the ETDM Process. New resource information from agency plans, initiatives, research projects, and field reviews shall be made available to FGDL within 90 calendar days of completion. The ETAT agency shall provide digital information to the GeoPlan Center at no cost. The information will include metadata, documentation that describes the format, intent, and source material used to develop and maintain the information. ETAT representatives will coordinate with the GeoPlan Center to ensure that transmitted data meets the quality and format protocols of the EST.

ETAT representatives shall have access to a computer with internet connectivity adequate enough to ensure the effective use of the EST and to exchange e-mail messages with other ETAT members. The *minimum* hardware and software requirements for ETAT representative computers are as follows:

### 6.1. Computer Operating System

- Microsoft Windows 32 bit & 64 bit Windows 7 or 8

### 6.2. Minimum Hardware

- 2 GHz, Intel or equivalent AMD Processor (3 +GHZ dual core processors recommended)
- 1024 X 768 video card resolution
- 30 Gigabytes of free disk space
- 1 Gigabyte of RAM (2-8 Gigabytes of RAM recommended)
- 17-inch color monitor (19+inch recommended)
- 128 KB Internet connection (T-1 recommended)
- Access to color printer recommended, but not required



## 6.3. Software

- Microsoft Internet Explorer, version 10.0 (specific version requirement – not a minimum)
- Adobe Acrobat Reader, version 8.0 or higher
- Latest version of GoTo Meeting/Webinar

## Section 7. Performance Standards

ETAT Agency Performance Standards are based on the fulfillment of agency responsibilities and level of involvement, quality of reviews, number of revisions, number of requests for additional substantive information, interagency communication and coordination, and review delays. Other guidelines include providing specific information about data needs to achieve compliance with the statutory and regulatory requirements contained in Appendix A, documentation of the consultation process, documentation of commitments (including future coordination, avoidance and minimization strategies, and mitigation opportunities) to protect resources and mitigation plans, and documentation of actions designed to expedite NEPA and permit approvals. Performance standards established for the FDOT and ETAT agencies include but are not limited to:

- ETAT agency review of Planning and Programming Screens within 45 calendar days of notification.
- FDOT response to comments and inquiries within 30 calendar days.
- FDOT response to requests for additional information within 30 calendar days.
- Establishment of quality assurance protocols for digital information. Quality checks on GIS data performed by the ETAT agency within 90 calendar days of completing field reviews and technical reports.
- Completion of the ETDM Issue Resolution Process within 120 calendar days, if applicable.
- Review of requested environmental documents and technical reports within 30 calendar days, with the exception of the DEIS, which is 45 calendar days once approved for public availability.

ETAT members are expected to participate in FDOT-requested activities on a project-by-project basis. ETAT members are also expected to provide meaningful, substantive evaluations and comments regarding their jurisdictional areas with recommendations to address resource issues and facilitate the timely issuance of permits. The agency's performance will be tracked and monitored in the ETDM Performance Management Program. FDOT will provide the agency with periodic performance reports from the ETDM Performance Management Program.

## Section 8. ETDM Issue Resolution Process

In an effort to efficiently advance projects, the parties agree to the ETDM Issue Resolution process described herein for projects with anticipated substantial adverse effects. The intent is to identify mutually agreeable activities or conditions that will address the concern while still meeting the transportation need. This will assist in project advancement. Issue resolution activities may continue through future project development phases as detailed analysis begins and more information becomes available. If there are unresolved disputes for projects undergoing NEPA review, and those disputes persist after completing the ETDM process, then the "issue resolution" process set out in *Moving Ahead for Progress in the 21<sup>st</sup> Century* (MAP-21) would be applicable. That process sets a series of forums for disputes to be resolved, and if not resolved, to which the disputes would then advance. There are also new potential financial penalties for unexcused delays by participating agencies. Coordination with FHWA for guidance navigating the MAP-21 issue resolution process.

A strong commitment exists among the participants in the ETDM process to resolve disputes within the ETAT, prior to elevating them to a higher authority (see Figure 2). To facilitate meeting this commitment, potential disputes should be addressed as early as possible to make the best use of agency skills and resources. Projects with unresolved issues following the ETAT review and publication of the Preliminary Programming Screen Summary Report require ETDM issue resolution. The FDOT ETDM Coordinator first uses the Informal Issue Resolution process. If a dispute remains unresolved after following this process, the FDOT ETDM Coordinator initiates the Formal Issue Resolution process.

The issue resolution process begins when the ETDM Coordinator in consultation with the Lead Agency assigns a *Potential Dispute* SDOE in the Planning Screen or *Issue Resolution Required* SDOE during a Programming Screen review. When assigning the SDOE,



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the ETDM Coordinator uses all known information including comments and DOEs from ETAT members. The ETDM Coordinator reviews the potential dispute commentary to determine its consistency with the definition of Potential Dispute or Issue Resolution Required (see the ETDM Manual, Chapters 3 and 4) and in conjunction with the agency's regulatory authority.

An ETAT representative may, on a jurisdictional issue or through its regulatory authority, flag a project as potentially needing dispute resolution using the following triggers:

- Project is considered to be unpermittable (applicable to permitting agencies).
- Project is identified to be contrary to a state or federal resource agency's program, plan, or initiative (including Florida's Coastal Management Program or Local Government Comprehensive Plans).
- Project has the potential for significant environmental cost (e.g. funding, environmental effects, or quality of life).
- Project purpose and need is questioned (only applicable to Lead Agency - identified by the Lead Agency not accepting the purpose and need).

The ETDM Coordinator works with the appropriate ETAT representative(s) to try to address the disputed issue(s) at the agency staff level before elevating the discussion to the Formal Dispute Resolution process.

Any agreements, understandings, and/or recommendations resulting from the issue resolution process in the Planning or Programming Screens are documented and accompany the project as it advances into the PD&E phase. The agency heads (or governing board, as applicable), will make the final decision on unresolved potential disputes.

Nothing in the ETDM Issue Resolution process affects the statutorily prescribed duties and obligations of any agency or any agency's responsibility or ability to discharge fully such duties and obligations under all applicable laws and regulations. The ETDM Issue Resolution process seeks to find solutions to complex issues among agencies.

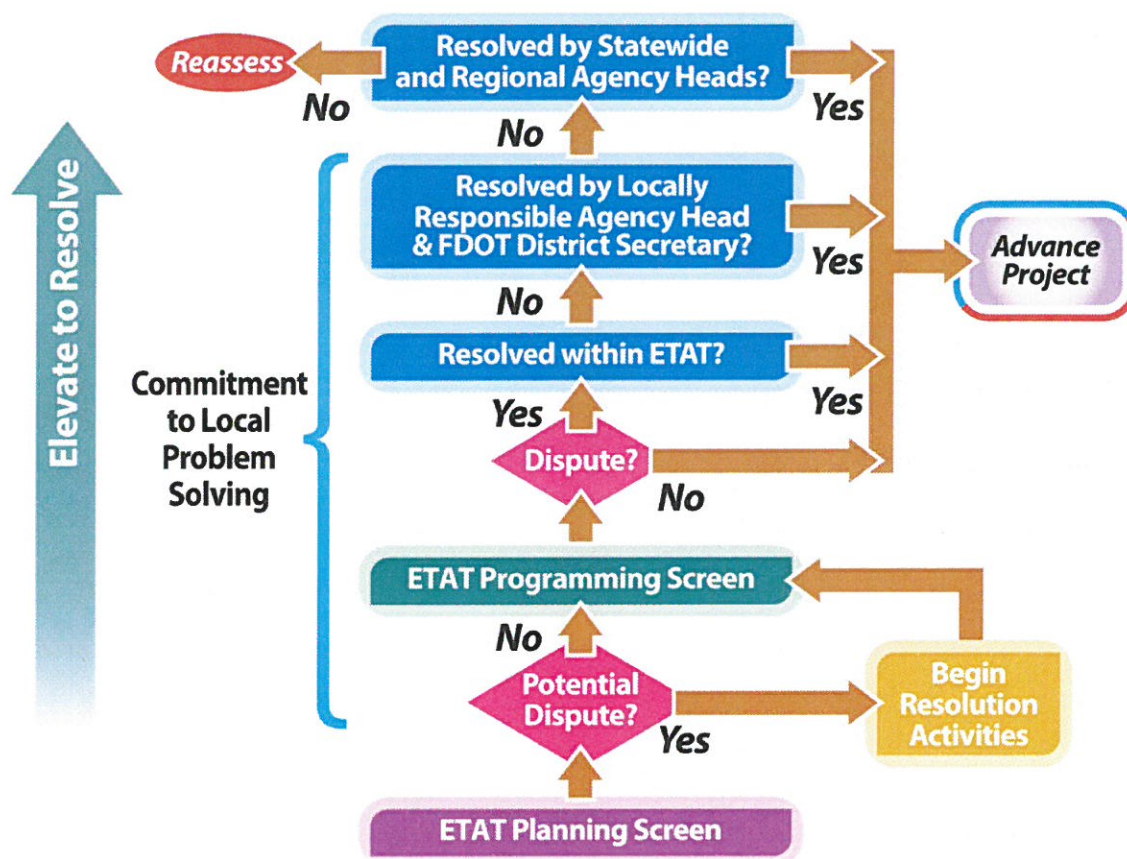


Figure 2 – Issue Resolution Process

## Section 9. Financial Statement

A. FDOT shall provide SWFWMD, subject to appropriation and the payment provisions enumerated below (Section 9 items C and E), an annual allocation of \$200,000.00 and a total sum not to exceed \$1,000,000.00 according to the schedule shown in Appendix C, attached and incorporated herein, ending on May 31, 2020 or 5 years from the date of all parties signatures, whichever comes later. This sum is based upon the parties' best estimate of the minimum funding required by SWFWMD to participate in the ETDM Process. If it becomes apparent that there is incongruence between the funding amount established in this AOFA and the review services requested to be performed, the parties agree in good faith to renegotiate the level of funding and service or prioritize project reviews.

B. SWFWMD shall use the funds provided under this AOFA to defray the expenses of salaries and associated benefits, including the pro rata cost of necessary equipment, supplies, office space, overhead, and training and to reimburse reasonable travel expenses upon preapproval by FDOT and in accordance with Section 112.061, F.S. All training and travel must be related to FDOT project review and the ETDM process. Any other travel or training requests by SWFWMD must receive written preapproval from FDOT's SEMO.

C. Commencing June 1, 2015 and continuing for each quarter thereafter, FDOT shall provide SWFWMD an advance payment per quarter of \$50,000.00, on or before the beginning of each quarter, for the services conducted pursuant to this AOFA and in accordance with Section 215.422, F.S. To obtain each advance quarterly payment, SWFWMD shall submit to FDOT using the EST's invoicing module, a quarterly invoice at least twenty-one (21) days prior to the funding disbursement due date.

D. SWFWMD shall be fully responsible for the proper billing of any federal/state costs or charges reimbursable under this contract. The SWFWMD shall submit quarterly invoices and documents necessary for payment and the close-out of this AOFA and in accordance with Section 215.422, F.S. FDOT SEMO will provide instructions and training for using the EST's invoicing module, as



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well as update the Funded Position Reference Handbook which provides guidance and documentation requirements to support funded positions. Invoices must be submitted in detail sufficient for pre- and post-audit review and list salaries, benefits, overhead, travel, expenses and other indirect costs, including back-up documentation and a status report that lists the number of hours spent working on FDOT projects, project review tasks, and technical assistance provided. SWFWMD agrees to coordinate with SEMO prior to conducting any activity not explicitly defined in this AOFA to ensure funding eligibility.

E. All public agencies receiving advance payments must establish an escrow account (if agency regulations allow the establishment of an interest-bearing account) or other authorized method which segregates those funds provided pursuant to this agreement. No less than 90 days prior to the expiration of this AOFA, FDOT and SWFWMD will initiate reconciliation and contract close-out activities. Any unspent balance of advanced funds plus accrued interest to be returned to FDOT within 90 days of the execution of Certification of Completion Agreement (FDOT Form 375-040-25).

F. SWFWMD shall keep records of all costs incurred (receipts and disbursements of funds received) pursuant to this AOFA and produce such records as required by FDOT and FHWA and shall allow extracts and copies to be made by FDOT and FHWA or their duly authorized representatives. SWFWMD shall also keep records substantiating costs billed pursuant to this AOFA in accordance with Florida Statutes for a period of at least five (5) years after the final billing is submitted. These records shall be subject to audit by FDOT and FHWA, as appropriate.

FDOT shall send payment of the invoices to:  
Attention: Finance Officer  
Southwest Florida Water Management District  
2379 Broad Street  
Brooksville, Florida 34604-6899  
Tel: 352-796-7211  
Fax: 813-367-3054

G. Agencies invoicing FDOT for goods and services should be aware of the following timeframes. Upon receipt, FDOT has five (5) working days to inspect and approve the goods and services. FDOT has twenty (20) days to deliver a request for payment (voucher) to the Florida Department of Financial Services (FDFS). The 20 days are measured from the latter of the dates the invoice is received or the goods or services are received, inspected, and approved. Payments shall be processed pursuant to Section 215.422, F.S. If payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 215.422, F.S., shall be due and payable, in addition to the invoice amount, to SWFWMD. Interest penalties of less than one (1) dollar shall not be enforced unless SWFWMD requests payment. Invoices which have to be returned to SWFWMD because of SWFWMD preparation errors shall result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to FDOT.

H. SWFWMD agrees to promptly reimburse FDOT for any and all amounts for which FDOT has made payment to SWFWMD if such amounts become ineligible, disqualified or disallowed for federal reimbursement due to any act, error, omission, or negligence of SWFWMD, including missing or deficient documentation of costs and charges, untimely, incomplete, or insufficient submittals, or other related reason.

I. The SWFWMD understands that if it fails to timely perform its obligations, or timely submit invoices and documents necessary for the close out of projects FDOT may deny reimbursement or advance funding requests. Additionally, the maximum limiting amount of this AOFA may become unavailable or reduced due to a removal or withdrawal of federal funds or a loss of state appropriation, and FDOT will have no obligation to provide funds from other sources. SWFWMD agrees that in the event the maximum limiting amount of this AOFA is reduced by such removal, withdrawal, or loss of funds, SWFWMD's obligation to perform under this AOFA will be commensurate with available funding.

### **Section 10. Period of Performance and Evaluation**

A. The term of this AOFA shall commence upon signature of all parties or June 1, 2015, whichever comes later and end on May 31, 2020 or five (5) years from date of signature, whichever comes later, unless terminated sooner in accordance with Section 10(B) below. The payment for associated work and expenses shall be inclusive of all work performed and expense incurred up to and including the date of expiration or termination.

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B. Any party may terminate this AOFA upon sixty (60) days written notice to the Project Officers listed in Section 11 provided that the party requesting termination has provided notice and sufficient opportunity for remedy.

C. SWFWMD, FDOT, and FHWA shall meet periodically to review and evaluate activities contemplated under this AOFA and formulate suggestions for process improvements. SWFWMD, FDOT, and FHWA shall participate in the ETDM Performance Survey.

D. On a quarterly basis FDOT will issue from its Performance Management Program an electronic report to SWFWMD and FHWA measuring SWFWMD's performance under this AOFA.

E. The AOFA shall supersede any prior understanding, agreement, memorandum, letter, or other written or oral arrangement between the parties relating to the matters covered herein.

### **Section 11. Project Officers**

#### ***Southwest Florida Water Management District***

Michelle K. Hopkins, P.E. or designee  
7601 US Hwy 301 N  
Tampa, FL 33637  
Tel: 813-985-7481 ext. 2048  
Fax: 813-367-3054

#### ***Florida Department of Transportation***

Marjorie Kirby or designee  
Florida Department of Transportation  
605 Suwannee Street, MS 37  
Tallahassee, Florida 32399-0450  
Tel: 850-414-4447  
Fax: 850-414-4443

#### ***Federal Highway Administration***

Buddy Cunill or designee  
Federal Highway Administration – Florida Division  
545 John Knox Road, Suite 200  
Tallahassee, Florida 32303-4117  
Tel: 850-553-2224  
Fax: 850-942-9691

### **Section 12. Mandatory Provisions**

A. During the performance of this AOFA, the parties agree they will not discriminate against any person because of race, color, religion, sex, or national origin.

B. No member of, or delegate to, Congress or resident Commissioner shall be admitted to any share of this AOFA or any benefit that may arise therefrom; but this provision shall not be construed to extend to this AOFA if made with a corporation for its general benefit.

C. The parties agree that in any contracts to be developed and awarded pursuant to this AOFA, all designs, plans, specifications, estimates of costs, construction, utility relocation work, right-of-way acquisition procedures, acceptance of the work, and procedures in general shall, at all times, conform to the applicable Federal and State laws, rules, regulations, orders, and approvals,



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including, specifically, procedures and requirements relating to labor standards, equal employment opportunity, nondiscrimination, compliance with the Americans with Disabilities Act, anti-solicitation information, auditing, and reporting provisions.

D. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded to perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

E. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

F. The SWFWMD:

- a. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all employees serving as ETAT members hired by the SWFWMD during the term of the AOFA; and
- b. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

### **Section 13. Modification**

Any changes, amendments, corrections, or additions to this AOFA, shall be in writing and shall be executed and approved by the Project Officers (or their designees) listed in Section 11, unless the modifications expand the Statement of Work or budget, which will require then the same officials (or their designees) who executed and approved this AOFA and in accordance with applicable law, and shall become effective upon signature of all parties in the same manner as this AOFA. This AOFA can also be extended by mutual agreement of all parties and recorded in writing.

### **Section 14. Disclosure**

A. As required by Section 339.135(6)(a), F.S., during any fiscal year, FDOT shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. FDOT requires a statement from the Comptroller of FDOT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of FDOT which are for an amount in excess of \$25,000 and which have a term for a period of more than one year.

B. FDOT will provide a written notice to proceed when the funding is available for performance of this AOFA. Until that notice, no services shall be provided under the terms of this AOFA, and FDOT will not be liable for any expenses incurred prior to such notice.

C. Pursuant to Section 216.347, F.S., no funds received pursuant to this AOFA may be expended for lobbying the legislature, the judicial branch, or a state agency.

D. The State of Florida performance and obligation to pay under this AOFA is contingent upon an annual appropriation by the Florida Legislature and receipt of budget authority.

E. A Vendor Ombudsman has been established within Florida Department of Financial Services (FDFS). The duties of this individual include acting as an advocate for contractors/vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at 850-410-9724 or by calling the FDFS Hotline, 1-800-848-3792.

F. Any tangible property outside of that normally and reasonably required to provide the services for this AOFA per Section 9 or as defined in Chapter 273, F.S. and Rule 60A-1.017, FAC, will be purchased by FDOT. All tangible personal property purchased as defined in Chapter 273, F.S. and acquired in accordance with Rule 60A-1.017, FAC, whether by the vendor agency or FDOT, upon completion of services or the end of this AOFA, whichever comes first, will become the property of FDOT and be transferred to and controlled by FDOT. Upon receipt of said property, SWFWMD shall forward to FDOT a copy of the purchase invoice/property description/serial number and date of receipt for their records. SWFWMD shall maintain the tangible personal property on their inventory lists until such time as it is transferred back to FDOT. Where questions arise concerning the purchase of tangible personal property for this AOFA, the vendor shall coordinate with SEMO.

**Section 15. Rights of Others**

Nothing in this AOFA, expressed or implied, is intended to confer upon any person other than the parties hereto any rights or remedies under or by reason of this AOFA.

**Section 16. Applicable Law**

The parties agree that this AOFA 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.

**Section 17. Entire Agreement**

This AOFA constitutes the entire agreement between the parties relating to the subject matter herein. There exist no representations or warranties other than those set forth herein.

**Section 18. 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 AOFA freely and voluntarily, intending to be bound by it.

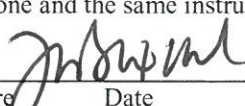

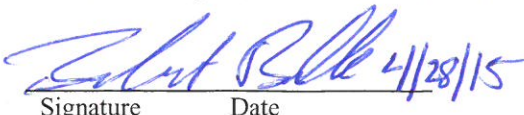
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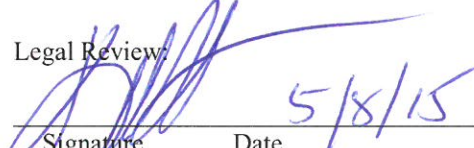
### Section 19. Signatures

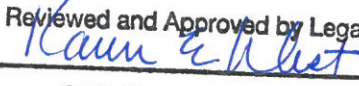
The parties have caused this AOFA to be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

 _____ Signature      Date Secretary Florida Department of Transportation	 _____ Signature      Date Florida Division Administrator Federal Highway Administration	 _____ Signature      Date Executive Director Southwest Florida Water Management District
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<u>Jim Boxold</u> _____ Printed Name      Date Secretary Florida Department of Transportation	<u>KAREN M BENNETT</u> 5/10/15 _____ Printed Name      Date Florida Division Administrator Federal Highway Administration	<u>Robert Beltran</u> 4/28/15 _____ Printed Name      Date Executive Director Southwest Florida Water Management District
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Legal Review:

  
\_\_\_\_\_  
Signature      Date  
Kathleen P. Toolan  
Printed Name

Reviewed and Approved by Legal  
  
\_\_\_\_\_  
SWFWMD ATTORNEY

**Appendix A. Applicable Laws, Regulations, Executive Orders, and Agency Guidance**

Agency	Citation
<p><i>Florida Department of Transportation &amp; Federal Highway Administration</i></p>	<p><b>FEDERAL STATUTES</b></p> <ul style="list-style-type: none"> <li>▪ 16 United States Code (U.S.C.) 470 <i>et seq.</i>, National Historic Preservation Act of 1966, as amended</li> <li>▪ 23 U.S.C. 101, <i>et seq.</i>, Highways</li> <li>▪ 23 U.S.C. 109(h), Highways – Standards, as amended</li> <li>▪ 42 U.S.C. 2000d-2000d-7, Title VI of the Civil Rights Act of 1964, as amended</li> <li>▪ 42 U.S.C. 4321-4370h, National Environmental Policy Act (NEPA) of 1969, as amended</li> <li>▪ 49 U.S.C. 4601-4655, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended</li> <li>▪ 42 U.S.C. 12131-12165, Title II of the Americans with Disabilities Act of 1990, as amended</li> <li>▪ 49 U.S.C. 101, <i>et seq.</i>, Transportation</li> <li>▪ 49 U.S.C. 303, Policy on Lands, Wildlife and Waterfowl Refuges, and Historic Sites; Section 4(f) of the USDOT Act of 1966, as amended</li> <li>▪ Public Law 112-141, Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21), as amended</li> </ul> <p><b>CODE OF FEDERAL REGULATIONS</b></p> <ul style="list-style-type: none"> <li>▪ 23 C.F.R. 450, Planning Assistance and Standards</li> <li>▪ 23 C.F.R. 650, Bridges, Structures and Hydraulics</li> <li>▪ 23 C.F.R. 771, Environmental Impact and Related Procedures</li> <li>▪ 23 C.F.R. 772, Procedures for Abatement of Highway Traffic Noise and Construction Noise</li> <li>▪ 23 C.F.R. 774, Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (Section 4(F))</li> <li>▪ 23 C.F.R. 777, Mitigation of Impacts to Wetlands and Natural Habitat</li> <li>▪ 36 C.F.R. 800, Protection of Historic Properties</li> <li>▪ 40 C.F.R. 1500-1508, Council on Environmental Quality</li> <li>▪ 49 C.F.R. 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs</li> </ul> <p><b>EXECUTIVE ORDERS</b></p> <ul style="list-style-type: none"> <li>▪ E.O. 11990, Protection of Wetlands/USDOT Order 5660.1A, Preservation of the Nation's Wetlands</li> <li>▪ E.O. 11988, Floodplain Management</li> <li>▪ E.O. 12898, Environmental Justice</li> <li>▪ E.O. 13112, Invasive Species, as amended by Executive Order 13286/E.O. 13166, Improving Access to Services for Persons with Limited English Proficiency</li> </ul> <p><b>AGENCY GUIDANCE</b></p> <ul style="list-style-type: none"> <li>▪ USDOT Order 5610.1C, Procedures Considering Environmental Impacts</li> <li>▪ USDOT Order 5650.2, Floodplain Management and Protection</li> </ul>



Agency	Citation
	<ul style="list-style-type: none"> <li>▪ FHWA Technical Advisory 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(F) Documents</li> </ul> <p><b>FLORIDA STATUTES</b></p> <ul style="list-style-type: none"> <li>▪ Chapter 334, Florida Statutes (F.S.), Transportation Administration</li> <li>▪ Chapter 335, F.S., State Highway System</li> <li>▪ Section 335.17, F.S., State Highway System – State Highway Construction; Means of Noise Abatement</li> <li>▪ Chapter 336, F.S., County Road System</li> <li>▪ Chapter 337, F.S., Contracting; Acquisition, Disposal, and Use of Property</li> <li>▪ Chapter 338, F.S., Florida Intrastate Highway System and Toll Facilities</li> <li>▪ Chapter 339 F.S., Transportation Finance and Planning</li> </ul>
<p><i>Southwest Florida Water Management District</i></p>	<ul style="list-style-type: none"> <li>▪ Chapters 373, 403, F.S.</li> <li>▪ Chapter 62-330, FAC.</li> <li>▪ Chapter 40D-1, FAC. Procedural</li> <li>▪ Chapter 40D-3, FAC. Regulation of Wells</li> <li>▪ Chapter 40D-4, FAC. Individual Environmental Resource Permits</li> <li>▪ Chapter 40D-8, FAC. Water Levels and Rates of Flow</li> <li>▪ Chapter 40D-40, FAC. Standard General Environmental Resource Permits</li> <li>▪ Chapter 40D-80, FAC. Recovery and Prevention Strategies for Minimum Flows and Levels</li> <li>▪ Environmental Resource Permit Applicant’s Handbook Volume I (General and Environmental)</li> <li>▪ Environmental Resource Permit Applicant’s Handbook Volume II</li> <li>▪ Basis of Review for Environmental Resource Permits</li> </ul>

## **Appendix B. SWFWMD Professional Qualifications**

The SWFWMD ETAT position(s) funded under this AOFA shall possess the knowledge and skills necessary to meet and maintain the professional standards outlined below:

- Education and work experience specializing in water quality and quantity, wetlands, surface waters, floodplains, watersheds, erosion and sediment controls, storm water management systems, sea grasses, aquatic preserves, sinkholes, aquifers, drainage basins, transportation-related impact assessment on natural resources, environmental impact review and assessment, and other environmental sciences.
- Working knowledge of SWFWMD's statutory and regulatory authority as outlined in Appendix A of this AOFA, including the Agency's jurisdictional resource issues, resource management, policies, guidelines, and protection initiatives.
- Understanding of the SWFWMD's role in reviewing transportation projects and related technical reports, as well as reviewing, commenting, and making recommendations to address permit issues.
- Working knowledge of the ETDM and familiarity with NEPA processes, as well as PD&E procedures and documents.
- Ability to review, understand, and relate their area of expertise to an analysis of potential jurisdictional resource impacts from transportation projects.