



Florida Department of
TRANSPORTATION

FLORIDA DEPARTMENT OF TRANSPORTATION

THIRD PARTY DAMAGES



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Road Map

- What is third party damage?
- What is existing property and installed material?
- Why change?
- What are the changes?
- What is the process?



What is third party damage?

Damage caused by an individual not associated with the contract. The prime, subcontractor, supplier, vendor, etc. are associated with the contract so they are not third parties.



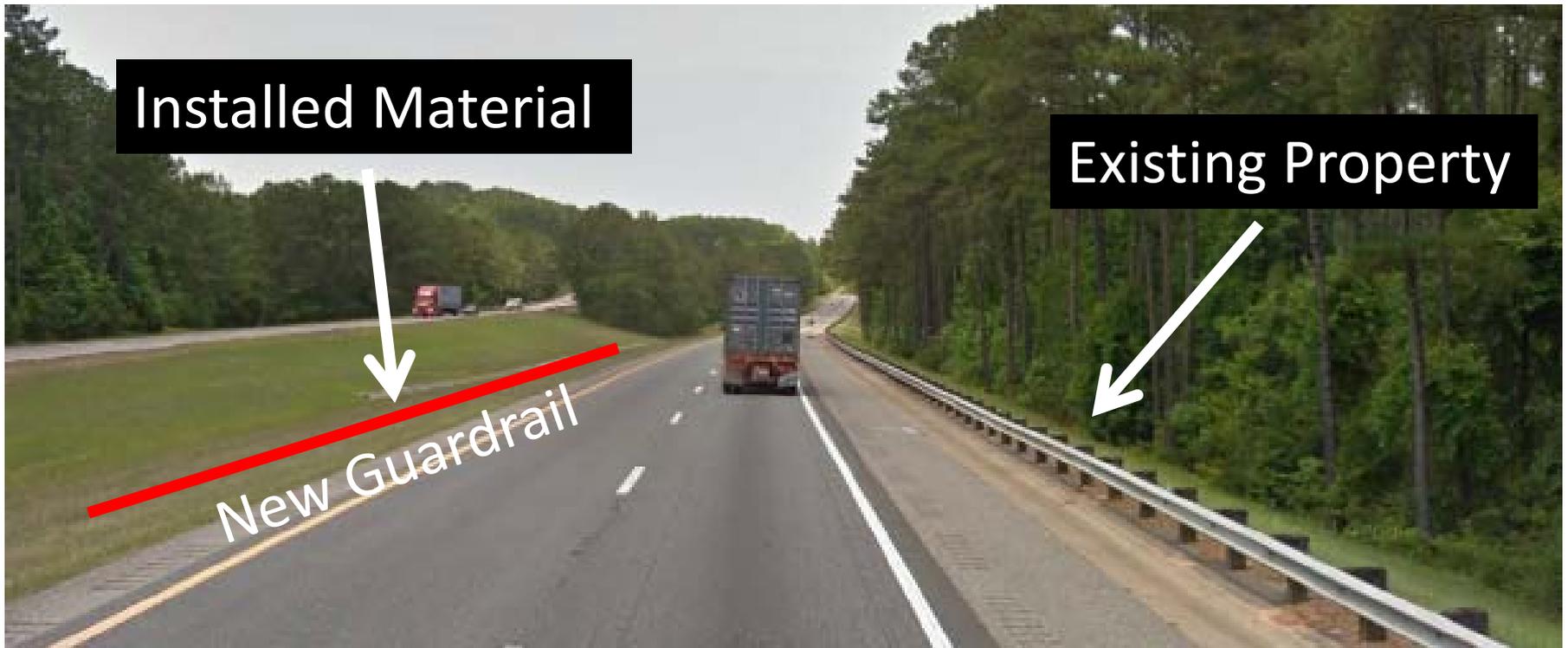
What is existing property and installed material?

Existing property is public or private property within the project limits which is not part of the project.

Installed material is material placed, built, erected, or deployed as part of the project. Installed material is not tools, equipment, vehicles, or stored or stockpiled material.



What is existing property and installed material?



What is existing property and installed material?



What is existing property and installed material?



What is existing property and installed material?



What is existing property and installed material?



What is existing property and installed material?



What is existing property and installed material?



Why change?

To establish a more equitable risk allocation.

RISK 

Assign risk to the party
best suited to handle the
risk.

- Absorb the risk
- Bid the risk
- Insure the risk
- Change approach



What are the changes?

Third Party Damage	Prior to January 1, 2014		After January 1, 2014	
	Responsible Party	Reference	Responsible Party	Reference
Existing Property	Department	Subarticle 7-11.4	Department	Subarticle 7-11.1 (language moved from 7-11.4)
Installed Material	Contractor	Article 7-14	Department/ Contractor	Article 7-14

Repair of damage to existing property and installed material caused by the contractor, subcontractor, vendor, supplier, etc. **was and is** the responsibility of the contractor.



What are the changes?

Third Party Damage to Existing Property Subarticle 7-11.1

- The contractor will either restore the existing property to a condition equal to or better, or provide access and coordinate with the Department's maintenance Contractor as directed by the Engineer.
- The Department will compensate in accordance with Article 4-4.
- Theft and vandalism are considered third party damage.



What are the changes?

Third Party Damage to Installed Material Article 7-14

- The contractor may pursue recovery from the third party or seek reimbursement from the Department, but not both.
- Requirements for reimbursement from the Department:
 - Contact law enforcement
 - Receive a completed Florida Traffic Crash Report
 - Provide the report to the Department within 14 calendar days of receipt
- Upon submission of the report, the Department solely retains the right to pursue recovery.



What are the changes?

Third Party Damage to Installed Material Article 7-14

- If damage to installed material is caused by a **known third party**, the Department will reimburse the Contractor for costs associated with the repair after reducing the amount of the repair cost by a \$2000.00 deductible for each occurrence, borne solely by the Contractor.
- If the Department is successful in recovery, the Contractor may be reimbursed proportionally, up to the amount of the deductible.



What are the changes?

Third Party Damage to Installed Material

Article 7-14

Known Third Party Example 1

- Damage cost= \$10,000
- Reimbursement to contractor= $\$10,000 - \$2,000 = \$8,000$
- Department recovery= \$10,000
- Deductible reimbursed to contractor= \$2,000
- Total reimbursement to contractor= **\$10,000**



What are the changes?

Third Party Damage to Installed Material

Article 7-14

Known Third Party Example 2

- Damage cost= \$10,000
- Reimbursement to contractor= $\$10,000 - \$2,000 = \$8,000$
- Department recovery= \$6,000
- Deductible reimbursed to contractor= $\$2,000 \times 0.6 = \$1,200$
- Total reimbursement to contractor= **\$9,200**



What are the changes?

Third Party Damage to Installed Material

Article 7-14

- If damage to installed material is caused by an **unknown third party**, the Department will reimburse the contractor for 50% of the cost of the repair after reducing the amount of the repair cost by a \$2000.00 deductible for each occurrence, borne solely by the Contractor.



What are the changes?

Third Party Damage to Installed Material

Article 7-14

Unknown Third Party Example

- Damage cost= \$10,000
- Reimburse. to contractor= $(\$10,000 - \$2,000) \times 0.5 = \mathbf{\$4,000}$



What are the changes?

Third Party Damage to Installed Material

Article 7-14

- Theft and vandalism are considered damage caused by an unknown third party.
- Repair cost will be determined in accordance with Article 4-4.



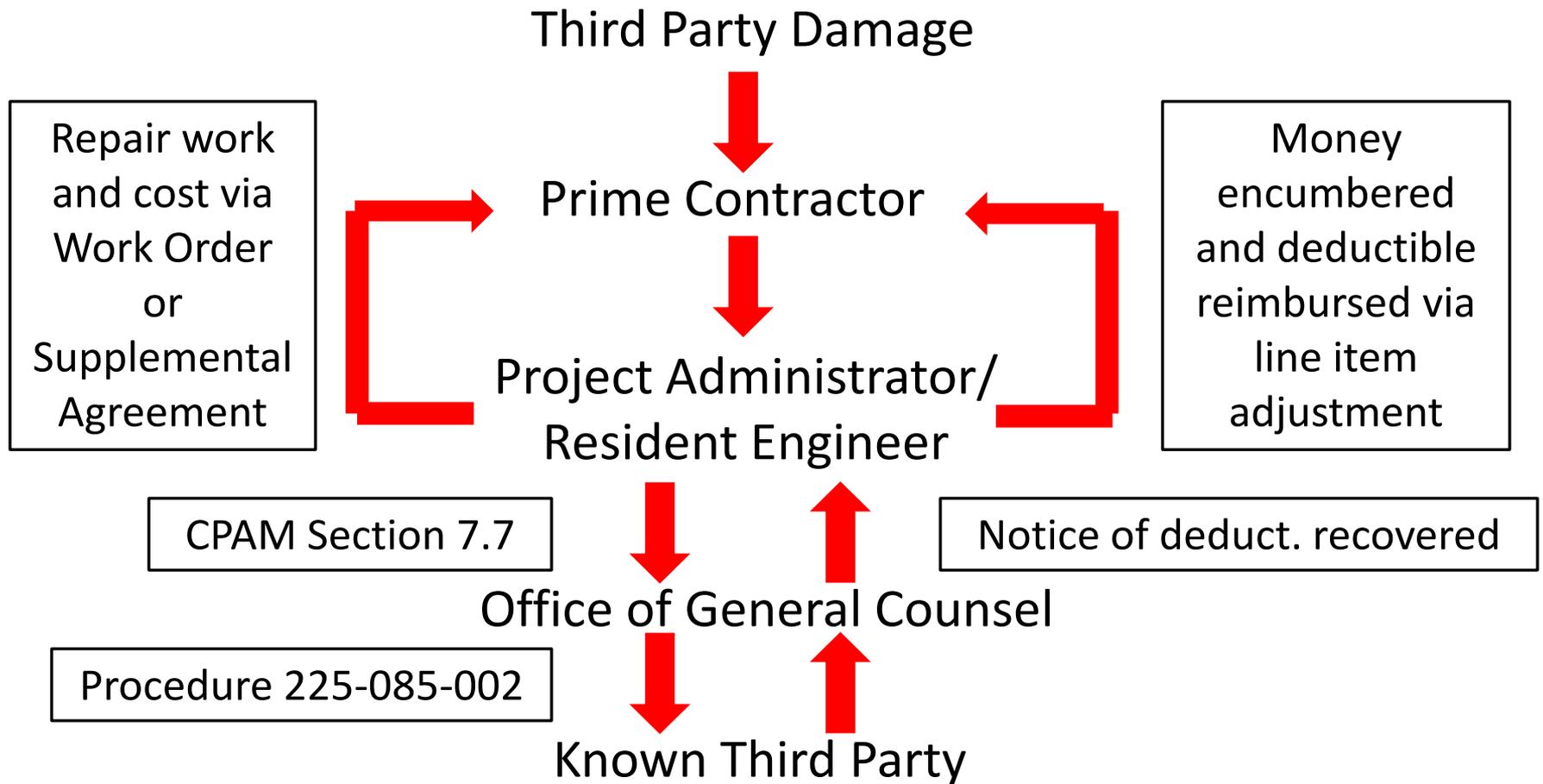
What are the changes?

Repair Cost of Third Party Damage

Article 4-4

- When the Department requires work that is not covered by a price in the Contract and ..., the Department will make an adjustment to the Contract. The Engineer will determine the basis of payment for such an adjustment in a fair and equitable amount.
- For the most cases “a fair and equitable amount” will be based labor, material, equipment, and indirects in accordance with subarticle 4-3.2.

What is the process?





Review

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Questions/ Comments?

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