



Environmental Mitigation Payment Processing Handbook

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Florida Department of Transportation
Environmental Management Office
Mail Station 37
605 Suwannee Street
Tallahassee, FL 32399-0450
Phone: (850) 414-4447



www.dot.state.fl.us/emo



Table of Contents

Section 1	Overview	1
Section 2	Mitigation Requirements.....	1
2.1	Determining the appropriate Mitigation Option	1
2.2	The Inventory and Mitigation Plan	1
2.3	Funding	2
2.3.1	Mitigation Services through DEP and WMDs	2
2.3.2	Mitigation Credits.....	3
Section 3	Department’s Office of Comptroller Requirements.....	3
3.1	Encumbering Funds for Mitigation Services	3
3.2	Encumbering Funds for Mitigation Credits	6
Section 4	Purchasing Mitigation Services	6
4.1	Invoices for Mitigation Services	6
Section 5	Purchasing Mitigation Credits.....	10
5.1	Invitation to Bid/Purchase Order.....	10
Appendix A – Section 373.4137, F.S. Mitigation requirements for specified transportation projects		
Appendix B – Memorandum of Understanding between FDOT and WMDs		
Appendix C – Inventory Spreadsheet		
Appendix D – Mitigation Spreadsheet		
Appendix E – Invoicing Form		



Section 1 Overview

In 1996, the State Legislature established a mitigation program specific to meet the needs of the Florida Department of Transportation (Department). It was determined that wetland mitigation would be more effectively achieved with regional, long range mitigation planning instead of conducting mitigation on a project by project basis. This program is codified in section 373.4137, F.S. and provides the Department flexibility when considering compensatory mitigation options. The purpose of this handbook is to provide guidance for the determining the appropriate mitigation option and the processing of mitigation payments. See Appendix A for the statutory mitigation language.

The Department has an agreement with the Florida Department of Environmental Protection (DEP) and each of the five Water Management Districts (WMD) detailing how mitigation will be planned and constructed by the DEP or WMDs and funded by the Department. See Appendix B for individual agreements between the Department and the WMDs.

Section 2 Mitigation Requirements

2.1 Determining the appropriate Mitigation Option

In accordance with Section 373.4137, F.S., compensatory mitigation of wetland and other surface water impacts resulting from FDOT projects “will be funded by the Department of Transportation and be carried out by the use of mitigation banks and any other mitigation options that satisfy state and federal requirements.” All funding for environmental mitigation must be based on scientifically valid analysis and must show documented support of how the cost was arrived to mitigate the adverse impact.

Multiple issues should be evaluated when determining which mitigation option is appropriate to offset adverse impacts. The three main issues include, but are not limited to:

1. Does the mitigation option comply with the mitigation requirements adopted under 33 U.S.C. s.1344? (This is only for projects requiring a federal permit)
2. Is the mitigation option the most cost effective option?
3. Is the mitigation option readily available?

2.2 The Inventory and Mitigation Plan

By July 1st of each year, the Department is mandated to submit to the WMDs a copy of its Work Program to be adopted on July 1st and an Environmental Impact Inventory of habitats which may be impacted by the construction of transportation projects in the



next 3 years of the Department's Tentative Work Program (i.e., if the Adopted Work Program is for FY 2012-2016, the next three years of the Tentative would be fiscal years 2013, 2014 and 2015). In developing the Tentative Work Program, FDOT Districts must program environmental mitigation to be accomplished by DEP, WMDs and Mitigation Banks. The inventory should include all projects requiring mitigation and the mitigation option used. (Refer to Chapter 11 of the Work Program Instructions.) The WMDs use the Inventory to develop a Mitigation Plan. This plan should be received by the Department by March 1st of each year.

The Inventory includes a description of habitat impacts, their basin, acreage, and type. It should also include the state water quality classification of impacted wetlands and other surface waters, any other state or regional designations for these habitats, and a list of threatened and endangered species and species of special concern affected by the proposed project. The Project Inventory should be updated quarterly to reflect the most current FDOT work program, and be amended throughout the year to anticipate schedule changes or additional projects which may arise. See Appendix C for the Project Inventory spreadsheet and Appendix D for the Mitigation spreadsheet.

2.3 Funding

2.3.1 Mitigation Services through DEP and WMDs

In accordance with Section 373.4137, F.S., when the Department selects the DEP or a WMD to provide the appropriate compensatory mitigation, the Department pays the DEP or WMD \$75,000 [adjusted annually based on the percentage change in the Consumer Price Index (CPI) listed] for each wetland acre impacted. Below are the costs per acre to be used in programming and encumbering payments to DEP and the WMDs. These amounts are updated annually in the Chapter 11 of the Work Program Instructions. The first year presented is the actual CPI adjusted payment amount and the remaining years are an estimate to be used for programming purposes. Based upon the project's year of permit, the current year programmed amounts should be adjusted for the actual CPI adjusted cost per acre.

<u>Fiscal Year</u>	<u>Cost per Acre</u>
2014/15	\$111,426
2015/16	\$112,810
2016/17	\$114,669
2017/18	\$116,756
2018/19	\$118,912

(These figures are for illustrative purposes only. Refer to the official Work Program instructions for the most current costs per acre.)

Each WMD shall be paid a lump-sum amount per acre based on the above table for federally and non-federally funded transportation projects that have an approved mitigation plan. All mitigation costs including, but not limited to, the costs of preparing



conceptual plans and the costs of design, construction, staff support, future maintenance, and monitoring the mitigation areas shall be funded through these lump-sum amounts. Note: The price per acre of impact should be established at the time the WMD Mitigation Plan incorporating the project is approved.

2.3.2 Mitigation Credits

Section 373.4137, F.S. does not specify a mitigation cost per credit when the Department selects to purchase mitigation credits through a Mitigation Bank or In Lieu Fee entity. The FDOT District should advertise the need for mitigation credits through an Invitation to Bid (ITB). District Environmental and or Permitting staff should coordinate with District Legal Counsel prior to advertising the need for mitigation credits.

Section 3 Department's Office of Comptroller Requirements

The Comptroller certifies that funds are or will be available prior to entering into any contract or other binding commitment of funds. Although the Environmental Mitigation program is statutorily required and does not fit the typical contract "mold," the Comptroller must still ensure that funds are available for all planned mitigation projects. The governing Florida Statute is Section 339.135(6)(a), which is excerpted below:

"The department, during any fiscal year, 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. The department shall require a statement from the comptroller of the department 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 1 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 the department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

3.1 Encumbering Funds for Mitigation Services

Mitigation services are generally purchased through a contract with the DEP or WMDs. When the approved mitigation plans are received from the DEP or WMDs, it is the responsibility of each FDOT District to reconcile the approved plan to the current work program (i.e., ensure that the programming and encumbrances agree to the approved plan.) Each FDOT District should also ensure the Contract Funds Management (CFM)



Section within the Office of Comptroller has been sent a Funds Approval Request for each FDOT financial project number on the plan that may have work started, be permitted, or have an anticipated invoice pending for the current fiscal year. Additionally, for projects not in the current fiscal year, a “reviewed” encumbrance must be requested. Districts must also ensure that the request was approved by the CFM Section (i.e. the encumbrance was established). These requests should be sent to the “CFM Section” email address, CFMSection@dot.state.fl.us. Funds approval should be sought for the highest total amount of acreage on the plan, subject to quarterly adjustment. The Contract/Encumbrance Numbers are listed below:

Contract/Encumbrance Numbers:

NWWMD	Northwest Florida Water Management District
SFWMD	South Florida Water Management District
SJWM2	St. Johns River Water Management District – D2
SJWM4	St. Johns River Water Management District – D4
SJWM5	St. Johns River Water Management District – D5
SJWM8	St. Johns River Water Management District – Turnpike
SRWMD	Suwannee River Water Management District
SWWM1	Southwest Florida Water Management District – D1
SWWM5	Southwest Florida Water Management District – D5
SWWM7	Southwest Florida Water Management District – D7
SWWM8	Southwest Florida Water Management District – Turnpike
DEPXX	Department of Environmental Protection (where XX = FDOT District Number)

The contract/encumbrance numbers are available to aid each FDOT District in tracking cumulative payments for reporting to the Florida Department of Financial Services.

The following Organizational Codes and expansion options are associated with the Environmental Mitigation Projects:

District One	55 01 30 70 142 PD
District Two	55 02 30 10 248 PD
District Three	55 03 30 40 345 PD
District Four	55 04 30 10 401 PD
District Five	55 05 30 10 542 PD
District Seven	55 07 30 60 743 PD

For payments to DEP or WMD, use the following:

Object code: 139959
Object Description: Environmental Mitigation Services
Category: 088849



Category Description: Preliminary Engineering Consultant

With initial encumbrance requests, please also request the CFM section include the project number and mitigation number in the description field. This will aid in tracking projects.

The CFM Section will process the request manually, applying all the required work program and FLAIR edits to the project. Any failed edit checks will result in an email back to the requestor for resolution. Successful requests will result in an email back to the requestor with the funds approved and a standardized contract (encumbrance) number.

As indicated previously, once the mitigation plan is developed, no programming changes for mitigation funds should be made until the WMD is contacted and a determination is made as to the status of the mitigation.

Any required changes to the mitigation plan and work program may also necessitate an encumbrance change. The District should review the approved mitigation plan on a quarterly basis (at a minimum) and make any work program and encumbrance changes at that time. Below is an example schedule that could be used to send the CFM Section an email to process encumbrance changes:

The following environmental mitigation projects need encumbrances adjusted by the stated amount.

CONTRACT #	PROJECT #	MIT#	Amount	ORG CODE	OBJECT	EOB	LINE #
SJWMD	238422 1 C8 01	SJ40	(574,778.72)	55 05 30 10 542 PD	139959	135	143
SJWMD	239535 4 C8 01	SJ41	(30,749.62)	55 05 30 10 542 PD	139959	135	144
SJWMD	241221 1 C8 01	SJ48	(6,742.78)	55 05 30 10 542 PD	139959	135	102
SJWMD	242484 5 C8 01	SJ47	(138,839.43)	55 05 30 10 542 PD	139959	135	200
SJWMD	242716 1 C8 01	SJ41	(533.72)	55 05 30 10 542 PD	139959	135	145
SJWMD	405506 5 C8 01	SJ48	(310,860.56)	55 05 30 10 542 PD	139959	135	162
	TOTAL		(1,062,504.83)				

Please remember to include the previously provided contract/encumbrance number with all change requests.

When requesting a reduction of an encumbrance, the requestor will be asked to certify that the mitigation inventory has been reduced to reflect the request. If the inventory has not been reduced, the encumbrance reduction request will not be processed.



3.2 Encumbering Funds for Mitigation Credits

The encumbrance process for Mitigation credits is the same for as those described for mitigation services except the following object code should be used. Also, it is important to note that payments are calculated on a cost per credit basis and not per impacted acre.

For Mitigation Credits, use the following:

Object code: 499039

Object Description: Environmental Mitigation Credits

Category: 088849

Category Description: Preliminary Engineering Consultant

Section 4 Purchasing Mitigation Services

Generally, the Department purchases mitigation services from DEP or the WMD. The Department has established mitigation agreements with the DEP and the five WMDs. Please see Appendix B. Use the appropriate contract number (as detailed in Section 4.1) for the DEP or the WMD providing mitigation services. The contract between the Department and the DEP or the WMD must comply with requirements under the Florida Accountability Contract Tracking System (FACTS). See the Department's Procurement Office website <http://infonet.dot.state.fl.us/procurement/> for more information.

4.1 Invoices for Mitigation Services

All invoices and supporting information from DEP or the WMDs for compensatory wetland mitigation must be submitted to the District Permit Coordinator at the appropriate FDOT District. When the mitigation is performed by the DEP or WMDs, the cost of mitigation is based upon impact acres as established per Section 373.4137, F.S. resulting in a fixed price which can be invoiced through cost reimbursement or through lump sum advance payment. The invoice submittal requirements for cost reimbursement or lump sum advance payment are below:

Guidelines for Cost Reimbursement

This guideline should be followed when implementation of a DEP or WMD mitigation project will involve periodic invoicing for cost reimbursement. See Appendix E - Mitigation Invoice for FDOT form. For example if mitigation project "A" requires mitigation for 10 impact acres, and the intent is to bill every time an impact acre is completed, then this guideline should be used for invoicing.



Information to be included in the invoice:

1. WMD or DEP and associated contract number
2. Invoice number and date
3. Invoice period
4. Include Catalog of State Financial Assistance (CSFA) number 55.031
5. Identify FDOT project(s) individually, specify
 - a. FDOT project number(s)
 - b. FDOT project name (if available)
 - c. Amount of mitigation needed for the project(s) as **permitted** including total cost
 - d. Amount of mitigation being met by this invoice for the FDOT project(s)
6. Identify the mitigation project(s) individually by FDOT project, specify
 - a. Mitigation Site name(s) – provide mitigation plan for site
 - b. Type of mitigation (enhancement, preservation, etc.)
 - c. Complete descriptions of services/commodities/activities performed include the date rendered and cost
7. Total cost being invoiced
8. Brief Progress Report
9. Supporting documentation should be submitted with the invoice
 - a. Receipts
 - b. Mitigation site pictures
 - c. Permit required documents such as, summary reports, monitoring reports, etc.

Guidelines for Lump Sum Advance Payments

Lump Sum payment as described in Section 373.4137, F.S., provides a mechanism for the advance payment for mitigation projects based upon fixed price, which will be implemented by the DEP or WMDs. All invoices and supporting information from DEP or WMDs for wetland mitigation must be submitted to the appropriate District Permit Coordinator. When paying lump sum for mitigation, sufficient information should be provided to understand the scope of services that will be performed for the funding being invoiced. The DEP or WMD submitting the invoice must provide the following information with their lump sum invoice:

1. WMD and associated contract number



2. Include Catalog of State Financial Assistance (CSFA) number 55.031
3. Request for lump sum payment
4. Identify FDOT project(s) individually, specify
 - a. FDOT project number(s)
 - b. FDOT project name (if available)
 - c. Amount of mitigation needed for the FDOT project(s) as **permitted** including total cost
 - d. Amount of mitigation being met by this invoice for the FDOT project(s) (e.g., percent completion)
5. Identify the WMD project(s) individually by FDOT project, specify
 - a. WMD Site name(s) – provide mitigation plan for site
 - b. Type of mitigation (enhancement, preservation, etc.)
 - c. Complete descriptions of services/commodities/activities that will be performed include estimated timeframes for implementation and completion. Examples of activities may include:
 - i. Early Plan Development – Review of FDOT inventory, field review of impact sites, identification of conceptual plans and sites, preparation of plans
 - ii. Plan Development – Mitigation plan development to between thirty to forty percent completion, field review of mitigation sites, appraisals and surveys, purchase of lands, easements, and conservation easements
 - iii. Final Plan Development – Completion of plan development, preparation of pay item quantities, preparation of contract provisions, and preparation of bid packages
 - iv. Letting – Project advertisement, acceptance of bids, and award of project
 - v. Construction – Earth moving, fencing, mitigation site establishment, construction inspection, and final project acceptance
 - vi. Post Construction Activities – Success criteria monitoring, maintenance and removal of exotic species, replanting, site modifications, and preparation of post construction reports and documents
 - vii. Long-term maintenance – Activities associated with ensuring success, elimination of exotics, site protection measures, etc.
 - d. Based on timeframes provide a status report including percent completion periodically



6. Total amount

The Districts should follow the instructions below when processing invoices from WMDs and DEP:

1. Receive an invoice from the WMD or DEP. When a WMD provides services to multiple FDOT Districts the WMD must submit separate invoices to each FDOT District. Each FDOT District has its own unique encumbrance/contract number from which to pay and track payments. (See Office of Comptroller Requirements section.)
2. FDOT District project manager should review the invoice and supporting documentation. The project manager should certify that the invoice is accurate and the appropriate mitigation activities have been performed for the project.
3. FDOT District project manager should:
 - a. Review the encumbrance level to ensure there is enough to pay the invoice.
 - b. Complete the Summary of Contractual Services Agreement/Purchase Order form – available through FACTS system
 - c. Include all relevant supporting documentation with the invoice.

Please note that you must include life-to-date payments on the “Summary of Contractual Services” form for the contract number you are paying. The OOC-Financial Management Office will provide you the life-to-date amount for your first district processed payment and each district must establish a payment tracking process in order to report this amount with each invoice payment. (An Excel schedule of payments is recommended.)

The appropriate Memorandum of Understanding between the WMD and the Department and the Summary of Contractual Services Agreement/Purchase Order Form should be included with each request for payment.

Please note the following regarding payments to DEP or WMDs:

The DEP or WMD can be paid a lump-sum amount per acre in accordance with Section 373.4137, F.S. for federally and non-federally funded transportation projects that have an approved mitigation plan.

Mitigation costs including, but not limited to, the costs of preparing conceptual plans and the costs of design, construction, staff support, future maintenance and monitoring the mitigation areas is considered to be included through these lump-sum amounts.

When payments have been remitted to the District in accordance with the lump sum guidelines, and subsequently it is determined those funds will not be used due to deletion of a mitigation project or a reduction of acreage from the inventory, the applicable payment (including any interest earned) must be used for other transportation projects requiring compensatory mitigation for environmental impacts as agreed to by both parties. The change must be documented and if applicable, involve



coordination with the United States Army Corps of Engineers. If a modification to the mitigation permit is needed, the DEP or WMD must coordinate with the appropriate regulatory agencies and the Department.

In order to ensure the Department receives credit for what is paid, each FDOT District and DEP or the appropriate WMD should track 'excess credits' and use them as soon as they are eligible for other projects. This tracking is necessary to ensure mitigation credits purchased by the Department are used as intended.

Section 5 Purchasing Mitigation Credits

5.1 Invitation to Bid/Purchase Order

When the Department determines that mitigation credits should be purchased, the District should advertise for the purchase of credits through an Invitation to Bid (ITB).

When purchasing mitigation credits FDOT Districts must use the My Florida Marketplace (MFMP) process. All vendors are required to register in the MFMP system. Note that only governmental entities are exempt from the 1% processing fee (See 60A-1.032, Florida Administrative Code). Districts must use commodity code 312-280 when inputting information into MFMP for the purchase of mitigation credits.

All payments are processed through MFMP and encumbrance requests are submitted through CFM. Encumbrance changes must still be submitted to the CFM Section as previously noted. The encumbrance information will be input into MFMP upon requisition creation to ensure the encumbrance is reduced in FLAIR when the payment is made.



Appendix A – Section 373.4137, F.S. Mitigation requirements for specified transportation projects

- (1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by the use of mitigation banks and any other mitigation options that satisfy state and federal requirements.
- (2) Environmental impact inventories for transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 shall be developed as follows:
 - (a) By July 1 of each year, the Department of Transportation, or a transportation authority established pursuant to chapter 348 or chapter 349 which chooses to participate in the program, shall submit to the water management districts a list of its projects in the adopted work program and an environmental impact inventory of habitats addressed in the rules adopted pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted by its plan of construction for transportation projects in the next 3 years of the tentative work program. The Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 may also include in its environmental impact inventory the habitat impacts of any future transportation project. The Department of Transportation and each transportation authority established pursuant to chapter 348 or chapter 349 may fund any mitigation activities for future projects using current year funds.
 - (b) The environmental impact inventory shall include a description of these habitat impacts, including their location, acreage, and type; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a list of threatened species, endangered species, and species of special concern affected by the proposed project.
- (3)(a) To fund development and implementation of the mitigation plan for the projected impacts identified in the environmental impact inventory described in subsection (2), the Department of Transportation shall identify funds quarterly in an escrow account within the State Transportation Trust Fund for the environmental mitigation phase of projects budgeted by the Department of Transportation for the current fiscal year. The escrow account shall be maintained by the



Department of Transportation for the benefit of the water management districts. Any interest earnings from the escrow account shall remain with the Department of Transportation.

- (b) Each transportation authority established pursuant to chapter 348 or chapter 349 that chooses to participate in this program shall create an escrow account within its financial structure and deposit funds in the account to pay for the environmental mitigation phase of projects budgeted for the current fiscal year. The escrow account shall be maintained by the authority for the benefit of the water management districts. Any interest earnings from the escrow account shall remain with the authority.
- (c) Except for current mitigation projects in the monitoring and maintenance phase and except as allowed by paragraph (d), the water management districts may request a transfer of funds from an escrow account no sooner than 30 days before the date the funds are needed to pay for activities associated with development or implementation of the approved mitigation plan described in subsection (4) for the current fiscal year, including, but not limited to, design, engineering, production, and staff support. Actual conceptual plan preparation costs incurred before plan approval may be submitted to the Department of Transportation or the appropriate transportation authority each year with the plan. The conceptual plan preparation costs of each water management district will be paid from mitigation funds associated with the environmental impact inventory for the current year. The amount transferred to the escrow accounts each year by the Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 shall correspond to a cost per acre of \$75,000 multiplied by the projected acres of impact identified in the environmental impact inventory described in subsection (2). However, the \$75,000 cost per acre does not constitute an admission against interest by the state or its subdivisions and is not admissible as evidence of full compensation for any property acquired by eminent domain or through inverse condemnation. Each July 1, the cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. Each quarter, the projected acreage of impact shall be reconciled with the acreage of impact of projects as permitted, including permit modifications, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer of funds shall be adjusted accordingly to reflect the acreage of impacts as permitted. The Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 are authorized to transfer such funds from the escrow accounts to the water management districts to carry out the mitigation programs. Environmental mitigation funds that are



identified for or maintained in an escrow account for the benefit of a water management district may be released if the associated transportation project is excluded in whole or part from the mitigation plan. For a mitigation project that is in the maintenance and monitoring phase, the water management district may request and receive a one-time payment based on the project's expected future maintenance and monitoring costs. Upon disbursement of the final maintenance and monitoring payment, the escrow account for the project established by the Department of Transportation or the participating transportation authority may be closed. Any interest earned on these disbursed funds shall remain with the water management district and must be used as authorized under this section.

- (d) Beginning in the 2005-2006 fiscal year, each water management district shall be paid a lump-sum amount of \$75,000 per acre, adjusted as provided under paragraph (c), for federally funded transportation projects that are included on the environmental impact inventory and that have an approved mitigation plan. Beginning in the 2009-2010 fiscal year, each water management district shall be paid a lump-sum amount of \$75,000 per acre, adjusted as provided under paragraph (c), for federally funded and nonfederally funded transportation projects that have an approved mitigation plan. All mitigation costs, including, but not limited to, the costs of preparing conceptual plans and the costs of design, construction, staff support, future maintenance, and monitoring the mitigated acres shall be funded through these lump-sum amounts.
- (4) Before March 1 of each year, each water management district, in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, the Department of Transportation, participating transportation authorities established pursuant to chapter 348 or chapter 349, and other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks, shall develop a plan for the primary purpose of complying with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. In developing such plans, the districts shall use sound ecosystem management practices to address significant water resource needs and shall focus on activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) projects and lands identified for potential acquisition for preservation, restoration, or enhancement, and the control of invasive and exotic plants in wetlands and other surface waters, to the extent that the activities comply with the mitigation requirements adopted under this part and 33 U.S.C. s. 1344. In determining the activities to be included in the plans, the districts shall consider the purchase of credits from public or private mitigation banks permitted under s. 373.4136 and associated federal authorization and shall include the purchase as a part of the mitigation plan when the purchase would offset the impact of the transportation project, provide equal benefits to the water resources than other



mitigation options being considered, and provide the most cost-effective mitigation option. The mitigation plan shall be submitted to the water management district governing board, or its designee, for review and approval. At least 14 days before approval, the water management district shall provide a copy of the draft mitigation plan to any person who has requested a copy. The plan may not be implemented until it is submitted to and approved, in part or in its entirety, by the Department of Environmental Protection.

- (a) For each transportation project with a funding request for the next fiscal year, the mitigation plan must include a brief explanation of why a mitigation bank was or was not chosen as a mitigation option, including an estimation of identifiable costs of the mitigation bank and nonbank options and other factors such as time saved, liability for success of the mitigation, and long-term maintenance.
 - (b) Specific projects may be excluded from the mitigation plan, in whole or in part, and are not subject to this section upon the election of the Department of Transportation, a transportation authority if applicable, or the appropriate water management district.
 - (c) When determining which projects to include in or exclude from the mitigation plan, the Department of Transportation shall investigate using credits from a permitted mitigation bank before those projects are submitted for inclusion in the plan. The investigation shall consider the cost-effectiveness of mitigation bank credits, including, but not limited to, factors such as time saved, transfer of liability for success of the mitigation, and long-term maintenance.
- (5) The water management district shall ensure that mitigation requirements pursuant to 33 U.S.C. s. 1344 are met for the impacts identified in the environmental impact inventory described in subsection (2), by implementation of the approved plan described in subsection (4) to the extent funding is provided by the Department of Transportation, or a transportation authority established pursuant to chapter 348 or chapter 349, if applicable. During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements.
- (6) The mitigation plans shall be updated annually to reflect the most current Department of Transportation work program and project list of a transportation authority established pursuant to chapter 348 or chapter 349, if applicable, and may be amended throughout the year to anticipate schedule changes or additional projects which may arise. Each update and amendment of the mitigation plan shall be submitted to the governing board of the water management district or its designee for approval. However, such approval shall not be applicable to a deviation as described in subsection (5).



- (7) Upon approval by the governing board of the water management district or its designee, the mitigation plan shall be deemed to satisfy the mitigation requirements under this part for impacts specifically identified in the environmental impact inventory described in subsection (2) and any other mitigation requirements imposed by local, regional, and state agencies for these same impacts. The approval of the governing board of the water management district or its designee shall authorize the activities proposed in the mitigation plan, and no other state, regional, or local permit or approval shall be necessary.
- (8) This section shall not be construed to eliminate the need for the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 to comply with the requirement to implement practicable design modifications, including realignment of transportation projects, to reduce or eliminate the impacts of its transportation projects on wetlands and other surface waters as required by rules adopted pursuant to this part, or to diminish the authority under this part to regulate other impacts, including water quantity or water quality impacts, or impacts regulated under this part that are not identified in the environmental impact inventory described in subsection (2).
- (9) The process for environmental mitigation for the impact of transportation projects under this section shall be available to an expressway, bridge, or transportation authority established under chapter 348 or chapter 349. Use of this process may be initiated by an authority depositing the requisite funds into an escrow account set up by the authority and filing an environmental impact inventory with the appropriate water management district. An authority that initiates the environmental mitigation process established by this section shall comply with subsection (6) by timely providing the appropriate water management district with the requisite work program information. A water management district may draw down funds from the escrow account as provided in this section.

History.—s. 1, ch. 96-238; s. 36, ch. 99-385; s. 1, ch. 2000-261; s. 93, ch. 2002-20; s. 39, ch. 2004-269; s. 30, ch. 2005-71; s. 12, ch. 2005-281; s. 1, ch. 2009-11; s. 3, ch. 2012-174.



Appendix B – Memorandum of Understanding between FDOT and WMDs

AGREEMENT
BETWEEN
FLORIDA DEPARTMENT OF TRANSPORTATION
AND
NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT

THIS AGREEMENT is entered into this 27 day of October, 1999, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (the Department) and the NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT (the NFWWMD).

WITNESSETH

WHEREAS, Section 373.4137, Florida Statutes, directs the Department to furnish the NFWWMD, and the Department of Environmental Protection (DEP) information concerning planned construction for transportation projects including an inventory of habitats which may be impacted by the planned construction; and

WHEREAS, Section 373.4137, Florida Statutes, directs the Department to identify funds in an escrow account for the mitigation of environmental impacts from planned transportation projects; and

WHEREAS, Section 373.4137, Florida Statutes, directs the NFWWMD, in consultation with DEP, the Department, and other agencies and interested parties, to develop a plan for mitigating the environmental impacts of the transportation projects proposed by the Department within the NFWWMD; and

WHEREAS, Section 373.4137, Florida Statutes, requires the NFWWMD to submit the mitigation plan to DEP for approval; and

WHEREAS, Section 373.4137, Florida Statutes, requires the NFWWMD to ensure that the mitigation requirements pursuant to 33 U.S.C. s. 1344 are met by implementation of the approved mitigation plan to the extent funding is provided by the Department; and

WHEREAS, Section 373.4137, Florida Statutes, authorizes the NFWWMD to request a transfer of funds from the Department escrow account to pay for development and implementation of the approved mitigation plan for projects programmed in the current fiscal year; and

WHEREAS, the parties wish to agree on the procedures by which payment will be made to the NFWWMD from the Department's escrow funds to pay for development and implementation of approved mitigation plans;

NOW THEREFORE, the parties hereby agree as follows:

1. Changes to impacted acres or anticipated permit date or deletion of a project by the Department and allowable under Section 373.4137, Florida Statutes may be made on a quarterly basis. An adjustment request form (see attached) must be completed by the Department's District Environmental or Permit Office and signed by the NFWFMD, the Department's District Work Program Manager, and DEP. Once all signatures are complete, the form will be forwarded to the Florida Department of Transportation Office of Comptroller, Financial Management Office, so that the escrow account can be adjusted.

2. Requests for transfer of funds from the escrow account required under Section 373.4137, Florida Statutes, must include an itemized invoice that indicates the portion of the mitigation plan for which funds are requested, the stages completed on that portion of the mitigation plan, and the costs incurred within those stages, allocated to one of the following categories: salaries; travel; administrative; contractual; attorney/appraisal fees; equipment; and supplies. The invoice must indicate the Department financial project to which the mitigation relates and must also indicate whether it is the final invoice for mitigation related to that financial project.

3. The total transfers requested from the escrow account for mitigation efforts identified with a particular Department financial project would not exceed the amount in escrow for that financial project for the current fiscal year.

4. The mitigation stages that will be used to identify the stage to which a transfer request relates are:

a. Early Plan Development - The review of Department inventory, field review of impact sites, identification of conceptual plans and mitigation sites, and preparation of plans for approval by the NFWFMD and DEP;

b. Plan Development - Mitigation plan development to thirty to forty percent (30/40%) completion, identification of land requirements, field review of mitigation sites, detailed design work, property appraisals and surveys, preparation of right of way maps and legal documents, and purchase of lands, easements, and conservation easements;

c. Final Plan Development - Completion of mitigation plan development, preparation of pay item quantities, preparation of special contract provisions, and preparation of bid packages;

d. Letting - Project advertisement; acceptance of bids, and award of project;

e. Construction - Purchase of mitigation bank credits, financial contributions to water management district regional watershed projects, earth moving, fencing, mitigation site establishment, construction inspection, and final project acceptance; and

f. Post Construction Activities - Success criteria monitoring, maintenance and removal of exotic species, vegetation replanting, site modifications to slope and adjustments to control and drainage structures, and preparation of post construction reports and documents.

5. Requests for transfer of funds to reimburse for actual conceptual plan preparation costs that are submitted to the Department and DEP by November 1 of each year must also indicate the Department financial projects to which the costs will be charged.

6. Any invoices or requests for transfer shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

7. Upon receipt of invoice, the Department has five (5) working days to inspect and approve the services. The Department has 20 days to deliver a request for payment (voucher) to the Department of Banking and Finance. The 20 days are measured from the latter of the date the invoice is received or the services are received, inspected and approved.

8. If payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 215.422, Florida Statutes, shall be due and payable, in addition to the invoice amount, to the NFWFMD. Interest penalties of less than one (1) dollar shall not be enforced unless the NFWFMD requests payment. Invoices which have to be returned to the NFWFMD because of NFWFMD 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 the Department.

9. A vendor ombudsman has been established within the department of Banking and Finance. 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 State Comptroller's Hotline, 1-800-848-3792.

10. Records of costs incurred shall be maintained and made available upon request to the Department for three years after final payment for the work pursuant to Florida Statute 373.4137. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred shall include the NFWFMD's general accounting records and the project records, together with supporting documents and records, of the NFWFMD and all subcontractors considered necessary to the Department for a proper audit of project costs.

11. The Department, during any fiscal year, 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. The Department shall require a statement for

the comptroller of the Department 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. Accordingly, the Department's performance and obligation to pay under this understanding is contingent upon an annual appropriation by the Legislature.

12. This AGREEMENT shall continue on a year to year basis unless it is agreed through mutual consent of the parties to cancel this agreement.

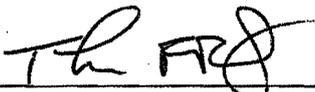
13. All invoices and requests for transfer shall be submitted to the Department at the following address: Florida Department of Transportation, Office of Comptroller, Financial Management Office, 3717 Apalachee Parkway, Suite E, Tallahassee, Florida, 32311.

14. Any invoices or requests for transfer that include travel expenses shall be submitted and paid in accordance with Section 112.061, Florida Statutes.

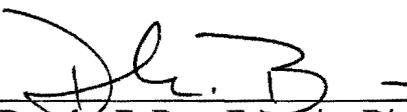
15. The NFWFMD and the Department will allow public access to all documents and materials relating to this AGREEMENT in accordance with the provisions of Chapter 119, Florida Statutes. Should the NFWFMD or the Department assert any exemption to the requirements of Chapter 119, Florida Statutes, the burden of establishing such exemption, by way of injunctive relief or as otherwise provided by law, shall be upon that party.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed effective as of the date first set forth above.

FLORIDA DEPARTMENT OF TRANSPORTATION

By: 
Thomas F. Barry, Jr., Secretary

NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT

By: 
Douglas E. Barr, Executive Director

MEMORANDUM OF UNDERSTANDING
BETWEEN
FLORIDA DEPARTMENT OF TRANSPORTATION
AND
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

THIS MEMORANDUM OF UNDERSTANDING is entered into this 27th day of July, 2000, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (the Department) and the SOUTH FLORIDA WATER MANAGEMENT DISTRICT (District).

WITNESSETH

WHEREAS, Section 373.4137, Florida Statutes, directs the Department to furnish the District, and the Department of Environmental Protection (DEP) information concerning planned construction for transportation projects; and

WHEREAS, Section 373.4137, Florida Statutes, directs the Department to identify funds in an escrow account for the mitigation of environmental impacts from planned transportation projects; and

WHEREAS, Section 373.4137, Florida Statutes, directs the District, in consultation with DEP, the Department, and other agencies and interested parties, to develop a plan for mitigating the environmental impacts of the transportation projects proposed by the Department within the District; and

WHEREAS, Section 373.4137, Florida Statutes, requires the District to submit the mitigation plan to DEP for approval; and

WHEREAS, Section 373.4137, Florida Statutes, requires the District to ensure that the mitigation requirements pursuant to 33 U.S.C. s. 1344 are met by implementation of the approved mitigation plan to the extent funding is provided by the Department; and

WHEREAS, Section 373.4137, Florida Statutes, authorizes the District to request a transfer of funds from the Department escrow account to pay for development and implementation of the approved mitigation plan for projects programmed in the current fiscal year; and

WHEREAS, the parties wish to agree on the procedures by which payment will be made to the District from the Department's escrow funds to pay for development and implementation of approved mitigation plans;

NOW THEREFORE, the parties hereby agree as follows:

1. Changes to impacted acres or anticipated permit date or deletion of a project may be made on a quarterly basis. An adjustment request form (see attached) must be completed by the Department's District Environmental or Permit Office and signed by the District and the Department's District Work Program Manager. Once all signatures are complete, the form will be forwarded to the Florida Department of Transportation Office of Comptroller, Financial Management Office, so that the escrow account can be adjusted.

2. Requests for transfer of funds from the escrow account required under Section 373.4137, Florida Statutes, must include an itemized invoice that indicates the portion of the mitigation plan for which funds are requested, the stages completed, if any, on that portion of the mitigation plan, and the costs incurred within those stages, allocated to one of the following categories: salaries; travel; administrative; contractual; attorney/appraisal fees; planning and land acquisition; District restoration; maintenance and monitoring; equipment; and supplies. The invoice must indicate the Department transportation project to which the mitigation relates and must also indicate whether it is the final invoice for mitigation related to that financial project. The District shall request the transfer of funds from the escrow account no sooner than 30 days prior to the date the funds are needed.

3. The total transfers requested from the escrow account for mitigation efforts identified with a particular Department transportation project will not exceed the amount in escrow for that project for the current fiscal year.

~~4. The minimum amount of the escrow account shall be funded on July 1 of each fiscal year for projects with a scheduled production date. The amount of the escrow account shall be based on the DEP final order or adjusted order, as applicable, for the project. The scheduled production date is defined as the date of the Environmental Resource Permit (ERP) application submittal to the District. Funding amounts shall be \$75,000 per acre of environmental impact, adjusted for the CPI applicable to the year in which the transportation project application is submitted, in accordance with Section 373.4137(3) Florida Statutes.~~

5. The District shall implement approved mitigation plans based upon the funding provided in the escrow account. Funding in the escrow account shall be deemed to provide the reasonable assurance to the District, as part of the (ERP) process, to ensure that mitigation will be completed; this does not relieve the Department from addressing the full wetland impact avoidance/minimization and mitigation requirements of the ERP review process.

~~6. Should mitigation performance credits obtained by the District for any given fiscal year exceed the amount of mitigation required at the end of that same year, a credit value will be recognized which may be used to reduce the amount of escrow account funding required in subsequent fiscal years. Until an appropriate project is identified for the utilization of unused credits, the overage shall be carried as a separate item on all escrow and reconciliation reports.~~

The amount of funding for the escrow account shall only be adjusted to reflect use of unused credits when the use of these credits is approved by the District and DEP, in consultation with those agencies and interested parties referenced in Section 373.4137(4), Florida Statutes, to offset the proposed impacts of a specific project. Adjustment shall be made in the fiscal year within which the scheduled production date of the project falls.

7. Funds will remain in the escrow account and will be rolled over from year to year until such time as the District submits an invoice to the Department that is identified as the "final invoice". At that time any balance in the account will be credited towards the \$12 million advance in accordance with Section 373.4137(4)(c), Florida Statutes.

8. The phases of mitigation development that will be used to identify the stage to which a transfer request relates are:

a. Plan Development

(1) Early Plan Development - The review of Department inventory, field review of impact sites, identification of conceptual plans and mitigation sites, and preparation of plans for approval by the District and DEP;

(2) Plan Development - Mitigation plan development to thirty to forty percent (30/40%) completion, identification of land requirements, field review of mitigation sites, property appraisals and surveys, preparation of right of way maps and legal documents, and purchase of lands, easements, and conservation easements;

(3) Final Plan Development - Completion of mitigation plan development, preparation of pay item quantities, preparation of special contract provisions, and preparation of bid packages;

b. Construction/Acquisition - Purchase of real property or mitigation bank credits, financial contributions to water management district regional watershed projects, earth moving, fencing, mitigation site establishment, construction inspection, and final project acceptance; and

c. Monitoring/Maintenance/Management - Success criteria monitoring, maintenance and removal of exotic species, vegetation replanting, site modifications to slope and adjustments to control and drainage structures, preparation of post construction reports and documents, and on-going land management activities.

9. Requests for transfer of funds to reimburse for actual conceptual plan preparation costs that are submitted to the Department by November 1 of each year must also indicate the Department transportation projects to which the costs will be charged.

10. The District agrees that the Department or its duly authorized representatives shall,

until the expiration of three (3) years after expenditure of funds under this MOU, have access to examine any of the District's books, documents, papers, and records involving transactions related to this MOU.

11. Upon receipt of invoice, the Department has five (5) working days to inspect and approve an invoice that has been submitted. The Department has 20 days to deliver a request for payment (voucher) to the Department of Banking and Finance. The 20 days are measured from the latter of the date the invoice is received or the services are received, inspected and approved.

12. If payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 215.422, Florida Statutes, shall be due and payable, in addition to the invoice amount, to the District. Interest penalties of less than one (1) dollar shall not be enforced unless the District requests payment. Invoices which have to be returned to a District because of District 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 the Department.

13. A vendor ombudsman has been established within the department of Banking and Finance. 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 State Comptroller's Hotline, 1-800-848-3792.

14. Records of costs incurred shall be maintained and made available upon request to the Department for three years after final payment for the work pursuant to Florida Statute 337.4137. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred shall include the District's general accounting records and the project records, together with supporting documents and records, of the District and all subcontractors considered necessary to the Department for a proper audit of project costs.

15. The Department, during any fiscal year, 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. The Department shall require a statement for the comptroller of the Department 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. Accordingly, the Department's and the District's performances and obligations under this understanding are contingent upon an annual appropriation by the Legislature.

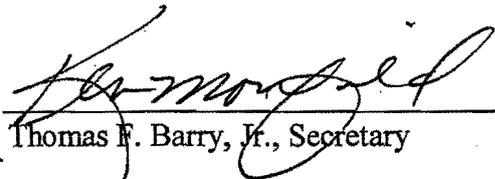
16. All invoices and requests for transfer shall be submitted to the Department at the following address: Florida Department of Transportation, Office of Comptroller, Financial Management Office, 3717 Appalachee Parkway, Suite E, Tallahassee, Florida, 32311.

17. Any invoices or requests for transfer that include travel expenses shall be submitted and paid in accordance with Section 112.061, Florida Statutes.

18. The District and the Department will allow public access to all documents and materials relating to this agreement in accordance with the provisions of Chapter 119, Florida Statutes. Should the District or the Department assert any exemption to the requirements of Chapter 119, Florida Statutes, the burden of establishing such exemption, by way of injunctive relief or as otherwise provided by law, shall be upon that party.

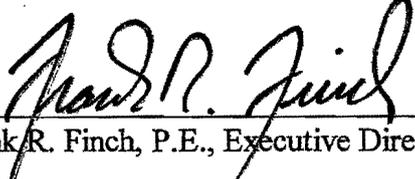
IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed effective as of the date first set forth above.

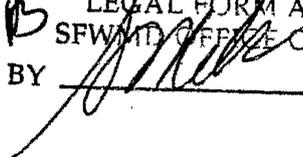
FLORIDA DEPARTMENT OF TRANSPORTATION

By: 
for Thomas F. Barry, Jr., Secretary

Legal Review: 7-11-00
By: 
Attorney - DOT

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

By: 
Frank R. Finch, P.E., Executive Director

LEGAL FORM APPROVED
SFWMD OFFICE OF COUNSEL
BY  DATE 6/27/00

 6-7-00
Procurement Approved

MEMORANDUM OF UNDERSTANDING
BETWEEN
FLORIDA DEPARTMENT OF TRANSPORTATION
AND
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

THIS MEMORANDUM OF UNDERSTANDING is entered into this 3rd day of August, 2000, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (the Department) and the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (the District).

WITNESSETH

WHEREAS, Section 373.4137, Florida Statutes, directs the Department to furnish the District, and the Department of Environmental Protection (DEP) information concerning planned construction for transportation projects; and

WHEREAS, Section 373.4137, Florida Statutes, directs the Department to identify funds in an escrow account for the mitigation of environmental impacts from planned transportation projects; and

WHEREAS, Section 373.4137, Florida Statutes, directs the District, in consultation with DEP, the Department, and other agencies and interested parties, to develop a plan for mitigating the environmental impacts of the transportation projects proposed by the Department within the District; and

WHEREAS, Section 373.4137, Florida Statutes, requires the District to submit the mitigation plan to DEP for approval; and

WHEREAS, Section 373.4137, Florida Statutes, requires the District to ensure that the mitigation requirements pursuant to 33 U.S.C. s. 1344 are met by implementation of the approved mitigation plan to the extent funding is provided by the Department; and

WHEREAS, Section 373.4137, Florida Statutes, authorizes the District to request a transfer of funds from the Department escrow account to pay for development and implementation of the approved mitigation plan for projects programmed in the current fiscal year; and

WHEREAS, the parties wish to agree on the procedures by which payment will be made to the District from the Departments escrow funds to pay for development and implementation of approved mitigation plans.

NOW THEREFORE, the parties hereby agree as follows:

1. Changes to impacted acres or anticipated permit date or deletion of a project may be made on a quarterly basis. An Adjustment request form (see attached) must be completed by the Department's District Environmental or Permit Office and signed by the District, and the Department's District Work Program Manager. Once all signatures are complete, the form will be forwarded to the Florida Department of Transportation Office of Comptroller, Financial Management Office, so that the escrow account can be adjusted.

2. Requests for transfer of funds from the escrow account required under Section 373.4137, Florida Statutes, must include an itemized invoice that indicates the portion of the mitigation plan for which funds are requested, the stages completed on that portion of the mitigation plan, and the costs incurred within those stages, allocated to one of the following categories: salaries; travel; administrative; contractual; land acquisition; District restoration; attorney/appraisal fees; equipment; and supplies. The invoice must indicate the Department financial project to which the mitigation relates and must also indicate whether it is the final invoice for mitigation related to that financial project.

3. The total transfers requested from the escrow account for mitigation efforts identified with a particular Department financial project will not exceed the amount in escrow for that financial project for the current fiscal year.

4. The phases of development of mitigation implementation that will be used to identify the stage to which a transfer request relates are:

a. Plan Development – The review of Department inventory, field review of impact and mitigation sites, identification of conceptual plans and mitigation sites, preparation of plans for approval by the District and DEP;

b. Plan Implementation – Purchase of lands, easements, and conservation easements or mitigation bank credits, financial contributions to water management district regional watershed projects, earth moving, mitigation site establishment, construction inspection; and

c. ~~Monitoring/Maintenance/Management~~ - Success criteria monitoring, maintenance and removal of exotic species, vegetation replanting, site modifications to slope and adjustments to control and drainage structures, preparation of post construction reports and documents, on-going land management activities, and compliance coordination with federal agencies.

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are missing* →

5. Requests for transfer of funds to reimburse for actual conceptual plan preparation costs that are submitted to the Department by November 1 of each year must also indicate the Department financial projects to which the costs will be charged.

6. The District agrees that the Department or its duly authorized representatives shall, until the expiration of three (3) years after expenditure of funds under this MOU,

have access to examine any of the District's books, documents, papers, and records involving transactions related to this MOU.

7. Upon receipt of invoice, the Department has five (5) working days to inspect and approve the services. The Department has 20 days to deliver a request for payment (voucher) to the Department of Banking and Finance. The 20 days are measured from the latter of the date the invoice is received or the services are received, inspected and approved.

8. If payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 215.422, Florida Statutes, shall be due and payable, in addition to the invoice amount, to the District. Interest penalties of less than one (1) dollar shall not be enforced unless the District requests payment. Invoices which have to be returned to a District because of District 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 the Department.

9. A vendor ombudsman has been established within the department of Banking and Finance. 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 State Comptrollers Hotline, 1-800-848-3792.

10. Records of costs incurred shall be maintained and made available upon request to the Department for three years after final payment for the work pursuant to Florida Statute 337.4137. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred shall include the Districts general accounting records and the project records, together with supporting documents and records, of the District and all subcontractors considered necessary to the Department for a proper audit of project costs.

11. The Department, during any fiscal year, 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. The Department shall require a statement for the comptroller of the Department 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. Accordingly, the Department's performance and obligation to pay under this understanding is contingent upon an annual appropriation by the Legislature.

12. All invoices and requests for transfer shall be submitted to the Department at the following address: Florida Department of Transportation, Office of Comptroller,

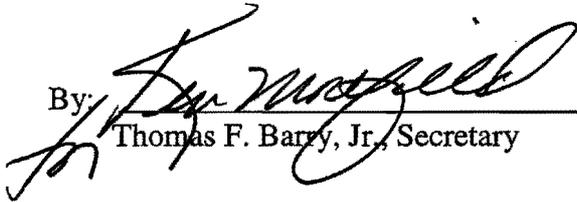
Financial Management Office, 3717 Appalachee Parkway, Suite E, Tallahassee, Florida, 32311.

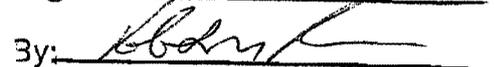
13. Any invoices or requests for transfer that include travel expenses shall be submitted and paid in accordance with Section 112.061, Florida Statutes.

14. The District and the Department will allow public access to all documents and materials relating to this agreement in accordance with the provisions of Chapter 119, Florida Statutes. Should the District or the Department assert any exemption to the requirements of Chapter 119, Florida Statutes, the burden of establishing such exemption, by way of injunctive relief or as otherwise provided by law, shall be upon that party.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed effective as of the date first set forth above.

FLORIDA DEPARTMENT OF TRANSPORTATION

By: 
Thomas F. Barry, Jr., Secretary

Legal Review: 7-28-00
By: 
Attorney - DOT

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

By: 
Executive Director

**MEMORANDUM OF UNDERSTANDING
BETWEEN
FLORIDA DEPARTMENT OF TRANSPORTATION
AND
SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

THIS MEMORANDUM OF UNDERSTANDING is entered into this 1st day of November, 1999, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (the "Department") and the SUWANNEE RIVER WATER MANAGEMENT DISTRICT (the "District").

WITNESSETH

WHEREAS, Section 373.4137, Florida Statutes, directs the Department to furnish the District, and the Department of Environmental Protection ("DEP") information concerning planned construction for transportation projects; and

WHEREAS, Section 373.4137, Florida Statutes, directs the Department to identify funds in an escrow account for the mitigation of environmental impacts from planned transportation projects; and

WHEREAS, Section 373.4137, Florida Statutes, directs the District, in consultation with DEP, the Department, and other agencies and interested parties, to develop a plan for mitigating the environmental impacts of the transportation projects proposed by the Department within the District; and

WHEREAS, Section 373.4137, Florida Statutes, requires the District to submit the mitigation plan to DEP for approval; and

WHEREAS, Section 373.4137, Florida Statutes, requires the District to ensure that the mitigation requirements pursuant to 33 U.S.C. s. 1344 are met by implementation of the approved mitigation plan to the extent funding is provided by the Department; and

WHEREAS, Section 373.4137, Florida Statutes, authorizes the District to request a transfer of funds from the Department escrow account to pay for development and implementation of the approved mitigation plan for projects programmed in the current fiscal year; and

WHEREAS, the parties wish to agree on the procedures by which payment will be made to the District from the Department's escrow funds to pay for development and implementation of approved mitigation plans;

NOW THEREFORE, the parties hereby agree as follows:

1. Changes to impacted acres or anticipated permit date or deletion of a project may be made on a quarterly basis. An Adjustment request form (see attached) must be completed by the Department's District Environmental or Permit Office and signed by the District, the Department's District Work Program Manager, and DEP. Once all signatures are complete, the form will be forwarded to the Florida Department of Transportation Office of Comptroller, Financial Management Office, so that the escrow account can be adjusted.

2. Requests for transfer of funds from the escrow account required under Section 373.4137, Florida Statutes, must include an itemized invoice that indicates the portion of the mitigation plan for which funds are requested, the stages completed on that portion of the mitigation plan, and the costs incurred within those stages, allocated to one of the following categories: salaries; travel; administrative; contractual; attorney/appraisal fees; equipment; and supplies. The invoice must indicate the Department financial project to which the mitigation relates and must also indicate whether it is the final invoice for mitigation related to that financial project.

3. The total transfers requested from the escrow account for mitigation efforts identified with a particular Department financial project will not exceed the amount in escrow for that financial project for the current fiscal year.

4. The mitigation stages that will be used to identify the stage to which a transfer request relates are:

a. Early Plan Development - The review of Department inventory, field review of impact sites, identification of conceptual plans and mitigation sites, and preparation of plans for approval by the District and DEP;

b. Plan Development - Mitigation plan development to thirty to forty percent (30/40%) completion, identification of land requirements, field review of mitigation sites, property appraisals and surveys, preparation of right of way maps and legal documents, and purchase of lands, easements, and conservation easements;

c. Final Plan Development - Completion of mitigation plan development, preparation of pay item quantities, preparation of special contract provisions, and preparation of bid packages;

d. Letting - Project advertisement; acceptance of bids, and award of project;

e. Construction - Purchase of mitigation bank credits, financial contributions to water management district regional watershed projects, earth moving, fencing, mitigation site

establishment, construction inspection, and final project acceptance; and

f. Post Construction Activities - Success criteria monitoring, maintenance and removal of exotic species, vegetation replanting, site modifications to slope and adjustments to control and drainage structures, and preparation of post construction reports and documents.

5. Requests for transfer of funds to reimburse for actual conceptual plan preparation costs that are submitted to the Department and DEP by November 1 of each year must also indicate the Department financial projects to which the costs will be charged.

6. Any invoices or requests for transfer shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

7. Upon receipt of invoice, the Department has five (5) working days to inspect and approve the services. The Department has 20 days to deliver a request for payment (voucher) to the Department of Banking and Finance. The 20 days are measured from the latter of the date the invoice is received or the services are received, inspected and approved.

8. If payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 215.422, Florida Statutes, shall be due and payable, in addition to the invoice amount, to the District. Interest penalties of less than one (1) dollar shall not be enforced unless the District requests payment. Invoices which have to be returned to a District because of District 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 the Department.

9. A vendor ombudsman has been established within the department of Banking and Finance. 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 State Comptroller's Hotline, 1-800-848-3792.

10. Records of costs incurred shall be maintained and made available upon request to the Department for three years after final payment for the work pursuant to Florida Statute 337.4137. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred shall include the District's general accounting records and the project records, together with supporting documents and records, of the District and all subcontractors considered necessary to the Department for a proper audit of project costs.

11. The Department, during any fiscal year, 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. The Department shall require a statement for the comptroller of the Department 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. Accordingly, the Department's performance and obligation to pay under this understanding is contingent upon an annual appropriation by the Legislature.

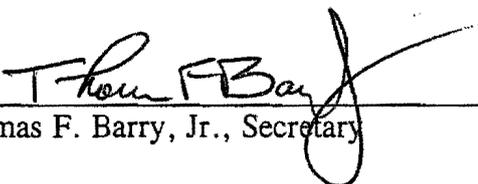
12. All invoices and requests for transfer shall be submitted to the Department at the following address: Florida Department of Transportation, Office of Comptroller, Financial Management Office, 3717 Appalachee Parkway, Suite E, Tallahassee, Florida, 32311.

13. Any invoices or requests for transfer that include travel expenses shall be submitted and paid in accordance with Section 112.061, Florida Statutes.

14. The District and the Department will allow public access to all documents and materials relating to this agreement in accordance with the provisions of Chapter 119, Florida Statutes. Should the District or the Department assert any exemption to the requirements of Chapter 119, Florida Statutes, the burden of establishing such exemption, by way of injunctive relief or as otherwise provided by law, shall be upon that party.

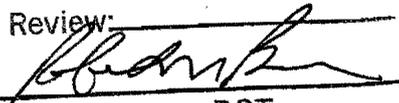
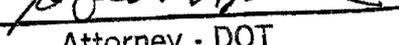
IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed effective as of the date first set forth above.

FLORIDA DEPARTMENT OF TRANSPORTATION

By: 
Thomas F. Barry, Jr., Secretary

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

By: 
Executive Director

Legal Review: 
By: 
Attorney - DOT

**MEMORANDUM OF UNDERSTANDING
BETWEEN
FLORIDA DEPARTMENT OF TRANSPORTATION
AND
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT**

THIS MEMORANDUM OF UNDERSTANDING is entered into this 14 day of June, 2001, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (the "Department") and the SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT (the "District").

WITNESSETH

WHEREAS, Section 373.4137, Florida Statutes, directs the Department to furnish the District, and the Department of Environmental Protection ("DEP") information concerning planned construction for transportation projects; and

WHEREAS, Section 373.4137, Florida Statutes, directs the Department to identify funds in an escrow account for the mitigation of environmental impacts from planned transportation projects; and

WHEREAS, Section 373.4137, Florida Statutes, directs the District, in consultation with DEP, the Department, and other agencies and interested parties, to develop a plan for mitigating the environmental impacts of the transportation projects proposed by the Department within the District; and

WHEREAS, Section 373.4137, Florida Statutes, requires the District to submit the mitigation plan to DEP for approval; and

WHEREAS, Section 373.4137, Florida Statutes, requires the District to ensure that the mitigation requirements pursuant to 33 U.S.C. s. 1344 are met by implementation of the approved mitigation plan to the extent funding is provided by the Department; and

WHEREAS, Section 373.4137, Florida Statutes, authorizes the District to request a transfer of funds from the Department escrow account to pay for development and implementation of the approved mitigation plan for projects programmed in the current fiscal year; and

WHEREAS, the parties wish to agree on the procedures by which payment will be made to the District from the Department's escrow funds to pay for development and implementation of approved mitigation plans;

NOW THEREFORE, the parties hereby agree as follows:

1. Changes to impacted acres or anticipated permit date or deletion of a project may be made on a quarterly basis. An Adjustment request form (see attached) must be completed by the Department's District Environmental or Permit Office and signed by the District, the Department's District Work Program Manager, and DEP. Once all signatures are complete, the form will be forwarded to the Florida Department of Transportation Office of Comptroller, Financial Management Office, so that the escrow account can be adjusted.

2. Requests for transfer of funds from the escrow account required under Section 373.4137, Florida Statutes, must include an itemized invoice that indicates the portion of the mitigation plan for which funds are requested, the stages completed on that portion of the mitigation plan, and the costs incurred within those stages, allocated to one of the following categories: salaries; travel; administrative; contractual; attorney/appraisal fees; equipment; and supplies. The invoice must indicate the Department financial project to which the mitigation relates and must also indicate whether it is the final invoice for mitigation related to that financial project.

3. The total transfers requested from the escrow account for mitigation efforts identified with a particular Department financial project will not exceed the amount in escrow for that financial project for the current fiscal year.

4. The mitigation stages that will be used to identify the stage to which a transfer request relates are:

a. Early Plan Development - The review of Department inventory, field review of impact sites, identification of conceptual plans and mitigation sites, and preparation of plans for approval by the District and DEP;

b. Plan Development - Mitigation plan development to thirty to forty percent (30/40%) completion, identification of land requirements, field review of mitigation sites, property appraisals and surveys, preparation of right of way maps and legal documents, and purchase of lands, easements, and conservation easements;

c. Final Plan Development - Completion of mitigation plan development, preparation of pay item quantities, preparation of special contract provisions, and preparation of bid packages;

d. Letting - Project advertisement; acceptance of bids, and award of project;

e. Construction - Purchase of mitigation bank credits, financial contributions to water management district regional watershed projects, earth moving, fencing, mitigation site establishment, construction inspection, and final project acceptance; and

f. Post Construction Activities - Success criteria monitoring, maintenance and removal of exotic species, vegetation replanting, site modifications to slope and adjustments to control and

drainage structures, and preparation of post construction reports and documents.

5. Requests for transfer of funds to reimburse for actual conceptual plan preparation costs that are submitted to the Department and DEP by November 1 of each year must also indicate the Department financial projects to which the costs will be charged.

6. Any invoices or requests for transfer shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

7. Upon receipt of invoice, the Department has five (5) working days to inspect and approve the services. The Department has 20 days to deliver a request for payment (voucher) to the Department of Banking and Finance. The 20 days are measured from the latter of the date the invoice is received or the services are received, inspected and approved.

8. If payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 215.422, Florida Statutes, shall be due and payable, in addition to the invoice amount, to the District. Interest penalties of less than one (1) dollar shall not be enforced unless the District requests payment. Invoices which have to be returned to a District because of District 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 the Department.

9. A vendor ombudsman has been established within the department of Banking and Finance. 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 State Comptroller's Hotline, 1-800-848-3792.

10. Records of costs incurred shall be maintained and made available upon request to the Department for three years after final payment for the work pursuant to Florida Statute 337.4137. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred shall include the District's general accounting records and the project records, together with supporting documents and records, of the District and all subcontractors considered necessary to the Department for a proper audit of project costs.

11. The Department, during any fiscal year, 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. The Department shall require a statement for the comptroller of the Department 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. Accordingly, the Department's performance and obligation to pay under this understanding is contingent upon an annual appropriation by the

Legislature.

12. All invoices and requests for transfer shall be submitted to the Department at the following address: Florida Department of Transportation, Office of Comptroller, Financial Management Office, 3717 Appalachee Parkway, Suite E, Tallahassee, Florida, 32311.

13. Any invoices or requests for transfer that include travel expenses shall be submitted and paid in accordance with Section 112.061, Florida Statutes.

14. The District and the Department will allow public access to all documents and materials relating to this agreement in accordance with the provisions of Chapter 119, Florida Statutes. Should the District or the Department assert any exemption to the requirements of Chapter 119, Florida Statutes, the burden of establishing such exemption, by way of injunctive relief or as otherwise provided by law, shall be upon that party.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed effective as of the date first set forth above.

FLORIDA DEPARTMENT OF TRANSPORTATION

By: Thomas F. Barry, Jr.
Thomas F. Barry, Jr., Secretary

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

By: E. D. "Sonny" Vergara
E. D. "Sonny" Vergara, Executive Director

APPROVED FUNDS AVAILABLE
ROBIN NAITOVE - COMPTROLLER

Approved as to Legal Form and
Content
Kam & West 5/21/01
Attorney

JUN 11 2001

BY Robin Naitove

Legal Review: 6-14-01 oldpl

By: Robert B. ...
Attorney - DOT



Appendix C – Inventory Spreadsheet

Project Information								Permit Information											COMMENTS		
FDOT District	FY	FM #	Project Title	Basin	County	Water Management District	Letting Date	Permit Type					Listed Species Affected ? (Y/N)	FLUCC S	Wetland Impact acres		Functional Loss (UMAM score/credit)	Anticipated Mitigation Type		Selected Mitigation Type	
								Agency	Type	App Date	Status	Permit No.			Forested Acres	Herbaceous Acres					
Project Information: <i>If the project has more than one permit, use multiple rows.</i> FY: Identify Fiscal Year of letting (example 12/13) FDOT District: Identify FDOT District FM#: Identify project FM number (11 digits) Project Title: Identify Project Name Basin: Identify basin of impact County: Identify project location county Water Management District: Identify WMD where project is located Letting Date: Identify letting date								Permit Information: Permit Type - Add information for Federal or State permit(s) requiring mitigation Agency: Identify DEP, WMD or ACOE (please use a separate row for each permit required) Type: Identify permit type (<i>Do not include NPDES permits</i>) For ACOE: N = Nationwide; I = Individual For DEP or WMD: C = Conceptual; G= General; I = Individual App Date: Identify date of permit application Status: Identify permit status I = Issued (if issued, identify expiration date) A = Applied/Pending M = Modification Listed Species Affected?: Yes or No FLUCCS: Identify FLUCCS code (use separate rows for each FLUCCS) Wetland Impact: Identify acres of impacted forested or herbaceous wetland acres Functional Loss: List UMAM functional loss FL= impact delta x impact acres Anticipated Mitigation Type: Identify the type of mitigation DEP or WMD FDOT Mitigation Bank Selected Mitigation Type: Identify final mitigation option used											Comments: Provide any additional details as needed		



Appendix E – Invoicing Form

Mitigation Invoice for FDOT								Invoice Date:	[xx/xx/xx]		
								Invoice No.:	[xxxxxx]		
								CSFA:	55.031		
FROM: Agency Name (WMD or FDEP):								TO: FDOT District:			
Street Address:								Street Address:			
City, State, ZIP Code:								City, State, ZIP Code:			
Agency Contact Name								District Permit Coordinator:			
Telephone No. (000-000-0000):								Telephone No. (000-000-0000):			
E-mail Address:								Customer ID [ABC12345]:			
Contract Number	FDOT Project FM	Project Information/Description					Invoice Information				
		FDOT Project Name	Mitigation Site Name	Type of Mitigation	Status Report Due Date	% Mitigation Completion (if applicable)	Work Performed	Billing Period	Quantity Billed [Impact Acre or credit]	Unit Price [Impact Acre (S. 373.4137,FS) or credits]	Total Amount
[Assigned to FDEP and WMDs]	[1234567]	[Ex. SR 60 FROM PINELLAS/HILLS CO/ TO ROCKY POINT DR]	[Ex. SW 86 (Mobbey Bayou Wilderness Preserve)]	[Ex. Restoration]	[Ex. January]		[Ex. Long Term Maintenance]	[Date(s)]	0.1	[\$xxx,xxx]	
									TOTAL AMOUNT DUE THIS INVOICE:		
VENDOR/AGENCY SIGNATURE:											

Work Performed:

1. Early Plan Development – Review of FDOT inventory, field review of impact sites, identification of conceptual plans and sites, preparation of plans
2. Plan Development – Mitigation plan development to thirty to forty percent completion, field review of mitigation sites, appraisals and surveys, purchase of lands, easements, and conservation easements
3. Final Plan Development – Completion of plan development, preparation of pay item quantities, preparation of contract provisions, and preparation of bid packages
4. Letting – Project advertisement, acceptance of bids, and award of project
5. Construction – Earth moving, fencing, mitigation site establishment, construction inspection, and final project acceptance
6. Post Construction Activities – Success criteria monitoring, maintenance and removal of exotic species, replanting, site modifications, and preparation of post construction reports and documents
7. Long-term maintenance – Activities associated with ensuring success, elimination of exotics, site protection measures, etc.