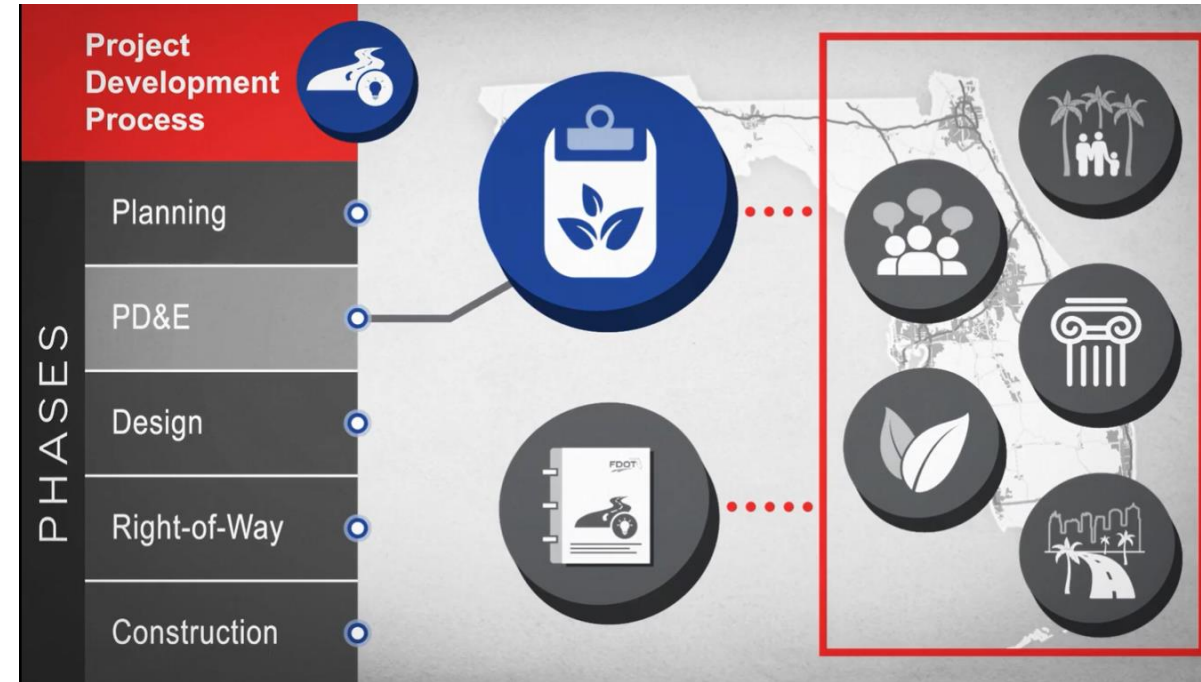


# Environmental Training for Florida Turnpike Enterprise

Archaeological and Historic Resources  
 Matt Marino, M.A., RPA



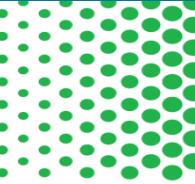
*August 2020*

The environmental review, consultation, and other actions required by applicable federal environmental laws described in this training are carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 executed by FHWA and FDOT.

# Overview

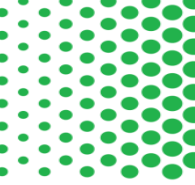
- Section 106/Chapter 267
- State vs Federal projects
- Tribal Coordination
- Overview of 4-step process
- Definitions and terminology
- Section 106 PA
- Environmental Documents





## Section 106 of the National Historic Preservation Act

*The head of any **Federal agency** having direct or indirect jurisdiction over a proposed **Federal or federally assisted undertaking** in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, **prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under Title II of this Act a reasonable opportunity to comment** with regard to such undertaking. [16 U.S.C. 470f]*



## Chapter 267, Florida Statutes: Florida Historical Resources Act

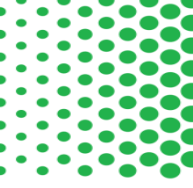
*Each **state agency** of the executive branch having direct or indirect jurisdiction over a **proposed state or state-assisted undertaking** shall, in accordance with state policy and prior to the approval of expenditure of any state funds on the undertaking, consider the effect of the undertaking on any historic property that is included in, or eligible for inclusion in, the National Register of Historic Places. Each such agency shall afford the division a reasonable opportunity to comment with regard to such an undertaking. [267.061(2)(a)]*

## State Process

- Chapter 267, F.S.
- Consult with FDOS FDHR
  - Director of FDHR also serves as SHPO
- No consultation with ACHP or other Federal agencies
- Approvals made by District or TPE
- Documentation and site reporting requirements set forth in Ch 1A-46 F.A.C.
- Section 4(f) does not apply

## Federal Process

- Section 106 of the NHPA
- Consult with SHPO
  - SHPO is also Director of FDHR
- Must afford ACHP opportunity to comment
- Approvals made by OEM, consultation documents must go through OEM review
- Documentation and reporting requirements in 36 CFR Part 800
- Section 4(f) compliance required



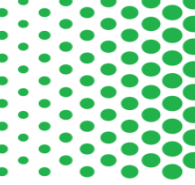
## State Process

- Chapter 267, F.S.
- Consult with FDOS FDHR
  - Director of FDHR also serves as SHPO
- No consultation with ACHD or other Federal agencies
- Approvals made by OEM, consultation documents must go through OEM review
- Documentation and reporting requirements in 36 CFR Part 800
- Section 4(f) does not apply

## Federal Process

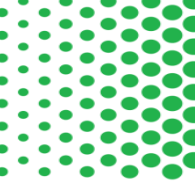
- Section 106 of the NHPA
- Consult with SHPO
  - SHPO also serves as FDHR
- Opportunity to provide input
- Approvals made by OEM, consultation documents must go through OEM review
- Documentation and reporting requirements in 36 CFR Part 800
- Section 4(f) compliance required

**OEM procedures designed to comply with both Ch 267, F.S. and Section 106**



# Tribal Coordination

- Not required by Chapter 267, F.S., but required by FDOT OEM procedures
- Notify Tribes when project involves sites that may be of importance to them
  - Historic sites with known associations; any archaeological sites
  - When in doubt, notify Tribes
- Coordination is not Consultation
  - Government-to-Government consultation must be requested
  - Inform OEM!
  - Retained by FHWA



### Initiate [36 CFR § 800.3]

- Initiate the Section 106 Process

### Identify [36 CFR § 800.4]

- Identify Historic Properties

### Assess [36 CFR § 800.5]

- Assess Adverse Effects

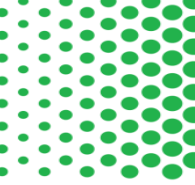
### Resolve [36 CFR § 800.6]

- Resolve Adverse Effects

# The Section 106 Process

[36 CFR Part 800]





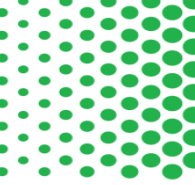
## Step 1: Initiate the Section 106 Process [36 CFR § 800.3]

- Establish undertaking
- Coordinate with other reviews
- Initiate consultation
- Create public involvement plan
- Notify SHPO/THPO

### EXIT POINT:

- No “undertaking,” or
- no potential to cause effects to historic properties

Can be done in ETDM for qualifying projects



## Step 2: Identify Historic Properties [36 CFR § 800.4]

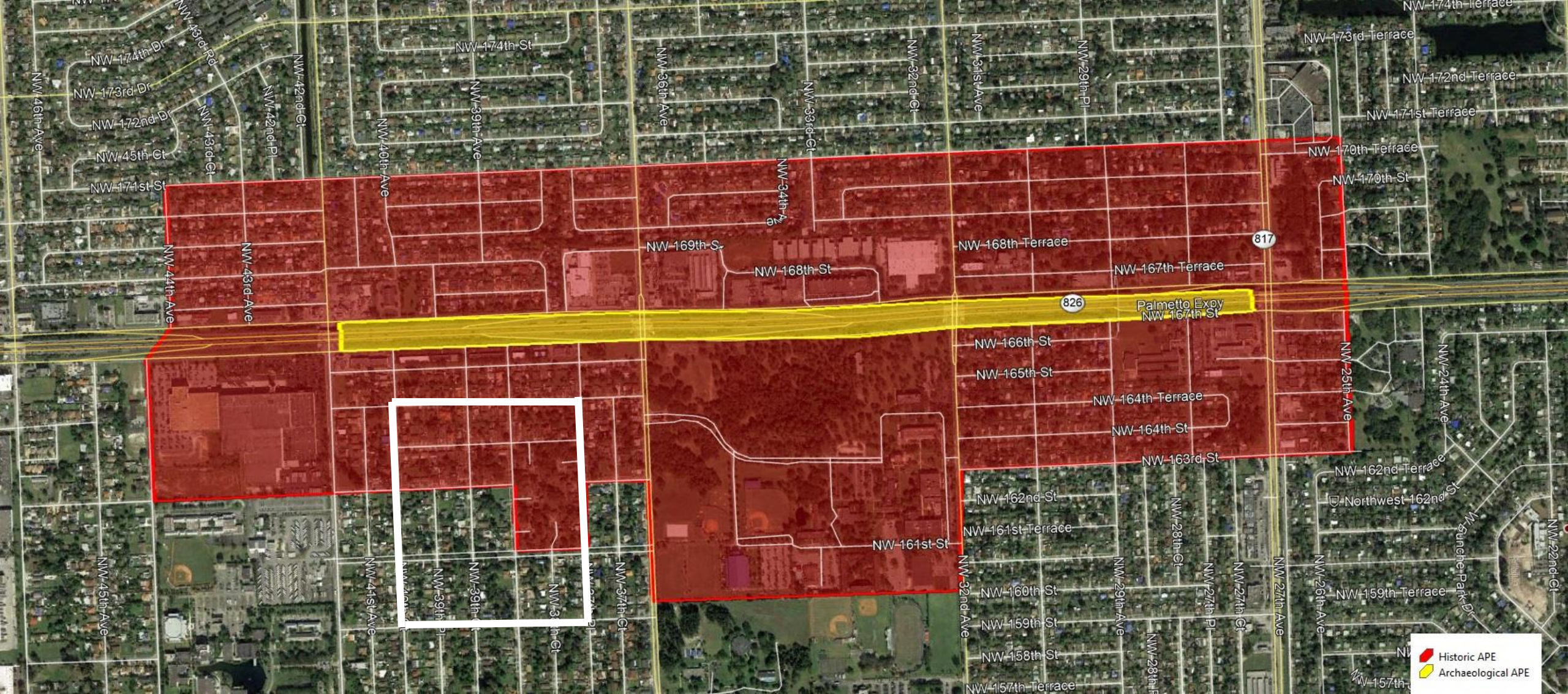
- **Determine APE**

- Identify historic properties
- Consult with SHPO/THPO
- Involve the public

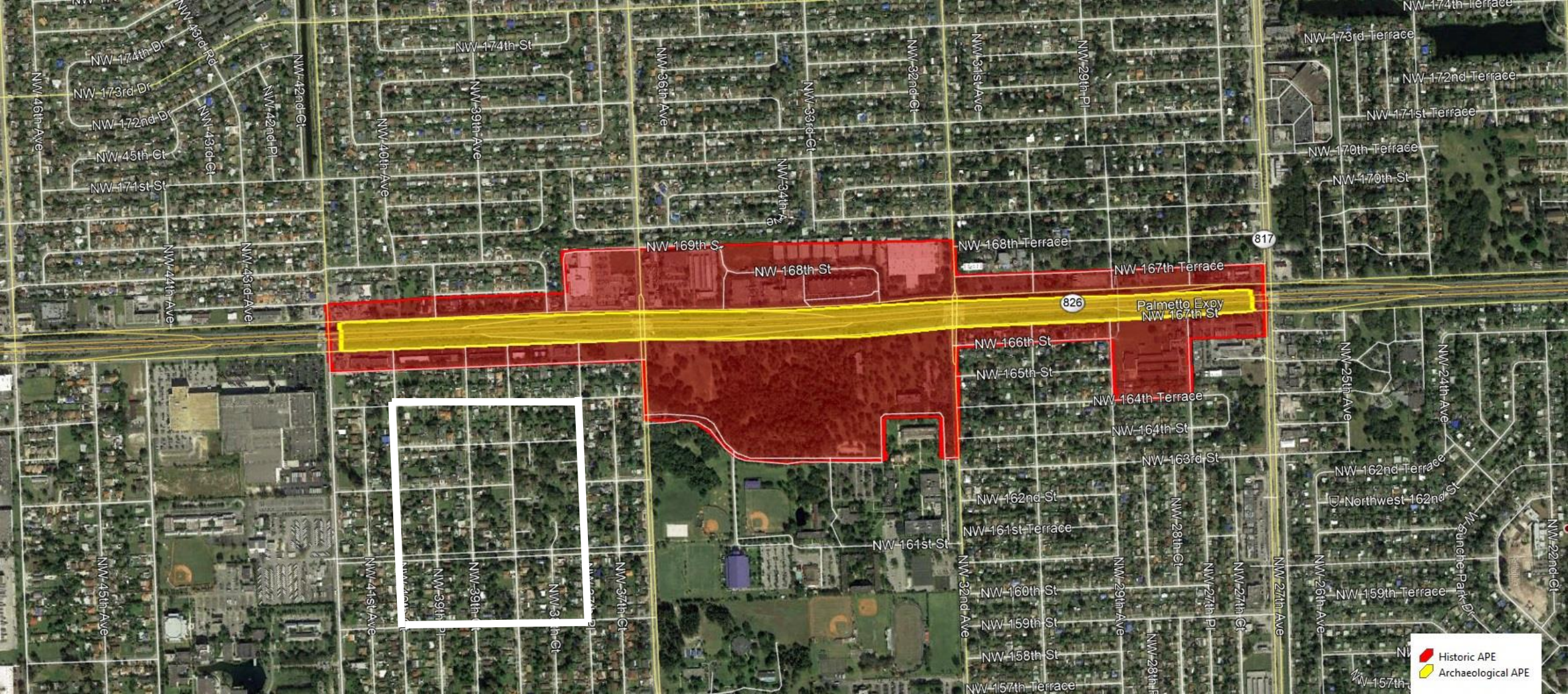
### **EXIT POINT:**

- No Historic Properties present affected (nothing in the APE)

Can (mostly) be done in ETDM for qualifying projects



# Determine APE



## Determine APE

# Cultural Resources vs Historic Properties

- **HISTORIC PROPERTY** is any **CULTURAL RESOURCE** (precontact or historic district, site, building, structure, or object) that is **included in, or eligible for inclusion in, the National Register of Historic Places** (National Register/NRHP) [36 CFR § 800.16(l)(1)]
  - “Historic” = 50+ years old
- The National Register, established by the NHPA and maintained by the Secretary of the Interior, is the official list of the Nation’s historic resources deemed worthy of preservation [36 CFR § 800.16(q)]

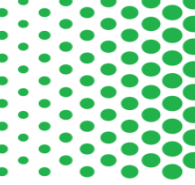


# National Register Criteria for Evaluation

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess **INTEGRITY** of location, design, setting, materials, workmanship, feeling, and association, and:

- A. That are associated with **events** that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of significant **persons** in our past; or
- C. That embody the **distinctive characteristics** of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded or may be likely to yield, **information** important in history or prehistory.



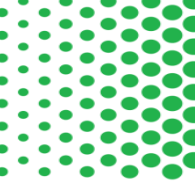


## Step 3: Assess Adverse Effects [36 CFR § 800.5]

- Apply the criteria of adverse effect
- Consult with SHPO/THPO
- Involve the public

### **EXIT POINT:**

- No historic properties adversely affected



## Step 4: Resolve Adverse Effects [36 CFR § 800.6]

- Notify ACHP
- Avoid, minimize, or mitigate adverse effects
- Consult with SHPO/THPO
- Involve the public

### EXIT POINT:

- Memorandum of Agreement (MOA) or other appropriate agreement document
  - For state-only projects, agreement between FDHR and TPE Director
  - For Federal projects, agreement between SHPO and FDOT OEM



**PROGRAMMATIC AGREEMENT  
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
THE FLORIDA DIVISION OF HISTORICAL RESOURCES, STATE HISTORIC  
PRESERVATION OFFICER, AND THE FLORIDA DEPARTMENT OF  
TRANSPORTATION REGARDING IMPLEMENTATION OF  
THE FEDERAL-AID HIGHWAY PROGRAM IN FLORIDA**

**WHEREAS**, the Federal Highway Administration (FHWA) implements the Federal-Aid Highway Program (Program) in the State of Florida authorized by *Title 23 U.S.C. § 101 et seq.*, by funding and approving State and locally sponsored transportation projects; and

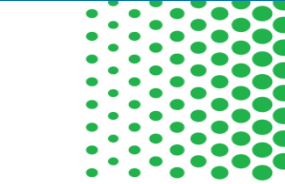
**WHEREAS**, the Florida Division Administrator (Administrator) for FHWA is the “Agency Official” responsible for compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, *54 U.S.C. § 300101 et seq.*, and implementing regulations under *36 C.F.R. Part 800*; and

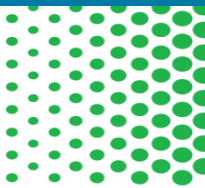
**WHEREAS**, the State of Florida, Department of Transportation (FDOT) administers Federal aid highway projects throughout Florida as authorized by *Title 23 U.S.C. § 101 et seq.*; and

**WHEREAS**, the Director of the Florida Division of Historical Resources (FDHR) serves Florida State Historic Preservation Officer (SHPO) and is responsible under Chapter 267, Florida Statutes (F.S.) (Florida Historical Resources Act), Sections 106 and 110 of the NHPA, and *36 C.F.R. Part 800* to advise, assist, review, and consult with State and Federal agencies as they carry out their historic preservation responsibilities; and

**WHEREAS**, FHWA has determined that certain transportation projects constitute “undertakings” as defined in *36 C.F.R. § 800.16(y)* which may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places (NRHP), hereafter referred to as historic properties, and has consulted with the SHPO and the Advisory Council on Historic Preservation (ACHP) pursuant to *36 C.F.R. § 800.163*; and

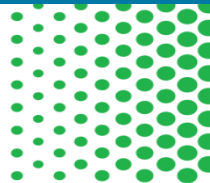
# FDOT Section 106 Programmatic Agreement





## V. Review of Minor Projects with No Potential to Affect Historic Properties

- A. In accordance with the AOA, due to their nature and definition, the minor project types listed in **Exhibit 1** have no potential to cause effects to historic properties, provided that the following conditions are met:
1. The activity is a stand-alone project;
  2. The activity does not occur on tribal lands;
  3. The activity does not include and is not located in or adjacent to any historic resources of 50 years of age or older; nor listed on the NRHP; nor is it a NHL;
  4. The project must be limited to one of the activities specified in **Exhibit 1**; and
  5. The SHPO and FHWA have been notified of the finding of no potential to affect historic properties and the rationale for the finding, and have not objected to the finding within thirty (30) days of its receipt of the notification.



## V. Review of Minor Projects with No Potential to Affect Historic Properties

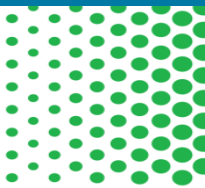
A. In accordance with the AOA, due to their nature and definition, the minor project types listed in **Exhibit 1** have no potential to cause effects to historic properties, provided that the following conditions are met:

1. The activity is a stand-alone project;
2. The activity does not occur on tribal land;
3. The activity does not include and is not adjacent to historic resources of 50 years of age or older;
4. The project must be limited to one of the following categories:
5. The SHPO and FHWA have been notified of the project, and the SHPO has found no historic properties and the rationale for the finding within thirty (30) days of its review.

### EXHIBIT 1

#### Minor Project Activities with No Potential to Affect Historic Properties

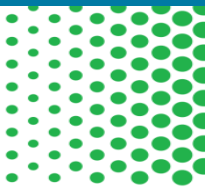
1. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
2. In kind replacement or ordinary repair of existing lighting, guardrails, traffic signals, curbs, and sidewalks.
3. Activities included in the State's highway safety plan under 23 USC 402.
4. Preventive maintenance activities such as joint repair, pavement patching, shoulder repair, and the removal and replacement of old pavement structure.
5. Restoration, rehabilitation, and/or resurfacing of existing pavement.
6. Restoration and rehabilitation of existing bridge (including painting, crack sealing, joint repair, scour repair, scour counter measures, fender repair, bridge rail or bearing pad replacement, seismic retrofit, etc.).



## VI. Review of Minor Projects Considered Unlikely to Affect Historic Properties

A. In accordance with the AOA, due to their nature and definition, certain minor project activities are unlikely to cause effects to historic properties. These activities, listed in **Exhibit 2**, will be subject to an internal review process comprised of a desktop evaluation and/or field review by FDOT District Environmental staff and their consultants. These minor projects will have no potential to affect historic properties provided the following conditions are met:

1. The activity is a stand-alone project;
2. The activity does not occur on tribal lands;
3. The activity is limited to one of the activities specified in **Exhibits 1 and 2**;
4. The desktop analysis and/or field review efforts discussed below result in the identification of no historic resources within the project APE; and
5. The SHPO and FHWA have been notified of the finding of No Historic Properties Affected and the rationale for the finding, and have not objected to the finding within thirty (30) days of its receipt of this notification.



## VI. Review of Minor Projects Considered Unlikely to Affect Historic Properties

A. In accordance with the AOA, due to their nature and definition, certain minor project activities are unlikely to cause effects to historic properties. These activities, listed in **Exhibit 2**, will be subject to an internal review process comprised of a desktop evaluation and/or field review by FDOT District Environmental staff and their consultants. These minor projects will have no provided the following conditions are met:

1. The activity is a stand-alone project;
2. The activity does not occur on tribal land;
3. The activity is limited to one of the activities listed in the AOA;
4. The desktop analysis and/or field review identifies no historic resources within the project area;
5. The SHPO and FHWA have been notified of the project, the list of Properties Affected and the rationale for the finding within thirty (30) days of its completion.

### EXHIBIT 2

#### Minor Project Activities Considered Unlikely to Affect Historic Properties

1. Activities which do not involve or lead directly to construction, such as planning and technical studies; grants for training and research programs; research activities, as defined in *23 United States Code (U.S.C.) 307*; approval of a unified work program and any findings required in the planning process pursuant to *23 U.S.C. 134*; approval of statewide programs under *23 C.F.R. 630*; approval of project concepts under *23 C.F.R., Part 476*; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.
2. Approval of utility installations along or across a transportation facility.
3. Construction of bicycle and pedestrian lanes, paths, and facilities.
4. Transfer of Federal lands pursuant to 23 USC 317 when subsequent action is not an FHWA action.
5. The installation of noise barriers, or alterations, to existing publicly-owned buildings to provide for noise reduction.
6. Landscaping. and 51 other items...

# Planning

- ETDM/EST (Step 1, part of Step 2)
- Red Flags
- Early identification of issues and some consulting parties

# PD&E

- Finish the 4-step process

# Row/Design

- Changes in design, passage of time, or other factors may require a re-evaluation of cultural resource decisions made during PD&E.

# Construction

- Complete any mitigation/minimization measures, if necessary
- Archaeological monitoring; post-review discoveries
- Borrow pits? Contractors' responsibility to comply.



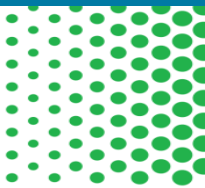
# FDOT Project Development Process



# PD&E Tasks

- Complete a CRAS (Step 2, Identify/Evaluate)
  - Identify the Area of Potential Effect (APE)
  - Record Historic Resources
  - Evaluate resources for significance
  - Request FDHR concurrence
- Complete Criteria of Effects Report (Step 3, Assess)
  - No Historic Properties Affected
  - Historic Properties Affected
  - Request SHPO concurrence
- Execute an MOA (Step 4, Resolve)
  - In consultation with FDHR and consulting parties





## 2B. Cultural Impacts

A Cultural Resource Assessment Survey (CRAS) was conducted in accordance with requirements set forth in the National Historic Preservation Act of 1966, as amended, and Chapter 267, Florida Statutes. All work was performed in accordance with the standards outlined in Part 2, Chapter 8 (Archaeological and Historical Resources) of the FDOT's *PD&E Manual* (FDOT, 2019e), and the standards and guidelines contained in the *Cultural Resource Management Standards and Operational Manual: Module 3* (Florida Division of Historical Resources, 2003). The State Historic Preservation Officer (SHPO) concurrence letter is provided in Appendix C (signed by the SHPO on October 22, 2019). The following sections summarize the results of the evaluation of cultural resources.

To encompass all potential improvements, the Area of Potential Effect (APE) was defined to include the composite construction footprint for the roadway alternatives and ponds. This APE was extended to the back or side property lines of parcels adjacent to the roadway footprint or no more than 100 meters (330 ft). The APE for the proposed ponds included the pond footprints in addition to a 30.5-meter (100-ft) buffer. The archaeological survey was conducted within the construction footprint of the roadway and ponds. The historic structure survey was conducted within the entire APE.

### 2B1. Historic Sites/Districts

The architectural survey resulted in the identification and evaluation of 107 historic resources within the APE, including 41 previously recorded resources and 66 newly recorded resources. The previously recorded resources include one linear resource, three resource groups, and 37 structures. The newly recorded resources include one linear resource, three resource groups, and 62 structures. No existing or potential historic districts were identified.

None of the previously recorded resources were determined eligible for the National Register of Historic Places (NRHP). FTE found that all 107 resources do not meet eligibility criteria for NRHP listing because of a lack of the significant historic associations, architectural distinction, and/or historic integrity. No further architectural history survey is recommended. Therefore, FTE, in consultation with SHPO, has determined that the proposed project will result in no historic properties affected.

FTE found that these resources do not meet the eligibility criteria for inclusion in the NRHP, and SHPO has concurred with this evaluation. Therefore, FTE, in consultation with SHPO, has determined that the proposed project will result in no historic properties affected.

### 2B2. Archaeological Sites

The archaeological survey consisted of pedestrian survey and systematic shovel testing within the project construction footprint. Extensive ground disturbance from buried utilities, drainage features, and development have affected much of the proposed corridor, precluding testing throughout much of the footprint. A total of 85 shovel tests were excavated yielding only modern refuse. No prehistoric or historic artifacts were recovered, and no archaeological sites or occurrences were identified within the construction footprint. No further archaeological survey is recommended in support of the proposed Colonial Parkway project improvements.

No archaeological sites were identified, and FTE, in consultation with SHPO has determined that the project will result in no archaeological sites affected.

### 2B3. Recreational Areas

There are no recreational areas in the project area.

# Environmental Documents

- Summarize results of consultation and resource identification efforts (minor project notification forms, CRAS, Section 106 Case Study Report, MOA)
- List mitigation measures in commitments section
- Attachments: FDHR concurrence letters, MOA, Tribe letters
- Technical Materials: technical documents, FMSF forms, public involvement materials, etc.
- Ensure that a determination is made for historic properties (not just archaeological sites or historic resources)
- Confirm that FDHR has concurred, and letter is attached
- Confirm that summary accurately reflects what the consultation documents say
- If applicable, confirm that Tribal consultation is discussed



# Supplemental Resources

[36 CFR Part 800](#)

[Chapter 267, Florida Statutes](#)

[Part 2, Chapter 8 of the PD&E Manual](#)

[Section 106 Process Training](#)

[Type 2 CE Standard Statements](#)

[Section 106 PA](#)

[FDOT MOA Template](#)

[CRM Handbook](#)

[FDHR Module 3](#)

[AASHTO Practitioner's Handbook](#)

