

**Programmatic Agreement for Categorical Exclusions  
under 23 CFR § 771.117**

**between**

**The Federal Highway Administration – Florida Division**

**and**

**The Florida Department of Transportation**

**REGARDING THE PROCESSING OF ACTIONS CLASSIFIED AS CATEGORICAL  
EXCLUSIONS FOR FEDERAL-AID HIGHWAY PROJECTS**

**October 2015**



THIS PROGRAMMATIC AGREEMENT (“Agreement”), made and entered into this 30 day of October 2015, by and between the FEDERAL HIGHWAY ADMINISTRATION, UNITED STATES DEPARTMENT OF TRANSPORTATION (FHWA) and the STATE of Florida, acting by and through its DEPARTMENT OF TRANSPORTATION (FDOT) hereby provides as follows:

### **Section 1: PARTIES**

The Parties to this Agreement are the Federal Highway Administration (FHWA) and the Florida Department of Transportation (FDOT).

### **Section 2: BACKGROUND**

The National Environmental Policy Act (NEPA) requires Federal agencies to evaluate environmental impacts of proposed federal actions (42 U.S.C. §§ 4321 – 4370 *et seq.*). There are three classes of actions (COA) which determine the level of documentation required by the NEPA process (23 CFR § 771.115). A Class II COA includes project actions that do not individually or cumulatively have a significant environmental effect and are excluded from the requirement to prepare an Environmental Impact Statement (EIS) or an Environmental Assessment (EA). In Florida the Class II COA previously included three types of categorical exclusions (CE). One type of CE projects are those listed as CEs authorized under 23 CFR § 771.117(c). The Florida process designates these listed CEs as Type 1 CEs. The second type of CE project are those actions that may qualify as CEs when appropriately documented and approved by the Federal Highway Administration (FHWA) as provided under 23 CFR § 771.117(d). The Florida process designates these as Type 2 CEs.

### **Section 3: AUTHORITIES**

This agreement is entered into pursuant to the following authorities:

- A. National Environmental Policy Act, 42 U.S.C. §§ 4321 - 4370
- B. Moving Ahead for Progress in the 21st Century Act, Pub.L. 112-141, 126 Stat. 405, Sec. 1318(d)
- C. 40 CFR parts 1500 - 1508
- D. DOT Order 5610.1C
- E. 23 CFR §§ 771.109, 771.113 and 771.117
- F. Section 334.044, Florida Statutes

### **Section 4: AGREEMENT FRAMEWORK**

FHWA may enter into programmatic agreements with a state department of transportation to allow the state to make a NEPA CE determination and approval on FHWA’s behalf. This Programmatic Agreement (Agreement) is entered into by FHWA and FDOT (the parties) and authorizes FDOT to make a CE determination and provide approval on behalf of FHWA for CEs listed in 23 CFR § 771.117(c) and identified in (d) and meeting the criteria established in Section 6 of this Agreement.

### **Section 5: PURPOSE & INTENT**

This Agreement streamlines the environmental review process for Type 1 CE actions, giving FDOT the responsibility to make CE approvals on behalf of FHWA for certain projects. FDOT may review and make CE approvals on behalf of FHWA for projects that are actions listed in 23 CFR § 771.117(c) and identified in 23 CFR § 771.117(d), which meet the criteria established in Section 6 of this Agreement. This Agreement supersedes previous agreements between FHWA and FDOT with regard to Type 1 CEs and former Programmatic categorical exclusions (PCEs).

In Florida, Type 2 CEs are actions not specifically listed or identified as CEs in 23 CFR § 771.117, but meet the requirements of a CE under 40 CFR 1508.4 and 23 CFR 771.117(a). For these types of projects, FDOT shall certify that the action will not result in significant environmental impacts if FDOT concludes that the action qualifies for a CE under 23 CFR 771.117(d) due to its scope and similar nature, and the action does not involve unusual circumstances that warrant the preparation of an EA or EIS. FDOT shall submit this documentation to FHWA for approval. FHWA approval of Type 2 CE actions will be based on the project's scope, documentation, and certifications submitted by FDOT.

FHWA is responsible for providing timely advice and technical assistance on CEs to FDOT, as requested, and providing timely input and review of certified actions. FHWA will also oversee the implementation of this Agreement in accordance with the provisions in Section 11, including applicable monitoring and performance provisions.

### **Section 6: CRITERIA**

Actions classified as Type 1 CEs [as listed in 23 CFR § 771.117(c) and identified in (d)] meet the definition for CEs contained in 40 CFR § 1508.4 and 23 CFR § 771.117(a), because they do not individually or cumulatively have significant environmental impacts. Projects which are determined to be Type 1 CEs normally do not require any further NEPA approvals by FHWA as described in 23 CFR § 771.117(c) and (d), and that meet the criteria established in this Section of this Agreement.

To qualify as a Type 1 CE through this Agreement FDOT's proposed actions must satisfy the conditions described under 23 CFR § 771.117(a) which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions:

- Do not involve significant environmental impacts;
- Do not induce significant impacts to planned growth or land use for the area;
- Do not require the relocation of significant numbers of people;
- Do not have a significant impact on any natural, cultural, recreational, historic or other resource;
- Do not involve significant air, noise, or water quality impacts;
- Do not have significant impacts on travel patterns; or
- Do not otherwise, either individually or cumulatively, have any significant environmental impacts.

In addition the FDOT must consider whether unusual circumstances, under 23 CFR § 771.117(b), apply to their actions. Any action which normally would be classified as a CE but could involve unusual circumstances will require FDOT to consult with FHWA to determine the appropriate class of action for environmental analysis and documentation. The FDOT may decide or FHWA may require additional studies to be performed prior to making a CE approval. Such unusual circumstances include:

- (1) Significant environmental impacts;
- (2) Substantial controversy on environmental grounds;

- (3) Significant impact on properties protected by section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or
- (4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

When FDOT evaluates a proposed action under 23 CFR § 771.117(c) and (d) to comply with the provisions in § 771.117(a), (b) and (e) [Note: (e) only applies to (c)(26), (c)(27) and (c)(28)], the following additional criteria also must be satisfied in order for the proposed action to qualify as a Type 1 CE. For each proposed action FDOT shall determine whether:

- (1) The action causes no major adverse impacts on travel patterns, planned growth land use for the area or access control.
- (2) The action causes no adverse impacts to air, noise or water quality.
- (3) The action causes no wetland impacts that would require an individual Section 404 Permit from the U.S. Army Corps of Engineers (USACE) under the Clean Water Act, Section 404, 33 U.S.C. § 1344 and/or section 10 of the Rivers and Harbors Act.
- (4) The action causes no impacts to navigation that would require an individual U.S. Coast Guard (USCG) Bridge Permit.
- (5) The action causes no impacts greater than minimal floodplain encroachments, which will not affect flood heights or base flood plain limits.
- (6) The action does not require construction in, across, or adjacent to a river designated as a component of, or proposed for inclusion in, the National System of Wild and Scenic Rivers (for 23 CFR 771.117(c)(26), (27), and (28)).
- (7) The action results in a “no involvement,” “no effect,” or with concurrence from US Fish and Wildlife Service or National Marine Fisheries Service, as appropriate, a “may affect but not likely to adversely affect” determination concerning impacts to endangered and threatened species and/or their critical habitat in accordance with Section 7 of the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1536(a)-(d).
- (8) The action would only require minor amounts of right-of-way and would not result in any residential or non-residential displacements.
- (9) The action does not impact any properties protected by Section 4(f) of the U.S. Department of Transportation Act, 49 U.S.C. § 303, or FHWA has made a determination that Section 4(f) is not applicable in accordance with 23 CFR § 774.
- (10) The action has no involvement, a “no effect,” or “no adverse effect” determination regarding properties protected under Section 106 of the National Historic Preservation Act.
- (11) The action has no known contamination sites which would have more than a minimal impact to design, and right-of-way or construction activities once assessed can be avoided or remediated.
- (12) The action has no substantial controversy on environmental grounds.

FDOT’s project records will demonstrate that the Type 1 CE activity satisfies the above identified criteria through the use of a checklist (Attachment B), desk top and/or field reviews, consultation with resource agencies, and supporting documentation or technical reports, as appropriate. FDOT’s Approval of the checklist will only be by a District Environmental Administrator or his/her delegate. If an action does not satisfy the 11 criteria listed above for a Type 1 CE, FDOT may need to conduct appropriate environmental studies to determine if the CE classification is proper, or if the project should be elevated for FHWA approval.

### **Section 7: TYPE 1 CEs**

FDOT may process for approval proposed Type 1 CE actions so long as the action is listed in 23 CFR § 771.117(c) or an identified example action in (d), satisfies the definition for a CE in the Council on Environmental Quality (CEQ) regulations (40 CFR § 1508.4) and the criteria identified in Section 6 of this Agreement. Once FDOT has documented that all the criteria listed above have been satisfied and documented in the project file (Attachment B), FDOT may make the CE approval on behalf of FHWA. FDOT approved Type 1 CE actions normally do not require any further NEPA approvals by the FHWA.

Qualifying Type 1 CE activities are listed in 23 CFR § 771.117(c) and identified in (d). FDOT may continue to process these actions as Type 1 CEs so long as the currently listed CE action that now applies is recorded using Attachment B and is placed in the project file. The specific CE action now listed in 23 CFR § 771.117 are contained in Attachment A.

Each of these activities in Attachment A must satisfy the criteria identified in Section 6 of this Agreement to qualify as a Type 1 CE. Type 1 CE actions listed in 23 CFR § 771.117(c)(26), (27) and (28) must also satisfy the criteria set forth in 23 CFR § 771.117(e).

### **Section 8: TYPE 2 CEs**

For Type 2 CEs FHWA will determine whether the project satisfies the criteria in 40 CFR § 1508.4 and 23 CFR § 771.117. Examples of project types which may qualify as a Type 2 CE in Florida are found in Attachment C (not all inclusive). FDOT shall provide documentation in the format of Attachment D with referral attachments, and based on the sufficiency of this documentation FHWA will approve the Type 2 CE.

FDOT will ensure the commitments developed during the Type 2 CE are transmitted to future phases, updated as appropriate, and tracked until completion per 23 CFR §§ 771.129(c) and 771.133.

### **Section 9: QUALITY CONTROL/ASSURANCE**

FDOT will conduct its environmental evaluation and documentation of each action in accordance with this Agreement and federal regulations.

The FDOT District staff will maintain a list of approved Type 1 and Type 2 CE projects and annually provide the list to the State Environmental Management Office (SEMO) and FHWA, including the specific category of projects found in 23 CFR § 771.117. SEMO will select two Type 1 and one Type 2 projects in each FDOT District and conduct a Quality Assurance Review (QAR) and prepare a QAR report, which will be shared with FHWA and the FDOT Districts. If any concern(s) is identified, or if a corrective action(s) is necessary, action will be taken by FDOT District in coordination with SEMO and FHWA to address the concern(s), as appropriate.

Type 2 CE documents are to be tracked and annually discussed with Florida Division of FHWA. If through experience these actions are identified as projects which qualify as CEs, they should be provided with justification to FHWA for consideration for inclusion in the 23 CFR § 771.117 as a c-List or d-type project activity, per 23 CFR § 771.117(f).

### **Section 10: PROJECT DOCUMENTATION & RECORD RETENTION**

Documentation of Type 1 and Type 2 (see Attachments B and D) CEs consists of an evaluation checklist prepared after environmental analysis has been completed. Documentation of the results of any analysis or

coordination that support the checklist is maintained in the project file for the administrative record. Thus, the project file will include any supporting documents and/or technical reports required to substantiate the responses or evaluations on the checklist. Project files will also include documentation of agency communication, field notes, etc. to support the determination that the project qualifies as a Type 1 CE. Documentation FDOT compiles for a project's file will support the FDOT determination that the action will not have significant environmental impacts and that identified issues have been addressed.

Records shall be retained at least 3 years past final construction voucher approval in accordance with federal standards.

### **Section 11: REEVALUATIONS**

In accordance with 23 CFR § 771.129, the FDOT shall re-evaluate its Type 1 and Type 2 CE determinations and certifications for projects, consult with FHWA, and as necessary, prepare additional documentation to ensure that determinations are still valid. Type 1 CE (and former PCE projects) reevaluations are documented through FDOT's evaluation checklist and environmental certification when requesting federal authorization through its Federal Aid Office or advancing a project phase. Type 2 CEs will be reevaluated based on consultation with FHWA.

### **Section 12: MONITORING PROCESS**

The FHWA and FDOT will jointly review Type 1 and Type 2 CE projects to ensure compliance with the terms of this Agreement on a periodic basis. Performance considerations include, without limitation, the quality and consistency of FDOT's CE approvals. The results of these reviews will be shared amongst all parties. FDOT shall prepare and implement a corrective action plan to address any findings or observations identified in the FHWA review. FDOT should draft the corrective action plan within 45 days of FHWA finalizing its review. The results of that review and corrective actions taken by the FDOT shall be considered at the time this Agreement is considered for renewal. The periodic monitoring will be supplemented through the QAR process.

The first review shall occur within the first 12 months of the execution of this Agreement, and at a minimum two (2) years thereafter unless a greater review frequency is mutually agreed upon. All reviews shall be coordinated with the FHWA, the State Environmental Management Office (SEMO) and the FDOT District Environmental Offices at least three weeks prior to the actual review. The FHWA and SEMO, with input from the FDOT District Environmental Offices, may create a review plan for those calendar years where reviews are desired. FHWA reserves the right to independently review CE determinations.

### **Section 13: GENERAL TERMS AND PROVISIONS**

This Agreement shall be valid for a term of five (5) years from the final signature of this Agreement. This agreement, may be renewed upon agreement by the parties. In considering any renewal of this Agreement, FHWA will evaluate the effectiveness of the Agreement. FDOT will provide notice to FHWA 90 days prior to expiration of this Agreement to allow the parties time to process, amend, as appropriate, and renew.

This Agreement may be modified by mutual consent at any time. Any party to this Agreement may request that it be amended, whereupon the parties will consult to reach a consensus on the proposed amendment. Where no consensus can be reached, the Agreement will not be amended.

Any signatory to this Agreement may terminate it by providing thirty (30) days written notice to the other party, provided that the parties consult during the period prior to termination to seek agreement on amendments or other action that would avoid termination.

Expiration or termination of this Agreement shall mean that FDOT is not able to make CE approvals on FHWA's behalf. In the event of termination, the FDOT shall coordinate future projects with FHWA for a determination of CE applicability pursuant to 23 CFR. § 771.117, or with regard to all pending actions under this Agreement.

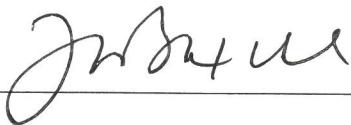
This Agreement will be available to the public on FDOT's Environmental Management Office website at <http://www.dot.state.fl.us/emo/>.

#### **REFERENCE DOCUMENTS**

CFR referenced are available at <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>.

**APPROVAL OF AGREEMENT**

This Agreement is approved and becomes effective upon execution by all parties on the last date noted below.

  
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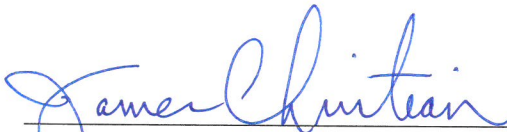
Title:  
Secretary  
Florida Department of Transportation

10/30/15  
\_\_\_\_\_

Date

FDOT Legal Review:

\_\_\_\_\_

  
\_\_\_\_\_

Title:  
Division Administrator  
Federal Highway Administration

10/30/15  
\_\_\_\_\_

Date



**ATTACHMENT A**

**771.117(c)** The following actions meet the criteria for CEs in the CEQ regulations (40 CFR § 1508.4) and § 771.117(a), and normally do not require any further NEPA approvals by the FHWA:

<b>c-list</b>	<b>Additional Examples Used in Florida (not all inclusive)</b>
(1) Activities which do not involve or lead directly to construction, such as planning and research activities; grants for training; 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.	Utility installations or relocations
(3) Construction of bicycle and pedestrian lanes, paths, and facilities.	Trails, trail heads, multi-use paths, curb and gutter and sidewalk construction; Transportation enhancement [currently Transportation Alternatives Program (TAP)] projects involving acquisition of historical sites and easements, or historical preservation for the construction of bicycle and pedestrian lanes, paths, and facilities.
(4) Activities included in the State's highway safety plan under 23 U.S.C. 402.	Upgrade, removal, or addition of guardrail. Install or replace impact attenuators. Clear zone safety improvements, such as fixed object removal or relocation.
(5) Transfer of Federal lands pursuant to 23 U.S.C. 107(d) and/or 23 U.S.C. 317 when the land transfer is in support of an action that is not otherwise subject to FHWA review under NEPA.	
(6) The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.	
(7) Landscaping.	Tree planting and removals
(8) 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.	Roadway skid hazard treatment (pavement markings). Screening unsightly areas, Signing and pavement markings; pedestrian signalization, Flashing beacons; fencing; rumble strips, auditory and vibratory striping, installation of solar-powered flashing beacons, Signing removals and installations, tree removals

<p>(9) The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121):</p> <p>(i) Emergency repairs under 23 U.S.C. 125; and</p> <p>(ii) The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action:</p> <p>(A) Occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and</p> <p>(B) Is commenced within a 2-year period beginning on the date of the declaration.</p>	
<p>(10) Acquisition of scenic easements.</p>	
<p>(11) Determination of payback under 23 U.S.C. 156 for property previously acquired with Federal-aid participation.</p>	
<p>(12) Improvements to existing rest areas and truck weigh stations</p>	
<p>(13) Ridesharing activities</p>	<p>Construction of Park&amp; Ride lots</p>
<p>(14) Bus and rail car rehabilitation</p>	
<p>(15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.</p>	
<p>(16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.</p>	

<p>(17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.</p>	
<p>(18) Track and railbed maintenance and improvements when carried out within the existing right-of-way.</p>	<p>Upgrade railroad track circuitry. Improve railroad crossing surface. Improve vertical and horizontal alignment of railroad crossing.</p>
<p>(19) Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.</p>	
<p>(20) Promulgation of rules, regulations, and directives.</p>	
<p>(21) Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system, to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. Examples include, but are not limited to, traffic control and detector devices, lane management systems, electronic payment equipment, automatic vehicle locaters, automated passenger counters, computer-aided dispatching systems, radio communications systems, dynamic message signs, and security equipment including surveillance and detection cameras on roadways and in transit facilities and on buses.</p>	<p>Freeway traffic surveillance and control systems. Motorist aid systems. Highway information systems. Computerized traffic signalization systems. Intelligent Transportation Systems. Traffic signal installation, cross-walk installation</p>
<p>(22) Projects, as defined in 23 U.S.C. 101 that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed</p>	<p>Flattening slopes; improving vertical and horizontal alignments. Restore, replace, and rehabilitate culverts, inlets, drainage pipes, and systems including safety treatments. Upgrade, removal, or addition of guardrail. Upgrade median barrier. Improve sight distance at railroad crossing. Railroad crossing elimination by closure, and railroad overpass removal within right of way. Screening unsightly areas. Preservation of abandoned railway corridors, including the conversion and use for pedestrian, equestrian, or bicycle trails. Bridge removal. Animal crossings. curb and gutter and sidewalk construction, replace approach slabs; concrete slab replacement, repair of partial spalls and slabs, cleaning and sealing of cracks, bridge repairs, bridge traffic railing replacement, guardrail.</p>

<p>or that are not maintained for transportation purposes are not in the existing operational right-of-way.</p>	
<p>(23) Federally-funded projects:          (i) That receive less than \$5,000,000 of Federal funds;          or          (ii) With a total estimated cost of not more than \$30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.</p>	<p>Restore, replace, and rehabilitate culverts, inlets, drainage pipes, and systems including safety treatments. Improve sight distance at railroad crossing. Animal crossings. Transportation enhancement [currently Transportation Alternatives Program (TAP)] projects involving acquisition of historical sites and easements, or historical preservation.</p>
<p>(24) Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.</p>	
<p>(25) Environmental restoration and pollution abatement actions to minimize or mitigate the impacts of any existing transportation facility (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) carried out to address water pollution or environmental degradation</p>	<p>Mitigation of water pollution due to highway runoff.</p>
<p>(26) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing lanes), if the action meets the constraints in paragraph (e) of this section.</p>	<p>Adding or lengthening turning lanes (including continuous turn lanes), intersection improvements, channelization of traffic, dualizing lanes at intersection and interchanges, auxiliary lanes, and conversion to reversible lanes. For auxiliary lanes and reversible lanes, discussion with FHWA is recommended to ensure the appropriate level of documentation before advancing the project. Widening, adding roadway width and shoulders without adding through traffic lanes. Preventive maintenance activities such as joint repair, pavement patching, shoulder repair and the removal and replacement of old pavement structure. Restore, rehabilitate, and/or resurface existing pavement. Widening of substandard bridge to provide safety shoulders without adding through lanes.</p>

<p>(27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in paragraph (e) of this section.</p>	<p>Flattening slopes; improving vertical and horizontal alignments for safety projects. Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting. Roadway skid hazard treatment. Upgrade, removal, or addition of guardrail. Upgrade median barrier. Install or replace impact attenuators. Upgrade bridge end approaches/guardrail transition. Improve sight distance at railroad crossing. Railroad crossing elimination by closure, and railroad overpass removal within right of way. Clear zone safety improvements, such as fixed object removal or relocation. Widening of substandard bridge to provide safety shoulders without adding through lanes. Bridge removal.</p>
<p>(28) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, if the actions meet the constraints in paragraph (e) of this section.</p>	<p>Restoring and rehabilitating existing bridge (including painting, crack sealing, joint repair, scour repair, scour counter measures, fender repair, bridge rail or bearing pad replacement, seismic retrofit, etc.). Widening of substandard bridge to provide safety shoulders without adding through lanes. Replacement of existing bridge (in same location) by present criteria. Discussion with FHWA is recommended to ensure proper level of documentation.</p>
<p>(29) Purchase, construction, replacement, or rehabilitation of ferry vessels (including improvements to ferry vessel safety, navigation, and security systems) that would not require a change in the function of the ferry terminals and can be accommodated by existing facilities or by new facilities which themselves are within a CE.</p>	
<p>(30) Rehabilitation or reconstruction of existing ferry facilities that occupy substantially the same geographic footprint, do not result in a change in their functional use, and do not result in a substantial increase in the existing facility's capacity. Example actions include work on pedestrian and vehicle transfer structures and associated utilities, buildings, and terminals.</p>	

<p><b>771.117 (d)</b> Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR § 1508.4) and paragraph (a) of this section may be designated as CEs only after Administration approval unless otherwise authorized under an executed agreement pursuant to paragraph (g) of this section. The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:</p>	
<b>d-list</b>	<b>Additional Examples Used in Florida (not all inclusive)</b>
(1)-(3) [Reserved]	
(4) Transportation corridor fringe parking facilities.	
(5) Construction of new truck weigh stations or rest areas.	
(6) Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.	
(7) Approvals for changes in access control.	
(8) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.	
(9) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.	<p>Rehabilitation and operation of historic railroad and bus transportation buildings, structures, or facilities.          Rehabilitation or reconstruction of existing rail and bus transit buildings and ancillary buildings where only minor amounts of additional land are required, and there is not a substantial increase in the number of users.</p>
(10) Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.	
(11) Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community.	

<p>(12) Acquisition of land for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.</p> <p>(i) Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.</p> <p>(ii) Protective acquisition is done to prevent imminent development of a parcel which may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.</p>	<p>Acquisition of land for hardship or protective purposes for a particular parcel or a limited number of parcels; advance land acquisition loans under Section 3(b) of the Urban Mass Transportation Act.</p>
<p>(13) Actions described in paragraphs (c)(26), (c)(27), and (c)(28) of this section that do not meet the constraints in paragraph (e) of this section.</p>	

**ATTACHMENT B**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**TYPE 1 CATEGORICAL EXCLUSION  
 CHECKLIST**

650-050-12  
 ENVIRONMENTAL MANAGEMENT  
 10/15

Financial Management No. \_\_\_\_\_

FAP No. \_\_\_\_\_

CE Number:  (c) \_\_\_\_\_ or  (d) \_\_\_\_\_

Project Description (include project title, limits, and brief description of the proposed scope of work):

Note: The criteria below also consider the conditions listed in 23 CFR 771.117(e) for the CEs described in 23 CFR 771.117(c)(26), (27) and (28).

- |   | YES                      | NO                       |
|---|--------------------------|--------------------------|
| 1 Will the action cause major adverse impacts on travel patterns, planned growth, land use for the area or access control?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 2 Will the action cause adverse impacts to air, noise or water quality?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 3 Will the action cause wetland impacts that would require an individual Section 404 Permit from the U.S. Army Corps of Engineers (USACE) under the Clean Water Act, Section 404, 33 U.S.C. § 1344 and/or section 10 of the Rivers and Harbors Act?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 4 Will the action cause impacts to navigation that would require an individual U.S. Coast Guard (USCG) Bridge Permit?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5 Will the action cause impacts greater than minimal floodplain encroachments, which will affect flood heights or base floodplain limits?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 6 Will the action require construction in, across, or adjacent to a river designated as a component of, or proposed for inclusion in, the National System of Wild and Scenic Rivers (for 23 CFR 771.117 (c)(26), (27) and (28))?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 7 Will the action result in a determination other than, (1) "no involvement," (2) "no effect", or (3) with concurrence from US Fish and Wildlife Service or National Marine Fisheries Service, as appropriate, a "may affect but not likely to adversely affect" determination concerning impacts to endangered and threatened species and/or their critical habitat in accordance with Section 7 of the Endangered Species Act of 1973, as amended, 16 U.S.C. § 1536(a)-(d)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8 Will the action require more than minor amounts of right-of-way and result in any residential or non-residential displacements?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 9 Will the action impact any properties protected by Section 4(f) of the U.S. Department of Transportation Act, 49 U.S.C. § 303? [NOTE: If it has been determined that Section 4(f) is not applicable in accordance with 23 CFR 774 and Part 2, Chapter 13 of the PD&E Manual then the answer to this question is no.]  | <input type="checkbox"/> | <input type="checkbox"/> |



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- |  | YES                      | NO                       |
|--|--------------------------|--------------------------|
| 10 Will the action result in a determination other than, (1) no involvement, (2) "no effect," or (3) "no adverse effect" regarding properties protected under Section 106 of the National Historic Preservation Act?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 11 Does the action have known contamination sites which would have more than a minimal impact to design, and right-of-way or construction activities once assessed as described in Part 2, Chapter 22, Contamination Impacts of the PD&E Manual, and can't be avoided or remediated? | <input type="checkbox"/> | <input type="checkbox"/> |
| 12 Will the action have substantial controversy on environmental grounds?  | <input type="checkbox"/> | <input type="checkbox"/> |

**IMPORTANT:** If all answers are No, the project is a Type 1 Categorical Exclusion and this checklist will be the NEPA document. If the answer to any of these questions is Yes, follow the Minor Categorical Exclusion Determination Key and coordinate with FHWA as appropriate.

This project has been evaluated and has been determined to meet the conditions as set forth in Florida's Programmatic Agreement for Categorical Exclusions effective October 2015, as a Type 1 Categorical Exclusion.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
District Environmental Administrator or designee

The following is a list of any supporting activities (e.g., field reviews, as appropriate, etc.), reports, or technical studies that were prepared and are included in the project file that were necessary to support the conclusions reached on the checklist.

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

### **ATTACHMENT C**

#### **Examples of Type 2 Categorical Exclusions Used in Florida (not all inclusive)**

**23 CFR 771.117 (d)** Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR § 1508.4) and paragraph (a) of this section may be designated as CEs only after Administration approval unless otherwise authorized under an executed agreement pursuant to paragraph (g) of this section. The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result.

Widening (add lanes) with right-of-way acquisition

Addition of ramps to connect to interstate, in conjunction with widening of road/bridge with right-of-way acquisition

New ramp connection through an interchange

New low level bridge over waterway

Realignment of road – realignments are in close proximity to existing road

Grade separated urban interchange/intersection with right-of-way acquisition

Bridge widening/replacement requiring a USCG permit

Multi-use trails/pedestrian facilities with right-of-way acquisition

New grade separated crossing of interstate/roadway extension

**ATTACHMENT D**

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**TYPE 2 CATEGORICAL EXCLUSION  
 DETERMINATION FORM**

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**1. GENERAL INFORMATION**

County:  
 Project Name:  
 Project Limits:  
 Project Numbers:

ETDM (if applicable)	Financial Management	Federal-Aid
----------------------	----------------------	-------------

**2. PROJECT PURPOSE AND NEED**

- a. Purpose and Need:
- b. Proposed Improvements:
- c. Project Planning Consistency: disregard providing historical details, instead focus on future phases of segments being advanced. If more than one segment is being advanced additional tables should be added.

Currently Adopted CFP-LRTP	COMMENTS				
Y/N	(if N, then provide detail on how implementation and fiscal constraint will be achieved)				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
PE (Final Design)	Y/N	Y/N	\$		(if phase completed, note as such otherwise provide comments describing status and activities needed to achieve consistency)
R/W	Y/N	Y/N	\$		(if phase completed, note as such otherwise provide comments describing status and activities needed to achieve consistency)
Construction	Y/N	Y/N	\$		(provide comments as appropriate describing status and activities needed to achieve consistency)

*\*Include pages from TIP/STIP/LRTP*

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**3. CLASS OF ACTION**

a. Class of Action:

Type 2 Categorical Exclusion

b. Other Actions:

Section 4(f) Evaluation

Section 106 Consultation

Endangered Species Biological

**Assessment**

c. Public Involvement:

1.  A public hearing is not required, therefore, approval of this Type 2 Categorical Exclusion constitutes acceptance of the location and design concepts for this project.

2.  A public hearing was held on (insert date of the hearing) and a transcript is included. Approval of this determination constitutes location and design concept acceptance for this project.

An opportunity for a public hearing was afforded and a certification of opportunity is included. Approval of this determination constitutes acceptance of the location and design concepts for this project.

3.  A public hearing will be held and the public hearing transcript will be provided at a later date. Approval of this determination DOES NOT constitute acceptance of the project's location and design concepts.

An opportunity for a public hearing will be afforded and a certification of opportunity will be provided at a later date. Approval of this determination DOES NOT constitute acceptance of the project's location and design concepts.

d. Cooperating Agency:  COE  USCG  FWS  EPA  NMFS  NONE

**4. REVIEWERS' SIGNATURES**

\_\_\_\_\_  
FDOT Project Manager

\_\_\_ / \_\_\_ / \_\_\_  
Date

\_\_\_\_\_  
FDOT Environmental Administrator or Designee

\_\_\_ / \_\_\_ / \_\_\_  
Date

**5. FHWA CONCURRENCE**

\_\_\_\_\_  
(For) Division Administrator or Designee

\_\_\_ / \_\_\_ / \_\_\_  
Date

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**6. IMPACT EVALUATION**

Topical Categories

Impact Determination\*

	Sig	Not Sig	None	No Inv	Basis for Decision*
<b>A. SOCIAL &amp; ECONOMIC</b>					
1. Land Use Changes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Community Cohesion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Relocation Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Community Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Nondiscrimination Considerations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Controversy Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Scenic Highways	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Farmlands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<b>B. CULTURAL</b>					
1. Section 4(f)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Historic Sites/Districts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Archaeological Sites	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Recreation Areas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<b>C. NATURAL</b>					
1. Wetlands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Aquatic Preserves	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Water Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Outstanding FL Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Wild and Scenic Rivers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Floodplains	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Coastal Zone Consistency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Coastal Barrier Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
9. Wildlife and Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
10. Essential Fish Habitat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<b>D. PHYSICAL</b>					
1. Noise	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Air Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
3. Construction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
4. Contamination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
5. Aesthetic Effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
6. Bicycles and Pedestrians	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Utilities and Railroads	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
8. Navigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

- a.  FHWA has determined that a USCG Permit IS NOT required in accordance with 23 CFR 650, Subpart H.
- b.  FHWA has determined that a USCG Permit IS required in accordance with 23 CFR 650, Subpart H.

\* Impact Determination: Sig = Significant; NotSig = Not significant; None = Issue present, no impact; NoInv = Issue absent, no involvement. Basis of decision is documented in the referenced attachment(s).

**E. PERMITS REQUIRED**

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**7. COMMITMENTS AND RECOMMENDATIONS**