



Environmental Mitigation Payment Processing Handbook

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Section 1 Overview

The Florida Department of Transportation (Department) is required to provide compensatory mitigation (herein referred to as wetland mitigation) to offset unavoidable impacts to wetlands and other surface waters. Wetland mitigation is required by federal and state agencies and is typically included as a specific condition in environmental permits acquired for the construction of transportation projects. The appropriate wetland mitigation must be coordinated with the United States Army Corps of Engineers (USACE) and/or the appropriate Water Management District (WMD). Wetland mitigation may include the purchase of mitigation credits from a permitted entity (i.e. Mitigation Bank or In Lieu Fee program) or funding of mitigation services from the Florida Department of Environmental Protection (DEP) or the WMDs.

Listed species and critical habitat mitigation may also be required for transportation projects impacting those resources. The Department may purchase species conservation credits from a permitted Conservation Bank or pay a fee to a wildlife foundation. The appropriate mitigation to offset listed species impacts must be coordinated with the United States Fish and Wildlife Service (USFWS) or the Florida Fish and Wildlife Conservation Commission (FWC).

The purpose of this handbook is to provide guidance to the FDOT Districts on how to:

- Develop an Environmental Impact Inventory
- Develop an Invitation to Bid for wetland and species mitigation credits
- Process payments for wetland and species mitigation credits or contributions

Section 2 Wetland Mitigation Requirements

In 1996, the State Legislature established a wetland mitigation program to meet the needs of the 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, Florida Statutes (F.S.) and provides the Department flexibility when considering compensatory mitigation options. See **Appendix A** for the statutory language.

The Department has agreements with the DEP and each of the five WMDs detailing how mitigation will be planned and funded by the Department. The agreements also address construction activities when mitigation is conducted by the DEP or WMDs. See **Appendix B** for individual agreements between the Department and the WMDs.

2.1 Determining the appropriate Wetland 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 in a manner that promotes efficiency, timeliness in project delivery, and cost-effectiveness". All funding for environmental mitigation must be based on the best available information, analyzed by methods accepted by the DEP, WMDs and USACE [i.e. Uniform Mitigation Assessment Method (UMAM)] and must show documented support of how the cost was arrived to mitigate the 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 Environmental Impact Inventory and Mitigation Plan

By July 1st of each year, the Department is mandated to submit to the DEP and WMDs a copy of its Work Program to be adopted on July 1st and an Environmental Impact Inventory (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 2025-2030, the next three years of the Tentative would be fiscal years 2026, 2027 and 2028). In developing the Tentative Work Program, FDOT Districts must program the funds needed to accomplish wetland mitigation by DEP, WMDs, Mitigation Banks and In Lieu Fee entities. The Inventory should include all projects requiring wetland mitigation and the mitigation option selected. (Refer to Chapter 11 of the Work Program Instructions.) The WMDs use the Environmental Impact Inventories to develop a Mitigation Plan. Each WMD Mitigation 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 Environmental Impact Inventory spreadsheet.

The WMD's Mitigation Plan must identify each site where the WMD will mitigate for a transportation project. For each mitigation site, the WMD shall:

- Provide the scope of the mitigation services;



- Provide the functional gain as determined through the UMAM;
- Describe how the mitigation offsets the impacts of each transportation project as permitted; and
- Provide a schedule for the mitigation services.

2.3 Funding

2.3.1 Mitigation Services through DEP and WMDs – Prior to July 1, 2014

For projects identified in the FDOT Environmental Impact Inventory submitted to the DEP or WMD prior to July 1, 2014, 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.

<u>Fiscal Year</u>	<u>Adjusted Cost per Acre</u>
2024/25	\$144,319
2025/26	\$149,115
2026/27	\$152,707
2027/28	\$156,418
2028/29	\$160,087
2029/30	\$163,434

(These figures are for illustrative purposes only. Refer to the 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 Services through DEP and WMDs – On or after July 1, 2014

For projects identified in the Environmental Impact Inventory on or after July 1, 2014, the Department will provide funding to the DEP or WMD to offset wetland impacts/functional loss from transportation project activities identified including planning, design, construction, maintenance and monitoring, and other costs necessary. The impacts will be calculated using UMAM or any other regulatory agency approved wetland assessment method. Payments to DEP or the WMD can be processed as a



Cost Reimbursement or Lump Sum Advance Payment. See **Section 5.1 Invoices for Mitigation Services**.

2.3.3 Mitigation Credits

Section 373.4137, F.S. does not specify a mitigation cost per credit when the Department purchases 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, as appropriate, should coordinate with District Legal Counsel and Procurement prior to advertising the need for mitigation credits. See **Appendix E** for ITB templates.

Section 3 Listed Species and Critical Habitat Mitigation Requirements

When an FDOT project has unavoidable impacts to listed species or their critical habitat, the Department may be required to provide mitigation to offset those unavoidable impacts. Mitigation for species impacts may include purchase of conservation banking credits or payment/fee to a wildlife foundation. Gopher Tortoise Mitigation Contribution fees are also required for Gopher Tortoise relocation permits issued by FWC. Districts should coordinate with the regulatory agencies to determine the appropriate species mitigation for a project.

3.1 Conservation Bank Credits

Conservation bank credits, approved by the USFWS, can be purchased by the Department for species mitigation. Species mitigation credits are purchased through an ITB and may be combined with an ITB for wetland mitigation credits. **Appendix E** provides language to include in an ITB for species credit purchases.

Note: Wetland mitigation can also be deemed appropriate for wetland dependent listed species mitigation. For example, purchasing wetland credits may be suitable for required Wood Stork (*Mycteria americana*) mitigation.

3.2 Species Mitigation Payment to a Wildlife Foundation

Some species do not have species credits available for purchase. In this situation, the District must work with the USFWS to determine the appropriate mitigation to offset the species impacts. Typically, the USFWS will require the Department contribute to a wildlife foundation as the species mitigation. This requirement is documented in a Biological Opinion and/or Environmental Permit. For information on how to process these payments, see **Section 7 Species Mitigation Contributions**.



3.3 Gopher Tortoise Mitigation Contribution Fees

A mitigation contribution for gopher tortoises is defined by FWC as the “compensation, usually either in the form of monetary contributions or protected habitat donations, to offset the ill effects of human-related land change on gopher tortoise populations”. A mitigation contribution is required for all relocation permits.

The payment/contribution should be made through the MFMP based on the permit application submitted to FWC. See **Section 7 Species Mitigation Contributions** on how to pay mitigation contribution fees. If the actual number of gopher tortoises relocated is less than the number included in the permit application, the applicant is entitled to a refund. More information on mitigation contributions and refunds can be found in FWC’s Gopher Tortoise Permitting Guidelines on the FWC Website at <http://myfwc.com/license/wildlife/gopher-tortoise-permits/>

Section 4 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 type, 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.”

4.1 Encumbering Funds for Wetland Mitigation Services

Wetland 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 10 430 PD
District Five	55 05 30 10 542 PD
District Seven	55 07 30 60 744 PD

For payments to DEP or WMD, use the following:

Object code: 139900

Object Description: Contracted Services - Other

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	139900	135	143
SJWMD	239535 4 C8 01	SJ41	(30,749.62)	55 05 30 10 542 PD	139900	135	144
SJWMD	241221 1 C8 01	SJ48	(6,742.78)	55 05 30 10 542 PD	139900	135	102
SJWMD	242484 5 C8 01	SJ47	(138,839.43)	55 05 30 10 542 PD	139900	135	200
SJWMD	242716 1 C8 01	SJ41	(533.72)	55 05 30 10 542 PD	139900	135	145
SJWMD	405506 5 C8 01	SJ48	(310,860.56)	55 05 30 10 542 PD	139900	135	162
	TOTAL		(1,062,504.83)				

Please 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.

4.2 Encumbering Funds for Mitigation Credits (wetland and species)

Mitigation credits are a commodity where a vendor is selected through a competitive bid process (See **Section 6 Purchasing Wetland and Species Mitigation Credits**). Once a vendor is selected funds are encumbered through the CFM system and a purchase



order is processed through the MyFloridaMarketPlace. The District should refer to the [Contract Funds Management User Manual](#) for information on how to encumber funds for commodities. The following object code and object description should be used.

For Mitigation Credits, use the following:

Object code: 461010

Object Description: Fees – Registration/License/Permit - Environment

Category: 088849

Category Description: Preliminary Engineering Consultant

Section 5 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.

5.1 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. The invoice submittal requirements for cost reimbursement or lump sum advance payment are below:

5.1.1 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 D - Invoicing Form**.

Information to be included in the invoice:

1. WMD or DEP and associated contract number
2. Invoice number and date
3. Invoice period
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 project(s) as permitted including total cost
 - d. Amount of mitigation being met by this invoice for the FDOT project(s)
5. 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
6. Total cost being invoiced
 7. Brief Progress Report
 8. 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.

5.1.2 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. All advance payments requests must be approved by the Department of Financial Services (DFS). This takes time so advance payment requests from the WMD must be made at least 30 days prior to the expected request date. The WMDs can submit advance payment requests only after DFS approval. Once approved, the WMDs will request advance payment in their initial invoice. Subsequent invoices must demonstrate how those funds have been used. Any funds that are not used must be returned to the Department. Please see FDOT's Disbursement Handbook for Employees and Managers for detailed information on the Advance Payment requirements.

Requests for advance payment and supporting information from DEP or WMDs for mitigation services must be submitted to the appropriate District Permit Coordinator. When requesting advance payment for mitigation services, sufficient information should be provided to the Department to understand the scope of services that will be performed for the funding being requested. The DEP or WMD submitting the request must provide the following information with their lump sum advance payment request:

1. WMD and associated contract number
2. Request for lump sum advance payment
3. 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)
4. 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
5. Total amount

5.1.3 Processing Invoices from DEP or WMDs

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

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 – CFM system
- d. 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 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 USACE. 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 6 Purchasing Wetland and Species Mitigation Credits

6.1 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). See **Appendix E** for “federal only”, “state only” or “dual credit” mitigation ITB templates. The templates provide technical specifications language and vendor bid sheets. ITBs should be developed in coordination with each District’s Office of General Counsel and Procurement Office.

When purchasing mitigation credits FDOT Districts must use My Florida Marketplace (MFMP). All vendors are required to register in the MFMP. Note that only governmental entities are exempt from the Transaction Fee (See 60A-1.032, Florida Administrative Code). Districts must use commodity code 64111800, Entitlements or Rights, 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.

Section 7 Species Mitigation Contributions

Mitigation for species and critical habitat impacts may be completed through a contribution to a wildlife foundation. Gopher Tortoise relocation permits may also require contribution fees. The District should follow the procedures below when processing these types of payments.

7.1 Species Mitigation Contribution Payments

For species or critical habitat mitigation where a payment or a fee to a wildlife foundation is required, the District must:

1. Verify that the foundation is a vendor in the MFMP system.
2. Obtain an invoice from the foundation identifying the project and the required species mitigation.
3. Provide support documentation to justify the payment. This documentation may be a Biological Opinion from the USFWS or an environmental permit including the specific condition regarding the species mitigation. Documentation must also reference Section 259.105(2)(a)11.a., which allows the foundation to hold species mitigation funds.



4. Process the purchase order through MFMP.

7.2 Gopher Tortoise Mitigation Contribution Fees

The payment process for Gopher Tortoise Mitigation Contribution fees is similar to the process outlined for payments to a wildlife foundation. FWC does not collect Gopher Tortoise Mitigation Contribution fees, but requires permittees to send the fee to a wildlife foundation. **See Appendix F** for the current FWC Mitigation Contribution fees. To process this mitigation fee, the District must:

1. Verify that the wildlife foundation is in the MFMP system.
2. Obtain an invoice from the FWC identifying the FDOT project, Gopher Tortoise relocation permit number and the required mitigation contribution amount.
3. Process the purchase order using the MFMP system.

Section 8 Reimbursement of Mitigation Payment

In some cases, the Department may need to obtain a refund for a mitigation payment from the DEP, WMDs or Mitigation Vendor (e.g. Mitigation or Conservation Bank or Wildlife Foundation). The District should work with the appropriate agency or mitigation bank vendor to have a refund check sent to the Department. The District must coordinate with the FDOT Cashier's Office to process the refund.

Any change in a project's mitigation must be coordinated with the appropriate regulatory agency and documented. For projects where the wetland and/or species mitigation was included as a specific condition in an environmental permit, the District must coordinate with the appropriate regulatory agency to determine if the environmental permit(s) must be modified to reflect the mitigation change. Gopher Tortoise relocation permits have specific deadlines for requesting refunds which are noted in the permit conditions.



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 in a manner that promotes efficiency, timeliness in project delivery, and cost-effectiveness.

(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 habitat impacts and the anticipated mitigation needed to offset impacts as described in paragraph (b). The environmental impact inventory must be based on the rules adopted pursuant to this part, s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, and the Department of Transportation's 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 and the anticipated amount of mitigation needed for 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 must include a description of habitat impacts, including location, acreage, and type; the anticipated mitigation needed based on the functional loss as determined through the uniform mitigation assessment method adopted by the Department of Environmental Protection by rule pursuant to s. 373.414(18); identification of the proposed mitigation option; 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.

(c) Before projects are identified for inclusion in a water management district mitigation plan as described in subsection (4), the Department of Transportation must consider using credits from a permitted mitigation bank. The Department of Transportation must consider the availability of suitable and sufficient mitigation bank credits within the transportation project's area, the ability to satisfy commitments to regulatory and resource agencies, the availability of suitable and sufficient mitigation purchased or developed under this section, the ability to complete suitable existing water management district or Department of Environmental Protection mitigation sites initiated with Department of Transportation mitigation funds, and the ability to satisfy state and federal requirements, including long-term maintenance and liability.

(3)(a) To implement the mitigation option identified in the environmental impact inventory described in subsection (2), the Department of Transportation may purchase credits for



current and future use directly from a mitigation bank, purchase mitigation services through the water management districts or the Department of Environmental Protection, conduct its own mitigation, or use other mitigation options that meet state and federal requirements. Funding for the identified mitigation option as described in the environmental impact inventory must be included in the Department of Transportation's work program developed pursuant to s. [339.135](#). The amount programmed each year by the Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 must correspond to an estimated cost to mitigate for the functional loss identified in the environmental impact inventory described in subsection (2).

(b) Each transportation authority established pursuant to chapter 348 or chapter 349 which 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 must remain with the authority.

(c) For mitigation implemented by the water management district or the Department of Environmental Protection, as appropriate, the amount paid each year must be based on mitigation services provided by the water management districts or the Department of Environmental Protection pursuant to an approved water management district mitigation plan, as described in subsection (4). The water management districts or the Department of Environmental Protection, as appropriate, may request payment no sooner than 30 days before the date the funds are needed to pay for activities associated with development or implementation of permitted mitigation that meets the requirements of this part, 33 U.S.C. s. 1344, and 33 C.F.R. part 332, in the approved water management district mitigation plan described in subsection (4) for the current fiscal year. The projected amount of mitigation shall be reconciled each quarter with the actual amount of mitigation needed for 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 programming of funds shall be adjusted to reflect the mitigation as permitted. If the water management district excludes a project from an approved water management district mitigation plan, if the water management district cannot timely permit a mitigation site to offset the impacts of a Department of Transportation project identified in the environmental impact inventory, or if the proposed mitigation does not meet state and federal requirements, the Department of Transportation may use the associated funds for the purchase of mitigation bank credits or any other mitigation option that satisfies state and federal requirements. Upon final payment for mitigation of a transportation project as permitted, the obligation of the Department of Transportation or the participating transportation authority is satisfied, and the water management district or the Department of Environmental Protection, as appropriate, has continuing responsibility for the mitigation project.

(d) Beginning with the March 2015 water management district mitigation plans, each water management district or the Department of Environmental Protection, as appropriate, shall invoice the Department of Transportation for mitigation services to offset only the impacts of a Department of Transportation project identified in the environmental impact inventory, including planning, design, construction, maintenance and monitoring, and other costs necessary to meet the requirements of this section, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. If the water management district identifies the use of mitigation bank credits to offset a Department of Transportation impact, the water management district shall exclude that purchase from the mitigation plan, and the Department of Transportation shall purchase the bank credits.



(e) For mitigation activities occurring on existing water management district or Department of Environmental Protection mitigation sites initiated with Department of Transportation mitigation funds before July 1, 2013, the water management district or the Department of Environmental Protection, as appropriate, shall invoice the Department of Transportation or a participating transportation authority at a cost per acre of \$75,000 multiplied by the projected acres of impact as identified in the environmental impact inventory. The cost per acre must 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. When implementing the mitigation activities necessary to offset the permitted impacts as provided in the approved mitigation plan, the water management district shall maintain records of the costs incurred in implementing the mitigation. The records must include, but are not limited to, costs for planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332.

(f) For purposes of preparing and implementing the mitigation plans to be adopted by the water management districts on or before March 1, 2014, for impacts based on the July 1, 2013, environmental impact inventory, the funds identified in the Department of Transportation's work program or participating transportation authorities' escrow accounts must correspond to a cost per acre of \$75,000 multiplied by the projected acres of impact as identified in the environmental impact inventory. The cost per acre must 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. Payment under this paragraph is limited to mitigation activities that are identified in the first year of the 2013 mitigation plan and for which the transportation project is permitted and are in the Department of Transportation's adopted work program, or equivalent for a transportation authority. When implementing the mitigation activities necessary to offset the permitted impacts as provided in the approved mitigation plan, the water management district shall maintain records of the costs incurred in implementing the mitigation. The records must include, but are not limited to, costs for planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332. To the extent moneys paid to a water management district by the Department of Transportation or a participating transportation authority are greater than the amount spent by the water management districts in implementing the mitigation to offset the permitted impacts, these funds must be refunded to the Department of Transportation or participating transportation authority. This paragraph expires June 30, 2015.

(4) Before March 1 of each year, each water management district shall develop a mitigation plan to offset only the impacts of transportation projects in the environmental impact inventory for which a water management district is implementing mitigation that meets the requirements of this section, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management district mitigation plan must be developed 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, other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks. In developing such plans, the water management districts shall use sound ecosystem management practices to



address significant water resource needs and consider 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, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management district mitigation plan must identify each site where the water management district will mitigate for a transportation project. For each mitigation site, the water management district shall provide the scope of the mitigation services; provide the functional gain as determined through the uniform mitigation assessment method adopted by the Department of Environmental Protection by rule pursuant to s. [373.414\(18\)](#); describe how the mitigation offsets the impacts of each transportation project as permitted; and provide a schedule for the mitigation services. The water management districts shall maintain records of costs incurred and payments received for providing these services. Records must include, but are not limited to, planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332. To the extent moneys paid to a water management district by the Department of Transportation or a participating transportation authority are greater than the amount spent by the water management districts in providing the mitigation services to offset the permitted transportation project impacts, these moneys must be refunded to the Department of Transportation or participating transportation authority. 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 by the governing board, the water management district shall provide a copy of the draft mitigation plan to the Department of Environmental Protection and any person who has requested a copy. Subsequent to the governing board approval, the mitigation plan shall be submitted to the Department of Environmental Protection for approval. 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) 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. The Department of Transportation or a participating transportation authority may not exclude a transportation project from the mitigation plan if mitigation is scheduled for implementation by the water management district in the current fiscal year unless the transportation project is removed from the Department of Transportation's work program or transportation authority funding plan, the mitigation cannot be timely permitted to offset the impacts of a Department of Transportation project identified in the environmental impact inventory, or the proposed mitigation does not meet state and federal requirements. If a project is removed from the work program or the mitigation plan, costs spent by the water management district before removal are eligible for reimbursement by the Department of Transportation or participating transportation authority.

(b) 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 a water management district mitigation plan. The Department of Transportation shall exclude a project from the mitigation plan if the investigation undertaken pursuant to this paragraph results in the conclusion that the use of credits from a permitted mitigation bank promotes efficiency,



timeliness in project delivery, cost-effectiveness, and transfer of liability for success and long-term maintenance.

(5) The water management district shall ensure that mitigation requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. part 332 are met for the impacts identified in the environmental impact inventory for which the water management district will implement mitigation described in subsection (2), by implementation of the approved mitigation 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. In developing and implementing the mitigation plan, the water management district shall comply with federal permitting requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. part 332. During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements upon notice and coordination with the Department of Transportation or participating transportation authority.

(6) The water management district 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 that may arise. Before amending the mitigation plan to include new projects, the Department of Transportation must consider mitigation banks and other available mitigation options that meet state and federal requirements. 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 apply to a deviation as described in subsection (5).

(7) Upon approval by the governing board of the water management district and the Department of Environmental Protection, the mitigation plan shall 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 and the Department of Environmental Protection authorizes the activities proposed in the mitigation plan, and no other state, regional, or local permit or approval is necessary.

(8) This section does not 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 which are not identified in the environmental impact inventory described in subsection (2).

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; s. 22, ch. 2014-223.



Appendix B – Memorandum of Understanding between FDOT and Water Management Districts



Appendix C – Environmental Impact 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)	FLUCCS	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:								Permit Information:										Comments: Provide any additional details as needed				
<i>If the project has more than one permit, use multiple rows.</i>								Permit Type - Add information for Federal or State permit(s) requiring mitigation														
FY: Identify Fiscal Year of letting (example 12/13)								Agency: Identify DEP, WMD or ACOE														
FDOT District: Identify FDOT District								(please use a separate row for each permit required)														
FM#: Identify project FM number (11 digits)								Type: Identify permit type (<i>Do not include NPDES permits</i>)														
Project Title: Identify Project Name								For ACOE: N = Nationwide; I = Individual														
Basin: Identify basin of impact								For DEP or WMD: C = Conceptual; G= General; I = Individual														
County: Identify project location county								App Date: Identify date of permit application														
Water Management District: Identify WMD where project is located								Status: Identify permit status														
Letting Date: Identify letting date								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														



Appendix D – Invoicing Form

Mitigation Invoice for FDOT							Invoice Date:	[xx/xx/xx]	
							Invoice No.:	[xxxxxx]	
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	Amount
[Assigned to FDEP and WMDs]	[1234567]	[Ex. SR 60 FROM PINELLAS/ HILLS CO/ TO ROCKY POINT DR]	[Ex. SW 86 (Mobby Bayou Wilderness Preserve)]	[Ex. Restoration]	[Ex. January]		[Ex. Long Term Maintenance]	[Date(s)]	
							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.



Appendix E – Invitation to Bid Templates for Mitigation Credits

Technical Specifications and Bid Sheet for Dual Credits (both federal and state credits)

Technical Specifications

Bid #: XXXX

Bid Title: Purchase of Mitigation Credits to Offset Wetland and Species Impacts for Project Name in xxWMD Regulatory Basin Name or Number

The Florida Department of Transportation (Department) is requesting bids for the purchase of mitigation credits to offset wetland impacts (*Note to preparer – delete species specific part of sentence if not applicable*) and conservation bank credits for impacts to *[NAME SPECIES]* and their habitat for the following project(s) as described in Table 1 and subject to the technical specifications outlined herein. This is an indefinite quantity contract and the quantities identified below are estimated quantities only. The Department does not guarantee any specific quantity of mitigation credits to be purchased.

Financial Project Number XXXXXX-X-XX-XX // Project Description
(Note to preparer: add additional project FM/Descriptions for additional projects as needed; credit type can be modified as needed; and add “other Department projects requiring wetland mitigation credits within the basin as needed”)

Table 1 - Estimated Mitigation Credits Need

Basin Name or Number		(add in basin name or number here)		
Mitigation Credit Assessment Methodology		Uniform Mitigation Assessment Method		
Wetland Credit Type	Anticipated Impact Acres	Federal & State	Federal Only	State Only

Species Credit Type	Anticipated Impact Acres	Federal credits



* The "Anticipated Impact Acres" column is included for those bankers with credits other than UMAM. The Banker uses the wetland impact acres to determine the number of credits needed to offset impacts. Please note that the wetland impact acres are estimated and are subject to agency verification during the permitting review process.

NOTES TO Preparer –

1. *This template has been structured to identify mitigation credits needed on a basin level; however, if a District chooses to bid for credits for multiple basins, please coordinate with Central Office.*
2. *Under Wetland Credit Type, list the appropriate wetland credit type(s) needed for the project.*
3. *Under Species Credit Type, list the appropriate species credit type(s) needed. This can be deleted if not applicable.*
4. *Identify the bundled credit need under "Federal & State" and any additional "State" or "Federal" that a project may need. For example, if a project requires 6 federal credits and 5 state credits, identify "5" under "Federal & State," and "1" under "Federal" and "0" under "State".*
5. *Do not leave blank columns and add "N/A" where applicable.*

The Vendor must meet the minimum criteria listed below:

1. If bidding on the state credits, the Vendor must possess a valid state mitigation banking permit (state permit). The mitigation credits must be acceptable to the SFWMD and the Florida Department of Environmental Protection (FDEP), as appropriate. The Vendor shall provide the Department a copy of its state permit and a copy of its current state credit ledger, so the available number of credits can be verified, at the time of its bid submittal.
 - a. The mitigation bank's service area must cover the identified WMD basin. Alternatively, if a mitigation bank's service area is outside the identified basin, a Vendor can provide written verification from the WMD or FDEP, as applicable, that its bank is acceptable to offset wetland impacts associated with the planned project.
2. If bidding on the federal credits, the Vendor must possess a valid federal mitigation banking instrument (federal permit). The mitigation credits must be acceptable to the United States Army Corps of Engineers (USACE), or FDEP when exercising its authority under the State 404 Program, as well as all federal review/commenting agencies as appropriate. The Vendor shall provide the Department a copy of its federal permit and a copy of its current federal credit ledger, so the number of credits that are available can be verified, at the time of its bid submittal.
 - a. The mitigation bank must have a federal service area which encompasses the planned project's wetland impacts. Alternatively, if a mitigation bank's federal service area does not encompass the planned project's wetland impacts, a Vendor can provide written verification from the USACE or FDEP that its credits are acceptable to offset wetland impacts for a planned project.
 - b. The federal credits shall include all species credits (e.g., wood stork) tied to each wetland credit. The Vendor must possess a valid Conservation Bank Agreement or other written verification from the United States Fish and Wildlife Service (USFWS) demonstrating the federal species credit satisfies the project's mitigation needs. The Vendor shall provide copies of the appropriate document(s) to the Department at the time of submittal of its bid. The Department reserves the right to coordinate with regulatory agencies to verify



- this information. Prior to purchase the Vendor shall also provide a copy of its current federal ledger so the number of credits available can be verified.
- c. The conservation bank service area must be able to satisfy USFWS requirements. Alternatively, a Vendor can provide written verification from the USFWS that its credits are acceptable to offset species impacts for a planned project.
 - d. The conservation bank must have the appropriate type of species credits released and available for sale at the time of purchase.
3. If bidding on both the state and federal credits under one bid price, the Vendor must meet both criteria 1 and 2 above.
 4. The mitigation bank must have the type of mitigation credits it is specifically bidding on released and available for sale at the time of bid. The Department will purchase credits by purchase order as needed to meet project needs.
 5. When a Vendor's mitigation credits use an assessment methodology other than UMAM, the Vendor must provide documentation as part of its bid proposal from the appropriate permitting agency(ies) stating the credits can be used for the Department's proposed project. The Vendor is responsible for calculating any conversion factors and providing documentation from the appropriate regulatory agencies confirming that the bidder's conversion calculation of permitted credits to UMAM is acceptable to satisfy the Department's mitigation needs. The Department reserves the right to coordinate with regulatory agencies to determine whether these mitigation bank credits are appropriate to meet its mitigation needs.

The Vendor shall bid using the included Bid Sheet. A Vendor shall only submit one bid sheet and no bids will be accepted from bidders who do not directly own or control the credits. The prospective Bidder is not required to be able to provide all the credits anticipated to be needed. A Vendor that is able to provide both state and federal credits may elect to provide a bid price for each of the following mitigation categories: "State only", "Federal only" and "Federal & State".

The Department's intent is to purchase mitigation credits by purchase order from the lowest bidder or lowest combination of bidders to meet the needs of each project. The Department will purchase mitigation credits from the bidder(s) that provide the lowest cost for the overall mitigation needs for a project. If a low bidder cannot meet the entire mitigation need for a project, the Department may purchase the remainder from higher bidders to fulfill the total project need. If a Vendor elects to bid on all three mitigation categories, the Department will use the bid price associated with the project needs that will produce the lowest purchase price. For each subsequent purchase, the Department reserves the right to purchase available credits from the lowest bidder and proceed in order of price proposals to determine the best value for the state.

To the extent the credits purchased by the Department exceed the number of actual credits needed for a given project, the Department reserves the right to use any excess credits on future projects. The Department reserves the right to allocate the purchased credits on any Department project.

The Vendor shall reserve any excess mitigation credits purchased by the Department for the Department's exclusive use on future projects and such credits shall be available upon the Department's request. The Vendor shall not sell these excess mitigation credits reserved for the benefit of the Department to any third party.



The Vendor will aid the Department by properly updating its ledger(s) and assist as necessary to update regulatory ledger(s) to reflect actual credits used and document the remaining credits available for use by the Department.

If following the Department’s mitigation credit purchase, the Vendor becomes subject to non-compliance with either its State or Federal permit, the Vendor shall notify the Department and take all action necessary to prioritize the preservation of the Department’s unassigned or reserved excess mitigation credits when resolving its non-compliance issues.

Bid Sheet

Bid #: XXXX

Bid Title: Purchase of Mitigation Credits to Offset Wetland and Species Impacts for Project Name in XXWMD Regulatory Basin X

This is a 24-month Term Contract (*Note to preparer – “24-month Term of Contract” may be reduced to meet District need*) whereby the Vendor agrees to furnish wetland mitigation bank credits (*Note to preparer – delete species specific part of sentence if not applicable*) and/or conservation bank credits on an as needed basis to meet the Department’s mitigation needs on a per project basis at the specified bid price. The 24 months will commence on the date the award is final. The Department does not guarantee any specific quantity of mitigation credits to be purchased.

At the time of the bid the Vendor must have approved banking instruments (permits) and have available federal and/or state wetland mitigation bank credits and/or conservation bank credits for purchase that meet the requirements of this ITB. Please provide a copy of the mitigation bank’s state and federal permits and a copy of the mitigation bank’s current state and federal ledger sheets.

If not bidding on certain credit types, fill in the blank with “N/A” to be considered responsive.

Please enter the per credit bid price for each mitigation credit type on the table below
(*Note to preparer – Bid Table below may be modified to reflect technical specifications*)

Mitigation Bank Name (Only One Bank may be Listed)	
---	--

Table 1 – Estimated Mitigation Credit Needed

Basin Name or Number				
Mitigation Credit Assessment Methodology		<i>Uniform Mitigation Assessment Method</i>		
Wetland Credit Type	Anticipated Impact Acres	Federal & State	Federal Only	State Only



Species Credit Type	Anticipated Impact Acres	Federal credits

* The "Anticipated Impact Acres" column is included for those bankers with credits other than UMAM. The Banker uses the wetland impact acres to determine the number of credits needed to offset impacts. Please note that the wetland impact acres are estimated and are subject to agency verification during the permitting review process.

(Note to preparer – only include if ratio credits are available in the basin) *For Ratio credits, attach documentation from the appropriate regulatory agencies demonstrating ratio credits satisfy project mitigation needs. The Department reserves the right to coordinate with regulatory agencies to determine whether ratio credits are appropriate to meet project mitigation needs.

Delivery: A letter acknowledging receipt shall be provided to the Department upon notice of award. Delivery will be made within 14 days of receipt of purchase order and shall include confirmation that formal adjustments to the state and federal ledgers have been made and approved by the appropriate regulatory agencies. Payment will be rendered upon formal adjustments to the ledgers. The Department may consult with the appropriate regulatory agencies to confirm that credits from the respective bank will satisfy mitigation required before the Intended Award will be made.

MFMP Transaction Fee: All payments to the Vendor in response to this competitive solicitation **WILL** be subject to the **MFMP Transaction Fee** in accordance with the attached Form PUR 1000 General Contract Condition # 14. The Transaction Fee imposed shall be based upon the date of issuance of the payment.

Note: In submitting a response, the bidder acknowledges they have read and agree to the solicitation terms and conditions and their submission is made in conformance with those terms and conditions.

Acknowledgement: I certify that I have read and agree to abide by all terms and conditions of this solicitation and that I am authorized to sign for the bidder. I certify that the response submitted is made in conformance with all requirements of the solicitation.

Vendor: _____ FEID #: _____

Address: _____ City, State, Zip: _____

Phone: _____ Fax: _____ Email: _____

Authorized Signature: _____ Date: _____



Printed/Typed Name: _____ Title: _____



Technical Specifications and Bid Sheet for Federal Credits

Technical Specifications

Bid #: XXXX

Bid Title: Purchase of Mitigation Credits to Offset Federal Wetland Impacts for Projects in **XXWMD** Regulatory Basin **X**

The Florida Department of Transportation (Department) is requesting bids for the purchase of federal mitigation credits to offset wetland impacts associated with multiple projects located within **XX Water Management District (XXWMD)** Regulatory Basin Name or Number including those described in the Table 1 and subject to the technical specifications outlined herein. This is an indefinite quantity contract. The Department does not guarantee any specific quantity of mitigation credits to be purchased.

Table 1 - Estimated Mitigation Credit

Basin Name or Number		
Mitigation Credit Assessment Methodology		Uniform Mitigation Assessment Method
Wetland Credit Type	Anticipated Impact Acres	Federal Credits

The Vendor must meet the minimum criteria listed below:

1. The Vendor must possess a valid federal banking instrument (permit). The mitigation credits must be acceptable to the United States Army Corps of Engineers (USACE), as well as all federal review/commenting agencies as appropriate. The Vendor shall provide a copy of its federal permit and a copy of its current federal credit ledger to the Department at the time of submittal of its bid. Prior to each purchase the Vendor shall provide a copy of its current federal credit ledger so the number of credits that are available can be verified.
 - a. The mitigation bank must have a federal service area which encompasses the planned project’s wetland impacts. Alternatively, a Vendor can provide written verification from the USACE that its credits are acceptable to offset wetland impacts for a planned project.
 - b. The federal credits shall include all species credits (e.g., wood stork) tied to each wetland credit.



2. The mitigation service area of the mitigation bank under which mitigation credits are available must be able to satisfy USACE requirements. Alternatively, a Vendor can provide written verification from the USACE that its bank is acceptable for wetland impacts for a planned project.
3. The mitigation bank must have the type of mitigation credits it is specifically bidding on released and available for sale at the time of bid. The Department will purchase credits by purchase order as needed to meet project needs.
4. The mitigation credits required shall be certified using the Uniform Mitigation Assessment Methodology (UMAM).
5. If the Vendor's mitigation bank credits were assessed using an assessment methodology other than as advertised in this ITB, the Vendor must provide documentation from the appropriate permitting agency stating the credits can satisfy the Department's mitigation need. The Vendor is responsible for calculating any conversion factors and receiving approval from the permitting authority. The Department reserves the right to coordinate with regulatory agencies to determine whether these mitigation bank credits are appropriate to meet its mitigation needs.

The Vendor shall bid using the included Bid Sheet. A Vendor shall only submit one bid sheet and no bids will be accepted from bidders who do not directly own or control the credits. The prospective Bidder is not required to be able to provide all of the credits anticipated to be needed.

The Department's intent is to purchase mitigation credits by purchase order from the lowest bidder or lowest combination of bidders to meet the needs of each project. The Department will purchase mitigation credits from the bidder(s) that provide the lowest cost for the overall mitigation needs for a project. If a low bidder cannot meet the entire mitigation need for a project, the Department may purchase the remainder from higher bidders to fulfill the total project need. If a Vendor elects to bid on all three mitigation categories, the Department will use the bid price associated with the project needs that will produce the lowest purchase price. For each subsequent purchase, the Department reserves the right to purchase available credits from the lowest bidder, and proceed in order of price proposals to determine the best value for the state.

To the extent the credits purchased by the Department exceed the number of actual credits needed for a given project, the Department reserves the right to use any excess credits on future projects. The Department reserves the right to allocate the purchased credits on any Department project.

The Vendor will aid the Department by properly updating its ledger(s) and assist as necessary to update regulatory ledger(s) to reflect actual credits used and document the remaining credits available for use by the Department.



Bid Sheet

Bid #: XXXX

Bid Title: Purchase of Mitigation Credits to Offset Federal Wetland Impacts for Projects in XX Regulatory Basin XX

This is a 24-month Term Contract whereby the Vendor agrees to furnish mitigation credits on an as needed basis to meet the Department’s mitigation needs on a per project basis at the specified bid price. The 24 months will commence on the date the award is final. The Department does not guarantee any specific quantity of mitigation credits to be purchased.

At the time of the bid the Vendor must have approved banking instruments and have available federal bank credits that meet the requirements of this ITB. Please provide documentation demonstrating that the bank is fully permitted.

Please enter the per credit bid price for each mitigation credit type in the table below

(Note to preparer – Bid Table below may be modified to reflect technical specifications)

Mitigation Bank Name (Only One Bank may be Listed)	
---	--

Wetland Credit Type	Price per Federal credit
	UMAM
<i>Freshwater Herbaceous</i>	\$
<i>Freshwater Forested</i>	\$
<i>Saltwater Marsh</i>	\$
<i>Mangrove Swamps</i>	\$

Delivery: A receipt letter shall be delivered to the Department upon notice of award. Delivery will be made within 14 days of receipt of purchase order and shall include confirmation that formal adjustments to the state and federal ledgers have been made and approved by the appropriate regulatory agencies. Payment will be rendered upon formal adjustments to the ledgers. The Department may consult with the appropriate regulatory agencies to confirm that credits from the respective bank will satisfy mitigation required before the Intended Award will be made.

MFMP Transaction Fee: All payments to the Vendor in response to this competitive solicitation WILL be subject to the MFMP Transaction Fee in accordance with the attached Form PUR 1000 General Contract Condition # 14. The Transaction Fee imposed shall be based upon the date of issuance of the payment.



Note: In submitting a response, the bidder acknowledges they have read and agree to the solicitation terms and conditions and their submission is made in conformance with those terms and conditions

Acknowledgement: I certify that I have read and agree to abide by all terms and conditions of this solicitation and that I am authorized to sign for the bidder. I certify that the response submitted is made in conformance with all requirements of the solicitation.

Vendor: _____ FEID #: _____

Address: _____ City, State, Zip: _____

Phone: _____ Fax: _____ Email: _____

Authorized Signature: _____ Date: _____

Printed/Typed Name: _____ Title: _____



Technical Specifications and Bid Sheet for State Credits

Technical Specifications

Bid #: XXXX

Bid Title: Purchase of Mitigation Credits to Offset State Wetland Impacts for Projects in **XXWMD** Regulatory Basin **XX**

The Florida Department of Transportation (Department) is requesting bids for the purchase of up to **X** forested and **X** herbaceous mitigation credits to offset wetland impacts associated with multiple projects located within **XX Water Management District (XXWMD)** Regulatory Basin **X**. This is an indefinite quantity contract. The Department does not guarantee any specific quantity of mitigation credits to be purchased. The Vendor must meet the minimum criteria listed below:

1. The Vendor must possess a valid state banking instrument (permit). The mitigation credits must be acceptable to the **XWMD** and the Florida Department of Environmental Protection (FDEP), as appropriate. The Vendor shall provide a copy of its state permit and a copy of its current state ledger to the Department at the time of submittal of its bid. Prior to purchase the Vendor shall provide a copy of its state credit ledger so the number of credits that are available can be verified.
2. The mitigation bank's service area must be located within the identified WMD basin. Alternatively, a Vendor can provide written verification from the WMD that its bank is acceptable for wetland impacts for a planned project.
3. The mitigation bank must have the type of mitigation credits it is specifically bidding on released and available for sale at the time of bid. The Department will purchase credits by purchase order as needed to meet project needs.
4. The mitigation credits required shall be certified using the Uniform Mitigation Assessment Methodology (UMAM) or equivalent.
5. If the Vendor's mitigation bank credits were assessed using an assessment methodology other than as advertised in this ITB, the Vendor must provide documentation from the appropriate permitting agency stating the credits can satisfy the Department's mitigation need. The Vendor is responsible for calculating any conversion factors and receiving approval from the permitting authority. The Department reserves the right to coordinate with regulatory agencies to determine whether these mitigation bank credits are appropriate to meet its mitigation needs.

The Vendor shall bid using the included Bid Sheet. A Vendor shall only submit one bid sheet and no bids will be accepted from bidders who do not directly own or control the credits. The prospective Bidder is not required to be able to provide all of the credits anticipated to be needed.

The Department's intent is to purchase mitigation credits by purchase order from the lowest bidder or lowest combination of bidders to meet the needs of each project. The Department will purchase mitigation credits from the bidder(s) that provide the lowest cost for the overall mitigation needs for a project. If a low bidder cannot meet the entire mitigation need for a project, the Department may purchase the remainder from higher bidders to fulfill the total project need. If a Vendor elects to bid on all three mitigation categories, the Department will use the bid price associated with the project needs



that will produce the lowest purchase price. For each subsequent purchase, the Department reserves the right to purchase available credits from the lowest bidder, and proceed in order of price proposals to determine the best value for the state.

To the extent the credits purchased by the Department exceed the number of actual credits needed for a given project, the Department reserves the right to use any excess credits on future projects. The Department reserves the right to allocate the purchased credits on any Department project.

The Vendor will aid the Department by properly updating its ledger(s) and assist as necessary to update regulatory ledger(s) to reflect actual credits used and document the remaining credits available for use by the Department.



Bid Sheet

Bid #: XXXX

Bid Title: Purchase of Mitigation Credits to Offset State Wetland Impacts for Projects in X Regulatory Basin X

This is a [24-month Term Contract](#) whereby the Vendor agrees to furnish state wetland mitigation credits on an as needed basis to meet the Department’s mitigation needs on a per project basis at the specified bid price. The 24 months will commence on the date the award is final. The Department does not guarantee any specific quantity of mitigation credits to be purchased.

At the time of the bid the Vendor must have an approved state banking instrument (permit) and available state wetland mitigation credits that meet the requirements of this ITB. Please provide a copy of the mitigation bank’s current ledger sheets and a copy of the current mitigation banking instrument (permit)

If not bidding on certain credit types, fill in the blank with “N/A” to be considered responsive.

Please enter the per credit bid price for each mitigation credit type in the table below.

(Note to preparer – Bid Table below may be modified to reflect technical specifications)

Mitigation Bank Name (Only One Bank may be Listed)	
---	--

Wetland Credit Type	Price per State credit
	UMAM
<i>Freshwater Herbaceous</i>	\$
<i>Freshwater Forested</i>	\$
<i>Saltwater Marsh</i>	\$
<i>Mangrove Swamps</i>	\$

*For credits other than UMAM credits, attach documentation from the appropriate regulatory agencies demonstrating credits satisfy project mitigation needs. The Department reserves the right to coordinate with regulatory agencies to determine whether the credits are appropriate to meet project mitigation needs.

Delivery: A receipt letter shall be delivered to the Department upon notice of award. Delivery will be made within 14 days of receipt of purchase order and shall include confirmation that formal adjustments to the state and federal ledgers have been made and approved by the appropriate regulatory agencies. Payment will be rendered upon formal adjustments to the ledgers. The Department may consult with the appropriate regulatory agencies to confirm that credits from the respective bank will satisfy mitigation required before the Intended Award will be made.



MFMP Transaction Fee: All payments to the Vendor in response to this competitive solicitation WILL be subject to the MFMP Transaction Fee in accordance with the attached Form PUR 1000 General Contract Condition # 14. The Transaction Fee imposed shall be based upon the date of issuance of the payment.

Note: In submitting a response, the bidder acknowledges they have read and agree to the solicitation terms and conditions and their submission is made in conformance with those terms and conditions.

Acknowledgement: I certify that I have read and agree to abide by all terms and conditions of this solicitation and that I am authorized to sign for the bidder. I certify that the response submitted is made in conformance with all requirements of the solicitation.

Vendor: _____ FEID #: _____

Address: _____ City, State, Zip: _____

Phone: _____ Fax: _____ Email: _____

Authorized Signature: _____ Date: _____

Printed/Typed Name: _____ Title: _____



Appendix F – Gopher Tortoise Permit Type, Duration, and Corresponding Mitigation Contribution with Annual CPI Adjustment

Gopher Tortoise Permitting Guidelines

Florida Fish and Wildlife Conservation Commission

Table 1. Permit Type, Duration, and Corresponding Mitigation Contribution (adjusted for 2021 CPI. For current mitigation amounts, refer to <http://MyFWC.com/GopherTortoise>).

PERMIT TYPE	PERMIT DURATION	MITIGATION CONTRIBUTION
Authorized Agent	4 years	\$557 (one-time contribution)
Recipient Site	Varies	No mitigation required
10 or Fewer Burrows <i>Tortoises are relocated on-site or off-site*</i>	1 year	\$223
Conservation <i>>10 burrows relocated to long-term protected area, to public conservation lands, or from public projects to contiguous public conservation land</i>	1 year or 60 months	\$223 for first group of 10 burrows (up to five gopher tortoises) \$334 each additional tortoise
Conservation <i>>10 burrows relocated to short-term protected area</i>	1 year	\$223 for first group of 10 burrows (up to five gopher tortoises) \$3,341 each additional tortoise
Conservation <i>Tortoises relocated to unprotected area</i>	1 year	\$3,341 per tortoise
Temporary Exclusion <i>Exclusions for longer than 6 months must apply for a Conservation permit</i>	1 year or 60 months	\$111 per tortoise (exclusions < 2 months) \$223 per tortoise (exclusions 2 to 4 months) \$334 per tortoise (exclusions 4 to 6 months)
Burrow or Structure Protection <i>Up to 2 burrows and on-site relocation only</i>	6 months	No mitigation required
Emergency Take	Evaluated on a case-by-case basis	\$4,455 per tortoise
Disturbed Site <i>See Section IV. Disturbed Site Permits for more information</i>	Evaluated on a case-by-case basis	\$1,671** additional per tortoise added to the standard mitigation

*Gopher tortoises relocated off-site under a 10 or Fewer Burrows permit cannot be relocated to an unprotected recipient site.

**Additional per tortoise mitigation is not required for each tortoise authorized for relocation that is in excess of the number estimated (see Appendix 4) to occur within a Disturbed Site.