INTRODUCTION

Historically, the Department has administered all State Highway System work with its own forces and its own money. Local governments have likewise administered and funded local road work within their jurisdictions. Over time, however, both the Department and local governments have recognized the need to work together and to pool resources. In recent years, the Legislature has authorized such cooperation.

Various contractual arrangements are used to accomplish joint projects. They include: Agreements, Special Project Agreements, Utility Agreements and Public Transportation Agreements (for transit, intermodal, rail, aviation, and seaport projects). In addition, the Department enters into Joint Use Agreements with private property owners. Such agreements might involve surplus and exchange of real property.

TYPES OF AGREEMENTS

Authorized by Section 339.12, ***Florida Statutes*** (F.S.), Procedures for the Agreements are contained in ***Procedure No. 725-000-005, Public Transportation Grant Agreement*** and ***Procedure 350-020-301, Financial Provisions for All Department Funded Agreements***.

The Department may enter into an Agreement when the Department decides to use state funds to participate with a local government. The agreement defines a project on the State Highway System that is not revenue producing and determines the Department's participation. The Agreement will define the scope of work, type of funds to be used and the legal provisions.

Types of Agreements include:

Landscaping/Beautification. The Department will provide funding to local governments for plant materials. Of such funds, 50 percent must be for large plant materials and 50 percent for other plant materials. The plants must be purchased from Florida-based nursery stocks except as prohibited by federal law and to the extent practical. Purchase must be a uniform competitive bid. The underlying statutory authority for landscaping is Subsection 334.04(26), F.S.

The local government must agree to maintain the landscaping installed by the project in accordance with the Landscape Maintenance Plan(s). This maintenance will be in accordance with ***Rule 14-40.003***, Florida Administrative Code (F.A.C.). It is important for the District Maintenance Engineer or designee to be consulted on all landscaping Agreements.

Intersection Improvements. The Department often provides state funds to local governments to construct intersection improvements on behalf of the Department if the local government's cost is less than that of the Department's and if it would be practical, expeditious and economical for the Department. This situation arises when both the Department and the local government have projects that are under way concurrently at an intersection.

Design; Construction; Resurfacing, Reconstructing, and Rehabilitation (RRR). The Department will provide state funds to local governments if the Department feels that the scope of work that the local government will be performing will save the Department time and will help the Department avoid cost increases on the project. This situation arises when the Department has included an RRR job on a section of a state road where the local government plans utility or other work that would significantly affect the surface of a state road.

Drainage Improvements. The Department will provide state funds to local governments to improve drainage structures within the right of way limits of state roads when the local government undertakes to improve its own drainage system outside the limits of the state road. The Department can realize cost savings because the local government may already have a contractor mobilized or because economies of scale associated with the larger project may result. State funds are used to reimburse the local government for work done to the Department's drainage system located within the right of way and at the point of connection to the local government's drainage system.

Metropolitan Planning Organization Grants. The Department will provide state funds to a metropolitan planning organization to provide Departmental assistance to develop Long Range Transportation Plans in accordance with 23 ***Code of Federal Regulations***, Section 450.322, and to assist in transportation studies.

LOCALLY FUNDED AGREEMENTS

Authorized by Section 339.12, F.S, Procedures Financial Provisions for the ***Locally Funded Agreements*** are contained in FDOT ***Procedure No. 350-020-300***.

The Department may enter into a Locally Funded Agreement when the local government provides/contributes funding to participate on a project that the Department of Transportation will complete. The Locally Funded Agreement will define the scope of work, type of funds to be used and the legal provisions.

Examples of Locally Funded Agreements include:

- **LF Funds.** FDOT lets the contract or does the work and the local government contributes; or the local government lets the contract for doing the work.
- **LFF Funds.** Local funds are used to match federal funds on projects off the State Highway System.
- **LFR.** The local government agrees to perform a highway project or project phase in the Department's adopted work program earlier than programmed in the Work Program System. Or the governmental entity agrees to advance funds to the Department to accomplish a project early, and the local government will be reimbursed in the year that the project was originally programmed in the Work Program System.
- **LFRF.** The Department enters into an agreement with a local governmental to advance a project phase not included in the Adopted Work Program. These are only for right of way, construction, construction inspection and related support phases (PE & design are excluded).

LOCAL AGENCY PROGRAM AGREEMENTS

Authorized by s. 339.12, F.S., Procedures for the Local Agency Program (LAP) Agreements are contained in the ***Procedure No. 525-010-300, Local Agency Program Manual.***

The Department contracts with local governmental agencies to plan, develop, design, acquire right of way, and construct transportation facilities and to reimburse local governments for services provided to the traveling public. When the Department contracts with a local government for reimbursement using federal funds administered by the Federal Highway Administration, the Department will be

held accountable to ensure the certified local government complies with all applicable federal statutes, rules and regulations. Local governmental agencies must be LAP certified before entering into a LAP Agreement. For additional information on LAP, see ***PMG 430***.

PUBLIC TRANSPORTATION AGREEMENTS

Authorized by s. 339.12, F.S., Procedures for the Agreements are contained in ***Procedure No. 725-000-005***.

Public Transportation includes: rail, aviation, seaport, intermodal, and transit projects. The Department will provide state funds for providing assistance for transportation services. List of contacts are cited below in descriptions.

Rail Agreements. Any project that includes new construction, reconstruction, widening and/or resurfacing of a road at or near the right of way of a highway railroad grade crossing or the reconstruction or new construction of a Grade Separation over railroad tracks requires that a contract be negotiated with the railroad. Section 337.11, F.S., requires all Railroad Agreements to be negotiated and signed before a highway construction project is advertised for bid. Rail procedures are also contained in ***Procedure No. 725-080-002***, ***Rail Office Programs Handbook***.

Aviation Agreements. These agreements ordinarily are not used on roadway projects because they deal primarily with direct aviation-related improvements to air facilities. However, the potential exists for a road project to be impacted by the Federal Aviation Administration (FAA) or aviation restrictions. Involvement of the Aviation Manager is critical in this case. The Department will provide state funds to provide financial and technical assistance to Florida's airports in the areas of development, improvement, land acquisition, airport access and economic enhancement.

Seaport Agreements. These agreements are similar to Aviation Agreements in that they do not deal with roadway projects. The Department will provide state funds to provide financial and technical assistance to the seaports in Florida. Involvement of the Public Transportation Manager is critical when these agreements are negotiated.

Intermodal Agreements. These agreements relate primarily to public transit issues like aviation and seaport agreements. The District Public Transportation Manager needs to be consulted early in the negotiating process.

Transit Agreements. These agreements take the form of a grant of state or federal funds to a local government or provider of public transit services. The District Public Transportation Manager needs to be consulted in the negotiation process should an issue arise.

SPECIAL PROJECT AGREEMENTS

There is no FDOT procedure for these types of agreements. References for each type of agreement can be found in Part III of the ***Work Program Instruction Manual***. Special Project Agreements include a variety of agreements that are authorized on the basis of individual statutes. These agreements allow the Department to provide funding to local governments.

County Incentive Grant Program (CIGP). This program allows the Department to provide grant funding to local governments to improve a transportation facility that is located on the state highway system or that relieves traffic congestion on the state highway system. It is authorized by Section 339.2817, F.S.

Transportation Outreach Program (TOP). This program allows the Department to provide funding for transportation projects of a high priority based on the prevailing principles of preserving existing transportation infrastructure, enhancing

Florida's economic growth and competitiveness, and improving travel choices to ensure mobility. It is authorized by Section 339.137, F.S.

Small County Road Assistance Program (SCRAP). This program allows the Department to provide funding to assist small counties with resurfacing and reconstruction of county roads. It is authorized by Section 339.2816, F.S.

Small County Outreach Program (SCOP). This program allows the Department to provide funding to assist small counties in resurfacing and reconstruction of county roads or in constructing capacity or safety improvements to county roads. It is authorized by Section 339.2818, F.S.

Transportation and Community and System Preservation Program (TCSPP). This program is a 100-percent federally funded grant program for direct congressional funding appropriations. Activities that are funded include planning, implementation and research of transportation, community, and system preservation practices. The grant may be administered by the Florida Department of Transportation or by the Division of the Federal Highway Administration. It is authorized by Section 335.093, and Subsections 339.08(2)(j), and 339.155(2)(a) 4., F.S.

UTILITY AGREEMENTS

Authorized by Sections 337.401 and 337.403, F.S., Procedures for Utility Agreements are contained in ***Procedure No. 710-010-050, Utility Work Agreements***. The district utility section is responsible for arranging to clear utilities on highway construction projects, for maintaining the Department's project file, and for certifying that utilities have been cleared.

Utility Agreements authorize utility accommodations. These agreements provide for adjusting, relocating, or otherwise accommodating utility facilities on Department right of way. Types of Utility Agreements include:

- Reimbursable
- Non-Reimbursable
- Joint Project
- Lump Sum

ROADWAY ILLUMINATION AGREEMENTS

Authorized by Section 337.11(14), F.S., there is no procedure for these agreements. Information on such projects can be found in Part III of the ***Work Program Instruction Manual***. The Department will provide assistance to a Utility Owner Agency (UOA) to provide a roadway lighting system using the UOA's poles.

NATIONAL SCENIC BYWAY AGREEMENTS

Authorized by Section 335.093, F.S., there is no procedure for these agreements. Information on such projects can be found in Part III of the ***Work Program Instruction Manual***. The Department provides funds to local governments to develop scenic byway programs and related projects along roads designated National Scenic Byways.

JOINT USE DRAINAGE AGREEMENTS

Joint Use Drainage Agreements are often used to accommodate Departmental needs relating to drainage. The joint use agreement form and context varies. Joint

use situations can be addressed by way of a real property surplus or exchange agreement. On the other hand, the joint use can be accomplished through settlement prior to or as a part of an Order of Taking within the context of an Eminent Domain proceeding. In this Joint Use scenario, the real property owner whose property is adjacent to state road right of way accepts or treats storm-water drainage from the right of way for the mutual benefit of both the property owner and the Department.

In all situations involving Joint Use Drainage Agreements, the District Drainage Engineer should be directly involved in the negotiation and agreement process.

Typical situations where Joint Use is utilized include the following:

- The real property is located adjacent to or near state road right of way and is encumbered with a blanket easement or is encumbered by historic flow and drainage patterns. In order to develop the property, the property owner approaches the Department to accept and handle the Department's drainage so as to allow development of the property.
- The real property owner desires that the Department allow reconfiguration of or relocation of Department-owned ponds (or ponds over which the Department owns a drainage easement).
- In order to minimize the impact of a taking, the Department agrees to certain restrictions or limitations on how drainage is directed onto an adjacent property. Arrangements vary widely for these situations.

Local governments may request that the Department work with them to allow storm-water retention areas to be reconfigured or relocated to achieve goals of the local governmental agency. Or the Department may approach the local government and offer its help with such reconfigurations or relocations.

In all these situations, the office of the District General Counsel should be contacted as soon as possible since there are serious and significant legal issues associated with joint use situations.