

Approved:

Effective: January 5, 2018  
Review: July 8, 2019  
Office of the Comptroller  
Topic No: 350-020-301-k



Department of Transportation

## **FINANCIAL PROVISIONS FOR ALL DEPARTMENT FUNDED AGREEMENTS**

### **AUTHORITY:**

Sections 20.23(3)(a) and 334.048(3), Florida Statutes (F.S.)

### **REFERENCES:**

- Sections 55.03, 112.061, 215.422, 215.97, 215.971, 216.311, 287.058, 287.0582, 334.044, 339.08, 339.12, and 339.135(6)(a), F.S.
- Disbursement Handbook for Employees and Managers  
<https://fldot.sharepoint.com/sites/FDOT-OOC/DOO/HB/SitePages/Home.aspx>
- Contract Funds Management Funds Approval, Procedure No. 350-020-200
- Single Audit, Procedure No. 450-010-001
- LAP vs. JPA, Federal Aid Technical Bulletin No. 15-02
- 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

### **STATEMENT OF POLICY:**

This procedure establishes standard financial provisions for all agreements in which the Florida Department of Transportation (Department) will provide funding for deliverables the Other Party will provide. These provisions are to be included in Department Funded Agreements (DFA) and official Department form agreements.

### **SCOPE:**

The requirements set forth in this procedure affect all Department employees responsible for writing and managing DFAs. It does not supersede any other official Department procedures or official Department form that has gone through proper review and approval by the Office of Comptroller.

Non-financial terms and conditions, such as public records requirements and E-verify, are provided by the Office of General Counsel.

## DEFINITIONS:

**Department Funded Agreements (DFA):** Any two-party written agreement for the purchase of goods or services on behalf of the Department. Some examples include; maintenance and construction contracts, contractual and professional services agreements, grants and joint participation agreements.

**Joint Participation Agreements (JPA):** An agreement, typically between the Department and a local agency, where the local agency provides goods or services on behalf of the Department; for example, utility agreements, lighting and signal maintenance.

**Grant Disbursement Agreement (GD):** An agreement to provide state or federal financial assistance to a recipient or sub recipient. The recipient or sub recipient is subject to programmatic requirements provided in the Catalog for State Financial Assistance (CSFA) or the Catalog for Federal Domestic Assistance (CFDA); for example, Aviation Development Grants and Local Agency Program agreements.

**Locally Funded Agreement (LFA):** Legally binding agreements, between the Department and one or more parties, which provide for the Department's rendering of services and/or commodities, involving local funding, and are mutually beneficial to all parties. Refer to **Procedure No. 350-020-300, *Locally Funded Agreement Financial Provisions and Processing***.

## GENERAL:

This procedure contains standard financial provisions that should be included in all DFAs. These standard financial provisions are used to reimburse the Other Party for the deliverables the Other Party provides. DFAs should be processed in accordance with the ***Contract Funds Management Funds Approval, Procedure No. 350-020-200*** and the ***Disbursement Handbook for Employees and Managers***. Any DFA drafted without the standard financial provisions from this procedure shall be considered a modified agreement. All modified agreements must be submitted to the Department's Comptroller or Statewide Contracts, Grants and Funds Management Office (CGFM) for review and approval (see **Section 1.1**). NOTE: Throughout this procedure, "Other Party" is used to address the "other party" to the agreement with the Department. It may be replaced with a more appropriate term in the DFA.

## 1. STANDARD FINANCIAL PROVISIONS

Standard financial provisions for DFAs are available and provided in **Attachments A, B, C, D and E**. The Department's Comptroller or designee is not required to review and approve the financial provisions of the agreement when the standard provisions are used in the body of the DFA. The Office of the General Counsel (OGC) must approve all DFAs whether the standard financial provisions are used or not.

### 1.1 MODIFICATIONS TO STANDARD FINANCIAL PROVISIONS

Any DFA which does not use the standard financial provisions detailed in **Attachments A, B, C, D and E**, unless it is an official Department form that has already been approved by the OGC and CGFM through the standard forms process, will require review and approval of the modified provision(s) first by either the District OGC or Central Office OGC, depending on the origin of the DFA, and second by the Department's Comptroller or designee prior to submission to the Other Party(ies) for execution. The name of the reviewing attorney, and the person processing the DFA, must be submitted with the review request to the CGFM. The only exceptions to this review are the modifications that are allowed per **Section 2.1** of this procedure.

Review requests may be submitted to the CGFM.

## 2. STANDARD FINANCIAL PROVISIONS (ATTACHMENT A)

These provisions are to be used in all DFAs and official Department form agreements. These provisions are required by **Florida Statutes** or policies of the Department and the Department of Financial Services to be included in reimbursement agreements. The provisions may be consolidated in the agreement. They do not need to be numbered. Any modifications to, or removal of these provisions (except as stated in **Section 2.1**), must be approved by the Department's Comptroller or designee. There are other required provisions that are not financial. Contact the appropriate District OGC or Central Office OGC representative to acquire those provisions.

All DFAs shall include:

- (1) A provision specifying a scope of work that clearly establishes the tasks that the other party is required to perform;
- (2) A provision dividing the agreement into quantifiable, measurable and verifiable units of deliverables that must be received and accepted in writing by the agency before payment. Each deliverable must be directly related to the scope of work and must specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable;

- (3) A provision for financial consequences that clearly establishes actions to be taken if the Department determines that the performance of the terms in the DFA is unsatisfactory; and
- (4) A provision for an end date that the work must be completed.

## 2.1 Currently Approved Exceptions/Modifications to Attachment A

The following language is currently approved for exceptions or modifications from the standard financial provisions indicated in **Attachment A** without prior approval from the Department's Comptroller or designee. They may only be changed if the conditions as described for each exist.

- The DFA must include one of the travel provisions listed in **Attachment A**.
- The number of days for the Department to inspect and approve goods and services may be increased to 20 working days. If the approval of goods and services begins with the receipt of the invoice, it must be specified in the agreement or an addendum to the agreement. Any agreement requiring more than 20 working days must be approved by the Comptroller.
- A financial consequence must be included in every agreement. The financial consequence for cost reimbursement agreements may be "No payment will be made until 100% completion of the project and acceptance of the deliverable or resolution of the deficiency".

## 3. SINGLE AUDIT ACT REQUIREMENTS

If the agreement is for state or federal financial assistance, the grant disbursement agreement must include the required State and/or Federal Single Audit language. The language is available on the OOC Grant Section's SharePoint site cited below. In addition, assistance may be obtained from the Department's Office of Comptroller Grants Section.

<http://cosharepoint.dot.state.fl.us/sites/OOC/Grants/SitePages/Home.aspx>.

## 4. ADVANCE PAYMENT FINANCIAL PROVISIONS (ATTACHMENT B)

All advance payments must be pre-approved. The funds advanced to the Other Party must be accounted for separately from other funds of the Other Party. If the funds are deposited into an interest-bearing account, the interest must be returned to the Department. The process for requesting and obtaining approval for advance payments and for the accounting and return of the interest, if applicable, is included in the **Disbursement Handbook for Employees and Managers**. The language from **Attachment B** must be incorporated directly into the DFA or **Attachment B** must be

attached to and made a part of the DFA as an exhibit. The Department's Comptroller or designee must approve any modifications to the language included in **Attachment B** and approval to advance must be received prior to submission to the Other Party for execution.

## **5. ALTERNATIVE ADVANCE PAYMENT FINANCIAL PROVISIONS (ATTACHMENT C)**

The Department's Comptroller, pursuant to **Section 334.044(29), F.S.**, may approve alternative advance payments for DFAs with governmental entities. The process for requesting and obtaining approval for alternative advance payments is included in the **Disbursement Handbook for Employees and Managers**. The language from **Attachment C** must be incorporated directly into the DFA or **Attachment C** must be attached to and made a part of the DFA as an exhibit. The Department's Comptroller or designee must approve any modifications to the language included in **Attachment C** and approve the alternative advance payment method prior to submission to the Other Party for execution.

## **6. PROJECTS IN ADVANCE OF PROGRAMMED YEAR FINANCIAL PROVISIONS (ATTACHMENT D)**

The Other Party may request, and the Department may agree, to begin the project in advance of the project's programmed year in the Department's Adopted Work Program. The Assistant Secretary for Finance and Administration must approve a request to advance a project contained (Local Funds Reimbursable, LFR Funds) or not contained (Local Funds Reimbursable-Future, LFRF Funds) in the Adopted Work Program. The request to advance a project should include sufficient justification to support the need for and the importance of providing this commitment as well as address the factors identifying that the project is a high priority and how the need to advance the project outweighs the project's impacts on future district funding decisions and commitments. A request must be sent from or via the District Secretary to the Assistant Secretary for Finance and Administration for review and approval/denial. The Assistant Secretary for Finance and Administration may approve the request as a LFR or LFRF project after considering statewide financial and program impacts and the Department's ability to ensure compliance with applicable laws. The DFA must be executed prior to the Other Party beginning the project. The Department may reimburse the Other Party in accordance with **Section 339.12, F.S.**, or other appropriate statute, beginning in the Department's fiscal year the project was programmed as of the date of the execution of the agreement. The Other Party may only invoice for actual costs incurred and in accordance with the payback terms. **Attachment D** provides standard financial provisions that must be used when entering into a DFA of this type. Modifications to these provisions are highly discouraged. If a modification is needed, prior approval from the Department's Comptroller is required. An encumbrance request (reviewed/approved) must be processed through the Contract Funds Management System and funds approval/review received prior to contract execution (see **Section 11**).

## **6.1 GUIDELINES FOR PAYBACK OPTIONS FOR PROJECTS IN ADVANCE OF PROGRAMMED YEAR**

The following are payback options determined by the type of project and/or its funding:

- (A) If the Department's funding is from the Federal Highway Administration (FHWA) [other than those funded as Advanced Construction (AC) or federal earmarks], the reimbursement payment of costs incurred will be available lump sum up to amounts incurred beginning in the year the project is scheduled in the Department's Work Program as of the date of the executed agreement. Those funded as AC will be paid back as state funded projects. The repayment schedule for federal earmark projects will be determined on a case by case basis by the Department's Comptroller.
- (B) If the total project estimate is less than Two Million Dollars (\$2,000,000) using state funds, the reimbursement payment of costs incurred will be available lump sum up to the amounts incurred beginning in the year the project is scheduled in the Department's Work Program as of the date of the executed agreement.
- (C) If the total project estimate is less than Two Million Dollars (\$2,000,000) using state funds or FHWA funding [other than those funded as AC or federal earmark] and is programmed in the Department's Adopted Work Program over a multi-year period, an annual amount equal to the amount programmed and incurred will be reimbursed beginning in each of these years. The reimbursement amount should be the lesser of the amount programmed or the actual costs incurred. Those funded as AC will be paid back as state funded projects. The repayment schedule for federal earmark projects will be determined on a case by case basis by the Department's Comptroller.
- (D) If the project is for resurfacing, is estimated over Two Million Dollars (\$2,000,000) and is state funded, payments will be made in six (6) equal quarterly payments, up to the amount of costs incurred, beginning in the year the project was programmed as of the date of execution of the agreement.
- (E) For all other state funded contracts estimated over Two Million Dollars (\$2,000,000) payments will be made in ten (10) equal quarterly payments, up to the amount of costs incurred, beginning in the year the project was programmed as of the date of execution of the agreement.

Any variations from the above described payback options are considered modifications and must be approved by the Department's Comptroller prior to submission to the Other Party for execution. Modifications to the payback options are highly discouraged as they impact the Department's Cash Forecast and Finance Plans. Only one payback option should be included in the agreement.

## 7. FINANCIAL PROVISIONS FOR PARTICIPATION IN OFF-STATE HIGHWAY SYSTEM PROJECTS (ATTACHMENT E)

The language contained in **Attachment E** must be incorporated and made a part of maintenance agreements where the “other party” commits to the maintenance of the project that the Department constructs for them primarily with federal funds. The “other party” will be required to cover costs in the event of cost overruns, supplemental agreements (specifically incurred in the areas located off the State Highway System) and/or liquidated damages not eligible to be paid for by federal funds. The Office of Comptroller, General Accounting Office, Locally Funded Agreements Section, must be made aware of all instances in which cost recovery efforts are appropriate.

## 8. PROJECTS FUNDED WITH FEDERAL FUNDS

- A. Must comply with Federal agency requirements and the contract provisions required by 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- B. **Emergency Relief Work: Form No. 350-000-15, Emergency Local Government Emergency Relief Reimbursement Agreement**, should be used for emergency relief work (not permanent work) on federal-aid eligible roads. Permanent repairs are contracted using a Local Agency Program (“LAP”) agreement.

## 9. ATTACHMENTS

- (A) Standard Financial Provisions
- (B) Advance Payment Financial Provisions
- (C) Alternative Advance Payment Financial Provisions
- (D) Project(s) in Advance of Programmed Year Financial Provisions
- (E) Financial Provisions for Participation in Off-State Highway System Projects

## 10. TRAINING

No training program is needed.

## 11. FORMS

300-000-06 Contractor Travel Form

350-000-15 Emergency Local Government Emergency Relief Reimbursement Agreement

350-000-10 Application for Advance Payment (Accountable Advances Only)

## Attachment A

### Standard Financial Provisions

*Note: There are other **required** provisions that are not financial. See the appropriate Office of the General Counsel, District or Central Office attorney to acquire those provisions.*

1. The Department agrees to compensate the (Other Party) for services described in Exhibit A – Scope of Services or Project Description and Responsibilities. The Method of Compensation or Schedule of Financial Assistance is included as Exhibit B.
2. The Other Party shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project, identified as Project Number \_\_\_\_\_, and the quantifiable, measurable, and verifiable units of deliverables are described more fully in Exhibit A – Scope of Services or Project Description and Responsibilities. **(Section 287.058(1)(d) and (e), F.S.)**
3. Invoices shall be submitted by the Other Party in detail sufficient for a proper pre-audit and post audit based on the quantifiable, measurable and verifiable units of deliverables as established in Exhibit A – Scope of Services or Project Description and Responsibilities. Deliverables must be received and accepted in writing by the Department’s Project Manager prior to payments. **(Section 287.058 (1)(a), F.S.)**
4. Supporting documentation must establish that the deliverables were received and accepted in writing by the Other Party and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Exhibit A – Scope of Services or Project Description and Responsibilities was met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in Attachment F – Contract Payment Requirements. **(Reference Guide for State Expenditures Cost Reimbursement Requirements.)**
5. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department’s **Travel Form No. 300-000-06** and will be paid in accordance with **Section 112.061, F.S** and the most current version of the **Disbursement Handbook for Employees and Managers. (Section 215.422(11), F.S. and Section 287.058(1)(b), F.S.)**



***The following requirement does not apply to grant disbursement agreements, but must be included in all other agreements:***

If compensation for travel is authorized under this Agreement and by the Department's Project Manager, then the Department shall not compensate the Other Party for lodging/hotel expenses in excess of \$150.00 per day (excluding taxes and fees). The Other Party may expend their own funds to the extent the lodging/hotel expense exceeds \$150.00 per day. The Department, in its sole discretion and pursuant to its internal policies and procedures, may approve compensation to the Other Party for lodging/hotel expenses in excess of \$150.00 per day.

***Or:***

There shall be no reimbursement for travel expenses under this Agreement.

6. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under ***Chapters 215 and 216, F.S.*** or the Department's Comptroller under Section 334.044 (29), Florida Statutes. If the Department determines that the performance of the Other Party is unsatisfactory, the Department shall notify the Other Party of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Other Party shall, within five days after notice from the Department, provide the Department with a corrective action plan describing how the Other Party will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Other Party shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the Other Party resolves the deficiency. If the deficiency is subsequently resolved, the Other Party may bill the Department for the retained amount during the next billing period. If the Other Party is unable to resolve the deficiency, the funds retained will be forfeited at the end of the Agreement's term. (***Section 287.058(1)(h), F.S.***)

***Or for grant disbursement agreements:***

Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within five days after notice from the Department, provide the

Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Recipient will not be reimbursed to the extent of the non-performance. The Recipient will not be reimbursed until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for the unpaid reimbursement request(s) during the next billing period. If the Recipient is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

7. The Other Party providing goods and services to the Department should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than 5 working days unless the bid specifications, purchase order, or contract specifies otherwise. (Any deviations should be referenced in the agreement or an addendum in accordance with Section 2.1.) The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved. (**Section 215.422(1), F.S.**)

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to **Section 55.03(1), F.S.**, will be due and payable, in addition to the invoice amount, to the Other Party. Interest penalties of less than one (1) dollar will not be enforced unless the Other Party requests payment. Invoices that have to be returned to an Other Party because of Other Party preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department. (**Section 215.422(3)(b), F.S.**)

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Other Party who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516. (**Section 215.422(5) and (7), F.S.**)

8. The Other Party shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for \_\_\_\_\_ (refer to Records Retention Schedule posted on Disbursement Operations SharePoint site for correct number of years) after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Other Party's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work

on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs. (**Section 287.058(4), F.S.**)

9. In the event this contract is for services in excess of \$25,000.00 and a term for a period of more than 1 year, the provisions of **Section 339.135(6)(a), F.S.**, are hereby incorporated:

"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 such 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 \$25,000.00 and which have a term for a period of more than 1 year."

10. The Department's obligation to pay is contingent upon an annual appropriation by the Florida Legislature. (**Section 287.0582, F.S.**)

**Note:** If the Department contracts for services or tangible personal property in excess of \$5 million, the contract must also specifically identify the appropriation of state funds from which the contract will make payment in the first year of the contract. (**Section 216.313, F.S.**)

11. **Either:**

This contract does not involve the purchase of Tangible Personal Property, as defined in Chapter 273, F.S.

**Or:**

This contract includes the purchase of Tangible Personal Property as defined in Chapter 273, F.S., and is acquired in accordance with Rule 60A-1.017, Florida Administrative Code. The specific property(ies) and line item cost(s) is(are) detailed below, and will be subsequently transferred to and controlled by the Department upon completion of services or end of the contract, whichever occurs first. Upon receipt of property, the Vendor shall forward to the Department a copy of the purchase invoice/property description/serial number and date of receipt. The Department will forward inventory control label(s) to be affixed to all

property. The Vendor will accommodate physical inventories required by the Department.

*(List property items here)*

**Attachment B**

**Advance Payment Financial Provisions**

*Note: The process for requesting and obtaining approval for advance payments is included in the **Disbursement Handbook for Employees and Managers**. If it is desired to advance a portion of the estimated cost of the project to the Other Party, the following Advance Payment Financial Provisions must be incorporated into the DFA or the following exhibit must be attached and made a part of the DFA in addition to the conditions of **Attachment A**. The Department’s Comptroller or designee must approve any modifications to the provisions (see **Section 1.1** of this procedure). See **Section 4** of this procedure for advance payment guidelines.*



**Exhibit \_\_\_\_\_**

- 1. The Department may advance an amount of *(amount spelled out)* \$\_\_\_\_\_.
- 2. The advance payment may be not be released before the execution of this Agreement and/or before the fiscal year the project funding is in the Department’s Adopted Work Program.
- 3. The \_\_\_\_\_ (Other Party) will submit an invoice for the advance.
- 4. The advanced amount, including interest earnings (if applicable), must be accounted for separately from other funds of the \_\_\_\_\_ (Other Party).
- 5. The (Other Party) shall invoice the Department no more than monthly for costs incurred. The amount advanced, plus interest earnings shall be deducted on the latter month’s invoices(s).
- 6. Any unexpended funds, including applicable interest, remaining at the conclusion/termination of the Agreement shall be returned to the Department within \_\_\_\_\_ days of the completion/termination of the project.

**Attachment C**

**Alternative Advance Payment Financial Provisions**

*Note: The process for requesting and obtaining approval for an alternative advance payment is included in the **Disbursement Handbook for Employees and Managers**. If it is desired to use the alternative advance payment method, the following Alternative Advance Payment Financial Provisions must be incorporated into the DFA or the following exhibit must be attached and made a part of the DFA in addition to **Attachment A**. The Department’s Comptroller or designee must approve any modifications to the provisions (see **Section 1.1** of this procedure). See **Section 5** of this procedure for alternative advance pay guidelines.*



**Exhibit \_\_\_\_\_**

1. The invoiced amount to the Department for contractor(s) and consultant(s) cannot exceed the amount of the invoice received from the Other Party’s contractor(s) or consultant(s).
2. All of the Other Party’s costs must have been incurred and paid prior to the date of the invoice.
3. All invoices received from the Other Party shall clearly separate the cost of the contractor(s) or consultant(s) from the Other Party’s cost billed to the Department.
4. All invoices submitted to the Department must provide complete documentation, including a copy of the contractor’s or consultant’s invoice(s), to substantiate the cost on the invoice.
5. The Other Party must certify on each invoice that the costs from the contractor(s) or consultant(s) are valid and have been incurred by the contractor(s) or consultant(s).
6. Each monthly invoice subsequent to the first invoice from the Other Party must contain a statement from the Other Party that the previous month’s cost incurred by the contractor(s) or consultant(s) has been paid by the Other Party to the contractor(s) or consultant(s).

**Attachment D**

**Project(s) in Advance of Programmed Year - Financial Provisions**

*Note: The following must be incorporated and made a part of the DFA, in addition to the conditions of **Attachment A**, when the Other Party chooses, and the Department agrees, to begin the project in advance of the fiscal year programmed in the Department's Adopted Work Program. Modifications to these provisions are highly discouraged and must be approved by the Department's Comptroller prior to submission of the agreement to the Other Party for execution. Only one payback option should be included in the DFA.*

**IMPORTANT!!!! Section 6 of this procedure provides guidelines to determine which option is available for the type of project identified in the Agreement.**

-----  
The Department agrees to reimburse the Other Party in accordance with **Section 339.12, F.S.** The Other Party will not invoice the Department until after July 1 in the fiscal year(s) the project is scheduled in the Department's Work Program as of the date of execution of the Agreement. After receipt of a properly documented invoice, the payment(s) will be made to the Other Party as follows: *(choose the appropriate one per **Section 6.1** of this procedure)*

- Lump sum, up to the amount of costs incurred after the execution of the Agreement, beginning in the year(s) the project is scheduled in the Department's Work Program as of the date of execution of the Agreement.
- In annual amounts equal to the amounts programmed in the Department's Adopted Work Program in each year, up to the amount of costs incurred after the execution of the Agreement.
- Six (6) equal quarterly payments, up to the amount of costs incurred after the execution of the Agreement and beginning in the year the project was programmed in the Department's Adopted Work Program as of the date of execution of the Agreement.
- Ten (10) equal quarterly payments, up to the amount of costs incurred after the execution of the Agreement and beginning in the year the project was programmed in the Department's Adopted Work Program.

The Other Party will be reimbursed for approved actual costs incurred.

**Attachment E**

**Financial Provisions for Participation in Off-State Highway System Projects**

*Note: The following language must be incorporated and made a part of Maintenance Agreements for projects FDOT constructs for another party primarily with Federal Funds to recover costs in the event of cost overruns, supplemental agreements (specifically incurred in the areas located off the State Highway System) and/or liquidated damages not eligible to be paid for by federal funds are experienced. The Office of Comptroller, General Accounting Office, Locally Funded Agreements Section must be made aware of all instances in which cost recovery efforts are appropriate. See Section 7 of this procedure for Participation of Off-State Highway System Federal Non-Participating Costs guidelines.*

-----  
**Local Government Participation of Off-State Highway System Federal Non-Participating Costs:** In the event there are cost overruns, supplemental agreements (specifically incurred in the areas located off the State Highway System), and or liquidated damages not eligible to be paid for by federal funds due to the Federal Highway Administration determining that said costs are non-participating costs, the Other Party shall be responsible for one-hundred percent (100%) of the funds required to make up the shortfall not paid by federal funds. The Project is off of the "State Highway System," therefore, in accordance with **Section 339.08(1), F.S.**, State funding cannot be used for payments of non-participating costs on this Project. (Examples of non-participating items could be fishing piers; premium costs due to design or CEI errors or omissions; material or equipment called for in the plans but not used in the construction, as referenced in the Federal Aid Policy Guide 23, CFR Section 635.120).

- a. Should such shortfalls occur due to a determination that said costs are non-participating, the (Other Party) agrees to provide, without delay, a deposit within fourteen (14) calendar days of notification from the Department, to ensure that cash on deposit with the Department is sufficient to fully fund the short fall. The Department shall notify the (Other Party) as soon as it becomes apparent there is a shortfall; however, failure of the Department to so notify the (Other Party) shall not relieve the (Other Party) of its obligation to pay for its full participation of non-participating costs during the Project and on final accounting, as provided herein below. If the (Other Party) cannot provide the deposit within fourteen (14) days, a letter must be submitted to and approved by the Department's contract manager indicating when the deposit will be made. The (Other Party) understands the request and approval of the additional



time could delay the project, and additional non-participating costs may be incurred due to the delay of the project.

The Department intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty days (360) of final payment to the Contractor. The Department considers the Project complete when the final payment has been made to the Contractor, not when the construction work is complete. All non-participating Project cost records and accounts shall be subject to audit by a representative of the (Other Party) for a period of three (3) years after final close out of the Project. The (Other Party) will be notified of the final non-participating cost of the project. Both parties agree that in the event the final accounting of total non-participating costs pursuant to the terms of this Agreement is less than the total deposits to date, a refund of the excess will be made by the Department to the (Other Party). If the final accounting is not performed within three hundred and sixty (360) days, the (Other Party) is not relieved from its obligation to pay.

In the event the final accounting of total non-participating costs are greater than the total deposits to date, the (Other Party) will pay the additional amount within forty (40) calendar days from the date of the invoice from the Department. The (Other Party) agrees to pay interest at a rate as established pursuant to **Section 55.03, F.S.**, on any invoice not paid within forty (40) calendar days until the invoice is paid.

The payment of funds under this Agreement provision will be made directly to the Department for deposit.

## ATTACHMENT F

### **Contract Payment Requirements Florida Department of Financial Services, Reference Guide for State Expenditures Cost Reimbursement Contracts**

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges:Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs:If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address  
[http://www.fldfs.com/aadir/reference\\_guide.htm](http://www.fldfs.com/aadir/reference_guide.htm)