

**GUIDANCE FOR LOCAL GOVERNMENT MATCH
RIGHT OF WAY CONTRIBUTIONS FOR GROWTH MANAGEMENT (TRIP)
PROJECTS**

Senate Bill 360 as passed by the 2005 Legislature provides for state funding of growth management related transportation projects based upon a 50% match with local funds. It is anticipated that local governments will want to contribute rights of way for the project as all or part of their matching share. This document provides the guidance to be applied to such contributions.

I. Rights of Way Eligible for Contribution

Rights of way eligible for local government matching contribution credit are only those properties necessary for the qualified project itself. Rights of way for prior projects are not eligible. **Example:** An existing 2 lane facility is to be expanded to 4 lanes by the qualified project. The right of way for the existing 2 lane facility is not eligible for contribution credit. However, rights of way needed for the additional 2 lanes or rights of way held by the local government which are in excess of that necessary for the existing 2 lane facility but legitimately needed for the new 4 lane facility are eligible for credit.

II. Acquisition Procedures

Projects on the State Highway System or which use federal funding in any phase of the project or state funding in right of way must comply with either federal law or procedure or state law or rule relating to right of way acquisition procedures. These laws are intended to protect or provide benefits to property owners and relocatees on federal or state funded projects on the National and State Highway Systems. The laws and rules are intended to ensure consistency of fair treatment under the law to these citizens on these projects. The Department must ensure that local governments or private parties involved in acquisition processes, acting on the Department's or local government's behalf, comply with these requirements.

A. Projects not part of the State Highway System

These are projects which are not now on the State Highway System and have no reasonable expectation of being added to the system in the future.

1. Projects with no federal funding in any phase

Rights of way acquired by the local government may be accepted for contribution credit regardless of the acquisition method or procedures used. Acquisition methods which do not conform to the requirements of the federal Uniform Relocation Assistance and Real Property Acquisition Policy Act (Uniform Act) will preclude the use of federal funding in any phase of the project.

2. Projects with federal funding in any phase
Rights of way must have been acquired in accordance with the federal Uniform Relocation Assistance and Real Property Acquisition Policy Act (Uniform Act). This also applies to developer donations where the developer specifically acquires property for his benefit on the project through a formal or tacit agreement with the local government. See paragraph II.B.1. below. Any rights of way purchased for the project through acquisition methods which do not conform to the Uniform Act may be able to be brought into compliance through remediation actions with approval of the Federal Highway Administration (FHWA). The type and extent of the remediation actions are at the discretion of FHWA.

B. Projects which are part of the State Highway System

This includes projects which are currently on the State Highway System and those where there is a reasonable expectation they may become part of the system in the future.

1. Projects with no federal funding in any phase
Rights of way acquired by the local government or private sector persons or groups acting as their agents or on their behalf may be accepted if the acquisition methods were in compliance with laws and rules applicable to FDOT. This includes providing Relocation Assistance to displaced persons in accordance with Rule Chapter 14-66, Florida Administrative Code. Acquisition which does not conform to the federal Uniform Act will preclude the later use of federal funding in any phase. See paragraph II.2.A. above.
Donations: It is recognized that developers may wish to donate rights of way in order to expedite the completion of a project. Acceptance of these donations is acceptable under certain conditions. If the property being donated was acquired by the donor for his/her own purposes and at his own risk, and is now being made available for the project, the donation may be accepted with no necessity to inquire into the acquisition methods used. If, however, the property was acquired specifically for the project under an agreement with the local government, whether written or not, the acquisition methods must comply with laws and rules applicable to FDOT. In that event the developer is acting as an agent for or on behalf of the local government, and the law and rules apply in the acquisition.
Exactions: In some instances, local governments may require the donation of rights of way as a condition of the development approval process. This is often referred to as an “exaction.” Rights of way acquired through a lawfully adopted exaction ordinance or process can be accepted unless the process results in the developer acquiring the acquisition of rights of way as an agent of, or on behalf of, the local government.

2. Projects with federal funding in any phase
Rights of way must have been acquired in conformance to the federal Uniform Act. Lands donated by developers may be accepted as indicated in II.B.1. above, provided that the donor has been fully advised of the right to compensation and has specifically waived that right. Exactions obtained through a lawful ordinance or process may also be accepted as explained in II.B.1. Rights of way purchased for the project through acquisition methods which do not conform to the Uniform Act may be able to be brought into compliance through remediation actions with approval of FHWA. The type and extent of the remediation actions are at the discretion of FHWA.

III. Valuation of Contributed Rights of Way

Once it is determined that rights of way proposed for local matching contribution are eligible for all or part of the local government share of the project costs, the issue becomes the amount to be credited, i.e., the value of the property or property rights to the eligible project.

A. R/W Acquisition as a Phase of the Project

Where rights of way are acquired as a phase of the project, the value of the contribution for purchased parcels is the actual acquisition cost of the property including land, improvements, severance damages and business damages. Documentation of the acquisition costs may be through closing statements, final judgments or similar documents.

B. Contributions of Previously Acquired Rights of Way

Where properties previously purchased are to be contributed to the project, the contribution value may be either current market value or actual acquisition costs for land, improvements, severance damages and business damages at the time the property was acquired. The current market value may be established by new appraisal reports, updated appraisal reports, or other data provided by the local government that is confirmed by the District Appraisal Office as reflecting a reasonably accurate estimate of current fair market value. Documentation of actual acquisition costs at the time the property was acquired may be through closing statements, final judgments or similar documents.

C. Donated or Exacted Properties

Where the properties to be contributed were acquired by donation or exaction, the contribution value is the market value as of the date of the donation or exaction. The market value may be established by a new appraisal report, an updated appraisal report, or other data provided by the local government that is

confirmed by the District Appraisal Office as reflecting a reasonably accurate estimate of current fair market value. However, if there are federal funds in the project, the market value must be established by an appraisal report prepared by an appraiser acceptable to the District Appraisal Office with a date of value as of the date title vested in the local government.