

CHAPTER 62S-1 FORIDA GREENWAYS AND TRAILS PROGRAM

62S-1.100	Definitions.
62S-1.300	Solicitation, Evaluation and Selection Process for Department Acquisition of Greenways and Trails.
62S-1.350	Modification of Approved Acquisition Projects.
62S-1.400	Designation of Public Conservation or Recreation Lands and Waterways.
62S-1.450	Designation Process for Private Lands and Waterways.

62S-1.100 Definitions.

Whenever used in this chapter or in the forms prescribed for use with this chapter, the words defined in Section 260.013, F.S., shall have the same meaning and the following terms (whether or not capitalized) shall have the meanings stated below unless the context clearly indicates otherwise:

- (1) "Act" means the Florida Greenways and Trails Act, Chapter 260, Florida Statutes.
- (2) "Council" means the Florida Greenways and Trails Council described in Section 260.0142, Florida Statutes.
- (3) "Cross Florida Greenways State Recreation and Conservation Area" means the network of greenways and trails created by Section 253.781, Florida Statutes, including those portions of the Oklawaha River Valley and other lands and interests previously acquired by the state or federal government for construction and operation of the Cross Florida Barge Canal, the original corridor of which is specified in the Greenway Management Plan prepared by the University Planning Team of the University of Florida.
- (4) "Department" means the Department of Environmental Protection.
- (5) "Designation Agreement" means a binding written contract between the Office of Greenways and Trails, on behalf of the Department, and the owner of lands upon or over which a designated greenway or trail is located (or will be located), providing the terms and conditions upon which the owner agrees to have his, her or its lands or waterways designated as part of the Florida Greenways and Trails System. At a minimum, the Designation Agreement shall address the items described in subsection 62S-1.400(5) or 62S-1.450(6), F.A.C.
- (6) "Florida Forever Funds" means moneys from the Florida Forever Trust Fund created by Section 259.1051, Florida Statutes (1999), and distributed to the Department pursuant to Section 259.105(3)(g), Florida Statutes (1999), for the acquisition of lands under the Florida Greenways and Trails Program.
- (7) "Greenways and trails support organization" means a formal or informal group, whether incorporated or unincorporated, tax-exempt or non-tax-exempt, that conducts programs or activities that directly support the establishment, development, maintenance or management of a greenway or trail.
- (8) "Implementation Plan" means the five-year implementation plan entitled "Connecting Florida's Communities with Greenways and Trails," prepared by the Florida Department of Environmental Protection and the Florida Greenways Coordinating Council and dated September 1998.
- (9) "Landowner" or "owner" means the legal and equitable owner(s) of fee simple title in and to real property.
- (10) "Less-than-fee acquisition" means the purchase of an interest in property that is less than the entire fee simple estate (which is one in which the owner is entitled to the entire property with the unconditional power of disposition during the owner's life and which will descend to his or her heirs and legal representatives upon the owner's death intestate). The most common less-than-fee acquisition alternatives are purchase of development rights, conservation easements, land protection agreements, life estates, and purchase of specific rights or interests.
- (11) "Management plan" means a written document that describes the management goals for a project; conditions that will affect the intensity of management; an estimate of the revenue-generating potential of the project, if applicable; a description of potential multiple-use activities as described in Sections 259.032 and 253.034, Florida Statutes; a timetable for implementing the various stages of management and for providing access to the public, if applicable; provisions for protecting existing infrastructure and for ensuring the security of the project upon acquisition; the anticipated costs of management and projected sources of revenue to fund management needs (including legislative appropriations); recommendations on the number of employees necessary to manage the project; and recommendations for management involvement by local governments, greenways and trails citizen support organizations, prior landowners or other interested parties.
- (12) "Managing entity" means the agency, governmental entity, corporation, organization or other authority that has undertaken and is responsible for the day-to-day operation, protection, maintenance and stewardship of a specified greenway or trail, or network of greenways or trails, under a management plan or designation agreement with the holder of the ownership, proprietorship, or other beneficial interest in the property upon or over which the greenway or trail segment is located.
- (13) "OGT" means the Office of Greenways and Trails of the Department.
- (14) "Person" means any individual, corporation, partnership, firm, association, joint venture, estate, trust, business trust, syndicate, fiduciary, commission, county, municipality or political subdivision of a state, any interstate body, the federal government or any subdivision thereof and all other groups or combinations, whether public or private.
- (15) "Planned project corridor" means the proposed path of a greenway or trail described in an Application for Acquisition of Land and comprised exclusively of those parcels of real property for which Willing Owner Certificates have been executed for 80 percent of the parcels and submitted with the Application.

(16) "Project" means a discrete and identifiable plan or undertaking which describes in detail the acquisition, development, designation, use or management of certain lands or waterways within the Florida Greenways and Trails System.

(17) "Project boundary" means a conceptual outline or drawing that depicts the maximum physical boundaries for a proposed greenway or trail. The project boundary will incorporate not only the planned project corridor, but also any adjacent lands or waterways that could be included within the greenway or trail if one or more parcels within the planned project corridor cannot be acquired in the precise configuration delineated in its legal description.

(18) "Proposal" means the application and supporting documentation submitted to OGT for consideration in one or more of the procedures established by this chapter for the evaluation, selection, acquisition, designation, use or management of lands or waterways within the Florida Greenways and Trails System.

(19) "Public Conservation or Recreation Lands or Waterways" means lands or waterways owned by a national, state, regional or local governmental entity. The following categories of public lands and waterways would typically qualify for designation as part of the Florida Greenways and Trails System:

(a) National parks, forests and trails, preserves, seashores, wildlife refuges, wild and scenic rivers, military reservations and Native American lands;

(b) State park units, forests, recreation areas, submerged lands, wildlife management areas, historic and archaeological sites, ornamental and botanical gardens, university system properties, museums and other special feature sites, public game areas, preserves and reserves;

(c) Lands owned by any port authority, flood control district, water management district, navigation district or other agency created by general or special act; and

(d) Local government conservation and recreation lands and urban open space areas.

(20) "Quorum" means the minimum number of members legally necessary to conduct official business of an elected or appointed body when duly assembled.

(21) "Recreational Prioritization Maps" means the opportunity maps contained in the document titled Prioritization of Recreational Trail Opportunities for the State of Florida developed by OGT in coordination with the University of Florida, and approved by the Council on May 18, 2002, that rank the opportunity segments shown on the Implementation Plan maps as high, medium, or low priority, based upon criteria approved by the Council. These maps can be obtained by writing to the Office of Greenways and Trails, Department of Environmental Protection, 3900 Commonwealth Blvd., Mail Station 795, Tallahassee, FL 32399-3000, or through OGT's website address, www.floridagreenwaysandtrails.com.

(22) "Sponsor" means the person, organization, coalition or government agency (or any combination thereof) that submits to OGT an application for OGT's acquisition or designation of lands or waterways as components of the Florida Greenways and Trails System, with the intent of being responsible for the planning, establishment, development, maintenance and/or management of the proposed project. The Sponsor of a project can be the landowner or managing entity of the lands or waterways proposed for acquisition or designation.

Specific Authority 260.016(1)(c) FS. Law Implemented 253.781, 260.0142, 260.015, 260.016 FS. History—New 7-11-00, Amended 7-10-03.

62S-1.300 Solicitation, Evaluation and Selection Process for Department Acquisition of Greenways and Trails.

The Department will follow the guidelines established by this rule to solicit, evaluate and select lands to be acquired for the Florida Greenways and Trails System.

(1) Eligibility. Prior to submittal of an application, a sponsor must apply for and receive a "Certificate of Eligibility," DEP Form #OGT-1, effective July 10, 2003. The Certificate of Eligibility is prescribed for use with these rules and is hereby incorporated by reference. The Certificate of Eligibility form may be obtained by writing to the Office of Greenways and Trails, Department of Environmental Protection, 3900 Commonwealth Blvd., Mail Station 795, Tallahassee, FL 32399-3000, or through OGT's website address, www.floridagreenwaysandtrails.com. A Certificate of Eligibility will be provided to the sponsor if the sponsor's proposed project meets all of the following criteria:

(a) The project meets the definition of a "greenway" or "trail" in Section 260.013, Florida Statutes;

(b) The planned project corridor is located within or adjacent to at least one opportunity segment on one or more of the Recreational Prioritization Maps;

(c) At least 80 percent of the planned project corridor has a landowner or landowners willing to negotiate OGT's acquisition of their property; and

(d) The project has a willing managing entity.

A Certificate of Eligibility form may be submitted to OGT at any time during the year, and will be valid for a period of twelve (12) months from the date of issuance by OGT.

(2) Solicitation and Submission of Project Applications. OGT will solicit and accept applications for acquisition funding in the following manner:

(a) To initiate each acquisition funding cycle, OGT will publish a "Notice of Project Solicitation" in the Florida Administrative Weekly and on the Department's website address, www.dep.state.fl.us, under the link entitled "Official Notices," to announce a period of not less than sixty (60) consecutive days during which it will accept applications for acquisition funding under the Florida Greenways and Trails program. The notice shall state the commencement and deadline dates for application acceptance and the

approximate amount of funds available for acquisition projects. The amount of available funds stated in the notice shall be based on the anticipated allocation from the Florida Forever Trust Fund to the Florida Greenways and Trails program reflected in the most recent Trust Fund Status and Activity Reports of the Department's Bureau of Finance and Accounting.

(b) All requests for land acquisition funding under the Florida Greenways and Trails program must be submitted on OGT's "Application for Acquisition of Land," DEP Form #OGT-2, effective July 10, 2003 (the "Application"), which is prescribed for use with these rules and is hereby incorporated by reference. The Application may be obtained by writing to the Office of Greenways and Trails, Department of Environmental Protection, 3900 Commonwealth Blvd., Mail Station 795, Tallahassee, FL 32399-3000, or through OGT's website address, www.floridagreenwaysandtrails.com.

(3) Review for Completeness. Each timely submitted acquisition application shall, within thirty (30) days after the Application submission deadline, be reviewed by OGT to verify completeness of information in accordance with this section. Incomplete Applications, along with a letter citing each deficiency, shall be returned to the sponsor for completion and resubmission within a period of not less than twenty-one (21) days from the date of the letter. The submission deadline shall be stated in the deficiency letter. A sponsor's failure to provide the requested information shall be deemed a withdrawal of the Application from further consideration for the advertised acquisition funding cycle. No additional information will be accepted after the deadline stated in the deficiency letter, unless specifically requested by OGT for purposes of clarification.

(4) Evaluation and Selection Criteria. Following the Application submission deadline, OGT will evaluate all timely submitted Applications for conformity with the criteria set forth in this subsection and determine the individual and relative merits of the proposed acquisition projects. During the evaluation period, OGT may conduct site visits or request technical advisory comments from other state agencies, regional planning councils, water management districts, not-for-profit conservation or recreation organizations, or other public or private groups generally recognized as authorities on certain aspects of the acquisition, development and management of greenways and trails. Projects will be grouped as described in subsection 62S-1.300(5), F.A.C. OGT will utilize the information contained within the Application and its attachments, unless such information is contradicted or superceded by data obtained during a site visit or documentary evidence received from one of the technical advisory bodies mentioned above.

(5) Project Grouping.

(a) Upon completion of the project evaluations, OGT shall group each project based on the following criteria:

1. The rank (high, medium, or low) assigned to the project based on the Recreational Prioritization Maps.
2. The percentage of any matching funds available or committed to the project based on the estimated project cost.
3. The percentage of acreage within the planned project corridor that is proposed for less-than-fee acquisition.
4. The project's ecological values, including forest and wildlife resources.
5. The project's recreational attributes.
6. The project's historical and cultural resources.

(b) The projects shall be grouped as follows:

1. Group A: Those projects proposed for approval that will receive the highest priority for acquisition, based on the criteria in this subsection.

2. Group B: Those acquisition projects proposed for approval that are considered by OGT to be important, but not of the highest priority, based on the criteria in this subsection.

(6) Evaluation Report. Upon completion of the project grouping, OGT shall prepare a written evaluation report for consideration by the Council. Upon completion, a copy of the evaluation report shall be provided to members of the Council and the sponsor of each evaluated project. The report shall state the total amount of funds available for acquisition in the current Application cycle and any restrictions (time or otherwise) on the expenditure of said funds. In addition, the report shall provide the following information for each evaluated project, plus any supplementary data relevant to the particular acquisition application:

(a) A general description of the project (including proposed uses) and an area map depicting its location, size, configuration, and connections with other greenways, trails, parks or corridors (if any).

(b) Any condition(s) that should be imposed on the project to protect or sustain the purposes for which the project would be acquired or managed.

(c) A current estimate of the amount of funding necessary to acquire the project.

(d) Any recommended modifications to the project boundary needed for resource protection, acquisition planning, or management.

(e) The project's recommended grouping.

(7) Council Review and Recommendation of Projects. Within sixty (60) days after its receipt of the evaluation report and recommended project grouping from OGT, the Council shall submit its recommendation to the Secretary in accordance with the following provisions:

(a) The Council shall hold at least one public meeting to discuss the evaluated acquisition projects, during which the public may submit written or verbal comments in support of or in opposition to any project. Notice of each meeting shall be mailed to the sponsors of all evaluated projects, published in the Florida Administrative Weekly, and published on the Department's website, www.dep.state.fl.us, under the link entitled "Official Notices," at least seven (7) days in advance of the meeting date.

(b) At the noticed meeting(s), OGT will present to the Council a verbal summary of the relevant information submitted for each evaluated project and respond to the Council's questions. Thereafter, the Council shall permit oral or written comments by project sponsors, supporters, and members of the general public. These comments shall be limited in duration if necessary to ensure equal time for all interested parties and projects.

(c) Following the close of the comment period at the final public meeting held for purposes of project review, the Council shall consider the information submitted and either:

1. Approve the project grouping recommended by OGT; or

2. Recommend modification of the project grouping based on the Council's review of all project applications submitted and evaluated during the current funding cycle, oral presentations by OGT, and written or verbal comments by project sponsors, supporters, or the general public. In addition, taking into account the amount of funding available and types and sizes of projects proposed, the Council may recommend a higher or lower funding level than requested by the sponsor of a project and may also determine that a large project should be acquired or developed in phases to permit a broader allocation of available acquisition funds among projects.

(d) The Council's recommendations must be ratified by a majority of Council members present and voting at the Council's final public meeting held for purposes of project review; a quorum must be present when the ratification vote is taken.

(8) Secretarial Approval of Acquisition Projects. Following receipt of the Council's recommendation, the Secretary shall either approve the Council's recommendations or modify them based on the Department's acquisition priorities and thereafter approve a grouped list of acquisition projects. OGT shall provide a copy of the final list of acquisition projects to the sponsors of all evaluated projects and to the Division of State Lands. Upon approval of the project grouping list by the Secretary, the Division of State Lands shall proceed with the acquisition of the projects contained thereon in accordance with the acquisition procedures of Chapter 259, Florida Statutes.

Specific Authority 260.016(1)(c) FS. Law Implemented 260.0142, 260.015, 260.016 FS. History—New 7-11-00, Amended 7-10-03.

62S-1.350 Modification of Approved Acquisition Projects.

Modification of approved greenways and trails projects shall be considered by the Department in accordance with the criteria and procedures established by this rule.

(1) Changes Requiring Notice to OGT. Written notice of the following types of changes to approved Group A or Group B projects shall be provided to OGT within ten (10) days after the event:

(a) Substitution, addition, or deletion of a managing entity or project sponsor;

(b) Acquisition of adjacent, additional, or alternative lands located outside the original planned project corridor but within the original project boundary submitted for the project;

(c) Any change in ownership of parcels lying within the planned project corridor;

(d) Change from fee-simple acquisition to less-than-fee acquisition alternatives for one or more parcels within the planned project corridor, or vice versa;

(e) Addition or relocation of trailhead(s) or any other project "capital improvement," as that term is defined in Section 259.03(3), F.S.; or

(f) An increase or reduction in the amount of matching funds or other acquisition and development monies previously committed to the project.

The written notice shall be mailed or delivered to the Office of Greenways and Trails, Department of Environmental Protection, 3900 Commonwealth Blvd., Mail Station 795, Tallahassee, FL 32399-3000, and shall include a description of each change being made to the project, the reason(s) for each change and the effective date thereof (if any). If the change includes substitution of the project's managing entity, a "Willing Manager Certificate," DEP Form #OGT-3, effective July 10, 2003, shall be completed and signed by the new managing entity and submitted with the written notice. If the change involves the proposed acquisition of lands located outside the original planned project corridor but within the original project boundary, a "Willing Owner Certificate," DEP Form #OGT-4, effective July 10, 2003, shall be completed and signed by the owner of each new or additional parcel, except for parcels to be acquired under Sections 253.781-.782, F.S., and submitted with the written notice.

(2) Modifications Requiring Council Approval. All requests for modifications under this subsection must be submitted on OGT's "Request for Modification," DEP Form #OGT-5, effective July 10, 2003, which is prescribed for use with this rule and is hereby incorporated by reference. The Request for Modification form may be obtained by writing to the Office of Greenways and Trails, Department of Environmental Protection, 3900 Commonwealth Blvd., Mail Station 795, Tallahassee, FL 32399-3000, or through OGT's website address, www.floridagreenwaysandtrails.com. The following types of changes to approved Group A or Group B projects shall be submitted to and must be approved by the Council:

(a) Any substantial change to the intended use(s) of the project, such as deletion of an entire category of use, changing an unpaved equestrian trail to a paved multiple-use trail, or addition of camping sites to an area initially designated for archaeological study; or

(b) A modification of the planned project corridor that extends outside of the project boundary as described in the original Application.

(3) Submission of Modification Proposal. For any modification requiring Council approval, a completed Request for Modification must be received at least sixty (60) days prior to the public hearing during which it will be considered by the Council. The party seeking modification must mail or deliver an original and twenty-four (24) first-generation copies of the Request for Modification, together with required attachments and other supporting documentation to the address stated in subsection 62S-1.350(2), F.A.C. Faxed copies of required documents will not be accepted or returned.

(4) Contents of Request for Modification. To receive consideration, a Request for Modification must include the following information:

(a) A general narrative description of the project modification requested; a statement indicating why the change is necessary; and an explanation of the effect on the project if the modification is not approved;

(b) A detailed itemization of changes to the original project Application that would result if the modification is approved; for example, if the Request for Modification proposed the substitution of certain adjacent lands, items such as the Application's list of project parcels and the attached project site sketch, property appraiser assessment statements, and county property appraiser maps would require revision to accurately reflect the project as modified; and

(c) If the Request for Modification involves the proposed acquisition of lands located outside of the original project boundary, the Request for Modification package submitted must include a "Willing Owner Certificate," DEP Form #OGT-4, effective July 10, 2003, completed and signed by the owner of each new or additional parcel, except for parcels to be acquired under Sections 253.781-.782, F.S.

(5) Review for Completeness. Within ten (10) days after receipt of a Request for Modification, OGT will provide the submitting party with written notice regarding the completeness and clarity of the documentation submitted. If the Request for Modification is incomplete or otherwise inadequate, the notice will describe the additional information or clarification required and indicate the date by which it must be received by OGT at the address stated in subsection 62S-1.350(2), F.A.C. Failure of the submitting party to timely provide the information requested in the notice shall be deemed a withdrawal of the Request for Modification from further consideration.

(6) Evaluation of Request for Modification. Within forty-five (45) days after receipt of a sufficiently completed Request for Modification, OGT will evaluate the proposal and provide to the submitting party and members of the Council a written evaluation report that includes the following information:

(a) A general description of the modification sought by the Request for Modification, including a statement indicating whether the change is consistent with the purposes for which the project is being acquired and whether the modification would facilitate OGT's acquisition of the project;

(b) If the modification proposal involves the acquisition of additional lands or waterways located outside the original project boundary, a statement indicating whether the owners of the additional parcels are willing to negotiate with Department representatives regarding the potential conveyance of their lands to the state;

(c) Whether the proposed modification would have changed the recommended grouping of the project if it had been part of the original Application;

(d) Whether the OGT has funds available to cover additional project costs associated with the modification (if any); and

(e) Any other information OGT needs for clarification of the Request for Modification to the modification proposal.

Prior to consideration of the Request for Modification by the Council, OGT may conduct a site visit to verify representations made in the Request for Modification.

(7) Review and Approval of Requests for Modification. To become effective, a Request for Modification must be endorsed by a majority vote of the Council and approved by the Secretary of the Department under the following procedures:

(a) Within ninety (90) days after OGT's receipt of a Request for Modification, the Council will consider the modification proposal during a public meeting. Notice of the meeting will be mailed to the party that submitted the Request for Modification and shall be published in the Florida Administrative Weekly and on the Department's website address, www.dep.state.fl.us, under the link entitled "Official Notices," at least seven (7) days in advance of the meeting date.

(b) At the noticed meeting, OGT will present to the Council a verbal summary of the relevant information submitted for each Request for Modification and respond to members' questions. Thereafter, the Council shall permit oral or written comments by project sponsors, supporters, and members of the general public.

(c) Following the close of the comment period, the Council shall consider the information submitted and either endorse the Request for Modification as presented, or modify and then endorse the Request for Modification. Any modification made to the Request for Modification by the Council shall be based on its review of documentation submitted in support of the Request for Modification, oral presentations by OGT, and written or verbal comments by project sponsors, supporters, or the general public.

(d) A Request for Modification must be endorsed by a majority of Council members present and voting at the public meeting during which the modification was considered; a quorum must be present when the vote occurs. A modification to a Group A or Group B project that does not obtain Council endorsement cannot be implemented within the original project, but it can be incorporated in a new Application package and submitted as a separate acquisition proposal for OGT evaluation and ranking during a regularly advertised funding cycle.

(e) OGT shall forward each endorsed Request for Modification to the Secretary of the Department for approval. Within ten (10) days after receipt of an endorsed Request for Modification, the Secretary shall consider the Council's endorsement and either approve the modification proposal or amend it based upon the Department's acquisition priorities and thereafter approve the modification proposal, stating the specific reason(s) for any such amendment. OGT shall provide a copy of each approved Request for Modification to the submitting party and to the Division of State Lands.

Specific Authority 260.016(1)(c) F.S. Law Implemented 260.012, 260.0142, 260.015, 260.016 F.S. History—New 7-11-00, Amended 7-10-03.

62S-1.400 Designation of Public Conservation or Recreation Lands and Waterways.

(1) Eligible Projects. Public Conservation or Recreation Lands and Waterways within the state may be designated by the Department as components of the Florida Greenways and Trails System upon compliance with the requirements of this rule.

(2) Initiation of Process. The designation process for Public Conservation or Recreation Lands and Waterways can be initiated in one of two ways:

(a) The Department can contact the owner or managing entity of Public Conservation or Recreation Lands or Waterways to formally request that the property be designated as part of the Florida Greenways and Trails System; or

(b) The owner or managing entity of Public Conservation or Recreation Lands or Waterways can contact the Department's Office of Greenways and Trails at the address stated in Rule 62S-1.350(2)(b), F.A.C., to request designation of the property as part of the statewide system of greenways and trails.

In either case, the owner of the Public Conservation or Recreation Lands or Waterways proposed for designation must provide the Department with written consent to designation of the property as part of the Florida Greenways and Trails System.

(3) Submission of Project Proposals. To confirm its desire to pursue designation of the Public Conservation or Recreation Lands or Waterways as part of the Florida Greenways and Trails System, the owner or managing entity of the property must complete and file with OGT an "Application for Designation of Public Lands or Waterways," DEP Form #OGT-6, effective July 10, 2003, which is prescribed for use with these rules and is hereby incorporated by reference. The following documents must be attached to the Application for Designation of Public Lands or Waterways at the time of submittal:

(a) An "Owner Consent," DEP Form #OGT-7, effective July 10, 2003, which is prescribed for use with these rules and is hereby incorporated by reference, signed by the record title owner(s) of the property; and

(b) A "Management Certificate," DEP Form #OGT-8, effective July 10, 2003, which is prescribed for use with these rules and is hereby incorporated by reference, signed by the managing entity of the property. The forms can be obtained by writing to the Office of Greenways and Trails, Department of Environmental Protection, 3900 Commonwealth Blvd., Mail Station 795, Tallahassee, FL 32399-3000, by telephoning (850) 245-2052 (SunCom 205-2052), or through OGT's website address, www.floridagreenwaysandtrails.com. All required documentation must be submitted to OGT at the above postal address.

(4) Evaluation of Designation Proposals. Upon receipt of a completed and signed Application for Designation of Public Lands or Waterways, Owner Consent form and Management Certificate for the Public Conservation or Recreation Lands or Waterways being proposed for designation, OGT staff will evaluate the designation proposal to verify its compliance with the requirements of this rule. If OGT's evaluation indicates that the project does not satisfy the designation criteria, it shall so notify the submitting party or parties in writing. If OGT's evaluation indicates that the requirements of this rule have been met, OGT will coordinate the preparation of a proposed designation agreement for the property.

(5) Preparation of Designation Agreement. At a minimum, a proposed designation agreement shall include or address the following:

(a) The owner's statutory right to have the property removed from designation;

(b) The term of the designation and the criteria for and manner in which the designation and the agreement can be modified, expanded (to encompass additional adjacent lands or waterways, for example), withdrawn from designation by the owner, or removed from the Florida Greenways and Trails System by the Department;

(c) Management, operation and maintenance of the designated property, including the responsibility of the owner or manager to notify the Department of any change in the following: property ownership or management; the condition or extent of natural, recreational, cultural or historic resources described in the Application for Designation of Public Lands or Waterways or its attachments; or the expansion or improvement of the project or its amenities and facilities. Alternatively, a copy of an existing lease, sublease or other management agreement or plan can be appended to the designation agreement and incorporated therein by reference;

(d) Disposition of all temporary and permanent structures or other improvements made to the property by the owner, the Department or others, whether existing at the time of designation or constructed or erected later;

(e) The issue of public access to all or part of the designated lands or waterways, including written authorization from the owner(s) in the form of a lease or other instrument if public access is granted;

(f) If necessary, development or modification of a greenway or trail use plan for the property which, at a minimum, describes the types and intensities of uses permitted and addresses public safety regulation and enforcement, and the components of which must be compatible with connecting segments of the Florida Greenways and Trails System; alternatively, a copy of an existing lease, sublease or other management agreement or plan can be appended to the designation agreement and incorporated therein by reference;

(g) If applicable, identification of the methods and personnel responsible for enforcement of state law within the designated lands or waterways. If the owner wishes to enforce additional restrictions on the property, the designation agreement must detail the restrictions and identify the methods and personnel responsible for their enforcement, or a copy of an existing lease, sublease or other management agreement or plan can be appended to the designation agreement and incorporated therein by reference.

(6) Public Hearing and Notice. Upon completion of a proposed designation agreement for the Public Conservation or Recreation Lands or Waterways proposed for designation, OGT shall:

(a) Notify the Florida Greenways and Trails Council that the proposed designation will be presented to the Council at its next public meeting;

(b) Provide the Council with a copy of the Application for Designation of Public Lands or Waterways, Owner Consent, Management Certificate and proposed designation agreement for the project;

(c) Publish notice of the Council's next public meeting in the Florida Administrative Weekly not less than fourteen (14) days before the meeting; in addition to a statement of the general subject matter to be considered at the meeting, the notice shall include an announcement of the Department's intent to designate the Public Conservation or Recreation Lands or Waterways as part of the Florida Greenways and Trails System; and

(7) Council Review and Recommendation. The Florida Greenways and Trails Council shall review each proposal for designation of Public Conservation or Recreation Lands or Waterways as part of the Florida Greenways and Trails System. At the meeting noticed under paragraph 62S-1.400(6)(c), F.A.C., OGT staff will present to the Council a verbal summary of the relevant information submitted for each proposed designation project and respond to members' questions. Thereafter, the Council shall permit oral or written comments by project sponsors, supporters and members of the general public. These comments shall be limited in duration if necessary to ensure equal time for all interested parties and projects. Following the close of the comment period, the Council shall consider the information submitted and either recommend approval or disapproval of the designation proposal to the Secretary of the Department. The Council's recommendation shall be ratified by a majority of members present and voting at the public meeting; a quorum shall be present when the ratification vote is taken. OGT staff shall forward the Council's recommendation to the Secretary of the Department.

(8) Secretary Approval and Effective Date of Designation. The Secretary of the Department shall consider the recommendation of the Florida Greenways and Trails Council and public comment prior to approving or rejecting a proposed designation of Public Conservation or Recreation Lands or Waterways. Official designation of the property into the Florida Greenways and Trails System shall become effective upon execution of a binding designation agreement by the Secretary of the Department, the owner(s) and managing entity of the Public Conservation or Recreation Lands or Waterways and any other indispensable parties.

(9) Record of Designation. OGT shall maintain an indexed record of all designation agreements executed in connection with the designation of Public Conservation or Recreation Lands and Waterways as portions of the Florida Greenways and Trails System. Designation agreements shall be available for public inspection and copying at reasonable times and upon prior written notice to the Department. The owner of the Public Conservation or Recreation Lands or Waterways may (but is not required to) record the designation agreement, or a memorandum thereof, in the public records of the county or counties in which the designated lands or waterways are located, at the owner's expense.

Specific Authority 260.016(1)(c)1. FS. Law Implemented 260.012, 260.013, 260.014, 260.0142, 260.016 FS. History—New 7-11-00, Amended 7-10-03.

62S-1.450 Designation Process for Private Lands and Waterways.

(1) Eligible Projects. Private lands and waterways within the state can be designated by the Department as components of the Florida Greenways and Trails System upon compliance with the requirements of this rule. To be eligible for designation as part of the statewide system, private lands or waterways must protect or enhance natural, recreational, cultural or historic resources and must either:

(a) Provide linear open space or a hub or a site; or

(b) Promote connectivity between or among conservation lands, communities, parks, other recreational facilities, cultural sites, or historic sites.

(2) Initiation of Process. The sponsor of a greenways or trails project located or to be located on private lands or waterways may initiate the designation process for the subject property by filing with OGT an "Application for Designation of Private Lands or Waterways," DEP Form #OGT-9, effective July 10, 2003, which is prescribed for use with these rules and is hereby incorporated by reference. OGT will accept Applications for Designation of Private Lands or Waterways at any time throughout the year.

All forms described in this rule can be obtained by writing to the Office of Greenways and Trails, Department of Environmental Protection, 3900 Commonwealth Blvd., Mail Station 795, Tallahassee, Florida 32399-3000 or through OGT's website address, www.floridagreenwaysandtrails.com.

(3) Landowner Consent Required. Although the sponsor of the proposed project need not be the owner of the private lands or waterways proposed for designation, the owner(s) must provide OGT with written consent to designation of the subject property as part of the Florida Greenways and Trails System prior to completion of the designation process. Furthermore, if public access is contemplated for any portion of the project, both the owner(s) and the proposed managing entity must provide OGT with written

authorization detailing the public access permitted on the project. Accordingly, the project sponsor is strongly encouraged to communicate and collaborate with all potentially affected landowners and land managers throughout the initial and subsequent stages of the designation process.

(4) Submission of Designation Proposal. The Application for Designation of Private Lands or Waterways, which must be submitted to OGT at the address stated in subsection 62S-1.450(2), F.A.C., shall contain the following information:

(a) Identification of the owner(s) of the private lands and waterways proposed for designation and an "Owner Consent," DEP Form #OGT-7, effective July 10, 2003, and hereby incorporated by reference, signed by each record title owner of the property;

(b) Identification of the proposed managing entity for the private lands and waterways proposed for designation, together with a "Management Certificate," DEP Form #OGT-8, effective July 10, 2003, and hereby incorporated by reference, signed by the proposed managing entity;

(c) A general narrative description of the physical, biological, archaeological, cultural and historical characteristics of the lands and waterways within the project;

(d) A summary of the documentary, photographic or other information available to confirm descriptions provided in paragraph (c) above and a statement indicating whether field verification has been conducted to document any or all of the characteristics described;

(e) An explanation of the manner in which the project will protect and/or enhance natural, recreational, cultural or historic resources;

(f) A description of how the project either:

1. Provides linear open space or a hub or a site; or

2. Promotes connectivity between or among conservation lands, communities, parks, other recreational facilities, cultural sites, or historic site;

(g) Photographs of various sites and features within the project site that show typical landscape characteristics, labeled with location and orientation and cross-referenced to the location map described in the following paragraph; and

(h) An accurate location map of sufficient scale and detail to clearly delineate all property boundaries in relation to other area greenways or trails, county roadways, major topographic features (such as rivers, lakes and power lines) and local government boundaries (if any). The location map must state the length of trails and total project acreage, and should indicate points of interest or special features. When the project provides for public access to existing or proposed trails, the location map must identify the trail alignment, public access points, trailheads and facilities to accommodate the proposed types of public uses over the extent of the trails.

(5) Evaluation of Designation Proposal. Upon receipt of a completed and signed Application for Designation with all required attachments and documentation, OGT staff will evaluate the designation proposal to verify its compliance with the requirements of this rule. If the Department's evaluation indicates that the project does not satisfy the designation criteria, it shall so notify the submitting party or parties in writing. If OGT's evaluation indicates that the requirements of this rule have been met, OGT will coordinate the preparation of a proposed designation agreement for the property.

(6) Preparation of Designation Agreement. At a minimum, a proposed designation agreement shall include or address the following items:

(a) The owner's statutory right to have the property removed from designation;

(b) Statutory limitations on the owner's liability and duty of care owed to others with regard to the designated property, the Department's responsibility to post public notices and information, and indemnification of the owner as described in Section 260.0125, Florida Statutes;

(c) The term of the designation and the criteria for and manner in which the designation and the agreement can be modified, expanded (to encompass additional adjacent lands or waterways, for example), withdrawn from designation by the owner, or removed from the Florida Greenways and Trails System by the Department;

(d) If applicable incentives or other terms agreed to between OGT, any other unit of government and the owner of the lands and/or waterways to be designated;

(e) Identification of the person(s), agency, governmental entity, corporation, organization or other authority (which may include volunteer-based organizations) that will be responsible for the management, operation and maintenance of the designated property, together with a description of its duties and obligations with respect to the property and a provision that names the party responsible for notifying OGT of any change in the following: property ownership or management; the condition or extent of natural, recreational, cultural or historic resources described in the Application for Designation of Public Lands or Waterways or its attachments; or the expansion or improvement of the project or its amenities and facilities;

(f) Identification of the existing and intended use(s) of the lands or waterways to be designated, the management practices that will be employed on various areas within the project, and how the uses of the area and the management practices are compatible with the natural, recreational, cultural and historic resources of the project. Alternatively, a copy of an existing lease, sublease or other management agreement or plan shall be appended to the designation agreement and incorporated therein by reference;

(g) Provision for the disposition of all temporary and permanent structures or other improvements made to the property by the owner, the Department or others, whether existing at the time of designation or to be constructed or erected later;

(h) The issue of public access to all or part of the lands or waterways to be designated and the regulation thereof, including a description of how impacts will be avoided or minimized in sensitive ecological, archaeological and historic areas; written authorization from the owner(s) and managing entity in the form of a lease or other instrument is required for any designation or grant of public access to any portion of the property;

(i) Development or modification of a greenway or trail use plan for the property which, at a minimum, describes the types and intensities of uses permitted and addresses public safety regulation and enforcement, and the components of which must be compatible with connecting segments of the Florida Greenways and Trails System. Alternatively, a copy of an existing lease, sublease or other management agreement or plan can be appended to the designation agreement and incorporated therein by reference;

(j) Identification of the methods and personnel responsible for enforcement of state law within the lands or waterways to be designated. If the owner wishes to enforce additional restrictions on the property, the designation agreement must detail the restrictions and identify the methods and personnel responsible for their enforcement; and

(k) A legally sufficient statement that the designation agreement will be subordinate to any existing leases, subleases, management plans, licenses, easements or other agreements or encumbrances previously executed and currently in effect for any portion of the lands or waterways proposed for designation.

(7) Public Hearing and Notice. Upon completion of a proposed designation agreement for the private lands or waterways proposed for designation, OGT shall:

(a) Notify the Florida Greenways and Trails Council that the proposed designation will be presented to the Council at its next public meeting;

(b) Provide Council members with a copy of the Application for Designation, Owner Consent, Management Certificate and proposed designation agreement for the project; and

(c) Publish notice of the Council's next public meeting in the Florida Administrative Weekly not less than fourteen (14) days before the meeting; in addition to a statement of the general subject matter to be considered at the meeting, the notice shall include an announcement of the Department's intent to designate the private lands or waterways as part of the Florida Greenways and Trails System and invite public comment on the Application for Designation.

(8) Council Review and Recommendation. The Florida Greenways and Trails Council shall review each Application for Designation of private lands or waterways as part of the Florida Greenways and Trails System. At the meeting noticed under paragraph 62S-1.450(7)(c), F.A.C., OGT staff will present to the Council a verbal summary of the relevant information submitted for each proposed designation project and respond to members' questions. Thereafter, the Council shall permit oral or written comments by project sponsors, supporters and members of the general public. These comments shall be limited in duration if necessary to ensure equal time for all interested parties. Following the close of the comment period, the Council shall consider the information submitted and either recommend approval or disapproval of the designation proposal to the Secretary of the Department. The Council's recommendation must be ratified by a majority of members present and voting at the public meeting; a quorum must be present when the ratification vote is taken. OGT staff shall forward the Council's recommendation to the Secretary of the Department.

(9) Secretary Approval and Effective Date of Designation. The Secretary of the Department shall consider the recommendation of the Florida Greenways and Trails Council and public comment prior to approving or rejecting an Application for Designation of private lands or waterways as components of the statewide system of greenways and trails. Official designation of the subject property into the Florida Greenways and Trails System shall become effective upon execution of a binding designation agreement by the Secretary of the Department, the owner(s) and managing entity of the private lands or waterways and any other indispensable parties.

(10) Record of Designation. OGT shall maintain an indexed record of all designation agreements executed in connection with the designation of private lands and waterways as portions of the Florida Greenways and Trails System. Designation agreements shall be available for public inspection and copying at reasonable times and upon prior written notice to the Department. The owner(s) of the private lands or waterways thus designated by the Department may record the designation agreement, or a memorandum thereof, in the public records of the county or counties in which the designated lands or waterways are located, at the owner's expense.

Specific Authority 260.016(1)(c)1. FS. Law Implemented 260.012, 260.013, 260.014, 260.0142, 260.016 FS. History—New 7-11-00, Amended 7-10-03.