

Note to Recipient: The FHWA Federal Lands Highway Office (FLHO) has pre-populated the initial draft of this Agreement with the grant application and questionnaire response information. Please read each drafting instruction to ensure all the requested information is provided. The drafting instructions are to remain in the draft until marked “resolved” by the FLHO.

- | | | | | | | | | | | | | |
|---|--|---|--------|------------------|--------|---------------------|--------|-------------|--------|--------|--------|--|
| 1. Award No. | 2. Effective Date
See No. 17 Below | 3. Assistance Listings No.
20.205 | | | | | | | | | | |
| 4. Award To

Unique Entity Id.:
TIN No.: | 5. Sponsoring Office
U.S. Department of Transportation
Federal Highway Administration
Office of Acquisition & Grants Management
1200 New Jersey Avenue, SE
HCFA-32, Mail Drop E62-204
Washington, DC 20590 | | | | | | | | | | | |
| 6. Period of Performance
Effective Date of Award – | 7. Total Amount <table border="0"><tr><td>Federal Share:</td><td>\$0.00</td></tr><tr><td>Recipient Share:</td><td>\$0.00</td></tr><tr><td>Other Federal Funds</td><td>\$0.00</td></tr><tr><td>Other Funds</td><td>\$0.00</td></tr><tr><td>Total:</td><td>\$0.00</td></tr></table> | Federal Share: | \$0.00 | Recipient Share: | \$0.00 | Other Federal Funds | \$0.00 | Other Funds | \$0.00 | Total: | \$0.00 | |
| Federal Share: | \$0.00 | | | | | | | | | | | |
| Recipient Share: | \$0.00 | | | | | | | | | | | |
| Other Federal Funds | \$0.00 | | | | | | | | | | | |
| Other Funds | \$0.00 | | | | | | | | | | | |
| Total: | \$0.00 | | | | | | | | | | | |
| 8. Type of Agreement
Grant | 9. Authority | | | | | | | | | | | |
| 10. Procurement Request No. | 11. Federal Funds Obligated
[for phased agreement, enter phase number and name]: \$0 | | | | | | | | | | | |
| 12. Submit Payment Requests To
See Article 8 of the General Terms and Conditions. | 13. Payment Office
See Article 8 of the General Terms and Conditions. | | | | | | | | | | | |
| 14. Accounting and Appropriations Data | | | | | | | | | | | | |
| 15. Description of Project | | | | | | | | | | | | |

RECIPIENT

16. Signature of Person Authorized to Sign

_____ Signature Name: Title:	_____ Date
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FEDERAL HIGHWAY ADMINISTRATION

17. Signature of Agreement Officer

_____ Signature Name: Title: Agreement Officer	_____ Date
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**UNITED STATES OF AMERICA
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, DC 20590**

**GRANT AGREEMENT UNDER THE NATIONALLY SIGNIFICANT FEDERAL
LANDS AND TRIBAL PROJECTS (NSFLTP) PROGRAM
SECTION 1123 OF THE FIXING AMERICA’S SURFACE TRANSPORTATION ACT
(FAST ACT) (PUB. L. 114-94),
AS AMENDED BY SECTION 11127 OF THE BIPARTISAN INFRASTRUCTURE LAW
(BIL) (PUB. L. 117-58)**

[INSERT RECIPIENT NAME]

[INSERT PROJECT NAME]

FHWA FY XXXX NSFLTP Grant No. [#]

This Agreement is between the United States Department of Transportation (the “USDOT”) and [Insert Full Name of Grant Applicant] (the “**Recipient**”). It reflects the selection of the Recipient for an award under the NSFLTP Program. In this Agreement, “**FY XXXX NSFLTP Grant**” means an award under those provisions.

The parties therefore agree to the following:

ARTICLE 1. AWARD TERMS AND CONDITIONS

1.1 Operating Administration.

The Federal Highway Administration (the “**FHWA**”) will administer this Agreement on behalf of the USDOT. In this Agreement, the “**Administering Operating Administration (OA)**” means the FHWA.

1.2 Application.

(a) The application for funding was dated [insert application date – if not expressly dated, use the date received as recorded in box 3 of the SF-424] and titled “[Insert Full Title of the Submitted Application].” It contained Standard Form 424, Standard Form 424 C, and all information and attachments submitted with that form through Grants.gov.

(b) The Recipient states that:

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- (1) it has the authority to receive federal financial assistance under this Agreement;
 - (2) it has the legal authority to complete the Project, including either ownership and/or maintenance responsibilities over a roadway network; safety responsibilities that affect roadways; or has an agreement from the agency that has ownership and/or maintenance responsibilities for the roadway within the applicant’s jurisdiction; if applicable;
 - (3) it has the capacity, including institutional, managerial, and financial capacity, to comply with its obligations under this Agreement;
 - (4) it has sufficient funds available, or an Agreement with the agency that has ownership and/or maintenance responsibilities for the roadway within the recipient’s jurisdiction, to ensure that infrastructure completed or improved under this Agreement will be operated and maintained in compliance with this Agreement and applicable Federal law;
 - (5) the individual executing this Agreement on behalf of the Recipient has authority to enter this Agreement and make the statements in this section on behalf of the Recipient;
 - (6) all material statements of fact in the application were accurate when that application was submitted; and
 - (7) Attachment E documents all material changes in the information contained in that application.
 - (8) it has knowledge of the General Terms and Conditions. Recipient also states that it is required to comply with all applicable Federal laws and regulations including, but not limited to, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200); National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.); and the Build America, Buy America Act (BIL, div. G §§ 70901-27), FHWA’s Buy America requirements (23 U.S.C. § 313) and Buy American requirements (41 U.S.C. § 8301 et seq.), as applicable.
- (c) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient’s non-compliance with the General Terms and Conditions may result in remedial action, termination of the

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Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to the USDOT the Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.

1.3 Purpose.

The purpose of this award is to provide federal funding to projects of national significance for construction, reconstruction, or rehabilitation of transportation facilities within, adjacent to, or providing access to Federal or Tribal lands. The parties will accomplish that purpose by achieving the following objectives:

- (1) timely completing the Project; and
- (2) ensuring that this award does not substitute for non-federal investment in the Project, except as proposed in the application identified in section 1.2, as modified by section 2.3 and Attachment C.

In this Agreement, the “**Project**” means the project proposed in the application identified in section 1.2, as modified by the negotiated provisions of this Agreement, including sections 2.1, 2.2, and 2.3 under Article 2 and the attachments referenced in section 1.11.

1.4 Federal Award Amount.

The USDOT hereby awards an FY XXXX NSFLTP Discretionary Grant in the amount of **XXXX** for the period of performance described in section 1.5. The USDOT shall not provide funding greater than this amount under this Agreement. Currently, **XXXX** are obligated for this award. The Recipient acknowledges that USDOT is not liable for payments that exceed the obligation amount.

1.5 Period of Performance.

- (a) The period of performance for this award begins on the effective date of this Agreement is fully executed and ends on the period of performance end date that is listed in item 6 of the cover page.
- (b) The Recipient shall not charge to this award costs that are incurred before or after the period of performance.

[Except in extraordinary circumstances, pre-award costs are not permitted. Use this language as section 1.5(c):]

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- (c) The Recipient shall not charge to this award costs that were incurred before the date of this Agreement. This restriction includes any costs incurred under an advance construction authorization (23 U.S.C. 115), costs incurred prior to authorization (23 C.F.R. 1.9(b)), and pre-award costs under 2 C.F.R. 200.458 incurred prior to the date of this Agreement. This Agreement hereby terminates and supersedes any previous USDOT approval for the Recipient to incur costs under this award for this Project.

[If pre-award costs have been authorized by the Office of the Secretary, use this language as section 1.5(c). Eliminate if not authorized.]

- (c) The Recipient may charge to this award costs that were incurred before the date of this Agreement only if those costs are identified in Attachment F and would have been allowable if incurred during the period of performance of this award. This limitation applies to costs incurred under an advance construction authorization (23 U.S.C. 115), costs incurred prior to authorization (23 C.F.R. 1.9(b)), and pre-award costs under 2 C.F.R. 200.458. This agreement hereby terminates and supersedes any previous USDOT approval for the Recipient to incur costs under this award for the Project. Attachment F is the exclusive USDOT approval of costs incurred before the date of this agreement.

1.6 Urban or Rural Designation.

This section was intentionally omitted.

1.7 Fund Obligation.

Choose the appropriate one of these two alternatives.]

[Alternative #1: If all funds are being obligated at once:]

Federal Obligation Type: Single

[Alternative #2: If funds are to be obligated in multiple project phases:]

Federal Obligation Type: Multiple

1.8 Budget Period

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[Choose the appropriate one of these two alternatives.]

[**Alternative #1:** If all funds are being obligated at once:]

Budget Period End Date: See item 6 on the cover page

[**Alternative #2:** If funds are to be obligated in multiple project phases:]

Phase 1 Budget Period End Date: [insert date]

Phase 2 Budget Period End Date: [insert date]

1.9 Federal Award Identification Number.

See item 1 on the cover page.

[For Direct Recipients include:

1.10 Payment and DELPHI/iSupplier Requests.

(a) Payments by Reimbursement

The Recipient may request reimbursement of costs incurred in the performance hereof as are allowable under the applicable cost provisions, which is not to exceed the funds currently available as stated in Section 1.4. Requests should be made no more frequently than monthly and must include the certification as required by 2 C.F.R. 200.415.

Requests for payment by reimbursement shall be submitted to the payment Office (ESC) via DELPHI iSupplier (a component of the DELPHI eInvoicing System). When requesting reimbursement of costs incurred and credit for cost share incurred, the Recipient shall submit supporting cost details electronically with the SF 270 or SF 271 (as applicable) to clearly document all costs incurred. Cost details shall include a breakout of such elements as direct labor, indirect costs, other direct costs, travel, materials, and equipment, etc. The Recipient shall identify the Federal share and the Recipient’s cost share as applicable. The cost details should show all the project costs for the period covered by the reimbursement request and show all the cumulative-to-date costs.

The Agreement Officer (AO) or Agreement Specialist reserves the right to withhold processing requests for reimbursement until sufficient detail is received. In addition, reimbursement will not be made without Agreement Officer’s Representative (AOR) review and approval to ensure that progress on the Agreement is sufficient to substantiate

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payment. After AOR approval, the AO will certify and forward the Request for Advance or Reimbursement to the payment office via DELPHI iSupplier.

(b) Advance Payments

Subject to FHWA approval, recipients may be paid in advance provided they maintain or demonstrate the willingness to maintain the following in accordance with 2 C.F.R. § 200.303 as applicable: (1) have written procedures that minimize the time elapsing between the transfer of funds and disbursement by the Recipient, and (2) have a financial management system that meets the standards for fund control and accountability. When these items are not met, reimbursement will be the method for payment. Additional information is provided in section 11.3 regarding Advance Payment.

(c) The Department of Transportation utilizes the Delphi eInvoicing web-portal for processing invoices. Recipients submitting payment requests will be required to submit invoices via Delphi eInvoicing, which is accessed and authenticated via www.login.gov

(d) In order to receive payment, all requests for payment submitted as attachments in the Delphi eInvoicing web-portal shall contain the following:

- (1) Request for reimbursement number and invoice date.
- (2) Period of performance covered by request for reimbursement
- (3) Award number and title.
- (4) Total (\$) of billing.
- (5) Cumulative total billed for all work to date.
- (6) Name, title, phone number, and mailing address of person to be contacted in the event of a defective request for reimbursement.

If the award includes allowances for travel, all requests for reimbursement which include charges pertaining to travel expenses shall catalog a breakdown of reimbursable expenses with the appropriate receipts to substantiate the travel expenses.

(e) Payment System Registration

All persons accessing the Delphi eInvoicing web-portal will be required to have their own unique user Delphi eInvoicing ID and password and be credentialed through login.gov.

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- (1) Electronic authentication. See www.login.gov for instructions. Click on the following link for instructions on establishing a login.gov account: <https://login.gov/help/creating-an-account/how-to-create-an-account/>
- (2) To create a login.gov account, the user will need a valid email address and a working phone number. The user will create a password and then login.gov will reply with an email confirming the email address.
- (3) Recipient points of contact (POCs) who require access to the eInvoicing web-portal for invoice submission and payment tracking purposes will be required to provide their full name, email address, and current phone number to the agency POC to initiate the Delphi eInvoicing web-portal account. Recipient users and the agency POC will be notified via e-mail when the account is created. The Recipient user will be provided detailed instructions for logging into their Delphi eInvoicing account. FHWA’s agency POC may be contacted at HCFA-10@dot.gov.

If the Recipient has any general questions or issues accessing the iSupplier web-portal, please have them contact the ESC iSupplier helpdesk either at:

- <https://einvoice.esc.gov/>
 - Call Delphi Help Desk at 1-866-641-3500, option #4, then option #3
- (4) Training on Delphi. To facilitate use of DELPHI, comprehensive user information is available at <http://einvoice.esc.gov>.
 - (5) Account Management. Recipients are responsible for contacting the Delphi Help Desk when their POCs will no longer be submitting invoices so they can be removed from the system. Instructions for contacting the Delphi Help Desk can be found at <http://einvoice.esc.gov>.
 - To add new POCs, Recipients are to submit the name(s), email address(es), and phone number(s) to HCFA-10@dot.gov

Account Management

If a user ID becomes inactive/times out due to no activity by the POC, the Recipient shall contact HCFA-10@dot.gov with the full name, title, phone number, e-mail address, and user ID of the POC to be reactivated. To prevent being timed out due to no-activity, users should login once within 45 days of their last login.

Waivers

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The Department of Transportation Financial Management officials may, on a case by case basis, waive the requirement to register and use the DELPHI eInvoicing System. Waiver request forms can be obtained on the DELPHI eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>) or by contacting the AOR. All Vendors must explain why they are unable to use or access the Internet to register and enter payment requests.

All waiver requests shall be sent via mail to:

Director of the Office of Financial Management
US Department of Transportation, B-30
Office of Financial Management, Room W93-431
1200 New Jersey Avenue SE
Washington DC 20590-0001

or electronically to: DOTeInvoicing@dot.gov

The Director of the DOT Office of Financial Management will confirm or deny the request within approximately 30 days.

If a Vendor is granted a Waiver, Requests for Advance or Reimbursement and required supporting documents shall be sent via regular U.S. Postal Service to the following address:

Federal Highway Administration Invoice Processing
P.O. Box 268865
Oklahoma City, OK 73126-8865
Attention: Agreement Specialist

Invoices submitted via an overnight service must use the following physical address:

MMAC
FHWA/AMZ-150
6500 MacArthur Blvd. Oklahoma City, OK 73169
Attention: Accounting Technician

Express Delivery Point of Contact: Lead Account Technician, 405-954-8252

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All invoices, regardless of submission method, must identify the Agreement Specialist as the invoicing point of contact.

Ends addition for Direct Recipients, revise the numbering as needed]

1.11 Attachments.

This Agreement includes the following attachments as integral parts:

Attachment A	Statement of Work
Attachment B	Estimated Project Schedule
Attachment C	Estimated Project Budget
Attachment D	**Not Applicable to This Project**
Attachment E	Material Changes from Application
Attachment F	Approved Pre-Award Costs
Attachment G	General Terms and Conditions

ARTICLE 2. PROJECT AND RECIPIENT INFORMATION

2.1 Summary of Project’s Statement of Work. (See Attachment A for additional details).

[Provide a brief summary of the scope of the project, including, as applicable, type of project, project location (State, city, county, metropolitan area,) length, areas served, major procurements associated with project scope, description of connections with existing transportation facilities and infrastructure. This description should highlight any of the information in the Application that needs to be updated or amended. This is to be a short description. A full description of the actual and detailed scope of work for the project will be set out in Attachment A].

2.2 Summary of Project’s Estimated Schedule. (See Attachment B for additional details).

[A detailed project schedule will be provided in Attachment B – it should reflect best estimates of complete project schedule showing all phases of work].

2.3 Summary of Project’s Estimated Budget. (See Attachment C for additional details).

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Currently programmed project construction funds are \$XXXX.

Eligible Project Costs

Eligible Project Costs	
NSFLTP Grant Amount:	[\$XXX]
Other Federal Funds::	[\$XXX]
State Funds:	[\$XXX]
Local Funds:	[\$XXX]
In-Kind Match:	[\$XXX]
Other Funds:	[\$XXX]
Total Eligible Project Cost:	[\$XXX]

Cost Classification Table -Implementation Grants Only

Drafting Instructions: Utilize the descriptions from the SF-424c (<https://www.grants.gov/forms/sf-424-family.html>) to determine what cost goes in each row.

Cost Classification	Total Costs	Non-NSFLTP Previously Incurred Costs	Eligible Costs
Administrative and legal expenses			
Land, structures, rights-of-way, appraisals, etc.			
Relocation expenses and payments			
Architectural and engineering fees			
Other architectural and engineering fees			
Project inspection fees			
Site work			
Demolition and removal			
Construction			
Equipment			
Miscellaneous			
Contingency			
Project Total			

[If no costs are anticipated in a category, may remove the row from the table.]

2.4 Recipient Cost Share Certification.

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[If the applicant identified non-Federal funds in the application:] As negotiated, the Recipient hereby certifies that not less than \$XXX in non-Federal funds are committed to fund the Project.

[If the applicant did not identify any non-Federal funds:] This section was intentionally omitted.

2.5 Project’s State and Local Planning Requirements.

[Provide the full title of the relevant State, metropolitan, or local planning document(s), including the planning period covered by the planning document(s), that include the project. If planning is not applicable, insert N/A and add a comment box on this section to explain why planning requirements do not apply to this project].

2.6 Project’s Environmental Approvals and Processes.

Environmental Documentation Type, Titles and Date: _____ **[EIS, EA or CE. Also provide information on any updates such as reevaluations, supplementals, etc., along with anticipated approval / approval dates for all documents]**

Environmental Decision Type and Date: _____ **[Indicate type of environmental decision - Record of Decision, Finding of No Significant Impact, or Categorical Exclusion, along with reevaluations and anticipated approval / approval dates for all such decision documents]**

Name of Agency and Office Approving each Environmental Decision Document:

2.7 Recipient’s and any Subrecipient’s Unique Entity Identifiers.

Unique Entity ID of the Recipient: _____

Name of any First-Tier Subrecipients (if applicable – to be reported if/when identified. If not applicable please note is N/A): _____

Unique Entity ID No. of First-Tier Subrecipient (if applicable – to be reported if/when identified): _____

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2.8 Recipient Contacts.

Recipient Official Designated as Official Contact (may list more than one contact especially where another agency or department, in addition to Recipient, is assisting in meeting grant requirements):

Name

Title

Agency

Mailing Address

Phone Number

Email Address

ARTICLE 3. GENERAL REPORTING TERMS

3.1 Report Submission.

The Recipient shall send all reports required by this Agreement to all of the USDOT contacts who are listed in Section 9.1. Post-award reporting requirements include the following form(s):

- Federal Financial Report (SF-425)
- Real Property Status Report (SF-429)
- Tangible Personal Property Report (SF-428).

3.2 Alternative Reporting Methods.

The Administering OA may establish processes for the Recipient to submit reports required by this Agreement, including electronic submission processes. If the Recipient is notified of those processes in writing, the Recipient shall use the processes required by the Administering OA.

3.3 Paperwork Reduction Act Notice.

Under 5 C.F.R. 1320.6, the Recipient is not required to respond to a collection of information that does not display a currently valid control number issued by the Office of Management and Budget (the “OMB”).

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ARTICLE 4. PROGRESS REPORTING

4.1 Project Progress Reports and Recertifications.

On or before the 20th day of the first month of each calendar year quarter and until Project Closeout, the Recipient shall submit to the USDOT a Financial Form Report (SF-425). If the date of this Agreement is in the final month of a calendar year quarter, then the Recipient shall submit the first Quarterly Project Progress Report and Recertification in the second calendar year quarter that begins after the date of this Agreement.

4.2 Closeout Information.

No later than 90 days after the period of performance end date that is described in section 1.5, the Recipient shall:

- (1) submit a final SF-425, a certification or summary of project expenses, and any other information required under the Administering OA’s closeout procedures; and
- (2) provide a report comparing the final work, schedule, and budget to the statement of work described in section 2.1, the schedule described in section 2.2, and the budget described in section 2.3.

4.3 Project Closeout.

In this Agreement, “**Project Closeout**” means the date that the USDOT notifies the Recipient that the award is closed out. Under 2 C.F.R. § 200.344, Project Closeout should occur no later than one year after the end of the period of performance.

ARTICLE 5. [SECTION RESERVED]

ARTICLE 6. AGREEMENT MODIFICATIONS

6.1 Amendments.

The parties may amend this Agreement by mutual agreement in writing signed by each of the parties. Any party may request to amend, modify, or supplement this Agreement by written notice to the other parties.

6.2 Limited Unilateral Amendments.

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- (a) The Recipient may update the contacts who are listed in section 2.8 by written notice to all of the USDOT contacts who are listed in section 9.1.
- (b) The USDOT may update the contacts who are listed in section 9.1 by written notice to all of the Recipient contacts who are listed in section 2.8.
- (c) The USDOT may unilaterally modify this Agreement to comply with Federal law by written notice to all of the Recipient contacts who are listed in section 2.8 that includes a description of the modification and states the date that the modification is effective.

6.3 Other Modifications.

The parties shall not amend, modify, or supplement this Agreement except as permitted under section 6.1 or section 6.2. If an amendment, modification, or supplement is not permitted under section 6.1 and not permitted under section 6.2, it is void.

ARTICLE 7. STATEMENT OF WORK, SCHEDULE, AND BUDGET CHANGES

7.1 Statement of Work Changes.

If the Project’s activities differ from the statement of work that is described in section 2.1 and Attachment A, then the Recipient shall request a modification of this Agreement to update section 2.1 and Attachment A.

7.2 Schedule Changes.

If the Project’s substantial completion date changes to a date that is more than six months after the substantial completion date listed in section 2.2 or a schedule change would require the period of performance to continue after the period of performance end date described in section 1.5, then the Recipient shall request a modification of this Agreement to update section 2.2 and Attachment B. For other schedule changes, the Recipient shall request a modification of this Agreement to update section 2.2 and Attachment B unless the USDOT has consented, in writing consistent with the Administering OA’s requirements, to the change.

7.3 Budget Changes.

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- (a) If, in comparing the Project’s budget to the amounts listed in section 2.3, the “Other Federal Funds” amount increases or one or more of the “State Funds,” “Local Funds,” “Private Funds,” “Other Funds,” or “Total Project Cost” amounts decrease, then the Recipient shall request a modification of this Agreement to update section 2.3 and Attachment C. For other budget changes, the Recipient shall request a modification of this Agreement to update Attachment C unless the USDOT has consented, in writing consistent with the Administering OA’s requirements, to the change.
- (b) If the actual eligible project costs are less than the “Total Project Cost” that is listed in section 2.3, then the Recipient may propose to the USDOT, in writing consistent with the Administering OA’s requirements, specific additional activities that are within the scope of this award, as defined in sections 1.3 and 2.1, and that the Recipient could complete with the difference between the “Total Project Cost” that is listed in section 2.3 and the actual eligible project costs.
- (c) If the actual eligible project costs are less than the “Total Project Cost” that is listed in section 2.3 and either the Recipient does not make a proposal under section 7.3(b) or the USDOT does not accept the Recipient’s proposal under section 7.3(b), then:
 - (1) in a request under section 7.3(a), the Recipient shall reduce the Federal Share by the difference between the “Total Project Cost” that is listed in section 2.3 and the actual eligible project costs; and
 - (2) if that modification reduces this award and the USDOT had reimbursed costs exceeding the revised award, the Recipient shall refund to the USDOT the difference between the reimbursed costs and the revised award.

In this Agreement, “**Federal Share**” means the sum of the “NSFLTP Grant Amount” and the “Other Federal Funds (if any)” amounts that are listed in section 2.3.

- (d) The Recipient acknowledges that amounts that are required to be refunded under section 7.3(c)(2) constitute a debt to the Federal Government that the USDOT may collect under 2 C.F.R. § 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

7.4 USDOT Acceptance of Changes.

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The USDOT may accept or reject modifications requested under this article 7. The Recipient acknowledges that requesting a modification under this article 7 does not amend, modify, or supplement this Agreement unless the USDOT accepts that modification request and the parties modify this Agreement under section 6.1. Acceptance of changes may be documented through a FMIS authorization request and approval as authorized by the FHWA Federal-Aid Office.

ARTICLE 8. TERMINATION AND EXPIRATION

8.1 USDOT Termination.

- (a) The USDOT may terminate this Agreement and all its obligations under this Agreement if any of the following occurs:
- (1) The Recipient fails to obtain or provide any non-NSFLTP Transportation Discretionary Grant contribution or alternatives approved by the USDOT as provided in this Agreement and consistent with sections 2.2, 2.3, and 2.4;
 - (2) The Recipient fails to begin construction before _____;
 - (3) The Recipient fails to begin expenditure of award funds by _____;
 - (4) The Recipient fails to achieve the Construction Substantial Completion and Open to Traffic Date by _____;
 - (5) The Recipient fails to meet the conditions and obligations specified under this Agreement, including a material failure to comply with the schedule in section 2.2 even if it is beyond the reasonable control of the Recipient; or,
 - (6) The USDOT determines that termination of this Agreement is in the public interest.

8.2 Closeout Termination.

This Agreement terminates on Project Closeout.

8.3 Fund Liquidation, Adjustment, and Cancellation.

- (a) The Recipient shall liquidate all obligations under this award not later than 90 days after the period of performance end date that is listed in section 2.2. The Recipient

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acknowledges that this period of availability for liquidation ends before the statutory expenditure deadline identified in section 8.3(c).

- (b) Liquidation and adjustment of funds under this Agreement follow the requirements of 2 C.F.R. § 200.344–.346.
- (c) Outstanding FY XXXX NSFLTP Grant balances are canceled by statute after [INSERT DATE], and are then unavailable for any purpose, including adjustments and expenditures.
- (d) The Recipient acknowledges that under 2 C.F.R. § 200.345-200.346, termination of the Agreement does not extinguish the USDOT’s authority to disallow costs, including costs that USDOT reimbursed before termination, and recover funds from the Recipient.

8.4 Reporting Survival.

The reporting requirements set forth in articles 4 and 5 of this Agreement survive the termination of this Agreement and the expiration of award funds.

ARTICLE 9. USDOT CONTACTS

9.1 USDOT Contacts.

Except as authorized by the USDOT under section 3.2, the Recipient shall send all notices, reports, and information required by this Agreement to all the following contacts:

ADD: Agreement Officer (AO)

ADD: Agreement Specialist

ADD: Agreement Officer Representative (AOR)

[INSERT FHWA Field (Division or Federal Lands) Contact Designated as Official Contact]:

Name

Title

Agency

Mailing Address

Phone Number

Email Address

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and
Frances Ramirez
NSFLTP Program Manager
Federal Highway Administration
Office of Federal Lands Highway, Headquarters
22001 Loudoun County Parkway
Building E1, Suite 150
Ashburn, VA 20147
(202) 961-8606
Frances.ramirez@dot.gov

ARTICLE 10. ADDITIONAL TERMS AND CONDITIONS

10.1 Assistance Listings formerly known as Catalog of Federal Domestic Assistance (CFDA).

This award is under the program titled “Highway Planning and Construction,” with number 20.205 found at <https://sam.gov/fal/cd042cab753744998bff5ceec787c7b7/view> under this Assistance Listing.

10.2 Buy America.

- (a) Steel, iron, and manufactured products used in the Project are subject to 23 U.S.C. 313, as implemented by the FHWA. The Recipient acknowledges that this Agreement is neither a waiver of 23 U.S.C. 313(a) nor a finding under 23 U.S.C. 313(b).
- (b) Construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America act, Pub. L. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021), as implemented by OMB, USDOT, and FHWA. The Recipient acknowledges that this Agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).
- (c) Under 2 CFR § 200.322, as appropriate and to the extent consistent with law, the Recipient should, to the greatest extent practicable under this award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2

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C.F.R. § 200.322 in all subawards including all contracts and purchase orders for work or products under this award.

10.3 Research and Development Designation.

This award is not for research and development.

10.4 Exhibits. This Agreement includes the following exhibits as integral parts located at: []

Exhibit A - General Terms and Conditions – see Attachment F

Exhibit B - Grants and Agreements Forms - [Post-Award Reporting Forms | GRANTS.GOV](#)

Exhibit C - Laws, Codes, and Regulations - https://www.fhwa.dot.gov/cfo/laws_codes_regs.cfm

Exhibit D - Federal Financial Report (SF425) - [Post-Award Reporting Forms | GRANTS.GOV](#)

10.5 Construction.

If a provision in the exhibits or the attachments conflicts with a provision in Articles 1 – 12, then the provision in Articles 1 – 12 prevails. If a provision in the attachments conflicts with a provision in the exhibits, then the provision in the attachments prevails.

ARTICLE 11. SPECIAL GRANT REQUIREMENTS

11.1 The Recipient demonstrates compliance with civil rights obligations and nondiscrimination laws, including Titles VI of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act, and accompanying regulations. Recipients of Federal transportation funding will also be required to comply fully with regulations and guidance for the ADA, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and all other civil rights requirements.

11.2 The Recipient acknowledges that it is required to conduct certain environmental analyses and to prepare and submit to FHWA, or State with applicable NEPA Assignment authority, documents required under NEPA, and other applicable environmental statutes and regulations before the Government will obligate funds for Option Phase 1 under this Agreement and provide the Recipient will a written notice to proceed to with Option Phase 1.

11.3 The Government’s execution of this Agreement does not in any way constitute pre-approval or waiver of any of the regulations imposed upon Recipient under the applicable

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Federal rules, regulations and laws regarding projects undertaken in accordance with the terms and conditions of this Agreement. The Recipient shall comply with all applicable Federal requirements before incurring any costs under this Agreement.

ARTICLE 12. EXECUTION

12.1 Counterparts.

This Agreement may be executed in counterparts, which constitute one document. The parties shall execute this Agreement and intend each countersigned original to have identical legal effect.

12.2 Effective Date.

This Agreement is effective when fully executed by authorized representatives of the Recipient and the USDOT. This instrument constitutes a FY XXXX NSFLTP Grant when it is signed and dated by the authorized official of the USDOT, and the date on which it is signed by the authorized official of the USDOT is the Federal Award Effective Date.

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EXECUTION BY THE USDOT

Executed this _____ day of _____, 2023__.

Signature of USDOT’s Authorized Representative

Name of USDOT’s Authorized Representative

Title

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EXECUTION BY [NAME OF RECIPIENT]

By signature below, the Recipient acknowledges that it accepts and agrees to be bound by this Agreement.

Executed this _____ day of _____, 2023__.

Signature of Recipient’s Authorized Representative

Name of Recipient’s Authorized Representative

Title

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[USE THE FOLLOWING LANGUAGE IF THE STATE IS ADMINISTERING THE PROJECT ON BEHALF OF THE LOCAL GOVERNMENT/TRIBAL RECIPIENT]

EXECUTION BY STATE DEPARTMENT OF TRANSPORTATION

By signature below, the State Department of Transportation (the “**State DOT**”) acknowledges that it agrees to act as a limited agent for the Recipient to assist in the receipt and disbursement of the FY XXXX NSFLTP Grant obligated by this Agreement and to perform such other administrative and oversight duties with respect to the award and the Project as the Recipient and the State DOT shall agree upon between themselves. The State DOT acknowledges the fiduciary duty owed to the parties to this Agreement and will promptly disburse the award to the Recipient at Recipient’s direction and instructions. Further, the State DOT will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the duties it assumes under this Agreement in compliance with the Agreement’s terms and conditions.

Executed this _____ day of _____, 202__.

Signature of State Department of Transportation
Designated Official Representative

Name of State Department of Transportation
Designated Official Representative

Title

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ATTACHMENT A STATEMENT OF WORK

INSTRUCTIONS FOR COMPLETING ATTACHMENT A: The Recipient must describe the project that DOT agreed to fund, which is typically the project that was described in the NSFLTP application or a reduced-scope version of that project. The Statement of Work must include a description of all major activities that will be completed as part of the project, including major construction activities. The activities described in this attachment should align with the activities in Attachment B (Estimated Project Schedule) and Attachment C (Estimated Project Budget). If the project will be completed in segments or phases, describe each segment or phase.

Provide this information directly in this document; separate files, including PDF and Excel files, are not acceptable.

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ATTACHMENT B ESTIMATED PROJECT SCHEDULE

INSTRUCTIONS FOR COMPLETING ATTACHMENT B: The Recipient must provide a detailed breakdown of the Project’s schedule. This schedule must include all major activities that will be completed as part of the Project, including major construction activities. The activities described in this attachment should align with the activities in Attachment A (Statement of Work) and Attachment C (Estimated Project Budget). If the Project will be completed in segments or phases, provide a schedule for each segment or phase.

Provide this information directly in this document; separate files, including PDF and Excel files, are not acceptable

[Planned or Actual] Start of Preliminary Engineering: [INSERT DATE]

[Planned or Actual] End of Preliminary Engineering: [INSERT DATE]

[Planned or Actual] Completion of NEPA: [INSERT DATE]

[Planned or Actual] Start of Final Design: [INSERT DATE]

[Planned or Actual] Completion of Final Design: [INSERT DATE]

[Planned or Actual] Start of Right of Way Acquisition: [INSERT DATE]

[Planned or Actual] End of Right of Way Acquisition: [INSERT DATE]

Planned PS&E Approval [INSERT DATE]

Planned Construction Contract Award Date: [INSERT DATE]

Planned Construction Start Date: [INSERT DATE]

Major Project Activity	Planned Start Date	Planned End Date

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Major Project Activity	Planned Start Date	Planned End Date

Planned Construction Substantial Completion
and Open to Traffic Date

[INSERT DATE]

Period of Performance End Date:

[INSERT DATE]

Planned Project Closeout Date:

[INSERT DATE]

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ATTACHMENT C ESTIMATED PROJECT BUDGET

INSTRUCTIONS FOR COMPLETING ATTACHMENT C: The Recipient must provide a detailed breakdown of the Project’s budget. This budget must include all major activities that will be completed as part of the Project, including major construction activities. The activities described in this attachment should align with the activities in the Standard Form SF424-C, Attachment A (Statement of Work) and Attachment B (Estimated Project Schedule). If the project will be completed in segments or phases, provide a budget for each segment or phase.

Provide this information directly in this document; separate files, including PDF and Excel files, are not acceptable.

Activity	FY XXXX NSFLTP Grant Funds	Other Federal Funds	Match to Other Federal Funds	Local Funds	State Funds	Other Funds	Project Cost

NSFLTP Grant Cost Classification Table

Utilize the application’s SF-424c to determine what cost goes in each row. If no costs are in a category, remove the row from the table.]

Cost Classification	Total Project Costs	Eligible Costs
Administrative and legal expenses		
Land, structures, rights-of-way, appraisals, etc.		
Relocation expenses and payments		
Architectural and engineering fees		
Other architectural and engineering fees		
Project inspection fees		
Site work		
Demolition and removal		
Construction		

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Equipment		
Miscellaneous		
Contingency		
Project Total		

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**ATTACHMENT D
NOT APPLICABLE TO THIS PROJECT**

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ATTACHMENT E MATERIAL CHANGES FROM APPLICATION

[Describe all material differences between the scope, schedule, and budget described in the application and Attachments A–C. If a difference in the project’s scope is described here, Attachment A should reflect the revised scope; if a difference in the project’s schedule is described here, Attachment B should reflect the revised schedule; if a difference in the project’s budget is described here, Attachment C should reflect the revised budget. The purpose of this Attachment E is to clearly and accurately document the differences to establish the parties’ knowledge and acceptance of those differences. See section 1.2(b).]

Scope:

Schedule:

Budget:

The table below provides a summary comparison of the project budget.

Fund Source	Application		Section 3.3	
	\$	%	\$	%
Previously Incurred Costs (Non-Eligible Project Costs)				
Federal Funds				
Non-Federal Funds				
Total Previously Incurred Costs				
Future Eligible Project Costs				
NSFLTP Funds				
Other Federal Funds				
Non-Federal Funds				
Total Future Eligible Project Costs				
Total Project Costs				

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ATTACHMENT F APPROVED PRE-AWARD COSTS

[Except in extraordinary circumstances:]

None. The USDOT has not approved under this award any costs incurred under an advanced construction authorization (23 U.S.C. 115), any costs incurred prior to authorization (23 C.F.R. 1.9(b)), or any pre-award costs under 2 C.F.R. § 200.458. Because unapproved costs incurred before the date of this Agreement are not allowable costs under this award, the USDOT will neither reimburse those costs under this award nor consider them as a non-Federal cost sharing contribution to this award. Costs incurred before the date of this Agreement are allowable costs under this award only if approved in writing by USDOT before being included the project costs and documented in this Attachment F. See section 1.5(c).

[In extraordinary circumstances, if pre-award costs have been approved by the Office of the Secretary, the preceding paragraph should be removed and those costs should be itemized here. See section 1.5(c). To the extent possible, this attachment should identify the scope and cost of the authorized pre-award activities.

Add the following if pre-award costs were approved: On “Date”, the Recipient sent a written request to the FHWA for pre-award approval under 2 C.F.R. § 200.458 for costs. The Recipient requested pre-award approval for “\$AMOUNT” in NSFLTP Grant funds and “\$AMOUNT” in non-Federal funds for match.

The FHWA Office of Acquisition and Grants Management determined that the pre-award costs were incurred directly pursuant to the negotiation and in anticipation of the Federal award and were necessary for efficient and timely performance of the scope of work.

That office issued a notice to proceed with approved pre-award costs and activities on “DATE”.

Previously incurred costs should be listed here only if those costs are included in the budget in Attachment C.]

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ATTACHMENT G

GENERAL TERMS AND CONDITIONS

ACRONYMS

AO	Agreement Officer
AOR	Agreement Officer's Representative
Agreement	Grant Agreement or Cooperative Agreement
CFR	Code of Federal Regulation
FAR	Federal Acquisition Regulation
FHWA	The Federal Highway Administration
OMB	Office of Management and Budget

1. GOVERNING REGULATIONS

Performance under this Agreement will be governed by and in compliance with the following regulations:

- CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
- CFR Part 200 will be applicable to all non-Federal entities by default, and any determination by FHWA not to apply 2 CFR Part 200 (subparts A through E) to for-profit entities, foreign public entities, or foreign organizations will be made in writing and the reason(s) for that determination must be identified.
- Federal laws, rules and regulations set forth in 23 U.S.C. and 23 CFR, as applicable.
- For-profit entities: Cost Principles For-profit Organizations - 48 CFR 31 (Federal Acquisition Regulations) Subpart 31.2

2. REQUIREMENTS FOR IMPLEMENTING SECTION 508 STANDARDS

In addition to the work requirements specified in the award, the Recipient must ensure that all Information and Communication Technology (ICT) submittals meet the requirements of Section 508 of the Rehabilitation Act and the ICT Final Standards and Guidelines (508 Refresh) at 36 CFR Part 1194.

As defined in the 508 Refresh, at 36 CFR Part 1194, Appendix A, E103.4, ICT is “Information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Examples of ICT include but are not limited to computers and peripheral equipment; information kiosks and transaction machines; telecommunications equipment; customer premises equipment; multifunction office machines; software; applications; web sites; videos; and electronic documents.”

Section 508 requires that all electronic products prepared for the Federal Government be accessible to persons with disabilities, including those with vision, hearing, cognitive, and mobility impairments.

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Applicable Standards:

- Appendix A to Part 1194 – Section 508 of the Rehabilitation Act: Application and Scoping Requirements
- Appendix B to Part 1194 – Section 255 of the Communications Act: Application and Scoping Requirements
- Appendix C to Part 1194 – Functional Performance Criteria and Technical Requirements
- Section 508 Refresh standards are available at <https://www.access-board.gov/guidelines-and-standards/communications-and-it/about-the-ict-refresh>.

The Recipient must adhere to the terms and requirements in FHWA Form 4260 Section 508 Information and Communication Technology (ICT) Conformance Criteria for Section 508 conformance. The Conformance Criteria document does not need to be completed with submittals.

3. RESPONSIBILITIES OF THE RECIPIENT

The Recipient will provide overall program management. Specifically, the Recipient will be responsible for the following, as a minimum:

- Meeting with the AOR as necessary;
- Participating in a kick-off meeting with the AO and/or the AOR to discuss Agreement expectations and procedures. Participating in meetings via teleconference or web conference with the AOR;
- Performing the requirements of the award;
- Coordinating and managing work, including issuing and managing subcontracts/sub awards and consulting arrangements, as necessary;
- Submitting all required reports including Quarterly Progress Reports; and
- During the period of performance, the FHWA and the Recipient will meet periodically (at a minimum annually) to discuss project activities. The location of the meeting will be established by the AOR.

4. DOMESTIC AND NON-DOMESTIC TRAVEL

Travel requirements under this Agreement will be met using the most economical form of transportation available. If economy class transportation is not available, the request for reimbursement must be submitted with justification for use of higher-class travel indicating dates, times, and flight numbers. Travel and per diem authorized under this Agreement will be reimbursed in accordance with the travel costs section of 2 CFR § 200.475. In the absence of an acceptable, written institution policy regarding travel costs, the rates and amounts established in the Federal Travel Regulations in effect at the time of travel will apply. All non-domestic travel must be approved in writing by the AO prior to incurring costs.

5. AMENDMENTS

This Agreement and any amendments executed by the AO constitute the entire agreement between the parties. Discussions and understandings concerning scope and subject matter are

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superseded by this Agreement and any executed amendments. All changes to the terms and conditions of this Agreement will be in writing, issued as an Amendment and signed by the AO pursuant to 2 CFR § 200.308.

- Unilateral. A unilateral amendment is signed only by the AO. Unilateral amendments are used, for example, to make administrative changes (i.e., funding, accounting data changes, change in Government personnel).
- Bilateral. A bilateral amendment is a change that is signed by the Recipient and the AO. Bilateral amendments are used to reflect other agreements of the parties amending the terms of the Agreement.

6. AGREEMENT OFFICER’S (AO) AUTHORITY

The AO is the only person authorized to make or approve any changes in any of the requirements of this Agreement. In the event the Recipient makes any changes at the direction of any person other than the AO, the change will be considered to have been made without authority and no adjustment will be made in the award terms and conditions, including the award amount.

7. AGREEMENT OFFICER'S REPRESENTATIVE (AOR)

The AO may designate an AOR to assist in monitoring the work under this Agreement. The AOR will oversee performance of this Agreement and act as technical liaison with the recipient. The AOR is not authorized to change the requirements as stated in the Agreement, to make any commitments or otherwise obligate the FHWA, or authorize any changes which affect the Agreement funding, delivery schedule, period of performance or other terms or conditions.

The AO is the only individual who can legally commit or obligate the FHWA for the expenditure of public funds. The technical administration of this Agreement does not authorize the revision of the terms and conditions. The AO will authorize any such revision(s) in writing.

8. PAYMENT

The Recipient’s request for advanced payments or reimbursement of costs incurred in the performance of the award are allowable under the applicable cost provisions. Advance payments and/or reimbursement of costs may not exceed the funds currently available for the award. Requests should be made no more frequently than monthly and must include the certification as required by 2 CFR § 200.415.

Payments by Reimbursement

Requests for payments by reimbursement will be submitted to the payment office via Delphi eInvoicing System. When requesting reimbursement of costs incurred and/or credit for cost share incurred, the Recipient will electronically submit a supporting cost detail with a SF 270, Request for Advance or Reimbursement or, a SF 271, Outlay Report and Request for Reimbursement for Construction (for construction projects) to clearly document all costs incurred. A cost detail:

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- Explains or justifies all costs incurred by budget category (including direct labor, indirect costs, other direct costs, travel, etc.).
- Identifies the Federal share and the Recipient's cost share portions as applicable.
- Displays all the project costs for the period covered by the reimbursement request, and displays all the cumulative-to-date costs.

The AO or Agreement Specialist reserve the right to withhold processing requests for reimbursement until sufficient detail is received. In addition, reimbursement will not be made without AOR review and approval to ensure that progress on the Agreement is sufficient to substantiate payment. After AOR approval, the AO will certify and forward the request for reimbursement to the payment office via the Delphi eInvoicing System.

Advance Payments

Recipients may be paid in advance, provided they maintain or demonstrate the willingness to maintain the following in accordance with 2 CFR § 200.305 as applicable: (1) written procedures that minimize the time elapsing between the transfer of funds and disbursement by the Recipient, and (2) financial management systems that meet the standards for fund control and accountability. When these items are not met, reimbursement will be the method for payment.

Delphi eInvoicing System Registration and Information

Payment system registration. All persons accessing the Delphi eInvoicing web-portal will be required to have their own unique user Delphi eInvoicing ID and password and be credentialed through login.gov.

- Electronic authentication. See www.login.gov for instructions. Click on the following link for instructions on establishing a login.gov account: <https://login.gov/help/creating-an-account/how-to-create-an-account/>
- To create a login.gov account, the user will need a valid email address and a working phone number. The user will create a password and then login.gov will reply with an email confirming the email address.
- Recipient POC's who require access to the eInvoicing web-portal for invoice submission and payment tracking purposes will be required to provide their full name, email address, and current phone number to the agency POC to initiate the Delphi eInvoicing web-portal account. Recipient users and the agency POC will be notified via e-mail when the account is created. The Recipient user will be provided detailed instructions for logging into their Delphi eInvoicing account. FHWA's agency POC is HCFA-10@dot.gov.

If the Recipient has any general questions or issues accessing the iSupplier web-portal, please contact the ESC iSupplier helpdesk either at:

- o <https://einvoice.escgov/>
 - o Call Delphi Help Desk at 1-866-641-3500, option #4, then option #3
- Training on Delphi. To facilitate use of Delphi, comprehensive user information is available at <http://einvoice.esc.gov>.

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- Account Management. Recipients are responsible for contacting the Delphi Help Desk when their firm’s points of contacts will no longer be submitting invoices so they can be removed from the system. Instructions for contacting the Delphi Help Desk can be found at <http://einvoice.esc.gov>.
 - o To add new points of contacts, Recipients shall submit the new contact’s name(s), email address(es) and phone number(s) to HCFA-10@dot.gov.

Account Management

If a user ID becomes inactive/times out due to no activity by the POC, the Recipient shall contact HCFA-10@dot.gov with the full name, title, phone number, e-mail address, and user ID of the POC to be reactivated. To prevent being timed out due to no activity, users should login once within 90 days of their last login.

Waivers

The Department of Transportation Financial Management officials may, on a case-by-case basis, waive the requirement to register and use the Delphi eInvoicing System. Waiver request forms can be obtained on the Delphi eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>) or by contacting the AOR. All Recipients must explain why they are unable to use or access the Internet to register and enter payment requests.

All waiver requests shall be sent via mail to:

Director of the Office of Financial Management
US Department of Transportation, B-30
Office of Financial Management, Room W93-431
1200 New Jersey Avenue SE
Washington DC 20590-0001

or electronically to: DOTeInvoicing@dot.gov

The Director of the DOT Office of Financial Management will confirm or deny the request within approximately 30 days.

If a Recipient is granted a Waiver, Requests for Advance or Reimbursement and required supporting documents, must be sent via regular U.S. Postal Service to the following address:

Federal Highway Administration Invoice Processing
P.O. Box 268865
Oklahoma City, OK 73126-8865
Attention: [Fill-in Name of Agreement Officer]

Invoices submitted via an overnight service must use the following physical address:

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MMAC
FHWA/AMZ-150
6500 MacArthur Blvd. Oklahoma City, OK 73169
Attention: Lead Accounting Technician

Express Delivery Point of Contact: Lead Accounting Technician, 405-954-8252

All invoices, regardless of submission method, must identify the Agreement Officer as the point of contact.

9. FUNDS NOTIFICATION

The Recipient shall notify the AO in writing whenever it has reason to believe that the costs it expects to incur under this Agreement in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the total amount so far allotted to the Agreement by the Government. If the recipient anticipates a need for a budget increase, the notice shall state the estimated amount of additional funds required to complete the work under the Agreement.

10. ACKNOWLEDGEMENT OF SUPPORT AND DISCLAIMER

An acknowledgment of FHWA support and a disclaimer must appear in any publication of any material, whether copyrighted or not, based on or developed under the Agreement, in the following terms:

"This material is based upon work supported by the Federal Highway Administration under Agreement No. – [fill in award number]." All materials must also contain the following:

"Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the Author(s) and do not necessarily reflect the view of the Federal Highway Administration."

11. SITE VISITS

The FHWA, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. During a site visit, the Recipient and/or sub-recipient/subcontractor will provide all reasonable facilities and assistance for the safety and convenience of the FHWA representative. All site visits and evaluations will be performed in such a manner as to not unduly delay work.

12. BUDGET REVISION/REALLOCATION OF AMOUNTS

The Recipient is required to report deviations from budget and program plans and request prior approval for budget and program plan revisions in accordance with 2 CFR § 200.308. For awards with a Federal share greater than the Simplified Acquisition Threshold, the Recipient must obtain prior written approval from the AO to transfer amounts budgeted for direct cost categories when

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the cumulative value of such transfers will exceed 10% of the value of Federal share of this Agreement.

13. SYSTEM FOR AWARD MANAGEMENT (SAM)

The Recipient must have an active registration in the SAM in order to receive payments under this Agreement. Use of the SAM is to provide one location for Applicants and Recipients to change information about their organization and enter information on where government payments should be made. Information for registering in the SAM and online documents can be found at www.sam.gov.

14. PRINTING

The Joint Committee on Printing Regulations Number 26, Section 36 states that Recipients shall not become prime or substantial sources of printing for the use of departments and agencies.

In the performance of this Agreement, the Recipient may duplicate less than 5,000 units of only one page or less than 25,000 units in the aggregate of multiple pages. Duplication of quantities in excess of the amounts stated requires prior written approval of the AO. The Recipient must submit such requests in writing or by email to the AO, to include specifics on the submittals, requested printing quantity, and estimated costs for printing.

15. DRUG FREE WORKPLACE

The Recipient will comply with Subpart B of 49 CFR Part 32, Government wide Requirements for a Drug-Free Workplace (Financial Assistance). See 49 CFR Part 32 for details of the requirement.

16. DEBARMENT AND SUSPENSION REQUIREMENTS

The non-Federal entity must comply with the provisions in 2 CFR Part 180 OMB Guidelines to Agencies on Government Debarment and Suspension (Non-procurement) and 2 CFR Part 1200 DOT Non-procurement Suspension and Debarment. These provisions restrict Federal awards, subawards and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal programs or activities.

17. TERMINATION AND SUSPENSION

This Agreement may be terminated or suspended in whole or in part, at any time prior to its expiration date in accordance with 2 CFR § 200.340.

The Recipient may appeal or object to a termination or suspension for non-compliance by submitting an appeal in writing to the AO within 30 days after receipt of the written notification of termination or suspension of this Agreement. The Recipient will document the dispute by notifying the Agency in writing of the relevant facts, identify the grounds for objecting or appealing the termination or suspension and specify the remedy sought. The Agency will follow the procedures in the Disputes section when responding to this appeal.

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18. FINANCIAL ASSISTANCE POLICY TO BAN TEXT MESSAGING WHILE DRIVING

- Definitions. As used in this clause-
"Driving" - Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

"Text messaging" - means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.
- This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving, dated October 1, 2009.
- The Applicant should-
 - o Adopt and enforce policies that ban text messaging while driving- (i) Company-owned or -rented vehicles or Government-owned vehicles; or (ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.
 - o Conduct initiatives in a manner commensurate with the size of the business, such as- (i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and (ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- Sub-agreements/sub-contracts. The Applicant shall insert the substance of this clause, including this paragraph (d), in all sub- agreement/subcontracts that exceed the micro-purchase threshold.

19. REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUB- AWARDS (2 CFR Part 170, Appendix A)

Reporting Sub-awards and Executive Compensation.

- Reporting of first-tier sub-awards.
 - o Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a sub-award to an entity (see definitions in paragraph e. of this award term).

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- Where and when to report.
 - You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.
 - For sub-award information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
- What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov>.
- Reporting Total Compensation of Applicant Executives.
 - Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if-
 - The total Federal funding authorized to date under this award is \$25,000 or more;
 - In the preceding fiscal year, you received-
 - \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance (and sub-awards), subject to the Transparency Act, as defined at 2 CFR 170.320; and
 - 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance (and sub-awards), subject to the Transparency Act, as defined at 2 CFR 170.320; and
 - The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>)
 - Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:
 - As part of your registration profile at <http://www.sam.gov>.
 - By the end of the month following the month in which this award is made, and annually thereafter.
- Reporting of Total Compensation of Sub-applicant Executives.
 - Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier sub- applicant under this award, you will

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report the names and total compensation of each of the sub-applicant's five most highly compensated executives for the sub-applicant's preceding completed fiscal year, if-

- o In the preceding fiscal year, your sub-applicant received-
 - \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance (and sub-awards), subject to the Transparency Act, as defined at 2 CFR 170.320; and
 - 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance (and sub-awards), subject to the Transparency Act, as defined at 2 CFR 170.320; and
- o The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>)
- o Where and when to report. You must report sub-applicant executive total compensation described in paragraph c.1. of this award term:
 - To the Applicant.
 - By the end of the month following the month during which you make the sub-award. For example, if a sub-award is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the sub-applicant by November 30 of that year.
- Exemptions. If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:
 - o Sub-awards, and
 - o The total compensation of the five most highly compensated executives of any sub-applicant.
- Definitions. For purposes of this award term:
 - o Entity means all of the following, as defined in 2 CFR Part 25:
 - A Governmental organization, which is a State, local Government, or Indian tribe;
 - A foreign public entity;
 - A domestic or foreign nonprofit organization;
 - A domestic or foreign for-profit organization;
 - A Federal agency, but only as a sub-applicant under an award or sub-award to a non-Federal entity.
 - o Executive means officers, managing partners, or any other employees in management positions.

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- o Sub-award:
 - This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the Applicant award to an eligible sub-applicant.
 - The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - A sub-award may be provided through any legal agreement, including an agreement that you or a sub-applicant considers a contract.
- o Sub-applicant means an entity that:
 - Receives a sub-award from you (the Applicant) under this award; and
 - Is accountable to you for the use of the Federal funds provided by the sub-award.
- o Total compensation means the cash and noncash dollar value earned by the executive during the Applicant's or sub-applicant's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - Salary and bonus.
 - Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization, or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.
 - Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - Above-market earnings on deferred compensation which is not tax-qualified.
 - Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites, or property) for the executive exceeds \$10,000.

20. OMB PAPERWORK REDUCTION ACT

The Paperwork Reduction Act (PRA) (44 U.S.C. § 3501 and implementing regulations at 5 CFR § 1320) was enacted to minimize the paperwork burden for private businesses and individuals resulting from the collection of information by or for the Federal government and requires an

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agency to obtain approval from OMB before conducting or sponsoring a “collection of information.” The regulations provide that a collection of information undertaken by a Recipient of a Federal award is considered “conducted or sponsored” by an agency only if:

- The Recipient of a Federal award is collecting information at a specific request of the agency; or
- The terms and conditions of the Federal award require specific approval by the agency of the collection of information or the collection procedures.

DOT Order 1351.29 defines Departmental requirements for Paperwork Reduction Act/Information Collection. The Order can be found at <https://cms.dot.gov/sites/dot.gov/files/docs/Paperwork%20Reduction%20Act%20-%20Information%20Collection.pdf>.

21. CONFLICT OF INTEREST

If at any time during performance, the Recipient identifies an actual or potential personal or organizational conflict of interest relating to performance of this Agreement, the Recipient must immediately notify the AO in writing. Actual or potential conflicts of interest may include but are not limited to any past, present, or planned contractual, financial, or other relationships, obligations, commitments, or responsibilities, which may bias the Recipient or affect the Recipient's ability to perform the agreement in an impartial and objective manner.

The AO will review the statement and may require additional relevant information from the Recipient. All such information, and any other relevant information known to DOT, will be used to determine whether Agreement performance by the Recipient creates an actual or potential conflict of interest. If any such conflict of interest is found to exist, the AO may (a) terminate the Agreement pursuant to the termination term of the Agreement, or (b) determine that it is otherwise in the best interest of the United States to continue the Agreement and include appropriate provisions to mitigate or avoid such conflict in the Agreement pursuant to 2 CFR § 200.112.

22. ANNUAL PROPERTY REPORT

In accordance with 2 CFR § 200.233, the Recipient must submit an electronic copy of the SF-429 Real Property Report to the AOR and to the Agreement Specialist 60 days prior to the anniversary date of this Agreement.

The Recipient must submit an electronic copy of the SF-428 Tangible Personal Property Report to the AOR and one electronic copy and one hard copy to the Agreement Specialist 60 days prior to the anniversary date of this Agreement.

If no property was furnished or acquired during the Agreement up to the end date of the reporting period, indicate that information in the applicable form. If property was furnished or acquired during the Agreement up to the end date of the reporting period, list the property on the

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applicable form(s). Use additional sheets as necessary. Use separate sets of sheets to show Federally owned property and Recipient-owned property.

23. RESTRICTIONS ON INTERNAL CONFIDENTIALITY AGREEMENTS

The Recipient shall not require employees or subrecipients to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subrecipients from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

24. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

The Recipient shall not require employees or subrecipients to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subrecipients from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.