

U.S. Department of Transportation
Federal Highway Administration

Notice of Funding Opportunity Number 693JJ320NF00005

"Commuter Authority Rail Safety Improvement (CARSI) Grants"

Notice of Funding Opportunity Issue Date: August 25, 2020

Application Due Date: October 26, 2020

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The U.S. Department of Transportation (DOT) is using www.grants.gov for issuance of this Notice of Funding Opportunity (NOFO) and for receipt of all applications. Applicants must register and use the system to submit applications electronically. Applicants are encouraged to register in advance of the submission deadline and to register to receive notifications of updates/amendments to this notice. Approval of user registrations for the site may take multiple weeks. It is the Applicant's responsibility to monitor for any updates to this notice.

SUMMARY INFORMATION

Funding Opportunity Summary:	**$50,000,000 in Federal funding available to award Commuter Authority Rail Safety Improvement (CARSI) Grants to eligible entities.**
Federal Agency Name:	U.S. Department of Transportation (DOT) Federal Highway Administration (FHWA) 1200 New Jersey Avenue, SE Mail Drop: E62-204 Washington, DC 20590 Attn: Sarah.Tarpgaard@dot.gov
Funding Opportunity Title:	Commuter Authority Rail Safety Improvement (CARSI) Grants
Announcement Type:	This is the initial announcement of this funding opportunity. This is not a follow-on notice.
Funding Opportunity Number:	693JJ320NF00005
Type of Award:	Multiple Grants
CFDA Number:	20.205 Highway Planning and Construction
Application Due Date:	October 26, 2020 BY 11:59 PM EASTERN via Grants.gov
Questions:	Sarah Tarpgaard, FHWA Agreement Officer FHWA Office of Acquisition and Grants Management Sarah.Tarpgaard@dot.gov
Estimated Announcement of Selected Awardees:	December 2020

Funding Opportunity Informational Webinar – September 10, 2020 @ 2 pm Eastern

The FHWA will host an *Informational Webinar* regarding this funding opportunity, to help potential applicants understand the opportunity requirements and answer applicant questions. Participation in this session is not mandatory in order to submit an application under this solicitation. However, we encourage potential applicants to take advantage of this opportunity to gather information regarding this funding opportunity.

Date: September 10, 2020 from 2:00 – 3:30 pm Eastern

Register: To participate in the webinar, you must register in advance by sending an email to Sarah.Tarpgaard@DOT.gov, to provide your name, title, organization name, and email. Please register by September 9, 2020. FHWA will provide the webinar link to registered participants by email prior to the webinar.

SECTION A – PROGRAM DESCRIPTION

1. STATEMENT OF PURPOSE

The purpose of this grant program is to improve safety at public railway-highway crossings. The program provides one-time funding to eligible entities for the construction of projects for the elimination of hazards at railway-highway crossings.

2. LEGISLATIVE AUTHORITY

The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2020 (Public Law 116-94) (Appropriations Act), appropriated $50 million to DOT to award competitive grants for activities described in Section 130(a) of Title 23, United States Code (U.S.C.) railway-highway crossings, which states:

> 130(a) Subject to section 120 and subsection (b) of this section, the entire cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, the relocation of highways to eliminate grade crossings, and projects at grade crossings to eliminate hazards posed by blocked grade crossings due to idling trains, may be paid from sums apportioned in accordance with section 104 of this title. In any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary to be less than the cost of such elimination by one of the methods mentioned in the first sentence of this section, then the entire cost of such relocation project, subject to section 120 and subsection (b) of this section, may be paid from sums apportioned in accordance with section 104 of this title.

Per the Appropriations Act, which requires that the funds be administered as if they are apportioned under Chapter 1 of Title 23, and 23 U.S.C. 130(f)(3), the Federal share shall be not more than 90 percent.

3. GOALS

Specific program goals include:

(1) Improve safety at railway-highway crossings through the elimination of hazards at public railway-highway crossings;

(2) Reduce fatalities, serious injuries, and crashes at public railway-highway crossings;

(3) Reduce the number of existing public at-grade crossings by closure or grade separation; and

(4) Reduce delays or improve system performance by eliminating hazards posed by blocked grade crossings due to idling trains.

4. ELIGIBLE PROJECTS

The funds must support the construction of projects for the elimination of hazards at railway-highway crossings. See Section C, Eligibility for details.

5. PROJECT DESCRIPTION

The Recipient shall perform the project in accordance with the Recipient's approved Project Narrative, which will be incorporated into the award as an attachment.

6. MILESTONES/DELIVERABLES

Recipients will be required to meet the following milestones/deliverables:

Grant Milestones/Deliverables	Approximate Due Date	Section 508 Compliant?
Kick-off Meeting – conduct a kick-off meeting with FHWA at a mutually-agreed-upon location. Kick-off Meeting may be virtual or in-person based on mutual agreement of the parties, and is estimated not to exceed 2 hours.	Within 3 weeks after the effective date of award.	No
Quarterly Progress Reports – document activities performed, anticipated activities, and any changes to schedule or anticipated issues. See Quarterly Progress Report clause for required content.	Within 30 days of the end of each quarter.	No
Annual Budget Review and Program Plan – provide a detailed schedule of activities, estimate of specific performance objectives, include forecasted expenditures, and schedule of milestones for the upcoming year. See Annual Review and Program Plan clause for required content.	60 days prior to the anniversary date of this agreement.	No

SECTION B – FEDERAL AWARD INFORMATION

1. FUNDING AND NUMBER OF AWARDS

This notice announces the availability of up to $50,000,000 in Federal funding for eligible projects, available to eligible entities.

The Government's obligation under the planned grants is contingent upon the availability of funding from which payment for grant purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available for the award and until the awardee receives notice of such availability, to be confirmed in writing by the Agreement Officer (AO) or authorized FHWA personnel. The funds provided for this program shall remain available until expended.

The Government anticipates making multiple grant awards under this NOFO, subject to the availability of funds. The Government reserves the right to make one or none if determined to be in the best interest of the Government based on applications received.

Selection of an application to receive grant funding is not a commitment of any future funding.

2. TYPE OF AWARD

The planned award type is a cost-reimbursable grant agreement by direct award to the applicant, or through an allocation to the relevant State department of transportation (State DOT). Upon completion of a project, funds that are not expended are to be recovered and returned to FHWA.

3. PERIOD OF PERFORMANCE

The grant period of performance will vary by award and must be proposed by the applicant. Estimated duration of grant awards is 1 to 4 years.

4. DEGREE OF FEDERAL INVOLVEMENT

The FHWA will monitor performance and conduct financial oversight.

SECTION C – ELIGIBILITY INFORMATION

To be selected for a grant award, an applicant must be an Eligible Applicant and the projects must be Eligible Projects.

1. ELIGIBLE APPLICANTS

This competition is open to all eligible applicants. Applicants MUST meet the following eligibility criteria to be considered for award. Applicants who do not meet the eligibility criteria should not respond to this NOFO.

An applicant must be a "commuter authority" as defined in 49 U.S.C. 24102, which is a State, local, or regional entity established to provide, or make a contract for, commuter rail passenger transportation. An eligible commuter authority must have experienced at least one accident investigated by the National Transportation Safety Board (NTSB) between January 1, 2008, and December 31, 2018, and for which the NTSB issued an accident report.

The applicant must be either: (1) a commuter authority that meets the eligibility requirements listed above; OR (2) a public or non-profit entity partnering with an eligible commuter authority.

NOTE: Applicants are encouraged to partner with their State DOT to the extent possible. As appropriate, awards may be made to State DOTs as pass-through entities for administration of the funds. Per 2 CFR 200.74, a pass-through entity is a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

NOTE: If eligible commuter authority applicants operate on a rail corridor owned by an entity other than the commuter authority, a letter from the rail owners is required supporting the proposed project. See Section D, below.

2. COST SHARING OR MATCHING

Cost sharing or matching is required. The Federal share shall not exceed 90 percent of the total project cost. Therefore, this NOFO requires a minimum non-Federal cost share of 10 percent of the project cost. Cost sharing or matching means the portion of project costs not paid by Federal funds. For a more complete definition, please see 2 CFR 200.306 on Cost Sharing or matching. Other Federal funds cannot be considered as part of the matching funds, unless otherwise allowed by statute.

Note: If applicable, any program income generated under the project must be handled in accordance with SECTION F.

3. ELIGIBLE PROJECTS

Eligible projects under this grant program are limited to the following:

- the separation or protection of grades at crossings;
- the reconstruction of existing railroad grade crossing structures;
- the relocation of highways to eliminate grade crossings; or
- projects at grade crossings to eliminate hazards posed by blocked grade crossings due to idling trains.

NOTE: The proposed location of the project is not required to be the location of the accident previously investigated by the NTSB. The proposed location of the project is up to the discretion of the applicant.

SECTION D – APPLICATION AND SUBMISSION INFORMATION

1. APPLICATION SUBMITTAL

Applicants must submit their applications via www.Grants.gov under the NOFO number cited herein. Applications must be submitted through the Grants.gov workspace.

The Applicant must complete and submit all forms included in the application package for this notice as contained at www.Grants.gov.

NOTE: Applicants must have a registered Grants.gov account to use the system. Obtaining an account can involve multiple steps and numerous days. Please see the Grants.gov website for detailed instructions, training videos, an online user guide, and a help desk.

2. CONTENT AND FORMAT OF APPLICATION SUBMISSION

Format:

- Application must be prepared on 8½ x 11-inch pages. Pages that exceed this size, such as foldout size or legal size, are not allowable.
- Narrative text must be printed using a font size no less than 12-point font.
- Tables are permitted. Text in tables may be smaller than 12-point font but must be legible.
- Page margins must be a minimum of 1 inch top, bottom and each side.
- Page numbers may be located within the 1 inch margins.
- A Header or Footer identifying the Applicant/Team and the Volume or Part, may be located within the 1 inch margins.
- PAGE LIMITS: Application volumes shall adhere to the page count limitations listed below. In the event an application volume exceeds the page limitation the Government will evaluate only the pages identified within the page limitation. The page count limitations include all narrative, figures, tables, appendices, and all other ancillary materials with the exception of the following.
- EXCEPTIONS ON PAGE LIMITS: The following items do NOT count against the page limitations.
    a. Document covers;
    b. Cover letters/cover pages;
    c. Title pages;
    d. Divider pages;
    e. Tables of contents;
    f. Lists of acronyms;
    g. Letters of support or intent to participate from proposed subcontractors, consultants, partners, and proposed newhires; and
    h. Resumes. (Note: Resumes are not required, but if submitted are limited to two-pages each.)

Content of Application Submission:

The application must include the following two Volumes:

1. **Volume 1 – Project Application**
    a. Cover Page
    b. Project Narrative (30-page limit on Project Narrative section)
    c. Project Readiness (no page limit)
    d. Letters of Support (no page limit)
    e. Benefit-Cost Analysis (no page limit)

2. **Volume 2 – Budget Application** - no page limit
    a. Application Forms
    b. Cost Breakdown
    c. Other Business Information

Volume 1 – Project Application – include the following:

a. Cover Page. The Cover Page should include the project name, project location, whether the project is located in a rural area, name of eligible entity applying to receive Federal funding, total project cost (from all sources), amount Federal funding requested, and amount of non-Federal share proposed.
    Note: See https://www.transportation.gov/rural for information on the Department's R.O.U.T.E.S. Initiative.

b. Project Narrative (30-page limit). The Project Narrative section should include the information necessary for FHWA to determine that the project satisfies the eligibility criteria described in Section C above and to assess how the application addresses the selection criteria specified in Section E. The Project Narrative must provide the following information at a minimum:

    i. Statement of applicant eligibility. Provide documentation demonstrating the applicant complies with NOFO Section C.1, Eligible Applicants, which states an Applicant must be a commuter authority, or a public or non-profit entity partnering with an eligible commuter authority, that has experienced at least one accident investigated by the NTSB between January 1, 2008, and December 31, 2018, and for which the NTSB issued an accident report.

    ii. Statement of project eligibility. Provide documentation demonstrating the project complies with NOFO Section C.3, Eligible Projects.

    iii. Project description. Provide a concise description of the proposed project, the safety problem(s) it is expected to address, and how it

will address the identified safety problem(s). Describe the project location and the entities involved in implementation of the project including their respective roles in supporting the project.

NOTE: The proposed location of the project is not required to be the location of the accident previously investigated by the NTSB. The proposed location of the project is up to the discretion of the applicant.

iv. Safety impacts. Provide a description of the safety impacts that will result from the project. Describe how the project will deliver the following safety impacts, as applicable to the project:

1. Improve safety at railway-highway crossings through the elimination of hazards at public railway-highway crossings;
2. Reduce fatalities, serious injuries, and crashes at public railway-highway crossings;
3. Reduce the number of existing public at-grade crossings by closure or grade separation; and
4. Reduce delays or improve system performance by eliminating hazards posed by blocked grade crossings due to idling trains.

v. Safety impact and performance metrics. Provide proposed quantifiable projections, measures and metrics for the project, such as:

- Provide proposed quantifiable system performance improvement projections, such as reducing traffic-related crashes, congestion, and costs; optimizing system efficiency; and improving access to transportation services.

- Provide proposed quantifiable safety, mobility, and environmental benefit projections such as data-driven estimates of how the project will improve the commuter rail authority's system efficiency or reduce delay, fatalities, serious injuries or crashes, or idling.

vi. Innovation. Describe how the project will use innovative approaches to improve safety and expedite project delivery, including: (1) innovative technologies, (2) innovative project delivery, or (3) innovative financing.

vii. Summary of benefit-cost analysis. Summarize the conclusions of the project's benefit-cost analysis including estimates of the project's benefit-cost ratio and net benefits. Describe other data-supported benefits that are not included in the benefit-cost analysis. NOTE: The benefit-cost analysis itself should be provided

separately in Volume 1, Section e.

c. Project Readiness. The Project Readiness section should include information that, when considered with the project budget information presented elsewhere in the application, is sufficient for the Department to evaluate whether the project is reasonably expected to begin construction in a timely manner. To assist the Department's project readiness assessment, the applicant should provide the information requested on technical feasibility, project schedule, project approvals, and project risks, each of which is described in greater detail in the following sections. Applicants are not required to follow the specific format described here, but this organization, which addresses each relevant aspect of project readiness, promotes a clear discussion that assists project evaluators. To minimize redundant information in the application, the Department encourages applicants to cross-reference from this section of their application to relevant substantive information in other sections of the application.

The guidance here is about what information applicants should provide and how the applicant should organize their application. Guidance describing how the Department will evaluate a project's readiness is described in section E.1 of this notice. Applicants also should review that section before considering how to organize their application.

i. Technical Feasibility. The applicant should demonstrate the technical feasibility of the project with engineering and design studies and activities; the development of design criteria and/or a basis of design; the basis for the cost estimate presented in the CARSI application, including the identification of contingency levels appropriate to its level of design; and any scope, schedule, and budget risk-mitigation measures. Applicants should include a detailed statement of work that focuses on the technical and engineering aspects of the project and describes in detail the project to be constructed.

ii. Project Schedule. The applicant should include a detailed project schedule that identifies all major project milestones. Examples of such milestones include State and local planning approvals (programming on the Statewide Transportation Improvement Program), start and completion of NEPA and other Federal environmental reviews and approvals including permitting; design completion; right of way acquisition; approval of plans, specifications and estimates (PS&E); procurement; State and local approvals; project partnership and implementation agreements including agreements with railroads; and construction. The project schedule should be sufficiently detailed to demonstrate that:

(1) All necessary activities will be complete to allow CARSI funds to be obligated in a timely manner;

(2) The project can begin construction quickly upon obligation of CARSI funds, and that the grant funds will be spent expeditiously once construction starts; and

(3) All real property and right-of-way acquisition will be completed in a timely manner in accordance with 49 CFR part 24, 23 CFR part 710, and other applicable legal requirements or a statement that no acquisition is necessary.

iii. Required Approvals, Environmental Permits and Reviews. The application should demonstrate receipt (or reasonably anticipated receipt) of all environmental approvals and permits necessary for the project to proceed to construction on the timeline specified in the project schedule, including satisfaction of all Federal, State, and local requirements and completion of the NEPA process. Specifically, the application should include:

(1) Information about the NEPA status of the project. An applicant should indicate the date of completion of the NEPA process, and provide a website link or other reference to the final Categorical Exclusion, Finding of No Significant Impact, Record of Decision, and any other NEPA documents prepared. If the NEPA process is underway, but not complete, the application should detail the type of NEPA review underway, where the project is in the process, and indicate the anticipated date of completion of all milestones and of the final NEPA determination. If the last agency action with respect to NEPA documents occurred more than three years before the application date, the applicant should describe why the project has been delayed and include a proposed approach for verifying and, if necessary, updating this material in accordance with applicable NEPA requirements.

(2) Information on reviews, approvals, and permits by other agencies. An application should indicate whether the proposed project requires reviews or approval actions by other agencies, indicate the status of such actions, and provide detailed information about the status of those reviews or approvals and should demonstrate compliance with any other applicable Federal, State, or local requirements, and when such approvals are expected. Applicants should provide a website link or other reference to copies of any reviews, approvals, and permits prepared. NOTE: Projects that may impact protected resources such as

wetlands, species habitat, cultural or historic resources require review and approval by Federal and State agencies with jurisdiction over those resources.

(3) Environmental studies or other documents—preferably through a website link—that describe in detail known project impacts, and possible mitigation for those impacts.

(4) A description of discussions with the appropriate FHWA field or headquarters office regarding the project's compliance with NEPA and other applicable Federal environmental reviews and approvals.

(5) A description of public engagement about the project that has occurred, including details on the degree to which public comments and commitments have been integrated into project development and design.

(6) State and Local Approvals. The applicant should demonstrate receipt of State and local approvals on which the project depends, such as State and local environmental and planning approvals and STIP or TIP funding. Additional support from relevant State and local officials is not required; however, an applicant should demonstrate that the project has broad public support.

iv. Assessment of Project Risks and Mitigation Strategies. Project risks, such as procurement delays, environmental uncertainties, increases in real estate acquisition costs, uncommitted local match, or lack of legislative approval, affect the likelihood of successful project start and completion. The applicant should identify all material risks to the project and the strategies that the lead applicant and any project partners have undertaken or will undertake to mitigate those risks. The applicant should assess the greatest risks to the project and identify how the project parties will mitigate those risks.

v. Consistent with the Department's R.O.U.T.E.S. Initiative (https://www.transportation.gov/rural), the Department encourages applicants to describe how activities proposed in their application would address the unique challenges facing rural transportation networks, as a strong transportation network is critical to the functioning and growth of the American economy. The nation's industry depends on the transportation network to move the goods that it produces, and facilitate the movements of the workers who are responsible for that production. When the nation's highways, railways, and ports function well, that infrastructure connects people to jobs,

increases the efficiency of delivering goods and thereby cuts the costs of doing business, reduces the burden of commuting, and improves overall well-being.

vi. Please identify whether the project is located (entirely or partially) in an Opportunity Zone (please reference https://www.cdfifund.gov/Pages/OpportunityZones.aspx) Please identify the specific 2011-2015 Low-Income Community Census Tract(s) (by number) that are Opportunity Zones.

d. Letters of Support. Include letters of support for all identified partners, if applicable, and one of the following situations exists:

- If eligible commuter authority applicants operate on a rail corridor owned by an entity other than the commuter authority, a letter from the rail owners is required supporting the proposed project.
- As applicable, a letter from agencies that will partner on the proposed project by contributing funding or other resources, including the match requirement, or as applicable, serving as the State DOT pass through entity for the proposed project.
- A letter of support from the authority responsible for operation and maintenance, if other than the eligible commuter authority, is required.

e. Benefit-Cost Analysis. This Benefit-Cost Analysis section should include the recommended approach for the completion and submission of a benefit-cost analysis (BCA) as an appendix to the Project Narrative. The results of the analysis should be summarized in the Project Narrative directly.

Applicants should delineate each of their project's expected outcomes in the form of a complete BCA to enable FHWA to consider cost-effectiveness (small projects), determine whether the project will be cost effective (large projects), estimate a benefit-cost ratio and calculate the magnitude of net benefits and costs for the project. In support of each project for which an applicant seeks funding, the applicant should submit a BCA that quantifies the expected benefits and costs of the project against a no-build baseline. Applicants should use a real discount rate (i.e., the discount rate net of the inflation rate) of 7 percent per year to discount streams of benefits and costs to their present value in their BCA.

The primary economic benefits from projects eligible for CARSI grants are likely to include savings in travel time costs, vehicle operating costs, and safety costs for both existing users of the improved facility and new users who may be attracted to it as a result of the project.

Reduced damages from vehicle emissions and savings in maintenance

costs to public agencies may also be quantified. Applicants may describe other categories of benefits in the BCA that are more difficult to quantify and value in economic terms, such as improving the reliability of travel times or improvements to the existing human and natural environments (such as increased connectivity, improved public health, storm water runoff mitigation, and noise reduction), while also providing numerical estimates of the magnitude and timing of each of these additional impacts wherever possible. Any benefits claimed for the project, both quantified and unquantified, should be clearly tied to the expected outcomes of the project.

The BCA should include the full costs of developing, constructing, operating, and maintaining the proposed project (including both previously incurred and future costs), as well as the expected timing or schedule for costs in each of these categories. The BCA may also consider the present discounted value of any remaining service life of the asset at the end of the analysis period (net of future maintenance and rehabilitation costs) as a deduction from the estimated costs. The costs and benefits that are compared in the BCA should also cover the same project scope.

The BCA should carefully document the assumptions and methodology used to produce the analysis, including a description of the baseline, the sources of data used to project the outcomes of the project, and the values of key input parameters. Applicants should provide all relevant files used for their BCA, including any spreadsheet files and technical memos describing the analysis (whether created in- house or by a contractor). The spreadsheets and technical memos should present the calculations in sufficient detail and transparency to allow the analysis to be reproduced by FHWA evaluators. Detailed guidance for estimating some types of quantitative benefits and costs, together with recommended economic values for converting them to dollar terms and discounting to their present values, are available in USDOT’s guidance for conducting BCAs for projects seeking funding under the Department’s discretionary grant programs (see https://www.transportation.gov/office-policy/transportation-policy/benefit-cost-analysis-guidance).

Volume 2 – Budget Application – include the following:

a. Application Forms. Including:

i. SF 424 Application for Federal Assistance
ii. SF 424C Budget Information for Construction Programs
iii. SF 424D Assurances for Construction Programs
iv. SFLLL (Note: The form must be completed and submitted even if no lobbying to report. If no lobbying to report, insert none or n/a in the relevant blocks.)

NOTE: On the SF 424, the information in block 8a (Applicant's "Legal Name") must be the same as entered for registration in www.SAM.gov and for the Applicant's Data Universal Numbering System (DUNS) number.

b. Cost Breakdown. Provide an estimate of the project costs including:

i. Funding. Document all funds to be used for eligible construction costs and the source and amount of those funds, including past or pending Federal funding requests for this project. Include the size, nature, and source of the required match for those funds, if applicable.

ii. Budget Detail.

- Federal Share. Provide a detailed project budget showing how the Federal funds will be spent over the proposed period of performance. The budget should estimate – by dollar amount and percentage of cost – the cost of construction work for each project component.

- Cost Share. Describe proposed non-Federal share and demonstrate how the minimum non-Federal cost share of 10 percent can be achieved. Describe how your organization will obtain the necessary resources to fund and fulfill the proposed cost share, as applicable. For non-Federal funds to be used for eligible project costs, documentation of the funding commitments should be referenced and included with the application.

- If subcontractors/subrecipients (lower tiered organizations and individual consultants) will be used in carrying out this project, the following minimum information concerning such, must be furnished:

1. Name and address of the organization or consultant.
2. Description of the portion of work to be conducted by the organization or consultant.
3. Cost details for that portion of work.

4. Applicant's cost/price analysis of each subrecipient/contractor(s) showing how their price is fair and reasonable.

c. Other Business Information. Provide responses to the following items:

i. Provide a list of past projects managed and completed by the Applicant. The past projects should be of similar size and scope to the project being proposed, and have occurred within the past 10 years. Describe the project, cost, dates, and duration. This information will be used to assess past performance capabilities in the risk assessment.

ii. A statement to indicate whether your organization has previously completed an A-133 Single Audit and, if so, the date that the last A-133 Single Audit was completed.

iii. A statement regarding Conflicts of Interest. The Applicant must disclose in writing any actual or potential personal or organizational conflict of interest in its application that describes in a concise manner all past, present or planned organizational, contractual or other interest(s), which may affect the Applicant's ability to perform the proposed agreement in an impartial and objective manner. 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 Applicant or affect the Applicant's ability to perform the agreement in an impartial and objective manner. The Agreement Officer (AO) will review the statement(s) and may require additional relevant information from the Applicant. All such information, and any other relevant information known to FHWA, will be used to determine whether an award to the Applicant may create an actual or potential conflict of interest. If any such conflict of interest is found to exist, the AO may (a) disqualify the Applicant, or (b) determine that it is otherwise in the best interest of the United States to contract with the Applicant and include appropriate provisions to mitigate or avoid such conflict in the agreement pursuant to 2 CFR 200.112.

iv. A statement to indicate whether a Federal or State organization has audited or reviewed the Applicant's accounting system, purchasing system, and/or property control system. If such systems have been reviewed, provide summary information of the audit/review results to include (as applicable) summary letter or agreement, date of audit/review, Federal or State point of contact for such review.

v. Terminated Contracts. List any contract/agreement awarded to the applicant and subsequently terminated for convenience of the Government within the past 3 years, and any contract/agreement that was

terminated for default within the past 5 years. Briefly explain the circumstances in each instance.

vi. The Applicant is directed to review Title 2 CFR 170 (https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr170_main_02.tpl) dated September 14, 2010, and Appendix A thereto, and acknowledge in its application that it understands the requirement, has the necessary processes and systems in place, and is prepared to fully comply with the reporting described in the term if it receives funding resulting from this notice. The text of Appendix A will be incorporated in the award document as a General Term and Condition as referenced under this notice's Section F, Federal Award Administration Information.

vii. Disclose any violations of Federal criminal law involving fraud, bribery, or gratuity violations. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338 entitled Remedies for Noncompliance, including suspension or debarment. (See also 2 CFR Part 180 and 31 U.S.C. 3321).

viii. If a nonprofit or not-for-profit status, please provide evidence of this status preferably from the Internal Revenue Service.

ix. Acknowledgement of acceptance of the NOFO terms and acknowledgement and acceptance of any Amendments issued to this NOFO. List Amendment numbers and issue dates, if any.

3. HOW TO REGISTER TO APPLY THROUGH GRANTS.GOV

a. *Instructions:* Read the instructions below about registering to apply for FHWA funds. Applicants should read the registration instructions carefully and prepare the information requested before beginning the registration process. Reviewing and assembling the required information before beginning the registration process will alleviate last-minute searches for required information.

The registration process can take up to 4 weeks to complete. Therefore, registration should be done in sufficient time to ensure it does not impact your ability to meet required application submission deadlines.

If individual applicants are eligible to apply for this grant funding opportunity, refer to: https://www.grants.gov/web/grants/applicants/individual-registration.html.

Organization applicants can find complete instructions here: https://www.grants.gov/web/grants/applicants/organization-registration.html.

1. *Obtain a DUNS Number*: All entities applying for funding, including renewal funding, must have a DUNS number from Dun & Bradstreet (D&B). Applicants must enter the DUNS number in the data entry field labeled "Organizational DUNS" on the SF-424 form.

   For more detailed instructions for obtaining a DUNS number, refer to: https://www.grants.gov/web/grants/applicants/organization-registration/step-1- obtain-duns-number.html.

2. *Register with the System for Award Management (SAM)*: In addition to having a DUNS number, organizations applying online through Grants.gov must register with SAM. All organizations must register with SAM in order to apply online. Failure to register with SAM will prevent your organization from applying through Grants.gov.

   For more detailed instructions for registering with SAM, refer to: https://www.grants.gov/web/grants/applicants/organization-registration/step-2- register-with-sam.html.

3. *Create a Grants.gov Account*: The next step in the registration process is to create an account with Grants.gov. Applicants must know their organization's DUNS number to complete this process. Completing this process automatically triggers an email request for applicant roles to the organization's E-Business Point of Contact (EBiz POC) for review. The EBiz POC is a representative from your organization who is the contact listed for SAM. To apply for grants on behalf of your organization, you will need the Authorized Organizational Representative (AOR) role.

   For more detailed instructions about creating a profile on Grants.gov, refer to: https://www.grants.gov/web/grants/applicants/organization-registration/step-3- username-password.html.

4. *Authorize Grants.gov Roles*: After creating an account on Grants.gov, the EBiz POC receives an email notifying them of your registration and request for roles. The EBiz POC will then log in to Grants.gov and authorize the appropriate roles, which may include the AOR role, thereby giving you permission to complete and submit applications on behalf of the organization. You will be able to submit your application online any time after you have been approved as an AOR.

   For more detailed instructions about creating a profile on Grants.gov, refer to: https://www.grants.gov/web/grants/applicants/organization-registration/step-4- aor-authorization.html.

5. *Track Role Status*: To track your role request, refer to: https://www.grants.gov/web/grants/applicants/organization-

registration/step-5- track-aor-status.html.

b. *Electronic Signature*: When applications are submitted through Grants.gov, the name of the organization's AOR that submitted the application is inserted into the signature line of the application, serving as the electronic signature. The EBiz POC **must** authorize individuals who are able to make legally binding commitments on behalf of the organization as an AOR; **this step is often missed and it is crucial for valid and timely submissions.**

HOW TO SUBMIT AN APPLICATION TO FHWA VIA GRANTS.GOV

Grants.gov applicants can apply online using Workspace. Workspace is a shared, online environment where members of a grant team may simultaneously access and edit different Webforms within an application. For each funding opportunity announcement, you can create individual instances of a Workspace.

Below is an overview of applying on Grants.gov. For access to complete instructions on how to apply for opportunities, refer to: https://www.grants.gov/web/grants/applicants/apply-for-grants.html.

1. *Create a Workspace*: Creating a Workspace allows you to complete it online and route it through your organization for review before submitting.
2. *Complete a Workspace*: Add participants to the Workspace, complete all the required forms, and check for errors before submission.
    a. *Adobe Reader*: If you decide not to apply by filling out Webforms you can download individual PDF forms in Workspace so that they will appear similar to other Standard or FHWA forms. The individual PDF forms can be downloaded and saved to your local device storage, network drive(s), or external drives, then accessed through Adobe Reader.
    b. NOTE: Visit the Adobe Software Compatibility page on Grants.gov to download the appropriate version of the software at: https://www.grants.gov/web/grants/applicants/adobe-software-compatibility.html.
    c. *Mandatory Fields in Forms:* In the forms, you will note fields marked with an asterisk and a different background color. These fields are mandatory fields that must be completed to successfully submit your application.
    d. *Complete SF-424 Fields First*: The forms are designed to fill in

common required fields across other forms, such as the applicant name, address, and DUNS number. To trigger this feature, an applicant must complete the SF-424 information first. Once it is completed, the information will transfer to the other forms.

3. *Submit a Workspace*: An application may be submitted through Workspace by clicking the Sign and Submit button on the Manage Workspace page, under the Forms tab. Grants.gov recommends submitting your application package at least 24-48 hours prior to the close date to provide you with time to correct any potential technical issues that may disrupt the application submission.
4. *Track a Workspace*: After successfully submitting a Workspace package, a Grants.gov Tracking Number (GRANTXXXXXXXX) is automatically assigned to the package. The number will be listed on the Confirmation page that is generated after submission.

For additional training resources, including video tutorials, refer to: https://www.grants.gov/web/grants/applicants/applicant-training.html.

Applicant Support: Grants.gov provides applicants 24/7 support via the toll-free number 1-800-518-4726 and email at support@grants.gov. For questions related to the specific grant opportunity, contact the number listed in the application package of the grant you are applying for. If you are experiencing difficulties with your submission, it is best to call the Grants.gov Support Center and get a ticket number. The Support Center ticket number will assist FHWA with tracking your issue and understanding background information on the issue.

4. UNIQUE ENTITY IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT (SAM)

The Applicant is required to: (i) be registered in SAM before submitting its application; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding Agency.

The Federal awarding Agency may not make a Federal award to an Applicant until the Applicant has complied with all applicable unique entity identifier and SAM requirements. If an Applicant has not fully complied with the requirements by the time the Federal awarding Agency is ready to make a Federal award, the Federal awarding Agency may determine that the Applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another Applicant.

5. SUBMISSION DATES AND TIMES

The application must be received electronically through www.grants.gov by the application due date/time listed in this NOFO, pages 1-2.

The deadline stated is the date and time by which the applicant must submit the full and completed application to www.grants.gov, including all required sections.

A late application will not be reviewed or considered unless the AO determines that doing so is in FHWA's best interest.

In the event of system problems or technical difficulties with the application submittal, Applicants should contact the FHWA point of contact designated in the NOFO. If Applicants are unable to use the system due to technical difficulties, Applicants must e-mail applications to the FHWA point of contact no later than the application deadline cited above.

6. INTERGOVERNMENTAL REVIEW

An application under this NOFO is not subject to the State review under Executive Order 12372.

7. FUNDING RESTRICTIONS

The FHWA will not reimburse any pre-award costs or application preparation costs.

8. USE OF INFORMATION FOR OTHER DEPARTMENTAL PURPOSES

Information collected from all applicant submissions may be used for Government purposes. In addition, information gathered through this notice may be used to conduct outreach and engagement related future similar opportunities.

SECTION E – APPLICATION REVIEW INFORMATION

1. CRITERIA FOR SELECTION OF AWARDEES

The FHWA will award the CARSI Program funds based on the selection criteria and policy considerations outlined below.

Note: These criteria are distinct from eligibility criteria (see Section C) that are addressed before an application is accepted for review.

A. SAFETY IMPACTS

The FHWA will assess the safety impacts that will result from the project. Specifically, FHWA will assess the degree to which the project will:

1. Improve safety at railway-highway crossings through the elimination of hazards at public railway-highway crossings;
2. Reduce fatalities, serious injuries, and crashes at public railway-highway crossings;
3. Reduce the number of existing public at-grade crossings by closure or grade separation; and
4. Reduce delays or improve system performance by eliminating hazards posed by blocked grade crossings due to idling trains.

NOTE: Priority will be given to applications that bundle safety improvements to eliminate hazards at more than one public railway-highway crossing.

NOTE: Priority will be given to applications that bundle grade separation project(s) with closing more than one existing public at-grade railway-highway crossing.

B. PROJECT READINESS

During application evaluation, FHWA will consider project readiness to assess the likelihood of a successful project. In that analysis, FHWA will consider three evaluation ratings: Environmental Risk, Technical Capacity, and Financial Capacity. Environmental Risk assessment analyzes the project's environmental approvals and likelihood of the necessary approval affecting project obligation. The Technical Capacity assessment analyzes the applicant's capacity to successfully deliver the project in compliance with applicable Federal requirements based on factors including the recipient's experience working with Federal agencies, previous experience with DOT discretionary grant awards, and the technical experience and resources dedicated to the project. The Financial Capacity assessment reviews the availability of matching funds and whether the applicant presented a complete funding package. Risks do not disqualify projects from award, but competitive applications clearly and directly describe achievable risk mitigation strategies. A project with mitigated risks or with a risk mitigation plan is more competitive than a comparable project with unaddressed risks

NOTE: Priority will be given to applications that propose projects for construction as opposed to engineering and design.

C. ECONOMIC VITALITY

FHWA will consider the extent to which a project would support the economic vitality of either the nation or a region. To the extent possible, FHWA will rely on quantitative, data-supported analysis to assess how well a project addresses this criterion, including an assessment of the applicant-supplied benefit-cost analysis described in Section D. In addition to considering the anticipated outcomes of the project that align with this criterion, the Department will consider estimates of the project's benefit-cost ratio and net quantifiable benefits.

Based on FHWA's assessment, the agency will group projects into ranges based on their estimated benefit costs ratio (BCR) and net present value (NPV), and assign a level of confidence associated with each project's assigned BCR and NPV ratings. The Department will use these ranges for BCR: Less than 1; 1–1.5; 1.5–3; and greater than 3. The Department will use these ranges for NPV: Less than $0; $0– $50,000,000; $50,000,000–$250,000,000; and greater than $250,000,000. The confidence levels are high, medium, and low.

D. COST SHARE

FHWA will consider the extent to which the project has costs matched by funds that are not provided under the CARSI Program or Titles 23 or 49 by giving preference to:

A. Projects with over 30 percent in non-CARSI Program funding, with additional preference given to projects that exceed even this threshold; followed by
B. Projects with between 20 percent and 30 percent in non-CARSI Program funding; followed by
C. Projects with between 10 percent and 19 percent in non-CARSI Program funding; followed by
D. Projects with the minimum 10 percent in non-CARSI Program funding.

FHWA will also consider the extent to which the project is supported by funds, other than funds received under the CARSI Program, to construct, maintain, and operate the facility. FHWA will consider what other funds exist, besides those available for match, to aid in maintenance and operation of the facility, as well as the reasonable expectation that those funds will remain available. Historical trends, current policy, or future feasibility analyses can be used as evidence to substantiate or support the claims in the application.

E. INNOVATION

FHWA will assess the extent to which the applicant uses innovative approaches to

improve safety and expedite project delivery, including: (1) innovative technologies, (2) innovative project delivery, or (3) innovative financing.

(1) Innovative Technologies. FHWA will assess innovative approaches to transportation safety, particularly in relation to automated vehicles and the detection, mitigation, and documentation of safety risks. When making CARSI grant award decisions, FHWA will consider any innovative safety approaches proposed by the applicant, particularly projects which incorporate innovative design solutions, enhance the environment for automated vehicles, or use technology to improve the detection, mitigation, and documentation of safety risks. Innovative safety approaches may include, but are not limited to:

a. Conflict detection and mitigation technologies (e.g., intersection alerts and signal prioritization);
b. Dynamic signaling, smart traffic signals, or pricing systems to reduce congestion;
c. Traveler information systems, to include work zone data exchanges;
d. Signage and design features that facilitate autonomous or semi-autonomous vehicle technologies;
e. Applications to automatically capture and report safety-related issues (e.g., identifying and documenting near-miss incidents); and
f. Cybersecurity elements to protect safety-critical systems.
g. For innovative safety proposals, FHWA will evaluate safety benefits that those approaches could produce and the broader applicability of the potential results. FHWA will also assess the extent to which the project uses innovative technology that supports surface transportation to significantly enhance the operational performance of the transportation system.
h. Innovative technologies include: broadband deployment and the installation of high-speed networks concurrent with the project construction; connecting Intelligent Transportation System (ITS) infrastructure; and providing direct fiber connections that support surface transportation to public and private entities, which can provide a platform and catalyst for growth of rural communities. FHWA will consider whether and the extent to which the construction of the transportation project will allow concurrent broadband deployment and the installation of high-speed networks.

(2) Innovative Project Delivery. FHWA will consider the extent to which the project utilizes innovative practices in contracting (such as public-private partnerships), congestion management, asset management, or long-term operations and maintenance.

FHWA also seeks projects that employ innovative approaches to improve the efficiency and effectiveness of the environmental permitting and review to accelerate project delivery and achieve improved outcomes for communities and the environment. FHWA’s objective is to achieve timely and consistent

environmental review and permit decisions. Accordingly, projects from States with NEPA assignment authority under 23 U.S.C. 327 are considered to use an innovative approach to project delivery. Participation in innovative project delivery approaches will not remove any statutory requirements affecting project delivery.

While CARSI grant award recipients are not required to employ innovative approaches, FHWA encourages CARSI grant applicants to describe innovative project delivery methods for proposed projects.

Additionally, FHWA is interested in projects that apply innovative strategies to improve the efficiency of project development or expedite project delivery by using FHWA's Special Experimental Project No. 14 (SEP-14) and Special Experimental Project No. 15 (SEP-15). Under SEP-14 and SEP-15, FHWA may waive statutory and regulatory requirements under title 23 on a project-by-project basis to explore innovative processes that could be adopted through legislation. This experimental authority is available to test changes that would improve the efficiency of project delivery in a manner that is consistent with the purposes underlying existing requirements; it is not available to frustrate the purposes of existing requirements. When making CARSI grant award decisions, FHWA will consider the applicant's proposals to use SEP-14 or SEP-15, whether the proposals are consistent with the objectives and requirements of those programs, the potential benefits that experimental authorities or waivers might provide to the project, and the broader applicability of potential results. FHWA is not replacing the application processes for SEP–14 or SEP–15 with this notice or the CARSI grant program application.

Instead, it seeks detailed expressions of interest in those programs. If selected for an CARSI grant award, the applicant would need to satisfy the relevant programs' requirements and complete the appropriate application processes. Selection for a CARSI grant award does not mean a project's SEP-14 or SEP-15 proposal has been approved. FHWA will make a separate determination in accordance with those programs' processes on the appropriateness of a waiver.

(3) Innovative Financing. FHWA will assess the extent to which the project incorporates innovations in transportation funding and finance through both traditional and innovative means, including by using private sector funding or financing and recycled revenue from the competitive sale or lease of publicly owned or operated assets.

F. RURAL OUTCOMES

The Department recognizes that rural transportation networks face unique challenges in safety, infrastructure condition, and passenger and freight usage. Consistent with the Department's R.O.U.T.E.S. Initiative (https://www.transportation.gov/rural), the Department encourages applicants to consider how the project will address the challenges faced by rural areas.

G. OPPORTUNITY ZONES

The FHWA will consider whether the project is located in a qualified opportunity zone, pursuant to 26 U.S.C. 1400Z-1. A project located in a qualified opportunity zone is more competitive than a similar project that is not located in a qualified opportunity zone.

2. REVIEW AND SELECTION PROCESS

The review and selection process will consist of a Technical Review and Senior Review. In the Technical Review, a team composed of technical staff from FHWA and other agencies within DOT will review all eligible applications and rate projects based on how well the projects align with the selection criteria. The Senior Review Team, composed of senior leadership from FHWA, including the FHWA Administrator, will determine which projects to recommend to the Office of the Secretary based on the selection criteria. The final funding decisions will be made by the Secretary of Transportation.

As determined necessary to support the evaluation and selection process, FHWA may conduct discussions with Applicants to clarify elements of the technical and budget applications, and request additional detailed and itemized cost information.

Applicants should be aware that the NEPA review may have to include evaluation of all project components as connected, similar, or cumulative actions, as detailed at 40 CFR 1508.25.

Risk Assessment: Prior to award, each selected Applicant will be subject to a risk assessment required by 2 CFR 200.205. If the Federal awarding Agency determines that a Federal award will be made, special conditions that correspond to the degree of risk assessed may be applied to the Federal award.

This Risk Assessment will include evaluation of some or all of the following items relative to the Applicant and sub-applicants as applicable:

(1) Applicant’s financial stability;

(2) Applicant’s quality of management systems and ability to meet the management standards prescribed in 2 CFR Part 200;

(3) Applicant’s history of performance;

Note: History of performance includes the Applicant's record in managing Federal awards, if it is a prior Recipient of Federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous Federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards. The Government will evaluate the relevant merits of the Applicant’s history of performance based on its reputation and record with its current and former

customers with respect to quality, timeliness and cost control. The history of performance will be reviewed to assure that the Applicant has relevant and successful experience and will be considered in the risk assessment. In evaluating history of performance, the Government may consider both written information provided in the application, as well as any other information available to the Government through outside sources.

(4) Applicant's audit reports and findings from audits performed on the Applicant pursuant to 2 CFR Part 200 Subpart F — Audit Requirements or the reports and findings of any other available audits;

(5) Applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-Federal entities;

(6) Applicant's potential for conflict of interest if applicable; and

Note: FHWA will review information provided by the Applicant, and any other relevant information known to FHWA, to determine whether an award to the Applicant may create an actual or potential conflict of interest. If any such conflict of interest is found to exist, FHWA may (a) disqualify the Applicant, or (b) determine that it is otherwise in the best interest of the United States to award to the Applicant and include appropriate provisions to mitigate or avoid such conflict in the agreement pursuant to 2 CFR 200.112.

(7) Applicant's eligibility to receive Federal funding. Per the guidelines on governmentwide suspension and debarment in 2 CFR Part 180, the Government will confirm that the Applicant and any named sub-applicants are not debarred, suspended or otherwise excluded from or ineligible for participation in Federal programs or activities.

Pursuant to 2 CFR Part 200.205, prior to making a Federal award, the Federal awarding Agency is required to review information available through any Office of Management and Budget-designated repositories of governmentwide eligibility qualification or financial integrity information, such as Federal Awardee Performance and Integrity Information System (FAPIIS), D&B, and Sam.gov. The Government's review of this information will occur as part of the risk assessment. An Applicant may review information in FAPIIS and comment on any information about itself. The FHWA will consider comments by the Applicant, in addition to other information in FAPIIS, in making a judgment about the Applicant's integrity, business ethics, and record of performance under Federal awards when completing the risk assessment. The FHWA reserves the right to deny an award based on the results of the risk assessment.

SECTION F – FEDERAL AWARD ADMINISTRATION INFORMATION

1. FEDERAL AWARD NOTICES

Following the evaluation outlined in Section E, FHWA will notify the selected Applicants and announce the selected projects. Notice that an Applicant has been selected for award does not constitute approval of the application as submitted. Before the award, FHWA may contact the applicant's point of contact listed in the SF 424 to initiate negotiation of a project-specific agreement, if applicable. If the negotiations do not result in an acceptable submittal, FHWA reserves the right to terminate the negotiation and decline to fund the Applicant. Only the AO or other authorized representative can commit FHWA and bind the Federal Government to the expenditure of funds.

2. ADMINISTRATIVE AND NATIONAL POLICY REQUIREMENTS

In connection with any program or activity conducted with or benefiting from funds awarded under this notice, recipients of funds must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States; statutory, regulatory, and public policy requirements, including without limitation, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; the conditions of performance, non-discrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of the Department of Transportation; and applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget. In complying with these requirements, recipients, in particular, must ensure that no concession agreements are denied or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If the Department determines that a recipient has failed to comply with applicable Federal requirements, the Department may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds.

GOVERNING REGULATIONS

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

- 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" as adopted by DOT at 2 CFR Part 1201.
- Cost Principles For-profit Organizations: 48 CFR 31 (Federal Acquisition Regulations) Subpart 31.2
- 23 U.S.C. and 23 CFR, as applicable.
- Applicable Federal laws, rules, and regulations also apply.

GENERAL TERMS AND CONDITIONS

NOTE TO APPLICANTS: The following link contains General Terms and Conditions that may be incorporated into grant awards. As needed and appropriate to the awarding agency/office, the General Terms and Conditions may differ to reflect the administrative procedures of the awarding agency/office. However, the following link contains representative General Terms and Conditions to be incorporated into resulting grant awards:

https://www.fhwa.dot.gov/cfo/contractor_recip/gtandc_generaltermsconditions.cfm

SPECIAL TERMS AND CONDITIONS:

NOTE TO APPLICANTS: **The following paragraphs contain Special Terms and Conditions that may be incorporated into grant awards.** As needed and appropriate to the awarding agency/office, the Special Terms and Conditions may differ to reflect the administrative procedures of the awarding agency/office. However, the following paragraphs are representative Special Terms and Conditions to be incorporated into resulting grant awards:

A. AVAILABLE FUNDING

The total estimated amount of Federal funding that may be provided under this agreement is $_____(to be filled in at award) for the entire period of performance, subject to the limitations shown below:

(1) Currently, Federal funds identified on page 1 of the award document, are obligated to this agreement.

(2) Subject to availability of funds, and an executed document by the AO, the difference between the current funding and the total estimated amount of Federal funding may be obligated to this agreement.

(3) The FHWA's liability to make payments to the Recipient is limited to those funds obligated under this agreement as indicated above and any subsequent amendments.

B. PROGRAM INCOME

Pursuant to 2 CFR 200.307, program income earned during the agreement period must be added to the Federal award and used for the purposes and under the conditions of the Federal award, unless otherwise approved by the AO. Program income must not be used to offset the Federal or Recipient contribution to this project.

C. SUBAWARDS

Note: See 2 CFR §200.330, Subrecipient and contractor determinations, for definitions of subrecipient (who is awarded a subaward) versus contractor (who is awarded a contract).

Note: Recipients with a procurement system deemed approved and accepted by the Government or by the AO are exempt from the requirements of this clause. See 2 CFR 200.317 through 200.326.

Unless described in the application and funded in the approved award, the Recipient must obtain prior written approval from the AO for the subaward, transfer, or contracting out of any work under this award above the Simplified Acquisition Threshold. This provision does not apply to the acquisition of supplies, material, equipment, or general support services.

Approval of each subaward or contract is contingent upon the Recipient's submittal of a written fair and reasonable price determination, and approval by the AO for each proposed contractor/sub-recipient. Consent to enter into subawards or contracts will be issued through written notification from the AO or a formal amendment to the agreement.

The following subawards and contracts are currently approved under the agreement by the AO. This list does not include supplies, material, equipment, or general support services which are exempt from the pre-approval requirements of this clause.

Name
(*** to be filled in at award or by amendment***)

Approval of each subaward is contingent upon a fair and reasonable price determination, and approval by the AO for each proposed subcontractor/sub-recipient. Consent to enter into subawards will be issued through a formal amendment to the agreement.

D. ORDER OF PRECEDENCE

The Recipient's project narrative and budget application are accepted, approved, and incorporated herein as Attachments A and B. In the event of any conflict between this agreement document and the Recipient's project narrative and budget application, this agreement document shall prevail.

E. DESIGNATION AS RESEARCH AND DEVELOPMENT OR NON-RESEARCH AND DEVELOPMENT

This agreement is designated as: NON-RESEARCH

F. DISPUTES

The parties to this agreement will communicate with one another in good faith and in a timely and cooperative manner when raising issues under this provision. Any dispute, which for the purposes of this provision includes any disagreement or claim, between FHWA and the Recipient concerning questions of fact or law arising from or in connection with this agreement and whether or not involving alleged breach of this agreement, may be raised only under this Disputes provision.

Whenever a dispute arises, the parties will attempt to resolve the issues involved by discussion and mutual agreement as soon as practical. In no event will a dispute which arose more than 3 months prior to the notification made under the following paragraph of this provision constitute the basis for relief under this article unless FHWA waives this requirement.

Failing resolution by mutual agreement, the aggrieved party will document the dispute by notifying the other party in writing of the relevant facts, identify unresolved issues and specify the clarification or remedy sought. Within 5 working days after providing written notice to the other party, the aggrieved party may, in writing, request a decision from one level above the AO. The AO will conduct a review of the matters in dispute and render a decision in writing within 30 calendar days of receipt of such written request.
Any decision of the AO is final and binding unless a party will, within 30 calendar days, request further review as provided below.

Upon written request to FHWA Director, Office of Acquisition and Grants Management or designee, made within 30 calendar days after the AO's written decision or upon unavailability of a decision within the stated time frame under the preceding paragraph, the dispute will be further reviewed. This review will be conducted by the Director, Office of Acquisition and Grants Management. Following the review, the Director, Office of Acquisition and Grants Management, will resolve the issues and notify the parties in writing. Such resolution is not subject to further administrative review and to the extent permitted by law, will be final and binding. Nothing in this agreement is intended to prevent the parties from pursuing disputes in a U.S. Federal Court of competent jurisdiction.

G. INDIRECT COSTS – if applicable

Indirect costs are allowable under this agreement in accordance with the Recipient's Federally Negotiated Indirect Cost Rates as documented in writing and approved by the Recipient's cognizant Government Agency. In the absence of such Government-approved indirect rates, the following rates are hereby approved for use under this agreement as shown below: **(Information to be filled in at award)**

In the event the Recipient determines the need to adjust the above listed rates, the Recipient will notify the AO of the planned adjustment and provide rationale for such adjustment. In the event such adjustment rates have not been audited by a Federal Agency, the adjustment of rates must be pre-approved in writing by the AO.

This Indirect Cost provision does not operate to waive the limitations on Federal funding provided in this document. The Recipient's audited final indirect costs are allowable only insofar as they do not cause the Recipient to exceed the total obligated funding.

3. REPORTING

A. QUARTERLY PROGRESS REPORT

The Recipient must submit an electronic copy of the SF-PPR, to the AOR and the Agreement Specialist/AO on or before the 30th of the month following the calendar quarter being reported. Final PPRs are due 90 days after the end of the agreement period of performance. The SF-PPR is available online: http://www.whitehouse.gov/sites/default/files/omb/grants/grants_forms.html.

Calendar quarters are defined as:		Reports due on or before:
1st:	January – March	April 30th
2nd:	April – June	July 30th
3rd:	July – September	October 30th
4th:	October – December	January 30th

The quarterly progress report must include the required certification pursuant to 2 CFR 200.415.

The quarterly progress report must consist of the SF-PPR cover page and all the following required attached information:

To fulfill the SF-PPR Block 10, Performance Narrative requirement, the Recipient must complete the Quarterly Reporting Template (expand as necessary) that will provide a formatted report of:

a. Work performed for the current quarter;
b. Work planned for the upcoming quarter;
c. Description of any problem encountered or anticipated that will affect the completion of the work within the time and fiscal constraints as set forth in the agreement, together with recommended solutions to such problems; or, a statement that no problems were encountered;
d. A tabulation, clearly delineated by Federal share, cost share and total, of the current and cumulative costs expended by quarter versus budgeted costs;

In the SF-PPR Block 11, Other Attachments, include the following information as attached pages:

a. SF-425, Federal Financial Report, and
b. SF-425A, Federal Financial Report Attachment (if applicable).

B. ANNUAL BUDGET REVIEW AND PROGRAM PLAN

The Recipient must submit an electronic copy and one hard copy of the Annual Budget Review and Program Plan 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. The Annual Budget Review and Program Plan must include the required certification pursuant to 2 CFR 200.415. The Annual Budget Review and Program Plan must provide a detailed schedule of activities, estimate of specific performance objectives, include forecasted expenditures, and schedule of milestones for the upcoming year. If there are no proposed deviations from the Approved Project Budget, the Annual Budget Review must contain a statement stating such. The Recipient must meet via teleconference or Web conference with FHWA to discuss the Annual Budget Review and Program Plan. Work proposed under the Annual Budget Review and Program Plan must not commence until AO’s written approval is received.

SECTION G – FEDERAL AWARDING AGENCY CONTACTS

Address any questions to: Sarah.Tarpgaard@dot.gov

SECTION H – OTHER INFORMATION

PROTECTION OF CONFIDENTIAL BUSINESS INFORMATION

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information you consider to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission "Contains Confidential Business Information (CBI)," (2) mark each affected page "CBI," and (3) highlight or otherwise denote the CBI portions.