



Memorandum of Understanding

New Hampshire Department of Transportation And Federal Highways Administration

Post-Construction Funding of Environmental Commitments

March 2013

This Understanding between the New Hampshire Department of Transportation (NHDOT) and the New Hampshire Division Office of the Federal Highway Administration (FHWA) establishes procedures for the Post-Construction Funding of Environmental Commitments resulting from the construction of Federally-funded highway projects within the State of New Hampshire.

BACKGROUND: A previous statewide project to address FHWA eligible post-construction efforts has been closed for at least 4 years. Similarly funded projects are warranted to address contamination issues, cultural resources, wetland mitigation commitments, and several other environmental post-construction issues. All efforts qualify for FHWA program funding as they are long-term commitments made by and for FHWA that resulted in the construction of Federally-funded highway projects statewide.

CRITERIA FOR USE OF FUNDS: By this Understanding, NHDOT and FHWA establish a method to secure funds to address environmental commitments required by or as a result of Federal-aid construction projects. The following criteria will be used by NHDOT to prioritize and select projects that are to receive this FHWA funding:

1. Post-construction hazardous materials-contamination issues. To fulfill obligatory investigations and reporting to the NH Department of Environmental Services (NHDES), or other appropriate agency, on contaminated properties purchased or impacted to construct highway projects. Typical examples of projects of this nature would include monitoring and reporting of groundwater contamination, landfills and other impaired properties, including site clean up of asbestos or other materials dumped prior to the sale of surplus lands.
2. Post-construction investigation and reporting for all project commitments. To fulfill obligatory investigations and reporting for all project commitments and permit conditions, including but not limited to: conditions of NHDES Wetlands Bureau and US Army Corps of Engineers wetland permits, National Environmental Policy Act (NEPA) commitments, other commitments with other agencies/entities, and compliance with other state and federal laws,

rules and regulations. Typical examples of tasks at mitigation sites would include, but are not limited to: assessment of wetland functions and values; remediation measures; inspections of lands placed under conservation easement; long-term stewardship; and securing sites from illegal dumping or other unsuitable encroachments. Examples of NEPA commitments include, but are not limited to: noise studies and noise abatement evaluations; and investigating/reporting on invasive plant species encroachments or introduction during construction related activities, and evaluation and undertaking of appropriate control measures.

3. Cultural resources commitments. Typical examples for projects of this nature would include, but are not limited to, archaeological investigations of surplus lands to clear lands for sale or recommend retention of sensitive areas; monitoring and reporting on covenants placed on historic sites or structures; architectural and/or archaeological surveys; railroad commitments, including inventories of State-owned railway corridors; and relocation of bridges to a storage yard with lead paint abatement of stored bridges and maintenance of these set-aside bridges for pedestrian use.

FUND TRANSFERS: At the beginning of each Federal fiscal year, NHDOT is to provide FHWA with a “program of projects” that will be completed with funding authorized under this MOU. The program of projects will include a description of each task to be completed, the parent project name and state and federal number, and an estimate of the cost. Each project in the program will accumulate actual costs in NHDOT’s financial system in accordance with NHDOT’s customary accounting procedures. NHDOT will process all transactions for payment and will maintain all documentation for these projects in the program in the same manner as any eligible Federal-aid project. All procedures and rules currently in place to ensure that costs are eligible for Federal-aid funding will be adhered to.

Each project in the program will be authorized using the normal authorization/ obligation process outlined in the Stewardship and Oversight Agreement.

PROJECT ADMINISTRATION: For short duration tasks, each project in the program will be processed through existing and/or future Statewide Service Agreements established between the NHDOT and the appropriate environmental and cultural resource consulting firms, or by using existing personnel resources. Long-term projects greater than 3 years in duration may require setting up of specific individual contracts depending on the scope of the commitment. The lead person in NHDOT’s Bureau of Environment will manage the project; will establish the tasks, and time frames for completion; and will be responsible to request project closure/final voucher from FHWA. Each project in the program will follow normal closure procedures as found in the Stewardship and Oversight Agreement.

As may happen from time to time, NHDOT may request that additional projects be added to the program throughout the fiscal year as needed, to ensure eligible projects are in compliance with all applicable environmental laws rules and regulations. As new projects are identified for inclusion in this program, the parent projects and funding amount will be identified during project development and/or construction, to create a link between this program and the parent project.

AMENDMENT OR TERMINATION: This agreement may be amended or terminated by mutual consent of the Commissioner of NHDOT and the NH Division Administrator of the FHWA, in writing, at any time.

DURATION: This agreement will remain in effect from the date of signature until it is terminated by agreement of the parties.

APPROVAL OF AGREEMENT: The undersigned have reviewed this Memorandum of Understanding and have determined that it complies with the laws, regulations and policies applicable to the FHWA and NHDOT. Accordingly, it is hereby approved in accordance with this document and becomes effective on the last date noted below.



Commissioner, New Hampshire Department of Transportation



Date



Division Administrator, Federal Highway Administration



Date