

Town of Blowing Rock 1036 Main Street * Post Office Box 47 * Blowing Rock, North Carolina

To: Mayor Lawrence and Members of Town Council

From: Scott Fogleman

Subject: Sidewalk to Bass Lake Grant Agreement Funding Proposal

Date: March 8, 2016

Having received final approval on grant funds totaling \$987,956 from the Federal Lands Access Program for the Bass Lake Sidewalk project totaling \$1,220,000. The Town's match for the grant is now \$232,044 or 19% of the estimated project total.

Through our General Obligation Bond funding planning, we previously scheduled the project cost of \$1,226,876 in the third series of bond phasing for the year 2020. As a result of the approved grant funding, the Town will be saving a total of \$994,832 in bond proceeds which may be allocated in the future towards another transportation related project. This change in timing does, however, result in the need for matching funds to be identified in the 2016 series bonds (our first issue).

To fund the required Town match of \$232,044, sources have been identified as follows: \$93,969 funding remaining from bond closing costs, \$117,000 from Bond premium proceeds received following final funding proposals being received and accepted, and \$29,852 from the current \$839,233 paving allocation.

Staff recommends reallocating funds as outlined above to fund the Town's required grant match of \$232,044 and recognition of \$987,956 in grant funding to support the project. The Federal Land Access Program grant agreement is attached for Council's review and approval.







NICHOLAS I. TENNYSON

March 3, 2016

Scott Fogleman Town Manager Town of Blowing Rock P.O. Box 47 Blowing Rock, NC 28605

SUBJECT:

Federal Lands Access Program Project Memorandum of Agreement

Project: NC FLAP BLWRK 221(1)

Project Route: US Hwy 221

Town of Blowing Rock, Watauga County

Dear Mr. Fogleman,

This letter is to inform you that the North Carolina Board of Transportation has approved the Memorandum of Agreement (MOA) between the FHWA-Eastern Federal Lands Highway Division (EFLHD), North Carolina Department of Transportation (NCDOT) and the Town of Blowing Rock, NC.

The Agreement between the parties outlines the responsibilities of the Project to construct sidewalk along Hwy 221 from US 321 Business (Main Street) to the entrance of the Moses Cone Estate and Bass Lake, in Watauga County. The total estimated project cost is \$1,220,000, funded through the Federal Lands Access Program (FLAP). The Town of Blowing Rock is responsible for the non-federal match of \$232,044.

After the Agreement has been approval and executed by the proper authority, return all originals to me at the mailing address below. NCDOT will execute all originals and forward to the EFLHD for final signatures. One fully executed Agreement will be sent back to you for your records.

I can be reached at itravis@ncdot.gov or (919)707-6602 if there are any questions.

Sincerely,

Jimmy L. Travis, PE

Director, Transportation Program Management

NC Transportation

1595 Mail Service Center

Raleigh, NC 27699-1595

JLT/mcr

FEDERAL LANDS ACCESS PROGRAM PROJECT MEMORANDUM OF AGREEMENT

Project / Facility Name: NC FLAP BLWRK 221(1)

Project Route: US Hwy 221

State: North Carolina

County(ies): Watauga County

Owner of Federal Lands to which the Project Provides Access: National Park Service

(NPS), Blue Ridge Parkway

Entity with Title or Maintenance Responsibility for Facility: Town of Blowing Rock, NC

Type of Work:

• <u>Preliminary Engineering</u>: Prepare environmental documents, finalize PS&E package, and acquire necessary permits.

 <u>Construction:</u> Construct concrete sidewalk along Hwy 221 from US 321 Business (Main Street) to the entrance of the Moses Cone Estate and Bass Lake

This Agreement does not obligate (commit to) the expenditure of Federal funds nor does it commit the parties to complete the project. Rather, this Agreement sets forth the respective responsibilities as the project proceeds through the project development process.

Parties to this Agreement: FHWA-Eastern Federal Lands Highway Division, North Carolina Department of Transportation (NCDOT), Town of Blowing Rock, NC

The Program Decision Committee approved this project on 9/3/2015.

AGREED:

Chief Engineer, NCDOT	Date
Approved By the NCDOT Board of Transportation:	Date
Facility Owner, Town of Blowing Rock, NC	Date
Director, Program Administration, EFLHD	Date

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Agreement ID #6218

NC FLAP BLWRK 221(1)

A. PURPOSE OF THIS AGREEMENT

This Agreement documents the intent of the parties and sets forth the anticipated responsibilities of each party in the development, construction, and future maintenance of the subject project. The purpose of the Agreement is to identify and assign responsibilities for the environmental analysis, design, right-of-way, utilities, acquisition and construction as appropriate for this programmed project, and to ensure maintenance of the facility for public use if improvements are made. The parties understand that any final decision as to design or construction will not be made until after the environmental analysis required under the National Environmental Policy Act (NEPA) is completed (this does not prevent the parties from assigning proposed design criteria to be studied in the NEPA process.) Any decision to proceed with the design and construction of the project will depend on the availability of appropriations at the time of obligation and other factors such as issues raised during the NEPA process, a natural disaster that changes the need for the project, a change in Congressional direction, or other relevant factors.

If Federal Lands Access Program funds are used for the development or construction of this project, the Town of Blowing Rock, NC agree to provide a matching share equal to 19.02% of the total cost of the project, as detailed more fully in Section J below. FLAP project funds are not to exceed the approved amount of \$980,000.00. Before the expenditure of any funds for which reimbursement will be sought from FHWA, the parties agree to execute a separate obligating document. No reimbursement will be made for expenditures made prior to having an obligating document in place.

B. AUTHORITY

This Agreement is entered into between the signatory parties pursuant to the provisions of 23 U.S.C. 204, NCGS 136-18(12), and NCGS 153A-14 (160A-17.1).

C. JURISDICTION AND MAINTENANCE COMMITMENT

The Town of Blowing Rock, NC has jurisdictional authority to operate and maintain the existing facility and will operate and maintain the completed project at its expense.

D. FEDERAL LAND MANAGEMENT AGENCY COORDINATION

The North Carolina Department of Transportation and the Town of Blowing Rock, NC has coordinated project development with the National Park Service, Blue Ridge Parkway. The NPS, Blue Ridge Parkway support of the project is documented per the signed support letter dated 3/6/2015. Each party to this agreement who has a primary role in NEPA, design, or construction shall coordinate their activities with the NPS, Blue Ridge Parkway.

E. PROJECT BACKGROUND/SCOPE

The purpose of the Sidewalk to Bass Lake project is to provide a safe, pedestrian facility from historic downtown Blowing Rock to the National Park Service's Moses H. Cone Memorial Park and Bass Lake. The project will consist of building a concrete sidewalk that would begin at the intersection of Hwy 321/Main Street and Hwy 221 and would follow Hwy 221 along the north side of the road to the historic entrance of Moses Cone

Park and access to Bass Lake for a total length of approximately 3,000 feet. Much of the sidewalk will be constructed within the existing roadway shoulder. There will be some grading necessary to accommodate the sidewalk due to lack of shoulder and some retaining walls will be needed. A section of approximately 650 feet of sidewalk along the retaining structures will require pedestrian handrails that meet NCDOT specifications. There are three (3) street intersections along the proposed stretch of sidewalk that will be designed with pedestrian crosswalks with stamped pavement to match the crosswalks along the Main Street streetscape downtown.

F. PROJECT BUDGET

Item	Estimate (\$)	Comments
EFL PROJECT MANAGEMENT	\$ 20,000.00	
PRELIMINARY AND ENVIRONMENTAL	\$ 27,000.00	
DESIGN ENGINEERING	\$ 81,200.00	
CONSTRUCTION ENGINEERING	\$ 77,000.00	
CONSTRUCTION COSTS	\$ 1,014,800.00	
TOTAL PROJECT COST	\$1,220,000.00	

The EFL project management funds (estimated at \$20,000.00) will require a tapered match using local matching funds. The matching ratio is 19.02%. Project cost based on the current bid amount, the total available FLAP budget may not be sufficient to award the project as defined in the application. As necessary, The Town of Blowing Rock, NC will provide additional state or local funding to address any funding shortfall.

G. ROLES AND RESPONSIBILITIES

Responsible Party	Product/Service/Role	Comments
EFLHD	 Review documentation showing the project is on an approved program of projects and a TIP or STIP Approve identified design standards/geometrics and the project scope, schedule, and budget If applicable, review and/or concur with identified lead federal agency and draft environmental documents Review and adopt NEPA document Review/approve design exceptions, ROW certifications, utility agreements and, where applicable, railroad agreements Review and approve 95% PS&E package Review and/or approve contract package, award package, and all contract modifications Attend final project inspection. Can be done electronically with photos Provide assistance in contract disputes and claims if requested by the partner 	

Product/Service/Role	Comments
Responsible for stewardship and oversight of construction letting, bid review, contract award, and project delivery	
following standard federal-aid procedures as outlined in 23 CFR	
Schedule and invite EFLHD and appropriate parties to public meetings	
Submit quarterly reimbursement requests to EFLHD for expenses incurred in order to maintain financial activity.	
Provide quarterly progress and financial reports to EFLHD	>
Schedule and hold pre-construction meetings and construction inspections	
Notify EFLHD of any contract disputes or claims	
Provide stewardship and oversight and documentation of	
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	 Responsible for stewardship and oversight of construction letting, bid review, contract award, and project delivery following standard federal-aid procedures as outlined in 23 CFR Schedule and invite EFLHD and appropriate parties to public meetings Submit quarterly reimbursement requests to EFLHD for expenses incurred in order to maintain financial activity. Provide quarterly progress and financial reports to EFLHD Schedule and hold pre-construction meetings and construction inspections Notify EFLHD of any contract disputes or claims

Responsible Party	Product/Service/Role	Comments
The Town of Blowing Rock, NC	 Responsible for construction letting, bid review, contract award, and project delivery following standard federal-aid procedures as outlined in 23 CFR Provide construction administration including stewardship and oversight for federal funded projects Submit quarterly reimbursement requests for expenses incurred in order to maintain financial activity. Provide quarterly progress and financial reports Schedule and invite EFLHD and appropriate parties to public meetings Schedule and hold pre-construction meetings and construction inspections Provide data on traffic, accidents, material sources, etc Notify EFLHD of any contract disputes or claims Final acceptance of project and project closeout Assume responsibility of the NPDES permit after project completion Provide long term maintenance and operation of the facility Provide the following documents and information: Evidence that project is on an approved program of projects and a TIP or STIP Design Standards/Geometrics to be used Identified design exception approval agency Identified NEPA action Copy of faral NEPA action Evidence of permits Review of Public Notices 95% and final PS&E packages Design exceptions ROW certifications Utility/Railroad Agreements Approval of proprietary products Contract award documents for review/concurrence Copy of As-builts Copy of final voucher 	

H. ROLES AND RESPONSIBILITIES - SCHEDULE

Responsible Lead	Product/Service/Role	Schedule Start-Finish
Doug Chapman, PE – McGill Associates	NEPA Document Review	February 2016 – June 2016
Doug Chapman, PE – McGill Associates	Final Design	June 2016 – October 2016
Doug Chapman, PE – McGill Associates	Advertisement	December 2016
Doug Chapman, PE – McGill Associates	Construction Engineering	February 2017 – August 2017
Contractor to be Determined in Bidding	Construction	February 2017 – August 2017
Doug Chapman, PE – McGill Associates	Project Closeout	October 2017

I. PROPOSED DESIGN STANDARDS

Final design standards will be determined through the NEPA process.

Criteria		Comments
Standard	AASHTO	
Functional Classification	Pedestrian Path	
Surface Type	Concrete	
Design Volume	N/A	

J. **FUNDING**

Fund Source	Amount	Comments
Federal Lands Access Program Funding	\$ 987,956.00	
Town of Blowing Rock Local Cash Match	\$232,044.00	
TOTAL	\$1,220,000.00	

The matching fund share will be documented with a PR-2 to be submitted by the NCDOT following submittal of required stewardship documents.

K. MATCHING SHARE REQUIREMENTS

Matching or cost sharing requirements may be satisfied following the obligation of funds to the project by: allowable costs incurred by the State or local government, cash donations, the fair and reasonable value of third party in-kind contributions (but only to the extent that the value of the costs would be allowable if paid for by the party responsible for meeting the matching share), including materials or services; however no costs or value of third party contributions may count towards satisfying the matching

share requirements under this agreement if they have or will be counted towards meeting the matching share requirements under another federal award.

Costs and third party contributions counting toward satisfying a cost sharing or matching requirement must be verifiable from the records of the party responsible for meeting the matching requirements. The records must demonstrate how the value of third party in kind contributions was derived. Voluntary services sought to be applied to the matching share will be supported by the same methods that the party to this agreement uses to support allocability of personnel costs. Any donated services provided by a third party will be valued at rates consistent with those ordinarily paid by employers for similar work in the same labor market. Supplies furnished will be valued at their market value at the time of donation. Donated equipment or space will be valued at fair rental rate of the equipment or space. All records associated with valuations or costs under section K shall be accessible and be maintained for three years following project close-out.

L. PROJECT TEAM MEMBERS - POINTS OF CONTACT

The following table provides the points of contact for this project. They are to be the first persons to deal with any issues or questions that arise over the implementation of each party's role and responsibility for this agreement.

Name	Title	Agency	Element	Phone & Email
Jacinda Russell	EFLHD Access Program Manager	EFL	Project Management	571-434-1543 Jacinda.Russell@dot.gov
Andrea Van Den Berg	Program Planning Specialist	EFL	Coordination	571-434-1558 Andrea.VanDenBerg@dot.gov
Jimmy Travis	Director, Transportation Program Management	NCDOT	Project Management	919-707-6602 jtravis@ncdot.gov
Joe Laws	Division 11 Project Manager	NCDOT	Project Management	336-903-9138 jlaws@ncdot.gov
Mark Woods	Superintendent	Blue Ridge Parkway	Coordination	828-348-3405 <u>Mark_woods@nps.gov</u>
Mike Pettyjohn	Division Engineer	NCDOT	Coordination	336-667-9111 mpettyjohn@ncdot.gov
Mike Holder	Chief Engineer	NCDOT	Coordination	919-707-2500 mholder@ncdot.gov
Dawn Leonard	Community Planner	Blue Ridge Parkway	Coordination	828-348-3434 Dawn_leonard@nps.gov
Scott Fogleman	Town Manager	Town of Blowing Rock	Coordination	828-295-5200 manager@townofblowingrock.com
Kevin Rothrock	Planning Director	Town of Blowing Rock	Coordination	828-295-5200 krothrock@townofblowingrock.com

Doug Chapman	Senior Project Manager	McGill Assoc.	Engineering	828-217-3609 doug.chapman@mcgillengineers.com
Carrie Cranwill	Planner	McGill Assoc.	Engineering	828-328-2024 carrie.cranwill@mcgillengineers.com

M. CHANGES/AMENDMENTS/ADDENDUMS

The agreement may be modified, amended, or have addendums added by mutual agreement of all parties. The change, amendment, or addendum must be in writing and executed by all of the parties.

The types of changes envisioned include, but are not limited to, changes that significantly impact scope, schedule, or budget; changes to the local match, either in type or responsibility; changes that alter the level of effort or responsibilities of a party. The parties commit to consider suggested changes in good faith. Failure to reach agreement on changes may be cause for termination of this agreement.

A change in the composition of the project team members does not require the agreement to be amended.

It is the responsibility of the project team members to recognize when changes are needed and to make timely notification to their management in order to avoid project delivery delays.

N. ISSUE RESOLUTION PROCEDURES MATRIX

Issues should be resolved at the lowest level possible. The issue should be clearly defined in writing and understood by all parties. Escalating to the next level can be requested by any party. When an issue is resolved, the decision will be communicated to all levels below.

FHWA	NCDOT	Town of Blowing Rock, NC	Time
Project Manager (Jacinda Russell)	Joe Laws Division 11 Project Manager	Doug Chapman Senior Project Manager	5 Working Days
Planning and Programs Manager	Van Argabright	Kevin Rothrock Planning Director	5 Working Days
Director, Program Administration	Mike Pettyjohn, Division Engineer	Kevin Rothrock Planning Director	5 Working Days
Division Director	Mike Holder, Chief Engineer	Scott Fogleman Town Manager	5 Working Days

O. TERMINATION

This agreement may be terminated by mutual written consent of all parties. This agreement may also be terminated if either the NEPA process or funding availability requires a change and the parties are not able to agree to the change. Any termination of

this agreement shall not prejudice any rights or obligations accrued to the parties prior to termination. If Federal Access funds have been expended prior to termination, the party responsible for the match agrees to provide a match in the applicable percentage of the total amount expended on the project prior to the termination.

P. STEWARDHIP & OVERSIGHT ACTIVITIES

Based upon the risk assessment, complexity of the undertaking, and capabilities and past performance of the delivery partner, the EFLHD had determined this project to be low risk. The table below identifies necessary Stewardship and Oversight Activities. If items are not delivered timely or in such poor condition that it brings into question the ability to deliver, the issue will be elevated to all participants to the agreement using the issue resolution procedures matrix identified above.

Phase or Activity	Partner Role	EFLHD Role	Comments
	Planning &	& Programn	ning
Evidence that project is on an approved program of projects	Provide	Review	For funds disbursed by a division, they may know this already
Evidence of being on a TIP or STIP	Provide	Review	
Project agreement with scope, schedule, & budget	Provide	Approve	EFLHD would be a signatory. Would be involved in the drafting to define what S&O deliverables it will receive
	Env	ironment	
Lead Federal agency identified	Provide	Concur	FHWA must be a co-lead agency on an EIS
Copy of/review of Draft documents	Provide	Review/ Concur	EFLHD should review to insure they can be adopted by EFLHD
Copy of NEPA action	Provide	File copy	(CE, EA, or EIS)
Evidence of permits	Provide	File copy	The state of the s
Sign off on FHWA NEPA document	Provide	Adopt or develop parallel Document	EFLHD approval needed
		Design	
Review 95% PS&E	Provide	Review/ Approve	Are required contract provisions included – Common Rule or Fed-Aid?
Review design exceptions	Provide	Review/ Approve	If the partner is a State DOT, they would follow their process
Review ROW certifications	Provide	Review/ Approve	If ROW is acquired, it must follow Uniform Federal Relocation Act
Utility/Railroad Agreements	Provide	Review/ Approve	EFLHD needs certification
	Ac	quisitions	

Phase or Activity	Partner Role	EFLHD Role	Comments
Review contract package for required clauses (Civil Rights, Davis-Bacon, Buy America/American, etc.)	Provide	Review/ Approve	Would not need to do this if the partner is another federal agency or State DOT following Fed Aid procedures.
Concur in award of contract	Provide	Review/ Concur	Generally would only get involved if additional funds required
Receive copy of award package	Provide	File copy	EFLHD should have a copy of the package in its files in case inquiries are received
Review or approve contract modifications	Provide	Review/ Concur Depends upon nature of CM	Need to assure non-eligible work is not being paid for with program funds
Construction			
Final Project Inspections	Schedule	Attend	FLH should attend the final project inspection for projects above \$500,000.00 in FLAP funds regardless of risk level or elevated risk projects. Final project inspection could be done electronically with photos.
Copy of As-builts	Provide	File copy	Generally only request these if project adjacent to or along a corridor EFLHD is working on or if EFLHD does asset management. Used for updating system info
Copy of final voucher	Provide	File copy	
Contract Dispute (Claim)	Notify	Provide assistance if requested	Need to be aware if additional funds are needed

Q. GENERAL PROVISIONS

1) AGREEMENT

A. Entire Agreement

This Agreement between the parties includes the complete Agreement as expressly set forth herein.

B. Authorization to Execute

The parties hereby acknowledge that the individual executing the Agreement on their behalf is authorized to execute this Agreement on their behalf and to bind the respective entities to the terms contained herein and that he has read this Agreement, conferred with his attorney, and fully understands its contents.

C. Funding Availability

All terms and conditions of this Agreement are dependent upon and

subject to the availability of funds for the purpose set forth in the Agreement, and the Agreement shall automatically terminate if funds cease to be available.

2) PERFORMANCE OF THE WORK

The NCDOT shall be responsible for administering all work performed and for certifying to the EFLHD that all terms set forth in this Agreement are met and adhered to by the NCDOT and/or its contractors and agents.

3) COMPLIANCE WITH STATE/FEDERAL POLICY

The NCDOT and EFLHD, including all contractors, subcontractors, or sub-recipients shall comply with all applicable Federal and State policies and procedures.

4) AUDIT & RECORDS RETENTION

The EFLHD and NCDOT shall maintain all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate costs incurred under this Agreement.

The EFLHD and NCDOT shall make such materials available at its office at all reasonable times during the contract period, and for five (5) years from the date of final payment under this Agreement, for inspection and audit by the NCDOT's Fiscal Section, the NCDOT's Office of Inspector General and the North Carolina Auditor's Office in accordance with G.S. 147-64.7.

5) REFERENCES

It will be the responsibility of the NCDOT to follow the current and/or most recent edition of references, websites, specifications, standards, guidelines, recommendations, regulations and/or general statutes, as stated in this Agreement.

6) <u>INDEMNIFICATION</u>

The NCDOT and EFLHD are both executive branch agencies of the State of North Carolina and the Federal Government, respectively, and therefore have no known legal authority to give indemnities. As between said parties, the NCDOT will be primarily liable to the EFLHD for damages caused by the NCDOT or its officers, agents, or employees acting with the course and scope of their employment with respect to the subject matter of this MOA, except to the extent that any such loss is actually reimbursed by a contractor or insurer. Likewise, the EFLHD will be primarily liable to the NCDOT for damages caused by the EFLHD or its officers, agents, or employees acting with the course and scope of their employment with respect to the subject matter of this MOA, except to the extent that any such loss is actually reimbursed by a contractor or insurer.

7) DEBARMENT POLICY

It is the policy of the NCDOT not to enter into any agreements with parties that have been debarred by any government agency (Federal or State). By execution of this Agreement, the NCDOT certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

8) <u>TITLE VI - CIVIL RIGHTS ACT OF 1964.</u>

The EFLHD and NCDOT shall comply with Title VI of the Civil Rights Act of 1964, (Title 49 CFR, Subtitle A, Part 21). Title VI prohibits discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

9) EQUAL EMPLOYMENT OPPORTUNITY

The EFLHD and NCDOT shall take affirmative action and not discriminate against any employee or applicant for employment to ensure that applicants are employed, and that employees are fairly treated during their employment, without regard to their race, religion, color, sex, national origin, age, or disability. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay, or other forms of compensation; and selection of training, including apprenticeship.

10) AMERICANS WITH DISABILITIES ACT

The EFLHD and NCDOT agree to comply with the provisions of the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, P.L. 93-112, and other applicable Federal regulations relating hereto, issued by the U.S. Department of Transportation.

11) RESTRICTIONS ON LOBBYING

The EFLHD and NCDOT, and their agents, including all contractors, sub-contractors, or sub-recipients, agree to comply with the requirements of Title 49 CFR Part 20, New Restrictions on Lobbying.

12) DRUG-FREE WORKPLACE

The EFLHD and NCDOT, and their agents, including all contractors, sub-contractors, or sub-recipients agree to comply with Title 49 CFR Part 32.400, Drug-Free Workplace requirements.

13) GIFT BAN

By Executive Order 24 and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).