

**STATE OF LOUISIANA
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**

**ORIGINAL MPO/STATE AGREEMENT
STATE PROJCT NO. H.972357
FEDERAL AID PROJECT NO. H972357
SHREVEPORT MPO TRANS PLAN SFYS 2020/2021
CADDO, BOSSIER, DESOTO, AND WEBSTER PARISHES**

THIS AGREEMENT, is made and executed in three original copies on this _____ day of _____, 20____, by and between the **Louisiana Department of Transportation and Development**, through its Secretary, hereinafter referred to as “**DOTD**,” and **Northwest Louisiana Council of Governments**, a public agency responsible for metropolitan transportation planning in the Shreveport Metropolitan Planning Area, hereinafter referred to as the “**MPO**.”

WITNESSETH: That;

WHEREAS, under the provisions of Title 23, United States Code, "Highways," as amended, funds have been appropriated out of the Highway Trust Fund to finance Highway Planning and Research projects on the approved Federal-Aid System under the direct administration of the DOTD; and

WHEREAS, the MPO has been designated by the Governor of the State of Louisiana as the recipient agency of the funds for the Metropolitan Planning Area in order to fulfill the requirements of Section 134 of Title 23, U.S.C.; and

WHEREAS, the MPO has requested an appropriation of funds to finance the cost of a single phase planning project only; and

WHEREAS, the MPO understands that funding for this Project is not a grant, but reimbursement/disbursement of eligible expenditures as provided herein; and

WHEREAS, the MPO is required to attend the mandatory Qualification Core Training and to adhere to the Local Public Agency (LPA) Manual; and

WHEREAS, the DOTD is agreeable to the implementation of the Project and desires to cooperate with the MPO as hereinafter provided:

NOW, THEREFORE, in consideration of the premises and mutual dependent covenants herein contained, the parties hereto agree as follows:

The foregoing recitals are hereby incorporated by reference into this agreement.

ARTICLE I: PROJECT DESCRIPTION

The activities, tasks, or planning services provided for with this agreement will hereinafter be referred to as the “Project”.

For purposes of identification and record keeping, State and Federal Project Numbers have been assigned to this Project as follows: **State Project No. H.972357 and Federal Project No. H972357**. All correspondence, invoices, progress reports and other such submittals to the DOTD in connection with this agreement shall be identified with these project numbers. The scope of services is given in further detail in “**Attachment A**”.

ARTICLE II: FUNDING

Except for services hereinafter specifically listed to be furnished solely at DOTD’s expense or solely at the MPO’s expense, the cost of this Project will be a joint participation between DOTD and the MPO, with DOTD or the MPO contributing the local match of the participating approved single phase project and the Federal Highway Administration, hereinafter referred to as “FHWA,” contributing Federal Funds through DOTD, as shown in the Funding Table.

Funding Table				
Method of Payment	Reimbursement			
Fund Type	Amount of Funds Provided	Percentage Funded By MPO	Percentage Funded By DOTD	Percentage Funded By FHWA
STP>200K	\$500,000	20%		80%
SPR	\$500,000		20%	80%

Maximum Limitation of \$1,000,000.00

For services for which the MPO will receive Federal or State funding, as per the Funding Table, the MPO agrees it will not incur or expend any funds or provide a written Notice To Proceed (NTP) to any consultant prior to written notification from DOTD that they can begin work. Any costs incurred prior to such notification will not be compensable.

If Federal or State funding is indicated and the *disbursement* method is chosen, as per the Funding Table, DOTD will pay to the MPO monthly the correct federal ratio of the

approved project costs after the MPO has rendered such invoices. The invoices shall be submitted with a DOTD Cost Disbursement Certification, executed by the properly designated MPO official. The MPO is required to tender payment for the invoiced cost to the vendor promptly upon receipt of each disbursement of funds. The MPO shall provide within 60 days a copy of proof of payment to DOTD.

If Federal or State funding is indicated and the *reimbursement* method is chosen, as per the Funding Table, the MPO will submit an invoice monthly to DOTD with a copy of the proof of payment, in accordance with DOTD's standards and methods. Upon receipt of each invoice, DOTD will reimburse the percentage shown in the Funding Table within 30 days of determining that it is correct. The MPO must bill within 90 days of the incurrence of expense or receive a written waiver from their project manager extending the time of submittal.

All travel related expenses will be compensated under direct expenses and will be in accordance with Louisiana Office of State Travel regulations (PPM No. 49) found at: <http://www.doa.la.gov/Pages/osp/travel/travelpolicy.aspx>

All charges shall be subject to verification, adjustment, and/or settlement by DOTD's Audit Section. Before final payment is recommended by DOTD, all supporting documentation shall conform to DOTD policies and procedures. The MPO shall submit all final billings for all required work within 90 days after the completion of the period of performance of this agreement. Failure to submit these billings within the specified 90 day period shall result in the Project being closed on previously billed amounts and any unbilled cost shall be the responsibility of the MPO. The MPO shall reimburse DOTD any and all amounts for services which are cited by DOTD as being noncompliant with federal/state laws and/or regulations. The cited amounts which are reimbursed by the MPO will be returned to the MPO upon clearance of the citation(s).

Should the MPO fail to reimburse DOTD the cited amounts within a thirty day period after notification, all future payment requests from the MPO will be held until the cited amounts are exceeded, at which time only the amount over the cited amounts will be released for payment.

ARTICLE III: PLANNING SERVICES

The MPO and/or the consultant to be selected by the MPO shall provide all services, as indicated in "Attachment A" in this agreement. If consultant services are contracted by the MPO, the consultant will be directly supervised by the MPO Responsible Charge, an MPO employee, in charge and control of the Project at all times. Any services required of the consultant by the MPO but not listed in "Attachment A" of the agreement shall be performed at the MPOs expense and at no expense to DOTD or FHWA.

In the event that the MPO is obligated to complete this work and contracts with a third party to perform the work, and DOTD is obligated to complete any subsequent work, DOTD and the MPO agree that any rights that the MPO may have to recover from the provider of planning services shall be transferred to DOTD.

ARTICLE IV: PROJECT RESPONSIBLE CHARGE

A full-time employee of the MPO is required to be in “Responsible Charge” of the Project. The MPO Responsible Charge is expected to be accountable for the Project and to be able to perform the following duties and functions:

- Make or participate in decisions about changed conditions or scope changes that require supplemental agreements;
- Review financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse;
- Direct Project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation;
- Be aware of the qualifications, assignments and on-the-job performance of the agency and/or consultant staff for the Project.

The above duties do not restrict an MPO’s organizational authority over the MPO Responsible Charge or preclude sharing of these duties and functions among a number of MPO employees. It does not preclude one employee from having responsible charge of several projects and directing project managers assigned to specific projects.

The MPO at the time of execution of this Agreement shall complete, if not previously completed, the MPO Responsible Charge Form and submit it to the DOTD Project Manager. The MPO is responsible for keeping the form updated and submitting the updated form to the DOTD Project Manager.

ARTICLE V: PERIOD OF PERFORMANCE

If the Funding Table indicate that Federal funds are used for the project, a period of performance is required. As per 2 CFR 200.309, the Period of Performance is a period when project costs can be incurred; specifically, the Project authorization start and end date. Any additional costs incurred after the end date are not eligible for reimbursement. The Project Manager will send the MPO a Period of Performance written notification which will provide begin and end dates and any updates associated with the dates.

ARTICLE VI: CONSULTANT SELECTION

DOTD shall advertise and select a consulting firm for the performance of the services necessary to fulfill the scope of work unless the MPO has a selection process which has been previously approved by FHWA and DOTD. Following the selection of the consulting

firm by DOTD, if applicable, the MPO shall enter into a contract (prepared by DOTD) with the consulting firm for the performance of all services required for the project. The MPO may make a non-binding recommendation to the DOTD Secretary on the consultant shortlist. If the MPO makes a selection pursuant to its approved procedures, the MPO shall submit to DOTD the draft contract for approval prior to execution. No sub-consultants shall be added to the Project without prior approval of the DOTD Consultant Contract Services Administrator. The specified services will be performed by the selected consultant under the direct supervision of the MPO Responsible Charge, who will have charge and control of the Project at all times.

Formal written notification from DOTD of federal authorization is required prior to the issuance of an NTP by the MPO. Any costs which the MPO expects to be reimbursed prior to such authorization will not be compensable prior to the NTP date or if performed outside of the period of performance of this agreement.

The MPO shall be responsible for any contract costs attributable to the errors or omissions of its consultants or sub-consultants.

ARTICLE VII: SUBCONTRACTING

Any subcontracting performed under this Project with State or Federal funds by consultants engaged by the MPO must have the prior written consent of DOTD. In the event that the consultant elects to sublet any of the services required under this contract, it must take affirmative steps to utilize Disadvantaged Business Enterprises (DBE) as sources of supplies, equipment, and services. Affirmative steps shall include the following:

- (a) Including qualified DBE on solicitation lists.
- (b) Assuring that DBE are solicited whenever they are potential sources.
- (c) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum DBE participation.
- (d) Where the requirement permits, establishing delivery schedules which will encourage participation by DBE.
- (e) Using the services and assistance of the Office of Disadvantaged Business Enterprise of the Department of Commerce and the Community Services Administration as required.

Also, the Contractor is encouraged to procure goods and services from labor surplus areas.

ARTICLE VIII: DBE REQUIREMENTS

It is the policy of DOTD that it shall not discriminate on the basis of race, color, national origin, or gender in the award of any United States Department of Transportation (US DOT) financially assisted contracts or in the administration of its DBE program or the requirements of 49 CFR Part 26. DOTD shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT assisted contracts. The DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement.

The MPO or its consultant agrees to ensure that the “Required Contract Provisions for DBE Participation in Federal Aid Contracts” are adhered to for the duration of this Project. These contract provisions shall apply to any project with a DBE Goal and must be included in the requirements of any contract or subcontract. Failure to carry out the requirements set forth shall constitute a breach of this agreement and, after notification by DOTD, may result in DOTD withholding funds, termination of this agreement by DOTD, or other such remedy as DOTD deems appropriate.

DOTD will include as part of the solicitation of bids a current list containing the names of firms that have been certified as eligible to participate as a DBE on US DOT assisted contracts. This list indicates the project numbers and letting date for which this list is effective. Only DBEs listed on this list may be utilized to meet the established DBE goal for these projects. It is the MPO or its contractor’s responsibility to monitor that only the certified DBEs committed to this Project are performing the work items they were approved for.

The above requirements shall be included in all contract and/or subcontracts entered into by the MPO or its contractor.

ARTICLE IX: DIRECT AND INDIRECT COSTS

Any DOTD direct or indirect costs associated with this Project may be charged to this Project.

The MPO may be eligible for reimbursement of direct and/or indirect costs incurred related to administration of the Project. Per 2 CFR 200, an MPO must establish and maintain effective internal controls over Federal award to provide reasonable assurance that awards are being managed in compliance with federal laws and regulations. The MPO must verify this to DOTD by completing and signing the Risk Assessment form. The MPO’s failure to comply with these requirements may result in Agreement termination.

As per 2 CFR 200 the MPO may receive indirect costs if it has a financial tracking system that can track direct costs incurred by the project. An MPO that has never received a negotiated indirect cost rate may elect to charge a de minimis rate of 10% of modified total direct costs as per 2CFR 200.68 Modified Total Direct Cost (MTDC). If chosen, this methodology once elected must be used consistently for all Federal awards until such time as the MPO chooses to negotiate for a rate, which the MPO may apply to do at any time.

Allowable direct and indirect costs: Determination of allowable direct and indirect costs will be made in accordance with the applicable Federal cost principles, e.g. 2 C.F.R. Part 200 Subpart E.

Disallowed direct and indirect costs: Those charges determined to not be allowed in accordance with the applicable Federal cost principles or other conditions contained in this Agreement.

ARTICLE X: RECORD RETENTION

The MPO and all others employed by it in connection with this Project shall maintain all books, documents, papers, accounting records, and other evidence pertaining to this Project, including all records pertaining to costs incurred relative to the contracts initiated due to their participation in this Project, and shall keep such material available at its offices at all reasonable times during the contract period and for five years from the date of final payment under the Project, for inspection by DOTD and/or Legislative Auditor, FHWA, or any authorized representative of the Federal Government under State and Federal Regulations effective as of the date of this Agreement and copies thereof shall be furnished if requested. If documents are not produced, the MPO will be required to refund the Federal Funds.

Record retention may extend beyond 5-years if any of the following apply:

- (a) If any litigation, claim, or audit is started before the expiration of the 5-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- (b) When the MPO is notified in writing by FHWA, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through MPO to extend the retention period.
- (c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

ARTICLE XI: CANCELLATION

The terms of this Agreement shall be binding upon the parties hereto until the work has been completed and accepted and all payments required to be made have been made; however, this Agreement may be terminated under any or all of the following conditions:

1. By mutual written agreement and consent of the parties hereto.
2. By the MPO should it desire to cancel the Project prior to the completion of the Project, provided any Federal/State costs that have been incurred for the development of the Project shall be repaid by the MPO.
3. By DOTD due to the withdrawal, reduction, or unavailability of State or Federal funding for the Project.
4. By DOTD due to failure by the MPO to make adequate progress to complete the Project. The Program Manager will provide the MPO with written notice specifying such failure. If within 60 days after receipt of such notice, the MPO has not either corrected such failure, or, in the event it cannot be corrected within 60 days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then DOTD shall terminate the Agreement on the date specified in such notice. Any Federal/State costs that have been incurred for the development of the Project shall be repaid by the MPO to DOTD.
5. Failure to comply with the requirements of 2 C.F.R. 200.302 and Title 23, U.S.C.

ARTICLE XII: COMPLIANCE WITH CIVIL RIGHTS

The MPO agrees to abide by the requirements of the following as applicable: Titles VI and VII of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972, as amended; Federal Executive Order 11246, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veteran's Readjustment Assistance Act of 1974, as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Americans with Disabilities Act of 1990, as amended; and Title II of the Genetic Information Nondiscrimination Act of 2008.

The MPO agrees not to discriminate in its employment practices, and shall render services under this Contract without regard to race, color, age religion, sex, national origin, veteran status, genetic information, political affiliation or disabilities.

Any act of discrimination committed by the MPO, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement.

ARTICLE XIII: INDEMNIFICATION

The MPO shall indemnify, save harmless and defend DOTD against any and all claims, losses, liabilities, demands, suits, causes of action, damages, and judgments of sums of money growing out of, resulting from, or by reason of any act or omission of the MPO, its agents, servants, independent contractors, or employees while engaged in, about, or in connection with the discharge or performance of the terms of this Agreement. Such indemnification shall include reasonable attorney's fees and court costs. The MPO shall provide and bear the expense of all personal and professional insurance related to its duties arising under this Agreement.

ARTICLE XIV: HOUSE BILL 1 COMPLIANCE

The MPO shall fully comply with the provisions of House Bill 1, if applicable, by submitting to DOTD, for approval, the comprehensive budget for the Project showing all anticipated uses of the funds appropriated, an estimate of the duration of the Project, and a plan showing specific goals and objectives for the use of the appropriated funds, including measures of performance.

The MPO understands and agrees that no funds will be transferred to the MPO prior to receipt and approval by DOTD of the submissions required by House Bill 1.

ARTICLE XV: COMPLIANCE WITH LAWS

The parties shall comply with all applicable federal, state, and local laws and regulations, including, specifically, the Louisiana Code of Government Ethics (LSA-R.S. 42:1101, *et seq.*), in carrying out the provisions of this Agreement.

IN WITNESS THEREOF, the parties have caused these presents to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

WITNESSES:

**STATE OF LOUISIANA
NORTHWEST LOUISIANA COUNCIL OF
GOVERNMENTS**

BY: _____

Typed or Printed Name

Title

Taxpayer Identification Number

36834091+

DUNS Number

20.205

CFDA Number

WITNESSES:

**STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT**

BY: _____

Secretary

RECOMMENDED FOR APPROVAL:

BY: _____