STEWARDSHIP AND OVERSIGHT AGREEMENT
ON PROJECT ASSUMPTION AND PROGRAM OVERSIGHT
BY AND BETWEEN
FEDERAL HIGHWAY ADMINISTRATION, NORTH CAROLINA DIVISION
AND THE
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

SECTION I. BACKGROUND AND INTRODUCTION

The Federal-aid Highway Program (FAHP) is a federally-assisted program of State-selected projects. The Federal Highway Administration (FHWA) and the State Departments of Transportation have long worked as partners to deliver the FAHP in accordance with Federal requirements. In enacting 23 U.S.C. 106(c), as amended, Congress recognized the need to give the States more authority to carry out project responsibilities traditionally handled by FHWA. Congress also recognized the importance of a risk-based approach to FHWA oversight of the FAHP, establishing requirements in 23 U.S.C. 106(g). This Stewardship and Oversight (S&O) Agreement sets forth the agreement between the FHWA and the North Carolina Department of Transportation (State DOT) on the roles and responsibilities of the FHWA and the State DOT with respect to Title 23 project approvals and related responsibilities, and FAHP oversight activities.

The scope of FHWA responsibilities, and the legal authority for State DOT assumption of FHWA responsibilities, developed over time. The U.S. Secretary of Transportation delegated responsibility to the Administrator of the FHWA for the FAHP under Title 23 of the United States Code, and associated laws. (49 CFR 1.84 and 1.85) The following legislation further outlines FHWA's responsibilities:

- Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991;
- Transportation Equity Act for the 21st Century (TEA-21) of 1998;
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005; and
- Moving Ahead for Progress in the 21st Century Act (MAP-21) of 2012 (P.L. 112-141).

The FHWA may not assign or delegate its decision-making authority to a State Department of Transportation unless authorized by law. Section 106 of Title 23, United States Code (Section 106), authorizes the State to assume specific project approvals. For projects that receive funding under Title 23, U.S.C., and are on the National Highway System (NHS) including projects on the Interstate System, the State may assume the responsibilities of the Secretary of the U.S. Department of Transportation under Title 23 for design, plans, specifications, estimates, contract awards, and inspections with respect to the projects unless the Secretary determines that the assumption is not appropriate. (23 U.S.C. 106(c)(1)) For projects under Title 23, U.S.C. that are not on the NHS, the State shall assume the responsibilities for design, plans, specifications,

estimates, contract awards, and inspections unless the State determines that such assumption is not appropriate. (23 U.S.C. 106(c)(2))

For all other project activities which do not fall within the specific project approvals listed in Section 106 or are not otherwise authorized by law, the FHWA may authorize a State DOT to perform work needed to reach the FHWA decision point, or to implement FHWA's decision. However such decisions themselves are reserved to FHWA.

The authority given to the State DOT under Section 106(c)(1) and (2) is limited to specific project approvals listed herein. Nothing listed herein is intended to include assumption of FHWA's decision-making authority regarding Title 23, U.S.C. eligibility or Federal-aid participation determinations. The FHWA always must make the final eligibility and participation decisions for the Federal-aid Highway Program.

Section 106(c)(3) requires FHWA and the State DOT to enter into an agreement relating to the extent to which the State DOT assumes project responsibilities. This Stewardship and Oversight Agreement (S&O Agreement), includes information on specific project approvals and related responsibilities, and provides the requirements for FHWA oversight of the FAHP (Oversight Program), as required by 23 U.S.C. 106(g).

SECTION II. INTENT AND PURPOSE OF S&O AGREEMENT

The intent and purpose of this S&O Agreement is to document the roles and responsibilities of the FHWA's North Carolina Division Office (FHWA or Division) and North Carolina Department of Transportation (NCDOT) with respect to project approvals and related responsibilities, and to document the methods of oversight which will be used to efficiently and effectively deliver the FAHP.

The Project Action Responsibility Matrix, Attachment A to this S&O Agreement and as further described in Section VIII of this S&O Agreement, identifies FHWA FAHP project approvals and related responsibilities that NCDOT assumes from FHWA on a program-wide basis pursuant to 23 U.S.C. 106(c) and other legal authorities. Upon execution of this agreement, Attachment A shall be controlling and except as specifically noted in Attachment A, no other agreements, attachments, or other documents shall have the effect of delegating or assigning FHWA approvals to NCDOT on a program-wide basis under 23 U.S.C 106 or have the effect of altering Attachment A.

SECTION III. ASSUMPTION OF RESPONSIBILITIES FOR FEDERAL-AID PROJECTS ON THE NATIONAL HIGHWAY SYSTEM

A. NCDOT *may assume* the FHWA's Title 23 responsibilities for design; plans, specifications, and estimates (PS&E); contract awards; and inspections, with respect to *Federal-aid projects on the National Highway System (NHS)* if both NCDOT and FHWA determine that assumption of responsibilities is appropriate.

B. Approvals and related activities for which NCDOT has assumed responsibilities as shown in Attachment A will apply program wide unless project specific actions for which the Division will carry out the approval or related responsibilities are documented in

accordance with the FHWA Project of Division Interest/Project of Corporate Interest Guide (FHWA PoDI/PoCI Guide) located at http://www.fhwa.dot.gov/federalaid/stewardship

C. NCDOT may not assume responsibilities for Interstate projects that are in high risk categories. (23 U.S.C. 106(c)(1))

D. NCDOT is to exercise any and all assumptions of the Secretary responsibilities for Federal-aid projects on the NHS in accordance with Federal laws, regulations and policies.

SECTION IV. ASSUMPTION OF RESPONSIBILITIES FOR FEDERAL-AID PROJECTS OFF THE NATIONAL HIGHWAY SYSTEM

A. NCDOT *shall assume* the FHWA's Title 23 responsibilities for design, PS&Es, contract awards, and inspections, with respect to *Federal-aid projects off the NHS (non-NHS)* unless NCDOT determines that assumption of responsibilities is not appropriate. (23 U.S.C. 106(c)(2))

B. Except as provided in 23 U.S.C.109(o), NCDOT is to exercise the Secretary's approvals and related responsibilities on these projects in accordance with Federal laws.

C. NCDOT, in its discretion, may request FHWA to carry out one or more non-NHS approvals or related responsibilities listed as "State" in Attachment A on a program-wide or project-specific basis. For a project specific request, NCDOT may request FHWA to carry out any approval or related responsibility listed in Attachment A off the NHS. Such project-specific requests shall be documented in accordance with the FHWA PoDI/PoCI Guide.

D. Pursuant to 23 U.S.C. 109(o), non-NHS projects shall be designed and constructed in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

SECTION V. ASSUMPTION OF RESPONSIBILITIES FOR LOCALLY ADMINISTERED PROJECTS

NCDOT may permit local public agencies (LPAs) to carry out NCDOT's assumed responsibilities on locally administered projects. NCDOT is responsible and accountable for LPA compliance with all applicable Federal laws and requirements.

SECTION VI. PERMISSABLE AREAS OF ASSUMPTION UNDER 23 U.S.C. 106(c)

An assumption of responsibilities under 23 U.S.C. 106(c) may cover only activities in the following areas:

A. Design which includes preliminary engineering, engineering, and design-related services directly relating to the construction of a FAHP-funded project, including engineering, design, project development and management, construction project management and inspection, surveying, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services.

B. PS&E which represents the actions and approvals required before authorization of construction. The PS&E package includes geometric standards, drawings, specifications, project estimates, certifications relating to completion of right-of-way acquisition and relocation, utility work, and railroad work.

C. Contract awards which include procurement of professional and other consultant services and construction-related services to include advertising, evaluating, and awarding contracts.

D. Inspections which include general contract administration, material testing and quality assurance, review, and inspections of Federal-aid contracts as well as final inspection/acceptance.

E. Approvals and related responsibilities affecting real property as provided in 23 CFR 710.201(i) and any successor regulation in 23 CFR Part 710.

SECTION VII. FEDERAL APPROVALS AND RELATED RESPONSIBILITIES THAT MAY NOT BE ASSUMED BY THE STATE DOT

A. Any approval or related responsibility not listed in Attachment A cannot be assumed by NCDOT without prior concurrence by FHWA. The following is a list of the most frequently-occurring approvals and related responsibilities that may not be assumed by NCDOT:

- Civil Rights Program approvals;
- Environmental approvals, except those specifically assumed under other agreements. (23 U.S.C. 326 and 327; programmatic categorical exclusion agreements);
- Federal air quality conformity determinations required by the Clean Air Act;
- Approval of current bill and final vouchers;
- Approval of federally-funded hardship acquisition, protective buying, and 23 U.S.C. 108(d) early acquisition;
- Project agreements and modifications to project agreements and obligation of funds (including advance construction);
- Planning and programming pursuant to 23 U.S.C. 134 and 135;
- Special Experimental Projects (SEP-14 and SEP-15);
- Use of Interstate airspace for non-highway-related purposes;
- Any Federal agency approval or determination under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), as amended, and implementing regulations in 49 CFR Part 24;
- Waivers to Buy America requirements;

- Approval of Federal participation under 23 CFR 1.9(b);
- Provide pre-approval for preventive maintenance project (until FHWA concurs with State DOT procedures);
- Requests for credits toward the non-Federal share of construction costs for early acquisitions, donations, or other contributions applied to a project;
- Functional replacement of property;
- Approval of a time extension for preliminary engineering projects beyond the 10-year limit, in the event that actual construction or acquisition of right-of-way for a highway project has not commenced;
- Approval of a time extension beyond the 20-year limit for right of way projects, in the event that actual construction of a road on the right-of-way is not undertaken;
- Determine need for Coast Guard Permit;
- Training Special Provision – Approval of New Project Training Programs; and
- Any other approval or activity not specifically identified in Attachment A unless otherwise approved by the FHWA, including the Office of Chief Counsel.

B. For all projects and programs, NCDOT will comply with Title 23 and all applicable non-Title 23, U.S.C. Federal-aid program requirements, such as metropolitan and statewide planning; environment; procurement of engineering and design related service contracts (except as provided in 23 U.S.C. 109(o)); Civil Rights including Title VI of the *Civil Rights Act*, and participation by Disadvantaged Business Enterprises; prevailing wage rates; and acquisition of right-of-way, etc.

C. This Agreement does not modify the FHWA's non-Title 23 program approval and related responsibilities, such as approvals required under the Clean Air Act; National Environmental Policy Act, Executive Order on Environmental Justice (E.O. 12898), and other related environmental laws and statutes; the Uniform Act; and the Civil Rights Act of 1964 and related statutes.

SECTION VIII. PROJECT ACTION RESPONSIBILITY MATRIX

Attachment A, Project Action Responsibility Matrix, to this S&O Agreement identifies FAHP project approvals and related responsibilities. The Matrix specifies which approvals and related responsibilities are assumed by NCDOT under 23 U.S.C. 106(c) or other statutory or regulatory authority, as well as approvals and related responsibilities reserved to FHWA.

SECTION IX. HIGH RISK CATEGORIES

A. In 23 U.S.C. 106(c), Congress directs that the Secretary shall not assign any approvals or related responsibilities for projects on the Interstate System if the Secretary determines the project to be in a high risk category. Under 23 U.S.C. 106(c)(4)(B), the Secretary may define high risk categories on a national basis, State-by-State basis, or national and State-by-State basis.

B. The Division has determined there are no high risk categories.

SECTION X. FHWA OVERSIGHT PROGRAM UNDER 23 U.S.C. 106(g)

A. In 23 U.S.C. 106(g), Congress directs that the Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out the FAHP. This program includes FHWA oversight of the State's processes and management practices, including those involved in carrying out the approvals and related responsibilities assumed by the State under 23 U.S.C. 106(c). Congress defines that, at a minimum, the oversight program shall be responsive to all areas relating to financial integrity and project delivery.

B. The FHWA shall perform annual reviews that address elements of NCDOT's financial management system in accordance with 23 U.S.C. 106(g)(2)(A). FHWA will periodically review NCDOT's monitoring of subrecipients pursuant to 23 U.S.C. 106(g)(4)(B).

C. The FHWA shall perform annual reviews that address elements of the project delivery systems of NCDOT, which elements include one or more activities that are involved in the life cycle of project from conception to completion of the project. The FHWA will also evaluate the practices of NCDOT for estimating project costs, awarding contracts, and reducing costs. 23 U.S.C. 106(g)(2) and (3).

D. To carry out the requirements of 23 U.S.C. 106(g), the FHWA will employ a risk management framework to evaluate financial integrity and project delivery, and balance risk with staffing resources, available funding, and the State's transportation needs. The FHWA may work collaboratively with NCDOT to assess the risks inherent with the FAHP and funds management, and how that assessment will be used to align resources to develop appropriate risk response strategies

Techniques the Division and NCDOT may use to identify and analyze risks and develop response strategies include the following:

- Program Assessments;
- FIRE Reviews;
- Program Reviews;
- Certification Reviews;
- Recurring or periodic reviews such as the Compliance Assessment Program (CAP); and
- Inspections of project elements or phases.

These techniques will be carried out in a manner consistent with applicable Division Standard Operating Procedures or other control documents relating to program assessments, FIRE, program reviews, CAP, etc. Reviews may be conducted by individual Division staff or by teams including NCDOT staff participation.

In addition, NCDOT and the Division Office have jointly developed and adopted many processes and procedures for carrying out various programs and projects. Also, NCDOT

has policies that are in accordance with federal guidelines and requirements. A list of these manuals and operating agreements can be found on Attachment B of this document.

E. Program Responsibility Matrix

NCDOT and FHWA will maintain, separate from this S&O Agreement, a Program Responsibility Matrix that identifies all relevant FHWA program actions, and Division and NCDOT program contact offices.

F. Manuals and Operating Agreements

NCDOT's manuals, agreements and other control documents that have been approved for use on Federal-aid projects are listed in Attachment B to this S&O Agreement.

G. Stewardship and Oversight Indicators

The Division and NCDOT have jointly established Performance Indicators. The indicators may be refined for setting targets, tracking trends, and implementing countermeasures and actions when the data is moving away from the designed target direction. When fully refined and utilized, the Indicators will be incorporated by reference to this S&O Agreement and reviewed on an annual frequency.

SECTION XI. STATE DOT OVERSIGHT AND REPORTING REQUIREMENTS

A. NCDOT Oversight and Reporting Requirements

NCDOT is responsible for demonstrating to the FHWA how it is carrying out its responsibilities in accordance with this Agreement. In order to fulfill this responsibility, NCDOT will:

- Design all Federal-aid projects in accordance with the Roadway Design Manual, Structures Management Unit Design Manual, Design Exception Policy, Design Build Policy and Procedures, and other applicable manuals and operating agreements listed in Attachment B.
- Award construction contracts as set forth in the Contract Administration Manual and Contractor Compliance Plan.
- Conduct construction activities as set forth in the project's sealed construction documents and in accordance with the Construction Manual and Roadway Standard Specifications and Provisions. In addition, conduct and document project inspections on a reasonable sample of active construction projects.
- NCDOT will maintain project files that will include documentation of all required FHWA actions and NCDOT's assumed project approvals as set forth in this Agreement. NCDOT will provide FHWA access to the project files when requested.

When NCDOT desires a change in its policies procedures, operating documents and manuals that were mutually adopted with the FHWA, NCDOT will request that the FHWA be involved with the changes.

B. NCDOT Oversight of Locally Administered Projects

B.1. NCDOT is required to provide adequate oversight of subrecipients including oversight of any assumed responsibilities NCDOT delegates to a LPA.

B.2. Pursuant to 23 U.S.C. 106(g)(4), NCDOT shall be responsible for determining that subrecipients of Federal funds have adequate project delivery systems for locally administered projects and sufficient accounting controls to properly manage such Federal-aid funds. NCDOT is also responsible for ensuring compliance with reporting and other requirements applicable to grantees making sub-awards, such as monthly reporting requirements under the Federal Funding Accountability and Transparency Act of 2006, PL 109-282 (as amended by PL 110-252).

B.3. NCDOT acknowledges that it is responsible for sub-recipient awareness of Federal grant requirements, management of grants awards and sub-awards, and is familiar with and comprehends pass through entity responsibilities (2 C.F.R 200.331 Requirements for Pass-thru Entities). NCDOT shall carry out these responsibilities using the following actions, programs, and processes as follows:

- Maintain a fully staffed Local Programs Management Office (LPMO) to provide guidance, oversight and training for subrecipients; and,
- Maintain an up to date LPMO Local Projects web page that is easily accessible to local agencies and provides contract administration tools and training for essential project related documents, processes and procedures; and,
- Maintain the LPMO Handbook with current NCDOT procedures and policies for administering Federally-funded, locally administered projects; and,
- Provide opportunities for training for local project administration through workshops, webinars, and conference presentations.

B.4. NCDOT shall assess whether a subrecipient has adequate project delivery systems and sufficient accounting controls to properly manage projects, using the following actions, programs, and processes:

NCDOT will enter into a project specific agreement for each project to clearly identify the requirements associated with the LPA's responsibilities to have adequate project delivery systems and sufficient

accounting controls in place to properly manage projects. This project specific agreement outlines all current requirements for Federally-funded, locally administered projects including those for project delivery, fiscal accounting and auditing.

The NCDOT Financial Management Division requires the submission of a yearly audit conforming to Federal requirements from each subrecipient who expends $750,000 or more during their fiscal year, which is reviewed and maintained by NCDOT.

B.5. NCDOT shall assess whether a subrecipient is staffed and equipped to perform work satisfactorily and cost effectively, and that adequate staffing and supervision exists to manage the Federal project(s), by using the following actions, programs, and processes:

NCDOT will enter into a project specific agreement for each project to clearly identify the requirements associated with the LPA's responsibility to have adequate project delivery systems (staff, records and project management) to properly manage projects and ensure satisfactorily performance and cost effectiveness.

NCDOT staff will evaluate each project phase of work prior to proceeding to determine if adequate staff and equipment are available to ensure satisfactorily performance and cost effectiveness.

B.6. NCDOT shall assess whether subrecipient projects receive adequate inspection to ensure they are completed in conformance with approved plans and specifications, by using the following actions, programs, and processes:

NCDOT will provide routine oversight and inspection of LPA projects during the construction phase. This will include a review and approval of each invoice submitted by the subrecipient before payment is made. Routine reviews will also be made of the subrecipient's project records and periodic inspection of construction sites to ensure compliance with Federal and State requirements in accordance with the NCDOT Construction Manual, the LPA's Municipal Agreement, the LPMO Handbook and current NCDOT policies and procedures.

NCDOT will participate in the project final acceptance; closeout and materials certification process to ensure the project has received adequate inspection and has been completed in accordance with approved plans and specifications as required by the NCDOT Construction Manual, the LPA's Municipal Agreement, the LPMO Handbook and current NCDOT policies and procedures.

NCDOT will perform random audits of LPA projects to ensure that the project has received adequate inspection and has been completed in accordance with approved plans and specifications in accordance with the NCDOT Construction Manual, the LPA's Municipal Agreement, the LPMO Handbook and current NCDOT policies and procedures.

B.7. NCDOT shall ensure that when LPAs elect to use consultants for engineering services, the LPA, as provided under 23 CFR 635.105(b), shall provide a full-time employee of the agency to be in responsible charge of the project. NCDOT's process to ensure compliance with this requirement is documented by the following actions, programs, and processes:

NCDOT requires a full-time LPA staff member (or members) to be in responsible charge of the LPA's locally administered project throughout the delivery in accordance with a project specific agreement and the LPMO Handbook. NCDOT will assign staff, who will confirm that a full-time LPA employee is in responsible charge when consultants are used for engineering services, to manage each local project.

B.8. NCDOT shall ensure that project actions will be administered in accordance with all applicable Federal laws and regulations.

NCDOT will provide guidance and oversight for subrecipient projects using the following protocol, as outlined in each project specific subrecipient agreement and the LPMO Handbook. In addition, NCDOT will use the following on required approvals of subrecipient projects, and approval of subrecipient administered projects:

- Provide NCDOT LPMO, Division and Program staff to be responsible for oversight for each phase of locally administered LPA project, including the review and approval/concurrence of contract procurement methods other than competitive bidding, design exceptions, single source materials, project advertisements, bid concurrence and pay requests;
- Require NCDOT review and approval of subrecipients' advertisements, selection of consultants, negotiation and administration of consultant contracts;
- Require submission, review and approval of all environmental documents prepared for subrecipients' projects;
- Provide comments and recommendations on the design of a subrecipients' project, utilizing NCDOT's Design Standards, where applicable;

- Ensure consideration and utilization of Small Professional Services Firms (SPSF) firms throughout the professional services procurement process for subrecipients' projects;
- Ensure consideration and utilization of Disadvantaged Business Enterprises (DBEs) throughout the services and contracting process for subrecipients' projects;
- Provide guidance on required contracting provisions and process of advertisement and letting for subrecipients' projects;
- Provide review and approval of contracts and auditing of indirect cost allocation plans for subrecipients' projects, where requested;
- Review and concur in offers of just compensation, process of negotiation, and documentation of right of way acquisition, in order to provide right of way certification for subrecipients' projects; and,
- Assign NCDOT staff to provide construction oversight and monitoring, including Quality Control and Quality Assurance for subrecipients' projects.

B.9. NCDOT shall document its oversight activities for LPA-administered projects and findings, and how it will share this information with the FHWA.

NCDOT shall maintain a filing system (electronic and non-electronic) that includes a record of all subrecipient projects, which shall include documentation of subrecipient's actions, NCDOT approvals, and/or FHWA actions related to the project. All information shall be shared with the FHWA when requested.

SECTION XII. IMPLEMENTATION AND AMENDMENTS

A. This S&O Agreement will take effect as of the effective date of the signature of the FHWA North Carolina Division Administrator, who shall sign this S&O Agreement last.

B. The Division and NCDOT agree that updates to this Agreement will be considered periodically on a case-by-case basis when:

- Significant new legislation, Executive orders, or other initiatives affecting the relationship or responsibilities of one or both parties to the S&O Agreement occurs;
- Leadership, or leadership direction, changes at NCDOT or FHWA; or
- Priorities change at either NCDOT or Division Office.

C. The Division and NCDOT agree that changes may occur to the contents of the Attachments to this S&O Agreement and documents incorporated by reference into the

S&O Agreement. Except as provided in paragraph XII.D and E, changes to the attachments and documents incorporated by reference will not require the Division and NCDOT to amend this S&O Agreement. The effective date of any revisions to one of these documents shall be clearly visible in the header of the revised document. This Agreement and any changes to Attachment A shall be posted on the Division's S&O Agreement internet site within five (5) business days of the effective date.

D. Any changes to the high risk categories must be documented by an amendment to this S&O Agreement.

E. Any changes to the Project Action Responsibility Matrix must be approved by the FHWA in writing and documented by an amendment to this S&O Agreement.

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EXECUTION BY THE FHWA NORTH CAROLINA DIVISION OFFICE

Executed this 2nd day of June, 2015.

Signature

John F. Sullivan, III
Division Administrator

EXECUTION BY THE NORTH CAROLINA DOT

Executed this 1ST day of JUNE, 2015.

Signature

Secretary Anthony J. Tata
North Carolina Department of Transportation

ATTACHMENT A
PROJECT ACTION RESPONSIBILITY MATRIX
(As of June 2, 2015)

The following matrix identifies Federal-aid highway program (FAHP) project approvals and related responsibilities on a program-wide basis. The matrix specifies which actions are assumed by the State under the provisions of 23 U.S.C. 106(c) or other statutory or regulatory authority, as well as those which are reserved to FHWA. Projects classified as PoDI projects are not covered by the matrix, as those projects will be governed by a separate PoDI plan that specifies FHWA and State responsibilities for the project.

NCDOT is responsible for ensuring all individual elements of the project are eligible for FAHP funding, but all final eligibility and participation determinations are retained by FHWA.

PROJECT ACTION RESPONSIBILITY MATRIX (as of June 2, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	**AGENCY RESPONSIBLE**	
	PROJECTS ON THE NHS	**PROJECTS OFF THE NHS**
PROGRAMMING (All phases)		
Ensure project in Statewide Transportation Improvement Program (STIP)/Transportation Improvement Program (TIP)	STATE	STATE
Identify proposed funding category	STATE(1)	STATE(1)
FINANCIAL MANAGMENT (All phases)		
Obligate funds/approve Federal-aid project agreement, modifications, and project closures (project authorizations) (Note: this action cannot be assumed by State)	FHWA	FHWA
Authorize current bill (Note: this action cannot be assumed by State)	FHWA	FHWA
Review and Accept Financial Plan and Annual Updates for Federal Major Projects over $500 million [23 U.S.C. 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA

PROJECT ACTION RESPONSIBILITY MATRIX (as of June 2, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	**AGENCY RESPONSIBLE**	
	PROJECTS ON THE NHS	**PROJECTS OFF THE NHS**
Review Cost Estimates for Federal Major Projects over $500 million [23 U.S.C. 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Develop Financial Plan for Federal Projects between $100 million and $500 million. [23 U.S.C. 106(i)]	STATE	STATE
ENVIRONMENT (All phases)		
All EA/FONSI, EIS/ROD, 4(f), 106, 6(f) and other approval actions required by Federal environmental laws and regulations. (Note: this action cannot be assumed by STATE except under 23 U.S.C. 327)	FHWA (2)	FHWA (2)
Categorical Exclusion approval actions (Note this action cannot be assumed by the State except through an assignment under 23 U.S.C. 326 or 327, or through a programmatic agreement pursuant to Section 1318(d) of MAP-21 and 23 CFR 771.117(g))	FHWA (2)	FHWA (2)
PRELIMINARY DESIGN (Design Phase)		
Consultant Contract Selection	STATE (3)	STATE (3)
Sole source Consultant Contract Selection	STATE (3)	STATE (3)
Approve hiring of consultant to serve in a "management" role (Note: this action cannot be assumed by State) [23 CFR 172.9]	FHWA	FHWA
Approve consultant agreements and agreement revisions (Federal non-Major Projects) [23 CFR 172.9]	STATE	STATE
Approve consultant agreements and agreement revisions on Federal Major Projects [23 CFR	FHWA	FHWA

PROJECT ACTION RESPONSIBILITY MATRIX (as of June 2, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	**AGENCY RESPONSIBLE**	
	PROJECTS ON THE NHS	**PROJECTS OFF THE NHS**
172.9] (Note: this action cannot be assumed by State)		
Approve exceptions to design standards [23 CFR 625.3(f)]	STATE	STATE (5)
Interstate System Access Change [23 USC 111] (Note: this action cannot be assumed by State)	FHWA	N/A
Interstate System Access Justification Report [23 USC 111] (Note: action may be assumed by State pursuant to 23 USC 111(e))	FHWA	N/A
Airport highway clearance coordination and respective public interest finding (if required) [23 CFR 620.104]	STATE	STATE
Approve Project Management Plan for Federal Major Projects over $500 million [23 USC 106(h)] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve innovative and Public-Private Partnership projects in accordance with SEP-14 and SEP-15 (Note: this action cannot be assumed by State)	FHWA	FHWA
Provide pre-approval for preventive maintenance project (until FHWA concurs with STATE procedures) (Note: this action cannot be assumed by State)	FHWA	FHWA
DETAILED / FINAL DESIGN (Design Phase)		
Provide approval of preliminary plans for unusual/complex bridges or structures on the Interstate. [23 USC 109(a) and FHWA Policy]	FHWA (4)	N/A
Provide approval of preliminary plans for unusual/complex bridges or structures (non-Interstate. [23	STATE (4)	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of June 2, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
USC 109(a) and FHWA Policy]		
REALTY (Design and Operational Phases)		
Make feasibility/practicability determination for allowing authorization of construction prior to completion of Right-of-Way clearance, utility and railroad work. [23 CFR 635.309(b)]	STATE	STATE
Make public interest finding on whether State may proceed with bid advertisement even though Right-of-Way acquisition/relocation activities are not complete for some parcels [23 CFR 635.309(c)(3)]	FHWA for Interstate STATE for Non-Interstate	STATE
Ensure compliant Right-of-Way certificate is in place [23 CFR 635.309(c)]	STATE	STATE
Approve Hardship and Protective Buying [23 CFR 710.503] (If a Federal-aid project) (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve Interstate Real Property Interest Use Agreements [23 CFR 710.405] (Note: this action cannot be assumed by State)	FHWA	N/A
Approve non-highway use and occupancy [23 CFR 1.23(c)]	FHWA for Interstate STATE for Non-Interstate (3)	STATE (3)
Approve disposal at less than fair market value of federally funded real property, including disposals of access control [23 U.S.C. 156] (Note: this action cannot be assumed by State)	FHWA	FHWA

PROJECT ACTION RESPONSIBILITY MATRIX (as of June 2, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	**AGENCY RESPONSIBLE**	
	PROJECTS ON THE NHS	**PROJECTS OFF THE NHS**
Approve disposal at fair market value of federally funded real property, including disposals of access control [23 CFR 710.409] (Note: 23 CFR 710.201 authorizes FHWA and STATE to agree to scope of property-related oversight and approvals for all actions except those on the Interstate System)	FHWA for Interstate STATE for Non-Interstate (3)	STATE (3)
Requests for credits toward the non-Federal share of construction costs for early acquisitions, donations or other contributions applied to a project (note: this action cannot be assumed by State)	FHWA	FHWA
Federal land transfers [23 CFR 710, Subpart F] (Note: this action cannot be assumed by State)	FHWA	FHWA
Functional replacement of property [23 CFR 710.509] (Note: this action cannot be assumed by State)	FHWA	FHWA
SYSTEM OPERATIONS AND PRESERVATION (Design Phase)		
Accept Transportation Management Plans (23 CFR 630.1012(b))	STATE	STATE
Approval of System Engineering Analysis (for ITS) [23 CFR 940.11]	STATE	STATE
PS&E AND ADVERTISING (Design Phase)		
Approve PS&E [23 CFR 630.201]	STATE	STATE
Authorize advance construction and conversions [23 CFR 630.703 & 709] (Note: this action cannot be assumed by State)	FHWA	FHWA
Approve utility or railroad force account work	STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of June 2, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
[23 CFR 645.113 & 646.216]		
Approve utility and railroad agreements [23 CFR 645.113 & 646.216]	STATE	STATE
Approve use of consultants by utility and railroad companies [23 CFR 645.109(b) & 646.216(b)]	STATE	STATE
Approve exceptions to maximum railroad protective insurance limits [23 CFR 646.111]	STATE	STATE
Authorize (approve) advertising for bids. [23 CFR 635.112, 309]	STATE	STATE
CONTRACT ADVERTISEMENT AND AWARD (Design Phase) **All contracts to be done by competitive bidding unless otherwise authorized by law**		
Approve cost-effectiveness determinations for construction work performed by force account or by contract awarded by other than competitive bidding [23 CFR 635.104 &.204]	STATE	STATE
Approve use of local force account agreements [23 CFR 635.104 & 204]	STATE	STATE
Approve use of publicly owned equipment [23 CFR 635.411]	STATE	STATE
Approve the use of proprietary products, processes [23 CFR 635.411]	STATE	STATE
Concur in use of publicly furnished materials [23 CFR 635.407]	STATE	STATE
Approve emergency determinations for contracts awarded by other than competitive bidding [23 CFR 635.104 &.204]	STATE	STATE
Approve construction engineering	STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of June 2, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
State DOT under 49 CFR 26.51(d). [49 CFR 26.51(e)(3)]		
Acceptance of Bidder's Good Faith Efforts to Meet Contract Goal [49 CFR 26.53] or of Prime Contractor's Good Faith Efforts to Find Another DBE Subcontractor When a DBE Subcontractor is Terminated or Fails to Complete Its Work [49 CFR 26.53(g)] (Note: this action cannot be performed by the FHWA)	STATE	STATE
Equal Opportunity (EO) Contract Compliance Review [23 CFR Part 230, Subpart D]).	STATE	STATE
Training Special Provision – Approval of Project Goal for training slots or hours [23 CFR Part 230, Subpart A]	STATE	STATE
Training Special Provision – Approval of New Project Training Programs (Note: this action cannot be assumed by State) [23 CFR 230.111(d), (e)]	FHWA	FHWA

FOOTNOTES:

(1) State is responsible for ensuring that all individual elements of the project are eligible. FHWA will check that the scope of the project as described in submitted project agreement is eligible for the category of funding sought. All final eligibility and participation determinations are retained by FHWA.

(2) If there is a 23 U.S.C. 326 or 325 assignment or PCE agreement, decisions are handled in accordance with those assignments or agreements.

(3) State's process and modifications to, or variation in process, require FHWA approval.

(4) Unusual/Complex bridges and structures are those that the Division determines to have unique foundation problems, new or complex designs, exceptionally long spans, exceptionally large foundations, complex hydrologic (including climate change and extreme weather events) aspects, complex hydraulic elements or scour related elements, or that are designed with procedures that depart from currently recognized acceptable practices (i.e., cable-stay,

PROJECT ACTION RESPONSIBILITY MATRIX (as of June 2, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	**AGENCY RESPONSIBLE**	
	PROJECTS ON THE NHS	**PROJECTS OFF THE NHS**
by local agency [23 CFR 635.105]		
Approve advertising period less than 3 weeks [23 CFR 635.112]	FHWA	FHWA
Approve addenda during advertising period [23 CFR 635.112]	STATE	STATE
Concur in award of contract [23 CFR 635.114]	STATE	STATE
Concur in rejection of all bids [23 CFR 635.114]	STATE	STATE
Approval of Design-Build Requests-for-Proposals and Addenda [23 CFR 635.112]	STATE	STATE
CONSTRUCTION (Construction Phase)		
Approve changes and extra work [23 CFR 635.120]	STATE	STATE
Approve contract time extensions [23 CFR 635.120]	STATE	STATE
Concur in use of mandatory borrow/disposal sites [23 CFR 635.407]	STATE	STATE
Accept materials certification [23 CFR 637.207]	STATE	N/A
Concur in settlement of contract claims [23 CFR 635.124]	STATE	STATE
Concur in termination of construction contracts [23 CFR 635.125]	STATE	STATE
Waive Buy America provisions [23 CFR 635.410] (Note: this action cannot be assumed by State)	FHWA	FHWA
Final inspection/acceptance of completed work [23 USC 114(a)]	STATE	STATE
CIVIL RIGHTS (All phases)		
Approval of Disadvantaged Business Enterprise (DBE) Project Contract Goal set by the	STATE	STATE

PROJECT ACTION RESPONSIBILITY MATRIX (as of June 2, 2015) (Excluding PoDIs, which are subject to separate PoDI Plans)		
ACTION	AGENCY RESPONSIBLE	
	PROJECTS ON THE NHS	PROJECTS OFF THE NHS
suspension, arch, segmental concrete, moveable, truss, tunnels, or complex geotechnical walls or ground improvement systems) (5) The State will justify and document exceptions to its design standards according to its law, regulation, and directives. FHWA does not have oversight responsibility for this activity because there is no Federal requirement for design exceptions for Federal-aid projects off the NHS. This activity is not considered a Federal action; thus, does not by itself trigger a FHWA environmental analysis under NEPA.		

ATTACHMENT B
MANUALS AND OPERATING AGREEMENTS

NCDOT Manuals (approved by FHWA for use on Federal-aid projects -- this list is provided as an example and is not all inclusive)

Policy on Street and Driveway Access to North Carolina Highways
Americans with Disabilities Act Transition Plan
NCDOT Policies and Procedures for Major Professional or Specialized Service contracts: https://connect.ncdot.gov/projects/Roadway/Private%20Engineering%20Firm%20Resources/Policies%20and%20Procedures.pdf
Construction Manual
Design Build Policy and Procedures
Design Exception Policy
Disadvantaged Business Enterprise (DBE) Plan
EO Contract Compliance Program Manual
Guidelines for Drainage Studies and Hydraulic Design
Highway Design Unit Design Manual
Highway Safety Improvement Plan
Indirect Cost Allocation Plan (Cost Pool Composition/Eligibility)
Life Cycle Cost Analysis Procedures
Local Program Management Office Handbook and Guidelines Materials Manual
NCDOT OJT Program Manual (English and Spanish)
NCDOT OJT Training/Supportive Services in the Federal Aid Highway Program
NCDOT Real Estate Appraisal Standards and Legal Principles (aka Appraisal Guide, revised/updated October 15, 2014)
Project Development and Environmental Analysis Procedures Manual
Roadway Design Manual
Roadway Standard Drawings
Roadway Standard Specifications and Provisions
Right of Way Manual (revised/updated January 6, 2014).
State Transportation Improvement Plan
Supplement to the MUTCD
Surplus Right of Way Disposal and Control of Access Review Committee Operating Procedures
Structures Management Unit Design Manual
Title VI Plan
Transportation Improvement Plan
Utility Manual and NCDOT Encroachment Agreement

Operating (Programmatic) Agreements
NEPA/404 Merger Process
Endangered Species Act Section 7
Endangered Species Act Informal Consultation
CE Agreement