
Attachment 2

PROJECT-SPECIFIC
TERMS AND CONDITIONS

DRAFT

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Project-Specific Terms and Conditions
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ARTICLE 1: PROJECT-SPECIFIC DESIGNATIONS

1.1 Recipient

This Agreement (Agreement) is between the Federal Railroad Administration (FRA) and the Durham County Government (the Recipient).

1.2 Project and Purpose

The purpose of this award is to fund a Fiscal Year (FY) 2022 Railroad Crossing Elimination Program for the Durham Rail-crossing Engagement, Planning, And Innovative Revitalization (Durham REPAIR) (the Project), as described in Article 4 of this Attachment 2, to help achieve the goals identified in the Notice of Funding Opportunity for Railroad Crossing Elimination Program, 87 Fed. Reg. 40335, July 6, 2022 that solicited applications for Federal financial assistance. FRA and the Recipient will accomplish that purpose by timely completing the Project and ensuring that this award does not substitute for non-Federal investment in the Project, except as proposed in the Application.

1.3 Program Designations

- (a) Research and Development. This award is not for research and development.
- (b) Project Size. This award is for a non-Major Project as that term is defined in FRA Guidance on Development and Implementation of Railroad Capital Projects, January 11, 2023 (Railroad Capital Projects Guidance).
- (c) Phased Funding. This award is not a phased funding agreement as further discussed in Section 6.7 of this Attachment 2.
- (d) Grant or Cooperative Agreement. This award is made as a Grant Agreement.
- (e) Security Risk. This award is for a Project that has a low security risk.
- (f) Rural Area. The information the Recipient provided to FRA, including in the Application, demonstrates this award is not for a Project in a Rural Area.

ARTICLE 2: SPECIAL TERMS AND CONDITIONS

There are no special terms for this award.

ARTICLE 3: ADMINISTRATIVE INFORMATION

3.1 Application

Application Title: Durham Rail-crossing Engagement, Planning, And Innovative Revitalization (Durham REPAIR)

Application Date: 10/10/2022

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3.2 FRA Awarding Official

FRA Office of Railroad Development
Federal Railroad Administration
1200 New Jersey Ave, SE
Washington, DC 20590
FRA-Grants@dot.gov

3.3 Federal Award Date

The “Federal Award Date” is the effective date of this Agreement, as defined under Section 24.4 of Attachment 1 of this Agreement.

3.4 Program Name and Assistance Listings Number

For the FY 2022 Railroad Crossing Elimination Grant Program, the Assistance Listings Number is 20.327 and the Assistance Listings Title is “Railroad Crossing Elimination”.

3.5 Recipient’s Unique Entity Identifier

The Recipient’s Unique Entity Identifier, as defined at 2 C.F.R. § 25.415, is listed in Section 1B on the Agreement cover sheet.

3.6 Federal Award Identification Number

The Federal Award Identification Number is listed in Section 2 on the Agreement cover sheet as the “Agreement Number.”

ARTICLE 4: STATEMENT OF WORK

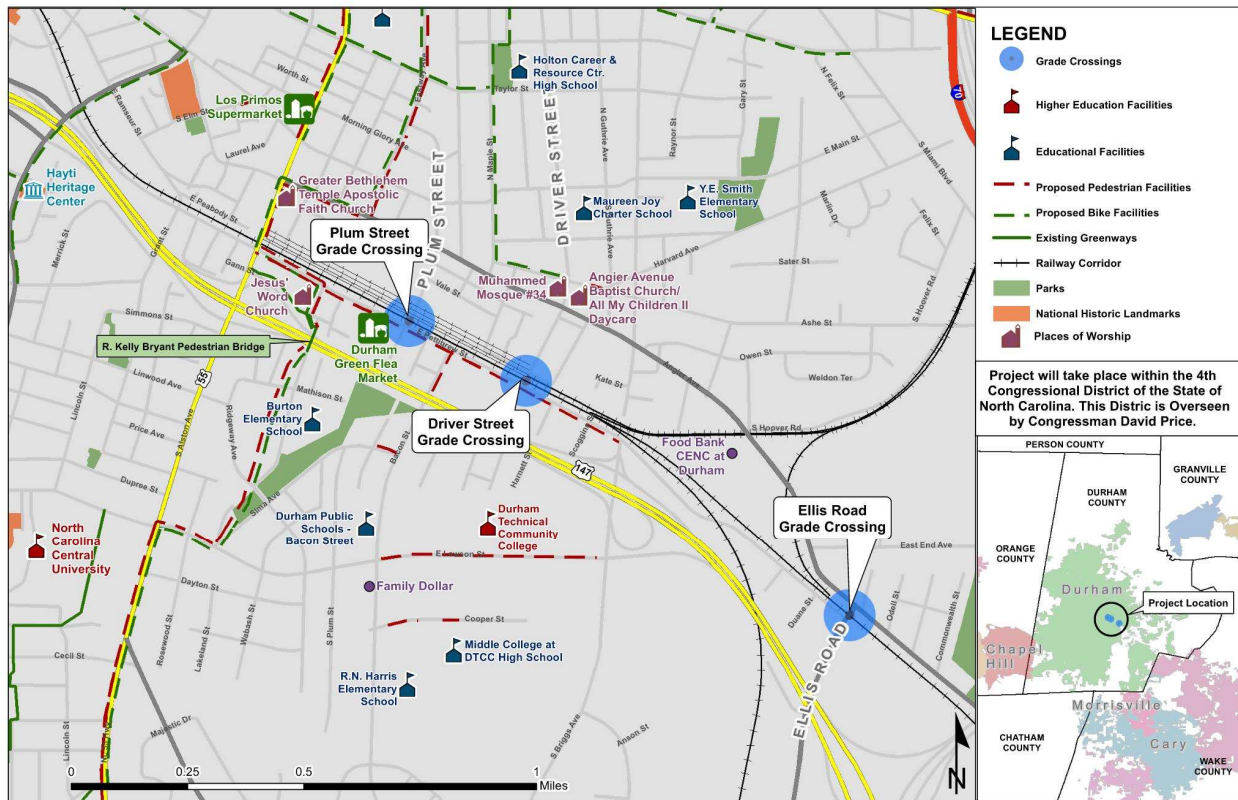
4.1 General Project Description

Durham REPAIR will study alternative options for separation or closure of the adjacent at-grade railroad crossings in East Durham. The rail crossings at Plum Street, Driver Street, and Ellis Road require separation, closures, or other improvements due to the historic and anticipated roadway and rail traffic levels and the recorded crash histories at each rail crossing (Project). The Project will study options to reduce incidents between trains and vehicles while increasing safety for pedestrians and bicyclists, expanding mobility options, and encouraging economic growth for the surrounding community. Additional potential benefits include decreased response time for first responders and increased reliability of trip times due to fewer delays caused by train traffic.

4.2 Project Location

The Project is located in the East Durham neighborhood in Durham County, North Carolina. The at-grade crossings are on the Norfolk Southern (NS) NC-Line of the Danville Subdivision. The crossings that will be studied are Plum Street (DOT # 630472K) at milepost (MP) 0056.430, Driver Street (DOT # 630471D) at MP 0056.710, and Ellis Road (DOT # 735236Y) at MP 0057.580. The below map shows the crossing locations.

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4.3 Project Scope

The Recipient will notify FRA in writing of any requested changes in Project Scope and will not proceed with the changed scope unless approved by FRA in writing. If approved, changes to Project Scope may require additional environmental review or an amendment to this Agreement.

Task 1: Project Administration and Management

Subtask 1.1: Project Administration

The Recipient will perform all tasks required for the Project through a coordinated process, which will involve affected railroad owners, operators, and funding partners, including:

- FRA
- NCDOT
- GoTriangle
- City of Durham
- North Carolina Railroad Company
- Norfolk Southern
- CSX
- Amtrak
- DCHC MPO

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The Recipient will facilitate the coordination of all activities necessary for implementation of the Project. The Recipient will:

- complete necessary steps to hire a qualified consultant/contractor to perform required Project work, as necessary;
- hold regularly scheduled Project meetings with FRA;
- inspect and approve work as it is completed; and
- participate in other coordination, as needed.

Subtask 1.2: Project Management Plan

The Recipient will prepare a Project Management Plan (PMP), that describes how the Project will be implemented and monitored to ensure effective, efficient, and safe delivery of the Project on time and within budget. The PMP will describe, in detail, the activities and steps necessary to complete the tasks outlined in this Statement of Work.

The PMP will include a Project Schedule and Project Budget for the work to be performed under this Agreement. The Project Schedule will be consistent with the Estimated Project Schedule in Section 5.2 of this Attachment 2, but provide a greater level of detail. Similarly, the Project Budget should be consistent with the Approved Project Budget in Section 6.5 of this Attachment 2, but provide a greater level of detail.

The Recipient will submit the PMP to FRA for review and approval. The Recipient will implement the Project as described in the approved PMP. The Recipient will not begin work on subsequent tasks until FRA has provided written approval of the PMP, unless FRA has provided pre-award authority for such work under Section 6.6 of this Attachment 2. FRA will not reimburse the Recipient for costs incurred in contravention of this requirement.

FRA may require the Recipient to update the PMP. The Recipient will submit any such updates to FRA for review and approval, and FRA will determine if updates to the PMP require an amendment to this Agreement. The Project Budget and Project Schedule may be revised consistent with Article 5 of Attachment 1 of this Agreement without amending this Agreement.

Subtask 1.3: Project Closeout

The Recipient will submit a Final Performance Report as required by Section 7.2 of Attachment 1 of this Agreement, which should describe the cumulative activities of the Project, including a complete description of the Recipient’s achievements with respect to the Project objectives and milestones.

Task 1 Deliverables:

Deliverable ID	Subtask	Deliverable Name
1.1	1.2	Project Management Plan

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1.2	1.3	Final Performance Report
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Task 2: Purpose & Need Statement and Stakeholder Coordination Plan

The Grantee acknowledges that work on Task 2 will not commence until the Subtask 1.2 Deliverable, Project Management Plan, has been completed, submitted to FRA, and the Grantee has received approval in writing from FRA to commence work on subsequent tasks. FRA will not reimburse the Grantee for costs incurred in contravention of this requirement.

Subtask 2.1: Preliminary Purpose and Need Statement

The Grantee will develop, and submit to FRA for approval, potential future Class of Action for the NEPA process to include, if applicable: a preliminary Purpose and Need statement to serve as the foundation for the Alternatives Analysis. The preliminary Purpose and Need is for project planning and will be subject to necessary agency and public review and comment as part of a potential future NEPA process.

Subtask 2.2: Stakeholder Coordination Plan

A Stakeholder Coordination Plan will need to identify key contacts within agencies, civic and business groups, public officials, relevant interest groups, present and potential riders/users, private service providers/shippers, other key stakeholder groups, and the public. The Stakeholder Coordination Plan will also identify potential state, local, and Federal agencies that should be consulted with. The plan will identify involvement activities linked to key milestones in the planning/conceptual engineering and alternatives analysis process and align with the Detailed Project Schedule from Task 1. The Grantee will prepare, and submit to FRA for approval, a Stakeholder Coordination Plan prior to beginning Community Engagement under Subtask 2.3.

Subtask 2.3 Community Engagement

The Grantee will prepare a Community Engagement Plan that identifies community engagement partners and stakeholders, establishes engagement responsibilities, sets quantitative and qualitative engagement objectives, explains the metrics to be used for measuring accomplishment of objectives, and describes engagement tools and methods. The Community Engagement Plan will align with the Grantee’s strategic goal for community empowerment and enrichment and the City of Durham’s equitable community engagement blueprint. Community engagement partners and stakeholders will include funding local groups who partner with the Grantee and other governments and agencies to lead engagement in their communities. This subtask will inform the Alternatives Analysis in Task 3 and proceed during the development of the Alternatives Analysis. Public Engagement will be re-initiated once the Preferred Alternative is selected, and Preliminary Engineering in Task 5 is underway.

The Grantee will prepare a Community Engagement Results Report that will record the results of the Community Engagement efforts under Subtask 2.3. The report will detail the results of achieved

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objectives in terms of identified interests and concerns, and it will describe opportunities for sustained community-based engagement strategies in the areas of the three studied crossings.

Task 2 Deliverables:

Deliverable ID	Subtask	Deliverable Name
2.1	2.1	Preliminary Purpose & Need Statement
2.2	2.2	Stakeholder Coordination Plan
2.3	2.3	Community Engagement Results Report

Task 3: Alternatives Analysis

The Grantee will submit to FRA, for approval, an Alternatives Analysis report, which will determine the preliminary range of reasonable alternatives to carry forward into future project development phases. The Grantee must consider at least two alternatives which can include the no-build alternative along with one proposed alternative for each rail crossing. The Alternatives Analysis report will build upon completed and approved deliverables identified in Tasks 1 and 2. Prior to initiating work under task 3 the Grantee will submit to FRA, for approval, a memo documenting the methodologies to be employed in carrying out Alternative Analysis.

Subtask 3.1: Existing Conditions

The Grantee will assess the condition of current rail operations and infrastructure and other conditions within the project area. This should include information on the roadway crossing characteristics, train operations and safety, pedestrian and bicycle facilities, maintenance activities, engineering/capacity constraints of the existing facilities or infrastructure. Identify any planned or programmed infrastructure improvements contained in state and local planning documents and check to see if rail operators have planned infrastructure enhancements.

- **Roadway Crossing Features:** The number of highway lanes, highway speed limit, traffic flows, character of highway traffic through the railroad crossing, types of traffic control devices (including protective devices), land use, sight distance, topography, and distance to the next closest crossing. Include information on sidewalks, bicycle lanes and public transit (if this applies).
- **Train Operations:** The number of train tracks, train speed and train traffic through the railroad crossing.

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- Safety: The safety of the highway-rail grade crossings (including crash history, near misses, injuries, fatalities, or incidences of rail-related trespassing for each railroad crossing, if such exists), and deficiencies that hinder achieving a higher level of safety.

Subtask 3.2: Transportation Technical Analysis

The Grantee will conduct a transportation technical analysis of the railroad crossing. The Federal Highway Administration *Scoping and Conducting Data-Driven 21st Century Transportation System Analyses* (2017)¹ document can be used as a reference to help scope the technical analysis. The transportation technical analysis should be completed for each alternative. General considerations for the technical analysis should include the following items listed below.

- Traffic counts per day that use the roadway now versus the traffic counts expected in the future, including any seasonal variation in traffic counts. Include pedestrian and bicycle counts if this applies
- Determine the travel delay including the peak demand for each railroad crossing
- Frequency and duration of roadway blockage by trains including sidewalks and bicycle lanes (if this applies) and consider peak demand for train operations
- Discuss the direction the travel delays are occurring in (northbound, southbound, westbound, and eastbound)
- The character of the adjacent road network and whether the railroad crossing creates access issues for the community, and does this consider future development projections close to the railroad crossing? For relevant circumstances, access issues for schools and/or emergency facilities

If the Grantee is performing a microsimulation, section 6 (pages 42-55) in the *Case Studies to Develop a Highway-Rail Grade Crossing Analysis Framework Using Microsimulation* (2023)² document should be used for guidance. Additionally, the Grantee should provide the supporting data for the technical analysis and if any traffic analysis tool(s) were used to perform the work. The Grantee will work with the FRA to determine any further technical analysis and traffic simulation required to perform a thorough assessment of vehicle movements impacted by potential grade crossing changes.

Subtask 3.3: Conceptual Engineering

The Grantee will develop conceptual engineering to a level sufficient to identify necessary infrastructure improvements and determine the cost estimates for each alternative. Conceptual engineering will include developing design criteria, track work concepts, structural concepts and roadway crossing

¹ *Scoping and Conducting Data-Driven 21st Century Transportation System Analyses* is available at <https://ops.fhwa.dot.gov/publications/fhwahop16072/fhwahop16072.pdf>

² *Case Studies to Develop a Highway-Rail Grade Crossing Analysis Framework Using Microsimulation* is available at <https://railroads.dot.gov/elibrary/case-studies-develop-highway-rail-grade-crossing-analysis-framework-using-microsimulation>

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concepts for grade separation or closure, track relocation, installation of protective devices (signals, signs, other and measures that improve safety), mobility enhancements, and technology solutions, etc. The Grantee will coordinate with key stakeholders including FRA on this task. The conceptual engineering designs will form the basis of the Project design and construction. The scope elements should fulfil the high-level conceptual engineering requirements found in the *Railroad Capital Project Guidance* (2023)³ document section V.b.ii.D.

Subtask 3.4: Capital Cost Estimates

The objective of this task is to identify the capital cost to design, construct, and implement the proposed project. The Grantee will provide capital cost estimates for each alternative, including quantity and unit cost of each element relating to core track structures, roadway crossing enhancements, land acquisition, contingencies, and any new facilities or upgrades required for train operations.

Subtask 3.5: Preliminary Environmental Impact Analysis

The objective of this task to is to identify key environmental considerations in the development of the alternatives to support future lifecycle stages of the project’s development. The Grantee will perform a high-level qualitative socioeconomic, cultural, human environment, and natural environmental resource inventory and preliminary effects analysis as part of the development and screening of options concurrently with tasks 3.3 and 3.4. The Grantee can use the *Railroad Capital Project Guidance* (2023)³ document section IV.b.ii.E as a high-level reference for developing the preliminary environmental analysis.

Task 3 Deliverables:

Deliverable ID	Subtask	Deliverable Name
3.1	3.1	Existing Conditions Report
3	3.2, 3.3, 3.5	Alternative Analysis (including Conceptual Engineering, Transportation Analysis, and Preliminary Environmental Impact Analysis)
3.4	3.4	Capital Cost Estimates

Task 4: Environmental Review

The objective of this task is to conduct an environmental review of the Project to support future lifecycle stages of the project’s development and eventual NEPA documentation. The Recipient will ensure the environmental documentation is completed for FRA review in accordance with 23 CFR Part

³ *Railroad Capital Project Guidance* is available at <https://railroads.dot.gov/elibrary/fra-guidance-development-and-implementation-railroad-capital-project>

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771 Environmental Impact and Related Procedures and 23 CFR Part 774, Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (section 4(f)) (effective Nov. 28, 2018) (Environmental Procedures) and other applicable environmental laws. The Grantee will conduct Project scoping to determine the key issues and will coordinate with FRA to identify necessary studies in accordance with FRA’s Environmental Procedures and other relevant authorities.

The Recipient will:

- Evaluate the Project with the use of qualified environmental professionals to determine its impact, including conducting a review of existing literature, and performing field reconnaissance.
- Conduct Project scoping to determine the key issues, potential effects, and necessary studies in accordance with FRA’s Environmental Procedures.
- Develop a public involvement plan in consultation with FRA that identifies key contacts within agencies, the news media, public officials, the general public, civic and business groups, relevant interest groups, present and potential riders/users, and private service providers/shippers. This plan will also identify how public involvement activities will be linked to key milestones in the planning/engineering and environmental process.
- Complete appropriate field investigations and technical reports which may include threatened and endangered species assessments/surveys, wetland delineations, socioeconomic analysis, historic architecture/ archaeological screening and/or surveys, as appropriate, traffic studies, conceptual costs of alternatives, community impact assessments, Phase I Hazardous Material, noise/vibration assessment, air quality assessment, etc.

Task 4 Deliverables:

Deliverable ID	Subtask	Deliverable Name
4		Technical Reports
4		Public Engagement Report

Task 5: Preliminary Engineering

The Grantee will submit to FRA, for approval, Preliminary Engineering Plans with a Cost Estimate, which will determine the preliminary design to carry forward into future project development phases.

- Grantee’s design submittals will include a title sheet identified with a drawing revision number or date; an index identifying various plan sheets comprising the drawing set; a legend of symbols or abbreviations.

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- The Grantee will provide scale maps or scale aerial photography of existing conditions at a scale of one inch = 100 to 500 feet depending on complexity of location. Civil plans should include the following elements, as applicable: design criteria and specifications; identification and location of ownership for all affected or abutting property; public and private roadway or railroad ROW; topography; existing facilities (roadway, railroad, utilities, buildings, structures, etc.); proposed modifications to existing facilities; new facilities; vertical profiles and grades; and typical sections and cross sections showing vertical and horizontal clearances. If applicable, railroad track design shall include the following elements: proposed track changes, showing track centers, turnouts, vertical clearances below and above all structures, horizontal clearances to obstructions within 25 feet of the centerline of track, horizontal curve and spiral data, vertical curve data and track design speed calculations for both passenger and freight trains.
- The PE plan set will also provide the proposed design criteria, proposed construction staging plan, staging areas and access roads for construction, typical sections of bridge and track, utilities (if any), structural arrangement showing substructure and superstructure, right-of-way limits, boring locations, a geotechnical investigation report showing boring logs and the foundation design criteria, and other relevant information required for construction.
- PE shall include a detailed engineering cost estimate for the materials and labor required to construct the Project. The PE cost estimate shall include an estimate of costs required for utility relocation or connection, ROW acquisition or easement, traffic control, railroad flagging, construction management, or project management. The PE cost estimate should include an appropriate level of contingency respective to the known design or unknown risks to be further resolved during FD or construction.

Task 5 Deliverables:

Deliverable ID	Subtask	Deliverable Name
5		Preliminary Engineering Plans
5		Cost Estimate
5		Utility Relocation Cost Estimate
5		ROW Relocation Cost Estimates

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Additional Task

Additional Task: Approved NEPA Document

If FRA determines it is appropriate to include an Additional Task, describe the task, deliverables, and estimated budget for that Task.

The Recipient will not perform this Task unless: (1) all other work under this Agreement is complete, and (2) FRA provides the Recipient with written approval to proceed with this Additional Task in accordance with Section 5.5 of Attachment 1 of this Agreement.

Task 6: NEPA Documentation

In accordance with FRA's Procedures for Considering Environmental Impacts, Recipient will provide appropriate information to assist FRA in determining the appropriate class of action. If FRA determines the appropriate class of class of action is a categorical exclusion (CE), the Recipient will:

- Evaluate the Project with the use of qualified environmental professionals to determine its impact, including conducting a review of existing literature, and performing field reconnaissance. Deliverables from Task 4 should be incorporated.
- Complete the FRA CE worksheet providing the current project description, appropriate project maps, and any other relevant background information.

If FRA determines an Environmental Assessment (EA) is the appropriate class of action for the future construction of the Project, the Recipient will:

- Undertake an Environmental Assessment (EA) in accordance with FRA's Environmental Procedures, as further described below.
- Assess public engagement report and conduct additional studies, if necessary, in accordance with FRA's Environmental Procedures.
- Prepare an EA in coordination with FRA to include, but not be limited to, the following: definition of the Project and existing conditions, identification of the purpose of and need for the Project, identification and analysis of project build alternatives and a no-action alternative, and an analysis of existing conditions in comparison to the impacts of the proposed action. Recipient will submit a Draft EA to the FRA for review and comment. Recipient will address FRA comments and produce a Final Environmental Assessment for FRA for review and approval. If determined appropriate in consultation with FRA, the EA would be circulated for public and agency review and comment. Through consultation with the FRA and confirmation that no significant impacts are anticipated, Recipient will produce a draft Finding of No Significant Impact (FONSI), along with a Response to Comments document if the EA is publicly circulated and submit it to the FRA for review and completion. If there is an indication of potential for significant impact that cannot be mitigated and FRA determines that a draft Environmental Impact Statement (EIS) is required, Recipient will establish scopes and costs for the preparation

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of an EIS as well as concomitant additional public outreach activities. Lastly, Recipient will identify all necessary permits required for the Project’s implementation.

Additional Task Deliverables:

Deliverable ID	[Subtask]	Deliverable Name
		NEPA Class of Action
		Draft NEPA Document
		Final NEPA Document

Implement Required Environmental Commitments

The Recipient will implement the Project consistent with the documents and environmental commitments identified below.

None.

ARTICLE 5: AWARD DATES AND ESTIMATED PROJECT SCHEDULE

5.1 Award Dates

Budget Period End Date: 12/31/2026

Period of Performance End Date: 12/31/2026

5.2 Estimated Project Schedule

Milestones associated with this Agreement are identified in Table 5-A: Estimated Project Schedule. The Recipient will complete these milestones to FRA’s satisfaction by the Schedule Date, subject to Article 5 of Attachment 1 of this Agreement. The Recipient will notify FRA in writing when it believes it has achieved the milestone.

Instructions: Illustrative milestones are identified in the below table. Provide additional or alternative milestones as appropriate for the Project.

Table 5-A: Estimated Project Schedule

Milestone	Schedule Date
Subtask 1.2: Project Management Plan	09/30/2024

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Task 2: Purpose & Need Statement and Stakeholder Coordination Plan	9/30/2024
Task 3: Alternatives Analysis	6/30/2025
Task 4: Environmental Review Document	9/30/2026
Task 5: Preliminary Engineering	9/30/2026
Subtask 1.3: Final Performance Report	12/31/2026

ARTICLE 6: AWARD AND PROJECT FINANCIAL INFORMATION

6.1 Award Amount

Agreement Federal Funds: \$1,220,000

6.2 Federal Obligation Information

Federal Obligation Type: Single

6.3 Federal Authorization and Funding Source.

Authorizing Statute: Sections 22104 and 22305 of the Infrastructure Investment and Jobs Act, Public Law 117-58 (November 15, 2021); 49 U.S.C. § 22909

Appropriation: Advanced Appropriation in the Infrastructure Investment and Jobs Act, Division J, Title II (Public Law 117-58 (2021))

6.4 Funding Availability

Program funding that is obligated under this Agreement remains available until expended.

6.5 Approved Project Budget

The estimated total Project cost under this Agreement is \$1,525,000.00.

FRA will contribute a maximum of 80% percent of the total Project cost, not to exceed the Agreement Federal Funds in Section 6.1 of this Attachment 2. FRA will fund the Project at the lesser amount of the Agreement Federal Funds or the FRA maximum contribution percentage of total Project costs.

The Recipient will contribute \$305,000 in Agreement Non-Federal Funds. Recipient’s Agreement Non-Federal Funds are comprised of cash.

The Recipient will complete the Project to FRA’s satisfaction within the Approved Project Budget, subject to Article 5 of Attachment 1 of this Agreement.

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Table 6-A: Approved Project Budget by Task

Task #	Task Title	Agreement Federal Funds	Agreement Non-Federal Funds	Total
1	Project Administration and Management	\$20,000	\$5,000	\$25,000
2	Purpose & Need Statement and Stakeholder Coordination Plan	\$120,000	\$30,000	\$150,000
3	Alternatives Analysis	\$200,000	\$50,000	\$250,000
4	Environmental Review	\$440,000	\$110,000	\$550,000
5	Preliminary Engineering	\$440,000	\$110,000	\$550,000
Total		\$1,220,000	\$305,000	Total Project Cost: \$1,525,000

Table 6-B: Approved Project Budget by Source

Funding Source	Total Amount	Percentage of Total Project Cost
Federal Share	\$1,220,000	80%
Agreement Federal Funds	\$1,220,000	80%
Railroad Crossing Elimination	\$1,220,000	80%
Agreement Non-Federal Funds	\$305,000	20%
Durham County	\$305,000	20 %
Total Project Cost	\$1,525,000	100%

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6.7 Phased Funding Agreement

Not applicable.

ARTICLE 7: PERFORMANCE MEASUREMENT INFORMATION

Table 7-A: Performance Measurement Table identifies the performance measures that this Project is expected to achieve. These performance measures will enable FRA to assess the Recipient’s progress in achieving grant program goals and objectives. The Recipient will report on these performance measures in accordance with the frequency and duration specified in Table 7-A.

Upon Project completion, the Recipient will submit reports comparing the actual Project performance of the new and or improved asset(s) against the pre-Project (baseline) performance and expected post-Project performance as described in Table 7-A. The Recipient will submit the performance measures report to the Project Manager in accordance with Table 7-A.

Table 7-A: Performance Measurement Table

Goal	Objective	Performance Measure	Description of Measure	Measurement	Reporting
Goal 1		Selection of Alternative	<i>Durham County will select the alternative for the future Construction Project</i>	Pre-Project (Baseline) Performance as of September 2022: Several proposed alternatives	Frequency: Once
				Expected Post-Project Performance: One alternative chosen	Duration: Once, upon completion of the Project.

ARTICLE 8: ENVIRONMENTAL COMPLIANCE

In accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), other environmental statutes, related regulatory requirements, and FRA’s NEPA implementing regulations (23 CFR part 771), FRA has determined that the actions funded under this Agreement as described in Attachment 2, Article 4, Tasks 2-6, are categorically excluded from detailed environmental review pursuant to 23 CFR 771.116 (c) (3) and (8). In accordance with Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108; 36 CFR part 800), FRA has also determined that the actions funded under this Agreement have no potential to cause effects to historic properties. The actions do not require the use of property protected by Section 4(f) of the Department of Transportation Act (49 USC § 303; 23 CFR part 774).

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Categorical exclusions (CEs) are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.1(d). In analyzing the applicability of a CE, FRA also considered whether unusual circumstances are present that would warrant a more detailed environmental review through the preparation of an EA or EIS. In accordance with 23 CFR 771.116 (a) and (b), FRA has further concluded that no unusual circumstances exist with respect to development of the activities funded under this grant that might trigger the need for a more detailed environmental review.

If ground disturbing activities (i.e., geotechnical boring, trenching, tree clearing, vegetation removal, etc.) are necessary prior to completion of NEPA process for the Project, the Recipient must notify FRA of the proposed work prior to conducting the activities. The Recipient must not proceed with such activities until FRA has reviewed and provide in writing a notice to proceed. FRA will comply with all applicable federal laws and regulations including but not limited to Section 106 NHPA and Section 7 ESA.

Should conditions or the scope of the action change, the Recipient must notify FRA and receive written response and notice to proceed before proceeding. FRA will evaluate whether this determination remains applicable or if additional environmental review is necessary.

ARTICLE 9: CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE IMPACTS

9.1 Consideration of Climate Change and Environmental Justice Impacts

This Section identifies how the Project addresses climate change and environmental justice priorities. The Recipient certifies that rows marked with "X" in the following table are accurate:

x	The Project directly supports a Local/Regional/State Climate Action Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Project directly supports a Local/Regional/State Equitable Development Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Project directly supports a Local/Regional/State Energy Baseline Study that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
x	The Recipient or a Project partner used environmental justice tools, such as the EJSCREEN, to minimize adverse impacts of the Project on environmental justice communities. <i>(Identify the tool(s) in the supporting narrative below.)</i>
x	The Project supports a modal shift in freight or passenger movement to reduce emissions or reduce induced travel demand. <i>(Describe that shift in the supporting narrative below.)</i>

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	The Project utilizes demand management strategies to reduce congestion, induced travel demand, and greenhouse gas emissions. <i>(Describe those strategies in the supporting narrative below.)</i>
	The Project incorporates electrification infrastructure, zero-emission vehicle infrastructure, or both. <i>(Describe the incorporated infrastructure in the supporting narrative below.)</i>
	The Project supports the installation of electric vehicle charging stations. <i>(Describe that support in the supporting narrative below.)</i>
	The Project promotes energy efficiency. <i>(Describe how in the supporting narrative below.)</i>
	The Project serves the renewable energy supply chain. <i>(Describe how in the supporting narrative below.)</i>
x	The Project improves disaster preparedness and resiliency. <i>(Describe how in the supporting narrative below.)</i>
	The Project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, such as through reduction in Clean Air Act criteria pollutants and greenhouse gases, improved stormwater management, or improved habitat connectivity. <i>(Describe how in the supporting narrative below.)</i>
	The Project repairs existing dilapidated or idle infrastructure that is currently causing environmental harm. <i>(Describe that infrastructure in the supporting narrative below.)</i>
	The Project supports or incorporates the construction of energy- and location-efficient buildings. <i>(Describe how in the supporting narrative below.)</i>
	The Project includes recycling of materials, use of materials known to reduce or reverse carbon emissions, or both. <i>(Describe the materials in the supporting narrative below.)</i>
x	The Project includes other actions or attributes that address climate change and environmental justice. <i>(Describe those actions in the supporting narrative below.)</i>
	The Project does not include actions or attributes that address climate change and environmental justice but, before beginning construction of the Project, the Recipient will take relevant actions described below to address climate change and environmental justice impacts of the Project. <i>(Identify the relevant actions in the supporting narrative below.)</i>

9.2 Supporting Narrative

As a planning study, most benefits described here would apply only if the plan were implemented. This project would support efforts to reduce greenhouse gas emissions as described in the joint City of Durham & Durham County Greenhouse Gas and Criteria Air Pollution Emissions Inventory and Local Action Plan for Emission Reductions by incorporating improved bicycle and pedestrian facilities and by

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facilitating future expansion of rail capacity to support increased passenger and freight use. This directly demonstrates efforts to “further integrate non-motorized transportation into...transportation and land-use planning” as described on page 56 of the Local Action Plan.

Durham County prepared an Equity Analysis as part of its grant application. This analysis assessed the four Census Block Groups most immediately impacted by this project. The analysis reviewed demographic data in the Equity Study Area as compared to Durham County and North Carolina, finding a notably higher minority and low-income proportion of the population throughout this project area. The USDOT’s Areas of Persistent Poverty and Historically Disadvantaged Communities Tool was also used in the Equity Analysis. All Block Groups within the project area were identified as Areas of Persistent Poverty based on the following categories: Transportation Access, Environmental, Economic, and Resilience. The equity analysis found that given the high concentrations of low-income and minority communities in the project area, “a potential at-grade rail crossing closure or grade separation would increase safety and mobility in East Durham for motorists, bicyclists, and pedestrians. The planning, engagement, environmental documentation, and preliminary design for potential closure or grade-separated facilities benefit mainly the minority community.” Durham County intends to apply a similar equity analysis to minimize and mitigate the impact of the rail improvements on the East Durham community.

This project would improve the safety of rail movement in the area, thereby incentivizing additional freight and passenger rail usage. Additionally, the reduced rate of crashes from improvements to any of these crossings would reduce the number of delays that occur from crashes. This reduction in delays would improve efficiency, reliability, and further support a modal shift of both freight and passenger traffic to rail.

The study will also consider opportunities for improvements that would improve the speed and reliability of emergency response times, which would improve disaster preparedness and resiliency.

ARTICLE 10: RACIAL EQUITY AND BARRIERS TO OPPORTUNITY

10.1 Efforts to Improve Racial Equity and Reduce Barriers to Opportunity

This Section identifies how the Project addresses efforts to improve racial equity and reduce barriers to opportunity. The Recipient certifies that rows marked with “X” in the following table are accurate:

X	A racial equity impact analysis has been completed for the Project. <i>(Identify a report on that analysis or, if no report was produced, describe the analysis and its results in the supporting narrative below.)</i>
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	The Recipient or a Project partner has adopted an equity and inclusion program/plan or has otherwise instituted equity-focused policies related to project procurement, material sourcing, construction, inspection, hiring, or other activities designed to ensure racial equity in the overall delivery and implementation of the Project. <i>(Identify the relevant programs, plans, or policies in the supporting narrative below.)</i>
x	The Project includes physical-barrier-mitigating land bridges, caps, lids, linear parks, and multimodal mobility investments that either redress past barriers to opportunity or that proactively create new connections and opportunities for underserved communities that are underserved by transportation. <i>(Identify the relevant investments in the supporting narrative below.)</i>
x	The Project includes new or improved walking, biking, and rolling access for individuals with disabilities, especially access that reverses the disproportional impacts of crashes on people of color and mitigates neighborhood bifurcation. <i>(Identify the new or improved access in the supporting narrative below.)</i>
	The Project includes new or improved freight access to underserved communities to increase access to goods and job opportunities for those underserved communities. <i>(Identify the new or improved access in the supporting narrative below.)</i>
	The Recipient has taken other actions related to the Project to improve racial equity and reduce barriers to opportunity. <i>(Describe those actions in the supporting narrative below.)</i>
	The Recipient has not yet taken actions related to the Project to improve racial equity and reduce barriers to opportunity but, before beginning construction of the Project, the Recipient will take relevant actions described below to improve racial equity and reduce barriers to opportunity. <i>(Identify the relevant actions in the supporting narrative below.)</i>

10.2 Supporting Narrative

Durham County’s Equity Analysis discussed in response to Article 9 of this Grant Agreement also applies here. Durham County prepared an Equity Analysis as part of its grant application. This analysis assessed the four Census Block Groups most immediately impacted by this project. The analysis reviewed demographic data in the Equity Study Area as compared to Durham County and North Carolina, finding a notably higher minority and low-income proportion of the population throughout this project area. The USDOT’s Areas of Persistent Poverty and Historically Disadvantaged Communities Tool was also used in the Equity Analysis. All Block Groups within the project area were identified as Areas of Persistent Poverty based on the following categories: Transportation Access, Environmental, Economic, and Resilience. The equity analysis found that given the high concentrations of low-income and minority communities in the project area, “a potential at-grade rail crossing closure or grade separation would increase safety and mobility in East Durham for motorists, bicyclists, and pedestrians. The planning, engagement, environmental documentation, and preliminary design for potential closure or grade-separated facilities benefit mainly the minority community.”

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This study will consider opportunities to incorporate improved walking, biking, and rolling access across the railway. These improvements will improve safety in a majority-minority community in an area with a history of crashes. Additionally, by analyzing improved access opportunities to cross the railway, this project will mitigate neighborhood bifurcation. These improvements will help mitigate the barrier to safe access across the tracks experienced not only by vehicular traffic, but also by pedestrians and bicyclists, thereby creating new connections and opportunities for the underserved community in the project area.

ARTICLE 11: LABOR AND WORK

11.1 Efforts to Support Good-Paying Jobs and Strong Labor Standards

This Section identifies the Recipient’s efforts to support good-paying jobs and strong labor standards related to the Project. The Recipient certifies that rows marked with “X” in the following table are accurate:

	The Recipient or a Project partner has adopted the use of project labor agreements in the overall delivery and implementation of the Project. <i>(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)</i>
	The Recipient or a Project partner has adopted the use of local and economic hiring preferences in the overall delivery and implementation of the Project, subject to all applicable State and local laws, policies, and procedures. <i>(Describe the relevant provisions in the supporting narrative below.)</i>
	The Recipient or a Project partner has adopted the use of registered apprenticeships in the overall delivery and implementation of the Project. <i>(Describe the use of registered apprenticeships in the supporting narrative below.)</i>
	The Recipient or a Project partner will provide training and placement programs for underrepresented workers in the overall delivery and implementation of the Project. <i>(Describe the training programs in the supporting narrative below.)</i>
	The Recipient or a Project partner will support free and fair choice to join a union in the overall delivery and implementation of the Project by investing in workforce development services offered by labor-management training partnerships or setting expectations for contractors to develop labor-management training programs. <i>(Describe the workforce development services offered by labor-management training partnerships in the supporting narrative below.)</i>

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	<p>The Recipient or a Project partner will provide supportive services and cash assistance to address systemic barriers to employment to be able to participate and thrive in training and employment, including childcare, emergency cash assistance for items such as tools, work clothing, application fees and other costs of apprenticeship or required pre-employment training, transportation and travel to training and work sites, and services aimed at helping to retain underrepresented groups like mentoring, support groups, and peer networking. <i>(Describe the supportive services and/or cash assistance provided to trainees and employees in the supporting narrative below.)</i></p>
	<p>The Recipient or a Project partner has documented agreements or ordinances in place to hire from certain workforce programs that serve underrepresented groups. <i>(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)</i></p>
	<p>The Recipient or a Project partner participates in a State/Regional/Local comprehensive plan to promote equal opportunity, including removing barriers to hiring and preventing harassment on work sites, and that plan demonstrates action to create an inclusive environment with a commitment to equal opportunity, including:</p> <ul style="list-style-type: none"> a. affirmative efforts to remove barriers to equal employment opportunity above and beyond complying with Federal law; b. proactive partnerships with the U.S. Department of Labor’s Office of Federal Contract Compliance Programs to promote compliance with EO 11246 Equal Employment Opportunity requirements; c. no discriminatory use of criminal background screens and affirmative steps to recruit and include those with former justice involvement, in accordance with the Fair Chance Act and equal opportunity requirements; d. efforts to prevent harassment based on race, color, religion, sex, sexual orientation, gender identity, and national origin; e. training on anti-harassment and third-party reporting procedures covering employees and contractors; and f. maintaining robust anti-retaliation measures covering employees and contractors. <p><i>(Describe the equal opportunity plan in the supporting narrative below.)</i></p>
	<p>The Recipient has taken other actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards. <i>(Describe those actions in the supporting narrative below.)</i></p>
	<p>The Recipient has not yet taken actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards but, before beginning construction of the Project, will take the relevant actions described below. <i>(Identify the relevant actions in the supporting narrative below.)</i></p>

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11.2 Supporting Narrative

Durham County has a history of supporting Minority and Women-Owned Business Enterprise (MWBE) firms through its policies and programs. It is the policy of the County to provide minority and women-owned businesses equal opportunities to participate in all aspects of the County's contracting programs. The County has set an overall MWBE goal of 25% in purchasing.

The County also supports livable wage practices, including requiring through The Durham County Economic Development Incentive Policy that recruited companies pay wages above the regional average, exceed the County's living wage, follow all anti-discrimination laws, post jobs through NC Works, and commit to community partnerships such as local hiring, apprenticeships, and MWBE spending. Additionally, Durham County is an active participant in and supporter of the Durham Workforce Development Board, which is responsible for the planning, oversight and coordination of workforce development initiatives that help support economic development in Durham.

The project currently only entails the planning stage. Durham County does not traditionally engage in roadway construction or maintenance. Actual construction will likely occur through another entity, such as NCDOT. Therefore, Durham County cannot presently commit to what specific actions will be taken at that time.

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