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PROGRAMMATIC AGREEMENT
BETWEEN
THE FEDERAL HIGHWAY ADMINISTRATION FLORIDA DIVISION
AND
THE FLORIDA DEPARTMENT OF TRANSPORTATION
REGARDING THE REVIEW AND APPROVAL OF
SPECIFIC TYPES OF CHANGES IN INTERSTATE-SYSTEM ACCESS

THIS PROGRAMMATIC AGREEMENT ("PA"), made and entered into this 2 day of April 2025, by and between the FEDERAL HIGHWAY ADMINISTRATION, UNITED STATES DEPARTMENT OF TRANSPORTATION ("FHWA") and the STATE of FLORIDA acting by and through its DEPARTMENT OF TRANSPORTATION ("FDOT"), hereby provides as follows:

WITNESSETH:

Whereas, 23 U.S.C. 111(a) provides that all agreements between the Secretary of U.S. Department of Transportation and the State transportation department for the construction of projects on the Interstate System (hereafter I-System) must contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary; and

Whereas, the Secretary has delegated the responsibility for approving additions and/or modifications of access to, or exit from, the I-System to the FHWA Administrator through 49 CFR 1.85(a)(1) and the FHWA Administrator has delegated specific actions of this responsibility to FHWA Division Administrators through the FHWA Delegations and Organization Manual; and

Whereas, FHWA's current regulation 23 CFR 624 (Part 624) – Interstate System Access, which describes the justification and documentation that is necessary to substantiate a proposed change in access to the I-System, was posted to the Federal Register on November 9, 2024 and made effective on December 9, 2024; and

Whereas, FHWA's Interstate System Access Informational Guide describes FHWA's procedures for processing I-System access requests; and

Whereas, section 1318(d) of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and 23 U.S.C. 111(e) provide the Secretary with the authority to enter into programmatic agreements with the States that establish efficient administrative procedures for carrying out required project reviews, which are further described in 23 CFR 624.13; and

Whereas, FHWA may establish procedures to expeditiously and efficiently process and approve I-System access requests where States compile, review, and process information related to I-System access changes; and

Whereas, the Florida Department of Transportation (FDOT) has agreed to enter

into an agreement with FHWA to process approvals for specific types of changes in I-System access; and

Whereas, the FDOT has agreed to conduct the necessary review and assessment of the justification and documentation (access report) substantiating the proposed change in access, and based on this assessment, make a determination whether the proposal meets requirements set forth in this agreement for approval; and

Whereas, FHWA remains legally responsible for the approval of all changes in I-System access; and

Whereas, I-System access changes also require compliance with transportation planning, air quality conformity, congestion management, and the National Environmental Policy Act (NEPA), which are addressed as processes outside this agreement;

Now, therefore, the FHWA and FDOT enter into this Programmatic Agreement (Agreement) for the processing of specific types of changes in I-System access subject to the following terms and conditions:

SECTION I. CHANGES IN I-SYSTEM ACCESS THAT THE STATE MAY REVIEW AND PROVIDE SAFETY, OPERATIONAL AND ENGINEERING ACCEPTABILITY DETERMINATION AND MAY RECEIVE EXPEDITED FHWA APPROVAL

A. This Agreement allows FDOT to conduct the necessary review and assessment of the justification and documentation substantiating certain proposed changes in I-System access, make a determination on the safety, operational and engineering (SO&E) acceptability of proposed changes, and request expedited FHWA approval. FHWA's lack of objections to the FDOT's determination within the time periods established in Section II.B would constitute FHWA's concurrence and the approval required under 23 U.S.C. 111(a). This Agreement does not delegate FHWA's approval responsibility under 23 U.S.C. 111(a) or FHWA's responsibilities under environmental or other Federal laws. This Agreement applies to all proposed I-System access requests covered by Section I.B., including privately funded actions.

B. Under 23 CFR 624.13, FDOT will limit its processing and determinations of I-System change of access requests under this Agreement to:

   1. New freeway-to-crossroad (service) interchanges;
   2. Modifications to existing freeway-to-crossroad (service) interchanges; and
   3. Completion of basic movements at existing partial interchanges.

C. This agreement does not include:

   1. New or modified freeway-to-freeway (system) interchanges;
   2. New interchanges or ramps to provide intermittent access during special events;
   3. New partial interchanges;
   4. Closure of individual access points that result in partial interchanges or closure of

entire interchanges; and

5. Locked gate access.

SECTION II. PROCESSING REQUIREMENTS FOR I-SYSTEM ACCESS REQUESTS

A. FDOT will justify and document the information that substantiates changes in I-System access in the form of an access report. The FDOT will then use this justification and documentation as a basis for a determination of SO&E acceptability. A determination of SO&E acceptability may only be given by FDOT upon verification that the justification and documentation successfully addresses requirements under 23 CFR 624, including—but not limited to—Interstate System access requirements under 23 CFR 624.7, approval process requirements under 23 CFR 624.9, and Interstate Access Justification Report requirements under 23 CFR 624.11.

B. FHWA's final approval of the new or modified access may proceed according to either a one-step or two step process:

1. One-step Process: Upon completion of the NEPA process and **FDOT** approval of the Record of Decision (ROD), Finding of No Significant Impact (FONSI) or Categorical Exclusion (CE) determination and completion of planning requirements, the FDOT submits its determination of SO&E acceptability (Section II(A)) to the FHWA Division Office for approval. FDOT will allow the FHWA Division Office 5 business days (or as agreed upon by the Division and DOT) to object to the determination. The FHWA Division Office's lack of objections to the FDOT's determination within this period will constitute FHWA's concurrence and the approval required under 23 U.S.C. 111(a).

2. Two-step Process: FDOT submits its determination of SO&E acceptability (Section II(A)) to the FHWA Division Office for review before the completion of the NEPA process and **FDOT** approval of the ROD, FONSI, or CE determination, consistent with 23 U.S.C. 327, and completion of planning requirements. The FHWA Division Office will provide objections by official correspondence within 5 business days (or as agreed upon by the Division and DOT). The FHWA Division Office's lack of objections to the FDOT's determination within this period will constitute FHWA's conditional concurrence with SO&E acceptability determination subject to the completion of NEPA.

   Upon completion of the NEPA process and **FDOT** approval of the ROD, FONSI, or CE determination and the completion of planning requirements, the FDOT will submit to the FHWA Division Office summary information concerning the access request, and provide the decision dates for the SO&E and NEPA determinations with documentation demonstrating that the alternative covered by the favorable SO&E determination is of the same scope and design as the alternative selected and approved in the NEPA decision . The FDOT will allow 5 business days (or as agreed upon by the Division and DOT) for FHWA Division objections to the request for final approval of the access modification. The FHWA Division Office's lack of objections to the FDOT's determination within this period will constitute FHWA's full concurrence and the approval required under 23 U.S.C. 111(a).

C. Only the State DOT Chief Engineer of Production has the authority to make the determination on the SO&E acceptability of a proposed access modification in accordance with the Policy.

    1. In the event the DOT Chief Engineer is not available, the acting Chief Engineer has the authority to make the SO&E acceptability determination.

D. FDOT may create and rely on electronic means to make available the notifications to the FHWA Division Office.

E. The notification of the FDOT's review and determination for each request for change in I-System access, whether electronic or written, will include:

    1. the location and type of change in I-System access;
    2. the location where information substantiating acceptability of the proposed change in I-System access may be accessed;
    3. a verification that the required analysis, review and actions taken in considering and processing the modification comply with this agreement and 23 CFR 624 – Interstate System Access; and
    4. the acceptability determination by the FDOT Chief Engineer.

SECTION III. EXCLUSIONS TO ACTIONS PROCESSED UNDER THIS AGREEMENT SITUATIONS REQUIRING FHWA ACCESS REVIEW AND APPROVAL PROCESS

A. In special situations as determined by FHWA, FHWA may exempt a request for a change in I-System access from this programmatic agreement. In such situations FHWA will make the SO&E acceptability determination and provide the approval decision through the normal process.

B. Examples of circumstances or conditions that FHWA considers when determining whether to exempt a project under Section III.A include:

    1. Projects where FHWA has objected to the state determination under Section II.B unless the issues are otherwise resolved;
    2. Issues relating to National policy;
    3. Complex engineering issues;
    4. Public controversy over potential impacts of the access modification; or
    5. Projects not identified under Section IV.F.1.b unless prior written approval has been requested by the State DOT Chief Engineer of Production and agreed to by FHWA.

SECTION IV. STATE PERFORMANCE REQUIREMENTS

A. **Processing I-System access changes under this Agreement: identification, record keeping, and review of effects.** For projects that FDOT determines meet the criteria specified in Section I of this Agreement, FDOT will:

1. Document its determination that a project meets SO&E acceptability as specified in Section II(A).

2. Include in the SO&E acceptability documentation the following certification: "FDOT has determined that this type of I-System access does not have the potential to adversely impact the safety and performance of the Interstate System."

3. Document compliance with the transportation planning, air quality conformity, environmental review requirements specified below:

   a. Compliance with NEPA should include the NEPA class of Action determination and the date of the approval for the ROD, FONSI, or CE determination.

   b. Consistency with local and regional land use and transportation plans; included in an adopted Statewide or Metropolitan Transportation Plan and in the adopted Statewide or Metropolitan Transportation Improvement Program (STIP or TIP); and meeting transportation conformity requirements of 40 CFR parts 51 and 93.

4. The FDOT Chief Engineer acceptability determination specified in Section II(C) including signature, printed name, title, and date of the determination.

B. **Record keeping.** FDOT will maintain electronic and/or paper project records and records pertaining to FDOT administration of its review and acceptability determination process for individual requests for I-System access change. FDOT will provide FHWA with copies of any project records FHWA may request. FDOT will retain those records for a period of no less than three (3) years after completion of project construction. This 3-year retention provision does not relieve FDOT of its project or program recordkeeping responsibilities under 2 CFR 200.334 or any other applicable laws, regulations, or policies.

C. **Non-transferability.** FDOT may not transfer or assign any of the responsibilities administratively delegated to FDOT under this Agreement. FDOT may utilize contractors and others to assist FDOT in carrying out its responsibilities.

D. **Required resources, qualifications, expertise, standards, and training.**

1. FDOT will maintain adequate organizational and staff capability and expertise to effectively carry out the provisions of this Agreement. This includes, without limitation:

   a. Using appropriate technical and managerial expertise to perform the

functions set forth under this Agreement.

b. Devoting adequate financial and staff resources to carry out the review and processing of projects under this Agreement.

2. The State may procure through consultant services some or all of the engineering, environmental, and other technical expertise needed to carry out its processing and certifications under this Agreement.

E. **State Quality Control.**

1. FDOT agrees to carry out regular quality control activities to ensure that the subject review, analysis, processing, and determination complies with the agreed to State DOT policies, procedures, and this programmatic agreement.

2. At a minimum, FDOT will monitor its processes relating to SO&E acceptability and all documentation specified in Section IV(a), and check for errors and omissions. FDOT will take corrective actions as needed. FDOT will document its quality control activities and any needed corrective actions taken.

3. If FDOT implements training to meet the capability requirements of this Agreement or as a corrective action, FHWA and FDOT will cooperate to bring training courses, from time to time, to FDOT Offices.

F. **State monitoring and reporting on its performance of the Agreement.** FHWA and FDOT will cooperate in monitoring performance under this agreement and each party shall modify its practices as needed to assure quality performance by FDOT and the FHWA.

1. FDOT will submit to FHWA electronically a report summarizing its performance under this Agreement annually from the effective date of this Agreement. The report will:

   a. summarize the results of all of the changes in access to the I-System that were processed and approved under the terms of this agreement;
   b. summarize the changes in access the State DOT plans to process in the coming year;
   c. assess the effectiveness and verify that all changes in access to the I-System processed through this agreement were evaluated and processed in a manner consistent with the terms of this agreement; and
   d. identify any areas where improvement is needed and what measures FDOT is taking to implement those improvements. The report will include actions taken by FDOT as part of its quality control efforts under Section IV(E).

2. If requested by either party, FHWA and FDOT will schedule a follow-up meeting at which the parties will discuss the report, FDOT's performance of this Agreement, and the FHWA's monitoring activities.

SECTION V. FHWA OVERSIGHT ACTIVITIES

Monitoring by FHWA and FDOT will include consideration of the technical competency and

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organizational capacity of FDOT, as well as FDOT's performance of its functions, including the State's assessment of a proposed change to the I-Systems SO&E acceptability. Performance considerations will include, without limitation, the quality and consistency of FDOT's access change determinations, adequacy and capability of the resources applied by FDOT, and the quality and consistency of FDOT's administration of its processing of access change requests under this agreement.

A. At a minimum, the FHWA Division Office will review documentation for access change request determinations under this Agreement as part of its oversight activities, for each 12-month period. The results of that review will be considered at the time this Agreement is considered for renewal.

B. The FHWA Division Office will review the State DOTs report on I-System access changes processed in the previous year for consistency and adherence to Agreement requirements. The FHWA Division Office also will discuss with the State DOT, as appropriate, the changes in I-System access the State identifies as planned for the coming year.

C. The FHWA Division Office will submit the verified report to the FHWA Office of Infrastructure. The Office of Infrastructure will compile and promote the results and successful practices that are identified in the report.

D. Nothing in this Agreement shall prevent FHWA from undertaking other monitoring or oversight actions, including audits, with respect to FDOT's performance under this Agreement. The FHWA, at its sole discretion, may require FDOT to perform such other quality assurance activities, including other types of monitoring, as may be reasonably required to ensure compliance with applicable Federal laws and regulations.

E. This agreement does not supersede processes established for projects of Focused Federal Oversight. FDOT agrees to cooperate with FHWA in all oversight and quality assurance activities.

SECTION VI. DISPUTE RESOLUTION

A. The FHWA Division Office and FDOT will attempt to resolve conflicts and disputes regarding the terms of this Agreement or its implementation at the staff level whenever possible. Conflicts and disputes that cannot be resolved will be elevated progressively to the FHWA Division Administrator, FHWA Associate Administrator for Infrastructure, and FHWA Administrator until resolved. The FHWA Administrator will be the final authority over disputes arising out of this Agreement.

B. The FHWA Office of Chief Counsel and the FDOT legal counsel will be involved in all disputes arising out of the interpretation of the terms of this Agreement or disputes that involve legal implications.

SECTION VII. TERM, RENEWAL, AND TERMINATION

A. This Agreement will have a term of five (5) years, beginning on the date of the last signature. FDOT will maintain an executed copy of this Agreement and make it available

to the public.

B. This Agreement is renewable for additional terms of five (5) years each if FDOT requests renewal and the FHWA determines that FDOT has satisfactorily carried out the provisions of this Agreement. In considering any renewal of this Agreement, the FHWA will evaluate the effectiveness of the Agreement and its overall impact on the change in I-System access report review and approval process.

C. At least six (6) months prior to the end of each five-year term, FDOT and the FHWA will meet to discuss the results under the Agreement and consider amendments to this Agreement. This meeting may be combined with a meeting to discuss performance under the monitoring provisions in Section V of this Agreement.

D. With written concurrence from both parties the terms of this agreement may be continued an additional 6 months until such time as this Agreement is renewed or an amendment or new agreement can be developed.

E. Either party may terminate this Agreement at any time by giving at least 30 days notice to the other party.

SECTION VIII. AMENDMENTS AND ADMINISTRATIVE MODIFICATIONS

A. Either party to this Agreement may request that it be amended or administratively modified to reflect non-substantive changes, whereupon the parties will consult to consider such an amendment.

B. If the parties agree to amend this Agreement, then the FHWA and the FDOT may execute an amendment with new signatures and dates of the signatures. The term of the Agreement will remain unchanged unless otherwise expressly stated in the amended Agreement.

SIGNATURES

Execution of this Agreement and implementation of its terms by both parties provides evidence that both parties have reviewed this Agreement and agree to the terms and conditions for its implementation. This Agreement is effective upon the date of the last signature below.

Jamie Christian

Division Administrator
Federal Highway Administration

Date: April 2, 2025

DocuSigned by:

Florida Department of Transportation

Date: 04/02/2025 | 2:30 PM EDT