



**Monday, August 15, 2022
4:00 PM**

**City Council
Monday Meeting Agenda**

**Council Chambers
200 Forrest Street**

Call to Order

Agenda Adjustments - Add Policy Item #18 at the request of the Administration.

- 18. 2022-603** Approve the Amended and Restated Grant Agreement for the BUILD Grant for the Hattiesburg Downtown Railroad Innovation: Construction of Grade Separations and Connection Track at a Major Rail Intersection to replace the agreement dated May 9, 2022, and authorize the Mayor to execute in triplicate.

Agenda Review

Citizens' Forum

Departmental Budget Presentations

- 1.** Administration Department
- 2.** Urban Development Department

Meeting Recess



Memorandum

To: Mayor Toby Barker and Members of City Council

From:

cc:

Date: Monday, August 15, 2022

Re: Approve the Amended and Restated Grant Agreement for the BUILD Grant for the Hattiesburg Downtown Railroad Innovation: Construction of Grade Separations and Connection Track at a Major Rail Intersection to replace the agreement dated May 9, 2022, and authorize the Mayor to execute in triplicate.
File Number: 2022-603
Minute Book #

Summary

Recommendation Statement

I recommend approval of the Amended Build Grant for the Hattiesburg Downtown Railroad Innovation Project.

Please place this on the August 15, 2022 City Council meeting for consideration.

U.S. DEPARTMENT OF TRANSPORTATION

GRANT AGREEMENT UNDER THE FISCAL YEAR 2020 BUILD TRANSPORTATION GRANTS PROGRAM

This agreement is between the United States Department of Transportation (the “**USDOT**”), Mississippi Department of Transportation (the “**Recipient**”), and the City of Hattiesburg, Mississippi (the “**First-Tier Subrecipient**”).

This agreement reflects the selection of the First-Tier Subrecipient to receive a BUILD Grant for the Hattiesburg Downtown Railroad Innovation: Construction of Grade Separations and Connection Track at a Major Rail Intersection.

The parties want the First-Tier Subrecipient to carry out the project with the Recipient’s assistance and oversight.

The USDOT, Recipient, and First-Tier Subrecipient executed a grant agreement on May 9, 2022 (“the Original Grant Agreement”). The parties want to replace that grant agreement with an amended and restated grant agreement.

The parties therefore amend and restate the grant agreement to read in its entirety as follows:

Article 1 GENERAL TERMS AND CONDITIONS

1.1 General Terms and Conditions.

- (a) In this agreement, “**General Terms and Conditions**” means the content of the document titled “General Terms and Conditions Under The Fiscal Year 2020 BUILD Transportation Grants Program: FHWA Projects,” dated September 1, 2021, which is available at <http://go.usa.gov/xMcmU>. Articles 8 – 24 are in the General Terms and Conditions. The General Terms and Conditions are part of this agreement.
- (b) The Recipient states that it has knowledge of the General Terms and Conditions.
- (c) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient’s non-compliance with the General Terms and Conditions may result in remedial action, terminating of the BUILD Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to the USDOT the BUILD Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.

Article 2
APPLICATION, PROJECT, AND AWARD

- 2.1 Application.** The application for funding was dated May 18, 2020 and titled “Hattiesburg Downtown Railroad Innovation: Construction of Grade Separations and Connection Track at Major Rail Intersection.” It contained Standard Form 424 and all information and attachments submitted with that form through Grants.gov.
- 2.2 Project.** In this agreement, the “**Project**” means the project proposed in the application identified in section 2.1 as modified by the negotiated provisions of this agreement, including article 3 and attachments A-E.
- 2.3 Federal Award and Federal Obligation.**
- (a) The USDOT hereby awards a BUILD Grant to the Recipient in the amount of \$13,223,900, but that amount will be obligated with one initial obligation and one or more subsequent, optional obligations.
- (b) For the purpose of obligating the BUILD Grant, the following table allocates the BUILD Grant among separate portions of the Project. The scope of each portion of the Project that is identified in this table is described in attachment A.

Portion of the Project	Allocation from BUILD Grant
Base Phase: Preliminary Engineering	\$920,315
Hall Avenue - Roundabout	
Option Phase 1: Construction	\$2,560,000
Hall Avenue West - Overpass	
Option Phase 2: Construction	\$9,743,585

- (c) This agreement obligates for the budget period only the amounts allocated in section 2.3(b) to the following portions of the Project:
- (1) Base Phase; and
 - (2) Option Phase 1: Construction.
 - (3) Option Phase 2: Construction
- (d) This agreement does not obligate funds for portions of the Project that are listed in section 2.3(b) and omitted from section 2.3(c). The parties may obligate the amounts

allocated to those portions of the Project only as described in section 2.3(e) or by modifying this agreement under article 21.

- (e) For each portion of the Project that is listed in section 2.3(b) and omitted from section 2.3(c), the amount allocated to that portion of the Project in section 2.3(b) is obligated if, not later than September 30, 2022, the parties execute an instrument, in the form provided in exhibit E, documenting that:
- (1) the USDOT determines that all of the conditions associated with that portion in the following table are satisfied;
 - (2) the USDOT determines that all applicable Federal requirements for obligating the amount are satisfied; and
 - (3) the Recipient states that it is not required to request a modification of this agreement under article 12.

Portion of the Project	Condition
Hall Avenue West Overpass	
Option Phase 2: Construction	If the FHWA State Division Office approves the PS&E for the Project and the Recipient has met all the applicable Federal, State, and local requirements.

- (f) The Recipient shall not request reimbursement of costs for a portion of the Project that is listed in section 2.3(b) and omitted from section 2.3(c) unless the amount allocated to that portion of the Project in section 2.3(b) is obligated under section 2.3(e).
- (g) The Recipient acknowledges that:
- (1) the USDOT is not liable for payments for a portion of the Project that is listed in section 2.3(b) and omitted from section 2.3(c) unless the amount allocated to that portion of the Project in section 2.3(b) is obligated under section 2.3(e).
 - (2) any portion of the BUILD Grant that is not obligated under this section 2.3 before October 1, 2022, lapses on that date and becomes unavailable for the Project; and
 - (3) the USDOT may consider the failure to obligate funds before October 1, 2022, to be a basis for terminating this agreement under section 16.1.

2.4 Award Dates.

Budget Period End Date: 3/31/2026

- 2.5 Urban or Rural Designation.** The USDOT hereby designates this to be an award to a project in a rural area.
- 2.6 Federal Award Identification Number.** The Federal Award Identification Number will be generated when the FHWA Division authorizes the project in FMIS. The Recipient acknowledges that it has access to FMIS and can retrieve the FAIN from FMIS

Article 3 SUMMARY PROJECT INFORMATION

- 3.1 Summary of Project's Statement of Work.** (See Attachment A for additional details).

This project would construct an overpass and make improvements on the western portion of Hall Avenue and add a roundabout at the intersection of Hall Avenue, James Street, and Bay Street.

- 3.2 Project's Estimated Schedule.**

Milestone	Schedule Date
Base Phase	
Actual Start of Preliminary Engineering	7/12/2021
Option Phase 1: Hall Avenue Roundabout	
Actual NEPA Completion Date:	9/23/2021
Actual Right-of-Way Certification Date:	1/7/2022
Actual Plan, Specification, & Estimate (PS&E) Approval Date:	2/14/2022
Actual Authorization / Obligation Date for Option Phase 1	3/16/2022
Planned Construction Start Date:	10/1/2022
Planned Construction Substantial Completion and Open to Traffic Date:	1/31/2024
Option Phase 2: Hall Avenue West Overpass	
Actual NEPA Completion Date:	5/27/2022
Actual Right-of-Way Acquisition Start Date:	5/28/2022

Planned Right-of-Way Acquisition Completion Date:	8/13/2022
Planned Right-of-Way Certification Date:	8/15/2022
Planned Plan, Specification, & Estimate (PS&E) Approval Date:	8/16/2022
Planned Authorization / Obligation Date for Option Phase – Option Phase 2:	8/29/2022
Planned Construction Start Date:	1/4/2023
Planned Construction Substantial Completion and Open to Traffic Date – Option Phase 2:	12/31/2024
Planned Construction Substantial Completion and Open to Traffic Date (ALL COMPONENTS):	12/31/2024

3.3 Project’s Estimated Budget. (See Attachment B for additional details).

Eligible Project Costs	
BUILD Grant Amount:	\$13,223,900
Other Federal Funds:	\$0
State Funds:	\$0
Local Funds: ¹	\$6,667,565
Other Funds:	\$0
Total Eligible Project Cost:	\$19,891,465
¹ City of Hattiesburg, Mississippi Local Tax Revenue	

**Article 4
CRITICAL MILESTONE DEADLINES**

4.1 Critical Milestone Deadlines.

Milestone	Deadline Date
The Recipient converts the FY 2020 BUILD funds as set forth in section 7.4	April 30, 2022

Milestone	Deadline Date
Standard Railroad Coordination Agreement with Norfolk Southern	August 12, 2022
Completion of the FRA CRISI Grant Project	June 30, 2024

Article 5 PARTY INFORMATION

5.1 Recipient’s Unique Entity Identifier.

Dun and Bradstreet Data Universal Numbering System No. (the “DUNS No.”) of Mississippi Department of Transportation: 809394067 and DUNS No. of City of Hattiesburg, Mississippi: 079448130

5.2 Recipient Contact(s).

Lamar Rutland, P.E.
 Director of Engineering
 City of Hattiesburg
 P.O. Box 1898
 Hattiesburg, MS 39403-1898
 601-545-4540
lrutland@hattiesburgms.com

5.3 Recipient Key Personnel.

Lee Frederick, P.E.
 State LPA Engineer
 Mississippi Department of Transportation
 Office: 601-359-7031
lfrederick@mdot.ms.gov

5.4 USDOT Project Contact(s).

Jeffrey A. Schmidt, P.E.
 Deputy Division Administrator
 FHWA – Mississippi Division
 100 W. Capitol Street Suite 1062
 Jackson, MS 39269
jeffrey.schmidt@dot.gov

Article 6
USDOT ADMINISTRATIVE INFORMATION

6.1 Payment System.

USDOT Payment System: FMIS

6.2 Office for Subaward and Contract Authorization.

USDOT Office for Subaward and Contract Authorization: FHWA Mississippi Division

Article 7
SPECIAL GRANT TERMS

7.1 Subaward to First-Tier Subrecipient.

- (a) The Recipient hereby awards a subaward to the First-Tier Subrecipient for the purpose described in section 8.1.
- (b) The Recipient and the First-Tier Subrecipient may enter into a separate agreement, to which the USDOT is not a party, assigning responsibilities, including administrative and oversight responsibilities, among the Recipient and the First-Tier Subrecipient.
- (c) For the purpose of 2 C.F.R. parts 200 and 1201, the Recipient is a pass-through entity.

7.2 First-Tier Subrecipient Statements and Responsibilities.

- (a) The First-Tier Subrecipient affirms all statements and acknowledgments that are attributed to the Recipient under sections 10.1 and 10.2.
- (b) The First-Tier Subrecipient assumes the Recipient's reporting obligations under articles 14 and 15.

7.3 State Oversight Responsibilities. For the purpose of 23 U.S.C. 106(g), the Recipient shall act as if funds under this award are Federal funds under title 23, United States Code.

7.4 Advance Construction (23 U.S.C. § 115). Within 30 business days after the date of final execution of this Agreement, the City of Hattiesburg and the Mississippi Department of Transportation shall request the FHWA Mississippi Division Office to convert the FY 2020 BUILD funds authorized to proceed under the Advance Construction provisions of 23 U.S.C. 115 for Preliminary Engineering in the amount of \$2,000,000. The FHWA Mississippi Division Office will then obligate the FY 2020 BUILD funds per a modified project agreement.

- 7.5 Railroad Coordination.** As a condition of this project, the City of Hattiesburg shall enter a written standard railroad coordination agreement with Norfolk Southern (NS) for work and operation within the NS right-of-way no later than August 12, 2022.
- 7.6 Completion of the CRISI Grant Project.** The First-Tier Subrecipient shall complete the CRISI grant project components before June 30, 2024.

ATTACHMENT A STATEMENT OF WORK

This project would construct an overpass and make improvements on the western portion of Hall Avenue and add a roundabout at the intersection of Hall Avenue, James Street, and Bay Street.

Base Phase:

Preliminary Engineering:

- Preliminary Engineering – Design
- NEPA - Environmental studies and document preparation
- Final Engineering – Design
- Right of Way

Option Phase 1 – Hall Avenue Roundabout:

- PS&E Construction
- Traffic Control
- Mobilization
- Paving
- Overlay / Reconstruction
- Construction engineering and Inspection

Option Phase 2 – Hall Avenue West Overpass:

- PS&E Construction
- Traffic Control
- Overlay/Reconstruction
- Construction Engineering and Inspection
- Railroad Overpass

**ATTACHMENT B
ESTIMATED PROJECT BUDGET**

1. Supplementary Fund Source Table(s)

The following tables supplement the budget information in section 3.3.

Eligible Costs	
Base Phase: Preliminary Engineering	
BUILD Funds:	\$920,315
Total:	\$920,315

Eligible Costs	
Hall Avenue – Roundabout	
Option Phase 1: Construction	
BUILD Funds:	\$2,560,000
Total:	\$2,560,000

Eligible Costs	
Hall Avenue West Overpass	
Option Phase 2: Construction	
BUILD Funds:	\$9,743,585
Local Funds ¹ :	\$6,667,565
Total:	\$16,411,150
¹ City of Hattiesburg, Mississippi Local Tax Revenue	

2. Cost Classification Table

Cost Classification	Total Costs	Non-BUILD Previously Incurred Costs	Eligible Costs
Preliminary Engineering	\$920,315	\$0	\$920,315
Construction/Construction Engineering	\$18,971,150	\$0	\$18,971,150
Project Total	\$19,891,465	\$0	\$19,891,465

ATTACHMENT C PERFORMANCE MEASUREMENT TABLE

Study Area: A western portion of Hall Avenue from Bay Street to W. Pine Avenue.

Pre-project Measurement Date: September 1, 2022

Pre-project Report Date: December 1, 2022

Project Outcomes Report Date: December 31, 2028

Table 1: Performance Measurement Table

Measure	Description and Category of Measure	Measurement Period	Reporting Period
Average Daily Traffic (ADT)	Economic Competitiveness The total volume of vehicle traffic on a highway or road segment per day as defined by the project study area.	Baseline Measurement: Annual average, accurate as of the Pre-project Measurement Date Post-construction Performance Measures: Accurate as of December 31, 2025 December 31, 2026 December 31, 2027	Baseline Measurement: Pre-project Report Date Post-construction Performance Measures: For a period of 3 years, beginning February 28, 2026 February 28, 2027 February 28, 2028
Travel Time Savings	Economic Competitiveness Travel time savings for traffic measured during peak and off-peak periods as defined by the project study area.	Baseline Measurement: Annual average, accurate as of the Pre-project Measurement Date Post-construction Performance Measures: Accurate as of December 31, 2025 December 31, 2026	Baseline Measurement: Pre-project Report Date Post-construction Performance Measures: For a period of 3 years, beginning February 28, 2026 February 28, 2027

Measure	Description and Category of Measure	Measurement Period	Reporting Period
		December 31, 2027	February 28, 2028

ATTACHMENT D
MATERIAL CHANGES FROM ORIGINAL GRANT AGREEMENT

Scope: No Changes

Schedule: The schedule has changed since the Original Grant Agreement, primarily due to delays with NEPA and Railroad Coordination. Therefore, the Approval/Authorization Dates and Planned Construction Start Dates for all Components have been adjusted. Also, due to delays with Environment Coordination, the NEPA Completion Date, Right-of-Way Start Date, and Right-of-Way Completion Dates were all adjusted for Option Phase 2.

The table below provides a summary of schedule changes:

Activity	Original Grant Agreement Schedule Date	New Schedule Date
Option Phase 1: Hall Avenue West Roundabout		
Planned (now Actual) Plan, Specification, & Estimate (PS&E) Approval Date:	1/28/2022	2/14/2022
Planned (now Actual) Authorization/Obligation Date for Option Phase 1	2/21/2022	3/16/2022
Planned Construction Start for Option Phase 1	5/1/2022	10/1/2022
Option Phase 2: Hall Avenue West Overpass		
Planned (now Actual) NEPA Completion Date	2/12/2022	5/27/2022
Planned (now Actual) Right-of-Way Acquisition Start Date	2/15/2022	5/28/2022
Planned Right-of-Way Acquisition Completion Date	7/24/2022	8/13/2022
Planned Plan, Specification, & Estimate (PS&E) Approval Date	8/19/2022	8/16/2022

Budget: Based on the Original Grant Agreement, the total Project cost has increased from \$14,000,000 to \$19,891,465, for a net increase of \$5,891,465; this is due to cost increases for Construction items in Option Phase 2.

Phase	Original Grant Agreement Budget	New Budget
Option Phase 2 – Roadway Construction	\$10,519,685	\$16,411,150

The table below provides a summary comparison of the project budget.

Fund Source	Original Grant Agreement Section 3.3 and Attachment B		First Amended and Restated Grant Agreement Section 3.3 and Attachment B	
	\$	%	\$	%
Total Project Cost	\$14,000,000	100	\$19,891,465	100
Total Non-BUILD Previously Incurred Cost	\$0	N/A	\$0	N/A
Federal Funds	\$0	N/A	\$0	N/A
Non-Federal Funds	\$0	N/A	\$0	N/A
Total Eligible Project Cost	\$14,000,000	100%	\$19,891,465	100
BUILD Funds	\$13,223,900	94.5%	\$13,223,900	66.5
Other Federal Funds	\$0	N/A	\$0	N/A
Non-Federal Funds	\$776,100	5.5%	\$6,667,565	33.5

MATERIAL CHANGES FROM APPLICATION

Scope: As discussed in the project modification white paper approved by OST on May 5, 2021, there are no changes to the scope of the FRA CRISI Grant Project or the FHWA BUILD Grant Project. The FRA CRISI grant components (Hall East Overpass, Norfolk Southern, and Dynamic Message Signs) were removed from the Project under this agreement since they are being constructed separately under the grant administered by FRA.

Schedule: The schedule has changed from the application. The Planned Construction Date for the Option Phase 1 (Roundabout) project has changed from June 2020 to May 2022 and the Planned Construction Date for Option Phase 2 (Overpass) has changed from March 2021 to January 2023. The changes in the schedule to the BUILD funded Components are primarily due to delays in the award of the Preliminary Engineering contract and because additional Right-of-Way needed to be acquired. Additionally, the construction durations for phase 1 and 2 have increased by seven months for phase 1 and 19 months for phase 2. These increases resulted from a more detailed and realistic construction schedule prepared during design that accounted for difficulties with supply chain issues and a better understanding of the proposed work. Also, the Planned Construction Start Date for the Federal Railroad Administration (FRA) funded Components has changed from October 2020 to May 15, 2022. The delays in the FRA funded Component are due to the unforeseen additional coordination needed between the City and FRA.

Budget: On May 5, 2021, OST approved a modification to the budget of the project to remove the CRISI grant-funded project components from the total cost of the BUILD grant project. Therefore, the grant agreement budget lists only the BUILD and Non-Federal funded portion of the project application. Additionally, the Hall Avenue Roundabout component increased from \$1.4 million presented in the application, to \$2.56 million (not including PE expenses), and the Hall West Overpass component decreased from \$12.6 million to \$9.74 million (not including PE expenses). Total preliminary engineering costs for both components are \$920,315.

The table below provides a summary comparison of the project budget.

Fund Source	Application		Modified Project (approved 5/5/2021)		Section 3.3 and Attachment B	
	\$	%	\$	%	\$	%
Total Project Cost	26,621,200	100	26,261,200	100	14,000,000	100
Total Non-BUILD Previously Incurred Cost	0	N/A	11,987,000	N/A	0	N/A
Federal Funds	0	N/A	5,397,300 ¹	N/A	0	N/A
Non-Federal Funds	0	N/A	6,590,000 ²	N/A	0	N/A
Total Eligible Project Cost	26,621,200	100	14,000,000	100	14,000,000	100
BUILD Funds	13,223,900	50	13,223,900	94.5	13,223,900	94.5
Other Federal Funds	5,397,300 ¹	20	0	N/A	0	N/A
Non-Federal Funds	8,000,000 ²	30	776,100	5.5	776,100	5.5

¹ FRA's Consolidated Rail Infrastructure and Safety Improvements Program (CRISI)

² \$6,590,000 of this amount (5% of total costs) was match to FRA's CRISI Grant

ATTACHMENT E
APPROVED PRE-AWARD COSTS

On January 26, 2021, the City of Hattiesburg, Mississippi sent a written request to the FHWA Mississippi Division for advance construction (23 U.S.C. 115) authorization to initiate Preliminary Engineering. The advance construction request would allow the recipient to begin Preliminary Engineering and the Environmental Review process. The City of Hattiesburg requested advance construction for \$2,000,000 in BUILD Grant funds.

OST approved the City of Hattiesburg's request to allow pre-award costs on May 13, 2021. The Division authorized advance construction on May 13, 2021.

The FHWA Mississippi Division authorized Advance Construction for Option Phase 1 – Construction on March 16, 2022, in the amount of \$2,560,000.

RECIPIENT SIGNATURE PAGE

The Recipient, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

Mississippi Department of Transportation

_____	By:	_____
Date		Signature of Recipient's Authorized Representative
		Brad White

		Name
		Executive Director

		Title
		Book____ Page____

FIRST-TIER SUBRECIPIENT SIGNATURE PAGE

The First-Tier Subrecipient, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

City of Hattiesburg, Mississippi

Date

By:

Signature of First-Tier Subrecipient's Authorized Representative

Mr. Toby Barker

Name

Mayor

Title

USDOT SIGNATURE PAGE

The USDOT, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

United States Department of Transportation

Date

By:

Signature of USDOT's Authorized Representative

Donald (Don) E. Davis

Name

FHWA Mississippi Division Administrator

Title