

Memorandum of Agreement

between

The General Services Administration,
Public Buildings Service

and

The Department of Transportation,
Federal Highway Administration,
Eastern Federal Lands Highway Division

for the

Improvement of the Port of Entry for
Champlain, New York

I. PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to establish the procedures under which work shall be performed by the U.S. General Services Administration, Public Buildings Service (hereafter referred to as GSA), and the Department of Transportation, Federal Highway Administration (FHWA), Eastern Federal Lands Highway Division (EFLHD) (GSA and EFLHD may collectively be referred to herein as "the Parties"), pursuant to the provisions of the approved Prospectus for the site acquisition and design of the Border Station at Champlain, New York.

This MOA transfers funds originally received by the State of New York for "border crossing improvements on I-87, in New York", pursuant to the provisions of Section 378 of the Fiscal Year (FY) 2001 U.S. Department of Transportation and Related Agencies Appropriations Act. This MOA specifies that the funds transferred to the GSA will be used for land acquisition, and design costs associated with the Prospectus Level Port of Entry Expansion project approved and authorized by Congressional Committee Resolutions of September 25, and November 7, 2001 and as more fully described in House Report 107-152 at p. 68.

II. AUTHORITY

This MOA is executed pursuant to and in accordance with the statutory and regulatory authorities of the Administrator of General Services and the Secretary of Transportation, acting by and through the Commissioner of the Public Buildings Service and the Acting Division Engineer for Eastern Federal Lands Highway Division of the Federal Highway Administration, respectively. Such authorities include but are not limited to section 210 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. § 490), the Public Buildings Act of 1959, as amended (40 U.S.C. §§ 601-619), Section 378 of the Fiscal Year (FY) 2001 U.S. Department of Transportation and Related Agencies Appropriations Act (Pub. L. 106-346); and Title 23, United States Code, Section 308. To the extent any funding or goods or services are provided under this MOA outside of the aforementioned authorities they are provided under the Economy Act (31 U.S.C. §§ 1535-1536).

III. GENERAL BACKGROUND

1. The Champlain Border Station, located on U.S. Interstate Highway 87, is owned by the United States and is under the custody and control of the GSA. It is adjacent to the village of Champlain, NY, and is 30 miles north of Plattsburgh, NY, and about 45 miles south of Montreal, Quebec, Canada.
2. The GSA operates and maintains the border station, and GSA and FHWA desire to improve

safety, inspection capability and commercial and non-commercial traffic processing by obtaining adjacent land parcels and designing and constructing a state of the art border station facility.

3. The U.S. Customs Service, Immigration and Naturalization Service, FDA and USDA (hereinafter the "Federal Inspection Services (FIS)" customer agencies) will benefit from this project by increasing safety for inspection officers, expanding work areas for increased inspection operations and expanding administrative, interview, retention and processing areas.
4. The State of New York will benefit from improved safety for commercial and non-commercial traffic processed at the port. Improving commercial traffic flow will alleviate commercial truck backups that pose safety and economic hazards to the border facility and the surrounding community and the public.

IV . PROVISOS

WHEREAS, funding has been identified in the Fiscal Year 2001 United States Department of Transportation and Related Agencies Appropriations Act (Public Law 106-346), 100 percent Federal share, in the amount of \$2,793,840, for improvements to the Port of Entry at Champlain, NY; and

WHEREAS, those funds, which were originally provided to the State of New York, have been allocated to the EFLHD for reimbursement to the GSA for the site acquisition and design associated with the proposed project at Champlain, NY; and

WHEREAS, the GSA has been directed to act as lead agent for the site acquisition and facility design leading to the construction of the new Champlain Border Station, as specified in the FY 2002 GSA Construction Prospectus authorized by Congressional Committee Resolutions of September 25, and November 7, 2001 and as more fully described in House Report 107-152 at p. 68; and

WHEREAS, the FHWA is authorized to perform engineering and other services in connection with the survey, design, construction, and improvements of highways for other Federal or State cooperating agencies; and

WHEREAS, GSA is statutorily authorized, and has agreed, to administer the site acquisition and design of the proposed project at Champlain, NY;

WHEREAS, EFLHD hereby certifies that it has the above-referenced \$2,793,840 in funds on hand and that EFLHD is statutorily authorized to provide these funds to GSA for expenditure in accordance with the funds' lawful purpose;

NOW THEREFORE, the GSA, and the EFLHD do hereby mutually agree as follows:

1. The GSA will request Federal funds from the EFLHD for specific project activities (e.g. right-of-way, design, construction, etc.). Based on this request, the EFLHD will authorize the transfer of funds to GSA for the specific activities by an authorization letter. Upon receipt of the authorization letter, the GSA will request either (a) an expenditure transfer through the Intra-governmental Payment and Collection (IPAC) process to the appropriate GSA account within the Federal Buildings Fund (Treasury account identifier 47X4542.001) or by (b) reimbursable work authorization as agreed between the disbursing officials of each agency. GSA will need the following information from the EFLHD in order to process the IPAC expenditure transfer:

Agency Location Code: 69-05-001

Point of Contact: Patricia Mark, EFLHD Financial Specialist, telephone: 703-404-6219

Account to be Billed: X45A-B50-140-45J053-153600-D[^]2360187001F0

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2. The GSA shall be the lead agency for the project development of the proposed project and shall perform all work, as prescribed in the congressionally approved GSA Prospectus, as necessary, to:

- a. acquire the land necessary for the proposed project;
- b. complete the planning and design of the proposed project;
- c. complete any and all environmental reviews required by law, including the National Environmental Policy Act, in connection with the design and construction of the proposed project, including, but not limited to –
 - (1) prepare the DOT Section 4(f) statement for FHWA signature, if applicable, and/or provide documentation which verifies that no 4(f) properties are impacted;
 - (2) apply for and receive any permits and approvals required under the Clean Water Act, the Endangered Species Act, and the National Historic Properties Act;
- d. provide the EFLHD with a breakdown of the proposed scope of work, including an estimate and time line, and a proposed budget for the acquisition of land and the preparation of the design of the project, providing updates with semi-annual status reports;
- e. communicate directly with the EFLHD representative on the progress of the specified site acquisition and design portions of the overall project;

- f. complete the construction engineering and construction in the event that funds are provided for that purpose; and
 - g. submit to the EFLHD a detailed accounting of the funds transferred in this MOA.
2. The EFLHD shall be a cooperating agency and shall:
- a. coordinate the Federal funding from the FHWA, amounting to \$2,793,840, for the proposed project which includes funding for the acquisition of land and the preparation of environmental documentation as applicable, planning, and design;
 - b. participate as necessary in intermediate and final plan reviews;
 - c. monitor and track the Federal funds from the FHWA being used for the proposed project; and
 - d. sign the DOT Section 4(f) statement, if applicable, as determined by the EFLHD.
3. The designated points of contact for the coordination of this proposed project are as follows:

Ms. Irina Dametz, Project Manager
Property Development Division (PDD)
Northeast and Caribbean Region
26 Federal Plaza
New York, NY 10278
General Services Administration
Public Buildings Service
Telephone: (212)-264-0803
Fax (212) 264-0353
E-mail: Irina.Dametz@GSA.GOV

Ms. Dorothy M. Germain
FWS Program Manager
Federal Highway Administration
Eastern Federal Lands Highway
Division
21400 Ridgetop Circle
Sterling, VA 20166-6511
Telephone: (703) 404-6280
Fax: (703) 404-6217
E-mail: dorothy.germain@fhwa.dot.gov

5. The Highway Trust Funds for this proposed project are identified by a three-digit program code, PC-45J, which will be used by the EFLHD, the FHWA, and the GSA to track the obligation and expenditures. The GSA shall be responsible for the administration of the Highway Trust Funds for this proposed project which include compliance with all applicable laws, regulations, and reporting of fiscal information required by the FHWA. All reporting of the unobligated funds and expenditures must be identified by the program code as noted above. The GSA shall submit quarterly status reports on the project to the EFLHD.

6. The GSA shall prepare and submit a final accounting of the costs for the proposed project by project activity to the EFLHD. At the completion of the project a final report and cost accounting shall be submitted to the EFLHD, which shall include copies of the final Public Voucher and Contractor's Release form. The GSA shall return any funds advanced by the EFLHD in excess of the actual costs, within 90 calendar days of the final accounting.

V. REQUIRED AND STANDARD CLAUSES

1. Anti-Deficiency Act: The Parties agree that no funds will be expended in excess of available appropriations.
2. Non-Discrimination: The Parties will abide by the provisions of Executive Order 11246, as amended; shall be in compliance with the requirements of Title VI of the *Civil Rights Act of 1964*, as amended (78 Stat. 252; 42 U.S.C. 2000(d) *et seq.*); Title V, Section 504 of the *Rehabilitation Act of 1973* (87 Stat. 394; 29 U.S.C. 794) as amended; the *Age Discrimination Act of 1975*, as amended (89 Stat. 728; 42 U.S.C. 6101 *et seq.*); and with all other Federal laws and regulations prohibiting discrimination on grounds of race, color, national origin, handicap, religion, or sex in employment and in providing facilities and services to the public.
3. Lobbying Prohibition: The Parties shall abide by the provisions of 18 U.S.C. § 1913, *Lobbying with Appropriated Moneys*, which states:

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of public business.

Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined under this title or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment.

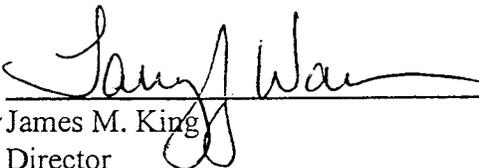
4. Procurement: The Parties, and the work to be provided under this MOA are subject to all laws governing Federal procurements and to all regulations promulgated thereunder, whether now in force or hereafter enacted or promulgated.
5. Severance of Terms and Compliance with Applicable Law: Nothing in this MOA shall be construed as limiting or affecting the legal authorities of the Parties, or as requiring the Parties to perform beyond their respective authorities. The Parties shall comply with all applicable laws and regulations, and nothing herein contained shall be deemed to be inconsistent with or contrary to the purpose or intent of any applicable Federal laws or regulations. If any term or provision of this MOA is held to be invalid or illegal, such term or provision shall not affect the validity or enforceability of the remaining terms and provisions.
6. Drug Free Work Place Act (Required for use with Appropriated Funds): The Parties certify that comprehensive actions will be taken to ensure the workplace is drug free.
7. In the event that a claim is brought under the Federal Tort Claims Act (28 U.S.C. § 2671, *et seq.*) against any Federal Party, alleging that the basis for the claim is related to the performance of this MOA; it shall be the responsibility of the Party receiving the claim to coordinate with any other Federal Party regarding investigation, settlement, or litigation arising from such claim. All other Parties to this MOA will cooperate in this effort.
8. The GSA will be responsible for the administrative investigation, settlement or defense, in litigation of any claim based on the Contract Disputes Act and arising from any contract awarded by the GSA in accordance with this MOA. The GSA will keep the FHWA advised on the status of these matters.

VI . TERM OF THIS AGREEMENT

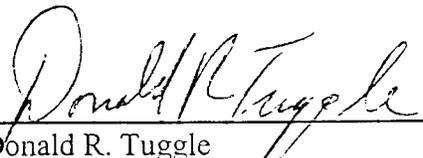
This MOA becomes effective on the date of the last approving signature, and shall remain in effect until the project is completed, or through 3 years from the date of execution of the MOA, whichever occurs first. The date of execution is the date of the last signature affixed to this document. The MOA may be modified, extended, or terminated by written consent of all of the Parties.

IN WITNESS THEREOF, the Parties hereto have caused this MOA to be executed by their duly authorized representatives.

GENERAL SERVICES ADMINISTRATION

 6-25-02
for James M. King Date
Director
General Services Administration
Border Station Center

**DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION**

 6/24/02
Donald R. Tuggle Date
Acting Division Engineer
Eastern Federal Lands Highway Division