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OVERVIEW

The Local Public Agency Manual published by the Missouri Department of Transportation (MoDOT) is intended to be used as a guide for cities and counties that sponsor projects utilizing federal transportation funds provided under the current transportation bill, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The local agency may reference MoDOT Standard Specifications for Highway Construction for issues not addressed in this manual. Pages 1-12 through 1-14 provide a summary of typical federal-aid procedures. Figure 1-1 illustrates the procedures in the form of a flow chart.

This manual addresses five local programs that are funded under the current transportation bill:

1. **Highway Bridge Program (HBP):**

   Off-System Bridge Replacement and Rehabilitation Program (BRO):

   On-System Bridge Replacement and Rehabilitation Program (BRM):

2. **Surface Transportation Program (STP) - Urban:**

   STP Urban Attributable:

   STP Urban Non-Attributable:

3. **Surface Transportation Program (STP) - Enhancement:**

4. **Congestion Mitigation and Air Quality (CMAQ):**

5. **Safe Routes to School:**

GENERAL

Title 23, as amended by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requires MoDOT to administer all funds apportioned and allocated to the state under this transportation bill. SAFETEA-LU directs that certain percentages of funding categories within the state's apportionment must be sub-allocated towards the Off-System Bridge Replacement and Rehabilitation Program (BRO), the STP-Urban Attributable Program, the STP-Enhancement Program, the Congestion Mitigation and Air Quality Program, and Safe Routes To School.

For projects administered by local officials, the state will furnish information concerning the necessary federal requirements and will act as coordinator. The necessary design, acquisition,

environmental, historical and archaeological clearances and approvals, construction and maintenance of improvements will be the responsibility of the local agency. A MoDOT district representative will be the primary contact, furnish the necessary guidelines, and coordinate the necessary reviews and approvals. MoDOT personnel will advise and assist the local agency in meeting the requirements of the program. Additional information regarding federal requirements is available through the MoDOT district representative.

Projects are performed under the terms of an agreement with MoDOT (See Section 5). Work on any part of the project cannot proceed until the local agency has been notified by MoDOT and federal funding has been approved (obligated) by the Federal Highway Administration (FHWA).

The federal-aid transportation program operates on a reimbursement basis as work progresses. It is a federal reimbursement program in which the local agency is reimbursed minus its matching percentage after MoDOT receives proper proof of payment by the local agency to the contractor for work performed.

Federal law requires that each project be administered as a traditional federally funded highway project as described in this manual. **No work is to be initiated on any part of the project until federal funding has been approved (obligated) by FHWA and the local agency has been notified by MoDOT to proceed.** If funds are approved, they will be distributed through the local agency sponsoring the project. If a project is not completed, the local agency sponsoring the project will be required to repay to MoDOT the sum of federal funds reimbursed to date. The local agency will be responsible for cost overruns.

Items eligible for federal participation include preliminary engineering, surveys, public hearings, environmental and historical documentation, right of way, advertising costs, construction, construction engineering, beautification, traffic control devices, and those portions of utility relocation costs for which the local agency is responsible. Incidental costs will not be eligible for federal reimbursement. **No work is to be initiated on any part of the project until federal funding has been approved (obligated) by FHWA, and the local agency has been notified by MoDOT to proceed.**

Regardless of whether federal funds are available at the time of acquisition, local agencies are strongly encouraged to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Act) of the Code of Federal Regulations when acquiring realty rights (right of way, easements, access, or other real property). When a local agency project uses federal funds on any portion of the project, all realty rights must be acquired in accordance with the Uniform Act. If the realty rights were acquired more than five (5) years prior to the first request for federal funds, the local agency shall submit a statement certifying that no new realty rights are needed and the dates the existing realty rights were acquired. If the realty rights were acquired less than five (5) years prior to the first request for federal funds, the acquisition must have occurred within the parameters of the Uniform Act in order for any portion of the project to receive federal funds.

FUNDS MANAGEMENT POLICY

On-System Bridge Replacement and Rehabilitation Program (BRM):

On-System Bridge Replacement and Rehabilitation Program (BRM) fund balances in excess of three years of annual allocations for Transportation Management Areas (TMAs) will lapse on September 30, 2009, and each year, thereafter. Transportation improvements within the TMA will use the lapsed funds.

Surface Transportation Program (STP) Urban – Attributable:

Surface Transportation Program (STP) Urban – Attributable fund balances in excess of three years of annual allocations for Transportation Management Areas (TMAs) will lapse on September 30, 2009, and each year, thereafter. Transportation improvements within the TMA will use the lapsed funds.

Surface Transportation Program (STP) Urban – Non-Attributable:

Surface Transportation Program (STP) Urban – Non-Attributable fund balances in excess of six years of annual allocations for cities with an urban cluster population between 5,000 and 200,000 will lapse on September 30, 2009, and each year, thereafter. Transportation improvements throughout the state will use the lapsed funds.

REASONABLE PROGRESS POLICY

Policy

This policy is to ensure the State of Missouri is getting the maximum benefit of its federal transportation funds. The policy has two objectives: (1) ensure that federal funds will be programmed for a project within one year of the funds being allocated by MoDOT; (2) ensure that once a project is programmed, it will be constructed.

TMAs with a Reasonable Progress Policy in place will be exempt from MoDOT's Reasonable Progress Policy. However, the TMA's federal fiscal year ending balance will not be allowed to exceed a total of three years of allocation for that TMA. Any funds over the three-year allocation will be reprogrammed in the TMA area at the discretion of MoDOT and the TMA.

Procedures

The time frames shown represent maximum expected times for implementation approvals and concurrences. Schedules will vary depending on project type. Actual progress towards implementation will be measured against the schedule submitted by the entity.

Project Development/Implementation Schedule:

	Phase	Maximum Time Frame	Funds Obligated
1	Allocation of Funds	0 Months	No
2	Project Programming*/Agreement	12 Months	No
3	Engineering Services Contract Approval	15 Months	Yes
4	Preliminary and Right-of-Way Plans Submittal (if applicable)	24 Months	Yes
5	Plans, Specifications & Estimate (PS & E) Submittal	34 Months	No
6	Plans, Specifications & Estimate (PS & E) Approval	36 Months	Yes
7	Construction Contract Award	42 Months	Modified
8	Final Certification/Project Closeout**	60 to 72 Months	Modified (as needed)

* The completion of the Project Programming phase is defined by submitting the approved project's programming data form to MoDOT and the project receiving a federal project number from MoDOT.

**The time lapse between construction contract award and project closeout will depend on project type. Final Certifications as discussed in Section 11 must be submitted to the appropriate MoDOT district representative 60 days after final inspection.

Reasonable Progress

For all federal-aid funds, "reasonable progress" shall have been made if a project has been programmed within one year of funding allocation. Verifiable steps toward achieving reasonable progress shall include submittal of all required documents to the appropriate MoDOT district office, entering into an Engineering Services Contract (if retaining outside engineering services) and initiation of the development of preliminary plans.

The development of right-of-way, utility, and railroad plans, if required, should be concurrent with preliminary plan development. The authorization to proceed with right-of-way negotiations should begin once MoDOT approves right-of-way plans. The award of the construction contract should occur no later than six months after the plans, specifications and estimate approval.

Policy Enforcement

If the allocated federal funds are not programmed for a specific project within one year, MoDOT will request information from the MPO or entity as to the planned use of the allocated funds. The MPO or entity will be required to provide a written explanation within 30 days of the notification as to the status of funds and a time line for their use. If adequate information is not

received, MoDOT will pull the allocated funds from the entity and redistribute at the department's discretion.

If a project falls six months behind schedule at any point in its development, without a written explanation provided by the entity and approved by MoDOT, the entity and/or MPO will be contacted by MoDOT requesting information as to the cause of the delays. A letter will notify the entity of the schedule lapse and the possible implications of further delays. The entity and/or MPO will be required to reply in writing within 30 days of the letter date as to the project status and provide a revised timeline for the project. The entity will be allowed to reschedule a project one time after MoDOT has programmed a project. Any shifts in subsequent phases of a project caused by that rescheduling (if identified at the time of the rescheduling) will not be considered a separate change.

If a project falls one year behind the Project Development/Implementation Schedule at any phase, MoDOT will notify the entity and/or MPO of the schedule lapse by letter. The notification will serve as a final notice, giving the entity an opportunity to respond to the situation before MoDOT takes action. Information about the project will be submitted to MoDOT within 30 days of the letter date. The information will include:

1. Project status,
2. Current phase of project implementation, and
3. Funds obligated and spent on the project.

Actions taken by MoDOT may include removal of the project, which, per federal requirements, would require the entity to repay any federal funds spent on the project. The MPO and MoDOT will make the ultimate decision regarding the disposition of each project.

It **is not** the responsibility of MoDOT to keep the entity informed as to the status of the project. The entity will keep MoDOT informed as to any delays and/or unforeseen conditions that may hinder the project's progress. Failure to provide the required documentation will cause the project to be withdrawn and the funds redistributed at the discretion of MoDOT or the MPO. Federal regulations require the entity to repay any federal funds spent on a cancelled project. The project sponsor would be required to repay these funds prior to the programming of any future projects. In addition, project sponsors failing to fulfill the obligations as stated in the contract agreement or showing reasonable progress for any project will not be allowed to request future project funds for a minimum period of one year, and then only with the approval of MoDOT.

FEDERALLY FUNDED BRIDGE PROJECTS

The design philosophy for federally funded bridge projects is to promote the use of good engineering judgment based on project specific site conditions. Although there is an expectation that applicable national codes and design guidelines will generally be followed, this does not mean it is necessary to rigidly follow the "design standard" philosophy (for example, one size fits all) for a project to be eligible. MoDOT's programs are designed to allow the local agency

and its engineer the flexibility to build a safe and economical project that meets the needs and desires of the local agency and the general public to maximize limited funding and resources.

In keeping with this program philosophy, the engineer of record will be considered responsible for determining the appropriate design parameters chosen for the project based on the specific site conditions, local agency needs, and guidance provided in Section 8 of this manual. This will provide the engineer and local agency with the greatest flexibility in investigating possible design alternatives to optimize the available funds for these bridge projects and to build what is needed at the project site. Documentation of all design decisions made for the project is expected to be kept by the local agency and made available for viewing by MoDOT district personnel or FHWA upon request.

To promote an efficient delivery of local bridge projects, MoDOT will concentrate oversight efforts pertaining to the bridge structure for these projects to the PS&E submittals stage. All deliverables at the PS&E stage are expected to be complete and in a "ready to let" status because a professional engineer registered to practice engineering in the state of Missouri is required to sign and seal the documents. With this in mind, MoDOT does not typically act as a "checker" of the details for these submittals as the accuracy and completeness are assumed to be the responsibility of the professional engineer. Also, it typically will not be MoDOT's practice to independently evaluate or verify the appropriateness of the proposed design parameters chosen for these projects by the engineer of record. MoDOT's role is to perform a broad quality assurance overview to make sure all "deliverables" are received as described in this manual and as necessary to add the bridge to the National Bridge Inventory database.

In addition to the requirements and expectations discussed above and elsewhere in this manual, the engineer of record will be responsible for verifying that the intent of MoDOT's federal bridge programs has been met for bridge rehabilitation and replacement projects. By signing and sealing the PS&E submittals, the engineer of record will be certifying and representing to MoDOT that the four criteria given below have been met.

MoDOT's intent for the federal bridge programs for rehabilitation and replacement projects:

1. Proposed project is safer than the existing site conditions, and all safety issues have been adequately addressed or mitigated.

2. Proposed bridge project will remove or will not create any deficiencies of the National Bridge Inventory items based on the Federal Highway Administration's "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges." It has been noted that the engineer of record is expected to determine the design parameters based on site conditions and local agency needs. If this results in a deficient item, the engineer is required to provide documentation to justify the proposed parameter and, if applicable, MoDOT will forward to FHWA for their approval. This information should be submitted in the early stages of the project so that any necessary approval is attained to avoid the potential of delays or any unnecessary engineering work. See Section 8 of this manual for details and descriptions regarding the deficient items. However, removal of

all deficiencies may not be applicable for STP projects. For STP projects, the engineer of record should verify based on the latest federal legislation.

3. The longevity or "bridge life" of a bridge project can reasonably be expected to last a minimum of 25 years before development of any significant deficiencies.

4. The project will be in compliance with all applicable federal, state, and local laws and regulations.

INVENTORY

The Missouri Department of Transportation is required to submit an annual inventory of all bridges and all federal-aid highway systems in the state to FHWA. Failure to complete the requirements of inventory and inspection by a local agency will jeopardize their eligibility to participate in the funding programs within this manual.

BRIDGE INVENTORY AND INSPECTION

FHWA requires all bridges on public roads to be inventoried and inspected in accordance with the National Bridge Inspection Standards. The FHWA holds MoDOT responsible for collecting the inventory data. The local agency's inventory and inspections shall be in accordance with MoDOT's Bridge Inspection and Rating Manual.

ROADWAY INVENTORY

MoDOT will request the necessary information from the local agency for all federal-aid routes under its jurisdiction. Information requested includes mileage by surface type, surface width, number of lanes, and traffic volume category. The information should include the submission of a system map (two copies) along with comments on the system from an area-wide planning agency. If the local agency population is more than 50,000, the local agency is required to submit three copies.

UTILITIES

The local agency should, in the programming phase, identify existing utility locations and determine whether any adjustments will be required with the proposed improvement. This determination can be made by visually examining the existing utility facilities within the limits or by calling Dig Rite (800 Dig Rite) or directly calling the utility company to have the utilities located. This step is necessary to determine what impact utility relocations might have on local funding. Should the type of relocation qualify for federal participation, the local agency may include these estimated costs in the Programming Data Form (Fig. 3-1-1) or on the Transportation Enhancement Application (refer to *A Guide to Transportation Enhancements* available at
http://www.modot.mo.gov/business/manuals/documents/Final Enhancement Guide.pdf

ADMINISTRATION OF FUNDING

HIGHWAY BRIDGE PROGRAM:

The Highway Bridge Program has been authorized for public bridges beginning with Fiscal Year 1979. Funds are normally apportioned on or about October 1 each year. Funds are available for three years after the close of the fiscal year for which they were authorized. Unused funds may be withdrawn by MoDOT to make other arrangements for their expenditure. This is necessary in order to prevent loss of the funds through statutory lapse.

Federal funds are available to finance up to 80% of the eligible project cost but may be increased with the use of credit earned from replacing an eligible bridge that is not on the federal-aid system. It will be necessary for the local agency to provide the necessary matching funds. The fair market value of donated right of way (after March 1987) may be credited to the local agency's matching share with the amount not to exceed the local agency's share. For further details regarding donated right of way, refer to the LPA Land Acquisition Manual or contact the MoDOT district representative. Page 1-15 and 1-16 provides more information on local match guidelines.

If a local agency replaces or rehabilitates an eligible bridge that is not on the federal-aid system with their own funds, they may receive a credit that can be applied to the non-federal share on other federal-aid bridge projects. Details are included in Section 2 of this manual.

The HBP Program is intended for bridge rehabilitation and replacement and a minimum amount of approach roadway construction will be allowed.

The funds will be administered according to the following policies:

1. The current transportation bill requires that at least 15% of the state's total bridge appropriation be allocated for use on off-system bridges (BRO). The Missouri Highways and Transportation Commission approves the amount of bridge funds allocated to this program. Off-system bridges are bridges that are on roads that are functionally classified as a local road or street and rural minor collectors.

2. Off-system funds allocated to the counties will be based on the ratio of the replacement cost of the square footage of deficient bridge deck in the county to the replacement cost of the square footage of deficient bridge deck in all counties of the state.

3. Bridge funds for off-system projects may be programmed by counties for future projects. If the county does not have a sufficient balance of off-system bridge funds, they may borrow up to <u>three</u> years of future allocations for preliminary engineering or <u>one</u> year of future allocation for construction costs.

4. The Missouri Highways and Transportation Commission approves the amount of bridge funds allocated to the Kansas City, Springfield and St. Louis TMAs and other cities with an urban cluster population of greater than 5,000 for use on on-system bridges (BRM).

On-system bridges are bridges that are on roads that are functionally classified as urban collectors, rural major collectors, and arterials. Bridge funds for cities with an urban cluster population between 5,000 and 200,000 are distributed on a selection process, which is conducted with each transportation bill. The amount of money programmed will be the maximum amount the city will receive. Any costs over the programmed amount will be funded with the city's allocated STP funds or with local funds.

There are two types of projects that can be evaluated to see whether exceptions to these guidelines should be made. Projects will be evaluated on an individual basis to see whether any exceptions are warranted.

1. Emergency Project

   When a bridge has fallen down or washed out and is essential for travel in the area, MoDOT will consider allowing the county to exceed its amount of available funds by more than the guidelines.

2. County Receives Small Allocation

   Some counties do not receive enough allocation to reasonably finance a bridge project. Some allowance will be made for these counties to exceed the guidelines so they can participate in the program.

STP-URBAN:

The STP-Urban Program has been authorized for all cities with a population of more than 5,000 beginning with Fiscal Year 1974. Legislation authorizes the expenditure of federal funds for highway related construction and improvements on on-system routes and bridges that are on or off the federal-aid system within the approved urban and urbanized boundaries. In MPOs designated as Transportation Management Areas (TMAs), the funds may be used for projects anywhere within the metropolitan planning area. The term "urbanized area" means an area so designated by the Bureau of Census having an urban cluster population of 50,000 or more with boundaries to be fixed by responsible state and local officials in cooperation with each other and subject to approval of the Federal Highway Administration (FHWA). Such boundaries shall as a minimum encompass the entire corporate limits of the urban area.

Funds are normally apportioned on or about October 1 each year. Funds are available for three years after the close of the fiscal year for which they were authorized. Unused funds may be withdrawn by MoDOT to make other arrangements for their expenditure. This is necessary in order to prevent loss of the funds through statutory lapse.

Funds are usually authorized by Congress for several years under a single transportation bill, but are apportioned annually for a single year to the state. Cities outside the three TMAs will be permitted to utilize funds they expect to receive for the number of years for which funds are authorized in the current transportation bill, provided statewide balances permit.

In Kansas City, Springfield, and St. Louis, the distribution of funds will be determined by the TMA through coordination with the local agencies within the TMA boundary.

Federal funds are available to finance up to 80% of eligible project costs. It will be necessary for the local agency to provide the necessary matching funds. Federal funds from other federal agencies cannot be used to match STP-Urban funds, except as defined on Page 15 of this section.

The funds will be administered according to the following policies:

1. The current transportation bill specifically designates federal funds for use within the Kansas City, Springfield, and St. Louis Metropolitan Areas. These funds are referred to as "attributable funds" and are allocated by MoDOT to the respective TMAs.

2. A share of the STP-Urban funds is allocated to cities with an urban cluster population between 5,000 and 200,000. These funds are referred to as "non-attributable funds." The Missouri Highway and Transportation Commission approve the amount of STP-Urban funds allocated to this program. These funds will be available to the various recipients on a first-ready, first-served basis with the amount available to any city being up to the total amount estimated to receive during the current transportation bill, provided statewide balances permit.

STP-ENHANCEMENT:

The STP-Enhancement Program offers states different options to enhance their transportation system. The current transportation bill allows all levels of government the opportunity to plan and develop intermodal transportation systems (various forms of transportation that are integrated and interconnected) tailored to their specific needs. Federal requirements concerning STP-Enhancements are quite extensive. For information on the selection and programming of a transportation enhancement project, please see *A Guide to Transportation Enhancements* at http://www.modot.mo.gov/business/manuals/documents/Final Enhancement Guide.pdf. The current transportation bill requires that at least 10% of the Surface Transportation Program funds be allocated towards transportation enhancement activities.

Transportation enhancement activities can be stand-alone projects or can be implemented as part of an ongoing transportation project. In either case, the project must relate to the intermodal transportation system in terms of function, proximity, or impact. For example, an independent bike path is a functional component of the intermodal transportation system. Removal of outdoor advertising within an individual's view of a highway is justified in light of its proximity. Retrofitting an existing highway by creating a wetland to filter runoff from the highway would qualify based on the impact of the highway in terms of water pollution.

Enhancement projects must be projects that are over and above what is considered routine construction or maintenance. Transportation enhancement funds may be used in the following categories:

1. Pedestrian and bicycle facilities.

2. Pedestrian and bicycle safety and education activities.

3. Acquisition of scenic easements and scenic or historic sites including historic battlefields.

4. Scenic or historic highway programs including the provision of tourist and welcome center facilities.

5. Landscaping and other scenic beautification.

6. Historic preservation.

7. Rehabilitation and operation of historic transportation buildings, structures, or facilities including historic railroad facilities and canals.

8. Preservation of abandoned railroad corridors including the conversion and use thereof for pedestrian or bicycle trails.

9. Control and removal of outdoor advertising.

10. Archaeological planning and research.

11. Mitigation of water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

12. Establishment of transportation museums.

Up to 80% of a transportation enhancement project can be financed with federal STP funds. The local agency is required to match the project with at least 20%. See Page 1-16 for local match guidelines for enhancement projects.

CONGESTION MITIGATION AND AIR QUALITY (CMAQ):

The CMAQ Program was created by the Intermodal Surface Transportation Equity Act of 1991 (ISTEA) to assist cities in attaining federal air quality guidelines. Legislation authorizes the expenditure of CMAQ funds on projects that have a documented emissions reduction associated with them and are available for use only in non-attainment and maintenance areas, or as determined by federal law for ozone and particulate matter pollution in the State of Missouri. Typical activities include revisions and installation of traffic signals, developing transportation management systems, public transportation facilities, and activities to encourage car-pooling and vanpooling.

SAFE ROUTES TO SCHOOL (SRTS):

The Federal-Aid Safe Routes to School Program (SRTS) was created by SAFETEA-LU. These funds are available for infrastructure and non-infrastructure projects that benefit elementary and middle school children in grades K-8. Typical infrastructure project activities include but are not limited to construction or replacement of sidewalks and cross walks or traffic flow modifications. Non-infrastructure projects may be educational activities to teach community members the rules and regulations of biking or walking in or with traffic as well as local law enforcement monitoring around the school. More detailed program requirements and project activities may be accessed at http://www.modot.mo.gov/Safety/SafeRoutestoSchool.htm.

SUMMARY OF TYPICAL FEDERAL-AID PROCEDURES

CONCEPTUAL DESIGN

1. Local agency selects project. If the project involves a bridge, the bridge must meet the criteria discussed in Section 3. If local agency is in an MPO, the local agency must also ensure the project is on the current TIP.

2. If the local agency does not have the professional staff to perform the design and environmental work, the local agency selects a consultant and negotiates a contract (See Section 6).

3. Local agency submits to MoDOT programming information on the selected project to include the Programming Data form and project location map.

4. MoDOT will review the consultant contract and verify the eligibility of the project.

5. MoDOT will notify the local agency that the project is eligible and whether an environmental document is required and the level of document if required.

6. The MoDOT District Office will coordinate with the local agency the completion of a local agency/MHTC agreement.

7. MoDOT requests federal funding for project. Upon approval by FHWA, MoDOT authorizes the local agency to begin preliminary engineering.

8. Local agency prepares the environmental document as directed in Step 5 and discussed in detail in Section 4 of this manual. The local agency is responsible for compliance with all applicable federal and state environmental laws and regulations; Section 4 contains guidance to aid the local agency in achieving such compliance.

No work is to be initiated on any part of the project until federal funding has been approved (obligated) by FHWA and the local agency has been notified by MoDOT to proceed.

PRELIMINARY AND FINAL DESIGN

9. Local agency prepares preliminary plans for MoDOT district review. Local agency prepares right-of-way plans for certification and review by MoDOT. Local agency requests right-of-way purchasing authorization prior to acquisition. Purchases made prior to authorization approval by FHWA will not be eligible for federal participation. Submittal of preliminary bridge plans, hydraulic studies, etc. to MoDOT-Bridge Division is not necessary. However, if the engineer or local agency has specific questions regarding bridge project eligibility that they would like MoDOT to address at the preliminary stage then MoDOT-Bridge Division is receptive to this information. Specific questions should be provided by the engineer or local agency in writing on their cover letter with the submitted package to the MoDOT district office.

10. Local agency coordinates with local utilities to relocate as required. If federal funds are to be used to complete utility adjustments, local agency should submit utility agreement to MoDOT.

11. Local agency acquires necessary right of way for project and requests right-of-way clearance through MoDOT in accordance with MoDOT's LPA Land Acquisition Manual.

12. Local agency submits plans, specifications, and estimates (PS&E) to MoDOT for review. Submittals must include all commitments identified in environmental documents. Once PS&E documents have been reviewed and modifications completed, MoDOT will request obligation of funds from FHWA.

No work is to be initiated on any part of the project until federal funding has been approved (obligated) by FHWA and the local agency has been notified by MoDOT to proceed.

CONTRACT LETTING AND CONSTRUCTION

13. Once FHWA approves the obligation of construction funds, MoDOT will notify local agency to advertise for bids. If all work is to be done by local forces, skip to procedure 19. Also, please see Sections 3 and 9 for more detail on work performed by local forces.

14. Local agency must advertise for bid a minimum of 21 days prior to letting.

15. Local agency opens the bids, and recommends award of contract. At this time the successful bidder must sign the anti-collusion statement and has three days to fill out information on DBE sub-contractors and return it to the local agency. The local agency must disqualify the bidder if DBE information is not returned within three business days.

16. Local agency submits bid tabs, anti-collusion statement, and DBE information to MoDOT for concurrence. MoDOT will notify local agency of their concurrence in the award of the bid and that the contract may be executed.

17. Local agency will execute contract with the successful bidder, issue notice to proceed to the contractor, and must submit a copy of the executed contract to MoDOT. MoDOT will review the executed contract with the required documents and notify the local agency that they may issue a notice to proceed.

18. Construction begins. Local agency submits progress reports, conducts wage rate interviews, assures that construction will be inspected for compliance with specifications, and ensures EEO compliance.

19. If construction changes are needed, local agency determines level of the change order and submits as needed to MoDOT. After the final change order, additional funding may be requested to cover change orders if funds are available.

20. Local agency maintains necessary documentation of quantities placed in support of quantities paid.

21. Once construction is complete, local agency notifies MoDOT's district representative to coordinate the final inspection. Local agency submits final inspection report.

22. Local agency submits all applicable final documentation to MoDOT including a final invoice for all project costs involving preliminary engineering, construction engineering services, right of way, utility adjustments, and construction costs.

23. MoDOT audits the project as necessary and requests final payment from FHWA.

24. Local agency is responsible for implementing all commitments and monitoring identified in environmental documents.

OTHER FEDERAL FUNDING USED AS MATCH

Federal funds provided by other federal agencies may be used to match federally funded transportation projects as allowed by each federal agency's funding requirements.

Listed below is a table showing what other federal funds may be used to satisfy the federal-aid highway matching requirements.

Federal-to-Federal Matching Opportunities	
Source of Federal Funding	**Eligible Categories of Highway Projects**
Federal Land Management Agencies, including but not limited to: ✓ U.S. Forest Service ✓ Bureau of Indian Affairs ✓ Bureau of Reclamation ✓ Bureau of Land Management ✓ National Park Service ✓ Numerous military agencies (authorized at 23 U.S.C. 120(k))	Federal highway projects funded under the following program categories: ✓ Interstate Maintenance ✓ National Highway System ✓ Surface Transportation Program ✓ Congestion Mitigation and Air Quality Program ✓ Recreational Trails Program ✓ Scenic Byways Programs (providing access to Federal or Indian Lands)
Federal Lands Highway Program (authorized at 23 U.S.C. 120(l))	Federal highway projects funded under the programs shown above and that serve or provide access to Federal or Indian lands, except Scenic Byways
Federal programs with special legislative authorization to match other Federal funds, including funds provided under: ✓ State and Local Assistance Act ✓ HUD Community Development Block Grants ✓ Public Works Employment Act of 1976 ✓ Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988	Any Federal-aid highway project

Federal Emergency Management Agency (FEMA) funds are not eligible to be used as match on federally funded transportation projects including the HBP Program. Corps of Engineers funds are eligible for match on federally funded transportation projects.

The local agency must confirm with all the federal funding agencies that the funding provided may be used as match for federally funded transportation projects before the funding will be accepted by MoDOT.

LOCAL MATCH GUIDELINES

Federally participating projects require local agencies to match costs of the project, generally at the pro rata share established for the program. Local agencies can use a variety of funding methods for local match, including cash and donations. Eligible donations may be applied only to the project on which the donation was made. Donations cannot be used to revise matching shares on unrelated projects. At no time may the federal share of costs exceed the total project costs actually incurred. Guidelines for determining local match amounts are as follows:

1. As described in Section 2, credit can be received for locally funded bridge replacement or rehabilitation projects. This credit, referred to as soft match credit, may be applied to the local agency's share of costs on Off-System Bridge Replacement and Rehabilitation Program (BRO) projects. This soft match credit **cannot** be used as part of the local match for STP-Enhancement, STP-Urban, CMAQ or other federal projects.

2. The fair market value of donated funds, materials or services (i.e., labor) donated from private third parties to the local agency are eligible for credit against match. Third parties may include an individual, company, association, etc., but do not include a federal, state or local government agency. Donations are applied at the pro rata share percent established for the project. Donations must be made after the project is programmed and no later than concurrence in award. In addition, all donated services and materials must meet the eligibility requirements of the project. Donations must be documented and records maintained to show how the values placed on materials and services were derived. Volunteer services must be supported by time sheets, time cards or other records. The value of volunteer time should be consistent with the guidelines published by the nonprofit organization *Independent Sector*. These guidelines may be found at the following website: http://www.independentsector.org/programs/research/volunteer_time.html.

3. The fair market value of local government funds, materials, or services performed by local government employees, may be applied to a project. The local government must maintain documentation that is adequate to support the costs being claimed. This documentation should include, but not be limited to vendor invoices, time sheets, time cards or other records.

4. Services may include the costs of preliminary engineering prior to FHWA's environmental (NEPA) approval. Such a credit may be allowed provided that appropriate documentation to support such expenditures is available for review. The local agency must follow all applicable federal guidelines for the selection of a consultant. Only the value of expenses determined to be reasonable will be allowed to be used toward local match.

Right of way or other real property may be donated by a private third party or state or local government agency. Donations from a state or local government agency can only be accepted after June 9, 1998. Donated property is applied at the same pro rata share percent established for the project. The donation must be appraised to determine the fair market value. Donated property must be incorporated into the project and cannot influence the environmental assessment. For right of way or other real property to be eligible as match, it must be or have

been acquired within the requirements set forth in the parameters of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Act) of the Code of Federal Regulations, regardless of the date of acquisition.

Credit for donations of funds, materials, services or real property must be approved by MoDOT and FHWA in order to secure funding. Donations made to the project as match must be applied no later than concurrence in award. Once credits toward local match have been established and approved, they cannot be changed. Credits toward local match must be approved prior to the execution of the work, except as noted in Item 4 above.

Project Flowchart for Local Federal-Aid Projects

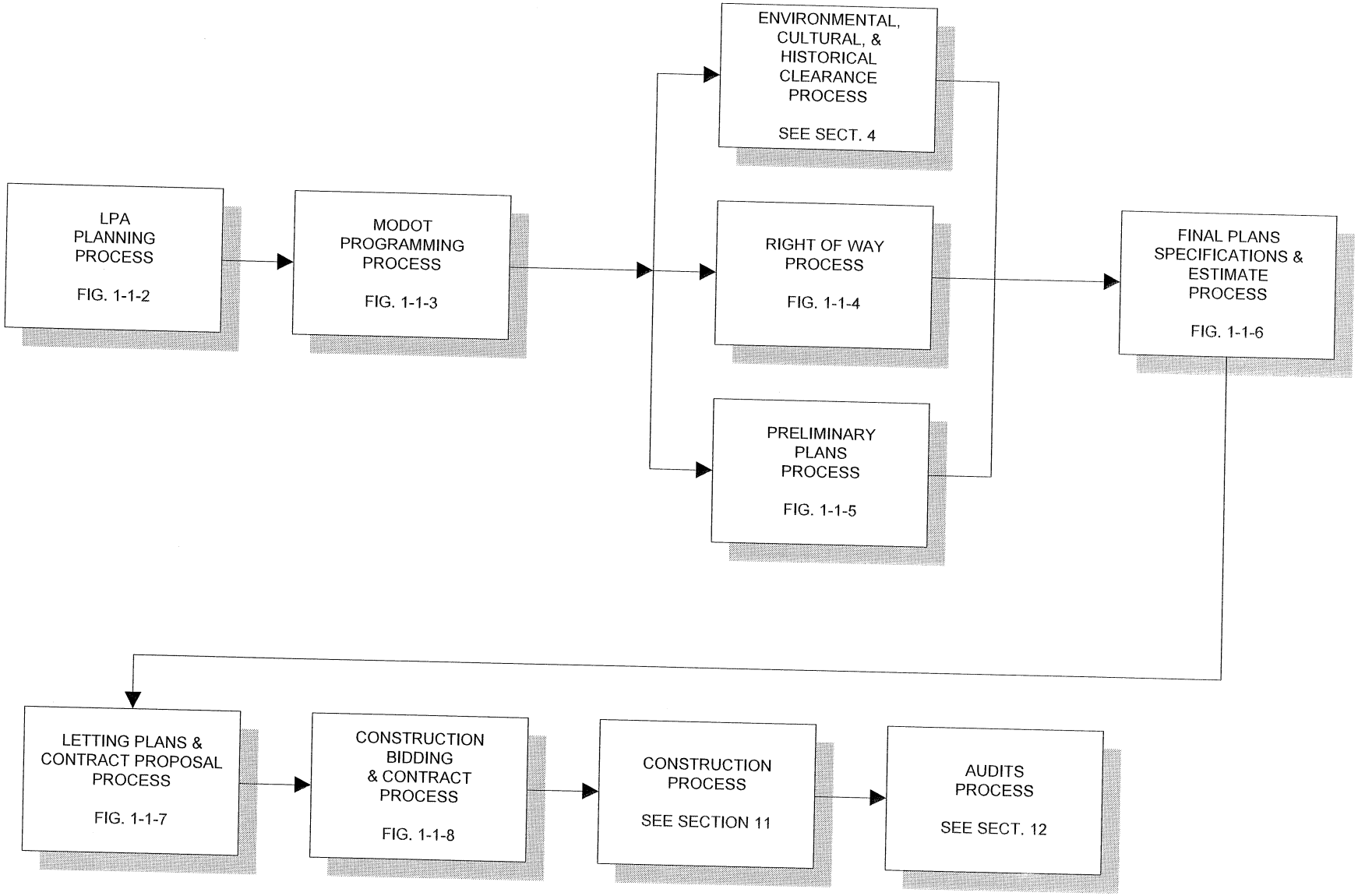

FIG. 1 - 1 - 1

LPA Planning Process

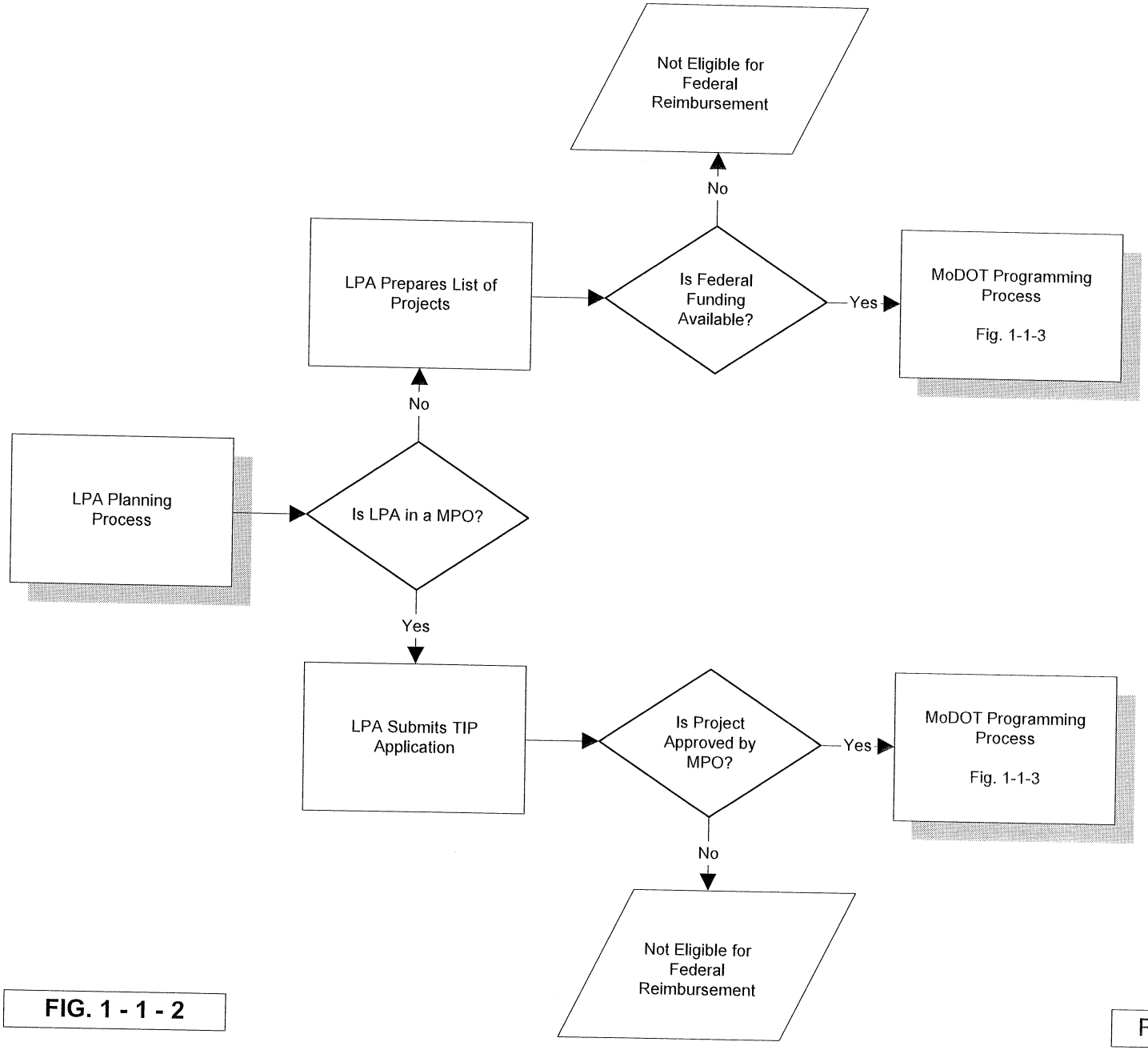

FIG. 1 - 1 - 2

Return to Figure 1-1-1

MoDOT Programming Process

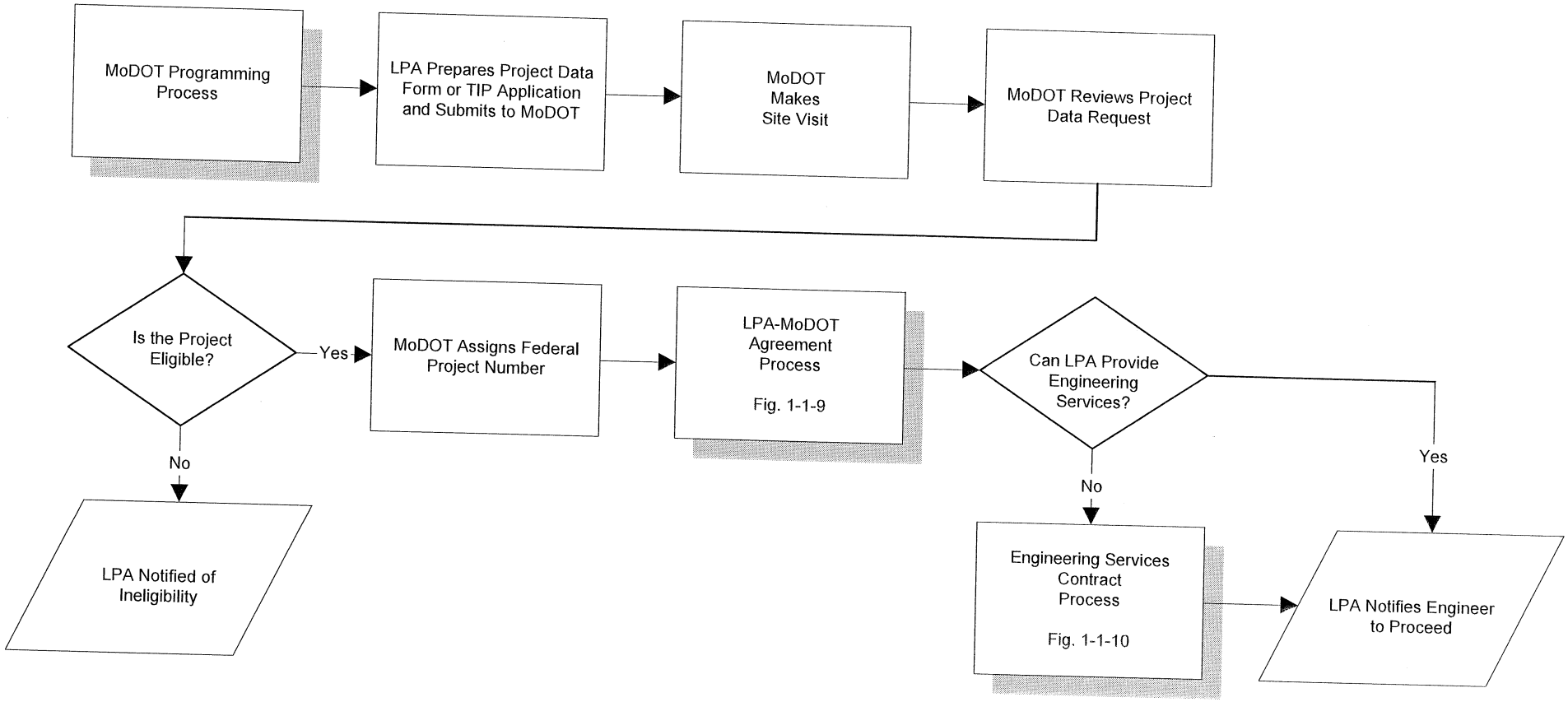

FIG. 1 - 1 - 3

Return to Figure 1-1-1

Right of Way Process

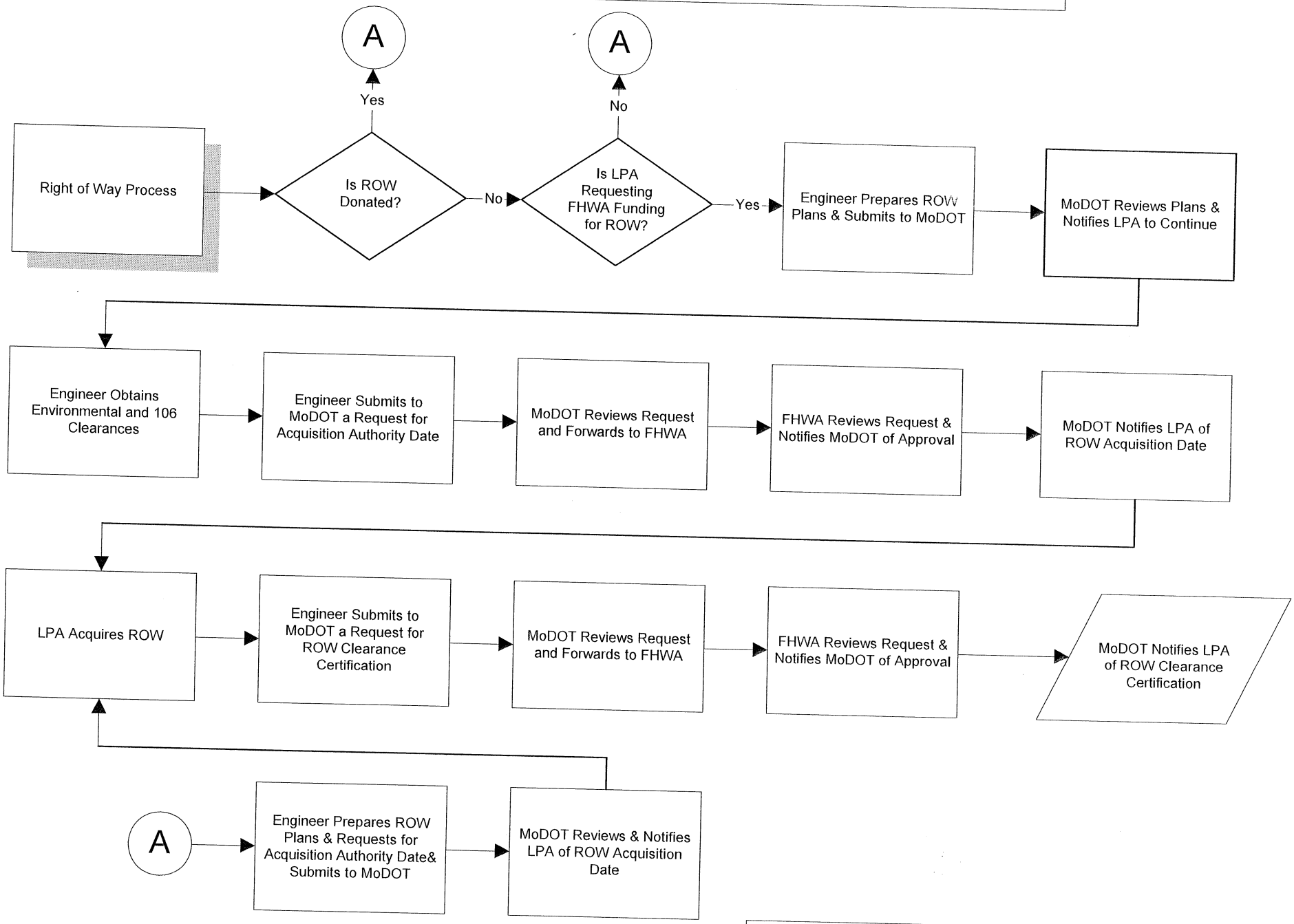

FIG. 1 - 1 - 4

Return to Figure 1-1-1

Preliminary Plan Process

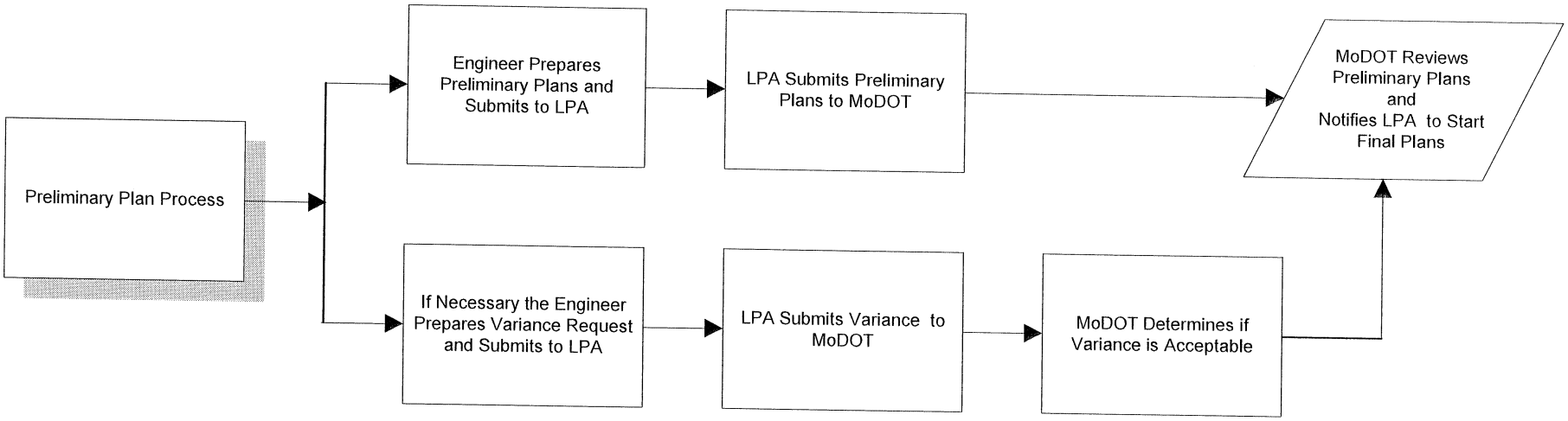

FIG. 1 - 1 - 5

Return to Figure 1-1-1

Plans Specifications & Estimate Process

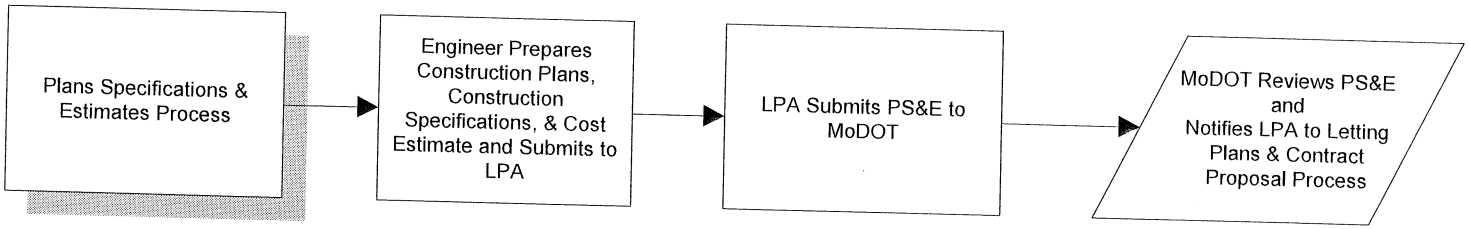

FIG. 1 - 1 - 6

Return to Figure 1-1-1

Letting Plans & Contract Proposal Process

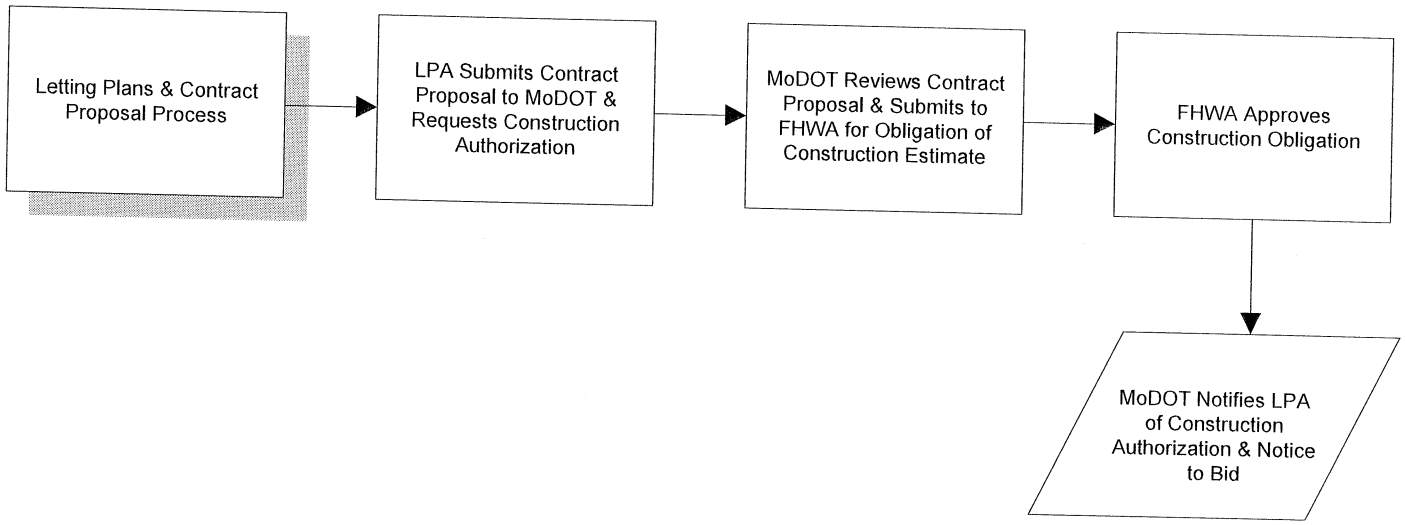

FIG. 1 - 1 - 7

Return to Figure 1-1-1

Construction Bidding and Contract Process

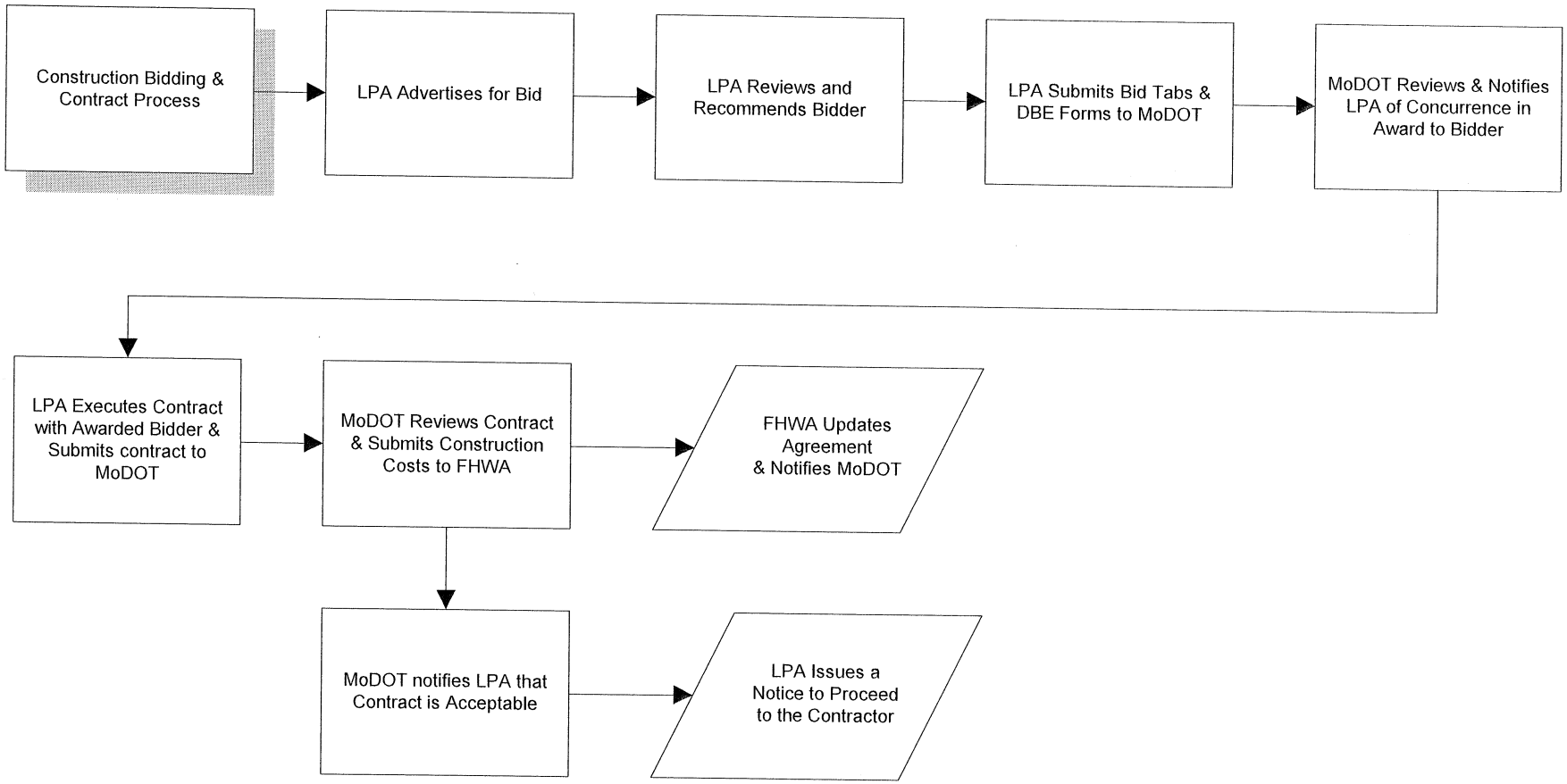

FIG. 1 - 1 - 8

Return to Figure 1-1-1

LPA-MoDOT Agreement Process

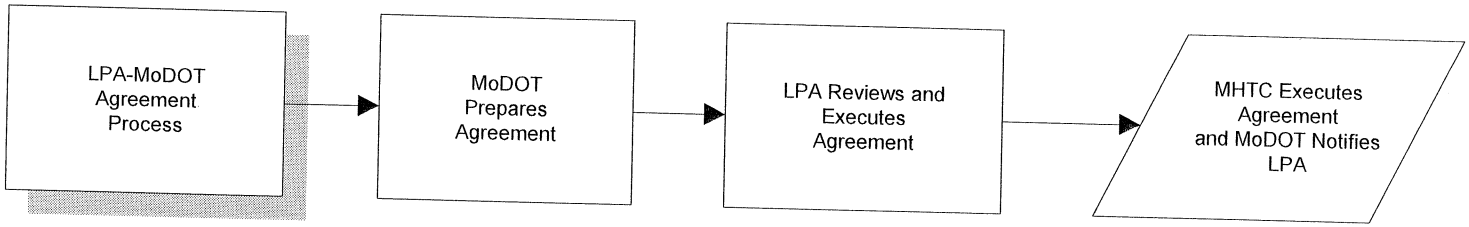

FIG. 1 - 1 - 9

Return to Figure 1-1-3

Engineering Services Contract Process

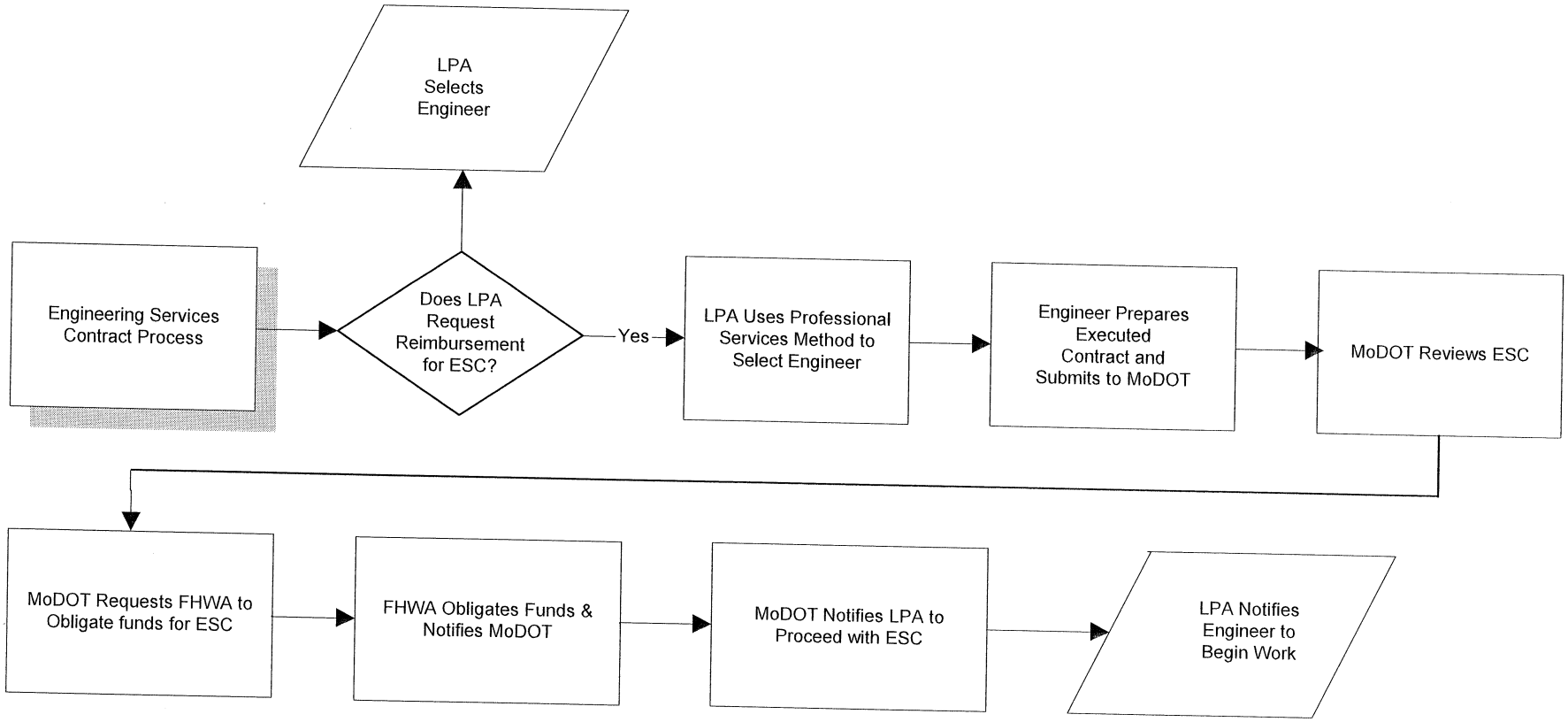

FIG. 1 - 1 - 10

Return to Figure 1-1-3

Sect. 2 - Bridge Soft Match Credit Program

OVERVIEW

Federal regulations originating in Section 123(e) of the 1987 Surface Transportation and Uniform Relocation Assistance Act (STURAA) provides that agencies (state, county, or city) may receive soft match credit for the cost of a locally funded bridge replacement or rehabilitation which would count toward the local match on federally funded bridge replacement projects. It is not the intent of the program to give credit for all bridge work that is done by the local agency, but only for the eligible replacement and rehabilitation work, which is performed according to the appropriate guidelines.

GENERAL

The bridge being replaced or rehabilitated for which the agency desires credit must meet the contractual requirements of the local agency and the MoDOT intent of the HBP as defined under Federally Funded Bridge Projects in Section 1 of this Manual.

One of the purposes of the Bridge Soft Match Credit Program is to provide an alternate process for Local Agencies to remove deficient bridges from the Bridge Inventory. A number of requirements that would apply to projects receiving HBP funding are waived in the Soft Match Credit Program. (These exceptions are highlighted in bold print in this Section.)

The federal contract requirements and clearances by federal agencies may be waived, but all state and local contract requirements and clearances shall still be met. Projects may be constructed by qualified local agency forces, competitive bid, or negotiated bid. (See Section 9 for information regarding work by local forces.)

The design drawings shall be prepared under the direction of a registered professional engineer and signed and sealed. By signing and sealing the drawings, the engineer of record will be representing that the MoDOT intent has been met in accordance with the criteria set forth in Section 1 of this manual. A registered professional engineer shall direct the construction inspection.

PROJECT SELECTION

The bridge must be on MoDOT's eligible list for funding for off federal-aid routes. These functional classifications include rural local, rural minor collector, and urban local.

Projects involving removal of an eligible bridge that is replaced with something other than a new bridge are eligible. (For example, replacing a bridge over an abandoned railroad with roadway fill.)

ELIGIBLE COSTS FOR SOFT MATCH CREDIT

An agency may receive credit for no more than 80% of the eligible costs. The items that are eligible for receiving credit include preliminary engineering services, surveys, environmental and cultural documentation, subsurface investigations, right-of-way services, bridge construction, minimal road construction, construction engineering for inspection, and those portions of utility relocation costs for which the county is obligated.

The following federal funds from other federal agencies may be used on credit projects but only up to a maximum of 20% of the eligible costs.

1. Community Development Block Grant Funds if authorized by the Department of Housing and Urban Development.

2. Local Public Works Funds authorized by the Economic Development Administration.

Any federal funds above this 20% will reduce the costs eligible for credit.

Only a minimal amount of approach work may be counted. Eligible limits may include reasonable approach roadway necessary to connect to the existing road and to return the new grade to normal ground. This corresponds to eligible limits of HBP projects authorized to date.

FINAL DESIGN

For projects for which credit is desired, the engineer of record shall have the responsibility for the selection of the specific design parameters along with verifying that the MoDOT intent of the HBP is being met as described and given in Sections 1 and 8 of this Manual.

The specifications and job special provisions for the project shall also be determined by the engineer based on specific site conditions and guidance given in Section 9 of this manual.

A preconstruction itemized engineer's cost estimate is required to be retained by the engineer with the project file. This estimate will be based either on the local forces constructing the project or on a contractor constructing the project.

CONSTRUCTION LETTING

The Federal-Aid contract requirements of Section 10 are not required. When the local agency elects to build the project by contractor, then the State and Local requirements for competitive bidding shall be used.

CONSTRUCTION

The federal requirements for construction in Section 11 may be waived. The construction inspection, testing, and sampling shall be done under the direction of registered engineer.

REQUEST FOR CREDIT SUBMITTAL

Formal acceptance of the project for credit will be requested by the local agency after the project has been completed, documentation of final construction cost submitted, and the bridge has been added to the bridge inventory. Submittal at the PS&E stage of the project is not necessary. However, if the engineer or local agency has specific eligibility questions regarding the project that they would like MoDOT to address before construction then we are receptive to receiving the PS&E submittal. Specific questions should be provided by the engineer or local agency on their cover letter with the submitted package.

The credit submittal should include the following:

1. As built plans and specifications (size 11 x 17) signed and sealed by a registered professional engineer and approved by the local agency. See Section 9, "Final Design" for specific requirements.

2. Structural Inventory and Appraisal (SI&A) sheet completed for the bridge improvement with load rating calculations and Load Rating Summary Sheet signed and sealed by a registered professional engineer. See Section 9, "Final Design" for specific requirements.

3. Beginning and completion dates for construction.

4. A certification by the local agency stating that the project is not controversial and that the project being considered has been constructed in accordance with the standards applicable to the HBP except as set out. Certification by the bridge owner that all of the required clearances were obtained prior to construction. Also, certification that the project was constructed substantially in conformity with the plans and specifications.

5. Documentation of eligible final costs, and certification by the local agency that the costs claimed are the actual costs incurred. If quantities documented for costs don't match the list of quantities as compared to the engineer's pre-construction itemized cost estimate, the local agency should submit justification for a change in the planned quantities. If the existing structure is currently eligible for rehabilitation only and the local agency elects to replace the structure, the amount of eligible federal funding will be limited to that which will not exceed the rehabilitation cost estimate unless appropriate justification is provided by the local agency that a new structure represents the best value. If the rehabilitation cost is at least 68% of the replacement costs, it can generally be assumed that the new replacement structure will provide a better value than the rehabilitation of the existing structure and therefore a better use of federal bridge funds.

6. A minimum of two photographs showing bridge along roadway and stream opening.

Additional photographs showing the bridge construction are also recommended but not required.

7. After construction has been completed, a MoDOT district representative shall perform a final "walk-through" inspection to verify that the bridge was constructed in general conformance with the submitted "as built" plans. Typically, the inspection should verify that the bridge location, type, width, length, and members correspond to the "as built" plans. Also, the inspection should verify that the bridge is considered to be in "good" condition. It should be noted on the cover letter with the submittal package that the final inspection was completed and it is recommended that credit be given for the structure.

USE OF SOFT MATCH CREDIT

The eligible costs may apply as credit toward the 20% local match required on federal-aid bridge projects. This credit provision does not increase an agency's allocation of HBP funds, but will permit usage of funds already allocated to an agency at a rate up to 100%.

Any BRO project submitted for programming by a local agency will be set up using soft match credit, if available. As a result, the local agency's preliminary engineering costs will be eligible for more than 80% federal reimbursement. As the project moves to construction authorization, credit will continue to be applied, as long as it is available. Counties will not be allowed to have a negative soft match credit balance.

If a local agency does not want to use their soft match credit on a project, they will need to submit a letter to the MoDOT District Office indicating this.

Soft match credit can be applied to the construction phase of a bridge project at the time of construction authorization, even if soft match credit was not used for the design phase.

The federal reimbursable share of design costs cannot be increased by applying additional soft match credit after the preliminary engineering authorization date.

A local agency may elect to transfer its soft match credit earned under the Off-System Bridge Credit Program to another local agency. The following guidelines should be followed to transfer credit:

1. A request must be submitted to the MoDOT District Office on the local agency's letterhead, stating the receiving agency and the dollar amount. All the county commissioners or city officials must sign the request.

2. The request must be approved prior to using the soft match credit on a bridge project.

A local agency may elect to transfer its soft match credit earned under the Off-System Bridge Credit Program to another local agency for BRO funds. The following guidelines should be followed to transfer credit for funds:

1. Both counties must submit requests to the MoDOT District Office on their local agency's letterhead, stating the amount of BRO funds and credit to be transferred by each county. All the county commissioners or city officials must sign the requests.

2. The request must be approved prior to using the soft match credit and BRO funds on a bridge project.

3. No transfer can result in a negative balance of BRO or credit funds.

Sect. 3 - Project Selection and Programming

PROHIBITING THE USE OF DATA AS EVIDENCE

The Federal-Aid Highway Act of 1987 provides that reports, surveys, schedules, lists, or data compiled for the purpose of developing highway safety improvements shall not be admitted into evidence in federal or state courts.

Projects that are being contemplated on MoDOT right of way must be reviewed and approved by the appropriate MoDOT District prior to project selection and programming.

HIGHWAY BRIDGE PROGRAM (HBP)

Project Selection

Project selection is the prerogative of the local agency. MoDOT personnel will be available to advise and assist in project estimating and selection, if desired. Local agencies that are part of a local planning agency are required to submit their project selection to the MPO for review and approval. The following listing includes the type of eligible bridge projects that may be selected by the local agency:

1. Replacement or full rehabilitation of eligible structures from MoDOT's eligible bridge list.

2. Seismic retrofitting of deficient as well as non-deficient bridges is eligible for funding. The design of seismic improvements or retrofits shall follow applicable AASHTO and current FHWA publication guidelines. The reasonable costs of associated structural repairs that are considered necessary or economically prudent to properly accomplish the seismic retrofit are also considered to be participating.

3. Projects involving the application of paint overcoat systems or the complete blast cleaning and repainting of the structural steel are considered to be eligible for structures on MoDOT's eligible bridge list. The reasonable costs of structural repairs considered necessary or economically prudent to properly accomplish the repainting or overcoat project are considered to be participating.

4. Installation of scour countermeasures to protect an existing bridge is eligible for funding.

5. Preventative maintenance activities may be eligible for funding if the local agency has in place a systematic process such as a Bridge Management System, which demonstrates the cost effectiveness of extending the service life of their bridges. This systematic process must previously have been reviewed and approved by FHWA. Preventative maintenance activities include those that preserve bridge components and extend the useful service life of the bridge. These activities would typically be performed on a bridge in good condition in order to keep it in good condition. Increasing the capacity of a structure is not considered a preventative maintenance activity. Although not all inclusive, below are the two basic types

of preventative maintenance and examples of acceptable activities:

a. Systematic Servicing Bridges on a Scheduled Basis: Generally includes cleaning decks; beam seats, beam caps, and salt splash zones; cleaning drainage systems; cleaning expansion joints; cleaning and lubricating expansion bearing assemblies; sealing concrete decks or substructure elements.

b. As Needed Preventative Maintenance: Generally includes resealing expansion joints; spot painting of steel members; minor structural repairs, removing debris from channel; replace wearing surface; extending or enlarging deck drains.

6. Projects involving the application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to a bridge are considered to be eligible for structures on MoDOT's eligible bridge list.

The bridge to be replaced or rehabilitated must be on MoDOT's eligible list for funding. The MoDOT eligible list is compiled from the most recent submittal of Missouri's National Bridge Inventory data to FHWA. MoDOT's eligible list will indicate whether the bridge is considered eligible for replacement (full funding) or only rehabilitation (partial funding), based on the existing inventory and inspection data. The proposed rehabilitation work should eliminate the items that caused the bridge to be identified as deficient unless the proposed deficient item may remain based on MoDOT's approval (see Section 1 and Section 8 of this manual for process and requirements). Ratings for bridges within the local agency will be furnished by the state indicating whether the bridge is eligible for replacement or rehabilitation.

Under certain conditions, it may be possible to eliminate a deficient bridge and to provide the desired service by constructing a roadway instead of a new bridge. Such projects will generally be eligible. A definite determination can be obtained if the local agency submits a schematic sketch showing the factors involved.

The local agency may also use their allocation of HBP funds to replace existing low water crossings at locations that are not included on the bridge inventory. The low water crossing must be replaced with a new bridge meeting the guidelines and requirements provided in Section 1, Section 8, and Section 9 of this manual. Section 123(d) of the 1987 Surface Transportation and Uniform Relocation Assistance Act (STURAA) allows for the use of HBP funds to construct a new bridge to replace low water crossings that are not classified as bridges and are therefore not eligible to be added to the National Bridge Inventory. The interpretation is that the replacement structure should not only meet the traditional definition of a bridge (20 foot length, etc.) but should also improve the overtopping frequency of the facility, thus improving safety.

For bridge rehabilitation and replacement projects, the bridge site will not be eligible for selection to use HBP funding if the structure was replaced or had a major rehabilitation within 10 years of the planned new construction date. The FHWA 10-year rule applies regardless of the source of funds (local, state, federal, etc.) that were used to replace or reconstruct the bridge.

HIGHWAY BRIDGE PROGRAM (HBP)

BRO Force Account

If the local agency is considering constructing the entire project with local forces, please reference this section for the requirements. Please refer to Section 9, when local forces will construct only a portion of the project.

23 CFR 635.205(a):
It may be found cost effective for a State transportation department or county to undertake a federally financed highway construction project by force account when a situation exists in which the rights or responsibilities of the community at large are so affected as to require some special course of action, including situations where there is a lack of bids or the bids received are unreasonable.

In order to meet the intent and spirit of 23 CFR 635.205(a), the following criteria are to supplement the existing guidance in MoDOT's LPA manual. The premise of these criteria is that the remote location and/or small project size for some county bridge replacement projects would likely result in no bids or bids with large mobilization costs and significantly higher than average unit construction costs if the project were to be competitively bid, thereby placing an undue financial burden on the community at large. The intent is to allow counties to use federal-aid funds on appropriate small bridge replacement projects that are at a remote location, while ensuring that larger and/or urban-area type county federal-aid bridge replacement projects continue to be competitively bid.

- A project is competitively bid but there is lack of bids or the bids received are considered unreasonable. (See chart)
- The difference between the engineer's estimate for competitive bidding contracting and the force account estimate must be 20% or greater.
- The proposed new bridge shall be a maximum of two (2) lanes with a total length not to exceed 80 feet.
- Any work not done by force account must be competitively bid according to current LPA procedures. Any work that will be competitively bid must be identified at the construction authorization.
- The LPA shall submit to MoDOT a line item billing statement before reimbursement will be processed.
- The LPA shall have demonstrated experience and ability in constructing the proposed type and length of bridge in recent years with its own forces.
- The LPA shall not staff-up to take on new federal-aid work. They shall be adequately staffed and suitably equipped to undertake and satisfactorily complete the proposed work.
- As a means of periodically verifying the LPA estimates for competitive bidding, the LPAs that use the BRO Force Account option shall take at least one similar bridge to letting for every 3rd qualifying BRO Force Account bridge or every two years,

whichever comes first. If the low bid comes in at less than 20% above the estimate for Force Account, the LPA would not have the option of using Force Account and would be expected to award the contract. If the low bid is 20% or more above the Force Account estimate the LPA could reject the bid and go with the Force Account option. LPAs could also use appropriate bidding information for similar bridges from adjacent counties that was not more than 6 months old to meet this periodic competitive bidding verification requirement.

- Final Acceptance of Force Account project shall be in accordance with Section 9 (Final Acceptance) of MoDOT's Local Public Agency Manual.

The LPA shall request approval from MoDOT for the use of force account along with a description of the project and the work to be performed, the estimated costs* (Contract and Force Account Estimates), estimated federal funds to be provided, and the reason(s) that force account for such project is considered cost effective. Once MoDOT Central Office approves the LPA request, the request shall be submitted to FHWA for federal approval. MoDOT and the LPA are required to retain project records and allow access to records for quality check and audit purposes in accordance with 49 CFR 18.42. Upon completion of each project, a review will be performed by MoDOT to compare final cost with engineer's estimate.

* Estimated cost shall include:

(1) Staff time (hours) per different phases of the work and based on individual employees or classifications of employees.
(2) Wage rate per employee or class including any payroll additives (FICA, benefits, etc)
(3) Equipment type, usage (hours), and costs (cost or rental rate per hour or per miles).
(4) Materials and supplies to be incorporated in the project and their costs including sources and suppliers.
(5) Line item engineer's cost estimate of work, had it been contracted by competitive bidding.

Unreasonable Bids

Number of Bids	Low Bid exceeds Engineer's Estimate
3 to 5	>30%
2	>25%
1	>20%

HIGHWAY BRIDGE PROGRAM (HBP)

Programming

Once a bridge has been selected for programming, the local agency should contact the MoDOT Representative to initiate project programming by completing a Programming Data Form (Figure 3-1-1). Local agencies that are in the St. Louis Metropolitan Planning Organization (MPO) may

submit their Transportation Improvement Program (TIP) application in place of the Programming Data Form. This form, with a letter signed by the local agency's officials requesting the project to be programmed, will initiate a series of checks by MoDOT to review eligibility. The programming data form requires an estimate of costs for which federal participation is desired. The estimated cost of the project should include a breakdown into categories of preliminary engineering, right of way, utility adjustments, roadway, bridges, or inspection. Average daily traffic for both the current year and design year must be included. The number and width of existing and proposed traffic lanes must be indicated along with present and proposed parking conditions. A scope of engineering services (if available) and for projects involving more than two lanes, a traffic flow diagram, should be submitted along with the Programming Data Form. Local agencies that are in a MPO must include the TIP Number.

To be eligible for federal funding, proposed design improvements listed on the Programming Data form must be in accordance with the guidelines and requirements of Sections 1 and 8 of this manual.

After the project has been reviewed for eligibility, the local agency will be notified when they can begin preliminary engineering. MoDOT will also provide the local agency with a project number.

The local agency should determine at this stage who will, if needed, perform the various functions of work in developing the project. The consultant contract should be initiated at this time. The MoDOT representative will also initiate the program agreement between the local agency and the Missouri Highway and Transportation Commission at this stage.

If the project appears to have no significant environmental impact, a programming data form will be used to evaluate the environmental determination for the project. If the project does not qualify for a categorical exclusion, additional environmental documentation will be required (see Section 4).

If any work is to be performed by a consultant, it will also be necessary to obtain approval of the contract between the local agency and the consultant before work is eligible for federal reimbursement (See Section 6). Any work performed before the federal authorization date will not be eligible for reimbursement. MoDOT will notify the local agency when preliminary engineering authorization has been approved. If the local agency will be performing their own preliminary engineering and would like to receive federal reimbursement, they must submit a cost estimate to MoDOT for review and approval.

All local agencies have prioritized their respective programmed projects, and their priorities have been placed into the Statewide Transportation Improvement Program (STIP). If a local agency elects to alter their priorities, they must submit a letter to MoDOT stating their revised priorities and the letter must be signed by all county commissioners or city officials. This is to protect changes in political climate from altering the priorities of the local agency and to provide for an efficient program. For those local agencies within the jurisdiction of an MPO, the agency must notify the MPO of any change in project priorities or schedules.

STP-URBAN

Project Selection

For projects involving roadway improvements to be eligible for selection under the STP-Urban program, the route must be functionally classified as an urban collector, rural major collector, arterial, or expressway. Bridges meeting the eligibility requirements discussed below are not restricted to these routes and may be located on any public road. However, if the bridge is located on a route not on the federal-aid system, federal funding for roadway improvements will be limited to the attainable touchdown point as discussed for HBP funding in Section 1.

Projects for improvements that utilize STP-Urban Funds are to be selected by the appropriate local agency officials with the concurrence of MoDOT. Local agencies that are part of a local planning agency are required to submit their project selection to the MPO. STP-Urban funding should be programmed for projects that will benefit the area within the urban cluster boundary.

Prior to submitting the projects to MoDOT for programming, the local agency should submit a location sketch of the proposed project and ensure that the route has the proper functional classification. For cities that are part of an MPO, the project must be on the TIP.

Types of projects may include new construction, reconstruction, and upgrading. Projects classified as maintenance are not permitted. Resurfacing of existing streets is generally permissible, both to restore a smooth riding surface or to increase the load carrying capabilities of the street. The design of pavement rehabilitation projects shall provide a performance period of at least five years. Patching, minor pavement repairs, underselling, etc., are permitted only as a necessary part of restoration for resurfacing. Funds may be used to change from mercury vapor luminaries to high-pressure sodium vapor luminaries as an energy conserving measure.

The following listing indicates the categories of bridge improvement projects considered eligible to be selected for STP-Urban funding:

1. Replacement, rehabilitation addressing all bridge deficiencies, or partial rehabilitation for deficient bridges from MoDOT's eligible list for HBP funding.

2. Seismic Retrofitting as described in the HBP portion of this section. Painting structures as described in the HBP portion of this section.

3. Complete upgrading of traffic safety railing features for a bridge as determined appropriate by the engineer of record and local agency based on the guidelines provided in Section 8 of this manual. Project must address safety of both bridge railing and related approach roadway guardrail features.

4. Projects to correct identified operational and/or condition problems with any existing bridge are generally eligible.

5. Replacement of existing cross-roadway drainage features not on the bridge inventory with an appropriate replacement structure or bridge (available for routes on the federal-aid system).

6. New bridge construction required for construction of new approved corridors of federal-aid system routes.

7. Widening of any bridge to accommodate the widening and upgrading of routes on the federal-aid system.

STP-Urban funds may be used for the construction of preferential bus lanes, turnouts and loading facilities for buses, and fringe and corridor transportation parking facilities. The construction of parking facilities to replace on-street parking is eligible in areas where the improvement of the street would not be possible without removing on-street parking and where insufficient off-street parking exists. Funds may be used to acquire vans for vanpool demonstration projects. However, this is permitted on a loan basis only and the funds must be repaid through user revenues.

The construction of bicycle trails and pedestrian walkways on the highway right of way is eligible for federal participation, either as an integral part of a construction project or as an independent project. For further information, refer to the *MoDOT General Pedestrian and Bicycle Guide* on MoDOT's web site at **http://www.modot.mo.gov/othertransportation/bike_ped/documents/modotcurrentbppolicy.pdf**.

STP-URBAN

Project Programming

Prior to charging any survey, design, or other work against any federal-aid project, the project must first be programmed and approved. Programming of all projects will be initiated by the local agency by submitting the location (with sketch), Programming Data Form (Figure 3-1-1), and a scope of engineering services (if available) to MoDOT. For projects involving more than two lanes, a traffic flow diagram should be submitted along with the Programming Data Form. Local agencies that are in the St. Louis MPO may submit their TIP application in place of the Programming Data Form. (Notes regarding completion of the Programming Data Form are provided in Figure 3-1-2).

The programming data form requires an estimate of costs for which federal participation is desired. The estimated cost of the project should include a breakdown into categories of preliminary engineering, right of way, utility adjustments, roadway, bridges, or inspection. Average daily traffic for both the current year and design year must be included. The number and width of existing and proposed traffic lanes must be indicated along with present and proposed parking conditions.

Warrants for traffic signals, if applicable, shall be checked by the local agency at the time program information is submitted. Signal installation should not be programmed if current traffic conditions do not warrant as required by the Manual on Uniform Traffic Control Devices (MUTCD).

MoDOT will obtain the necessary input from both the Regional Planning Commission and the State Clearinghouse under the Missouri State and Local Review Process. For any project located within the urbanized limits of one of the metropolitan planning organizations (St. Louis, Kansas City, Columbia, Jefferson City, Joplin, St. Joseph or Springfield), the local agency shall ensure that the project is included in the Transportation Improvement Program.

When the programming data form or TIP applications are submitted to MoDOT, the project will be evaluated for a categorical exclusion. If it does not qualify for a categorical exclusion, a CE-2 form will be required (see section 4).

After the project has been reviewed for eligibility, the local agency will be notified when they can begin preliminary engineering. MoDOT will also provide the local agency with a project number.

If any work is to be performed by a consultant, it will also be necessary to obtain approval of the contract between the local agency and the consultant before work is eligible for federal reimbursement. **Any work performed before the federal authorization date will not be eligible for reimbursement**. MoDOT will notify the local agency when preliminary engineering authorization has been approved. If the local agency will be performing their own preliminary engineering and would like to receive federal reimbursement, they must submit a cost estimate to MoDOT for review and approval.

Preliminary engineering authorization will enable the local agency to receive reimbursement for charges incurred for preliminary engineering and miscellaneous right-of-way charges, such as title search and preliminary right-of-way estimates necessary to determine a proper location and design. Work performed by a consulting engineer requires prior approval of the consultant contract by MoDOT (See Section 6). Approvals for right-of-way acquisition must be acquired separately. Right-of-way acquisition should be in accordance with the LPA Land Acquisition Manual.

STP-TRANSPORTATION ENHANCEMENT PROGRAM

For information on the selection and programming of a Transportation Enhancement project, please see A Guide to Transportation Enhancements at http://www.modot.mo.gov/business/manuals/documents/localpublicagency.htm. Click on your area of the map to access the appropriate guide.

Renovation work utilizing STP Transportation Enhancement funds for bridges on a public road that will be open to vehicular traffic upon project completion are expected to follow the submittal processes for bridge rehabilitations.

CONGESTION MITIGATION AND AIR QUALITY (CMAQ)

Project Selection

Projects eligible for selection using CMAQ funds must indicate that the project will have a demonstrated effect on reducing emissions.

Projects for improvements that utilize CMAQ Funds are to be selected by the appropriate local agency officials and submitted to the MPO for selection and to be added to the TIP.

CMAQ

Project Programming

Roadway Type Projects

Prior to charging any survey, design, or other work against any federal-aid project, the project must first be programmed and approved. Programming of all projects will be initiated by the local agency by submitting the location (with sketch), Programming Data Form (Figure 3-1-1), and a scope of engineering services (if available) to MoDOT. For projects involving more than two lanes, a traffic flow diagram should be submitted along with the Programming Data Form. Local agencies that are in the St. Louis MPO may submit their TIP application in place of the Programming Data Form.

The programming data form requires an estimate of costs for which federal participation is desired. The estimated cost of the project should include a breakdown into categories of preliminary engineering, right of way, utility adjustments, roadway, bridges, or inspection. Average daily traffic for both the current year and design year must be included. The number and width of existing and proposed traffic lanes must be indicated along with present and proposed parking conditions.

Warrants for traffic signals, if applicable, shall be checked by the local agency at the time program information is submitted. Signal installation should not be programmed if current traffic conditions do not warrant as required by the Manual on Uniform Traffic Control Devices (MUTCD).

MoDOT will obtain the necessary input from the State Clearinghouse under the Missouri State and Local Review Process. The local agency shall ensure that the project is included in the Transportation Improvement Program.

A programming data form will be used at the time of programming to determine whether any further environmental documentation will be required. If the project does not qualify for a categorical exclusion, additional environmental documentation will be required (see Section 4).

After the project has been reviewed for eligibility, the local agency will be notified when they can begin preliminary engineering. MoDOT will also provide the local agency with a project number.

If any work is to be performed by a consultant, it will also be necessary to obtain approval of the contract between the local agency and the consultant before work is eligible for federal reimbursement. Any work performed before the federal authorization date will not be eligible for reimbursement. MoDOT will notify the local agency when preliminary engineering authorization has been approved. If the local agency will be performing their own preliminary engineering and would like to receive federal reimbursement, they must submit a cost estimate to MoDOT for review and approval.

Preliminary engineering authorization will enable the local agency to receive reimbursement for charges incurred for preliminary engineering and miscellaneous right-of-way charges, such as title search and preliminary right-of-way estimates necessary to determine a proper location and design. Work performed by a consulting engineer requires prior approval of the consultant contract by MoDOT (See Section 6). Approvals for right-of-way acquisition must be acquired separately. Right-of-way acquisition should be in accordance with the LPA Land Acquisition Manual.

Non-Roadway Type Projects

Prior to the purchase of any item or the charging any work against any federal-aid project, the project must first be programmed and approved. Programming of all projects will be initiated by the local agency by submitting a copy of the TIP application to MoDOT.

MoDOT will obtain the necessary input from the State Clearinghouse under the Missouri State and Local Review Process. The local agency shall ensure that the project is included in the Transportation Improvement Program.

MoDOT will notify the local agency when project authorization has been obtained. Any work performed before the federal authorization date will not be eligible for reimbursement. If any work is to be performed by a consultant, it will also be necessary to obtain approval of the contract between the local agency and consultant before this work is eligible.

SAFE ROUTES TO SCHOOL

For information on the selection of an SRTS project, please see Administrative Guidelines for Safe Routes to School at http://www.modot.mo.gov/Safety/SafeRoutestoSchool.htm.
or contact the SRTS Coordinator at (573) 751-7643.

PROGRAMMING DATA

City/County:	Street/Route:
Existing Bridge No.	Location/Stream Crossing:
TIP Number:	Date:
Proposed Improvements:	

Cost Estimate Breakdown (In $1,000):

	PE	R/W	Roadway	Bridge	Inspection	Utility	Total
Cost Estimate							

Source of Match – **(Circle one of the following:)** County/City/Soft Match/Other

EXISTING CONDITION	PROPOSED DESIGN IMPROVEMENT	
Functional Classification:	Functional Classification:	
ADT:	ADT:	
Speed Limit:	Speed Limit:	Design Speed:
Number of Travel Lanes:	Number of Travel Lanes:	
Lane width:	Lane width:	
Shoulder width:	Shoulder width:	
Curb & gutter? Yes/No	Curb & gutter? Yes/No	
Bridge width, measured from gutterline to gutterline :	Bridge width, measured from gutterline to gutterline:	
Sidewalks? (Lt/Rt./Both/None)	Sidewalks? (Lt/Rt./Both/None)	
Sidewalk width :	Sidewalk width:	
Parking Allowed (Y/N) :	Parking Allowed (Y/N):	
	Bridge Length:	
	Roadway Length:	

MISCELLANEOUS:

Topography ? (Flat/Rolling)		
Railroad Crossing ? Y/N		
Drainage District (if applicable)?		
Is the project on or adjacent to MoDOT ROW?		
Will additional right of way or easement be acquired? (Y/N)		
Est. additional ROW (in acres):	Est. Perm. Easements:	Est. Temp. Easements:
Right of way acquisition by: (Consultant/Local Agency/Other)		
Right of way condemnation by: (Consultant/Local Agency/Other)		
Design by: (Consultant/Local Agency/Other)		
Construction by: (Contractor/Local Forces)		
Inspection by: (Consultant/Local Agency/Other)		
ROW or Easements from Parks/Public Lands? (Y/N)		
Any residential/commercial displacements? (Y/N) if yes, give detail of how many and if residential and/or commercial :		

Fig. 3-1-1

PROGRAMMING DATA

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND HYDRAULIC DESIGN DATA:

Is Local Agency a participant in the NFIP?	
Is the project in a FEMA-identified Zone, "subject to 100-year flooding"? (If so, what Zone?)	
Is the project in a FEMA-defined "floodway"?	
Does the project involve land purchased through FEMA Hazard Mitigation Grant Program (Flood buyout property)?	
REMARKS:	
Responsible individual who completed this document?	Phone #

Any known locations of gas stations, landfills, other hazardous waste concerns? (Y/N) if yes, describe:

Note 1: Attach map showing location and extent of project.
Note 2: Include traffic flow diagram for more than 2 lane improvement.
Note 3: Attach scope of engineering services if available.

Fig. 3-1-2

PROGRAMMING DATA FOR NON-INFRASTRUCTURE[1]

Local Agency:	Local Aid Program:
Federal Project Number:	Location:
TIP Number:	Date:
Proposed Project Description:	

Cost Estimate Breakdown (In $1,000):

	Human Surveys	Topographical Surveying	Planning	Design	Material/ Exhibits	Outreach	Additional Costs*	Total
Cost Estimate								

*Describe additional costs:

Source of Pro Rata Match – **(Circle one of the following:)** County/City/Other

(Circle one of the following:) Cash/In-kind services

PROJECT SPECIFICATIONS

Will the project identify future infrastructure improvements: Yes / No
If yes, what kind?
Does the project involve Human Subjects? Yes / No
Describe scope of project:

MISCELLANEOUS:

Work done by: (Consultant/Local Agency/Other)	
Expected final product submittals: (Feasibility Study, Summary Report, Estimate, Outreach Efforts Documented)	
Responsible individual who completed this form?	Phone #
Address:	

Note 1: Attach details of scope of services, if applicable.

_____

Fig. 3-1-1A

UTILITIES
SCOPING CHECKLIST
(Add additional notes as required)

County
Route
Federal Project Number

Conceptual Study

- ☐ Coordinate with utility for any project specific information. _____
- ☐ Identify potential "natural" conflicts such as hazardous waste sites, underground storage tanks, cisterns, wells, and ponds. _____
- ☐ Consider candidacy for Subsurface Utility Engineering (SUE) _____

Preliminary Plan

- ☐ Perform field check. _____
- ☐ Consider potential conflicts at bridges, retaining walls, pile driving, crane operations, excavation, embankment, muck removal, channel cleanout, borrow areas, paving, signalization, lighting, signing, buildings, (asbestos removal), merchantable timber (will utility's removal of timber conflict with agreements made by right of way office or legal? etc.) _____
- ☐ Identify easements utility may request the Local Agency to acquire. _____
- ☐ Consider seasonal restrictions the utility may have for relocating facilities. _____
- ☐ Evaluate whether or not utility can use common trench with other utilities. _____
- ☐ Consider necessary staging with other utilities. _____
- ☐ Consider the need for a corridor greater than 6' to accommodate utilities. _____
- ☐ Consider relocation of utilities by the roadway contractor. _____
- ☐ Consider necessary environmental clearances beyond original survey scope if roadway contractor is relocating utilities. _____
- ☐ Consider utilities attached to bridges. _____
- ☐ Evaluate need to relocate facilities after some of the roadway contractor's work. _____
- ☐ Consider roadway and bridge design alternatives to minimize or avoid utility conflicts. _____

Right of Way Plan

- ☐ Identify the project's utility affected parcels and inform the right of way office. _____
- ☐ Review preliminary cross sections to determine impacts on utilities. _____
- ☐ Consider the impact of abrupt changes in right of way. _____

Fig. 3-2

Sect. 4 - Environmental and Cultural Requirements

GENERAL

There are several steps that must be taken for all projects to receive proper environmental and cultural resources clearance. Items that may need to be addressed include but are not limited to historical buildings/complexes, archaeological sites, historic bridges, conversion of farmland, endangered species, wetlands, crossing of waterways regulated by the U.S. Army Corps of Engineers, and parklands. Described within this chapter are procedures to address each of these topics.

The Federal Highway Administration (FHWA) must approve the Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement prior to 35% plan completion. Note that the Section 106 (cultural resources) clearance must also be approved before right-of-way acquisition can begin.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) CLASSIFICATION

The basic NEPA classifications are:

- Categorical Exclusion (CE)—typically sufficient for projects that do not individually or cumulatively have a significant environmental effect.
- Environmental Assessment (EA)—required for projects in which the environmental impact is not clearly established. Projects such as a two-lane relocation or adding lanes to an existing highway corridor generally require an EA.
- Environmental Impact Statement (EIS)—required for projects that may have significant adverse impacts or that are controversial. Projects such as a new controlled-access freeway, a highway project of four or more lanes on a new location, or new construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing highway facility typically require an EIS.

The environmental classification is based on the scope of the project and depends on the expected magnitude of the impacts from that project. The local agency initiates the NEPA classification process by preparing and submitting to the MoDOT district office the Programming Data Form (Figure 3-1-1) that is required for all federal-aid projects. After reviewing the information provided, the district will notify the local agency of the project's NEPA classification.

CATEGORICAL EXCLUSION (CE)

Certain categories of projects that will not individually or cumulatively have significant social, economic, or environmental impacts are excluded from the need to prepare a formal NEPA document (EIS or EA). The majority of projects in Missouri are classified as CEs and are processed in three ways—as a programmatic CE, a letter CE, and a CE2.

The MoDOT district contact will notify the local agency of the project's NEPA classification and will also indicate other environmental permits and clearances the local agency must obtain.

For projects that are generally anticipated to have low environmental impacts but do not meet the criteria for use of the programmatic CE, MoDOT may advise the local agency that the project requires a letter CE. In this case, the agency prepares a letter to MoDOT presenting a summary of anticipated impacts and requesting concurrence in a CE designation for a particular project. MoDOT staff review the information provided and submit it to FHWA for their approval. MoDOT will notify the project sponsor of the CE approval.

For projects where the CE classification is likely but not certain, MoDOT will advise the local agency to complete a CE2 form (Figure 4-1, Categorical Exclusion Determination) describing the proposed action, any impacts that will result from the action, and any mitigation measures that will be used to compensate for expected impacts. The information needed will include such items as federal project number, route, county, project termini and length, project description, current and future average daily traffic (ADT), right-of-way needs and displacements, and a location map. Figure 4-1-A provides instructions for preparing a CE2 form. For FHWA to classify the CE2 as a CE instead of an EA or EIS, the CE2 document must clearly demonstrate that the project will not have significant impacts and is, therefore, in a category excluded from the requirement to prepare an EIS or EA. MoDOT will notify the project sponsor of the CE approval, request for more information, or FHWA's decision that an EA or EIS needs to be prepared.

ENVIRONMENTAL ASSESSMENT (EA)

An EA is prepared when there is uncertainty about the significance of the impacts from a project. FHWA generally expects an EA for two-lane relocation projects and often for add-a-lane projects on new right of way; other types of projects may also require an EA. To avoid delays in project development, the local agency, or its consultant, should initiate preparation of the EA sufficiently early to ensure that NEPA compliance can be achieved before 35% design completion. An EA describes a project''s purpose and need, identifies the alternates that are being considered, and discusses the expected impacts. It should discuss all topics required by FHWA regulations and guidance but should discuss in detail only those areas where there is potential for a significant impact. The EA should be concise and should not contain long descriptions or include detailed information that may have been gathered or analyses that may have been conducted for the proposed action. FHWA Technical Advisory T6640.8A "Guidance for Preparing and Processing Environmental and Section 4(f) Documents" (http://environment.fhwa.dot.gov/projdev/impTA6640.asp) provides additional direction on the information contained in an EA and the format. The project sponsor should contact the MoDOT district contact if a significant impact is identified at any time during the preparation of an EA. FHWA will determine whether an EIS needs to be prepared.

The project sponsor should begin consultation (through either an early coordination process or a scoping process) with interested regulatory agencies and others, at the earliest appropriate time, to advise them of the scope of the project. This consultation will help determine those aspects of

the proposed action having potential for social, economic, or environmental impact and identify other environmental review and consultation requirements that will be performed currently with the EA. Agencies with jurisdiction by law, such as the U.S. Army Corps of Engineers (COE) or the U.S. Fish and Wildlife Service (FWS), must be invited to become cooperating agencies. The local agency will provide the MoDOT district with draft letters requesting the COE and other agencies to be cooperating agencies and FHWA will send the letters. The project sponsor will also work with the FHWA to initiate consultation with federally recognized American Indian tribes determined to have an interest in the project area. Such consultation is conducted by FHWA on a government-to-government basis (FHWA determines which tribes and sends the letters); the consultation informs the tribes of the project, asks whether they have any specific concerns, and inquires whether they want to continue to consult on the project. The project sponsor or its consultant will prepare a draft letter for FHWA's use but will not contact the tribes. The EA must summarize the results of both agency consultation and public involvement. The local sponsor, or its consultant, will prepare a preliminary EA (pEA) that encompasses the following:

- Finalize the location study with all alternates considered, including those discarded, depicted graphically.
- Indicate the preferred alternate.
- Evaluate all proposed reasonable alternates equally; the EA must include more than a single build alternative as well as the no build alternate. Reasonable alternates addressed in the EA are those that may be constructed in the event that the preferred alternate is not selected.
- Identify all previously reported archaeological and historic sites located within the study corridor and all alternates being considered. FHWA will determine whether the location and current condition of previously reported resources require verification. Complete a Phase I archaeological survey for the preferred alternate. Identify all areas for which landowner access was denied or the survey was not conducted at the preliminary EA stage. Determine which sites identified in the project area require Phase II archaeological testing or evaluation. If the Missouri Department of Natural Resources (DNR) determines any sites require further testing, Phase II archaeological testing must also be completed unless coordination with FHWA and the district determine such testing may be postponed to a later time.
- Identify all buildings and bridges 50 years old or older within all alternates being considered and provide an initial assessment of the resources' potential eligibility to the National Register of Historic Places (NRHP). Submit all buildings, bridges, and culverts impacted by the preferred alignment, including those less than 50 years of age, to DNR's State Historic Preservation Office (DNR-SHPO) for concurrence in a determination of eligibility to the NRHP.
- If the proposed project will adversely impact any NRHP-eligible sites or historical structures, the pEA must include either a draft Memorandum of Agreement (MOA) or draft Programmatic Agreement (PA) identifying uncompleted or mitigation activities to be completed prior to project construction.

- Indicate impacts to parklands, wildlife refuges, or other publicly owned recreational use areas that may qualify for Section 4(f) protection, along with a statement as to the status of agency coordination on those impacts. The EA must include a Draft Section 4(f) Evaluation for impacts to these public lands, if applicable, or if the preferred alternate will cause adverse effects to certain kinds of cultural resources that require preservation in place, such as cultural resources that are NRHP-eligible for reasons other than the data associated with them (e.g., the location/setting is important, associated with significant historic events or people; distinctive characteristics of a type, period, or method of construction; involves human burial). Although prehistoric archaeological sites containing human remains will require Section 4(f) consideration, typically prehistoric sites not containing human remains will not require Section 4(f) consideration. A single Draft Section 4(f) Evaluation is prepared for all Section 4(f) resources, including both public lands and historic sites, potentially impacted by the project. This evaluation includes a consideration of all measures to minimize harm to the Section 4(f) resources.
- Identify any Section 6(f) resources the project will affect. Any Section 6(f)(3) Conversion Documentation required cannot be completed until the NEPA process is concluded because the Section 6(f) document must include copies of the approved FONSI signature page and/or signed Section 4(f) evaluation. However, elements of the Section 6(f) document may be assembled during preparation of the NEPA document.
- Conduct a preliminary wetland and stream evaluation to identify potential jurisdictional wetland areas and streams. Estimate the areas of wetlands in the project area for all alternatives using conventional mapping sources and windshield survey and document expected impacts.
- Determine the presence or absence of threatened or endangered plant and/or animal species within the project limits.
- Determine farmland impacts using either Form AD-1006 for site projects or Form SCS-CPA-106 for corridor projects.
- If applicable, perform a noise analysis that identifies noise sensitive receptors based on the Noise Abatement Criteria. Determine whether receptors meet the criteria for the installation of a noise wall. If the project sponsor does not have a noise policy, it is suggested that they use MoDOT's FHWA-approved noise policy. The location of any necessary noise walls is proposed (this may change subject to subsequent detailed design and public involvement with the affected residents).
- Determine the number of displacements, the effect on pedestrian and bicycle traffic, the secondary and cumulative impacts, and other social and economic impacts of the project.
- Conduct a records search to determine the presence of possible hazardous waste sites.
- Demonstrate that the proposed project is in compliance with the Clean Air Act.

The pEA is provided to MoDOT for distribution to FHWA and any formal cooperating agencies (identified as such on the pEA cover sheet) for their review and comment. The document is not to be distributed to anyone outside of these entities. When the project sponsor or its consultant

has addressed the review comments on the pEA, the EA is ready for FHWA's final review and approval, after which it is made available to the public as an FHWA document.

The EA must be made available for public inspection at the local agency's office and at the appropriate FHWA field offices as described in the next two paragraphs of this section. Although it is not a federal requirement that the document be circulated for comment, the project sponsor is encouraged to provide the EA to those federal, state, and local agencies likely to be affected by the action (those with regulatory or other responsibilities relating to the action). As a minimum, the local agency must send notice of availability of the EA, briefly describing the project and its impacts, to the affected units of federal, state, and local government and to Missouri Federal Assistance Clearinghouse, the state intergovernmental review contact established under Executive Order 12372.

MoDOT's normal practice is to hold a location public hearing for all EAs. Although FHWA regulations do not require public hearings for EAs, the FHWA encourages them on most EAs. For specific EAs depending on the situation, the FHWA division office may require a public hearing after signing the EA and before signing the FONSI. Detailed information on public hearings is located in Section 7 – Right of Way and Public Hearings. When a public hearing is held as a part of the application for federal funds, the EA must be available at the public hearing and at the local agency's office and at the appropriate FHWA field offices for a minimum of 15 days in advance of the public hearing. The notice of the public hearing in local newspapers must announce the availability of the EA and where it may be obtained to review. The notice will include a statement advising that comments should be submitted in writing to the local agency within 30 days of the availability of the EA unless FHWA determines that a different period is warranted.

When a public hearing is not held, the project sponsor must place in the local newspapers a notice, similar to a public hearing notice and at a similar stage of project development, advising the public of the EA's availability at the local agency's office and at the appropriate FHWA field offices and where to obtain information concerning the project. The notice must invite comments from all interested parties. It will include a statement advising that comments should be submitted in writing to the local agency within 30 days of the publication of the notice unless FHWA determines that a different period is warranted.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Once the 30-day public comment period has ended and all comments from the public and other agencies have been collected, the project sponsor or its consultant prepares a letter to FHWA. The letter should summarize any public and/or agency coordination that occurred after the EA was signed. The letter must satisfactorily address all substantive comments on the EA provided during the 30-day comment period, including those from other agencies, the general public, and as a result of the public hearing. To ensure this, the project sponsor will provide the MoDOT district contact with a copy of the public hearing transcript and/or any other comments received for transmission to the FHWA along with the letter. The letter must describe any changes to the EA-designated preferred alternate and document any additional impact analyses performed for the final, selected alternate.

The letter must also document compliance with all applicable environmental laws and Executive Orders or provide reasonable assurance that their requirements can be met and briefly present why the action does not have a significant impact. If the proposed project will adversely impact any NRHP-eligible sites or historical structures, either an MOA or a PA executed by the DNR-SHPO, FHWA, Advisory Council on Historic Preservation (ACHP), and the project sponsor must accompany the letter. The MOA or PA will identify uncompleted or mitigation activities to be completed prior to project construction. If the project will impact prehistoric sites known or likely to contain human remains, the MOA or PA will also be provided to appropriate American Indian tribes with cultural interest in the region for review, comment, and signature if they desire. Accompanying documentation must also include the Final Section 4(f) Evaluation, when required, for any impacted historic structures and for parklands, wildlife refuges, or other public lands affected.

When the letter is completed and the listed items are included, the documentation is provided to MoDOT along with a FONSI signature page for distribution to FHWA (and to cooperating agencies for their review and comment if the selected alternate differs from the EA-designated preferred alternate).

If the FONSI is for a new controlled access freeway, a highway project of four or more lanes on a new location, or other action described in 23 CFR §771.115a, the letter to FHWA and accompanying documentation described above must also be made available for public review, including affected units of government, for a minimum of 30 days before FHWA issues a FONSI for the project. A notice similar to that for a public hearing must announce the availability of the documentation. If at any point in the EA process, FHWA determines that the action is likely to have a significant impact, the local agency will be required to prepare an EIS.

FHWA will review the letter, accompanying documentation, and any public hearing comments and other comments received regarding the EA. If FHWA determines after reviewing the documentation that there are no significant impacts associated with the project, the FONSI will be signed and a copy of the signed FONSI will be returned to the local agency.

After FHWA issues a FONSI, the project sponsor is encouraged to provide the FONSI to those federal, state, and local agencies likely to be affected by the action (those with regulatory or other responsibilities relating to the action). As a minimum, the local agency must send a notice of availability of the FONSI to the affected units of federal, state, and local government and the FONSI shall be available from the local agency and FHWA upon request by the public. Notice of availability is also sent to Missouri Federal Assistance Clearinghouse, the state intergovernmental review contact established under Executive Order 12372.

Timeframes

The project schedule should allow about two years for obtaining a FONSI.

ENVIRONMENTAL IMPACT STATEMENT (EIS)

Draft Environmental Impact Statement

An EIS is prepared for projects that have clearly identified and significant social, economic, or environmental impacts. FHWA indicates that an EIS is required for four-lane relocations as well as for major bridges or projects that are controversial. To avoid delays in project development, the local agency, or its consultant, should initiate preparation of the EIS sufficiently early to ensure that NEPA compliance can be achieved before 35% design completion.

An EIS describes a project's purpose and need, identifies the alternates being considered, and discusses expected impacts in detail. To the extent possible, it also indicates compliance with other regulations. The EIS includes procedures to minimize harm and details mitigation measures and all other environmental commitments. FHWA Technical Advisory T6640.8A "Guidance for Preparing and Processing Environmental and Section 4(f) Documents" (http://environment.fhwa.dot.gov/projdev/impTA6640.asp) provides additional direction on the information contained in an EIS and the format.

When FHWA determines that an EIS is required, the local agency will prepare and FHWA will issue a Notice of Intent for publication in the *Federal Register*. Local agencies are encouraged to announce the intent to prepare an EIS by appropriate means at the local level.

After publication of the Notice of Intent, the local agency will begin a scoping process to aid in identifying the range of alternatives and impacts and the significant issues to be addressed in the EIS. Scoping is normally achieved through public and agency involvement procedures. If a scoping meeting is to be held, it will be announced in the FHWA's Notice of Intent and by appropriate means at the local level. Agencies with jurisdiction by law must be requested to become cooperating agencies. Section 6002 (Efficient Environmental Reviews for Project Decision Making) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA-LU) updates the environmental review process by adding a new category of "participating agencies" for federal, state, and local agencies and tribal nations that have an interest in the project. The local agency will provide the MoDOT district with draft letters requesting the COE and other agencies to be cooperating and/or participating agencies as appropriate and FHWA will send the letters.

The project sponsor will also work with the FHWA to initiate consultation with federally recognized American Indian tribes determined to have an interest in the project area. Such consultation is conducted by FHWA on a government-to-government basis (FHWA determines which tribes and sends the letters); the consultation informs the tribes of the project, asks whether they have any specific concerns, and inquires whether they want to continue to consult on the project. The project sponsor or its consultant will prepare a draft letter for FHWA's use but will not contact the tribes.

Section 6002 stipulates that both participating agencies and the public will be given the opportunity to comment on the purpose and need and range of alternatives for a project. Previously only cooperating agencies were offered such an opportunity. Section 6002 also

mandates establishing a coordination plan for agency and public participation and comment. Further information on the SAFETEA-LU environmental review process can be found in FHWA's *SAFETEA-LU ENVIRONMENTAL REVIEW PROCESS FINAL GUIDANCE*, Publication L 109-59, November 15, 2006, at http://www.fhwa.dot.gov/hep/section6002/.

The project sponsor or its consultant will prepare a preliminary Draft EIS (pDEIS) that evaluates all reasonable alternatives to the action and discusses the reasons why other alternatives that may have been considered were eliminated from detailed study. The pDEIS also summarizes the studies, reviews, consultation, and coordination required by environmental laws or Executive Orders to the extent appropriate at this stage in the environmental process. A pDEIS requires completing the following work:

- Finalize the location study; all alternates considered, including those discarded, must be depicted graphically in the document.
- Indicate a preferred alternate if one stands out.
- Evaluate all proposed reasonable alternates equally. Reasonable alternates addressed in the EIS are those that may be constructed in the event that the preferred alternate is not selected. (Provisions of SAFETEA-LU allow FHWA to decide whether the preferred alternative may be developed to a higher level of design detail to facilitate either the development of mitigation measures or compliance with other environmental laws. See FHWA's 2006 *SAFETEA-LU FINAL GUIDANCE*, as cited previously, for details.)
- Identify all previously reported archaeological and historic sites located within the study corridor and all alternates being considered. FHWA will determine whether the location and current condition of previously reported resources require verification.
- Identify all buildings and bridges 50 years old or older within all alternates being considered and provide an initial assessment of the resources' potential eligibility to the National Register of Historic Places (NRHP).
- Indicate impacts to parklands, wildlife refuges, or other publicly owned recreational use areas that may qualify for Section 4(f) protection, along with a statement as to the status of agency coordination on those impacts. The DEIS must include a Draft Section 4(f) Evaluation for impacts to these public lands, if applicable, or if the preferred alternate will cause adverse effects to certain kinds of cultural resources that require preservation in place, such as cultural resources that are NRHP-eligible for reasons other than the data associated with them (e.g., the location/setting is important, associated with significant historic events or people; distinctive characteristics of a type, period, or method of construction; involves human burial). Although prehistoric archaeological sites containing human remains will require Section 4(f) consideration, typically prehistoric sites not containing human remains will not require Section 4(f) consideration. A single Draft Section 4(f) Evaluation is prepared for all Section 4(f) resources, including both public lands and historic sites, potentially impacted by the project. This evaluation includes a consideration of all measures to minimize harm to the Section 4(f) resources.
- Note the presence of any potential Section 6(f) resources. If Section 6(f)(3) Conversion Documentation is required, it cannot be completed until the NEPA process is concluded because the Section 6(f) document must include copies of the approved ROD signature

page and/or signed Section 4(f) evaluation. However, elements of the Section 6(f) document may be assembled during preparation of the NEPA document.

- Conduct a preliminary wetland and stream evaluation to identify potential jurisdictional wetland areas and streams and possible impacts to them.
- Determine the presence or absence of threatened or endangered plant and/or animal species within the project limits.
- Determine farmland impacts using either Form AD-1006 for site projects or Form SCS-CPA-106 for corridor projects.
- If applicable, perform a noise analysis that identifies noise sensitive receptors based on the Noise Abatement Criteria. Determine whether receptors meet the criteria for the installation of a noise wall. If the project sponsor does not have a noise policy, it is suggested that they use MoDOT's FHWA-approved noise policy.
- Determine the number of displacements, the effect on pedestrian and bicycle traffic, the secondary and cumulative impacts, and other social and economic impacts of the project.
- Conduct a records search to determine the presence of possible hazardous waste sites.
- Demonstrate that the proposed project is in compliance with the Clean Air Act.

The pDEIS is provided to MoDOT for distribution to FHWA and formal cooperating agencies (identified as such on the pDEIS cover sheet) and may be offered to participating agencies for their review and comment. The document is not to be distributed to anyone outside of these entities. When the project sponsor or its consultant has addressed the review comments on the pDEIS, the DEIS is ready for FHWA's final review. The FHWA, when satisfied that the DEIS complies with NEPA requirements, will approve the DEIS for circulation by signing and dating the cover sheet.

The project sponsor is responsible for printing the DEIS in sufficient quantity to accommodate circulation to those entities listed in the document as well as requests for copies that can reasonably be expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with FHWA concurrence, the party requesting the DEIS may be charged a fee that is not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed.

Once FHWA signs the DEIS, public and agency comments must be requested. The local agency, on behalf of FHWA, circulates the approved DEIS to federal and state agencies, local entities, elected officials, and others as appropriate for their review and comment. Upon circulation of the approved DEIS to the Environmental Protection Agency (EPA), the EPA publishes a Notice of Availability (NOA) in the *Federal Register*. Copies of the approved DEIS are also provided for public viewing and copying in the local agency's office and other public repositories such as libraries and city or county offices. The DEIS must be made available to the public and transmitted to agencies for comment no later than the time the document is filed with the Environmental Protection Agency. The DEIS shall be transmitted to:

1. Public officials, interest groups, and members of the public known to have an interest in the proposed action or the DEIS;

2. Federal, state, and local government agencies expected to have jurisdiction or responsibility over, or interest or expertise in, the action. Copies are provided directly to appropriate state and local agencies and to Missouri Federal Assistance Clearinghouse, the state intergovernmental review contact established under Executive Order 12372; and

3. States and federal land management entities that may be significantly affected by the proposed action or any of the alternatives. These copies shall be accompanied by a request that such state or entity advise the FHWA in writing of any disagreement with the evaluation of impacts in the statement. FHWA will furnish the comments received to the local agency along with a written assessment of any disagreements for incorporation into the final EIS.

The *Federal Register* NOA initiates a period of no less than 45 days for the return of comments on the DEIS. The notice and the DEIS transmittal letter must identify to whom comments may be sent.

A location public hearing is generally held for all projects requiring an EIS. Detailed information on public hearings is located in Section 7 – Right of Way and Public Hearings. The DEIS shall be available at the public hearing and for a minimum of 15 days in advance of the hearing. The availability of the DEIS shall be mentioned and public comments requested in any public hearing notice and at any public hearing presentation. If a public hearing on an action proposed for FHWA funding is not held, a notice shall be placed in newspaper similar to a public hearing notice advising where the DEIS is available for review, how copies may be obtained, and where the comments will be sent.

Final Environmental Impact Statement

After circulation of a DEIS, when the 45-day comment period has ended and all comments from the public and other agencies have been collected, a preliminary Final EIS (pFEIS) is prepared. The FEIS identifies the preferred alternative and evaluates all reasonable alternatives considered. It should also discuss substantive comments received on the DEIS and responses thereto, summarize public involvement, and describe the mitigation measures that are to be incorporated into the proposed action. Mitigation measures presented as commitments in the FEIS must be implemented with the project. The following items of work are completed as part of the pFEIS:

- All substantive comments gathered on the DEIS during the 45-day comment period, including those from other agencies, the general public, and as a result of the public hearing, must be satisfactorily addressed. To ensure this, the project sponsor will provide the MoDOT district contact with a copy of the public hearing transcript and/or any other comments received for transmission to the FHWA along with the pFEIS.
- A preferred alternate must be declared.

- A Phase I archaeological survey must be completed for the preferred alternate(s) and all areas for which landowner access was denied or the survey was not conducted should be identified. A determination should be made of which sites identified in the project area require Phase II archaeological testing or evaluation. If the Missouri Department of Natural Resources (DNR) determines any sites require further testing, Phase II archaeological testing must also be completed unless coordination with FHWA and the district determine such testing may be postponed to a later time.
- All buildings, bridges, and culverts impacted by the preferred alignment that were not previously reviewed by the DNR's State Historic Preservation Office (DNR-SHPO), including those less than 50 years of age, must be submitted to DNR for concurrence in a determination of eligibility to the NRHP.
- If the proposed project will adversely impact any NRHP-eligible sites or historical structures, the pFEIS must include either a Memorandum of Agreement (MOA) or a Programmatic Agreement (PA) executed by the DNR-SHPO, FHWA, the project sponsor, and the Advisory Council on Historic Preservation (ACHP) (all PAs; MOAs if it chooses to participate). The MOA or PA will identify uncompleted or mitigation activities to be completed prior to project construction. If the project will impact prehistoric sites known or likely to contain human remains, the MOA or PA will also be provided to appropriate American Indian tribes with cultural interest in the region for review, comment, and signature if they desire.
- A Final Section 4(f) Evaluation, when required, must be included in the pFEIS for any impacted historic structures and for parklands, wildlife refuges, or other public lands affected.
- Identify any Section 6(f) resources the project will affect. Elements of the Section 6(f)(3) Conversion Documentation may be assembled during preparation of the NEPA document, even though the Section 6(f) document cannot be completed until the NEPA decision document has been issued.
- A preliminary jurisdictional wetland and stream delineation is conducted in the project area for the preferred alternative and expected impacts are documented.
- Identify any consultation with the U.S. Fish and Wildlife Service required to address threatened or endangered plant and/or animal species within the project limits and any mitigation resulting from the consultation.
- The location of any necessary noise walls is proposed (this may change subject to subsequent detailed design and public involvement with the affected residents).

The FEIS will also document compliance, to the extent possible, with all applicable environmental laws and Executive Orders or provide reasonable assurance that their requirements can be met. Every reasonable effort shall be made to resolve interagency disagreements on actions before processing the FEIS. If significant issues remain unresolved, the FEIS must identify those issues and the consultations and other efforts made to resolve them.

When the listed items are completed and included in a preliminary FEIS, the pFEIS is provided to MoDOT for distribution to FHWA and formal cooperating agencies (identified as such on the

pFEIS cover sheet) and may be offered to participating agencies for their review and comment. The document is not to be distributed to anyone outside of these entities. When the project sponsor or its consultant has addressed the review comments on the pFEIS, the FEIS is ready for FHWA's final review and approval. The FEIS will be reviewed for legal sufficiency prior to FHWA approval.

FHWA will indicate approval of the FEIS for an action by signing and dating the cover page. Approval of the FEIS does not commit the FHWA to approve any future request to fund the preferred alternative.

The project sponsor should print a sufficient quantity of the FEIS to accommodate circulation to the appropriate entities as well as requests for copies that can reasonably be expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with FHWA concurrence, the party requesting the FEIS may be charged a fee that is not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed.

When sufficient copies of the approved FEIS are transmitted to FHWA, FHWA circulates the document to the EPA along with an NOA to be published in the *Federal Register*. Publication of the NOA initiates a 30-day comment period on the FEIS. The local agency circulates the approved FEIS for review and comment to any persons, organizations, or agencies that made substantive comments on the DEIS or requested a copy, no later than the time the document is filed with EPA. In the case of lengthy documents, the agency may provide alternative circulation processes. The local agency shall also publish a notice of availability in local newspapers and make the FEIS available through the mechanism established pursuant to DOT Order 4600.13 which implements Executive Order 12372. When the FEIS is filed with EPA, it must be available for public review at the local agency's offices and at appropriate FHWA offices. A copy will also be made available for public review at institutions such as local government offices, libraries, and schools, as appropriate.

RECORD OF DECISION (ROD)

Substantive comments received on the FEIS are addressed in a Record of Decision (ROD) prepared by the local agency. The ROD also discusses the alternates that were considered for the project, identifies the selected alternate, and discusses why this alternate was selected. The ROD discusses commitments made in the document, including the measures that have been adopted to minimize harm, such as mitigation plans, and details any monitoring and enforcement program, if applicable. After comments are satisfactorily addressed, the ROD is presented to FHWA for approval. Once the ROD is signed by FHWA, the local agency can approve the location of the project and begin detailed design.

Timeframes

The timeframe for completing the EIS process varies. The timeline for completing consultant-prepared EISs is a negotiated item within the scope of work. A good rule of thumb is to allow at least 3 years to get to an approved ROD.

REEVALUATIONS

If an acceptable FEIS is not submitted to the Federal Highway Administration (FHWA) within 3 years from the date of the DEIS circulation, the local agency shall prepare a written reevaluation of the DEIS in cooperation with FHWA. This reevaluation is used to determine whether a supplement to the DEIS or a new DEIS is needed.

A written reevaluation of the FEIS may be required before further approvals are granted if major steps to advance the action (e.g., authority to undertake final design, authority to acquire a significant portion of the right-of-way, or approval of the plans, specifications, and estimates) have not occurred within three years after the approval of the FEIS, final EIS supplement, or the last major FHWA approval or grant.

Factors such as noteworthy changes in the scope and/or location of the project, whether the project is active or inactive, and changes in environmental laws or regulations can also require a NEPA document reevaluation. Once completed and approved, a NEPA document has a limited shelf life, even when portions of the project are under construction or have already been constructed, as is often the case for lengthy corridor projects. After approval of the ROD, FONSI, or CE designation and prior to requesting any major approvals or grants, the local agency shall consult with MoDOT to establish whether the approved environmental document or CE designation remains valid for the requested FHWA action. These consultations will be documented when determined necessary by FHWA.

Whenever the project scope or location changes, the local agency will submit to MoDOT a Programming Data Form that describes and shows the changes. Based on that information, the project will be reexamined to determine whether the proposed changes require a reevaluation.

When a reevaluation is needed, the project sponsor prepares the reevaluation documentation. In most cases, the reevaluation is submitted to the FHWA for review and approval. Documentation for reevaluations is based on the original NEPA document type. If the original NEPA document was an EA or EIS, the project sponsor prepares a letter documenting the reevaluation and submits it to MoDOT for FHWA's review and approval. Some projects with original NEPA classifications as CEs may also require reevaluations in the form of a letter. FHWA does not routinely require reevaluations in the form of supplemental EAs or EISs.
More detailed discussion of NEPA reevaluations can be found on FHWA's web site at:
http://edocket.access.gpo.gov/cfr_2002/aprqtr/pdf/23cfr771.129.pdf.

SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENTS

A DEIS, FEIS, or supplemental EIS may be supplemented at any time. An EIS shall be supplemented whenever FHWA determines that:

1. Changes to the proposed action could result in significant environmental impacts that were not evaluated in the EIS; or

2. New information or circumstances relevant to environmental concerns and bearing on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.

Where FHWA is uncertain of the significance of the new impacts, the local agency will develop appropriate environmental studies or, if FHWA deems appropriate, an EA to assess the impacts of the changes, new information, or new circumstances. If based upon the studies, FHWA determines that a supplemental EIS is not necessary, FHWA shall so indicate in the project file.

A supplement is developed using the same process and format (i.e., DEIS and FEIS) as an original EIS except that scoping is not required.

In some cases a supplemental EIS may be required to address issues of limited scope, such as the extent of proposed mitigation or the evaluation of location of design variations for a limited portion of the overall project. Where this is the case, the preparation of a supplemental EIS shall not necessarily:

1. Prevent the granting of new approvals,

2. Require the withdrawal of previous approvals, or

3. Require the suspension of project activities for any activity not directly affected by the supplement. If the changes in question are of such magnitude to require a reassessment of the entire action, or more than a limited portion of the overall action, FHWA shall suspend any activities that would have an adverse environmental impact or limit the choice of reasonable alternatives until the supplemental EIS is completed.

More detailed discussion of supplemental NEPA documents can be found on FHWA's web site at http://edocket.access.gpo.gov/cfr_2002/aprqtr/pdf/23cfr771.130.pdf.

GUIDANCE FOR COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND REGULATIONS

The following resource-specific discussions are intended to aid the project sponsor in achieving compliance with federal and state environmental laws and regulations. Ultimately the local agency is responsible for compliance with all applicable laws and regulations, regardless of the information, or lack thereof, contained herein. The local agency must ensure that all commitments identified in environmental documents are included in plans and job specifications as appropriate. The local agency is also responsible for implementing all commitments and monitoring identified in environmental documents.

Community Impact Assessment (Social/Economic/Environmental Justice)

Title VI of the Civil Rights Act of 1964 and Executive Order 12898 on Environmental Justice apply to federal activities. Compliance with the FHWA's NEPA process will accomplish appropriate implementation of Title VI and EO 12898. This process includes fully identifying

social, economic, and environmental effects; considering alternatives; coordinating with agencies; involving the public; and utilizing a systematic interdisciplinary approach. Addressing the issues coupled with full implementation of 23 USC 109(h) (e.g., community cohesion, availability of public facilities and services, adverse employment effects, etc.) will prevent the potential for discrimination or disproportionately high and adverse impacts. Community impact assessment is key to this preventive approach. Compliance with Executive Order 13166 on Limited English Proficiency should also be considered.

Additional information on environmental justice and community impact assesment can be found at the following websites:

- http://www.fhwa.dot.gov/environment/ej2.htm
- http://www.fhwa.dot.gov/environment/cia.htm

The local agency will provide a brief description of impacts, if any, to minorities, low-income populations, and the community in general. Most projects will be small and will have minimal to no impacts. If there are any commercial or residential displacements, the following text must be included in the NEPA documentation:

> The project sponsor will conduct the acquisition and relocation of affected residential and commercial properties in accordance with the relocation procedures established in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (referred to as the Uniform Act) of 1970, as amended. The Uniform Act and Missouri state laws require that just compensation be paid to the owner(s) of private property taken for public use. The Uniform Act is carried out without discrimination and in compliance with Title VI (the Civil Rights Act of 1964), the President's Executive Order on Environmental Justice, and the Americans with Disabilities Act.

The local agency must provide relocation services to all impacted households without discrimination under guidance of the Uniform Act.

Farmland Protection Policy Act

The Farmland Protection Policy Act requires that agencies identify and take into account the adverse effects of federal projects on farmland. The act requires that all federally funded projects be assessed for the potential conversion of farmland to non-farming purposes. Local agencies shall assess the impact of their projects in cooperation with the local Natural Resources Conservation Service (NRCS) office.

This assessment is not necessary if no additional right of way is needed. If the additional right of way the project requires is located within city limits and the affected land is entirely developed for uses other than agriculture (e.g., within city limits), the local agency may document this in their files and no further action is needed. If it is outside of established city limits, the project sponsor must complete a Form AD-1006 Farmland Conversion Impact Rating (or Form SCS-CPA-106 for corridor type projects) and forward it along with the preliminary layouts to the NRCS for agency review.

Figure 4-2 depicts Form AD-1006, including instructions for completing the form. Forms can also be obtained from the NRCS and may be reproduced. The local agency shall fill out Parts I and III, showing the acreage of new right-of-way and borrow areas, and submit three copies to NRCS. The submittal shall request that NRCS fill out Parts II, IV, and V. If desired, NRCS assistance in filling out Part VI can also be requested. The sponsor's submittal shall also ask NRCS to advise whether any land considered to be farmland is subject to any state or local government policy or programs to protect farmland.

When NCRS returns the form, the local agency shall complete it. If the total rating exceeds 160 points, the Farmland Protection Policy Act mandates further consideration of protection. Using the bottom portion of Form AD-1006 labeled "Reason for Selection," the sponsor will document why this site has been selected over the other alternative sites and submit one copy of the form along with the preliminary layout. This completes the processing. Under present directives, the local agency will have satisfied the requirements by considering the impact of converting any farmland to non-agricultural use and submitting the completed form. If the project is classified as other than a categorical exclusion, the completed form shall be included in the EIS or EA.

100-Year Floodplain and Regulatory Floodway

Executive Order 11988, Floodplain Management, and subsequent federal floodplain management guidelines mandate an evaluation of floodplain impacts. When available, flood hazard boundary maps (National Flood Insurance Program) and flood insurance studies for the project area are used to determine the limits of the base (100-year) floodplain and the extent of encroachment.

The Federal Emergency Management Agency (FEMA) and Federal Highway Administration (FHWA) guidelines 23 CFR 650 have identified the base (100-year) flood as the flood having a one-percent probability of being equaled or exceeded in any given year. The base floodplain is the area of 100-year flood hazard within a county or community. The regulatory floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 100-year flood discharge can be conveyed without increasing the base flood elevation more than a specified amount. FEMA has mandated that projects can cause no rise in the regulatory floodway and a one-foot cumulative rise for all projects in the base (100-year) floodplain. In the case of projects proposed within regulatory floodways, a "no-rise" certificate, if applicable, should be obtained prior to issuance of a Floodplain Development Permit.

The project sponsor must complete and submit to the MoDOT district office an application that includes information regarding community participation in the National Flood Insurance Program (NFIP) and whether the project is located in a Special Flood Hazard Area (SFHA). If the community or county has not been mapped, the sponsor communicates this to MoDOT. If the community has been mapped, then the sponsor should identify whether the project is located in the 100-year floodplain and/or regulatory floodway. The district will identify the project sponsor's need to obtain a floodplain development permit (Figure 4-3) or "no-rise" certification (Figure 4-4) from the local floodplain administrator.

Local agencies that participate in the National Flood Insurance Program (NFIP) have the responsibility to ensure that floodplain developments meet the regulations established by the NFIP as identified in Title 44, Code of Federal Regulations, Parts 59 through 78. (Parts 59 and 60 contain the most applicable information for a typical project). These regulations are available on the Internet at http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfrv1_07.html.

The engineer of record, with assistance from the local agency's floodplain administrator, is responsible for ensuring that FEMA NFIP requirements are met. In addition, the engineer of record will be responsible for attaining all required certifications before construction begins. It is advisable that the engineer of record investigates this in the early stages of the project, as the requirements of the NFIP may control the hydraulic design of the project. A current list of communities for which FEMA Flood Insurance Studies have been performed is available on the Internet in the National Flood Insurance Program Community Status Book at http://www.fema.gov/fema/csb.shtm (Missouri-only data at http://www.fema.gov/cis/MO.pdf).

For the convenience of local agencies and engineers, FEMA Flood Insurance Studies and flood maps pertaining to a project site can be viewed on the Internet at www.fema.gov by selecting "FEMA Flood Map Store." (Hardcopies of the FEMA Flood Insurance Studies and Flood Maps can also be ordered at the same site.)

State Emergency Management Agency (SEMA)/Federal Emergency Management Agency (FEMA) Buyout Lands

The Flood Disaster Protection Act of 1988 (The Stafford Act), identified the use of disaster relief funds under Section 404 for the Hazard Mitigation Grant Program (HMGP), including the acquisition and relocation of flood-damaged property. The Volkmer Bill further expanded the use of HMGP funds under Section 404 to "buy out" flood-damaged property that had been affected by the Great Flood of 1993.

There are numerous restrictions on these FEMA buyout properties. No structures or improvements may be erected on these properties unless they are open on all sides. The site can be used only for open space purposes and must remain in public ownership. These conditions and restrictions (among others), along with the right to enforce same, are deemed to be covenants running with the land in perpetuity and are binding on subsequent successors, grantees, or assigns. Any decision involving these properties should take into consideration that two to three years may be necessary to process an exemption from FEMA to utilize this parcel. This exemption would likely be a permanent easement rather than a transfer of property.

Section 404 Permits

If a project involves stream crossing(s) and/or wetland impacts under jurisdiction of the U.S. Army Corps of Engineers (COE), a Section 404 Permit or a written waiver thereof is necessary. If the COE issues an individual Section 404 permit, then the project sponsor must obtain an individual Section 401 Water Quality Certification from the Department of Natural Resources (DNR). If the COE issues a nationwide permit (NWP) for project activities, then the applicant

shall follow the conditions contained within DNR's blanket 401 certifications, specific to the appropriate NWP to which it applies. For most NWPs, an individual request for DNR's Section 401 Water Quality Certification is not necessary because the agency has granted blanket certification for the majority of commonly used NWPs. The applicant shall include the appropriate 401 certification conditions for their respective NWP(s) in the contract (see the web site referenced below).

A Section 404 permit may also be required for fill in any water body, which includes lakes, ponds, streams, rivers, and wetlands. The COE will make a final determination as to the extent of its jurisdiction and the appropriate permit(s) for all regulated activities. Stream and/or wetland impacts exceeding 0.5 acre or channelization beyond the minimum necessary to construct or protect the linear transportation project may result in the issuance of an individual permit. For individual Section 404 permits, duplicate applications should be sent concurrently to the COE and DNR. When the COE is ready to issue an individual permit, it will subsequently request 401 certification issuance from DNR. Both the 404 and 401 permits and conditions covered therein shall be included in the construction contract. A 404 permit application form is attached as Figure 4-5. The form can also be found on the COE web page (http://www.nwk.usace.army.mil/regulatory/eng4345.pdf).

For linear transportation projects, if permanent fills impacting waters of the U. S. (not including wetlands) do not exceed 0.1 acre, then the applicant is not legally obligated to submit an application to the COE. If this "no pre-construction notification" protocol is met for a project, the project sponsor will then be required to provide a written statement to MoDOT verifying that permanent project impacts will not exceed 0.1 acre. If either temporary or permanent impacts to wetlands will result from project construction, then a permit submittal will be required.

For impacts that exceed the nationwide permit pre-construction notification thresholds, the project sponsor must obtain a permit from the COE and provide it to MoDOT. In either the no pre-construction notification or the permit application submittal scenario, if NWP(s) apply, then the applicant shall be required to abide by all of the following conditions and include them in all contract proposals to validate the NWP(s):

1. The 28 Nationwide Permit General Conditions—The (28) **General Conditions for NWPs** can be accessed through the Internet at http://www.usace.army.mil/cw/cecwo/reg/nwp/nwp2007_gen_conditions_def.pdf. Once you have accessed the site, the general conditions are defined on pages 24–34.

2. The Regional Special Conditions for NWPs—The public notice announcing approval of the **Regional Special Conditions for NWPs** for the State of Missouri has been posted at http://www.nwk.usace.army.mil/regulatory.htm, under the topic "Nationwide Permits 2007."

3. The State of Missouri Section 401 Water Quality Certification General & Specific Conditions—The public notice announcing approval of **401 Water Quality Certification** for Nationwide Permits in the State of Missouri has been posted at

http://www.nwk.usace.army.mil/regulatory/regulatory.htm under the topic "Nationwide Permits 2007."

Channel Modification

Channel changes alter the conditions of the natural waterway and may cause an increase in velocity of the flowing water, sometimes enough to cause damage to the highway embankment near the stream or excessive scour around footings of structures. Because of the likelihood that these outcomes may result from channel modifications, such alterations should be avoided to the fullest extent practical. Where unavoidable, an evaluation must be made including consideration of the environment, hydraulic, legal, and geomorphic aspects involved. The investigation should determine the effect on peak flow downstream and the affected flow area. Relative to 404 permitting, any channelization should be kept to an absolute minimum and should only be undertaken to facilitate or protect a construction project. The project sponsor must include justification for any channel changes in the 404 permit application.

1. The new channel should duplicate the existing stream and floodplain characteristics as nearly as possible. These characteristics should include the stream width, depth, slope, flow regime, sinuosity, bank cover, side slopes, and flow and velocity distribution.

2. Major channel modification may be constructed if the average channel velocity would not be increased beyond the scour velocity of the predominant soil type at the project site.

3. The COE will require individual permit authorization for projects that involve major channel modification. Additionally, if the project sponsor is permitted to conduct the channel modifications under the terms of the individual permit, stream mitigation will be required. This can drastically add to the cost of a project and may require either a monetary contribution to an approved stream mitigation bank/in lieu fee program or the acquisition/restoration and/or, in very limited circumstances, protection of a previously impacted stream resource.

Stormwater and Erosion Control

Provisions of the federal Clean Water Act and related state rules and regulations require stormwater permits where construction activities disturb areas greater than one acre. MoDOT has a general permit (obtained from DNR) that allows them to accomplish road construction activities. The permit stipulates that MoDOT will follow certain erosion control guidelines and install temporary and permanent erosion control measures. This permit applies only to land disturbance activities associated with construction projects on MoDOT right of way.

A few cities (Kansas City, Columbia, and others) and counties have obtained their own land disturbance permits from DNR for generic land disturbance purposes. In these areas, the project sponsor (city or county government) would have their own restrictions and erosion control guidelines to meet the intent of their program. Prior to initiation of any federal-aid project, the local sponsor needs to determine the acreage that will be disturbed. If less than one acre is disturbed, the sponsor is exempt from the requirements of the Federal Clean Water Act National Pollutant Discharge Elimination System (NPDES) program permits and DNR permit

applications. However, there may be other local ordinances that must be addressed. The sponsor should inquire whether or not there are local rules and regulations that govern clean water guidelines. If greater than one acre is to be disturbed, the project sponsor should determine whether their city or county is operating under a DNR-approved program. If so, appropriate erosion controls will be imposed by the local government jurisdiction.

If the city or county does not have a DNR stormwater program and the project will disturb more than one acre, the project sponsor will need to apply for a DNR permit. If the project is entirely within MoDOT right of way, the sponsor may use MoDOT's general permit. In either case, the sponsor will need to develop a site-specific stormwater pollution prevention plan for the project. The sponsor shall contact the DNR NPDES Storm Water Program office (573-751-1300 or 800-361-4827) for further directions. If any amount of acreage is to be disturbed, the local agency is responsible for providing a temporary erosion control plan to be included with the final plan submittal. The plans shall detail the types of temporary erosion control facilities to be used and the location of where the items shall be installed. Further information on the design criteria can be found in the MoDOT Engineering Policy Guide, Roadside Development, Category 806, Pollution, Erosion and Sediment Control at http://epg.modot.org/index.php?title=Category:806_Pollution%2C_Erosion_and_Sediment_Control.

Air Quality Requirements

The Clean Air Act defines requirements for transportation project air quality analysis. In Missouri, requirements are met through conformity demonstrations with established emission budgets contained in the State Implementation Plan (SIP). This process involves projects meeting the definition of 'regionally significant,' as described in 23 CFR 450.104. At a minimum, this includes all principal arterial highways and all fixed guideway transit facilities that offer a significant alternative to regional highway travel and would normally be included in the modeling of a metropolitan area's transportation network.

Generally, projects sponsored through the LPA manual processes will not meet the definition of 'regionally significant.' In the event a local project is determined to be regionally significant, conformity will be demonstrated through an established process for inclusion in a metropolitan TIP.

Noise Standards and Noise Abatement

Federal legislation in 1970 authorized the use of federal-aid highway funds for measures to abate and control highway traffic noise. MoDOT has a federally approved traffic noise policy (http://epg.modot.mo.gov/files/d/de/NOISE_POLICY.pdf) to define and conform to the requirements of Title 23, Article 772, Code of Federal Regulations (23 CFR 772) and the noise-related requirements of NEPA. The guidelines in the MoDOT Noise Policy are used to determine the need, feasibility, and reasonableness of noise abatement measures and provide the basis for statewide uniformity in traffic noise analysis. If the project sponsor does not have a noise policy, it is suggested that they use MoDOT's FHWA-approved noise policy.

The local agency is normally required to conduct a noise analysis during the project development stage to identify noise sensitive receptors. A noise analysis will not be necessary for the following types of projects since they are not likely to result in a significant increase in highway traffic noise:

1. Minor widening and resurfacing.

2. Signalization projects including intersection and ramp terminal widening.

3. Replacement of a bridge in proximity of the existing structure.

On projects involving partial or full control of access, environmental documents must address noise abatement at those receptors for which abatement levels are impractical or unfeasible. These must be approved prior to submitting final plans. The procedure for conducting a noise analysis is as follows:

1. Identify existing activities or land uses that may be affected by the project. The analysis may be terminated if it is analytically determined that activities or developed land uses are not sufficiently close to the proposed project to be adversely affected by the noise.

2. Predict the traffic-generated noise levels for each alternative being studied. The weighted sound pressure level reference used is dBA. The sound level shall be expressed as L_{eq}, which is the average equivalent energy sound level. The approved basis for computing noise levels is the current model version of FHWA's Traffic Noise Model (TNM) or any other model determined by the FHWA to be consistent with the methodology of the FHWA TNM. A method of displaying the predicted noise levels is to select locations on aerial photographs or preliminary maps, such as those used in preliminary design layouts, and show the computed general highway noise levels at these locations.

3. Determine the existing noise levels by field measurement.

4. Compare the predicted noise levels for each alternative under study with existing noise levels and the abatement criteria noise levels. It is also desirable to predict noise levels for a "no-build" alternative.

5. Determine whether receptors meet the criteria for noise abatement and evaluate alternative noise abatement measures for reducing or eliminating the noise impact for activities or developed lands.

6. Identify those lengths of roadway for each side of the highway and individual land uses where noise abatement measures appear impractical or not prudent.

7. Prepare a listing of abatement measures and locations based on the findings of the noise analysis items 1 thru 6 above. These shall be identified in the environmental document. Noise impacts for which no apparent solution is available are also to be listed. Plans and

specifications are to include those noise abatement measures that are reasonable and feasible.

Numerous abatement measures can be considered. Obvious measures are relocating the highway to a less sensitive area or shifting the alignment. Other actions that can reduce the noise levels include purchasing additional right-of-way to increase the distance from the noise source to the receptor, reducing operating speed, reducing the grade of the road, and using vegetation screens. More costly abatement measures include erecting sound barriers and the placement of earth berms.

Noise abatement measures are not required for lands that are undeveloped at the time of public knowledge of the proposed highway project.

FHWA concurrence in the environmental document will constitute its determination that noise abatement measures have been adequately considered.

Section 4(f) and Section 4(f) Evaluations

Section 4(f) lands are lands that are publicly owned or held by means of a long-term lease and are intended for use as public parks, recreation areas, wildlife and waterfowl refuges, or any significant public or private historical site.

The local agency will examine the project to see whether it will require the use of or have an impact on these lands. This evaluation is separate from the NEPA classifications discussed previously. However, if Section 4(f) lands are to be impacted by a project, the project sponsor must complete a Section 4(f) evaluation and FHWA must approve it before a CE can be approved. The Section 4(f) evaluation will be included in an EA or EIS. Figure 4-6 contains the LPA Section 4(f) compliance worksheet (for parks/refuges only).

FHWA may not approve the use of land (permanent or temporary) from a significant publicly owned park, recreation area, or wildlife and waterfowl refuge, or from any significant historic site unless a determination is made that:

1. There is no feasible and prudent avoidance alternative to the use of land from the property and

2. The action includes all possible planning to minimize harm to the property resulting from such use.

Supporting information must demonstrate that there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes.

Any use of lands from a Section 4(f) property shall be evaluated early in the development of the project when alternatives to the proposed project are under study. Consideration under Section

4(f) is not required when the federal, state, or local officials having jurisdiction over a park, recreation area, or refuge determine that the entire site is not significant. In the absence of such a determination, the Section 4(f) land is presumed significant. FHWA will determine whether Section 4(f) applies.

If FHWA makes a *de minimis* determination, the MoDOT district contact will notify the project sponsor, who will need to assemble the documentation required to support the finding. Documentation requirements may be viewed at http://www.fhwa.dot.gov/hep/qasdeminimus.htm. A *de minimis* finding by FHWA means that if a transportation use of a Section 4(f) property, after consideration of any impact avoidance, minimization, and mitigation or enhancement measures, results in a minimal impact to that property, an analysis of avoidance alternatives is not required and Section 4(f) is complete. The *de minimis* impact criteria and associated determination requirements specified in Section 6009(a) of SAFETEA-LU are different for historic sites than for parks, recreation areas, and wildlife and waterfowl refuges. *De minimis* impacts related to historic sites are defined as the determination of either "no adverse effect" or "no historic properties affected" in compliance with Section 106 of the National Historic Preservation Act (NHPA). *De minimis* impacts on publicly owned parks, recreation areas, and wildlife and waterfowl refuges are defined as those that do not "adversely affect the activities, features and attributes" of the Section 4(f) resource.

FHWA has approved five nationwide programmatic Section 4(f) evaluations. The first one covers U.S. DOT assisted highway projects which use minor amounts of land from publicly owned public parks, recreation areas, and wildlife and waterfowl refuges. The second covers U.S. DOT assisted highway projects that use minor amounts of land from historic sites either on or eligible for inclusion on the National Register of Historic Places (NRHP). The third programmatic Section 4(f) covers the use of historic bridges. The fourth is for independent bikeway or walkway construction that requires the use of recreation areas or parkland. The fifth is the net benefit programmatic Section 4(f) evaluation for projects that will use property from a Section 4(f) park, recreation area, wildlife or waterfowl refuge, or historic property, which, in the view of the FHWA and official(s) with jurisdiction over the Section 4(f) property, will result in a net benefit to it.

Using the nationwide programmatic evaluations can streamline the processing of qualifying projects by eliminating a certain amount of project-by-project internal review and interagency coordination. The programmatic Section 4(f) evaluation satisfies the requirements of Section 4(f) for all projects that meet certain applicability criteria and no individual Section 4(f) evaluations need be prepared for such projects. The FHWA division administrator is responsible for reviewing each individual project to determine that it meets the criteria and procedures of the programmatic Section 4(f).

The programmatic Section 4(f) documentation is roughly equivalent in detail to that of an individual Section 4(f) evaluation. It must demonstrate that the applicability criteria for nationwide evaluation have been met, that avoidance alternatives have been evaluated, that the findings contained in the nationwide evaluation fit the project facts, and that appropriate mitigation measures have been included. It must include correspondence demonstrating that the official(s) with jurisdiction over the Section 4(f) lands agree with the assessment of impacts and

with the proposed mitigation measures. The documentation should be self-contained and self-explanatory since it will be available to the public upon request. The programmatic section 4(f) cannot be used on EIS projects, with the one exception being the programmatic 4(f) for historic bridges. The applicability criteria for the programmatic Section 4(f) evaluations are available from FHWA or MoDOT.

When federal lands or other public land holdings (e.g., state forests) are administered under statutes permitting management for multiple uses and, in fact, are managed for multiple uses, Section 4(f) applies only to those portions of such lands that function for or are designated in the plans of the administering agency as being for significant park, recreation, or wildlife and waterfowl refuge purposes. The determination as to which lands so function or are so designated, and the significance of those lands, shall be made by the officials having jurisdiction over the lands. FHWA will review this determination to assure its reasonableness. The determination of significance shall apply to the entire area of such park, recreation, or wildlife and waterfowl refuge sites.

In determining the application of Section 4(f) to historic sites, the local agency shall consult with the SHPO and appropriate local officials to identify all properties on or eligible for the NRHP. The Section 4(f) requirements apply only to sites on or eligible for the NRHP.

When adequate support exists for a Section 4(f) determination, the discussion in the Section 4(f) evaluation shall specifically address:

1. The reasons why the alternatives to avoid Section 4(f) property are not feasible and prudent and

2. All measures that will be taken to minimize harm to the Section 4(f) property.

FHWA will review the final Section 4(f) evaluation for legal sufficiency before issuing an approval. Project sponsors will not proceed with any action requiring the use of Section 4(f) property and proposed to be classified as a CE until notified by FHWA of Section 4(f) approval. For actions processed with an EA or EIS, Section 4(f) approval is documented with a separate signature page concurrently with FHWA's approval of the FONSI or final EIS. For EIS projects, the sponsor should briefly summarize the Section 4(f) impacts and mitigation measures in the ROD.

Circulation of a separate Section 4(f) evaluation will be required when:

1. A proposed modification of the alignment or design after the CE, EA, FONSI, draft EIS, final EIS, or ROD has been processed would require the use of Section 4(f) property;

2. FHWA determines that Section 4(f) applies to a property after processing the CE, EA, FONSI, draft EIS, final EIS, or ROD; or

3. A proposed modification of the alignment, design, or measures to minimize harm after the original Section 4(f) approval would result in a substantial increase in the amount of

Section 4(f) land use, a substantial increase in the adverse impacts to Section 4(f) land, or a substantial reduction in mitigation measures.

If FHWA determines that Section 4(f) is applicable after the CE, EA, FONSI, final EIS, or ROD has been processed, the decision to prepare and circulate a Section 4(f) evaluation will not necessarily require the preparation of a new or supplementary environmental document. Where a separate circulated Section 4(f) evaluation is prepared, such evaluation does not necessarily:

1. Prevent the issuance of new approvals,

2. Require the withdrawal of previous approvals, or

3. Require the suspension of project activities for any activity not affected by the Section 4(f) evaluation.

Content of a Section 4(f) Evaluation

A draft Section 4(f) evaluation shall include the following information:

1. Proposed Action—describe the proposed project and explain the purpose and need for the project.

2. Section 4(f) Property—describe each Section 4(f) resource that would be used by any alternative under consideration, including:

    a. Detailed map or drawing of sufficient scale to identify the relationship of the alternatives to the Section 4(f) property.

    b. Ownership (city, county, state, etc.) and type of Section 4(f) property (park, recreation, historic, etc.).

    c. Location (maps or other exhibits such as photographs, sketches, etc.) and for parks, size (square feet or acreage) of the affected Section 4(f) property.

    d. For historic properties, description of the significant features of the affected Section 4(f) property and explanation of the property's significance, including applicable NRHP criteria.

    e. Function of or available activities on the property (swimming, golfing, etc.) and description and location of all existing and planned facilities (ball diamonds, tennis courts, etc.).

    f. Access (pedestrian, vehicular) and usage (approximate number of users/visitors, etc.).

    g. Relationship to other similarly used lands in the vicinity.

h. Applicable clauses affecting the ownership, such as lease, easement, covenants, restrictions, or conditions, including forfeiture.

i Unusual characteristics of the Section 4(f) property (flooding problems, terrain conditions, or other features) that either reduce or enhance the value of all or part of the property.

j. Any other sources of federal funding.

3. Impacts on the Section 4(f) Property(ies)—discuss the impacts on the Section 4(f) property for each alternative. Where an alternative uses land from more than one Section 4(f) property, include a summary table to compare the various impacts of the alternatives. Quantify impacts that can be quantified, such as noise, and describe other impacts (such as visual intrusion), which cannot be quantified.

4. Avoidance Alternatives—identify and evaluate location and design alternatives that would avoid the Section 4(f) property. Generally, this would include alternatives to either side of the property. Where an alternative would impact more than one Section 4(f) property, the analysis needs to evaluate alternatives that avoid each and all such properties. The design alternatives shall be in the immediate area of the property and consider minor alignment shifts, a reduced facility, retaining structures, etc. individually or in combination, as appropriate.

5. Measures to Minimize Harm—discuss all possible measures that are available to minimize the impacts of the proposed project on the Section 4(f) lands. Detailed discussions of mitigation measures described in the EIS or EA may be referenced and appropriately summarized rather than repeated.

6. Coordination—discuss the results of preliminary coordination with the public officials having jurisdiction over the Section 4(f) property and with regional (or local) offices of the U.S. Department of the Interior (DOI) and, as appropriate, the regional office of the U.S. Department of Housing and Urban Development (HUD) and the Forest Supervisor of the affected national forest (U.S. Forest Service). Generally, the coordination shall include discussion of avoidance alternatives, impacts to the property, and measures to minimize harm. In addition, the coordination with the public official having jurisdiction shall include, where necessary, a discussion of the significance and primary use of the property.

NOTE: The conclusion that there are no feasible and prudent alternatives is not normally addressed at the draft Section 4(f) evaluation stage. Such conclusion is made only after the draft Section 4(f) evaluation has been circulated and coordinated and any identified issues adequately evaluated.

A final Section 4(f) Evaluation must contain:

1. All the previously mentioned information for a draft evaluation.

2. A discussion of the basis for concluding that there are no feasible and prudent alternatives to the use of the Section 4(f) land. The supporting information must demonstrate that "there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, and environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes." This language shall appear in the documentation together with the supporting information.

3. A discussion of the basis for concluding that the proposed project includes all possible planning to minimize harm to the Section 4(f) property. When there are no feasible and prudent alternatives that avoid the use of Section 4(f) land, the final Section 4(f) evaluation must demonstrate that the preferred alternative is a feasible and prudent alternative with the least harm on the Section 4(f) resources after considering mitigation to the Section 4(f) resource(s).

4. A summary of the appropriate formal coordination with the headquarters offices of DOI (and/or appropriate agency under that department) and, as appropriate, the involved offices of the U.S. Forest Service and HUD.

5. Copies of all formal coordination comments and a summary of other relevant Section 4(f) comments received and an analysis and response to any questions raised. Where new alternatives or modifications to existing alternatives are identified and will not be given further consideration, the basis for dismissing these alternatives shall be provided and supported by factual information.

6. Concluding statement as follows: "Based upon the above considerations, there is no feasible and prudent alternative to the use of land from the [*identify Section 4(f) property*] and the proposed project includes all possible planning to minimize harm to the [*identify the Section 4(f) property*] resulting from such use."

Section 6(f) of the Land and Water Conservation Fund (LWCF) Act

The Land and Water Conservation Fund (LWCF) Act provides funds for the acquisition and development of public outdoor recreation facilities that could include community, county, and state parks, trails, fairgrounds, conservation areas, boat ramps, shooting ranges, etc. Section 6(f) of the LWCF Act places restrictions on public recreation facilities funded with LWCF monies; LWCF-assisted facilities must be maintained for outdoor recreation in perpetuity. Therefore use of such property for a transportation project will require mitigation that includes replacement land of at least equal value and recreational utility. Section 6(f) documents are lengthy, frequently taking one to two years to process, and also require a signed Section 4(f) document to be completed.

Historic and Archaeological Sites and Historic Bridges—Section 106

Consideration shall be given at preliminary engineering stage on the possible effects of the project on historic properties [i.e., buildings, bridges, and archaeological sites that are on or eligible for the National Register of Historic Places (NRHP)]. The local agency is responsible for obtaining concurrence from the State Historic Preservation Office (SHPO) of the Missouri Department of Natural Resources (DNR) that the project has complied with Section 106 requirements. The sponsor must complete the SHPO *Section 106 Project Information Form* (Figure 4-7 and at **http://www.dnr.mo.gov/forms/780-1027.pdf**) and submit it to DNR. If the project contains a bridge, the project sponsor must also complete a Bridge Inventory Survey Form (Figure 4-8) for submittal to DNR along with the project information form. The local agency can complete these forms without needing the services of a cultural resources consultant.

Using the information on the forms, the SHPO examines their records for previously identified historic resources. When these forms are submitted for projects utilizing previously disturbed ground, such as those on existing alignments, DNR usually recommends no survey work required. If the SHPO believes resources may be present on a project (e.g., new alignment, project affecting buildings or involving historic bridges on old or new alignments, those involving borrow sites), the SHPO will require a cultural resource survey to be conducted for the project. The local agency must hire a cultural resource consultant to conduct the survey. If any human remains (other than from a crime scene) are discovered during archaeological investigations on non-federal land, they are subject to the immediate control, possession, custody and jurisdiction of the SHPO, pursuant to the Missouri Unmarked Human Burial Sites Act, §§ 194.400 – 194.410, RSMo. The cultural resource consultant should examine the project location and/or search the archival records when necessary for the existence of any cultural resources eligible for listing on the NRHP. Additional information on Section 106 and a list of qualified professional cultural resource consultants can be accessed at **http://www.dnr.mo.gov/shpo/sectionrev.htm**.

Figure 4-9 contains a brief outline of the Section 106 process, followed by detailed procedures and a flow chart of the typical Section 106 process that the local agencies must follow. If a historic property will be adversely affected, an agreement document among FHWA, DNR, and the local agency on how to mitigate the adverse effect would be required for Section 106 compliance. FHWA has entered into agreements with the SHPO and the Advisory Council on Historic Preservation (ACHP) for procedures to clear historic bridges. A sample Memorandum of Agreement (MOA) for historic bridges and information to accompany are attached as Figure 4-10. This MOA includes advertising availability of the bridge for adaptive reuse.

NOTE: A compliance letter issued by SHPO is only for the project as it was submitted to SHPO. Any changes to project activities after submittal may void the project's Section 106 compliance. The project sponsor should contact SHPO to discuss the changes and the possible resubmittal and review by SHPO.

Threatened and Endangered Species

The Endangered Species Act, the Migratory Bird Treaty Act, and other state and federal laws protect plants and animals and their habitats. Local agencies shall submit the following to Missouri Department of Conservation (MDC):

- Brief description of project (e.g., bridge replacement)
- Explain what is involved (e.g., tree clearing, bridge piers in river, etc.)
- Number of acres impacted (e.g., clear 20 acres of trees)
- Include a map(s) showing location of project
- Include pictures if available

Policy and Coordination Division
Missouri Department of Conservation
2901 W. Truman Blvd.
P.O. Box 180
Jefferson City, MO 65102
(573) 751-4115

The MDC will respond with a letter indicating whether any threatened or endangered species occur in the area. If state-listed species occur near the site, further coordination with the MDC will be necessary to minimize impacts to these species. If federally listed species are known to occur near the site, the project sponsor will need to contact MoDOT and MoDOT will coordinate with the U.S. Fish and Wildlife Service to avoid project impacts to the species and obtain clearance.

Report MDC's findings and attach MDC correspondence along with documentation of U.S. Fish and Wildlife clearance.

Hazardous Waste

There are several laws and regulations that deal with hazardous waste and both underground and aboveground storage tanks. Properties containing hazardous and non-hazardous solid wastes are frequently encountered in new right-of-way acquisitions. Some properties with extensive contamination and legal liabilities may warrant avoidance. For most sites, however, early identification and planning will allow selection of feasible alternatives with incidental costs. In addressing hazardous and solid wastes, the goals are to: 1) avoid unacceptable cleanup cost and legal liability and 2) comply with federal and state laws and regulations regarding cleanup. The most common type of hazardous waste site encountered is a petroleum underground storage tank (UST) site. Local public agencies shall evaluate proposed corridors for hazardous and solid waste sites by conducting a field check (if necessary) and a thorough database search. Below is a list of possible sources.

- Federal Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS): http://www.epa.gov/superfund/sites, select CERCLIS Hazardous Waste sites
- DNR Confirmed Abandoned or Uncontrolled Hazardous Waste Disposal Sites in Missouri: http://www.dnr.mo.gov/env/hwp/downloads/index.htm
- DNR Missouri Hazardous Waste Generators List: http://www.dnr.mo.gov/env/hwp/downloads/index.htm
- DNR Missouri Hazardous Waste Treatment, Storage, and Disposal Facilities List: http://www.dnr.mo.gov/env/hwp/downloads/index.htm
- DNR Solid Waste Facilities List: http://www.dnr.mo.gov/env/swmp/facilities/sanlist.htm
- DNR Registered Underground Petroleum Storage Tank List: currently unavailable on DNR website, contact DNR
- DNR Leaking Underground Storage Tank List: currently unavailable on DNR website, contact DNR
- Petroleum Storage Tank Insurance Fund: http://www.pstif.org/, select tank site
- National Response Center Hotline: http://www.nrc.uscg.mil/nrchp.html, select service, then query/download-select Standard Report to run query
- EPA Envirofacts: http://www.epa.gov/enviro/, select maps, then enviromapper-select Go to Enviromapper
- Other lists as appropriate

Coordination with EPA and DNR will help to determine liability, regulatory requirements, and potential cleanup costs. The potential to encounter unknown wastes from sites not identified through database and/or site reviews by the local agency should always be a consideration. Any unknown sites that are found during project construction shall be handled in accordance with federal and state laws and regulations. Include resource agencies response letters in the NEPA document.

Borrow Guidance

Borrow sites may be selected that are outside the project footprint and therefore were not previously addressed by the NEPA document and other environmental approvals for the project. If the appropriate quantity of borrow material for a project is available from several sources, the sponsor is required to specify the source from which the materials are to be obtained. The project sponsor is responsible for ensuring that the contractor clears land disturbance areas for environmental concerns unless the necessary clearances have already been obtained, with the contractor providing documentation to the resident or liaison engineer. To eliminate possible delays, the local agency should specify in the engineering services contract that a proposed borrow site be investigated. Figure 4-11 provides guidelines for obtaining environmental clearance on borrow sites. This information is also available from the liaison or resident engineers or the MoDOT environmental unit.

The requirements of Section 106 of the National Historic Preservation Act apply to all areas of land disturbance. The local agency must complete the SHPO *Section 106 Project Information Form* (Figure 4-7 and at **http://www.dnr.mo.gov/forms/780-1027.pdf**) and submit it to DNR. The sponsor must provide written certification to the MoDOT district contact that the proposed site of land disturbance has been cleared of environmental concerns under all applicable federal and state laws and regulations. These include but are not limited to the Clean Water Act; Section 4(f) of the Department of Transportation Act; the Endangered Species Act; the National Historic Preservation Act; the Farmland Protection Act; Resource Conservation and Recovery Act; Comprehensive Environmental Response, Compensation, and Liability Act; and RSMo Chapter 194, Section 194.400, Unmarked Human Burial Sites. Certification will include all clearance letters and other evidence of coordination with the appropriate regulatory agencies.

Form CE-2

The CE2 must be approved by FHWA prior to preliminary plan approval (no more than 35% plan completion).

CATEGORICAL EXCLUSION DETERMINATION
[As per 23CFR771.117(d)]

Job Number: **Route:** **County:**

Purpose and Need:

Project Termini and Length:

Project Description:

Current ADT: year and number **Future ADT:** year and number

Right of Way <u>Required in</u> <u>Acres</u>: Existing ROW – (acres)
New ROW- (acres)
Temporary Easements –

(acres)

Permanent Easements –

(acres)

Displacements (Number and Type):

Social/Economic/Environmental Justice:

Farmland Impacts (Type and Area):

Wetland Impacts:

Water Quality Impacts:

404 Permit Required (Yes/No):

Floodplain Impacts:

Air Quality Impacts:

Noise Impacts:

Cultural Resources:

Fig. 4-1

Section 4(f)/6(f) Involvement (Types and Area):

Threatened and Endangered Species:

Hazardous Waste:

List sources:

Comments:

Location Map:

NOTE: A project scope change requires the NEPA Classification/Approval to be reevaluated regardless of project stage.

This is a tool for the LPAs and DLEs to correctly address the issues on the CE2 form.

The CE2 must be approved by FHWA prior to preliminary plan approval (no more than 35% plan completion).

INSTRUCTIONS FOR PREPARING

CATEGORICAL EXCLUSION DETERMINATION
[As per 23CFR771.117(d)]

Job Number: **Route:** **County:**

Purpose and Need: Provide information regarding planning and scheduling information related to the project. For planning, this could be in reference to its inclusion in a long-range transportation land and/or other area planning document/initiative.

Project Termini and Length: Location not Stations – use crossing streets for reference

Project Description: FHWA requires a thorough description of existing conditions and what the proposed project is. Provide a topographical map showing the alignment.

Current ADT: year and number
This is required information in NEPA approval.

Future ADT: year and number

Right of Way Required in Acres:

Existing ROW: (acres)
New ROW: (acres)
Temporary Easements: (acres)
Permanent Easements: (acres)

- *When right of way has been acquired or donated by the city/county using local funds and you want federal funds to plan/build the project, NEPA compliance is still required due to the use of federal funds in the project. If the city/county purchases the right of way with local funds and later wants to use federal funds to construct, the right-of-way purchase must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act.*

Displacements (Number and Type): If you have displacements, FHWA will need to know how many and what kind (business or residential) and number of people to relocate.

Social/Economic/Environmental Justice: See 4-15 for more details.

Farmland Impacts (Type and Area): Coordinate with the Natural Resources Conservation Service (NRCS) regional contact to complete the Farmland Conversion Impact Rating (Form AD-1006), Figure 4 - 2- 1. Complete Parts I and III of the form, then send an original copy of the form, together with appropriately scaled maps indicating the location of the project, to the NRCS representative. NRCS will make a determination as to whether the site of the proposed project contains prime, unique, statewide, or locally important farmland. For sites where farmland will be converted, NRCS will complete Parts II, IV and V of the form and will return the original copy of the form to the applicant, who then completes Parts VI and VII of the form.

Wetland Impacts: Indicate the area of wetland (area or square feet) being impacted by the project. (Quantify area of impact, look for streams, areas of standing water, culvert extensions, bridge repair/rehab.) Wetlands are regulated under Section 404 of the Clean Water Act as well as other laws. The U.S. Army Corps of Engineers (COE) is the principal agency that regulates the excavations or placements of fill in jurisdictional wetlands. These activities should be avoided if possible. National Wetlands Inventory (NWI) maps are available online at http://www.fws.gov/nwi/. The County Soil Survey may be consulted for additional information. A visit to the project site will be required to assess wetland impacts and/or absence of wetlands.

Water Quality Impacts: Are any wells, sinkholes, sensitive streams, springs, or caves present? Will they be impacted? Why or why not?

NPDES-The National Pollutant Discharge Elimination Systems (NPDES) permit program regulates construction activities where 1 acre or more of land will be disturbed. If the project proponent has a general NPDES permit for all their construction activities, this is adequate. If the project proponent does not have a valid general permit, and will disturb 1 acre or more of land a project specific NPDES permit is required. For information on the permit process or to determine the specific requirements contact the MDNR Environmental Assistance Office at 800-361-4827 or (573) 526-6627 or visit http://www.dnr.state.mo.us/oac/pub2009.pdf. A pollution prevention plan maybe required with an NPDES application.

404 Permit Required (Yes/No): Characterize impacts or lack of impacts. If there are any stream or wetland impacts a 404 permit will be required. If impacts to wetlands and streams are less than ½ acre and there is no channel realignment, the project should be covered under a Nationwide Permit (NWP). Amounts over that would likely require an individual permit. The COE has control over most streams that exhibit an ordinary high water mark (drainage with a vegetation line on the bank); this includes ditches that have captured natural streams. For more information see 4-6.

Floodplain Impacts: Executive Order 11988, Floodplain Management, and subsequent federal floodplain management guidelines mandate an evaluation of floodplain impacts. When available, flood hazard boundary maps (National Flood Insurance Program) and flood insurance studies for the project area are used to determine the limits of the base (100-year) floodplain and the extent of encroachment.

The Federal Emergency Management Agency (FEMA) and Federal Highway Administration (FHWA) guidelines 23 CFR 650 have identified the base (100-year) flood as the flood having a one-percent probability of being equaled or exceeded in any given year. The base floodplain is the area of 100-year flood hazard within a county or community. The regulatory floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 100-year flood discharge can be conveyed without increasing the base flood elevation more than a specified amount. FEMA has mandated that projects can cause no rise in the regulatory floodway, and a one-foot cumulative rise for all projects in the base (100-year) floodplain. If your project is within the 100-year floodplain or regulatory floodway, you must attain a permit from the local floodplain authority (i.e. City/County). In the case of projects proposed within regulatory floodways, a "no-rise" certificate, if applicable, should be obtained from the City/County prior to issuance of a permit.

SEMA/FEMA flood buyout properties will likely have deed restrictions that prohibit transportation projects.

Air Quality Impacts: St. Louis and Kansas City MPO areas–The project sponsor shall work in cooperation with the MPO to determine the level of analysis required. See Page 4-20 for more information.

Noise Impacts: The local agency is normally required to conduct a noise analysis during the project development stage. A noise analysis will not be necessary for minor widening, bridge replacements near existing, resurfacing, and projects for which there are no adjacent receptors since they are not likely to result in a significant increase in highway traffic noise.

Larger projects such as those adding lanes, having significant alignment change, or involving new construction will require noise analysis.

Cultural Resources: Examples of a cultural resource include but are not limited to buildings, bridges, structures, archaeological sites, cemeteries, and historic locations. Section 106 of the National Historic Preservation Act requires federal agencies to consider the effects of their actions on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) the opportunity to comment on the proposed project. The project sponsor initiates the Section 106 process by submitting a Section 106 Project Information Form to the State Historic Preservation Office (SHPO). If the SHPO determines there is a need for a survey, the local agency hires a cultural resource consultant to conduct a cultural resource survey. A Phase I cultural survey should identify potentially significant archaeological sites, buildings, bridges, historic locations, and traditional cultural places. These resources may be tested (Phase II site evaluation) to determine whether they are eligible for nomination to the National Register of Historic Places (NRHP). If determined to be eligible and the resource cannot be avoided or preserved in place, actions must be taken to mitigate the adverse effects to the eligible property. All phases require consultation with the SHPO. If mitigation is required, the ACHP must also be afforded an opportunity to comment on the project and may be a signatory on a Memorandum of Agreement between the involved agencies. Cemeteries and human remains may be included under Section 106 but can also adjudicated under RMSO 194.00 *et seq*. (unmarked burials), RMSO 214 *et seq*. (cemeteries), and the Native American Graves Protection and Repatriation Act. For further information regarding the need for a Section 106 Cultural Resource Assessment, please contact the DNR-State Historic Preservation Office at 573-526-1680.

Section 4(f)/6(f) Involvement (Types and Area): Section 4(f) of the Department of Transportation Act protects lands that are publicly owned or held by means of a long-term lease and are intended for use as public parks, recreation areas, wildlife and waterfowl refuges, or any public or private significant historical site per 23CFR771.135(a). Federally funded transportation projects cannot impact such parkland unless there are no feasible and prudent alternatives. Some public parks have also been purchased or improved by funding from the Land and Water Conservation Fund (LWCF) Act. Proposed use of these lands for transportation purposes requires extensive coordination with other state and federal agencies. Any park project funded by the LWCF Act is protected by an established Section 6(f) boundary encompassing the entire facility or portions of the facility. Be aware that temporary, permanent, and aerial easements on parkland are all subject to Section 4(f) and Section 6(f) considerations. **This includes the contractor using the public land as a staging area to park equipment or storage.* Examples of public lands are city parks, boat access, sporting facilities, picnic tables, and school playgrounds. Characterize the impact.

Threatened and Endangered Species:

See Page 4-29 for more information.

Hazardous Waste:

See Page 4-29 for more information.

Comments: Explain the reasoning and benefit of the proposed change.

U.S. Department of Agriculture

FARMLAND CONVERSION IMPACT RATING

PART I *(To be completed by Federal Agency)*	Date of Land Evaluation Request	/ /
Name of Project	Federal Agency Involved Federal Highway Administration	
Proposed Land Use	County and State County, Missouri	
PART II *(To be completed by SCS)*	Date Request Received by SCS	

Does the site contain prime, unique, statewide or local important farmland? *(if no, the FPPA does not apply - do not complete additional parts of this form.)*	Yes ____	No ____	Acres Irrigated	Average Farm Size
Major Crop(s)	Farmable Land in Govt. Jurisdiction Acres: %		Amount of Farmland As Defined in FPPA Acres: %	
Name of Land Evaluation System Used	Name of Local Site Assessment System		Date Land Evaluation Returned by SCS	

	Alternative Site Rating			
	Site A	Site B	Site C	Site
PART III *(To be completed by Federal Agency)*				
A. Total Acres To Be Converted Directly				
B. Total Acres To Be Converted Indirectly				
C. Total Acres In Site				
PART IV *(To be completed by SCS)* Land Evaluation Information				
A. Total Acres Prime And Unique Farmland				
B. Total Acres Statewide And Local Important Farmland				
C. Percentage Of Farmland In County Or Local Govt. Unit To Be Converted				
D. Percentage Of Farmland In Govt. Jurisdiction With Same Or Higher Relative Value				
PART V *(To be completed by SCS)* Land Evaluation Criterion Relative Value Of Farmland To Be Converted *(Scale of 0 to 100 Points)*				

PART VI *(To be completed by Federal Agency)* Site Assessment Criteria (These criteria are explained in 7 CFR 658.5(b))	Maximum Points				
1. Area In Nonurban Use	15.00				
2. Perimeter In Nonurban Use	10.00				
3. Percent Of Site Being Farmed	20.00				
4. Protection Provided By State And Local Government	20.00				
5. Distance From Urban Builtup Area	15.00				
6. Distance To Urban Support Services	15.00				
7. Size Of Present Farm Unit Compared To Average	10.00				
8. Creation Of Nonfarmable Farmland	10.00				
9. Availability Of Farm Support Services	5.00				
10. On-farm Investments	20.00				
11. Effect Of Conversion On Farm Support Services	10.00				
12. Compatibility With Existing Agricultural Use	10.00				
TOTAL SITE ASSESSMENT POINTS	160.00				
PART VII *(To be competed by Federal Agency)*					
Relative Value Of Farmland *(From Part V)*	100.00				
Total Site Assessment *(From Part VI above or a local site assessment)*	160.00				
TOTAL POINTS *(Total of above 2 lines)*	260.00				

		Was A Local Site Assessment Used?
Site Selected:	Date of Selection	Yes ___ No ___

Reason For Selection:

Form AD-1006(10-83)

Fig. 4 - 2 - 1

STEPS IN THE PROCESSING OF THE FARMLAND AND CONVERSION IMPACT RATING FORM

Step 1 - Federal agencies involved in proposed projects that may convert farmland, as defined in the Farmland Protection Policy Act (FPPA) to nonagricultural uses, will initially complete Parts I and III of the form.

Step 2 - Originator will send copies A, B and C together with maps indicating location of sites(s), to the Soil Conservation Service (SCS) local field office and retain copy D for their files. (Note: SCS has a field office in most counties in the U.S. The field office is usually located in the county seat. A list of field office locations are available from the SCS State Conservationist in each state.)

Step 3 - SCS will, within 45 calendar days after receipt of form, make a determination as to whether the site(s) of the proposed project contains prime, unique, statewide or local important farmland.

Step 4 - In cases where farmland covered by the FPPA will be converted by the proposed project, SCS field offices will complete Parts II, IV and V of the form.

Step 5 - SCS will return copy A and B of the form to the Federal agency involved in the project. (Copy C will be retained for SCS records.)

Step 6 - The Federal agency involved in the proposed project will complete Parts VI and VII of the form.

Step 7 - The Federal agency involved in the proposed project will make a determination as to whether the proposed conversion is consistent with the FPPA and the agency's internal policies.

INSTRUCTIONS FOR COMPLETING THE FARMLAND CONVERSION IMPACT RATING FORM

Part I: In completing the "County And State" questions list all the local governments that are responsible for local land controls where sites(s) are to be evaluated.

Part III: In completing item B (Total Acres To Be Converted Indirectly), include the following:

1. Acres not being directly converted but that would no longer be capable of being farmed after the conversion, because the conversion would restrict access to them.

2. Acres planned to receive services from an infrastructure project as indicated in the project justification (e.g. highways, utilities) that will cause a direct conversion.

Part VI: Do not complete Part VI if a local site assessment is used.

Assign the maximum points for each site assessment criterion as shown in §658.5(b) of CFR. In cases of corridor-type projects such as transportation, powerline and flood control, criteria #5 and #6 will not apply and will be weighed zero, however, criterion #8 will be weighed a maximum of 25 points, and criterion #11 a maximum of 25 points.

Individual Federal agencies at the national level, may assign relative weights among the 12 site assessment criteria other than those shown in the FPPA rule. In all cases where other weights are assigned, relative adjustments must be made to maintain the maximum total weight points at 160.

In rating alternative sites, Federal agencies shall consider each of the criteria and assign points within the limits established in the FPPA rule. Sites most suitable for protection under these criteria will receive the highest total scores, and sites least suitable, the lowest scores.

Part VII: In computing the "Total Site Assessment Points", where a State or local site assessment is used and the total maximum number of points is other than 160, adjust the site assessment points to a base of 160. Example: if the Site Assessment maximum is 200 points; and alternative Site "A" is rated 180 points:

$$\frac{\text{Total points assigned Site A}}{\text{Maximum points possible}} = \frac{180}{200} \times 160 = 144 \text{ points for Site "A".}$$

FLOODPLAIN DEVELOPMENT PERMIT/APPLICATION

Application No. _____ Date: _____

TO THE ADMINISTRATOR: The undersigned hereby makes application for a permit to develop in a floodplain. The work to be performed, including flood protection works, is as described below and in attachments hereto. The undersigned agrees that all such work shall be in accordance with the requirements of the Floodplain Management Ordinance and with all other applicable county/city ordinances, federal programs, and the laws and regulations of the State of Missouri.

Owner or Agent	Date	Builder	Date
Address		Address	
Phone		Phone	

SITE DATA

1. Location: _____ 1/4; _____ 1/4; Section _____ ; Township _____ ; Range _____
   Street Address _____
2. Type of Development: Filling _____ Grading _____ Excavation _____ Minimum Improvement _____
   Routine Maintenance _____ Substantial Improvement _____ New Construction _____ Other _____
3. Description of Development: _____
4. Premises: Structure Size _____ ft. By _____ ft. Area of Site _____ Sq Ft
   Principal Use _____ Accessory Uses (storage, parking, etc.) _____
5. Value of Improvement (fair market) $ _____ Pre-Improvement/Assessed Value of Structure $ _____
6. Property Located in a Designated FLOODWAY? Yes _____ No _____

   IF ANSWERED YES, CERTIFICATION MUST BE PROVIDED PRIOR TO THE ISSUANCE OF A PERMIT TO DEVELOP, THAT THE PROPOSED DEVELOPMENT WILL RESULT IN NO INCREASE IN THE BASE (100-YEAR) FLOOD ELEVATIONS.
7. Property Located in a Designated Floodplain FRINGE? Yes _____ No _____
8. Elevation of the 100-Year Flood (ID source) _____ NGVD/NAVD
9. Elevation of the Proposed Development Site _____ NGVD/NAVD
10. Local Ordinance Elevation/Floodproofing Requirement _____ NGVD/NAVD
11. Other Floodplain Elevation Information (ID and describe source) _____
12. Other Permits Required?

Corps of Engineer 404 Permit:	Yes _____	No _____	Provided _____
State Department of Natural Resources 401 Permit:	Yes _____	No _____	Provided _____
Environmental Protection Agency NPDES Permit:	Yes _____	No _____	Provided _____

All Provisions of Ordinance Number _____ , the "Floodplain Management Ordinance", shall be in Compliance.

PERMIT APPROVAL/DENIAL

Plans and Specifications Approved/Denied this _____ Day of _____ , 20_____

Signature of Developer/Owner	Authorizing Official
Print Name and Title	Print Name and Title

THIS PERMIT IS ISSUED WITH THE CONDITION THAT THE LOWEST FLOOR (INCLUDING BASEMENT FLOOR) OF ANY NEW OR SUBSTANITALLY IMPROVED RESIDENTIAL BUILDING WILL BE ELEVATED _____ FOOT/FEET ABOVE THE BASE FLOOD ELEVATION. IF THE PROPOSED DEVELOPMENT IS A NON-RESIDENTIAL BUILDING, THIS PERMIT IS ISSUED WITH THE CONDITION THAT THE LOWEST FLOOR (INCLUDING BASEMENT) OF A NEW OR SUBSTANITALLY IMPROVED NON-RESIDENTIAL BUILDING WILL BE ELEVATED OR FLOODPROOFED _____ FOOT/FEET ABOVE THE BASE FLOOD ELEVATION.

THIS PERMIT IS USED WITH THE CONDTION THAT THE DEVELOPER/OWNER WILL PROVIDE CERTIFICATION BY A REGISTERED ENGINEER, ARCHITECT, OR LAND SURVEYOR OF THE "AS-BUILT" LOWEST FLOOR (INCLUDING BASEMENT) ELEVATION OF ANY NEW OR SUBSTANTIALLY IMPROVED BUILDING COVERED BY THIS PERMIT.

(MISSOURI)
November 28, 2007

MISSOURI STATE EMERGENCY MANAGEMENT AGENCY

ENGINEERING "NO-RISE" CERTIFICATE

Floodplain Development Permit No. _____

SECTION A - PROPERTY OWNER INFORMATION

COMMUNITY | COUNTY | STATE

APPLICANT | DATE

APPLICANT'S ADDRESS | PHONE

SECTION B – ENGINEER INFORMATION

ENGINEER | DATE

ENGINEER'S ADDRESS | PHONE

SECTION C – SITE DATA

1. Location:

¼	¼	SECTION	TOWNSHIP	RANGE	STREET ADDRESS

2. Panel(s) No. of NFIP Map(s) affected:

3. Type of development:
   ☐ Filling ☐ Grading ☐ Excavation ☐ Min. Improvements ☐ Routine Maintenance
   ☐ Substantial Improvement ☐ New Construction ☐ Other (Describe):

4. Description of Development:

5. Name of Flooding Source Affected:

SECTION D - COMMENTS

Comments:

This is to certify that I am a duly qualified engineer licensed to practice in the State of _____. It is to further certify that the attached technical data supports the fact that the proposed development described above will not create any increase to the 1% storm frequency water surface flood elevations on said flooding source above at the published cross-sections in the flood insurance study for the above community dated _____, and will not create any increase to the 1% storm frequency water surface flood elevations at the unpublished cross-sections in the vicinity of the proposed development.

Signature | Date

Title | License No.

Embossed Seal or Stamp and Signature

Job No. SPM=

MO-01/06/2000

Fig. 4–4

NATIONWIDE PERMIT 14

Linear Transportation Projects. Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10 acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 27.) (Sections 10 and 404)

Local Public Agency Section 4(f) compliance worksheet (parks/refuges only) form updated:
July 12, 2006

Programmatic Section 4(f) or Section 4(f) inapplicability
INSTRUCTIONS: Answer the following questions by circling **YES** or **NO**, and by providing written information or other documentation. Send completed form to MoDOT, Design, P.O. Box 270, Jefferson City, Missouri 65102.

1. Are there any publicly owned or publicly leased lands within project limits?
YES **NO**
(If **NO**, there is no need to complete this form)

1A. If **YES**, briefly describe the nature, location, name and owner of the public land in relation to the proposed project, indicating whether or not the land is for public recreation and/or wildlife refuge. These lands include, but are not limited to the following: parks, schools, municipal golf courses, nature preserves and ball fields (attach photo, if possible). Contact/Coordination with public owners – A written response is needed from the owner for land that cannot be obviously dismissed as potential Section 4(f) land. Public land used solely for fire stations, sewage lagoons, maintenance sheds, etc., are clearly not recreational lands. Lands such as these that contain a recreational component, such as a ball field, may be subject to Section 4(f).

_____
_____
_____
_____

NOTE: If public lands are not used for recreation or refuge, and the public agency has no formal future plan to designate the area as park land, completion and submittal of this form will serve as a request for FHWA concurrence that Section 4(f) does not apply to lands in question. Mo. Dept. of Conservation lands need evaluation on a case-by-case basis. Contact MoDOT environmental studies for further guidance.

2. Will the project involve a change of land ownership?

3. Briefly describe how the project will impact public park and recreation lands.

_____
_____
_____
_____
_

4. Have mitigation measures been developed that do not adversely affect the activities, features, and attributes that quality the resource for protection under Section 4(f)? Briefly, describe these measures, and provide a letter from the park/refuge manager stating their awareness of and agreement to these measures. This may qualify the project for a *de minimus* Section 4(f) finding.

_____
_____
_____
_____
_____

5. Quantify the size of the impact upon public lands by indicating below:
Right-of-way: _____(acres) Permanent easement: ___ (acres) Temp. construction easement: ____(acres)
Total area of right-of-way and permanent easement (permanent takings): _____ (acres)
Area of park "use" includes right of way, permanent easement and temporary easement (may be excluded as a Section 4(f) impact, under certain conditions. See Item No. 13).

5A. What is the size of the total park or refuge area? _____ (acres)
Programmatic thresholds – If the answer to any of the following is **YES**, a programmatic Section 4(f) applies, IF the park owner does not object to the impacts. If the answer to all is **NO**, a full Section 4(f) evaluation is needed.

5B. If the total park area is less than 10 acres, is the proposed taking equal to or less than 10 percent of the total acreage? **YES NO**

5C. If the total park area is from 10 to 100 acres, is the proposed taking equal to or less than 1 acre? **YES NO**

5D. If the total park area is greater than 100 acres, is the proposed taking equal to or less than 1 percent? **YES NO**

5E. Does the park/refuge manager view the project encroachment combined with the proposed mitigation as a net benefit to the facility?

6. Will the project cause any proximity impacts that would impair the use the remaining parkland for its intended purpose? **YES NO**

7. Does the project require the preparation of an EIS? **YES NO**
If **YES**, prepare and submit a Draft Section 4(f) evaluation.

8. Have Land and Water Conservation Fund (LWCF), Urban Parks and Recreation Recovery Act (UPARR) grants or other federal funds been used to improve the public land? **YES NO**

8A. If **YES**, provide the Land and Water Conservation Fund (LWCF) or Urban Park and Recreation Recovery Act (UPARR) project name and identification number.

_____
_____
_____

8B. Attach a copy of the LWCF project boundary map, if possible (obtain from local park manager).

9. Does the park/refuge manager object to the proposed impacts? **YES** **NO**
If **NO**, attach a copy of park manager's "no objection" letter. If **YES**, do further coordination to address conflicts. Prepare and submit a Draft Section 4(f) evaluation, if conflict resolution does not occur.

10. Is there a feasible and prudent alternative to the proposed project that avoids the park/refuge? **YES** **NO**
If no feasible and prudent alternative exists to avoid park/refuge impacts, provide an explanation why. NOTE: If **YES**, the project must be constructed without impacting the park/refuge.

_____
_____
_____
_____

11. What are the consequences if the project is not completed (no build)?

_____
_____
_____
_____

12. What offsetting measures are being included in the project scope that will minimize impacts to the park/refuge?
Circle the appropriate items that apply:

a. Replacement of lands impacted with lands of reasonably equivalent usefulness and location, and of at least comparable monetary value

b. Replacement of facilities impacted including sidewalks, paths, benches, lights, trees, and other facilities

c. Restoration of landscaping on disturbed areas

d. Special design features (describe below)

e. Payment of fair market value

f. Improvements to the remaining park equal in cost to the fair market value (describe below)

g. Other measures (describe below)

_____
_____
_____
_____

13. The proposed project has been coordinated with the federal, state and/or local officials having jurisdiction over the park/refuge. **YES** **NO**

If **NO**, explain. Refer to earlier mention of contacts made with local park entity and need for early coordination.

_____

_____

_____ **14**. For non-federal park/refuge, the official having jurisdiction has been asked to identify any federal encumbrances and appropriate coordination has occurred with the federal agency. **YES** **NO**

(If **NO**, explain).

_____

_____

_____ **15**. Temporary construction easements: Section 4(f) is considered inapplicable for the proposed use of temporary construction easements IF such occupancy:

a) will be of short duration and less than the time needed for construction of the project? **YES** **NO**

b) will result in no change of ownership or retention of long term interests in the land for transportation purposes? **YES** **NO**

c) will not result in any temporary or adverse change to the activities, features, or attributes that are important to the purposes or functions that could qualify the resource for protection under Section 4(f)? **YES** **NO**

d) will include only a minor amount of land? **YES** **NO**

Comments or explanation regarding temporary construction easements:

_____

_____

_____

_____

_____

MISSOURI DEPARTMENT OF NATURAL RESOURCES
STATE HISTORIC PRESERVATION OFFICE

SECTION 106 PROJECT INFORMATION FORM

Submission of a completed Project Information Form with adequate information and attachments constitutes a request for review pursuant to Section 106 of the National Historic Preservation Act of 1966 (as amended). We reserve the right to request more information. **Please refer to the CHECKLIST on Page 2 to ensure that all basic information relevant to the project has been included.** For further information, refer to our Web site at: http://www.dnr.state.mo.us/shpo and follow the links to Section 106 Review.

NOTE: Section 106 regulations provide for a 30-day response time by the Missouri State Historic Preservation Office from the date of receipt.

PROJECT NAME	
FEDERAL AGENCY PROVIDING FUNDS, LICENSE, OR PERMIT	
APPLICANT	TELEPHONE
CONTACT PERSON	TELEPHONE
ADDRESS FOR RESPONSE	

LOCATION OF PROJECT

COUNTY:_____

STREET ADDRESS: _____ CITY: _____

GIVE LEGAL DESCRIPTION OF PROJECT AREA (TOWNSHIP, RANGE, SECTION, ¼ SECTION, ETC.)

***USGS TOPOGRAPHIC MAP QUADRANGLE NAME**_____

YEAR:_____ TOWNSHIP:_____ RANGE:_____ SECTION: _____

*SEE MAP REQUIREMENTS ON PAGE 2

PROJECT DESCRIPTION

- Describe the overall project in detail. If it involves excavation, indicate how wide, how deep, etc. If the project involves demolition of existing buildings, make that clear. If the project involves rehabilitation, describe the proposed work in detail. Use additional pages if necessary.

MO 780-1027 (09-02)

Fig. 4–7

ARCHAEOLOGY (Earthmoving Activities)

Has the ground involved been graded, built on, borrowed, or otherwise disturbed?

- Please describe in detail: (Use additional pages, if necessary.) Photographs are helpful.

Will the project require fill material? ☐ Yes ☐ No

- Indicate proposed borrow areas (source of fill material) on topographic map.

Are you aware of archaeological sites on or adjacent to project area? ☐ Yes ☐ No

- If yes, identify them on the topographic map.

STRUCTURES (Rehabilitation, Demolition, Additions to, or Construction near existing structures)

To the best of your knowledge, is the structure located in any of the following?

☐ An Area Previously Surveyed for Historic Properties ☐ A National Register District ☐ A Local Historic District

If yes, please provide the name of the survey or district:

- Please provide photographs of all structures, see photography requirements.
- **NOTE:** All photographs should be labeled and keyed to one map of the project area.
- Please provide a brief history of the building(s), including construction dates and building uses. (Use additional pages, if necessary.)

ADDITIONAL REQUIREMENTS

Map Requirements: Attach a copy of the relevant portion (8½ x 11) of the current USGS 7.5 min. topographic map **and**, if necessary, a large scale project map. Please do not send an individual map with each structure or site. While an original map is preferable, a good copy is acceptable. USGS 7.5 min. topographic maps may be ordered from Geological Survey and Resource Assessment Division, Department of Natural Resources, 111 Fairground, Rolla, MO 65402, Telephone: (573) 368-2125, or printed from the website **http://www. topozone.com**.

Photography Requirements: Clear black & white or color photographs on photographic paper (minimum 3" x 5") are acceptable. Polariods, photocopies, emailed, or faxed photographs are not acceptable. **Good quality photographs are important for expeditious project review.** Photographs of neighboring or nearby buildings are also helpful. All photographs should be labeled and keyed to one map of the project area.

CHECKLIST: Did you provide the following information?

- ☐ Topographic map 7.5 min. (per project, not structure)
- ☐ Thorough description (all projects)
- ☐ Photographs (all structures)
- ☐ Other supporting documents (If necessary to explain the project)
- ☐ For new construction, rehabilitations, etc., attach work write-ups, plans, drawings, etc.
- ☐ Is topographic map identified by quadrangle and year?

Return this Form and Attachments to:

MISSOURI DEPARTMENT OF NATURAL RESOURCES
STATE HISTORIC PRESERVATION OFFICE
Attn: Section 106 Review
P.O. BOX 176
JEFFERSON CITY, MISSOURI 65102-0176

MISSOURI STATE HISTORIC PRESERVATION OFFICE

BRIDGE INVENTORY SURVEY FORM

1 No.

2 County

3 Location of Negatives/CDs

4 Type of Bridge — Metal Truss — Covered Wooden Truss — Stone — Concrete — Other

5 Present Name(s)

6 Other Name(s)

7 Specific Legal Locaton
- Township
- Range
- Section
- Route

If City or Town, Street Address

8 City or Town. If Rural, Vicinity

9 Description of Location

10 Coordinates — UTM zone
- Lat — N
- Long — E

11 On National Register?

12 Is It Eligible

13 Part of Estab. Hist. Dist.?

14 District Potential?

15 Name of Established Dist.

16 Date(s)

17 Builder

18 Truss Design and/or Structural Design

19 No. of Spans

20 No. of Roadways

21 No. of Walkways

22 Length
- Overall
- Clear Span

Width
- Overall
- Roadway

Height

23 Abutment and Pier Material

Deck Material

24 Owner's Name and Address

25 Original Site?

Moved?

When Moved?

26 Legal Load Condition

27 Preservation Underway?

28 Endangered?

By What

29 Other Surveys in which included

30 History and Significance

31 Description of Environment

32 Sources of Information

33 Prepared By:

34 Organization:

Note: A copy of a topo map of the bridge vicinity and photos of the bridge and surroundings should be included.

35 Date

Revision Date(s)

RETURN THIS FORM WHEN COMPLETED TO:

STATE HISTORIC PRESERVATION OFFICE
P.O. Box 176
Jefferson City, MO 65102
Phone (573) 751-7860

Fig. 4-8

GENERAL OUTLINE OF SECTION 106 PROCEDURES

Following the general outline below is a detailed explanation of activities associated with the Section 106 process. A flowchart of the process is provided on the final page.

Step 1. Determine Need

Local agency must solicit SHPO opinion on the need for a cultural resource survey by submitting a Section 106 Project Information Form. The form is available on the DNR web page (http://www.dnr.mo.gov/forms/780-1027.pdf).

Step 2. SHPO Survey Recommendation

SHPO reviews project information and offers opinion as to whether further cultural resource investigations are required.

Step 3. Cultural Resources Survey

Local agency hires cultural resource consultant to conduct survey if necessary. A report is submitted to the SHPO.

Step 4. Determination of Eligibility

If cultural resources are present, the local agency, in consultation with SHPO and FHWA, determines whether a cultural resource is eligible for the National Register of Historic Properties. A cultural resources consultant may need to conduct additional investigations to evaluate the eligibility of some resources.

Step 5. Determination of Effect

If historically significant cultural resources are present, the local agency, FHWA, and SHPO determine effect of the project on a National Register eligible property.

Step 6. Preparation of MOA

If historically significant cultural resources will be adversely affected by the project, the local agency coordinates with SHPO and FHWA in preparation of a Memorandum of Agreement (MOA). Local agency signs MOA and provides to FHWA, who obtains SHPO's signature and then sends to Advisory Counsel on Historic Preservation (ACHP) for signature (optional) or file.

Step 7. Mitigation

The local agency implements stipulations of the MOA. Ultimately the SHPO must concur that the stipulations of the MOA have been satisfied.

STEP 1. DETERMINE NEED

The State Historic Preservation Office (SHPO) must be consulted on the need for a cultural resource survey. The Federal Highway Administration (FHWA) or the Missouri Department of Transportation (MoDOT) may also be consulted on an as needed basis but in almost all cases, the information for the SHPO can be prepared by local agency staff. The following data should be provided to the SHPO:

A. Section 106 Project Information Form.

B. HPP Bridge Inventory Survey Form providing information on the bridge builder and the year built along with original 3" X 5" or larger photographs showing two views (only for truss, stone arch, and concrete arch bridges more than 50 years old). The form is not required for bridges less than or equal to 50 years old, but photos are desired.

C. 7.5 minute (15 minute if 7.5 minutes unavailable) USGS topographic map showing the location of the project and borrow sites. Realignment of roadway should be shown if applicable.

D. Project plans if readily available.

Contractor Furnished Borrow

Borrow pits also need to be evaluated for possible National Register eligible archaeological resources. The local agency should obtain a 7.5 minute topographic map that shows the size and location of the borrow site. The local agency must send this map to the SHPO its review of the need to conduct a cultural resource survey.

STEP 2. SHPO SURVEY RECOMMENDATIONS

A. SHPO reviews information from Step 1 and offers an opinion as to the need for a Cultural Resource Survey. If SHPO responds "no survey needed" or "no historic properties affected," Section 106 is complied with and no further Section 106 work is needed.

B. If the SHPO and the local agency agree that a survey is necessary, a survey should be conducted using a cultural resource consultant to identify historic and/or archaeological resources that may be affected by the proposed project.

C. If local agency does not agree with the SHPO that a survey is needed, the FHWA must be contacted to make a final determination of need for a cultural resources survey.

STEP 3. CULTURAL RESOURCE SURVEY

A. Cultural resource surveys typically are limited to the proposed project right-of-way limits and borrow areas. Impacts to architectural resources may include a buffer

outside the project right of way so indirect effects are considered.

B. Cultural resource survey reports should follow the SHPO "Guidelines for Contract Cultural Resource Survey Reports." However, surveys that do not identify cultural resources may be limited to a brief explanation of survey methodology and results, along with a 7.5 minute topographic map showing the survey area.

C. The results of the cultural resources survey are submitted to the SHPO.

1. If no cultural resources were identified, the SHPO usually will respond "no historic resources affected." The Section 106 process is complete and no further action is necessary.
2. If cultural resources were identified, their eligibility for the National Register must be determined.
3. In some cases, additional field investigations may be required for the cultural resource consultant to determine resource eligibility.

STEP 4. DETERMINATION OF ELIGIBILITY

Readily available information should be used to determine National Register Eligibility of identified cultural resources. This information should consist of the results of the cultural resource survey, any subsequent investigations, or other available information such as pictures and available history of structures.

A. The SHPO is requested to concur or disagree with the eligibility of a cultural resource. The cultural resource consultant should provide an assessment of resource eligibility. The SHPO requires the following documentation (if not previously submitted):

1. Section 106 Survey Memo (http://www.dnr.mo.gov/forms/780-1718.pdf).
2. For bridges, HPP Bridge Inventory Survey Form accompanied by 3" X 5" photographs, original construction date, and original builder.
3. 7.5 minute topographic map.
4. Project plans if available.
5. Phase I and/or II archaeological report (for archaeological resources).

B. If SHPO, local agency, and FHWA agree that a cultural resource is eligible for the National Register, a determination of effect (Step 5) is made next.

C. If SHPO, local agency, and FHWA agree that a cultural resource is not eligible for the National Register, the Section 106 process is complete. No further action is necessary.

D. If SHPO, local agency, and FHWA disagree on the eligibility of a resource, the local agency should request the FHWA to contact the Keeper of the National Register for a definitive opinion. This process can be lengthy (up to six months), so it should be avoided if possible. The keeper requires submittal of the following documentation:

1. Property (bridge name or number) name
2. Location
3. Classification (a highway bridge)
4. Ownership
5. Requesting agency
6. Representation of structure or archaeological site in previous historic surveys, if any
7. Description of structure/archaeological site
8. Significance (based on SHPO eligibility determination)
9. Bibliography (history of bridge or archaeological site in previous research)
10. Geographical data/maps (show location)
11. Photographs (attach one side view and one end view of bridge)
12. Name of individual compiling documentation
13. Phases I & II cultural resource report if available

If the Keeper finds that the resource is not eligible, the Section 106 process is complete.

STEP 5. DETERMINATION OF EFFECT

The effects of a project on a National Register eligible property should be determined by the local agency, SHPO, and FHWA. There will be a determination of either "no adverse effect" or "adverse effect." The SHPO will generally provide its opinion regarding effect along with its determination of eligibility. This opinion should be transmitted to the FHWA.

A. No Adverse Effect—If the SHPO and/or FHWA find the effect is not adverse, the Section 106 process is complete.

B. Adverse Effect—If the effect is adverse, the local agency should consult with the SHPO on means to avoid or mitigate the adverse effect. It may be possible to redesign minor portions of the project to avoid adverse impacts to the resource. In addition, interested parties such as holders of permits and owners of affected lands should be allowed to participate in the discussions <u>if they so request.</u>

STEP 6. PREPARATION OF MEMORANDUM OF AGREEMENT (MOA)

If adverse effects to a resource eligible for the National Register cannot be avoided, a Memorandum of Agreement should be prepared through consultation with FHWA, the SHPO, and other appropriate interested parties. The MOA will document mitigation measures for the eligible resource that will be followed. The MOA is sent to the FHWA for signature. The FHWA will forward the MOA to the SHPO and ACHP for their execution. If the project is not controversial, the ACHP will not wish to participate in the consultation and a two-party MOA is prepared without the ACHP's signature.

A. For the ACHP to determine whether it will be involved in an MOA, it requires that the following documentation be submitted:

1. A description of the project, including photographs, maps, and drawings, as necessary.

2. A description of the efforts to identify historic properties.

3. A description of the affected historic properties, using materials already compiled during the evaluation of significance as appropriate.

4. A description of the undertaking's effects on historic properties.

5. A description of any proposed mitigation measures and evaluation of alternatives that were considered to remove or lessen the undertaking's effect.

6. A summary of the views of the SHPO and any interested parties. The Information to Accompany an MOA must contain explicit documentation of public involvement and input regarding the project's impact to significant cultural resources.

B. The ACHP will comment on the MOA, indicate it does not require further involvement on the project, or indicate its concurrence with the MOA and desire to be a signatory to the document.

C. If the adverse effects are to a Native American archaeological site, American Indian tribes with historical interest in the project area may wish to be consulting parties in the preparation and execution of the MOA. FHWA can provide a list of tribes that may wish to be involved. In these cases, the tribes should be provided with the same information that was forwarded to the ACHP.

STEP 7. MITIGATION

Following signature of the FHWA, SHPO, and ACHP (if the ACHP has decided to participate), the local agency will implement the MOA to mitigate the impact on eligible cultural resources. The following mitigation has been used on selected projects:

A. Historic Bridges—Generally bridges have been advertised for availability and given to interested parties for reuse at another location or demolished if no one is interested. Prior to transfer of ownership or demolition, the Missouri Historic Preservation Program (HPP) is contacted to determine what level and kind of documentation is required for the bridge. If Historic American Engineering Record (HAER) documentation is required, the following information should be sent to the National Park Service to determine specific documentation requirements:

1. A description of the project, including photographs, maps, and drawings as necessary.

2. A description of the affected historic properties using materials already compiled during the evaluation of significance as appropriate.

3. A description of the undertaking's effects on historic properties.

4. Draft Memorandum of Agreement.

More commonly, the SHPO determines the bridges should be documented to a less formal level, with the documentation being sent to the SHPO.

B. Historic Buildings—The mitigation of historic buildings generally parallels that of historic bridges. Building documentation is done to either Historic American Building Survey (HABS) standards or a less formal level with the information being sent to the SHPO.

C. Archaeological Sites—Adverse impacts to National Register eligible sites have been avoided through changes in roadway alignment, fencing, and burial under roadway fill. Mitigation of impacts is through excavation. If a site is excavated, a qualified archaeologist must conduct the field investigations, analyze the remains, and prepare a Phase III mitigation report. Artifacts from mitigation excavations are the property of the local agency and must be curated at an archaeological curation facility. If prehistoric human remains are believed to be present, FHWA will require compliance with state burial laws and consultation with appropriate American Indian tribes.

NOTE: One additional copy of the documentation required by the Keeper of the National Register, the Advisory Council on Historic Preservation, and the Historic American Engineering Record or Historic American Building Survey will be transmitted for the Federal Highway Administration files.

FLOWCHART OF TYPICAL LPA SECTION 106 PROCESS FOR NEW OR REVISED PROJECTS

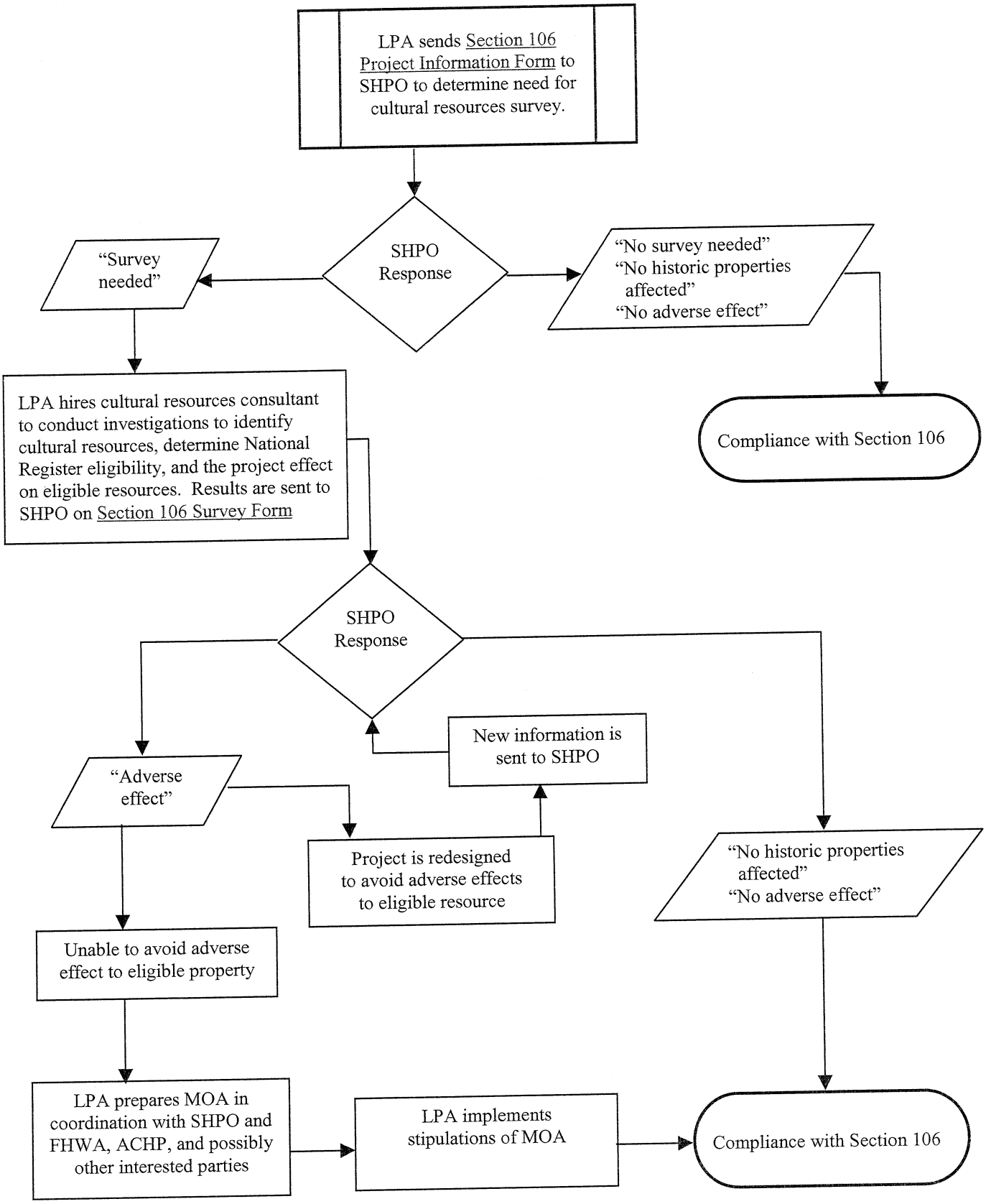

Fig. 4 - 9 - 7

01-01-10

(EXAMPLE DOCUMENT)

MEMORANDUM OF AGREEMENT
FOR MITIGATION OF ADVERSE EFFECTS

TO HISTORIC PROPERTY: Bridge J0719 (Osage River Bridge) in XXXXX County.
UNDERTAKING: The proposed replacement of the Osage River Bridge at Tuscumbia with a new structure on new alignment by XXXXX County (County) Route 17 Job No. BRO-XXX(X) will result in the removal of the existing historic bridge, which will have an "adverse effect" on the structure.
COUNTY: XXXXX.
STATE: Missouri.
AGENCY: Federal Highway Administration.

WHEREAS, the Federal Highway Administration (FHWA) has determined that the replacement of the Osage River Bridge (J0719) will have an adverse effect upon the historic bridge, which has been determined eligible for inclusion to the National Register of Historic Places (NRHP), and has consulted with the Missouri State Historic Preservation Office (SHPO) pursuant to the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the Advisory Council on Historic Preservation (ACHP) has been invited to participate in this Memorandum of Agreement (MOA); and

WHEREAS, the County has participated in the consultation and has been invited to sign this MOA; and

NOW, THEREFORE, FHWA and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations.

STIPULATIONS (EXAMPLE TEXT)

FHWA will ensure that the following measures are carried out as mitigation for the adverse effects of this project:

1. The County will contact the SHPO for specifics and develop documentation along the following lines:

    a. 8X10 inch black and white photographs printed on archival paper sufficient to fully document overall views and details of the Osage River Bridge. The 35mm negatives also will be provided.

    b. A historic narrative and technical description for Bridge J0719.

c. A copy of the original 1932 construction plans for Bridge J0719, if available.

d. A copy of the final documentation shall be provided to the SHPO. Additional copies shall be provided to the appropriate local historical societies, and retained by the County.

2. Advertisement for Adaptive Reuse:

The County shall consult with the SHPO to determine the appropriate approach and method for bridge marketing to be used for Bridge No. J0719. The County, the SHPO, and the FHWA shall agree to the approach and method prior to implementation.

If ownership of the bridge (or parts thereof) is transferred to another party, the transfer deed will include preservation covenants that require the new owner to move and maintain the bridge in accordance with the "Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings." (Any proposed reuse plan and specifications will be forwarded to FHWA for review and approval in consultation with the SHPO, and the County.)

If no party is found to take possession of the existing bridge, it may be removed.

3. Within one year after carrying out the terms of the MOA, the County shall provide a written report regarding the actions taken to fulfill the terms of the agreement to all signatories.

4. If any signatory proposes that this agreement be amended, the FHWA shall consult with the other parties of this agreement. Said amendment shall be in writing, governed in accordance with 36 CFR 800.6, and executed by all parties to the Memorandum of Agreement.

5. If any signatory determines the terms of the MOA cannot be carried out, the signatories shall consult to seek amendment. If the MOA is not amended any signatory may terminate it. If the MOA is terminated, the FHWA shall execute a new MOA or request the comments of the ACHP.

6. Three (3) copies of this MOA will be provided, one to each signatory. One (1) copy will be transmitted to the ACHP for inclusion in their files.

7. Failure to carry out the terms of this MOA requires that the FHWA again request the comments of the ACHP in accordance with 36 CFR Part 800. If FHWA cannot carry out the terms of the agreement, it shall not take or sanction any action or make any irreversible commitment that may affect historic properties until such time as the ACHP has been given the opportunity to comment on the full range of project alternatives which might avoid or mitigate any adverse effects.

8. Execution of this MOA, and carrying out its terms, evidences that the FHWA has afforded the ACHP an opportunity to comment on the replacement of the Osage River Bridge J0719 and its effects on historic properties, and that FHWA has taken into account the effects of the project on historic properties, in accordance with Section 106 of the National Historic Preservation Act.

9. This agreement shall commence upon having been signed by the FHWA and SHPO and shall be null and void if its terms are not carried out within five (5) years from the date of its execution, unless the FHWA and SHPO agree in writing to an extension for carrying out its terms.

Signed:

Federal Highway Administration:

By: _____ Date: _____

Title: _____

Missouri State Historic Preservation Office:

By: _____ Date: _____

Title: _____

Concur:

County of XXXXX:

By: _____ Date: _____

Title: _____

(EXAMPLE TEXT)

**INFORMATION TO ACCOMPANY
THE MEMORANDUM OF AGREEMENT
FOR MITIGATION OF ADVERSE EFFECTS**

TO HISTORIC PROPERTY: Bridge J0719 (Osage River Bridge) in XXXXX County.
UNDERTAKING: The proposed replacement of the Osage River Bridge at Tuscumbia with a new structure on new alignment by XXXXX County (County) Route 17 Job No. BRO-XXX(X) will result in the removal of the existing historic bridge, which will have an "adverse effect" on the structure.
COUNTY: XXXXX
STATE: Missouri.
AGENCY: Federal Highway Administration (FHWA).

I. Project Description (EXAMPLE TEXT)

County Project No. BRO-XXX(X) located 1.0 mile east of Tuscumbia is designed to improve the safety and efficiency of Route 17 over the Osage River by replacing existing Bridge J0719 with a new structure on new alignment to the west, and removing the existing structure. This plan will avoid a slide area on the southeast side of the approach to the existing bridge. The project will involve some new right-of-way but no existing archaeological sites or buildings will be involved (Appendix A). The Osage River Bridge (J0719) has been determined eligible for the National Register of Historic Places (NRHP), and its replacement is considered to be an "adverse effect" on the structure. The County and the Federal Highway Administration (FHWA) will fund this project.

II. Previous Work (EXAMPLE TEXT)

The 1996 Missouri Historic Bridge Inventory survey first evaluated the Osage River Bridge as NRHP "possibly eligible" in 1993. It is currently on the Missouri Historic Bridge List and is NRHP eligible as per the corresponding Programmatic Agreement signed on October 1, 2003, for the Missouri Historic Bridge Management Plan. The current project will replace the existing bridge on new alignment. County archaeological staff conducted a field survey and testing of the project area during March of 2007. Two archaeological sites were discovered but neither site was considered to be significant. On June 11, 2007, the SHPO formally agreed with those recommendations, which cleared the project area for archaeology. The SHPO also agreed that the bridge was NRHP eligible, and that an MOA should be done stipulating SHPO level archival documentation and advertisement for adaptive reuse as mitigation for the replacement of the Osage River Bridge J0719. A standard two-party MOA with stipulations for mitigation of the historic bridge would be drafted (Appendix B), and the structure would be covered under a Programmatic Section 4(f) evaluation statement.

III. Description of the Historic Property (EXAMPLE TEXT)

Built 1932-33, the Osage River Bridge J0719 on Route 17 at Tuscumbia consists of two steel rigid-connected cantilevered through truss spans, with a five-panel rigid-connected Warren deck truss approach span at each end, six steel stringer approach spans at the north end, and one steel stringer approach at the south end. The main spans are on reinforced concrete dumbbell piers, and the approaches are on rectangular concrete spill-through columns and caps. The standard abutments, wingwalls, and piers are also of concrete. The bridge measures 1,084 feet in total length with a 20-foot roadway width. The 1996 Missouri Historic Bridge Inventory survey originally evaluated it as NRHP possibly eligible with a significance rating of 53, but it is currently is on the Missouri Historic Bridge List and is NRHP eligible as per the corresponding Programmatic Agreement signed on October 1, 2003 for the Missouri Historic Bridge Management Plan.

IV. Adverse Effect on the Historic Property (EXAMPLE TEXT)

This project will replace the Osage River Bridge J0719, which has been determined NRHP eligible under Criteria C in the area of Engineering. This action constitutes an "adverse effect" to the bridge as described in 36 CFR 800.3 (b) (1) (4) of the National Historic Preservation Act.

V. Alternative Courses of Action (EXAMPLE TEXT)

There are three alternative courses of action concerning this project. The no-built alternative (1) would have "no effect" on the historic bridge. The rehabilitation of the existing structure (Alternative 2) would have "no adverse effect" baring any major alteration or reconfiguration of the bridge superstructure or substructure. Complete bridge replacement (Alternative 3) would have an "adverse effect" on Osage River Bridge J0719 (Appendix B).

VI. Alternative 3 with Mitigation through Photographic and Historical Documentation, and Advertisement for Adaptive Reuse. (EXAMPLE TEXT)

There is no viable alternative to the replacement of the Osage River Bridge with data recovery through photographic and historical documentation of the bridge, and advertisement for adaptive reuse as determined in consultation with the Missouri SHPO and FHWA. This mitigation will be performed prior to commencement of project activities (Appendix B).

VII. Proposed Action (EXAMPLE TEXT)

FHWA will ensure that the following measures are carried out as mitigation for the adverse effects of this project:

1. The County will contact the SHPO for specifics and develop documentation along the following lines:

a. 8X10 inch black and white photographs printed on archival paper sufficient to fully document overall views and details of the Osage River Bridge. The 35mm negatives also will be provided.

b. A historic narrative and technical description for Bridge J0719.

c. A copy of the original 1932 construction plans for Bridge J0719, if available.

d. A copy of the final documentation shall be provided to the SHPO. Additional copies shall be provided to the appropriate local historical societies, and retained by XXXXX County.

2. Advertisement for Adaptive Reuse:

The County shall consult with the SHPO to determine the appropriate approach and method for bridge marketing to be used for Bridge No. J0719. The County, the SHPO, and the FHWA shall agree to the approach and method prior to implementation.

If ownership of the bridge (or parts thereof) is transferred to another party, the transfer deed will include preservation covenants that require the new owner to move and maintain the bridge in accordance with the "Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings." (Any proposed reuse plan and specifications will be forwarded to FHWA for review and approval in consultation with the SHPO, and the County.)

If no party is found to take possession of the existing bridge, it may be removed.

3. Within one year after carrying out the terms of the MOA, the County shall provide a written report regarding the actions taken to fulfill the terms of the agreement to all signatories.

VIII. <u>List of Appendices</u> **(EXAMPLE TEXT)**

A. Location Maps and Plans for the Osage River Bridge J0719.

B. Correspondence regarding the Osage River Bridge J0719.

C. Photographs of the Osage River Bridge J0719

GUIDELINES FOR OBTAINING ENVIRONMENTAL CLEARANCE FOR PROJECT-SPECIFIC LOCATIONS

SUCH AS:
BORROW SITES
HAUL ROADS
BURN PITS
STAGING AREAS
SPOIL SITES

The necessary clearances for disturbed areas such as those referenced above shall be obtained prior to using these areas for projects. The contractor is encouraged to consider using material from previously disturbed locations (substantial disturbance) or disturbed areas that have previously been cleared, precluding the need to address most, if not all, of the issues described below. The contractor should include the federal project number on all correspondence. The following addresses the primary environmental issues related to clearance of disturbed areas such as borrow sites:

The Endangered Species Act

The Federal Endangered Species Act protects rare species and their habitats. The Act is administered by the U.S. Fish and Wildlife Service (FWS). Violations of this act can result in extensive project delays and severe fines. To determine whether an activity will impact any rare species or their habitats, contact the Missouri Department of Conservation's Policy and Coordination Section at (573) 751-4115 to request a query of the MDC Heritage Database. All queries must be accompanied by a good quality map illustrating the location of the proposed site and a description of the activity. Allow at least three weeks for a response to all requests.

If there are no known records of rare species or sensitive habitats at the proposed site and it is unlikely that any will be impacted by the activity, the contractor will be given clearance to proceed. However, if rare species are known or likely to occur at the site or known critical habitat exists, further coordination with MDC and the FWS will be necessary. Written clearance from the U.S. Fish and Wildlife Service may be required before the project can proceed.

Missouri Department of Conservation (MDC)
Planning Division
P.O. Box 180
Jefferson City MO 65102-0180
Telephone (573) 751-4115 or FAX (573) 751-4495

U.S. Fish and Wildlife Service (FWS)
Columbia Field Office
101 Park DeVille Drive, Suite A
Columbia MO 65203-0007
Telephone (573) 234-2132 or FAX (573) 234-2182

Floodplain/Regulatory Floodway

An evaluation of floodplain impacts is mandated by Executive Order 11988, Floodplain Management, and subsequent federal floodplain management guidelines. When available, flood hazard boundary maps (National Flood Insurance Program) and flood insurance studies for the project area are used to determine the limits of the base (100-year) floodplain and the extent of encroachment.

The Federal Emergency Management Agency (FEMA) and Federal Highway Administration (FHWA) guidelines 23 CFR 650 have identified the base (100-year) flood as the flood having a one-percent probability of being equaled or exceeded in any given year. The base floodplain is the area of 100-year flood hazard within a county or community. The regulatory floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 100-year flood discharge can be conveyed without increasing the base flood elevation more than a specified amount. FEMA has mandated that projects can cause no rise in the regulatory floodway and a one-foot cumulative rise for all projects in the base (100-year) floodplain. For projects that involve the state of Missouri, the State Emergency Management Agency (SEMA) issues floodplain development permits. In the case of projects proposed within regulatory floodways, a "no-rise" certificate, if applicable, should be obtained prior to issuance of a permit.

Questions regarding floodplain and regulatory floodway should be addressed to:

SEMA
P.O. Box 116
Jefferson City MO
65102
Telephone (573) 526-9141

Documentation of consultation with SEMA regarding the presence of 100-year floodplain/regulatory floodway should be included in the final collection of information to be submitted to MoDOT staff.

Federal Emergency Management Agency (FEMA) Buyout Lands

The Flood Disaster Protection Act of 1973, as amended by the Disaster Relief and Emergency Assistance Act of 1988 (The Stafford Act), identified the use of disaster relief funds under Section 404 for the Hazard Mitigation Grant Program (HMGP), including the acquisition and relocation of flood-damaged property. The Volkmer Bill further expanded the use of HMGP funds under Section 404 to "buy out" flood damaged property that had been affected by the Great Flood of 1993.

There are numerous restrictions on these FEMA buyout properties. No structures or improvements may be erected on these properties unless they are open on all sides. The site shall be used only for open space purposes and shall stay in public ownership. These conditions and restrictions (among others), along with the right to enforce same, are deemed to be covenants

running with the land in perpetuity and are binding on subsequent successors, grantees, or assigns. Any decision involving these properties should take into consideration that 2–3 years is necessary to process an exemption from FEMA to utilize this parcel. This exemption would likely be a permanent easement rather than a transfer of property. If any proposed site is located on a FEMA buyout property, an alternative site should be chosen.

Farmland Protection

In order to comply with the Farmland Protection Policy Act, which has the purpose of minimizing federal programs' contributions to the unnecessary and irreversible conversion of farmland caused by nonagricultural uses, the Form AD-1006 will need to be completed. This can be accomplished through coordination with United States Department of Agricultural (USDA)-Natural Resources Conservation Service (NRCS) and the completion of Form AD-1006. To receive the Form AD-1006, call the NRCS State office in Columbia at (573) 876-9411. An aerial map of the site or sites will also be required with the area to be disturbed identified on the map. This aerial map can be obtained from the local NRCS office. In some areas of the state this office may be located in an adjoining county.

The contractor will need to complete Parts I and III on the Form AD-1006. The form should then be sent to the NRCS State Office for completion of Parts II, IV, and V. The NRCS State Office address is:

Mr. Dennis Potter
State Soil Scientist
Natural Resource Conservation Service
601 Business Loop 70 West
Parkade Center, Suite 250
Columbia, MO 65203
Telephone (573) 876-9411

After the NRCS office returns the form, the contractor will complete remaining Parts VI and VII. The contractor will provide a copy of the completed form to the MoDOT district contact to document compliance with the Farmland Protection Policy Act.

Wetlands

Federal executive order has decreed a national policy of "no net loss of wetlands." Under this policy, impacts to wetlands must be avoided if at all practical. Where wetlands are impacted, these impacts must be mitigated by construction or enhancement of a like quantity **and** quality of new wetlands. For these reasons, avoiding impacts to wetlands is a primary goal.

To determine whether wetlands occur on a farmland site, contact the USDA NRCS. The NRCS has identified and mapped wetlands as a requirement under the Food Security Act. These maps are available from county NRCS offices, usually located in the county seat. For all other (non-farmland) sites, consult the FWS Wetlands Mapper at http://wetlandsfws.er.usgs.gov/wtlnds/launch.html. If wetlands are identified on either Food

Security Act wetland maps or the FWS wetlands mapper, a site visit may be needed to confirm the location of wetlands. If there are no wetland impacts, no other action need be taken.

If there are any questions about the extent of wetlands in the event that wetlands cannot be avoided, contact the U.S. Army Corps of Engineers (COE). If wetlands cannot be avoided, a COE Section 404 permit would be processed through the appropriate COE district. There are five COE districts in Missouri. Information about COE district locations, addresses, and phone numbers is available on the COE website at http://www.usace.army.mil/ContactUs.html.

Water Quality/Land Disturbance

The National Pollutant Discharge Elimination Systems (NPDES) program regulates construction activities where 1 acre or more of land is disturbed. If the project proponent has a general NPDES permit for all of their construction activities, this is adequate. If the project proponent does not have a valid general permit and the site to be disturbed is greater than 1 acre in size, a project-specific NPDES permit from DNR is required. If the project is entirely within MoDOT right of way, the sponsor may use MoDOT's general permit. In either case, the sponsor will need to develop a site-specific stormwater pollution prevention plan for the project. The sponsor shall contact the Missouri Department of Natural Resources (DNR) NPDES Storm Water Program office at (573) 751-1300 or (800) 361-4827 for further directions. A few cities (Kansas City, Columbia, and others) and counties have obtained their own land disturbance permits from DNR for generic land disturbance purposes; see additional discussion on stormwater and erosion control in Section 4.

Hazardous Waste Sites

More than likely, areas to be disturbed will be located in rural areas that have been used for agriculture or similar purposes. Hazardous wastes are most typically associated with commercial or previously industrial properties.

If the proposed area is basically farmland or pasture and has not been used for any commercial activity or dumping, hazardous wastes are unlikely. The contractor should simply document the existing and historic land use of the parcel and tell how this assessment was obtained.

In nonrural, suburban, or commercial areas a nonintrusive investigation may be used to "diagnose" the environmental conditions of a selected site. The following is a list of suggested items, but not inclusive, for a cursory nonintrusive investigation.

- Examine any noticeable contamination in the form of surface staining, oil sheen, odors, stressed vegetation, spills, leaks, illegal dumping, etc.

- Conduct interviews of local citizens and current owners to identify past land use practices and hazardous waste management practices.

- Consult with local and state [Missouri Department of Natural Resources, Hazardous Waste Program, (573) 751-3176] environmental regulatory agencies to identify whether

any past problems (complaints, citations, etc.) have occurred at the site, whether any permits/licenses have been filed for the site, or whether enforcement actions have occurred.

If the above analyses produce negative results, the contractor should provide documentation to the MoDOT district contact as to who was contacted and the results of the contact. However, if potential problems are identified through the search for information described above, it would be wise to locate another site.

The potential to encounter wastes from sites that are unknown should always be a consideration. Any unknown sites that are found will be handled in accordance with federal and state laws and regulations.

Historic Preservation

All jobs requiring environmental clearance for historic preservation (archaeological sites and structures) must be reviewed and approved by the State Historic Preservation office (SHPO), Department of Natural Resources. To initiate SHPO's review and clearance of a proposed site for cultural resources, a "Section 106 Project Information Form" must be completed and submitted to SHPO along with a copy of a United States Geological Survey (USGS) topographic map indicating the location of the project. In addition, photographs of **any** structures that will be impacted must be provided. The Section 106 Project Information Form can be obtained from the SHPO website at http://www.dnr.mo.gov/shpo/sectionrev.htm or requested from the SHPO by telephone (573) 751-7858 or mail:

Missouri Department of Natural Resources
State Historic Preservation Office
Attn: Section 106 Review
P.O. Box 176
Jefferson City, MO, 65102-0176

Based on the information supplied, SHPO may clear the project at that time or request that the contractor acquire the services of an archaeological consultant to conduct a historic preservation survey of the proposed area. A listing of currently acceptable and available archaeological consultants who can complete a survey if required can be viewed at the SHPO's website at http://www.dnr.mo.gov/shpo/profqualifications.htm. Any questions can be directed to the Design Division-Historic Preservation Section, at (573) 751-0473.

Public Land

If borrow sites are proposed on any publicly owned land, contact the MoDOT district representative before proceeding. Section 4(f) of the Department of Transportation Act of 1966 (now codified as 49 U.S.C. 303 and 23 U.S.C. 138) protects certain public lands. Section 4(f) requires that all U.S. DOT-funded transportation projects must avoid impacts to public parkland and wildlife refuges (and cultural resources deemed eligible for the National Register of Historic Places), unless it is successfully demonstrated that no feasible and prudent alternative exists that

avoids "use" or impacts to the park or refuge. It is strongly recommended that public lands not be considered as potential borrow sites.

Once the contractor has obtained all of the above information, it should be provided to the MoDOT district contact. The transmittal letter must include **County, Route, and Job Number** of the project, along with a map depicting the location and limits of the site(s).

It will be necessary for the local agency to enter into an agreement with the Missouri Highway and Transportation Commission for each project or group of projects. This is a legal instrument necessary in order to pass through federal funds and outlines the responsibilities of the local agency and the Missouri Highway and Transportation Commission. Blank agreements at the end of this section are shown for Safe Routes to School, STP - urban projects, STP - enhancement projects, Bridge projects BRO, BRM, and Congestion Mitigation and Air Quality projects, TCSP, Federal Earmarks, and CMAQ Vehicle Purchase (Figures 5-1, 5-2, 5-3, 5-3-A, 5-4, 5-5, 5-6, 5-7, 5-8 and 5-9 respectively).

A multi-party or three-party agreement may be necessary if another unit of government such as a township or special road district is involved.

If the local agency elects to construct any portion of the project with its own forces, it will be necessary to include a provision in the agreement that requires the local agency to comply with Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in FHWA Form 1273. FHWA Form 1273 will be attached to all project agreements.

The MoDOT district representative will initiate preparation of the agreement. The district representative will consult with the local agency to pinpoint the various arrangements and details that will be covered. The agreement will first be presented to the local agency for signature. Seven copies of the agreement, signed by the local agency, should be submitted to MoDOT's district representative. Project sponsors that are cities and first class counties must submit one copy of an enabling ordinance at the time of execution. After approval and signature by the Missouri Highway and Transportation Commission, a fully executed copy will be returned to the local agency.

If a supplemental agreement is necessary, an ordinance may be required if the original ordinance makes references to specific project information such as but not limited to, amount of federal funds, project timeline or the original agreement. Please reference Figure 5-10, for a sample ordinance. The local agency may elect to fill in the areas providing project descriptions in a general project descriptive manner to preclude the passage of another ordinance.

No work is to be initiated on any part of the project until federal funding has been approved (obligated) by FHWA and the local agency has been notified by MoDOT to proceed.

CCO Form: HS4
Approved: 10/06 (BDG)
Revised: 08/08 (MWH)
Modified:

CFDA Number: #20.205
CFDA Title: Highway Planning and Construction
Award name/number: SRTS - (proj. no.)
Award Year: (year monies funded)
Federal Agency: Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
SAFE ROUTES TO SCHOOL PROGRAM AGREEMENT

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and _____ (hereinafter, "Grantee").

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The United States Congress has authorized funds to be used for Safe Routes to School program activities. The Grantee has applied to the Commission for using these funds for qualified purposes. The purpose of this Agreement is to grant the use of such Safe Routes to School funds to the Grantee.

(2) LOCATION AND NATURE OF PROJECT/ACTIVITY: The Safe Routes to School funds which are the subject of this Agreement are for the project/activity at the following location: [**Drafter's Note:** describe the project/activity and location; if the project/activity is construction, name the physical location; if the project/activity is public information, name subject school or school district. Delete this Drafter's Note]. The general location of the project/activity is shown on attachment marked "Exhibit A" and incorporated herein by reference.

(3) INDEMNIFICATION: The Grantee shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Grantee 's performance of its obligations under this Agreement.

***DRAFTER'S NOTE**: If requested by a city, county or other public entity, the phrase, "To the extent allowed by law" may be inserted at the beginning of the first sentence.*

(4) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the Grantee and the Commission.

(5) COMMISSION REPRESENTATIVE: The Commission's _____ is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(6) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the Grantee agrees as follows:

(A) Civil Rights Statutes: The Grantee shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, *et seq.*), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et seq.*). In addition, if the Grantee is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The Grantee shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The Grantee shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Grantee shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the Grantee. These apply to all solicitations either by competitive bidding or negotiation made by the Grantee for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the Grantee of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The Grantee shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant

thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the Grantee is in the exclusive possession of another who fails or refuses to furnish this information, the Grantee shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the Grantee fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the Grantee complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The Grantee shall include the provisions of paragraph (6) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The Grantee will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the Grantee becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Grantee may request the United States to enter into such litigation to protect the interests of the United States.

(7) ASSIGNMENT: The Grantee shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(8) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The Grantee shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(9) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations by providing the Grantee with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Grantee.

(10) ACCESS TO RECORDS: The Grantee and its contractors must maintain

all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the Grantee receives reimbursement of their final invoice from the Commission.

(11) ACQUISITION OF RIGHT OF WAY: [**Drafter's Note:** Choose the option that applies to this project/activity and delete the non-applicable option. Delete This Drafter's Note]

Option (A): No acquisition of additional right of way is anticipated in connection with Project/Activity _____ or contemplated by this Agreement.

Option (B): With respect to the acquisition of right of way necessary for the completion of the project/activity, Grantee shall acquire any additional necessary right of way required for this project/activity and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended, 49 CFR Part 24 and any other regulations promulgated in connection with the Act. In addition Grantee shall comply with applicable state laws, rules and regulations including those contained in Chapter 523 RSMo. However, upon written request by the Grantee and written acceptance by the Commission, the Commission shall acquire right of way for the Grantee. Upon approval of all agreements, plans and specifications by the Commission and by the Federal Highway Administration, the Commission will file copies of said plans in the office of the County clerk: and proceed to acquire by negotiation and purchase or by condemnation any necessary right of way required for the construction of the improvement contemplated herein. All right of way acquired by negotiation and purchase will be acquired in the name of Grantee, and the Grantee will pay to grantors thereof the agreed upon purchase prices. All right of way acquired through condemnation proceedings will be acquired in the name of the State of Missouri and subsequently released to the Grantee. The Grantee shall pay into court all awards and final judgments in favor of any such condemnees. The Grantee shall also reimburse the Commission for any expense incurred by the Commission in acquiring said right of way, including but not limited to the costs of surveying, appraisal, negotiation, condemnation, and relocation assistance benefits. Unless otherwise agreed to in writing the Commission shall have the final decision regarding the settlement amount in condemnation.

(12) MAINTENANCE OF DEVELOPMENT: If the project/activity identified in Paragraph 2, above, involves the construction or dedication of public improvements, the Grantee shall maintain the herein contemplated improvements without any cost or expense to the Commission. All maintenance by the Grantee shall be done for the safety of the general public and the esthetics of the area. In addition, if any sidewalks or bike trails are constructed on the Commission's right-of-way pursuant to this Agreement, the Grantee shall inspect and maintain the sidewalks or bike trails constructed by this project/activity in a condition reasonably safe to the public and, to

the extent allowed by law, shall indemnify and hold the Commission harmless from any claims arising from the construction and maintenance of said sidewalks or bike trails. If the Grantee fails to maintain the herein contemplated improvements, the Commission or its representatives, at the Commission's sole discretion shall notify the Grantee in writing of the Grantee's failure to maintain the improvement. If the Grantee continues to fail in maintaining the improvement, the Commission may remove the herein contemplated improvement whether or not the improvement is located on the Commission's right of way. Any removal by the Commission shall be at the sole cost and expense of the Grantee. Maintenance includes but is not limited to mowing and trimming between shrubs and other plantings that are part of the improvement.

(13) PLANS: The Grantee shall prepare preliminary and final plans and specifications for the herein improvements. The plans and specifications shall be submitted to the Commission for the Commission's review and approval. The Commission has the discretion to require changes to any plans and specification prior to any approval by the Commission.

(14) REIMBURSEMENT: With regard to work under this Agreement, the Grantee agrees as follows:

(A) Any federal funds for Safe Routes to School activities shall only be available for reimbursement of eligible costs which have been incurred by Grantee. **Any costs incurred by Grantee prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.** The ratio for federal reimbursement of eligible costs for the herein project/activity is 100% up to a maximum of $_____. Any costs for the herein project/activity which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of Grantee. The Commission shall not be responsible for any costs associated with the herein project/activity unless specifically identified in this Agreement or subsequent written amendments. The Commission shall not provide more than _____ dollars ($_____) for this Safe Routes to School project/activity.

(B) The authority to advertise for bids shall be granted by the Commission when all right-of-way clearances, environmental clearances, and the approval of the Plans, Specification, and Estimate have been completed. **Any costs incurred by the Grantee prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.**

****DRAFTER'S NOTE: Subparagraph (14)(C) is optional. Delete (14)(C) if your District has adopted a reasonable progress policy. Delete this Drafter's note before sending draft to other party.***

(C) In the event that the Grantee does not submit the Plans, Specification, and Estimate for this project/activity by Grantee, and does not have construction authorization (authority to advertise for bids) by Grantee, the Grantee agrees to reimburse the Commission for any monies previously reimbursed to the

Grantee under this Agreement. All monies previously programmed or spent for this project/activity shall be surrendered by the Grantee at this time. **Any costs incurred by the Grantee prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.**

(D) In the event that the Grantee does not complete the project/activity within the timelines set forth in the Safe Routes to School Administrative Guidelines Issued 02/01/08, all monies previously programmed or spent for this project/activity shall be surrendered by the Grantee at this time to the Commission. **Any costs incurred by the Grantee prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.**

(E) The Grantee shall complete the "SURVEY ABOUT WALKING AND BIKING TO SCHOOL FOR PARENTS" (Survey) for each child in the grades Kindergarten (K) through 8 of each school involved in the application. An example of the Survey form is attached hereto as Exhibit B and incorporated herein by reference. The Grantee shall complete the Survey prior to the project/activity beginning. The Grantee shall complete the Survey again within 6 months following the completion of the project/activity. The Grantee shall complete the "SAFE ROUTES TO SCHOOL STUDENT ARRIVAL AND DEPARTURE TALLY SHEET" (Tally Sheet) for each child in the grades of K-8 of each school listed in the application prior to the project/activity beginning and again within 6 months following the completion of the project/activity. An example of the Tally Sheet form is attached hereto as Exhibit C and incorporated herein by reference. **The Surveys and Tally Sheets are a requirement of the applicant per the Safe Routes to School Administrative Guidelines Issued 02/01/08. All costs incurred by the Grantee for the Surveys or Tally Sheets are non-reimbursable. In the event that the Grantee does not meet these requirements, all monies previously programmed or spent for this project/activity shall be surrendered by the Grantee at this time to the Commission.**

(15) USE OF FUNDS: Any employee of Grantee whose salary or wages are paid in whole or in part with federal funds is prohibited from participating in certain partisan political activities, including, but not limited to, being a candidate for elective office pursuant to Title 5 United States Code (hereinafter, "U.S.C."), Sections 1501-1508. If an employee of Grantee participates in activities prohibited by the Hatch Act, Grantee shall no longer pay that employee's salary or wages with federal funds unless the requirements of 5 U.S.C. Sections 1501-1508 are not applicable to that employee pursuant to 5 U.S.C. Section 1502(c).

(16) PROGRESS PAYMENTS: The Grantee may request that progress payments be made during the construction of the herein improvements. The Grantee shall submit to the Commission any invoice for progress payments no less than on a monthly basis. The Grantee shall repay any progress payments which involve ineligible costs.

(17) PERMITS: The Grantee shall secure any necessary approvals or permits

from any federal or state agency as required for the completion of the herein improvements. The permits which may be required include, but are not limited to, environmental, architectural, historical or cultural requirements of federal or state law or regulation. If this improvement is on the right of way of the Commission, the Grantee must secure a permit from the Commission prior to the start of any work on the right of way. The Grantee shall comply with any additional conditions placed on the issuance of the permit by the Commission, including, but not limited to any bonding requirements of the Commission.

(18) INSPECTION OF IMPROVEMENTS AND RECORDS: The Grantee shall assure that representatives of the Commission and FHWA shall have the privilege of inspecting and reviewing the work being done by the Grantee 's contractor and subcontractor on the herein project/activity. The Grantee shall also assure that its contractor, and all subcontractors, if any, maintain all books, documents, papers and other evidence pertaining to costs incurred in connection with the Safe Routes to School Program Agreement, and make such materials available at such contractor's office at all reasonable times at no charge during this Agreement period, and for three (3) years from the date of final payment under this Agreement, for inspection by the Commission, FHWA or any authorized representatives of the Federal Government and the State of Missouri, and copies shall be furnished, upon request, to authorized representatives of the Commission, State, FHWA, or other Federal agencies.

(19) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES: A person may offer to donate funds, materials or services in connection with this project/activity. Any donated funds, or the fair market value of any donated materials or services that are accepted and incorporated into this project/activity shall be credited according to 23 U.S.C. §323.

(20) DISADVANTAGED BUSINESS ENTERPRISES: The Commission will advise the Grantee of any required goals for participation by disadvantaged business enterprises to be included in the Grantee proposal for the work to be performed. The Grantee shall submit for Commission approval a disadvantaged business enterprise goal or plan. The Grantee shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(21) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(22) NOTICE TO BIDDERS: The Grantee shall notify the prospective bidders that disadvantaged business enterprises shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(23) FINAL AUDIT: The Commission may, in its sole discretion, perform a final audit of project/activity costs. The United States Government shall reimburse the

Grantee, through the Commission, any monies due. The Grantee shall refund any overpayments as determined by the final audit.

(24) OMB AUDIT: If the Grantee expends five hundred thousand ($500,000) or more in a year in federal finance assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to the Missouri Department of Transportation (MoDOT) within thirty (30) days of the issuance of the report. Subject to the requirements of OMB Circular A-133, if the Grantee expend(s) less than five hundred thousand ($500,000) in a year, the Grantee may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the Grantee this ____ day of _____, 20__.

Executed by the Commission this ____ day of _____, 20___.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

_____

Title _____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

[INSERT NAME OF GRANTEE]

By _____

Title _____

ATTEST:

By _____

Title _____

Approved as to Form:

_____

Title _____

Ordinance No _____

*Note: If agency is a County with a county commission form of government, 3 signatures are required

CCO FORM: RM12-SUP
Approved: 10/97 (BDG)
Revised: 10/09 (MWH)
Modified:

_____County
City of _____
Project _____

CFDA Number: CFDA #20.205
CFDA Title: Highway Planning and Construction
Award name/number: BRO/STP/CMAQ- (proj. no.)
Award Year: (year monies funded)
Federal Agency: Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
TRANSPORTATION ENHANCEMENT FUNDS
SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of _____ (hereinafter, "City") or [if a county, use: the County of _____ (hereinafter, "County") or Department of Natural Resources (hereinafter, "DNR")].

WITNESSETH:

WHEREAS, on _____, the Commission and the (City/County) previously entered into a Transportation Enhancement Funds Agreement as to public improvements designated as _____, for the construction of _____, (hereinafter, "Original Agreement"); and

WHEREAS, the Commission and the (City/County) now desire to revise the Original Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties agree as follows:

(1) REVISION: Paragraph _____ of the Original Agreement is removed and replaced with the following:

[Insert the revised language]

***NOTE**: TO BE USED IN FIRST SUPPLEMENTAL AGREEMENTS:*

(2) ORIGINAL AGREEMENT: Except as otherwise modified, amended, or supplemented by this Supplemental Agreement, the Original Agreement between the parties shall remain in full force and effect.

***NOTE**: TO BE USED IN SECOND AND SUBSEQUENT SUPPLEMENTAL AGREEMENTS:*

(2) ORIGINAL AGREEMENT: Except as otherwise modified, amended, or supplemented by this Supplemental Agreement, the Original Agreement and all previous Supplemental Agreements between the parties shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the (City/County) this _____ day of _____, 20____.

Executed by the Commission this _____ day of _____, 20____.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

_____

Title: _____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

(CITY/COUNTY)

By _____

Title: _____

ATTEST:

By _____

Title: _____

Approved as to Form:

_____

Title:_____

Ordinance No.:_____

CCO Form: RM11
Approved: 07/96 (KMH)
Revised: 03/09 (MWH)
Modified:

CFDA Number: CFDA #20.205
CFDA Title: Highway Planning and Construction
Award name/number: STP (proj. no.)
Award Year: (state fiscal year monies awarded)
Federal Agency: Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
STP-URBAN PROGRAM AGREEMENT

THIS STP-URBAN AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of _____, _____ County, Missouri (hereinafter, "City").

WITNESSETH:

WHEREAS, 23 U.S.C. §133 authorizes a Surface Transportation Program (STP) to fund transportation related projects; and

WHEREAS, the City desires to construct certain improvements, more specifically described below, using such STP funding; and

WHEREAS, those improvements are to be designed and constructed in compliance with the provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The improvement contemplated by this Agreement and designated as Project _____ involves:

[describe project]

(2) LOCATION: The contemplated improvement designated as Project _____ by the Commission is within the city limits of _____, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference. More specific descriptions are as follows:

[complete location]

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency Manual. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) LIMITS OF SYSTEM: The limits of the surface transportation system for the City shall correspond to its geographical area as encompassed by the urban boundaries of the City as fixed cooperatively by the parties subject to approval by the Federal Highway Administration (FHWA).

(5) ROUTES TO BE INCLUDED: The City shall select the high traffic volume arterial and collector routes to be included in the surface transportation system, to be concurred with by the Commission, subject to approval by the FHWA. It is understood by the parties that surface transportation system projects will be limited to the said surface transportation system, but that streets and arterial routes may be added to the surface transportation system, including transfers from other federal aid systems.

(6) INVENTORY AND INSPECTION: The City shall:

(A) Furnish annually, upon request from the Commission or FWHA, information concerning conditions on streets included in the STP system under local jurisdiction indicating miles of system by pavement width, surface type, number of lanes and traffic volume category.

(B) Inspect and provide inventories of all bridges on that portion of the federal-aid highway systems under the jurisdiction of the City in accordance with the Federal Special Bridge Replacement Program, as set forth in 23 U.S.C. §144, and applicable amendments or regulations promulgated thereunder.

***DRAFTER'S NOTE**: Use the following paragraph if the Commission is expending State Road Funds on the project.*

(7) ACCEPTED WITHIN HIGHWAY SYSTEM: Effective upon execution of this Agreement, the Commission accepts the above described portion of the City street system as part of the State Highway System for the purposes of this STP project. However, during the construction period contemplated in this Agreement:

(A) The Commission will assume no police or traffic control functions not obligatory upon Commission immediately prior to the execution of this Agreement, and

(B) The City shall perform or cause to be performed normal maintenance on the project site.

***DRAFTER'S NOTE**: Choose only one option below. Option 1 and 2 may be further refined by the district to fit the situation. However, any revisions must be reviewed by CCO prior to execution.*

(8) CITY TO MAINTAIN: **(Option 1)** Upon completion of construction of this improvement, the City shall accept control and maintenance of the improved street and shall thereafter keep, control, and maintain the same as, and for all purposes, a part of the City street system at its own cost and expense and at no cost and expense whatsoever to the Commission. Any traffic signals installed on highways maintained by the Commission will be turned over to the Commission upon completion of the project for maintenance. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(Option 2) Upon completion of construction of this improvement, the City shall accept maintenance of the improvements made by this project at no cost and expense whatsoever to the Commission. Any traffic signals installed on highways maintained by the Commission will be turned over to the Commission upon completion of the project for operational maintenance. Any aesthetic improvements installed on highways maintained by the Commission upon completion of the project will be the sole responsibility of the city for maintenance. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(9) INDEMNIFICATION: The _____ shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the _____'s performance of its obligations under this Agreement.

***DRAFTER'S NOTE**: If requested by a city, county or other public entity, the phrase, "To the extent allowed by law" may be inserted at the beginning of the first sentence.*

(10) CONSTRUCTION SPECIFICATIONS: Parties agree that all construction under the Surface Transportation Program for the City will be constructed in accordance with current Missouri Department of Transportation (MoDOT) design criteria/specifications for urban construction unless separate standards for the surface transportation system have been established by the City and the Commission subject to the approval of the Federal Highway Administration.

(11) ACQUISITION OF RIGHT OF WAY: [Choose the option which applies to this project.]

Option A: [No acquisition of additional right of way is anticipated in connection with Project_____ or contemplated by this Agreement.]

Option B: [With respect to the acquisition of right of way necessary for the completion of the project, City shall acquire any additional necessary right of way required for the project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act. However upon written request by the City and the written acceptance by the Commission, the Commission shall acquire right of way for the City. Upon approval of all agreements, plans and specifications by the Commission and the Federal Highway Administration, the commission will file copies of said plans in the office of the county clerk: and proceed to acquire by negotiation and purchase or by condemnation any necessary right of way required for the construction of the improvement contemplated herein. All right of way acquired by negotiation and purchase will be acquired in the name of City, and the City will pay to grantors thereof the agreed upon purchase prices. All right of way acquired through condemnation proceedings will be acquired in the name of the State of Missouri and subsequently released to the City. The City shall pay into court all awards and final judgments in favor of any such condemnees. The City shall also reimburse the Commission for any expense incurred by the Commission in acquiring said right of way, including but not limited to the costs of surveying, appraisal, negotiation, condemnation, and relocation assistance benefits. Unless otherwise agreed to in writing the Commission shall have the final decision regarding the settlement amount in condemnation.]

(12) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the _____ as follows:

***DRAFTER'S NOTE**: Choose only one of the (A) Options below and delete the Option not chosen. Option 1 and 2 may be further refined by the district to fit the situation. However, any revisions must be reviewed by CCO prior to execution.*

(A) (Option 1) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All costs incurred by _____ will be reimbursed up to the lump sum amount of $_____ not to exceed the legal pro rata share of _____ percent. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of _____. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(A) (Option 2) Any federal funds for project activities shall only be

available for reimbursement of eligible costs which have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. The United States Government is presently participating in_____ percent (__%) of the eligible costs of STP-Urban projects. **[Optional:** A pro-rata share shall be established for each phase of a project, i.e. Preliminary Engineering, Right of Way, Utilities and Construction. All costs incurred by _____ will be reimbursed at the legal pro rata share established for each project phase. The legal pro rata share for federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to that project phase by the total participating costs for that phase. The legal pro rata share for the Construction Phase shall be established at concurrence in award and cannot be increased after concurrence in award. This project has a maximum of $_____ of federal funds available. The legal pro rata share cannot exceed eighty percent (80%).] Any costs for the herein improvements which exceed federal reimbursement shall be the sole responsibility of the City. The Commission shall not be responsible for any costs associated with these improvements unless specifically identified in this Agreement or subsequent amendments.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(13) PERMITS: The City shall secure any necessary approvals or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the contemplated improvements.

(14) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signal and marking in accordance with the Manual of Uniform Traffic Control Devices (MUTCD).

(15) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project _____ will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work.

(16) DISADVANTAGED BUSINESS ENTERPRISES: At time of processing the required project agreements with the Federal Highway Administration, the Commission will advise the City of any required goals for participation by disadvantaged business enterprises to be included in the City's proposal for the work to be performed. The City shall submit for Commission approval a disadvantaged business enterprise

goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(17) NOTICE TO BIDDERS: The City shall notify the prospective bidders that disadvantaged business enterprises shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(18) PROGRESS PAYMENTS: Progress payments to the City for preliminary engineering and right of way are available upon the City's written request. In the event Project _____ is not built or is built to standards not satisfactory to the Federal Highway Administration, the City agrees to repay the Commission for any progress payments made to the City for the respective project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(19) OUTDOOR ADVERTISING: The City further agrees that the right of way provided for any Surface Transportation Program improvement will be held and maintained inviolate for public highway or street purposes, and will enact and enforce any ordinances or regulations necessary to prohibit the presence of billboards or other advertising signs or devices and the vending or sale of merchandise on such right of way, and will remove or cause to be removed from such right of way any sign, private installation of any nature, or any privately owned object or thing which may interfere with the free flow of traffic or impair the full use and safety of the highway or street.

(20) PROJECT AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the City, through the Commission, any monies due. The City shall refund any overpayments as determined by the final audit.

(21) OMB AUDIT: If the City expend(s) five hundred thousand ($500,000) or more in a year in federal finance assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to the Missouri Department of Transportation (MoDOT) within thirty (30) days of the issuance of the report. Subject to the requirements of OMB Circular A-133, if the City expend(s) less than five hundred thousands dollars ($500,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(22) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(23) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(24) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(25) COMMISSION REPRESENTATIVE: The Commission's chief engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(26) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

(A) To the City:

_____

_____

Facsimile No.:_____

(B) To the Commission:

_____

_____

Facsimile No.:_____

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(27) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the City agrees as follows:

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, et seq.), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, et seq.). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49

C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The City shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The City shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the City fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the City complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (27) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any

subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(28) ACCESS TO RECORDS: The City and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the City receives reimbursement of their final invoice from the Commission.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this ___ day of _____, 20____.

Executed by the Commission this ___ day of _____, 20____.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

_____

Title _____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

_____

By _____

Title _____

ATTEST:

By _____

Title _____

Approved as to Form:

By _____

Title _____

[If needed to authorize a city official to execute the agreement.]

Ordinance No:_____

CCO Form: RM12
Approved: 04/95 (MGB)
Revised: 03/09 (MWH)
Modified:

CFDA Number:	CFDA #20.205
CFDA Title:	Highway Planning and Construction
Award name/number:	STP - (proj. no.)
Award Year:	(state fiscal year monies awarded)
Federal Agency:	Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
TRANSPORTATION ENHANCEMENT FUNDS
PROGRAM AGREEMENT

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and _____ (hereinafter, "_____").

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The United States Congress has authorized, in 23 U.S.C. §101, §104 and §133, funds to be used for transportation enhancement activities. The purpose of this Agreement is to grant the use of such transportation enhancement funds to the _____.

(2) LOCATION: The transportation enhancement funds which are the subject of this Agreement are for the project at the following location:

[describe the project and location]

The general location of the project is shown on attachment marked "Exhibit A" and incorporated herein by reference.

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency Manual. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that

the Commission may deduct progress payments made to the City from future payments to the City.

(4) INDEMNIFICATION: The _____ shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the _____'s performance of its obligations under this Agreement.

***DRAFTER'S NOTE**: If requested by a city, county or other public entity, the phrase, "To the extent allowed by law" may be inserted at the beginning of the first sentence.*

(5) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the _____ and the Commission.

(6) COMMISSION REPRESENTATIVE: The Commission's _____ is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(7) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the _____ agrees as follows:

(A) Civil Rights Statutes: The _____ shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, *et seq.*), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et seq.*). In addition, if the _____ is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The _____ shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The _____ shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The _____ shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the _____. These apply to all solicitations either by competitive bidding or negotiation made by the _____ for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the _____ of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The _____ shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the _____ is in the exclusive possession of another who fails or refuses to furnish this information, the _____ shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the _____ fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the _____ complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The _____ shall include the provisions of paragraph (7) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The _____ will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the _____ becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the _____ may request the United States to enter into such litigation to protect the interests of the United States.

(8) ASSIGNMENT: The _____ shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(9) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The _____ shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(10) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations by providing the _____ with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the _____.

(11) ACCESS TO RECORDS: The _____ and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the _____ receives reimbursement of their final invoice from the Commission.

(12) ACQUISITION OF RIGHT OF WAY: [Choose the option which applies to this project.]

Option (A): [No acquisition of additional right of way is anticipated in connection with Project _____ or contemplated by this Agreement.]

Option (B): [With respect to the acquisition of right of way necessary for the completion of the project, _____shall acquire any additional necessary right of way required for this project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act.] However, upon written request by the _____and written acceptance by the Commission, the Commission shall acquire right of way for the_____. Upon approval of all agreements, plans and specifications by the Commission and by the Federal Highway Administration, the Commission will file copies of said plans in the office of the County clerk: and proceed to acquire by negotiation and purchase or by condemnation any necessary right of way required for the construction of the improvement contemplated herein. All right of way acquired by negotiation and purchase will be acquired in the name of_____, and the _____ will pay to grantors thereof the agreed upon purchase prices. All right of way acquired through condemnation proceedings will be acquired in the name of the State of Missouri and subsequently released to the _____. The _____shall pay into court all awards and final judgments in favor of any such condemnees. The _____shall also reimburse the Commission for any expense incurred by the Commission in acquiring said right of way, including but not limited to the costs of surveying, appraisal, negotiation, condemnation, and relocation assistance benefits. Unless otherwise agreed to in writing the Commission shall have the final decision regarding the settlement amount in condemnation.]

(13) MAINTENANCE OF DEVELOPMENT: The _____ shall maintain the herein contemplated improvements without any cost or expense to the Commission. All maintenance by the _____ shall be done for the safety of the general public and the esthetics of the area. In addition, if any sidewalks or bike trails are constructed on the Commission's right-of-way pursuant to this Agreement, the _____ shall inspect and maintain the sidewalks or bike trails constructed by this project in a condition reasonably safe to the public and, to the extent allowed by law, shall indemnify and hold the Commission harmless from any claims arising from the construction and maintenance of said sidewalks or bike trails. If the _____ fails to maintain the herein contemplated improvements, the Commission or its representatives, at the Commission's sole discretion shall notify the _____ in writing of the _____ failure to maintain the improvement. If the _____ continues to fail in maintaining the improvement, the Commission may remove the herein contemplated improvement whether or not the improvement is located on the Commission's right of way. Any removal by the Commission shall be at the sole cost and expense of the _____. Maintenance includes but is not limited to mowing and trimming between shrubs and other plantings that are part of the improvement.

(14) PLANS: The _____ shall prepare preliminary and final plans and specifications for the herein improvements. The plans and specifications shall be submitted to the Commission for the Commission's review and approval. The Commission has the discretion to require changes to any plans and specification prior to any approval by the Commission.

(15) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the _____ as follows:

***DRAFTER'S NOTE**: Choose only one of the (A) Options below and delete the Option not chosen. Option 1 and 2 may be further refined by the district to fit the situation. However, any revisions must be reviewed by CCO prior to execution.*

(A) (Option 1) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All costs incurred by _____ will be reimbursed up to the lump sum amount of $_____ not to exceed the legal pro rata share of _____ percent. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of _____. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(A) (Option 2) Any federal funds for project activities shall only be

available for reimbursement of eligible costs that have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. A pro-rata share shall be established for each phase of a project, i.e. Preliminary Engineering, Right of Way, Utilities and Construction. All costs incurred by _____ will be reimbursed at the legal pro rata share established for each project phase. The legal pro rata share for federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to that project phase by the total participating costs for that phase. The legal pro rata share for the Construction Phase shall be established at concurrence in award and cannot be increased after concurrence in award. This project has a maximum of $_____ of federal funds available. The legal pro rata share cannot exceed eighty percent (80%). Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of _____. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(B) The authority to advertise for bids shall be granted by the Commission when all right-of-way clearances, environmental clearances, and the approval of the Plans, Specification, and Estimate have been completed. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

DRAFTER'S NOTE: Subparagraph (14)(C) is optional. Delete (14)(C) if your District has adopted a reasonable progress policy. Delete this Drafter's note before sending draft to other party.

(C) In the event that the _____ does not submit the Plans, Specification, and Estimate for this project by _____, and does not have construction authorization (authority to advertise for bids) by _____, the _____ agrees to reimburse the Commission for any monies previously reimbursed to the _____ under this Agreement. All monies previously programmed for this project shall be surrendered by _____ at this time. **Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.**

(16) PROGRESS PAYMENTS: The _____ may request that progress payments be made during the construction of the herein improvements. The _____ shall submit to the Commission any invoice for progress payments no less than on a monthly basis. The _____ shall repay any progress payments which involve ineligible costs.

(17) PERMITS: The _____ shall secure any necessary approvals or permits from any federal or state agency as required for the completion of the herein improvements. If this improvement is on the right of way of the Commission, the

_____ must secure a permit from the Commission prior to the start of any work on the right of way. The permits which may be required include, but are not limited to, environmental, architectural, historical or cultural requirements of federal or state law or regulation.

(18) INSPECTION OF IMPROVEMENTS AND RECORDS: The _____ shall assure that representatives of the Commission and FHWA shall have the privilege of inspecting and reviewing the work being done by the _____'s contractor and subcontractor on the herein project. The _____ shall also assure that its contractor, and all subcontractors, if any, maintain all books, documents, papers and other evidence pertaining to costs incurred in connection with the Transportation Enhancement Program Agreement, and make such materials available at such contractor's office at all reasonable times at no charge during this Agreement period, and for three (3) years from the date of final payment under this Agreement, for inspection by the Commission, FHWA or any authorized representatives of the Federal Government and the State of Missouri, and copies shall be furnished, upon request, to authorized representatives of the Commission, State, FHWA, or other Federal agencies.

(19) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES: A person may offer to donate funds, materials or services in connection with this project. Any donated funds, or the fair market value of any donated materials or services that are accepted and incorporated into this project shall be credited according to 23 U.S.C. §323.

(20) DISADVANTAGED BUSINESS ENTERPRISES: The Commission will advise the _____ of any required goals for participation by disadvantaged business enterprises to be included in the _____ proposal for the work to be performed. The _____ shall submit for Commission approval a disadvantaged business enterprise goal or plan. The _____ shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(21) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(22) NOTICE TO BIDDERS: The _____ shall notify the prospective bidders that disadvantaged business enterprises shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(23) FINAL AUDIT: The Commission may, in its sole discretion, perform a final audit of project costs. The United States Government shall reimburse the _____, through the Commission, any monies due. The _____ shall refund any overpayments as determined by the final audit.

(24) OMB AUDIT: If the _____ expend(s) five hundred thousand

($500,000) or more in a year in federal finance assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to the Missouri Department of Transportation (MoDOT) within thirty (30) days of the issuance of the report. Subject to the requirements of OMB Circular A-133, if the _____ expend(s) less than five hundred thousands dollars ($500,000) a year, the _____ may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the _____ this ____ day of _____, 20__.

Executed by the Commission this ____ day of _____, 20___.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

_____

Title _____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

_____

By _____

Title _____

ATTEST:

By _____

Title _____

Approved as to Form:

_____

Title _____

Ordinance No _____

**If contracting party is a County with a county commission form of government, the execution page needs to be modified to allow the three county commissioners to execute the agreement.*

CCO Form: RM13
Approved: (DPP)
Revised: 10/09 (MWH)
Modified:

CFDA Number:	CFDA #20.205
CFDA Title:	Highway Planning and Construction
Award name/number:	BRO - (proj. no.)
Award Year:	(state fiscal year monies awarded)
Federal Agency:	Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION OFF-SYSTEM BRIDGE REPLACEMENT AND REHABILITATION PROGRAM AGREEMENT

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and [if a city, use: the City of _____, a municipal corporation in the State of Missouri (hereinafter, "City")] or [if a county, use: the County of _____ (hereinafter, "County")].

WITNESSETH:

WHEREAS, the Congress of the United States has authorized, in the Federal-Aid Highway Act, 23 U.S.C. §144, the Secretary of Transportation to grant funds to states for projects for the replacement and rehabilitation of toll-free public bridges which are not part of any Federal-Aid System and which are under the jurisdiction of and maintained by a public authority and are open to public travel; and

WHEREAS, the (County/City) desires to replace a certain bridge, more specifically described below, under the Off-System Bridge Replacement and Rehabilitation Program. Said improvement is to be designed and constructed in compliance with the provisions of 23 U.S.C. §144 and applicable federal directives.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The improvement contemplated by this Agreement, and designated as Project BRO-_____ by the Commission is on CART/County Road in _____ County. The length of this improvement is _____ mile(s). This improvement involves a bridge which has been inventoried by the (County/City) or Commission in accordance with 23 U.S.C. §144.

(2) LOCATION: The general location of the improvement is shown on the attachment labeled "Exhibit A" and that attachments incorporated by reference. The location is as follows:

(Complete location)

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency Manual. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the (County/City) agrees to repay the Commission for any progress payments made to the (County/City) for the project and agrees that the Commission may deduct progress payments made to the (County/City) from future payments to the (County/City).

***DRAFTER'S NOTE**: If requested by a city, county or other public entity, the phrase, "To the extent allowed by law" may be inserted at the beginning of the first sentence below.*

(4) INDEMNIFICATION: The _____ shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the _____'s performance of its obligations under this Agreement.

(5) MAINTENANCE: Upon completion of this improvement, the (County/City) shall accept control and maintenance of the improved road as a part of its road system and at its own cost and expense. Once construction of this improvement is completed, all obligations of the Commission under this Agreement shall terminate.

(6) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the (County/City), and the (County/City) may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form FHWA 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the (County/City)" is to be substituted. The (County/City) agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(7) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signals, and markings in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).

(8) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, (County/City) shall acquire any

additional necessary right of way required for this project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. §4601-§4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with that Act. However, upon written request by the (County/City) and written acceptance by the Commission, the Commission shall acquire right of way for the (County/City). Upon approval of all agreements, plans and specifications by the Commission and by the Federal Highway Administration, the Commission will file copies of said plans in the office of the County Clerk; and in the office of the Circuit Clerk for that County if condemnation of any necessary right of way is required for the construction of the improvement contemplated here in. All right of way acquired by negotiation and purchase will be acquired in the name of (County/City), and the (County/City) will pay to grantors thereof the agreed upon purchase prices. All right of way acquired through condemnation proceedings will be acquired in the name of the State of Missouri and subsequently released to the (County/City). The (County/City) shall pay into court all awards and final judgments in favor of any such condemnees. The (County/City) shall also reimburse the Commission for any expense incurred by the Commission in acquiring said right of way, including but not limited to the costs of surveying, appraisal, negotiation, condemnation, and relocation assistance benefits. Unless otherwise agreed to in writing the Commission shall have the final decision regarding the settlement amount in condemnation.

(9) PERMITS: The (County/City) shall secure approval or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the improvements contemplated by this Agreement.

(10) DISADVANTAGED BUSINESS ENTERPRISES (DBE): It is the policy of the U.S. Department of Transportation and the Commission that businesses owned by socially and economically disadvantaged individuals (DBE's), as defined in 49 C.F.R. Part 26, have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds.

(11) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the (County/City) agrees as follows:

(A) Civil Rights Statutes: The (County/City) shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, *et seq.*), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et seq.*). In addition, if the (County/City) is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The (County/City) shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of

Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The (County/City) shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The (County/City) shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the (County/City). These apply to all solicitations either by competitive bidding or negotiation made by the (County/City) for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the (County/City) of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The (County/City) shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the (County/City) is in the exclusive possession of another who fails or refuses to furnish this information, the (County/City) shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the (County/City) fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the (County/City) complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

***DRAFTER'S NOTE**: Subparagraph (G) below is to refer back to the NONDISCRIMINATION ASSURANCE paragraph #.*

(G) Incorporation of Provisions: The (County/City) shall include the

provisions of paragraph (11) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The (County/City) will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the (County/City) becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the (County/City) may request the United States to enter into such litigation to protect the interests of the United States.

(12) ACCESS TO RECORDS: The (County/City) and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the (County/City) receives reimbursement of their final invoice from the Commission.

(13) INSPECTION OF PERFORMANCE: The (County/City) shall insure that representatives of the Commission and the FHWA shall have access to the project for the purpose of inspecting and reviewing work performed in connection with this Agreement.

(14) PROGRESS PAYMENTS: Progress payments to the (County/City) for preliminary engineering and right of way are available upon the (County/City)'s written request. In the event Project _____ is not built or is built to standards not satisfactory to the Federal Highway Administration, the (County/City) agrees to repay the Commission for any progress payments made to the (County/City) for the respective project and agrees that the Commission may deduct progress payments made to the (County/City) from future payments to the (County/City).

(15) REIMBURSEMENT: With regard to work under this Agreement, the (County/City) agrees as follows:

Any federal funds for off-system bridge replacement and rehabilitation shall be available for reimbursement of eligible costs which have been incurred by the (County/City). Any costs incurred by the (County/City) prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs. The ratio for federal reimbursement of eligible costs for these improvements is not more than eighty percent (80%). Any costs for these improvements which exceed any federal reimbursement are not eligible for federal reimbursement and shall be the sole responsibility of the (County/City). The Commission shall not be responsible for any costs associated with these improvements unless specifically identified in this Agreement or subsequent written amendments.

(16) FINAL AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the (County/City), through the Commission, any monies due. The (County/City) shall refund any overpayments as determined by the final audit.

(17) OMB AUDIT: If the _____ expend(s) five hundred thousand ($500,000) or more in a year in federal finance assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to the Missouri Department of Transportation (MoDOT) within thirty (30) days of the issuance of the report. Subject to the requirements of OMB Circular A-133, if the _____ expend(s) less than five hundred thousands dollars ($500,000) a year, the _____ may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(18) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the (County/City) and the Commission.

(19) COMMISSION REPRESENTATIVE: The Commission's chief engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(20) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(21) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The (County/City) shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the (County/City) this _____ day of _____, 20____.

Executed by the Commission this _____ day of _____, 20____.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

_____

Title _____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

(County/City) _____

By _____

Title Presiding Commissioner

By _____

Title Commissioner

By _____

Title Commissioner _____

ATTEST:

_____
Clerk

Approved as to Form:

_____

Title_____

[If needed to authorize a city official to execute the agreement.]

Ordinance No. _____

*If contracting party is not a county, the additional two lines for the county commissioners can be removed.

CCO Form: RM14
Approved: 10/98 (BDG)
Revised: 03/09 (MWH)
Modified:

CFDA Number: CFDA #20.205
CFDA Title: Highway Planning and Construction
Award name/number: BRM- (proj. no.)
Award Year: (state fiscal year monies awarded)
Federal Agency: Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION ON-SYSTEM BRIDGE REPLACEMENT AND REHABILITATION PROGRAM AGREEMENT

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and [if city, use: the City of _____, a municipal corporation in the State of Missouri (hereinafter, "City")] or [if a county, use: the County of _____ (hereinafter, "County")].

WITNESSETH:

WHEREAS, the Congress of the United States has authorized, in the Federal-Aid Highway Act, 23 U.S.C. §144, the Secretary of Transportation to grant funds to states for projects for the replacement and rehabilitation of toll-free public bridges which are part of any Federal-Aid System and which are under the jurisdiction of and maintained by a public authority and are open to public travel; and

WHEREAS, The (County/City) desires to replace a certain bridge, more specifically described below, under the On-System Bridge Replacement and Rehabilitation Program. Said improvement is to be designed and constructed in compliance with the provisions of 23 U.S.C. §144 and applicable federal directives.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The improvement contemplated by this Agreement, and designated as Project BRM-_____ by the Commission is on CART/County Road in _____ County. The length of this improvement is _____ mile(s). This improvement involves a bridge which has been inventoried by the (County/City) or Commission in accordance with 23 U.S.C. §144.

(2) LOCATION: The general location of the improvement is shown on the attachment labeled "Exhibit A" and that attachments incorporated by reference. The location is as follows:

(Complete location)

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency Manual. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) INDEMNIFICATION: The _____ shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the _____'s performance of its obligations under this Agreement.

***DRAFTER'S NOTE**: If requested by a city, county or other public entity, the phrase, "To the extent allowed by law" may be inserted at the beginning of the first sentence.*

(5) MAINTENANCE: Upon completion of this improvement, the (County/City) shall accept control and maintenance of the improved road as a part of its road system and at its own cost and expense. Once construction of this improvement is completed, all obligations of the Commission under this Agreement shall terminate.

(6) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the (County/City), and the (County/City) may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form FHWA 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the (County/City)"is to be substituted. The (County/City) agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(7) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signals, and markings in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).

(8) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, (County/City) shall acquire any additional necessary right of way required for this project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. §4601-§4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with that Act. However, upon

written request by the (County/City) and written acceptance by the Commission, the Commission shall acquire right of way for the (County/City). Upon approval of all agreements, plans and specifications by the Commission and by the Federal Highway Administration, the Commission will file copies of said plans in the office of the County Clerk; and proceed to acquire by negotiation and purchase or by condemnation of any necessary right of way required for the construction of the improvement contemplated herein. All right of way acquired by negotiation and purchase will be acquired in the name of (County/City), and the (County/City) will pay to grantors thereof the agreed upon purchase prices. All right of way acquired through condemnation proceedings will be acquired in the name of the State of Missouri and subsequently released to the (County/City). The (County/City) shall pay into court all awards and final judgments in favor of any such condemnees. The (County/City) shall also reimburse the Commission for any expense incurred by the Commission in acquiring said right of way, including but not limited to the costs of surveying, appraisal, negotiation, condemnation, and relocation assistance benefits. Unless otherwise agreed to in writing the Commission shall have the final decision regarding the settlement amount in condemnation.

(9) PERMITS: The (County/City) shall secure approval or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the improvements contemplated by this Agreement.

(10) DISADVANTAGED BUSINESS ENTERPRISES (DBE): It is the policy of the U.S. Department of Transportation and the Commission that businesses owned by socially and economically disadvantaged individuals (DBE's), as defined in 49 C.F.R. Part 26, have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds.

(11) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the (County/City) agrees as follows:

(A) Civil Rights Statutes: The (County/City) shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, *et seq.*), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et seq.*). In addition, if the (County/City) is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The (County/City) shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The (County/City) shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement

of materials and leases of equipment. The (County/City) shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the (County/City). These apply to all solicitations either by competitive bidding or negotiation made by the (County/City) for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the (County/City) of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The (County/City) shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the (County/City) is in the exclusive possession of another who fails or refuses to furnish this information, the (County/City) shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the (County/City) fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the (County/City) complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The (County/City) shall include the provisions of paragraph (11) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The (County/City) will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the (County/City) becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the (County/City) may request the United States to enter into such litigation to protect the interests of the United States.

(12) ACCESS TO RECORDS: The (County/City) and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for three (3) years from the date of final payment made under this Agreement.

(13) INSPECTION OF PERFORMANCE: The (County/City) shall insure that representatives of the Commission and the FHWA shall have access to the project for the purpose of inspecting and reviewing work performed in connection with this Agreement.

(14) PROGRESS PAYMENTS: Progress payments to the (County/City) for preliminary engineering and right of way are available upon the (County/City)'s written request. In the event Project _____ is not built or is built to standards not satisfactory to the Federal Highway Administration, the (County/City) agrees to repay the Commission for any progress payments made to the (County/City) for the respective project and agrees that the Commission may deduct progress payments made to the (County/City) from future payments to the (County/City).

(15) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the _____ as follows:

***DRAFTER'S NOTE**: Choose only one of the (A) Options below and delete the Option not chosen. Option 1 and 2 may be further refined by the district to fit the situation. However, any revisions must be reviewed by CCO prior to execution.*

(A) (Option 1) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All costs incurred by _____ will be reimbursed up to the lump sum amount of $_____ not to exceed the legal pro rata share of _____ percent. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of _____. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(A) (Option 2) Any federal funds for project activities shall only be available for reimbursement of eligible costs that have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. A pro-rata share shall be established for each phase of a project, i.e. Preliminary Engineering, Right of Way, Utilities and Construction. All costs incurred by _____ will be reimbursed at the legal pro rata share established for each project phase. The legal pro rata share for federal reimbursement of participating costs for the herein improvements will be

determined by dividing the total federal funds applied to that project phase by the total participating costs for that phase. The legal pro rata share for the Construction Phase shall be established at concurrence in award and cannot be increased after concurrence in award. This project has a maximum of $_____ of federal funds available. The legal pro rata share cannot exceed eighty percent (80%). Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of _____. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(16) FINAL AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the (County/City), through the Commission, any monies due. The (County/City) shall refund any overpayments as determined by the final audit.

(17) OMB AUDIT: If the (County/City) expend(s) five hundred thousand ($500,000) or more in a year in federal finance assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to the Missouri Department of Transportation (MoDOT) within thirty (30) days of the issuance of the report. Subject to the requirements of OMB Circular A-133, if the (County/City) expend(s) less than five hundred thousands dollars ($500,000) a year, the (County/City) may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(18) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the (County/City) and the Commission.

(19) COMMISSION REPRESENTATIVE: The Commission's chief engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(20) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(21) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The (County/City) shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the (County/City) this _____ day of _____, 20____.

Executed by the Commission this _____ day of _____, 20____.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

_____

Title _____

ATTEST:

_____
Secretary to the Commission

_____

By _____

Title_____

By _____

Title _____

ATTEST:

By _____

Title _____

Approved as to Form:

_____
Commission Counsel

Approved as to Form:

_____

Title_____

[If needed to authorize a city official to execute the agreement.]

Ordinance No. _____

*If contracting is not a county with a county commission form of government, the two additional lines for the signatures of the full county commission can be removed.

CCO Form: RM15
Approved: 10/96 (KMH)
Revised: 03/09 (MWH)
Modified:

CFDA Number:	CFDA #20.205
CFDA Title:	Highway Planning and Construction
Award name/number:	CMAQ- (proj. no.)
Award Year:	(state fiscal year monies awarded)
Federal Agency:	Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
CONGESTION MITIGATION AND AIR QUALITY AGREEMENT

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and _____(hereinafter, "_____").

WITNESSETH:

WHEREAS, 23 U.S.C. §149 authorizes the funding of projects providing for congestion mitigation and air quality (CMAQ); and

WHEREAS, the Commission is the agency designated to receive and dispense such funds; and

WHEREAS, the Commission has determined that **[Describe or Name Project]** is consistent with the goals of the CMAQ funding; and

WHEREAS,_____ has the resources to develop and provide such services.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The United States Congress has authorized, in 23 U.S.C. §149, funds to be used for activities for congestion mitigation and improvement of air quality. The purpose of this Agreement is to grant the use of such funds to **[Describe scope/project]**

(2) SCOPE OF WORK: _____shall provide planning and implementation of an _____ in the _____ area as more fully described in the attached Appendix A which is incorporated herein by reference.

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public

Agency Manual. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) INDEMNIFICATION: The _____ shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the _____'s performance of its obligations under this Agreement.

***DRAFTER'S NOTE**: If requested by a city, county or other public entity, the phrase, "To the extent allowed by law" may be inserted at the beginning of the first sentence.*

(5) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the _____ and the Commission.

(6) COMMISSION REPRESENTATIVE: The Commission's **[Name Representative]** is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(7) NONDISCRIMINATION ASSURANCE: with regard to work under this Agreement, the _____ agrees as follows:

(A) Civil Rights Statutes: The _____ shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, *et seq.*), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et seq.*). In addition, if the _____ is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The _____ shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The _____ shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors including procurement of materials and leases of equipment. The _____ shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the _____. These apply to all solicitations either by competitive bidding or negotiation made by the _____ for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the _____ of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The _____ shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the _____is in the exclusive possession of another who fails or refuses to furnish this information, the _____shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the _____ fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The _____ shall include provisions of paragraph (7) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission of the United States Department of Transportation. The _____ will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the

becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the _____ may request the United States to enter into such litigation to protect the interests of the United States.

(8) DISADVANTAGED BUSINESS ENTERPRISES (DBE): It is the policy of the U.S. Department of Transportation and the Commission that businesses owned by socially and economically disadvantaged individuals (DBE's), as defined in 49 C.F.R. Part 26, have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds.

(9) ASSIGNMENT: The _____ shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(10) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The _____ shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(11) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(12) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations by providing the _____ with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the _____.

(13) ACCESS TO RECORDS: The _____ and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the _____ receives reimbursement of their final invoice from the Commission.

(14) BUDGET: The _____ shall incur obligations in connection with the performance of the period only in conformity with the latest budget approved by the Commission as specified in Appendix B - Project Budget. This budget may be revised as necessary, however no budget or revision shall be effective unless approved by the Commission's representative and FHWA.

(15) ELIGIBLE EXPENDITURES: No expenditure or charges shall be eligible for reimbursement that are contrary to the provisions of this Agreement or not required for the carrying out of the project.

(16) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the _____ as follows:

***DRAFTER'S NOTE**: Choose only one of the (A) Options below and delete the Option not chosen. Option 1 and 2 may be further refined by the district to fit the situation. However, any revisions must be reviewed by CCO prior to execution.*

(A) (Option 1) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All costs incurred by _____ will be reimbursed up to the lump sum amount of $_____ not to exceed the legal pro rata share of _____ percent. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of _____. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(A) (Option 2) Any federal funds for project activities shall only be available for reimbursement of eligible costs that have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. A pro-rata share shall be established for each phase of a project, i.e. Preliminary Engineering, Right of Way, Utilities and Construction. All costs incurred by _____ will be reimbursed at the legal pro rata share established for each project phase. The legal pro rata share for federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to that project phase by the total participating costs for that phase. The legal pro rata share for the Construction Phase shall be established at concurrence in award and cannot be increased after concurrence in award. This project has a maximum of $_____ of federal funds available. The legal pro rata share cannot exceed eighty percent (80%). Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of _____. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(17) PROGRESS PAYMENTS: The _____ may request that progress payments be made during the construction of the herein improvements. The _____ shall submit to the Commission any invoice for progress payment no less than on a monthly basis. The _____ shall repay any progress payments which involve ineligible costs.

(18) PERMITS: _____shall secure any necessary approvals or permits from any federal or state agency as required for the completion of this project.

(19) INSPECTION OF CONTRACTOR'S RECORDS: _____ shall assure that its contractors, and all subcontractors, if any, maintain all books, documents, papers and other evidence pertaining to costs incurred in connection with this Agreement. _____ shall make such materials available at such contractor's office at all reasonable times during the contract period, and for three (3) years from the date of final payment under the contract, for inspection by the Commission, FHWA or any authorized representatives of the Federal Government and the State of Missouri. Copies thereof shall be furnished at no charge, upon request, to authorized representatives of the Commission, State, FHWA, or other Federal agencies.

(20) AUDIT OF RECORDS: The Commission may perform a final audit of project costs. The United States Government will pay through the Commission to the _____ any moneys due, and _____ will refund any overpayment, as determined by final audit of eligible costs incurred by _____. If the _____ expend(s) five hundred thousand ($500,000) or more in a year in federal finance assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to the Missouri Department of Transportation (MoDOT) within thirty (30) days of the issuance of the report. Subject to the requirements of OMB Circular A-133, if the _____ expend(s) less than five hundred thousand dollars ($500,000) a year, the _____ may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(21) FHWA APPROVAL: This Agreement is made and entered into subject to the approval of the Federal Highway Administration.

(22) ACQUISITION OF RIGHT OF WAY: [Choose the option which applies to this project.]

Option (A): [No acquisition of additional right of way is anticipated in connection with Project _____ or contemplated by this Agreement.]

Option (B): [With respect to the acquisition of right of way necessary for the completion of the project, _____shall acquire any additional necessary right of way required for this project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act.] However, upon written request by the _____ and written acceptance by the Commission, the Commission shall acquire right of way for the _____. Upon approval of all agreements, plans and specifications by the Commission and by the Federal Highway Administration, the Commission will file copies of said plans in the office of the County clerk: and proceed to acquire by negotiation and purchase or by condemnation any necessary right of way required for the construction of the improvement contemplated herein. All right of way acquired by negotiation and purchase will be acquired in the name of _____, and the _____ will pay to grantors thereof the agreed upon purchase prices. All right of

way acquired through condemnation proceedings will be acquired in the name of the State of Missouri and subsequently released to the _____. The _____ shall pay into court all awards and final judgments in favor of any such condemnees. The _____ shall also reimburse the Commission for any expense incurred by the Commission in acquiring said right of way, including but not limited to the costs of surveying, appraisal, negotiation, condemnation, and relocation assistance benefits. Unless otherwise agreed to in writing the Commission shall have the final decision regarding the settlement amount in condemnation.]

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by _____ this _____ day of _____, 20___.

Executed by the Commission this _____ day of _____, 20____.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

_____

Title_____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

_____

By_____

Title_____

ATTEST:

By_____

Title_____

Approved as to Form:

_____

Title_____

*If the contracting party is a county with a commission form of government, additional lines need to be inserted to allow all three commissioners to sign the agreement.

CCO Form: RM16
Approved: 07/06 (BDG)
Revised: 03/09 (MWH)
Modified:

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION
PROGRAM AGREEMENT

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of _____ (hereinafter, "City").

WITNESSETH:

WHEREAS, the Commission is the state agency designated to receive and dispense the above named funds coming to Missouri as allocated by the Secretary of the United States Department of Transportation (hereinafter, "USDOT") to accomplish the objectives of the Transportation and Community and System Preservation Program (hereinafter, "TCSP"); and

WHEREAS, the City prepared and submitted an application under the TCSP Program for a project entitled "_____"; and

WHEREAS, the City's project "_____" was designated by the Secretary of the USDOT to receive funding under the TCSP Program.

NOW THEREFORE, in consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

(1) PURPOSE AND SOURCE OF FUNDS: The purpose of this Agreement is to assist the City in financing project expenses that are eligible for federal financial assistance. The Commission will make federal funds available in a manner consistent with the rules of the USDOT, Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) under requirements of title 23 and chapter 53 of title 49, United States Code.

(2) PROJECT DESCRIPTION: The improvement contemplated by this Agreement involves:

[Insert description of project]

The City shall be responsible for all aspects of the construction of the improvement.

(3) LOCATION: The contemplated improvement is within the city limits of _____, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference. More specific descriptions are as follows:

[Insert Location Description]

(4) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency Manual. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(5) CITY TO MAINTAIN: Upon completion of construction of this improvement, the City shall accept control and maintenance of the improved street and shall thereafter keep, control, and maintain the same as, and at no cost and expense whatsoever to the Commission. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(6) INDEMNIFICATION: The _____ shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the _____'s performance of its obligations under this Agreement.

***DRAFTER'S NOTE**: If requested by a city, county or other public entity, the phrase, "To the extent allowed by law" may be inserted at the beginning of the first sentence.*

(7) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, City shall acquire any additional necessary right of way required for the project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act. However upon written request by the City and the written acceptance by the Commission, the Commission shall acquire right of way for the City. Upon approval of all agreements, plans and specifications by the Commission and the Federal Highway Administration, the commission will file copies of said plans in the office of the county clerk: and proceed to acquire by negotiation and purchase or by condemnation any necessary right of way required for the construction of the improvement contemplated herein. All right of way acquired by negotiation and purchase will be acquired in the name of City, and the City

will pay to grantors thereof the agreed upon purchase prices. All right of way acquired through condemnation proceedings will be acquired in the name of the State of Missouri and subsequently released to the City. The City shall pay into court all awards and final judgments in favor of any such condemnees. The City shall also reimburse the Commission for any expense incurred by the Commission in acquiring said right of way, including but not limited to the costs of surveying, appraisal, negotiation, condemnation, and relocation assistance benefits. Unless otherwise agreed to in writing the Commission shall have the final decision regarding the settlement amount in condemnation.

***Drafter's Note:** The language provided below is based on standard Federal funding agreements. It is possible that your project may have requirements for reimbursement; in such an event, Paragraph (7) will need to be revised to properly reflect the funding requirements. Delete this drafter's note before finalizing the draft contract.*

(8) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the _____ as follows:

***DRAFTER'S NOTE**: Choose only one of the (A) Options below and delete the Option not chosen. Option 1 and 2 may be further refined by the district to fit the situation. However, any revisions must be reviewed by CCO prior to execution.*

(A) (Option 1) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All costs incurred by _____ will be reimbursed up to the lump sum amount of $_____ not to exceed the legal pro rata share of _____ percent. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of _____. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(A) (Option 2) Any federal funds for project activities shall only be available for reimbursement of eligible costs that have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. A pro-rata share shall be established for each phase of a project, i.e. Preliminary Engineering, Right of Way, Utilities and Construction. All costs incurred by _____ will be reimbursed at the legal pro rata share established for each project phase. The legal pro rata share for federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to that project phase by the total participating costs for that phase. The legal pro rata share for the Construction Phase shall be established at concurrence in award and cannot be increased after

concurrence in award. This project has a maximum of $_____ of federal funds available. The legal pro rata share cannot exceed eighty percent (80%). Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of _____. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(9) PERMITS: The City shall secure any necessary approvals or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the contemplated improvements.

(10) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signal and marking in accordance with the *Manual of Uniform Traffic Control Devices* (MUTCD).

(11) WORK ON STATE RIGHT OF WAY: If any contemplated improvements involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work. In addition, any maintenance of work on the state's right of way may be identified through a future agreement.

(12) DISADVANTAGED BUSINESS ENTERPRISES: At time of processing the required project agreements with the Federal Highway Administration, the Commission will advise the City of any required goals for participation by disadvantaged business enterprises to be included in the City's proposal for the work to be performed. The City shall submit for Commission approval a disadvantaged business enterprise goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(13) NOTICE TO BIDDERS: The City shall notify the prospective bidders that disadvantaged business enterprises shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(14) PROGRESS PAYMENTS: Progress payments to the City for preliminary engineering and right of way are available upon the City's written request. In the event this project is not built or is built to standards not satisfactory to the Federal Highway

Administration, the City agrees to repay the Commission for any progress payments made to the City for the respective project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(15) OUTDOOR ADVERTISING: The City further agrees that the right of way provided for any improvement will be held and maintained inviolate for public highway or street purposes, and will enact and enforce any ordinances or regulations necessary to prohibit the presence of billboards or other advertising signs or devices and the vending or sale of merchandise on such right of way, and will remove or cause to be removed from such right of way any sign, private installation of any nature, or any privately owned object or thing which may interfere with the free flow of traffic or impair the full use and safety of the highway or street.

(16) PROJECT AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the City, through the Commission, any monies due. The City shall refund any overpayments as determined by the final audit.

(17) OMB AUDIT: If the City expend(s) five hundred thousand ($500,000) or more in a year in federal finance assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to the Missouri Department of Transportation (MoDOT) within thirty (30) days of the issuance of the report. Subject to the requirements of OMB Circular A-133, if the City expend(s) less than five hundred thousands dollars ($500,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(18) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(19) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(20) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(21) COMMISSION REPRESENTATIVE: The Commission's chief engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(22) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after

delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

(A) To the City:

Phone No:
Facsimile No.

(B) To the Commission:

Phone No:
Facsimile No.:

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(23) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the City agrees as follows:

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, et seq.), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, et seq.). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The City shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The City shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the City fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the City complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (23) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(24) ACCESS TO RECORDS: The City and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any

extension, and for a period of three (3) years after the date on which the City receives reimbursement of their final invoice from the Commission.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this ____ day of _____, 20 ____.

Executed by the Commission this ____ day of _____, 20 ____.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

_____

Title _____

Attest:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

CITY OF _____

By _____

Title _____

Attest:

By _____

Title _____

Approved as to Form:

By _____

Title _____

CCO Form: RM17
Approved: 07/06 (BDG)
Revised: 10/09 (MWH)
Modified:

CFDA Number:	
CFDA Title:	Highway Planning and Construction
Award name/number:	DP-
Award Year:	FY20_____
Federal Agency:	Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
FEDERAL AID PROGRAM AGREEMENT

THIS FEDERAL AID PROGRAM AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of _____, Missouri (hereinafter, "City").

WITNESSETH:

WHEREAS, the Congress of the United States of America has designated specific federal funding for certain projects;

WHEREAS, the Commission administers these funds from the United States of America as part of its Demonstration Project Program; and

WHEREAS, the City is the local agency responsible for the construction of the Congressionally-designated demonstration project.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PROJECT DESCRIPTION: The improvement contemplated by this Agreement and designated as Project DP-_____ involves:

[Insert description of project]

The City shall be responsible for all aspects of the construction of the improvement.

(2) LOCATION: The contemplated improvement designated as Project DP-_____ by the Commission is within the city limits of _____, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference. More specific descriptions are as follows:

[Insert Location Description]

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency Manual. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) LIMITS OF SYSTEM: The limits of the surface transportation system for the City shall correspond to its geographical area as encompassed by the urban boundaries of the City as fixed cooperatively by the parties subject to approval by the Federal Highway Administration (FHWA).

(5) ROUTES TO BE INCLUDED: The City shall select the high traffic volume arterial and collector routes to be included in the surface transportation system, to be concurred with by the Commission, subject to approval by the FHWA. It is understood by the parties that surface transportation system projects will be limited to the said surface transportation system, but that streets and arterial routes may be added to the surface transportation system, including transfers from other federal aid systems.

(6) INVENTORY AND INSPECTION: The City shall:

(A) Furnish annually, upon request from the Commission or FHWA, information concerning conditions on streets included in the STP system under local jurisdiction indicating miles of system by pavement width, surface type, number of lanes and traffic volume category.

(B) Inspect and provide inventories of all bridges on that portion of the federal-aid highway systems under the jurisdiction of the City in accordance with the Federal Special Bridge Replacement Program, as set forth in 23 U.S.C. §144, and applicable amendments or regulations promulgated thereunder.

(7) CITY TO MAINTAIN: Upon completion of construction of this improvement, the City shall accept control and maintenance of the improved street and shall thereafter keep, control, and maintain the same as, and for all purposes, a part of the City street system at its own cost and expense and at no cost and expense whatsoever to the Commission. Any traffic signals installed on highways maintained by the Commission will be turned over to the Commission upon completion of the project for maintenance. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

***DRAFTER'S NOTE**: If requested by a city, county or other public entity, the phrase, "To the extent allowed by law" may be inserted at the beginning of the first sentence below.*

(8) INDEMNIFICATION: The _____ shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the _____'s performance of its obligations under this Agreement.

(9) CONSTRUCTION SPECIFICATIONS: Parties agree that all construction under the Surface Transportation Program for the City will be constructed in accordance with current Missouri Department of Transportation (MoDOT) design criteria/specifications for urban construction unless separate standards for the surface transportation system have been established by the City and the Commission subject to the approval of the Federal Highway Administration.

(10) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, City shall acquire any additional necessary right of way required for the project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act. However upon written request by the City and the written acceptance by the Commission, the Commission shall acquire right of way for the City. Upon approval of all agreements, plans and specifications by the Commission and the Federal Highway Administration, the commission will file copies of said plans in the office of the county clerk: and proceed to acquire by negotiation and purchase or by condemnation any necessary right of way required for the construction of the improvement contemplated herein. All right of way acquired by negotiation and purchase will be acquired in the name of City, and the City will pay to grantors thereof the agreed upon purchase prices. All right of way acquired through condemnation proceedings will be acquired in the name of the State of Missouri and subsequently released to the City. The City shall pay into court all awards and final judgments in favor of any such condemnees. The City shall also reimburse the Commission for any expense incurred by the Commission in acquiring said right of way, including but not limited to the costs of surveying, appraisal, negotiation, condemnation, and relocation assistance benefits. Unless otherwise agreed to in writing the Commission shall have the final decision regarding the settlement amount in condemnation.

(11) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the City as follows:

***DRAFTER'S NOTE**: Choose only one of the (A) Options below and delete the Option not chosen and the words "(Option 1)" and "(Option 2)" . Option 1 and 2*

may be further refined by the district to fit the situation. However, any revisions must be reviewed by CCO prior to execution.

(A) (Option 1) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All costs incurred by _____ will be reimbursed up to the lump sum amount of $_____ not to exceed the legal pro rata share of _____ percent. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of _____. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(A) (Option 2) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. A pro-rata share shall be established for each phase of a project, i.e. Preliminary Engineering, Right of Way, Utilities and Construction. All costs incurred by _____ will be reimbursed at the legal pro rata share established for each project phase. The legal pro rata share for federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to that project phase by the total participating costs for that phase. The legal pro rata share for the Construction Phase shall be established at concurrence in award and cannot be increased after concurrence in award. This project has a maximum of $_____ of federal funds available. The legal pro rata share cannot exceed eighty percent (80%). Any costs for the herein improvements which exceed federal reimbursement shall be the sole responsibility of the _____. The Commission shall not be responsible for any costs associated with these improvements unless specifically identified in this Agreement or subsequent amendments.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(12) PERMITS: The City shall secure any necessary approvals or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the contemplated improvements.

(13) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signal and marking in accordance with the *Manual of Uniform Traffic Control Devices* (MUTCD).

(14) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project DP-_____ will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work. In addition, any maintenance of work on the state's right of way may be identified through a future agreement.

(15) DISADVANTAGED BUSINESS ENTERPRISES: At time of processing the required project agreements with the Federal Highway Administration, the Commission will advise the City of any required goals for participation by disadvantaged business enterprises to be included in the City's proposal for the work to be performed. The City shall submit for Commission approval a disadvantaged business enterprise goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(16) NOTICE TO BIDDERS: The City shall notify the prospective bidders that disadvantaged business enterprises shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(17) PROGRESS PAYMENTS: Progress payments to the City for preliminary engineering and right of way are available upon the City's written request. In the event Project DP-_____ is not built or is built to standards not satisfactory to the Federal Highway Administration, the City agrees to repay the Commission for any progress payments made to the City for the respective project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(18) OUTDOOR ADVERTISING: The City further agrees that the right of way provided for any improvement will be held and maintained inviolate for public highway or street purposes, and will enact and enforce any ordinances or regulations necessary to prohibit the presence of billboards or other advertising signs or devices and the vending or sale of merchandise on such right of way, and will remove or cause to be removed from such right of way any sign, private installation of any nature, or any privately owned object or thing which may interfere with the free flow of traffic or impair the full use and safety of the highway or street.

(19) PROJECT AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the City, through the Commission, any monies due. The City shall refund any overpayments as determined by the final audit.

(20) OMB AUDIT: If the City expend(s) five hundred thousand ($500,000) or more in a year in federal finance assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to the Missouri Department of Transportation (MoDOT) within thirty (30) days of the issuance of the report. Subject to the requirements of OMB Circular A-133, if the City expend(s) less than five hundred thousands dollars ($500,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(21) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(22) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(23) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(24) COMMISSION REPRESENTATIVE: The Commission's chief engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(25) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

(A) To the City:

Phone No:
Facsimile No.

(B) To the Commission:

Phone No:
Facsimile No.:

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(26) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the City agrees as follows:

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, et seq.), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, et seq.). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The City shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The City shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the City is in the exclusive

possession of another who fails or refuses to furnish this information, the City shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the City fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the City complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

***DRAFTER'S NOTE**: Subparagraph (G) below is to refer back to the NONDISCRIMINATION ASSURANCE paragraph #.*

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (26) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(27) ACCESS TO RECORDS: The City and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the City receives reimbursement of their final invoice from the Commission.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this ___ day of _____, 20____.

Executed by the Commission this ___ day of _____, 20____.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

_____

Title _____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

_____

By _____

Title _____

ATTEST:

By _____

Title _____

Approved as to Form:

By _____

Title _____

Ordinance No:_____

EXHIBIT A - LOCATION

CCO Form: RM15-E
Approved: 03/00 (BDG)
Revised: 03/09 (MWH)
Modified:

CFDA Number:	CFDA #20.205
CFDA Title:	Highway Planning and Construction
Award name/number:	BRO/STP/CMAQ- (proj. no.)
Award Year:	(year monies funded)
Federal Agency:	Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
CONGESTION MITIGATION AND AIR QUALITY AGREEMENT
(Vehicle and Equipment Purchases)

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and _____(hereinafter, "_____").

WITNESSETH:

WHEREAS, 23 U.S.C. §149 authorizes the funding of projects providing for congestion mitigation and air quality (CMAQ); and

WHEREAS, the Commission is the agency designated to receive and dispense such funds; and

WHEREAS, the Commission has determined that **[Describe or Name Project]** is consistent with the goals of the CMAQ funding; and

WHEREAS,_____ has the resources to develop and provide such services.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The United States Congress has authorized, in 23 U.S.C. §149, funds to be used for activities for congestion mitigation and improvement of air quality. The purpose of this Agreement is to grant the use of such funds to **[Describe scope/project]**.

(2) SCOPE OF WORK: _____shall provide planning and implementation of an _____ in the _____ area as more fully described in the attached Appendix A which is incorporated herein by reference.

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency Manual. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) INDEMNIFICATION: The _____ shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the _____'s performance of its obligations under this Agreement.

***DRAFTER'S NOTE**: If requested by a city, county or other public entity, the phrase, "To the extent allowed by law" may be inserted at the beginning of the first sentence.*

(5) PROJECT EQUIPMENT: The purpose of this Agreement is to grant the use of such funds to assist the _____ in financing the project's expenses that are eligible for federal financial assistance. The following conditions are applicable to equipment financed under this Agreement:

(A) The _____ agrees to observe the property management standards set forth in 49 CFR sections 18.31, 18.32, and 18.33, or OMB Circular A-110, Attachment N, as appropriate, as now or hereafter amended, and any guidelines or regulations that the United States Government may issue. Any exceptions to these requirements must be specifically approved by the Commission. The Commission reserves the right to require the _____ to transfer title to any equipment financed with federal assistance made available by this Agreement as set forth in 49 CFR section 18.32 (g) or OMB Circular A-110, Attachment N as may be appropriate, as now or hereafter amended, and any guidelines or regulations that the United States Government may issue. The Commission also reserves the right to direct the disposition of equipment financed with federal assistance funds made available under this Agreement, as set forth in 49 CFR sections 18.31 and 18.32 or OMB Circular A-110, Attachment N as may be applicable, as now or hereafter amended, and any guidelines or regulations that the United States Government may issue.

(B) The _____ agrees to maintain the project equipment in good operating order, and in accordance with any guidance, directives, and or regulations that the FHWA may issue. If, during the period, any project real property not in service, whether by planned withdrawal, misuse or casualty loss, the _____ shall immediately notify the Commission. Unless otherwise approved by the Commission, the _____ shall remit to the Commission a proportional amount of the fair market, if any, of the equipment whose aggregate value exceeds $5,000 which value shall be

determined on the basis of the ratio of the federal assistance awarded by the Commission to the actual cost of the project. The following guidelines shall be followed in determining the fair market value. Unless otherwise approved in writing by the Commission, the fair market value of equipment will be the value of that property at the time immediately before the reason occurred that prompted the decision to withdraw that property from transit use. For example, in the event of loss of or damage to the property by casualty or fire, the fair market value of the property will be calculated immediately before the loss or damage, irrespective of the extent of insurance coverage. In the case of equipment, fair market value shall be based on straight line depreciation of the equipment, based on the industry standard for useful life, irrespective of the reason for withdrawal of that property from transit use.

(C) The _____ further agrees that the project equipment shall be used for the provision set forth in the Project Description. Should the _____ unreasonably delay in or refrain from using project equipment in the manner set forth in the Project Description, the Commission reserves the right to require the _____ to return the entire amount of the federal assistance expended on that equipment. The _____ shall keep satisfactory records with regard to the use of the equipment and submit to the Commission upon request such information as may be required to assure compliance with this section and shall immediately notify the _____ in all cases in which project real property are used in a manner substantially different from which is set forth in the Project Description. The Commission reserves the right to require the _____ to restore project equipment or pay for damage to project equipment as a result of abuse or misuse of such property with the _____'s knowledge and consent. Project closeout will not alter the _____'s property management obligations set forth at 49 CFR sections 18.31 and 18.32 or OMB Circular A-110, Attachment N, as applicable and as now or hereafter amended, and any guidelines or regulations that the United States Government may issue.

(6) <u>REIMBURSEMENT</u>: The cost of the contemplated improvements will be borne by the United States Government and by the _____ as follows:

***DRAFTER'S NOTE**: Choose only one of the (A) Options below and delete the Option not chosen. Option 1 and 2 may be further refined by the district to fit the situation. However, any revisions must be reviewed by CCO prior to execution.*

(A) (Option 1) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All costs incurred by _____ will be reimbursed up to the lump sum amount of $_____ not to exceed the legal pro rata share of _____ percent. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of _____. The Commission shall not be responsible for any costs associated with the herein

improvement unless specifically identified in this Agreement or subsequent written amendments.

(A) (Option 2) Any federal funds for project activities shall only be available for reimbursement of eligible costs that have been incurred by _____. Any costs incurred by _____ prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. A pro-rata share shall be established for each phase of a project, i.e. Preliminary Engineering, Right of Way, Utilities and Construction. All costs incurred by _____ will be reimbursed at the legal pro rata share established for each project phase. The legal pro rata share for federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to that project phase by the total participating costs for that phase. The legal pro rata share for the Construction Phase shall be established at concurrence in award and cannot be increased after concurrence in award. This project has a maximum of $_____ of federal funds available. The legal pro rata share cannot exceed eighty percent (80%). Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of _____. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(7) PROGRESS PAYMENTS: The _____ may request that progress payments be made during the construction of the herein improvements. The _____ shall submit to the Commission any invoice for progress payment no less than on a monthly basis. The _____ shall repay any progress payments with involve ineligible costs.

(8) ENCUMBRANCE OF PROJECT PROPERTY: The Commission will pass title to the _____ and will be a lien holder. The _____ may not execute any transfer of title, lease, lien, pledge, mortgage, encumbrance, contract, grant anticipation note, alienation, or other obligation that in any way affects the federal interest in any project equipment, nor may the _____ obligate itself, in any other manner, to any third party with respect to project equipment, unless such transfer of title, lease, lien, pledge, mortgage, encumbrance, contract, grant anticipation note, alienation, or other obligation is expressly authorized in writing by the Commission; nor may the Commission, by any act or omission, adversely affect the federal interest or impair the _____'s continuing control over the use of project equipment.

The _____ agrees that upon purchase with funds provided under this Agreement of any equipment for which a title certificate may be obtained or is required under the laws of Missouri that it will execute such documents as may be necessary to protect and secure a lien upon such equipment in favor of the Commission, if so requested by the Commission. Any and all fees required to be paid to secure and maintain said lien shall be paid by the _____.

(9) AUDITS, INSPECTION AND RETENTION OF RECORDS: The Commission and the United States Department of Transportation, or any of their representatives, shall have full access to and the right to examine, during normal business hours and as often as the Commission or the United States Department of Transportation deems necessary, all of the _____'s records with respect to all matters covered by this Agreement. Such representatives shall be permitted to audit under the guidelines of OMB Circulars A-133 "Audits of State and Local Governments" or examine and make excerpts or transcripts from such records and other matters covered by this contract. Such rights shall last for three years beyond the longer of the following periods: (a) the period during which any property acquired with funds provided pursuant to this Agreement is used for purposes for which the federal financial assistance is extended, or for another purpose involving the provisions of similar services or benefits: (b) the period during which the _____ retains ownership or possession of such property. All documents, papers, accounting records and other material pertaining to costs incurred in connection with the project shall be retained by the _____ for three years from the date of final payment to facilitate any audits or inspections.

(10) INSURANCE: The _____ shall maintain in amount and form satisfactory to the Commission such insurance as will be adequate to protect it in case of accident. If permitted by law, the _____ may maintain a self-insurance program in lieu of purchasing insurance coverage. The _____ shall verify compliance with this section by submitting a copy of its certificate of insurance, or if self-insured, a copy of its self-insurance plan.

(11) SECURITY: The _____ agrees that upon purchase with funds provided under this Agreement of any vehicle(s) for which a title certificate may be obtained or is required under the laws of Missouri that it will execute such documents as may be necessary to protect and secure a lien upon such equipment in favor of the Commission, is so requested by the Commission. Any and all fees required to be paid to secure and maintain said lien shall be paid by the _____.

(12) REPLACEMENT OF VEHICLE AND DISPOSITION GUIDELINES: The _____ is required to submit a written request for an inspection of the vehicle(s) or equipment they wish to dispose of, to be conducted by the Commission. This inspection will determine if the useful life of the vehicle(s) or equipment has been reached and before the Commission would consider replacement. Standards for vehicle useful life are listed below:

Cars and trucks	100,000 miles
Straight or modified vans	100,000 miles
Bus Body on Medium Duty Chassis	200,000 miles
City transit buses (30 ft or more)	350,000 miles

DISPOSITION PROCEDURE: If the Commission determines that the fair market value may be less than $5,000 the following state procedures

apply. A _____ may dispose of a vehicle in either of two ways:

(1) A vehicle may be sold outright to a third party through a variety of approved processes, including advertised sealed bids, auto auction or the average of three competent appraisals.

(2) A vehicle may be sold by the _____ to itself. In this case the implicit price to be paid by the recipient will be the average wholesale value of the vehicle as specified in the most recent National Automobile Dealers Association (NADA) Official Used Car Guide.

DIVISION OF DISPOSITION PROCEEDS: If a vehicle is sold outright to a third party, the _____ may retain 20% of the proceeds plus $125. The balance must be paid to the Commission within 10 working days.

(13) ASSIGNMENT OF CAPITAL EQUIPMENT: Appendix A lists the county or area where the capital equipment is assigned. If the _____ becomes financially unable to operate within the assigned county in the judgment of the Commission, the _____ will relinquish the titles of the items in Appendix A to the Commission. The Commission will assist the _____ in recovering 20% of the current fair market value although it is not obligated to do so and may take possession of vehicles without doing so. Capital equipment once assigned cannot be reassigned to another county unless the Commission concurs. The Commission will be the first lien holder on all capital equipment unless waived.

(14) ALCOHOL AND DRUG TESTING RULES: _____ agrees to comply with 49 CFR Parts 40 and 653 and all amendments thereto and any guidelines or regulations that the United States Government may issue.

(15) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the _____ and the Commission.

(16) COMMISSION REPRESENTATIVE: The Commission's **[Name Representative]** is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(17) NONDISCRIMINATION ASSURANCE: with regard to work under this Agreement, the _____ agrees as follows:

(A) Civil Rights Statutes: The _____ shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, *et*

seq.), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et seq.*). In addition, if the _____ is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The _____ shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The _____ shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors including procurement of materials and leases of equipment. The _____ shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the _____. These apply to all solicitations either by competitive bidding or negotiation made by the _____ for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the _____ of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The _____ shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the _____is in the exclusive possession of another who fails or refuses to furnish this information, the _____shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the _____ fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The _____ shall include provisions of paragraph (17) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission of r the United States Department of Transportation. The _____ will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the _____ may request the United States to enter into such litigation to protect the interests of the United States.

(18) DISADVANTAGED BUSINESS ENTERPRISES (DBE): It is the policy of the U.S. Department of Transportation and the Commission that businesses owned by socially and economically disadvantaged individuals (DBE's), as defined in 49 C.F.R. Part 26, have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds.

(19) ASSIGNMENT: The _____ shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(20) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The _____ shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(21) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(22) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations by providing the _____ with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the _____.

(23) BUDGET: The _____ shall incur obligations in connection with the performance of the period only in conformity with the latest budget approved by the Commission as specified in Appendix B - Project Budget. This budget may be revised as necessary, however no budget or revision shall be effective unless approved by the Commission's representative and FHWA.

(24) ELIGIBLE EXPENDITURES: No expenditure or charges shall be eligible for reimbursement that are:

(A) Contrary to the provisions of this Agreement; or
(B) Not required for the carrying out of the project.

(25) PERMITS: _____shall secure any necessary approvals or permits from any federal or state agency as required for the completion of this project.

(26) AUDIT OF RECORDS: The Commission will perform a final audit of project costs. The United States Government will pay through the Commission to any moneys due, and _____ will refund any overpayment, as determined by final audit of eligible costs incurred by _____.

(A) If the _____ expend(s) five hundred thousand ($500,000) or more in a year in federal finance assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to the Missouri Department of Transportation (MoDOT) within thirty (30) days of the issuance of the report. Subject to the requirements of OMB Circular A-133, if the _____ expend(s) less than five hundred thousand dollars ($500,000) a year, the _____ may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(27) FHWA APPROVAL: This Agreement is made and entered into subject to the approval of the Federal Highway Administration.

(28) SOLE BENEFICIARY: This Agreement is made for the sole benefit of the parties hereto and nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Commission and the _____.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by _____ this _____ day of _____, 20___.

Executed by the Commission this _____ day of _____, 20____.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

_____

Title_____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

_____

By_____

Title_____

ATTEST:

By_____

Title_____

Approved as to Form:

_____

Title_____

Ordinance No._____

*If the contracting party is a county with a commission form of government, additional lines need to be inserted to allow all three commissioners to sign the agreement.

Sect. 6 - Consultant Contracts

GENERAL

If the local agency is not adequately staffed to provide the necessary engineering, architectural, land surveying and related services (including utility negotiations), they may engage a consultant to provide those professional services. Under the Brooks Act 40 USC 1102, professional services means:

- professional services of an architectural or engineering nature, as defined by state law, if applicable, that are required to be performed or approved by a person licensed, registered, or certified to provide the services described in this paragraph;

- professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration or repair of real property; and

- other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals and other related services.

Federal law also recently expanded professional services stating "engineering and design related services are defined in 23 USC§112 (b)(2)(A) and 23 CFR §172.3 to include program management, construction management, feasibility studies, preliminary engineering, design engineering, surveying, mapping or other related services. These other services may include professional engineering related services, or incidental services that may be performed by a professional engineer, or individuals working under their direction, who may logically or justifiably perform these services."

The cost of the above mentioned professional services is eligible for federal participation provided that prior approval of the contracts by MoDOT is received. Federal participation in the cost of construction engineering is limited to 15% of the net federal participating construction costs for all contracts statewide, whether performed by consultant, in-house, or both. Construction engineering can be greater than 15% if requested by the local agency on a case-by-case basis prior to the award of the contract. Construction inspection services may be included in the same agreement with design services. Preliminary engineering charges are permitted through the construction contract award stage. Charges after the award of the construction contract are considered to be construction engineering and cannot be charged against the design portion of the agreement. Right-of-way acquisition services shall be handled under a separate

right-of-way services agreement. This contract/agreement will be submitted at the same time the Request for Obligation of Right-of-Way Funds (A-Date Request) is submitted.

Right-of-way project cost estimates, title work, right-of-way plan development, and legal description writing may be included in the same agreement with design services and are reimbursable as preliminary engineering expenses. All other right-of-way acquisition activities eligible for reimbursement cannot be incurred or invoiced for reimbursement until the A-Date has been approved and the LPA has been notified.

On federal-aid projects, right-of-way costs and incidental expenses are only reimbursable after MoDOT district staff reviews and approves the LPA personnel or the right-of-way acquisition contractor that will perform the right-of-way acquisition activities.

After execution by the local agency and consultant, three (3) copies of the contract are submitted to MoDOT for review and approval. The standardized contract format developed by MoDOT in Figure 6-1 is required.

In cases where the preliminary engineering or construction inspection costs in the contract exceed $250,000, MoDOT's External Civil Rights Division may establish a Disadvantaged Business Enterprise (DBE) goal for the contract. The sponsor will need the established DBE goal before a Request for Proposal (RFP) is sent out to prospective engineering consultants. The RFP must include the DBE Contract Provisions for Engineering Services Contracts (ESCs). The sponsor must first submit an estimate of anticipated activities that will take place during the design or inspection process. Examples include but are not limited to surveying, plan sheet development, design, geological studies, and borings. Estimated hours and rates for each activity are not required. In order to obtain MoDOT approval of the contract in these cases, the consultant must acquire the required DBE participation or supply sufficient evidence as to why the DBE goal was not met.

The local agency should include a letter stating the necessity for utilizing a consultant for the work. If the local agency proposes to engage a consultant it has not previously utilized for the particular type of work involved, the local agency should submit a brochure or other information that outlines the qualifications of the firm's employees and recent past experience in similar work. It is **not** permissible for a consultant to contract with both the local agency and the contractor on the same project.

If a local agency engages a consultant to conduct an environmental study, the consultant is required to fill out a disclosure statement specifying the consultant has no financial or other interest in the outcome of the project. Additionally, the local agency cannot engage the same consultant for the environmental document and the final design during one contract negotiation process. The same consultant may be used but the local agency must utilize its selection process for the later stages.

All consultants receiving individual awards for $100,000 or more and all sub recipients must certify that the organization and its principals are not suspended or debarred. Each local agency may, but is not required to, check the Nonprocurement List. Copies may be obtained by

purchasing a yearly subscription from the Superintendent of Documents, US Government Printing Office, Washington, DC 20402, or by calling the Government Printing Office Inquiry and Order Desk at (202) 783-3238. The electronic version can be accessed on the Internet at http://www.arnet.gov/epls. The user will be required to record their name and organization for purposes of the Computer Matching and Privacy Act of 1988.

All required independent assurance samples and tests will be performed by MoDOT, so this work should not be included in consultant contracts. However, required project tests are the local agency's responsibility. Should the local agency not have the required staff to administer these project tests, a consultant testing firm can be obtained and costs will be eligible for federal reimbursement.

SUBCONSULTANTS

Subconsultant cost exceeding $25,000

If the consultant is using a subconsultant with a cost exceeding $25,000, then the subconsultant shall include a detailed estimate of cost as shown on Fig. 6-1-11 and an overhead rate breakdown.

Subconsultant cost NOT exceeding $25,000

If the consultant is using a subconsultant with a cost that does not exceed $25,000, then a letter from the subconsultant shall be included that quotes the subconsultant's cost shown in Attachment A of the contract.

SOLICITATION AND SELECTION PROCEDURES

Local agencies must use a Qualification Based Selection (QBS) process for the procurement of engineering services, design-related services or other professional services on every project involving federal-aid highway funds. The Brooks Act and 23 CFR 172.3 must be followed if the local agency is seeking federal reimbursement for these services. The QBS process must include a public announcement, advertisement or other acceptable method that assures qualified in-state and out-of-state consultants are given a fair opportunity for consideration, which allows for a minimum two-week response time. It is recommended the local agency use the MoDOT Consultant Resources website to post the public announcement or advertisement (Figure 6-7, sample solicitation form). The solicitation form should be submitted to the appropriate MoDOT district representative. If the LPA wishes to use an alternative procedure to advertise and solicit qualifications for the RFQ, they must submit a written request with an advertising plan attached that complies with state and federal requirements. The advertisement plan must include advertisement of the availability in a major newspaper of general circulation. The RFQ notice must be advertised at least one time allowing a minimum 14 calendar days prior to the due date. The notice may be advertised multiple times if desired. The advertisement plan should also identify and send the solicitation to organizations qualified to do specified work as well as professional societies and recognized DBE organizations. The request must be approved by MODOT and FHWA prior to advertisement.

Local agencies must submit to MoDOT a description of procedures they use to evaluate and select consultants. Figure 6-2 lists criteria that should be considered when selecting a consultant. To avoid conflict of interest, the local agency may not use a consultant-engineering firm on retainer unless it satisfactorily documents the engineer or the firm was not involved in the solicitation and selection of the firm. These criteria must meet minimum federal requirements and be in compliance with Sections 8.285 to 8.291, RSMo (Figure 6-3).

The local agency may use the criteria specified in federal and state regulations or may develop its own written procedures provided a qualification-based selection procedure commensurate with state policy is used. Local agencies must prepare a written description of the scope of the proposed services. According to state law, the agency must list three highly qualified firms and then select the firm best qualified to perform the desired services. The agency may evaluate current statements of qualifications and performance data of firms on file or solicit statements from other firms interested in the project. It is not necessary for the agency to interview all the firms. Price shall not be used as a factor in the analysis and selection of a firm. Price quotations shall not be requested for consideration prior to selecting a firm. If a local agency cannot negotiate a reasonable price with the consultant selected, it can cease negotiations and select a different firm. The local agency must provide written documentation of the selection procedures used and the names of the three or more firms considered when a contract is submitted for approval. If the local agency chooses to cite the state statute, then the following wording can be used:

"We have considered the following three firms under procedures outlined in Missouri Law (RSMo Sections 8.285 to 8.291)."

Failure to follow the state and federal provisions outlined above could jeopardize federal funding.

SCOPE OF SERVICES

The local agency should determine the scope of services when issuing an invitation for consultants to submit proposals. The scope of services should be detailed and project specific. In addition to the customary information contained in a scope of services, it is suggested that the following items be included:

1. The proposed design parameters to be used on the project (MoDOT design guidelines are required for projects on MoDOT right of way);

2. When applicable, an investigation of Federal Emergency Management Agency's requirements;

3. Provision for 404 Permits, archaeological investigations, and other environmental matters as judged necessary; and

4. Degree of construction inspection services to be included in the engineering service contract, if any.

BASIS OF PAYMENT

The following methods may be used as the basis of payment in a contract:

1. Actual cost plus fixed fee and

2. Specific rates of pay (for emergency situations only).

The most common basis of payment is actual cost plus fixed fee. Federal regulations prohibit the use of cost plus a percentage of cost and percentage of construction cost methods of compensation.

It is often necessary for a consultant to subcontract work, such as surveying, core drilling, materials testing, cultural resource documentation, and environmental documentation. Subcontractors should be shown in the contract and costs passed through to the local agency at actual cost. Prompt payment of subcontractors is required and any retainage cannot be passed through to the subcontractors.

EVALUATIONS

Before a contract can be approved, it will be necessary to perform and document a technical evaluation to determine that the estimated man-hours are reasonable. In addition, an audit evaluation will need to be performed for some contracts to determine that cost aspects are reasonable and, in particular, that the cost estimate and overhead rates contain only items allowable under federal guidelines. Only those contracts that fall within the guidelines established for pre-negotiation audits by Audit and Investigations, MoDOT, will need to have such an audit evaluation.

CONTRACT SUBMITTAL

The contract format illustrated in Figure 6-1 is required. Following is a checklist of items that should be included in or submitted with the contract:

1. Local agency's statement regarding the necessity for utilizing a consultant for the work;

2. Procedures used to evaluate and select consultants and a listing of firms considered;

3. Qualifications and experience résumé for consultant, if consultant has not been previously utilized by the local agency,

4. A method for modifying the contract (extra work or modified work or any change in the contract fee requires the approval of a supplemental agreement by MoDOT and FHWA prior to performing the work or incurring the added cost) (Article II);

5. A statement that a local agency employee will be responsible for and in direct control of the construction contract even though a consultant may perform inspection work (Article III-E);

6. A time reference after which all work under the contract will be considered complete (Article IV);

7. A statement that specifies the basis for allowability of costs will be 23 CFR, Part 172 and 48 CFR, Part 31 (Article VI-F);

8. Give residual credit for specialized equipment purchased for the contract (Article VI-H);

9. The following covenant against contingent fees in the contract (Article VII):

   "The consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working for the consultant, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the local agency shall have the right to annul this contract without liability, or, in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee plus reasonable attorney's fees."

10. An agreement for the retention of records for a period of three years after the consultant receives payment of their final invoice from the local agency (Article X);

11. An agreement to allow MoDOT and FHWA and other authorized federal agencies to examine records pertaining to the project and costs (Article X);

12. Ownership of engineering documents by local agency (Article XI);

13. Procedure for settling disputes arising under the contract (Article XIII);

14. A nondiscrimination provision (Article XVII);

15. A cost breakdown as follows (Attachment A):

    a. man-hours by pay grade and general work function,

    b. basic rates of pay,

    c. Overhead rates, projected for the period of performance,

    d. Other direct costs (travel, subsistence, etc.),

    e. fixed fee (actual cost),

    f. subcontracts,

g. contract ceiling;

16. A breakdown of the consultant's overhead rates (Attachment B) (See Figure 6-6 for a listing of common unallowable items);

17. Debarment certifications as an attachment to the contract (samples are attached in the standardized contract) (Attachment C & D);

18. If desired, a stipulation by the local agency that a certain percentage, usually 5%, will be held as a retainage until the final invoice has been received;

19. When the project is on MoDOT right-of-way, the ESC shall indicate that the design must meet the requirements specified in MoDOT's Project Development manuals.

This checklist will help to insure that all necessary documentation related to the project is completed in a timely manner.

SUPPLEMENTAL AGREEMENTS

Changes to a contract should be made through a supplemental agreement. **No work is to be initiated until MoDOT has notified the local agency to proceed with the activities contained in the supplemental agreement.** If a fee is to be changed, approval is needed before the original ceiling is exceeded. The format may be by letter agreement, signed by both parties. It is desirable to include the original fee in the supplement as well as the revised fee. If the reasons in the supplement are not self-explanatory, additional justification should be included when submitting for approval. No changes in the fixed fee portion of a cost plus fixed fee contract will be approved in a supplemental agreement unless it is determined that the scope of work has changed significantly. Figure 6-4 contains a sample copy of a supplemental agreement.

1. Supplemental agreements to original engineering services contracts may need to be submitted to the External Civil Rights Unit to review for an appropriate DBE goal if the combined total of the original agreement and the supplemental(s) exceeds $250,000.00. If a DBE goal has already been set on the original contract, the supplemental agreement must still be reviewed to determine if the original DBE goal will apply, or if a new DBE goal should be established for the supplemental agreement.

CONSULTANT PERFORMANCE APPRAISAL

Local agencies with the assistance of MoDOT and the contractor are requested to complete the Consultant Performance Appraisal (Figure 6-5) after project completion. If any questions arise concerning the Consultant Performance Appraisal, the local agency should contact the MoDOT district representative for assistance.

SPONSOR: _____
CART ROAD NO./STREET: _____
PROJECT: _____

THIS CONTRACT is between (Organization Name) , Missouri, hereinafter referred to as the "Local Agency", and (name and address of consulting firm), hereinafter referred to as the "Engineer".

INASMUCH as funds have been made available by the Federal Highway Administration through its (Indicate Appropriate Federal Program), coordinated through the Missouri Department of Transportation, the Local Agency intends to (specify improvement)_____ and requires professional engineering services. The Engineer will provide the Local Agency with professional services hereinafter detailed for the planning, design and construction inspection of the desired improvements and the Local Agency will pay the Engineer as provided in this contract. It is mutually agreed as follows:

ARTICLE I - SCOPE OF SERVICES

A. **DESIGN PHASE** - The Engineer will:

1. determine the needs of the Local Agency for the project;

2. conduct topographic, property and utility surveys sufficient to develop plans for the project;

3. arrange for subsurface investigations if needed;

4. conduct hydraulic studies, prepare alternative designs and cost estimates, develop preliminary plans, and recommend to the Local Agency the best overall general design based on these studies;
5. submit four copies of preliminary plans, estimates and studies for review by the Local Agency and , Missouri Department of Transportation (MoDOT);

6. prepare detailed construction plans, cost estimates, specifications and related documents as necessary for the purpose of soliciting bids for constructing the project. Provision will be made in the contract documents for that portion of the work that will be performed by Local Agency's forces;

7. secure adequate property title information, determine right-of-way requirements, prepare right-of-way plans, and assist the Local Agency in acquiring the right-of-way deeds needed for the project;

8. ensure compliance with water quality requirements by coordinating with the Missouri Department of Natural Resources and the U.S. Army Corps of Engineers and also insure compliance with the requirements of the Federal Emergency Management Agency (FEMA);

9. ensure compliance with historic preservation requirements through coordination with the Missouri Department of Natural Resources, and if deemed necessary, arrange to have the site examined by a qualified archaeologist on a subcontract basis;

10. ensure compliance with all regulations in regards to noise abatement and air quality, if necessary; and

11. provide the Local Agency with five sets of completed plans, specifications and/cost estimates for the purpose of obtaining construction authorization from the Missouri Department of Transportation.

B. **BIDDING PHASE** - The Engineer will:

1. upon receipt of construction authorization from MoDOT, make final corrections resulting from reviews by agencies involved, and provide an adequate number of plans, specifications, and bid documents to the Local Agency;

2. provide the Local Agency with a list of qualified area bidders and assist Local Agency in advertising for bids; and

3. assist the Local Agency in evaluating bids and requesting concurrence in award from MoDOT;

C. **CONSTRUCTION PHASE** - The Engineer will serve as the Local Agency's representative for administering the terms of the construction contract between Local Agency and their Contractor. Engineer will endeavor to protect the Local Agency against defects and deficiencies in workmanship and materials in work by the Contractor. However, the furnishing of such project representation will not make Engineer responsible for the construction methods and procedures used by the Contractor or for the Contractor's failure to perform work in accordance with the contract documents. Engineer's services will include more specifically as follows:

1. assist the Local Agency with a preconstruction conference to discuss project details with the Contractor;

2. make periodic site visits to observe the Contractor's progress and quality of work, and to determine if the work conforms to the contract documents. It is contemplated that survey staking and layout will be accomplished by the contractor's forces. The Engineer will accompany MoDOT and FHWA representatives on visits of the project site as requested;

3. check shop drawings and review schedules and drawings submitted by the Contractor;

4. reject work not conforming to the project documents;

5. Prepare change orders for issuance by the Local Agency as necessary and assure that proper approvals are made prior to work being performed;

6. review wage rates, postings, equal employment opportunity and other related items called for in the contract documents;

7. inspect materials, review material certifications furnished by Contractor, sample concrete and other materials as required, and arrange for laboratory testing of samples by others on a subcontract basis. Independent assurance samples and tests will be performed by MoDOT personnel and such sampling and testing is excluded from the work to be performed by the Engineer under this contract;

8. maintain progress diary and other project records, measure and document quantities, and prepare monthly estimates for payments due the Contractor;

9. be present during critical construction operations, including but not limited to the following:
    a. structure layout;
    b. excavation and backfilling;
    c. driving of piles;
    d. checking of reinforcing steel prior to concrete placement;
    e. concrete batching and pouring;
    f. placement of girders; and
    g. placement of surfacing materials; and

10. participate in final inspection, provide the Local Agency with project documentation (diaries, test results, certifications, etc.), and provide as-built plans for the Local Agency's records.

ARTICLE II-ADDITIONAL SERVICES

The Local Agency reserves the right to request additional work, and changed or unforeseen conditions may require changes and work beyond the scope of this contract. In this event, a supplement to this agreement shall be executed and submitted for the approval of MoDOT prior to performing the additional or changed work or incurring any additional cost thereof. Any change in compensation will be covered in the supplement.

ARTICLE III - RESPONSIBILITIES OF LOCAL AGENCY

The Local Agency will cooperate fully with the Engineer in the development of the project, including the following:

A. make available all information pertaining to the project which may be in the possession of the Local Agency;

B. provide the Engineer with the Local Agency's requirements for the project;

C. make provisions for the Engineer to enter upon property at the project site for the performance of his duties;

D. examine all studies and layouts developed by the Engineer, obtain reviews by MoDOT, and render decisions thereon in a prompt manner so as not to delay the Engineer;

E. designate a Local Agency's employee to act as Local Agency's representative under this contract, such person shall have authority to transmit instructions, interpret the Local Agency's policies and render decisions with respect to matters covered by this agreement;

F. perform appraisals and appraisal review, negotiate with property owners and otherwise provide all services in connection with acquiring all right-of-way needed to construct this project.

ARTICLE IV - PERIOD OF SERVICE

The Engineer will commence work within two weeks after receiving notice to proceed from the Local Agency. The general phases of work will be completed in accordance with the following schedule:

A. Preliminary Design Phase - Within _____ calendar days after receipt of notice to proceed;

B. Final Design Phase - With _____ calendar days after completion of review of preliminary plans by Local Agency and MoDOT; and

C. Construction Phase - As desired by the Local Agency and on a schedule so as not to delay the Contractor. All services under this contract will be completed 30 days after final acceptance of construction work.

The above times are exclusive of review time by other agencies and exclusive of time needed to acquire right-of-way. The Local Agency will grant time extensions for unavoidable delays beyond the control of the Engineer. Requests for extensions of time should be requested in writing by the Engineer, stating fully the reasons for the request.

ARTICLE V - STANDARDS

The Engineer shall be responsible for working with the Local Agency in determining the appropriate design parameters and construction specifications for the project using good engineering judgment based on the specific site conditions, Local Agency needs, and guidance provided in the most current version of Section VIII of the Local Public Agency Manual. If the project is on MoDOT Right of Way, then the latest version of PDM and Missouri Standard Specifications for Highway Construction shall be used.

ARTICLE VI - COMPENSATION

For services provided under this contract, the Local Agency will compensate the Engineer as follows:

A. For design services, including work through the construction contract award stage, the Local Agency will pay the Engineer the actual costs incurred plus a predetermined fixed fee of $_____, with a ceiling established for said design services in the amount of $ _____, which amount shall not be exceeded.

B. For construction inspection services, the Local Agency will pay the Engineer the actual costs incurred plus a predetermined fixed fee of $_____, with a ceiling established for said inspection services in the amount of $_____, which amount shall not be exceeded.

C. The compensation outlined above has been derived from estimates of cost which are detailed in Attachment A. Any major changes in work, extra work, exceeding of the contract ceiling, or change in the predetermined fixed fee will require a supplement to this contract, as covered in Article II - ADDITIONAL SERVICES.

D. Actual costs in Sections A and B above are defined as:

1. Actual payroll salaries paid to employees for time that they are productively engaged in work covered by this contract, plus

2. An amount estimated at ____% of actual salaries in Item 1 above for payroll additives, including payroll taxes, holiday and vacation pay, sick leave pay, insurance benefits, retirement and incentive pay, plus

3. An amount estimated at ____% of actual salaries in Item 1 above for general administrative overhead, based on the Engineer's system for allocating indirect costs in accordance with sound accounting principles and business practice, plus

4. Other costs directly attributable to the project but not included in the above overhead, such as vehicle mileage, meals and lodging, printing, surveying expendables, and computer time, plus

5. Project costs incurred by others on a subcontract basis, said costs to be passed through the Engineer on the basis of reasonable and actual cost as invoiced by the subcontractors.

E. The rates shown for additives and overhead in Sections VI. D.2 and VI. D.3 above are approximate and will be used for interim billing purposes. Final payment will be based on the actual rates experienced during the period of performance, as indicated by the Engineer's accounting records, and as determined by final audit of the Engineer's records by MoDOT.

Fig. 6 - 1 - 5

F. The payment of costs under this contract will be limited to costs which are allowable under 23 CFR 172 and 48 CFR 31.

G. **METHOD OF PAYMENT** - Partial payments for work satisfactorily completed will be made to the Engineer upon receipt of itemized invoices by the Local Agency. Invoices will be submitted no more frequently than one invoice per month. A pro-rated portion of the fixed fee will be paid with each invoice.

H. **PROPERTY ACCOUNTABILITY** - If it becomes necessary to acquire any specialized equipment for the performance of this contract, appropriate credit will be given for any residual value of said equipment after completion of usage of the equipment.

ARTICLE VII - COVENANT AGAINST CONTINGENT FEES

The Engineer warrants that he has not employed or retained any company or person, other than a bona fide employee working for the Engineer, to solicit or secure this agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the Local Agency shall have the right to annul this agreement without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, plus reasonable attorney's fees.

ARTICLE VIII - SUBLETTING, ASSIGNMENT OR TRANSFER

No portion of the work covered by this contract, except as provided herein, shall be sublet or transferred without the written consent of the Local Agency. The subletting of the work shall in no way relieve the Engineer of his primary responsibility for the quality and performance of the work. It is the intention of the Engineer to engage subcontractors for the purposes of: (list services, such as surveying, foundation borings and tests, abstracts of title, archaeological studies, material testing).

ARTICLE IX - PROFESSIONAL ENDORSEMENT

All plans, specifications and other documents shall be endorsed by the Engineer and shall reflect the name and seal of the Professional Engineer endorsing the work. By signing and sealing the PS&E submittals the Engineer of Record will be representing to MoDOT that the design is meeting the intent of the federal aid programs.

ARTICLE X - RETENTION OF RECORDS

The Engineer shall maintain all records, survey notes, design documents, cost and accounting records, construction records and other records pertaining to this contract and to the project covered by this contract, for a period of not less than three years following final payment by FHWA. Said records shall be made available for inspection by authorized representatives of the Local Agency, MoDOT or the federal government during regular working hours at the Engineer's place of business.

ARTICLE XI - OWNERSHIP OF DOCUMENTS

Plans, tracings, maps and specifications prepared under this contract shall be delivered to and become the property of the Local Agency upon termination or completion of work. Basic survey notes, design computations and other data prepared under this contract shall be made available to the Local Agency upon request. All such information produced under this contract shall be available for use by the Local Agency without restriction or limitation on its use. If the Local Agency incorporates any portion of the work into a project other than that for which it was performed, the Local Agency shall save the Engineer harmless from any claims and liabilities resulting from such use.

ARTICLE XII - TERMINATION

The Local Agency may terminate the contract at any time by giving written notice. If the contract is terminated because the project is abandoned or postponed by the Local Agency, the Engineer will be paid for actual expenses incurred up to the date of termination, plus a pro-rated portion of the fixed fee.

If the contract is terminated due to the Engineer's services being unsatisfactory in the judgment of the Local Agency, or if the Engineer fails to prosecute the work with due diligence, the Local Agency may procure completion of the work in such manner as it deems to be in the best interest of the Local Agency. The Engineer will be responsible for any excess cost in addition to that provided for in this contract or any damages the Local Agency may sustain by reason of the termination of this contract due to unsatisfactory performances or prosecution.

ARTICLE XIII - DECISIONS UNDER THIS CONTRACT

The Local Agency will determine the acceptability of work performed under this contract, and will decide all questions which may arise concerning the project. The Local Agency's decision shall be final and conclusive.

ARTICLE XIV - SUCCESSORS AND ASSIGNS

The Local Agency and the Engineer agree that this contract and all contracts entered into under the provisions of this contract shall be binding upon the parties hereto and their successors and assigns.

ARTICLE XV - COMPLIANCE WITH LAWS

The Engineer shall comply with all federal, state, and local laws, ordinances, and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964 and non-discrimination clauses incorporated herein, and shall procure all licenses and permits necessary for the fulfillment of obligations under this contract.

ARTICLE XVI - RESPONSIBILITY FOR CLAIMS AND LIABILITY

The Engineer agrees to save harmless the Local Agency, MoDOT and FHWA from all claims and liability due to his negligent acts or the negligent acts of his employees, agents or subcontractors.

ARTICLE XVII - NONDISCRIMINATION

The Engineer, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color or national origin in the selection and retention of subcontractors. The Engineer will comply with Title VI of the Civil Rights Act of 1964, as amended. More specifically, the Engineer will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, as contained in 49 CFR 21 through Appendix H and 23 CFR 710.405 which are herein incorporated by reference and made a part of this contract. In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Engineer's obligations under this contract and the regulations relative to non-discrimination on the ground of color, race or national origin.

ARTICLE XIX - ATTACHMENTS

The following exhibits are attached hereto and are hereby made part of this contract:

Attachment A - Estimate of Cost

Attachment B - Breakdown of Overhead Rates

Attachment C - Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions.

Attachment D - Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Lower Tier Covered Transactions.

Executed by the Engineer this _____ day of _____, 19__.

Executed by the County/City this __ day of _____, 19__.

FOR: _____ **COUNTY/CITY, MISSOURI**
County Commission

BY: _____
Presiding Commissioner

ATTEST: _____
County Clerk

FOR: _____**, INC.**

BY: _____
Title

ATTEST: _____

I hereby certify under Section 50.660 RSMo there is either: (1) a balance of funds, otherwise unencumbered, to the credit of the appropriation to which the obligation contained herein is chargeable, and a cash balance otherwise unencumbered, in the Treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation contained herein; or (2) bonds or taxes have been authorized by vote of the people and there is a sufficient unencumbered amount of the bonds yet to be sold or of the taxes levied and yet to be collected to meet the obligation in case there is not a sufficient unencumbered cash balance in the treasury.

_____
COUNTY ACCOUNTING OFFICER
COUNTY AUDITOR - 1st and 2nd Class Counties
COUNTY CLERK - 3rd and 4th Class Counties

Fig. 6 - 1 - 9

ATTACHMENT A

ESTIMATE OF COST

DESIGN PHASE	Hours	Rate (Salary Only)	Cost
Surveying			
Registered Land Surveyor	_____	_____	_____
Rodman	_____	_____	_____
Preliminary Design			
Partner	_____	_____	_____
Engineer	_____	_____	_____
Technician	_____	_____	_____
Final Design			
Partner	_____	_____	_____
Engineer	_____	_____	_____
Technician	_____	_____	_____
Typist	_____	_____	_____
SUBTOTAL	_____	_____	_____
Payroll Overhead (Est. at ____% X SUBTOTAL))			_____
General and Admin. Overhead (Est. at ____% X SUBTOTAL))			_____
TOTAL LABOR & OVERHEAD			_____
Fixed Fee(Percent X TOTAL LABOR & OVERHEAD)			_____
TOTAL LABOR, OVERHEAD & FIXED FEE			_____
Other Direct Costs			
Travel, ___ trips @ _____ miles X _____IRS Rate			_____
Per Diem (cannot exceed maximum per diem rates per Federal Travel Regulations)			_____
Computer Time			_____
Printing			_____
Subcontract Pass-Through Costs			
Surveying	_____	_____	_____
Borings	_____	_____	_____
Archaeological Study	_____	_____	_____
SUBTOTAL DIRECT COSTS	_____	_____	_____
TOTAL FOR DESIGN PHASE			_____

Fig. 6 - 1 - 10

CONSTRUCTION PHASE

	Hours	Rate (Salary Only)	Cost
Engineer Inspector	_____	_____	_____
SUBTOTAL			_____
Payroll Overhead (Est. at ____% X SUBTOTAL))			_____
General and Admin. Overhead (Est. at ____% X SUBTOTAL))			_____
TOTAL LABOR & OVERHEAD			_____
Fixed Fee (Percent X TOTAL LABOR & OVERHEAD)			_____
TOTAL LABOR, OVERHEAD AND FIXED FEE			_____
Other Direct Costs			
Travel, ___ trips @ _____ miles X _____IRS Rate			_____
Per Diem (cannot exceed the maximum per diem rates in effect at the time of Travel as set forth in the Federal Travel Regulations)			_____
Lab Testing Fees	_____	_____	_____
SUBTOTAL DIRECT COSTS			_____
TOTAL FOR CONSTRUCTION PHASE			_____

Fig. 6 - 1 - 11

ATTACHMENT B

OVERHEAD RATE BREAKDOWN
FOR YEAR 20____

DIRECT LABOR BASE	$_____	
PAYROLL ADDITIVES (list individual components)		% DIRECT LABOR
BASE		
	$_____	_____%
	$_____	_____%
	$_____	_____%
	$_____	_____%
Total Payroll Additives	$_____	_____%
GENERAL AND ADMINISTRATIVE OVERHEAD (list individual components)		
	$_____	_____%
	$_____	_____%
	$_____	_____%
Total General and Administrative Overhead	$_____	_____%
TOTAL OVERHEAD	$_____	_____%
Less Unallowable Items	$_____	_____%
TOTAL ALLOWABLE OVERHEAD		_____%

*** Overhead percentages should be taken out to 2 decimal places**

Fig. 6 - 1 - 12

ATTACHMENT C

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction" provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to check the Nonprocurement List (Tel. #).

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters -Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

   a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

   b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

   c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Fig. 6 - 1 - 15

ATTACHMENT D

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION--LOWER TIER COVERED TRANSACTIONS

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Tel. #).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Fig. 6 - 1 - 17

CONSULTANT SELECTION CRITERIA
23 CFR 172 IMPLEMENTATION PROCEDURES

The following guidance establishes procedures for the administration of negotiated contracts to insure the consultant has management, fiscal and technical capabilities to render satisfactory service to the local agency.

The local agency must consider at least three highly qualified firms based on:

1. The Consultant's present staff of personnel and their qualifications.
   a. The brochures of the firm indicate in detail the education and experience of the members of the firm and their key personnel. If necessary, personal interviews with firm members will be held.
   b. Personal knowledge of the past performance of firm members will be a factor.

2. The Consultant's experience record.
   a. Experience in the type of design, or other professional services, required under the proposed contract--such as rural, urban, bridge, planning, etc., and the complexity of the design.
   b. The adequacy of the consultant's instant staffing, together with available additional staffing for the proposed design--relative to the present design load or other professional service.
   c. The experience of the consultant's staff in related highway work such as work with the electronic computer, traffic analysis, soil analysis, structural design, hydraulics, signalization, street lighting, etc., will be considered.

3. The local agency's past experience in engaging the consultant for other design work or engineering services.
   a. A consultant will be considered qualified if past work indicates both a professional approach and professional results.

4. A company cannot be rejected solely on the basis of where its office is located; however, location can be a consideration.

5. The financial status of a consultant will be considered sound and adequate unless there is evidence to the contrary.

6. The consultant will have properly trained and experienced personnel available to perform the services within the time prescribed.

Fig. 6-2-1

MISSOURI REVISED STATUTES

Chapter 8 State Buildings and Lands
Section 8.291

Negotiation for contract--not applicable for certain political subdivisions.

1. The agency shall list three highly qualified firms. The agency shall then select the firm considered best qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.

2. For a basis for negotiations the agency shall prepare a written description of the scope of the proposed services.

3. If the agency is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. The agency shall then undertake negotiations with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with such firm shall be terminated. The agency shall then undertake negotiations with the third qualified firm.

4. If the agency is unable to negotiate a contract with any of the selected firms, the agency shall reevaluate the necessary architectural, engineering or land surveying services, including the scope and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with the provisions of sections 8.285 to 8.291.

5. The provisions of sections 8.285 to 8.291 shall not apply to any political subdivision which adopts a formal qualification-based selection procedure commensurate with state policy for the procurement of architectural, engineering and land surveying services.

(L. 2007 S.B. 322)

SUPPLEMENTAL AGREEMENT NO. X
TO
ENGINEERING SERVICES CONTRACT

This Supplemental Agreement is made part of an agreement dated between the City/County of and for design and construction inspection of project BRO/STP-xxxx(xxx). The purpose of this Supplemental Agreement is to (state detailed reason for supplemental agreement). These additional services shall be in an amount not to exceed (dollar amount spelled out) ($X,XXX.XX) without further authorization. The total (either design or construction phase) services shall be in an amount not to exceed (dollar amount spelled out) ($XX,XXX.XX). Attachment A outlines the cost breakdown for this Supplemental Agreement.

Supplement Agreement No. X accepted as defined herein:

OWNER: _____ ENGINEER: _____

BY: _____ BY: _____

TITLE: _____ TITLE: _____

DATE: _____ DATE: _____

ATTEST:

BY: _____ BY: _____

TITLE: _____ TITLE: _____

DATE: _____ DATE: _____

Executed by the City/County on the____ day of _____, 20_.

Fig. 6 - 4 - 1

ATTACHMENT A
SUPPLEMENTAL AGREEMENT NO. X
(DATE)

(CONSTRUCTION/DESIGN) Phase Services (Additional):

	Hours	Rate	Cost
Engineer	X	X	X
Clerical	X	X	X
Subtotal			XXXX.XX
Payroll Overhead (est. at XX.XX%)			XXXX.XX
General and Administrative Overhead (est. at XX.XX%)			XXXX.XX
Other Direct Costs			
Mileage, etc			XXXX.XX
Subtotal			XXXX.XX
Fixed Fee (available only for significant supplemental agreements)			XXXX.XX
Total Supplemental Agreement No. X			XXXX.XX

Summary (Construction or Design Phase):

Original Agreement	XXXX.XX
Supplemental Agreement	XXXX.XX
Total	XXXX.XX

Fig. 6 - 4 - 2

Date of Evaluation _____
Route _____ County _____
Project _____
Consultant Name _____
Address _____
_____

CONSULTANT PERFORMANCE APPRAISAL

1. *What type of work did the consultant perform?*

   Environment Documents _____; Reconnaissance Study _____;
   Bridge Design _____; Roadway Design _____;
   Right of Way Appraisal ____; Construction Inspection _____;
   Other _____.

2. *Was the work completed on schedule?*

   YES _____; NO _____

   (Scheduled Completion Date _____; Actual Completion Date _____)

3. *Were delays the result of consultant's activities?*

   YES _____; NO _____

4. *Cost of Work?*

   Initial fee $_____; Amendments $_____; Total Cost $_____

5. *Was the work completed for the agreed to compensation?*

   YES _____; NO _____

6. *Were cost increases reasonable? YES* _____ *NO* _____

7. *Were they a result of the consultant's actions?*

   YES _____ NO _____

8. *Were quantities correct?*

   Mostly Correct _____; Some Errors _____; Many Errors _____

Fig. 6 - 5 - 1

9. *Did the work contain few _____, several _____, many _____ or serious _____ errors?*

10. *Was the work easy to read?* YES _____ NO _____

11. *Was the consultant cooperative with others in doing their work?*

    YES _____ NO _____

12. *Would you rate the quality of this consultant's work better _____, about the same _____ of lesser quality _____ when compared to work produced by other consultants?*

13. *Would you rate the quality of this consultant's work better _____, about the same _____ of lesser quality _____ when compared to state work.*

14. *Did the consultant understand and follow proper procedures and standards?*

    YES _____ NO _____

15. *Did the consultant need a lot _____, normal _____ or little guidance and supervision during their work?*

16. *Did department staff spend a lot _____, average _____, or a little _____ amount of time explaining and interpreting items for the consultant?*

17. *Did this project require few _____, several _____, or many _____ change orders during construction?*

18. *Consultant Evaluation Score _____.*
    (Begin with 100 points; minus 3 points for each average or normal response, minus 6 points for each negative response)

Fig. 6 - 5 - 2

COMMON UNALLOWABLE COSTS

Information related to the allowability of various types of costs can be found in the Code of Federal Regulations, 48 CFR Chapter 1, Part 31, Contract Cost Principles and Procedures. All consulting services contracts with the Department are governed by these regulations which are commonly referred to as the FARs. Listed below are some commonly encountered unallowable costs. This list should not be construed as all inclusive and we recommend the consultant refer to the FARs for any particular cost which appears to be questionable.

Common Unallowable Costs

31.201-6(c)	Expenses with no supporting documentation
31.205-1	Public relations and advertising costs
31.205-3	Bad debts
31.205-6(f)	Compensation in the form of bonuses or incentive awards based on production, cost reduction, or efficient performance is an allowable cost [48 CFR 31.205-6(f)] in determining an indirect cost rate for a consultant. Individual states vary on the treatment of bonus awards made to officers or stockholders of the company. Since the award might be considered a distribution of profit, MoDOT considers it reasonable to allow bonus amounts for partners, stockholders, and/or officers equal to the bonus of the most highly compensated employee. For example, if the highest bonus paid to an employee was $10,000 and the president-owner of the company received $50,000, then only $10,000 would be considered allowable in determining the indirect cost rate. SOURCE: Local Public Agency Manual, Chapter 6.
31.205-8	Donations
31.205-11	Depreciation in excess of amounts claimed on federal tax returns
31.205-13	Gifts for employees, flowers
31.205-14	Entertainment costs, Christmas parties, gifts for customers
31.205-15	Fines, penalties and mischarging costs
31.205-19	Key man life insurance premiums
31.205-20	Interest expense
31.205-22	Lobbying and political activity costs
31.205-36(b)(3)	Related party profit portion on rent -- See also MoDOT policy on common control. If a firm incurs rental costs through the rental of a facility from a related party (i.e., an owner, principal, stockholder, or anyone related by blood or marriage to an owner, principal or stockholder) then the charges allowed for rent cannot exceed the normal costs of ownership, such as depreciation, taxes, insurance, facilities capital cost of money and maintenance.
31.205-41	Federal income and excess profits taxes and tax preparation
31.205-51	Alcoholic beverages

Fig. 6 - 6

Date

Dear Consultant:

The *local agency name* is requesting the services of a consulting engineering firm to perform the described professional services for the project included on the attached list.If your firm would like to be considered for these consulting services, you may express your interest by responding to the appropriate office, which is indicated on the attachments. Limit your letter of interest to no more than _____ pages. This letter should include a statement to indicate why your firm is interested in the project. It should also include any other information which might help us in the selection process, such as the persons or team you would assign to each project, the backgrounds of those individuals, and other projects your company has recently completed or are now active.

DBE firms must be certified by the Missouri Department of Transportation in order to be counted as participation towards an established DBE Goal. We encourage DBE firms to submit letters of interest as prime consultants for any projects they feel can be managed by their firm.

We request all letters be received by _____ pm, (*mm/dd/yyyy*) at the appropriate office.

Sincerely,

Local contact name
Title

Attachment

Fig. 6-7

City/County__, Route __	
Federal Aid No:	
Location:	
Proposed Improvement:	
Length:	
Approximate Construction Cost:	*optional information*
Consultant Services Required:	*Example:* *Roadway: preliminary plans, right of way plans.* *Bridge: hydraulic analysis, scour studies, field surveys, and preliminary design of the new Missouri River bridge.* *The geotechnical investigation*
Other Comments:	
Contact:	*Name* *Address* *Phone* *E-mail*
Deadline:	*Time, date*

Fig. 6-7

Sect. 7 - Right of Way and Public Hearings

RIGHT OF WAY

Federal requirements concerning right of way are quite extensive. Detailed procedures are contained in MoDOT's Engineering Policy Guide (EPG) under Category: 236 Right of Way, 236.18 Local Public Agency Land Acquisition, accessible on-line at http://epg.modot.org/index.php?title=236.18 Local Public Agency Land Acquisition. Project sponsors without Internet access should contact the MoDOT district right of way office for assistance.

Local agencies should adhere strictly to these procedures because receipt of federal construction funds is contingent upon compliance with the right-of-way requirements, whether or not federal participation is sought in the cost of right of way. If the realty rights were acquired more than five (5) years prior to the first request for federal funds, the local agency shall submit a statement certifying that no new realty rights are needed and the dates the existing realty rights were acquired. If the realty rights were acquired less than five (5) years prior to the first request for federal funds, the acquisition must have occurred within the parameters of the Uniform Act in order for any portion of the project to receive federal funds. Local agencies may not proceed with the development of right-of-way plans until they have received preliminary plan approval from MoDOT. Right-of-way acquisition may not begin until all applicable environmental clearances have been approved (see Section 4 for details). The project agreement between the agency and MoDOT must be fully executed prior to right-of-way acquisition (see Section 5 for details). MoDOT must approve the request to begin right-of-way acquisition (see http://epg.modot.org/index.php?title=236.18 Local Public Agency Land Acquisition).

Additional information accessible through the EPG at 236.10 Right Of Way Condemnation relates directly to public hearing requirements and the proper notification of potentially affected property owners, specifically 236.10.7.3 Alternative Locations (RSMo 523.265) and 236.10.7.4 Written Notice (RSMo 523.250). Pursuant to Section 523.265, RSMo, effective August 28, 2007, property owners must be informed they have the right to propose an alternative location for planned right-of-way acquisition. Prior to the official design public hearing, property owners who will be impacted or potentially impacted by a need for right of way and/or other realty rights must be sent a certified letter notifying them of the hearing date, time and location, and inviting their attendance. This letter is to be sent twenty-one calendar days in advance of the hearing date. In the event that a public hearing is not required for the project, at such time as it is determined no hearing will be held (see Advertisement for the Opportunity for Public Hearings), a certified letter will be sent to those property owners from whom realty rights will need to be acquired.

PUBLIC HEARINGS

Public hearings are forums for receiving citizen comments. They are used to furnish the public with general information and to allow the public to express their opinions relating to the proposed improvements. Information related to the impacts of a proposed action can also be gathered. One or more public hearings or opportunity for hearing(s) are required by the National

Environmental Policy Act (NEPA) and FHWA regulation 23 CFR Part 771. The Missouri Highway and Transportation Commission requires location and design public hearings. Public hearings must be held for all projects that meet the following:

1. Require the acquisition of significant additional right of way (Narrow strips of right-of-way frontage or easements will ordinarily not be considered significant); or

2. Would have a significant adverse effect upon abutting real property; or

3. Would substantially change the geometry or function of connecting roads or streets; or

4. Have a significant social, economic, environmental, or other effect; or

5. Require the construction of a new low-water crossing.

Public hearings must be advertised and structured to ensure opportunities for minority, low-income, and disadvantaged populations to participate. Additional effort may be required by the local agency to identify and contact these populations. Minority and disadvantaged populations are those defined by Title VI and Environmental Justice guidance. Low-income populations are those defined by the census category. These efforts, beyond advertisements in newspapers and media announcements, should be documented for inclusion in environmental documents and for department-wide Title VI and environmental justice compliance.

LOCATION PUBLIC HEARINGS

A location public hearing is generally held for all projects requiring an EIS (Environmental Impact Statement) and is encouraged for most EAs (Environmental Assessment). Projects with an environmental classification of CE (Categorical Exclusion) may require a location public hearing if conditions are similar to those described for design public hearings. It may be acceptable to hold a combined location and design public hearing for CE projects. It should be noted that FHWA can reclassify CE2 projects as either EA or CE; such reclassification will occur before the time of any expected location public hearing. If a CE2 is reclassified as an EA, a location public hearing may be required after FHWA approves the draft EA. A location public hearing may also be required when a CE2 is classified as a CE.

After the draft environmental documentation is approved by FHWA, MoDOT will notify the local agency that a location public hearing may be held. While tentative arrangements may be made for the location public hearing prior to the document being signed, it is not advisable to make the arrangements or advertise for the hearing until AFTER the signature is received. In the case of an EIS project, once the draft EIS is signed a notice of availability (NOA) must be published prior to advertising for the location public hearing. This is done by the EPA once it receives the approved draft EIS in Washington D.C. For a project with an environmental classification of CE, a location public hearing may be held after the conceptual plan is approved.

A location public hearing is held to provide effective participation by interested persons in discussing specific location features, including the social, economic, environmental, and other

effects of all the reasonable project alternatives. These hearings afford the local agency an opportunity to receive information from local sources that will be of value in choosing a preferred location. The hearings are not intended to determine location by a majority vote of those persons present.

The extent of public involvement needed for projects that may involve Section 4(f) and Section 6(f) lands can vary, depending on the nature of the encroachment. Section 4(f) documents at the programmatic or inapplicability level require minimal public involvement, while projects with greater impact will require more extensive public input. The local agency must coordinate with MoDOT on all projects that involve Section 4(f) and Section 6(f) lands to determine whether a location public hearing is advisable. In all cases, the appropriate agency(ies) must be notified, with the notification issued at the same time as the request for newspaper publication of the notice of public hearing.

When known, the project's impacts on historic properties must be identified or discussed at public hearings. Documentation of public input or knowledge regarding these impacts is required. Some information, such as the location of archaeological sites, is considered confidential and is not for public release. This protects the site from looting and the landowner from trespassers. Archaeological site locations are not included in displays for public meetings and public hearings or otherwise disclosed to the general public. It is strongly recommended that inquiries regarding archaeological site locations be forwarded to the manager of the environmental study so that this information can be provided to the project cultural resources representative.

The local agency must advise all railroads by sending a notice to the railroads' chief engineers when the improvement is within an urban area or affects railroad yards or industrial properties belonging to the railroad. Preliminary layouts through yards or industrial areas should be discussed with the railroads to ensure their current plans are not in conflict with the layouts.

DESIGN PUBLIC HEARINGS

A design public hearing, or opportunity afforded for such hearing, is required for <u>all</u> projects, regardless of environmental classification, that are on a new location; require substantial amounts of new right of way; substantially change the layout or functions of connecting roadways or of the facility being improved; have a substantial adverse impact on abutting property or otherwise have a substantial social, economic, environmental, or other effect; or for which FHWA determines that a public hearing is in the public interest. Substantial amounts of right of way and substantial adverse impact on abutting property as used here are defined as total additional right of way and permanent easements greater than 8 hectares (20 acres) in rural areas or 18,500 square meters (200,000 square feet) in urban areas or acquisitions from five or more properties. The project sponsor must coordinate with MoDOT on all projects that involve Section 4(f) and Section 6(f) lands to determine whether a design public hearing is advisable. A design public hearing is held for any job requiring a road closure for all or a portion of the construction period. The criteria established in this section should be considered the <u>minimum</u> level for which a public hearing is required. Authority to conduct the design public hearing is given with MoDOT's approval of the preliminary plans.

A hearing should still be considered, even if not "required," if the impact on the traveling public, adjoining property owners, and businesses in the area is considered to be significant. A hearing may be desirable to advise local officials, adjacent property owners, and other users of the details of the project. A hearing is an opportunity to gain comment from the public concerning the improvement and it allows the local agency an opportunity to outline a proposed solution to an identified transportation need. The desirability, methods of advertising, and format for these meetings are left to the discretion of the local agency. A summary of the meeting is submitted to MoDOT.

At design public hearings, the preliminary plans and other exhibits derived from the location study are displayed. Pertinent information about the location alternatives studied and reasons for selecting the proposed location are discussed. Details of the effect of the proposed design on individual properties are discussed. Information about design alternatives studied is made available.

ADDITIONAL HEARINGS OR MEETINGS

Additional hearings, meetings, or opportunities for such hearings or meetings may be scheduled when there has been a substantial change in the proposal; substantial unanticipated development in the area affected by the proposal; an unusually long lapse of time (more than 3 years) between the last location public hearing and location approval or design public hearing and design approval; and/or identification of significant social, economic, or environmental effects not previously considered at earlier hearings.

ADVERTISEMENT FOR PUBLIC HEARINGS

Notices concerning public hearings are to be published as a legal notice in a newspaper having general circulation in the vicinity of the proposed project. Additional paid advertisements are encouraged to ensure maximum public input. Additional efforts may be necessary to ensure that minority and disadvantaged populations are aware of the process. Examples of these efforts include house-to-house contact, bulletins at kiosks, community minority liaison contacts, and notices in newspaper and media outlets that cater to minority and disadvantaged populations. The notice of public hearing specifies the date, time, and place of the hearing and contains a description of the project. If the open-house format is to be utilized, this procedure is explained in the notice. The notice of public hearing specifies that maps, drawings, appropriate environmental documents, other pertinent information developed by the local agency, and written views received as a result of the coordination with other agencies or groups will be available for public inspection. The notice also specifies that this information is available in the appropriate local agency office and at some other convenient location such as a courthouse, city hall, or library for public inspection and/or copying. See Figure 7-1 for an example of the proper format for the advertising notice. The notice of public hearing is to be published a minimum of 21 calendar days prior to the date of the hearing. A copy of the notice is to be sent to MoDOT.

In addition to publishing a notice of public hearing, the local agency must submit news releases to the newspaper and electronic media at about the same time as the official notice is to be

published and again approximately 5 to 12 calendar days prior to the date of the hearing. The news releases generally contain the same information included in the official notice. If the local agency feels that other methods of advertising a public hearing would help increase public attendance, these options should be explored along with the legal notice and news releases. Options may include direct patron mailings, flyers in public areas, signs erected in the project area, or other methods.

ADVERTISEMENT FOR OPPORTUNITY FOR PUBLIC HEARINGS

If, in the judgment of the local agency, ample evidence of the desire for a public hearing is not apparent, the local agency may advertise the opportunity for a public hearing. In addition to the information required for the notices and news releases described above, the notice of opportunity for a public hearing includes instructions as to how to request a public hearing. All requests must be in writing and should be acknowledged in writing by the local agency.

This notice is published as either a paid advertising notice or a legal notice and submitted as a news release. This notice may be advertised on a website in addition to, but not instead of, a newspaper. This notice advises the public of a deadline for the request for a public hearing. This deadline for submission of a request is set 21 calendar days after the publication of the notice.

If a request is received, the local agency may contact the individual to discuss their concerns with the project. The person making the request is allowed 14 calendar days to withdraw their request in writing. If a request is made and not withdrawn, a public hearing is held.

If no requests are received by the local agency, the local agency must document the opportunity for public hearing notice and certify that no requests were received. This documentation and certification is forwarded to MoDOT.

PROCEDURES FOR CONDUCTING PUBLIC HEARINGS

Public hearings are to be held at a place and time generally convenient for persons affected by the proposed undertaking. When selecting the time and location of the meeting, special consideration should be given to making the setting comfortable for all, including minority and disadvantaged populations. The hearing is conducted by the local agency with possible assistance from MoDOT. The hearing location selected should provide adequate accessibility for physically disabled citizens. Accessibility should also be adequate for minority and low-income populations. Special attention should be paid to access from public transportation, the ability to walk to the meeting, and obstacles such as railroad tracks, crossing busy highways, etc. Two types of procedures may be used to conduct public hearings: the traditional formal speaker-audience format or the open-house format. The selection of format is at the discretion of the local agency and should be based on an analysis of the conditions involved, including consideration of minority and low-income populations. The recommended open-house format tends to be comfortable for a wider variety of people. Where there are language barriers, efforts should be made to ensure all voices are heard and all can understand presentations.

FORMAL PUBLIC HEARINGS

Formal public hearings consist of an opening statement, a period for statements and questions from the public, and a closing statement. Following is a list of actions and statements that should take place at all formal public hearings:

1. The public hearing is to be conducted in a business-like manner and answers to questions are to be as complete and unbiased as possible.

2. A complete record is made, including names and addresses, for all those in attendance and those speaking.

3. The opening statement includes an explanation of the purpose and need for the project. Information such as accident data, structural deficiencies, capacity problems, and public requests may be cited as justification for the project. Pertinent information about the location alternatives studied as well as major details of the proposed design are discussed. This information should describe the project's consistency with the goals and objectives of the area.

4. The following statement is to be made at all hearings: "This project is being processed in accordance with federal rules and regulations. Plans will be subject to review by FHWA. If federal funds are used in right-of-way acquisition and/or construction, the percentage of federal funds used will be in accordance with current regulations."

5. The tentative schedule of right-of-way acquisition and construction is mentioned. It is limited to a statement that as soon as design approval is received, the local agency will proceed with design and right-of-way acquisition and construction will take place when funds are available.

6. At any hearing on a project that will require additional right of way to accommodate the proposed facility, the right-of-way acquisition process must be discussed. The public must be adequately informed regarding relocation assistance procedures. The local agency must describe assistance and benefits available to those that will be displaced by this project. In addition, it is necessary to discuss the number of individuals, families, businesses, etc. that may be relocated by the project under consideration and whether studies indicate adequate replacement housing is available. It is also necessary to state that no one will be displaced from his or her residence unless an appropriate replacement dwelling is available or provided.

FORMAL LOCATION PUBLIC HEARINGS

For formal location public hearings, the following additional actions and statements should take place:

1. The public is advised that the public hearing is being recorded and that the transcript will be studied and submitted to MoDOT.

2. All substantive written views received prior to the location public hearing must be made available to the public as part of the hearing, either by display at the hearing or by reading into the transcript. These letters may be included as part of the environmental document and displayed in that manner.

3. Provision is made for acceptance of written statements and other exhibits in place of, or in addition to, oral statements at the time of the location public hearing. A statement is made that any additional pertinent information received within ten working days after the hearing will be made a part of the transcript and substantive comments will be addressed in any final environmental documentation.

4. The opening statement also includes a brief explanation of the content and availability of the environmental impact statement (EIS) or environmental assessment (EA). For projects with an environmental classification of CE, a statement is made that the proposed improvement is expected to have no significant impact on the environment and hence is categorically excluded from the need to prepare an EIS. For EA and EIS projects, at least two copies of the approved draft environmental document must be available for public review at the hearing. However, to avoid vandalism and looting, the location of archaeological sites should not be disclosed to the public.

5. Any significant encroachment on floodplains or wetland areas is discussed.

6. Pertinent information about all of the location alternatives studied is discussed and shown on exhibits. All alternatives carried forward in the draft environmental document as reasonable are to be given equal consideration at the hearing in terms of exhibit presentation and design detail. All alternatives considered but dropped from further consideration should have pertinent information regarding this decision available for discussion at the hearing. The approved draft environmental document is also made available. If the draft environmental document indicates a preferred alternative, it should be identified as such at this hearing.

FORMAL DESIGN PUBLIC HEARINGS

For formal design public hearings, the following additional actions and statements should take place:

1. The public is advised that the public hearing is being recorded and that the transcript will be studied and submitted to MoDOT.

2. All substantive written views received prior to the design public hearing must be made available to the public as part of the hearing either by display at the hearing or by reading into the transcript.

3. Provision is made for acceptance of written statements and other exhibits in place of, or in addition to, oral statements at the time of the location public hearing. A statement is

made that any additional pertinent information received within 10 working days after the hearing will be made a part of the transcript and substantive comments will be addressed.

4. Preliminary plans and other exhibits derived from the location study are displayed. It is also recommended that the approved final environmental document is made available for public review at the design hearing.

OPEN-HOUSE PUBLIC HEARINGS

An open-house public hearing has the same requirements as formal public hearings except that some items are included in an informational handout. The advertising is the same except all notices and letters describe the format being used with emphasis on the optional hours during which interested persons may attend. Alternate methods of submitting comments also are included in the notice. The normal time for an open-house public hearing is a weeknight other than a holiday, Monday through Thursday, from 4:00 p.m. until 7:00 p.m. These hours should accommodate persons wishing to attend during normal working hours and those wishing to attend after normal working hours. The duration of the hearing may be increased as needed if a large turnout is expected.

The site for open-house public hearings is separated into areas for greeting, display, and recording comments. This may be done with a large, single room or a group of smaller rooms. One or more greeters stationed at the entrance to the hearing room or rooms ask people upon arrival to fill out an attendance card and direct them to exhibit and comment areas. Each person is given a comment sheet and an informational handout. The handout has all information normally included in the opening statement at a formal hearing. In addition, it may include a location sketch, summary of environmental documents, or other detail. Return postage may be included on comment sheets for the benefit of persons desiring to submit written comments by mail. Several sets of exhibits should be available in order to provide visitors ample opportunity to see the information. The exhibits of the project should be of sufficient quality and scale such that property owners can clearly identify their property. It is recommended that a wide corridor is shown at the location public hearing instead of showing specific lines and design features as these are subject to change. Additional exhibits showing traffic, accident, environmental, economic, or other data may also be displayed. To avoid the potential for vandalism or looting, the location of archaeological sites should not be disclosed. Exhibits of the NEPA process and project schedule may be shown in a simple format. It may also be advisable to invite other agencies, cities, or counties to be present or set up displays if they have projects going on in the area for which public questions are anticipated. Right-of-way personnel are stationed in a separate, clearly labeled area to discuss right-of-way matters. Another area is provided for submitting written comments. Visitors should be reminded that written comments may be submitted up to 10 working days after the hearing.

TRANSCRIPTS

The local agency is responsible for the preparation of an accurate written transcript of the oral proceedings of each public hearing. The oral proceedings may be recorded by a tape recorder, a court recorder, or any reliable method that will assure a verbatim transcript. Shorthand notes are

not considered adequate. Public comments that are expressed at the hearing but are not recorded should also be noted. Two copies of the transcript must be submitted to MoDOT.

The transcript must contain the following:

1. Executive summary that describes and discusses issues raised at the hearing or during the open comment period. No recommendations are included in this summary.

2. Project information handout.

3. Double-spaced transcript of any oral hearing proceedings.

4. Color location map(s) showing the alternate locations presented (location public hearing only) or the location of the recommended design (design public hearing only).

5. Data pertinent to statements or exhibits used or filed in connection with the public hearing.

6. Data pertinent to information made available to the public prior to the public hearing.

7. Pertinent correspondence.

8. Copy of all written comments received.

EXAMPLE NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

ON LOCATION AND DESIGN OF ..... STREET

Notice is hereby given to all interested persons that a public hearing will be held at (give location of hearing) on (day of week), (day of month), 20....., at .....o'clock (a.m. or p.m.) Central (Daylight/Standard) Time. Handicap access is available. All interested persons will be given an opportunity to be heard concerning their views on the location and design of ..... Street with reference to the economic and social effects of such location and design, its impact of the environment and its consistency with the goals and objectives of the community. The presently contemplated improvement is as follows:

(LOCATION DESCRIPTION AND SUMMARY OF PROPOSED DESIGN)

Maps, plats, environmental documentation, and other detail information prepared by (local agency), or other interested agency, will be available for public inspection and copying at the office of the ..... (list location). Written statements and exhibits as well as oral statements will be received at the hearing. Written statements and exhibits will be made a part of the public hearing transcript if received within ten days after the date of the hearing.

Tentative schedules for right of way acquisition and construction will be discussed at the hearing.

If you are disabled and require special services at the public hearing, please notify (name) by (date) at (telephone number) or (TDD number) so that arrangements for those services can be made.

(WHEN APPLICABLE INCLUDE THE FOLLOWING):

Relocation advisory assistance will be available for all persons displaced as a result of this improvement. Information on relocation assistance programs will be provided, if applicable.

CITY OF .....

BY .....
Title

Fig. 7 - 1

8 - Preliminary Design

DESIGN CRITERIA

As described in Section 1 of this manual, the engineer of record will be considered responsible for determining the appropriate design parameters for the project using good engineering judgment based on the specific site conditions, local agency needs, and guidance provided in this section. The design criteria selected by the engineer of record shall be noted on the plans. The local agency and the engineer of record shall be responsible for keeping the design justification on file for all federal-aid projects, and the records shall be available for review by MoDOT and FHWA if requested. The current edition of the following publications or any local ordinances should be followed as a guide with modifications as considered appropriate by the engineer of record and to be in keeping with good engineering practice:

Engineering Policy Guide, by MoDOT

A Policy on Geometric Design of Highways and Streets, by AASHTO

Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT < 400), by AASHTO

Roadside Design Guide, by AASHTO

Highway Capacity Manual for Railroad Engineering, by AREMA

Traffic control devices shall be governed by the Manual on Uniform Traffic Control Devices (MUTCD).

The National Cooperative Highway Research Program (NCHRP) has issued guidance, Report 350, on the standards for guardrail and bridge railing design. FHWA requires this new guidance to be incorporated into projects that are located on the National Highway System (NHS), and the local agency may consider it for use on projects that are not on the NHS. See "Bridge Rail System" in this section for additional information.

The Americans with Disabilities Act (ADA) requires that all facilities be designed to current accessibility standards to the maximum extent feasible for sidewalks, crosswalks, grades, etc. The *Americans with Disabilities Act Accessibility Guidelines* (ADAAG) have been adopted as standards by the Department of Justice and the Department of Transportation for accessibility standards for buildings and sites. Standards for pedestrians in the public right of way are yet to be approved, but the *Public Right of Way Access Guidelines* (PROWAG) may be used. Refer to the following website for further guidance:
http://www.modot.mo.gov/business/manuals/documents/ADAResources.doc.

ACCURACY

Figure 8-1 lists detail design information for the accuracy of plan dimensions. This chart is a guide to assist users in the transition to metric plans production, and can be varied as needed.

PRELIMINARY SUBMITTALS

For all projects, submittal of preliminary plans to MoDOT-District Offices is required. MoDOT's review will be limited to ensuring the project meets the intent of the federal-aid program. Specific questions should be provided by the engineer or local agency in writing on their cover letter with the preliminary submittals.

For projects involving bridges or culverts, submittal of preliminary bridge plans, hydraulic studies, etc. to MoDOT-Bridge Division are not necessary. However, if the engineer or local agency has specific questions regarding project eligibility that they would like MoDOT to address at the preliminary stage, then MoDOT-Bridge Division is receptive to this information. Specific questions should be provided by the engineer or local agency in writing on their cover letter with the submitted package to the MoDOT district office.

The Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement must be approved by FHWA prior to 35% plan completion. (Note that the Section 106 (historic properties) clearance must also be approved before right-of-way acquisition can begin).

TRAFFIC SIGNAL WARRANTS

When the project is on MoDOT right of way the local agency should submit signal warrants prior to the preparation of traffic signal plans. Signal warrant forms are available at the MoDOT district office. Traffic counts which are recorded for time intervals of less than one hour should be subtotaled for each hour in order to facilitate proper review of warrants.

The engineer of record shall determine signal warrants based on the MUTCD for all other projects.

RAILROAD CROSSINGS

If the proposed improvements are on or cross railroad right of way, the railway company must be contacted. Railway company approval will be necessary to receive construction authorization. The local agency must contact the affected railway company directly.

UTILITY RELOCATION

The local agency has the ultimate responsibility of negotiating with local utility companies, cross-state pipelines, and other utility facilities for right of way, easement, and adjustment agreements for utility relocations. The local agency is encouraged to work with each utility to minimize impacts to the utility facilities. Refer to Figure 3-2 for an example of a Utility Scoping Checklist that can be utilized.

The local agency should, in the preliminary phase, identify existing utility locations and determine whether any adjustments will be required. Local agencies should consult the FHWA's *Program Guide – Utility Adjustments and Accommodations on Federal-Aid Highway Projects* for assistance regarding utilities within the highway corridor. This publication can be found on the FHWA web site at **www.fhwa.dot.gov/reports/utilguid**.

All utility adjustments located on MoDOT right of way shall conform to the Code of State Regulations, Division 10, Chapter 3 – Utility and Private Line Location and Relocation. Refer to the following website for further information: http://www.sos.mo.gov/adrules/csr/current/7csr/7c10-3.pdf.

The cost of necessary utility relocations for which the local agency is responsible is eligible for federal participation. If the local agency elects to receive federal participation, utility agreements must conform to 23 CFR Section 645A, which is the applicable federal regulation regarding utility relocation on federally funded highways. MoDOT can assist the local agency with information about the above regulation.

Actual Cost Agreements are utilized when certain costs are unknown and the actual amount for the adjustment will be reimbursed. Lump Sum Agreements are used when costs are static and can be determined ahead of time. Provisions for the audit should be stated in the agreement between the utility and local agency. See http://www.modot.gov/business/manuals/localpublicagency.htm for sample Utility Agreements on Lump Sum and Actual Cost.

Utility relocations that impact MoDOT right of way require prior MoDOT approval for the plan(s) of adjustment(s). Each plan of adjustment must be submitted to the MoDOT district liaison engineer for review and approval prior to final PS&E approval. The utility company will be required to acquire the necessary MoDOT permits prior to any work being performed.

MoDOT is not a member of Missouri One-Call (800 Dig Rite). Some work on projects that affect MoDOT right of way may be in the vicinity of MHTC/MoDOT utility facilities, which includes but is not limited to traffic signal cable, highway lighting circuits, ITS cable, cathodic protection electric cable, etc.

ALTERNATE PAVING

To ensure that every effort is being made to increase the competition for paving contracts, and that the latest market rate is considered when determining pavement type, local agencies may allow contactors to bid an alternate pavement design. For further information contact your MoDOT district representative or consult MoDOT's Engineering Policy Guide.

BRIDGE REPLACEMENT AND REHABILITATION PROJECTS

Design Parameters

As described in Section 1 of this manual under "Federally Funded Bridge Projects," the engineer of record will be considered responsible for determining the appropriate design parameters chosen for the project using good engineering judgment based on the specific site conditions, local agency needs and guidance provided in this section.

The current edition of the following publications should be followed as a guide with modifications as considered appropriate by the engineer of record and to be in keeping with good engineering practice:

A Policy on Geometric Design of Highways and Streets, by AASHTO.

Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT ≤ 400), by AASHTO.

Highway Drainage Guidelines, by AASHTO.

Standard Specifications for Highway Bridges, by AASHTO.

Manual for Railroad Engineering, by AREMA.

Funding

Rehabilitation will be considered for HBP funding when that option of improvement provides the best value while meeting the needs of the local agency. If determined at the Program Eligibility Review project stage that structure improvements are eligible only for partial federal participation in funding as needed to rehabilitate the structure, the local agency may still elect to replace the structure, rather than to rehabilitate the existing structure. However, the amount of eligible federal funding will be limited to that which will not exceed the rehabilitation cost estimate unless appropriate justification is provided by the local agency that a new structure represents the best value. If the rehabilitation cost is at least 68% of the replacement costs, it can generally be assumed that the new replacement structure will provide a better value than the rehabilitation of the existing structure and therefore a better use of federal bridge funds.

Deficiencies

The engineer may require more detail concerning the 2nd criterion listed in Section 1 of this manual under "Federally Funded Bridge Projects." For existing bridges, the bridge deficiencies are indicated by the bridge inspection report. The inventory criteria will be based on MoDOT's current *Bridge Inspection Rating guidance* (**http://epg.modot.org/index.php?title=Category:753_Bridge_Inspection_Rating**) as well as the latest version of the FHWA's *Recording and Coding Guide for the Structural Inventory and*

Appraisal of the Nation's Bridges (**www.fhwa.dot.gov/bridge/mtguide.pdf**). An inventory item is considered deficient when the condition/appraisal rating meets the definition as given below.

Definition of Deficiencies:

1.	Item 58	Deck Condition	≤ 4
2.	Item 59	Superstructure Condition	≤ 4
3.	Item 60	Substructure Condition	≤ 4
4.	Item 62	Culvert Condition	≤ 4
5.	Item 67	Structural Evaluation rating	≤ 3
6.	Item 68	Deck Geometry	≤ 3
7.	Item 69	Under Clearance	≤ 3
8.	Item 71	Waterway Adequacy rating	≤ 3 and last digit for
	Item 42	Type of Service	= 0, 5-9
9.	Item 72	Approach Roadway Alignment	≤ 3

The bridge improvements should remove any deficiency as listed above and shall be designed to provide an increased life expectancy of at least 25 years before significant deficiencies develop unless the proposed deficient item may remain based on MoDOT's approval. For a proposed deficient item, the engineer of record is required to provide documentation as to why the proposed parameter should be used and MoDOT will forward as appropriate to FHWA for their approval.

Structure Type

The structure type shall be determined by the engineer of record for all span type bridges or culvert type bridges and shall be based on economic comparisons, site-specific conditions, and local agency needs.

Although not all inclusive, the following gives the engineer of record additional guidance regarding some of the design parameters that generally have a major influence on the eligibility of a bridge project.

Truck Loading

For rehabilitations and replacements, variations from AASHTO HS20 design loadings are permissible provided, the minimum load capacity of the superstructure is designed or strengthened such that item no. 67 Structural Evaluation from the FHWA coding guide will not be considered deficient.

Bridge Width

The bridge width, as a minimum, shall be improved or built to at least a width where the bridge would not be considered functionally obsolete due to deck geometry based on the number of traffic lanes and future design year ADT or type of roadway classification. This minimum width

shall be verified by the engineer of record prior to submittal in accordance with the FHWA coding guide.

Bridge Rail System

The appropriate bridge rail and approach railing may be determined by the engineer of record based on site specific conditions such as accident history, ADT, speed, sight distances, roadway width, etc.

For ADT ≤ 400, the use of standard height and/or crash-tested railing is optional. For discussion of the subject, AASHTO's Guidelines for Geometric Design of Very Low-Volume Local Roads may be consulted. The local agency and engineer of record may select from a variety of curbing or railing types deemed to be suitable for use based on site specific conditions such as accident history, geometric alignment, height of bridge, etc.

Seismic Requirements

The level of seismic protection for a particular project is optional and should be determined by the engineer of record and local agency based on agency needs and site-specific conditions such as emergency route status, ADT, functional classification, structure importance, etc.

Hydraulics for New Structures

The engineer of record, with the local agency's assistance, is considered responsible for the investigation of field conditions related to the hydraulic design of the structure, investigation for FEMA design restrictions as related to the National Flood Insurance Program (NFIP), and investigation for scour potential, embankment protection, and potential channel modification requirements. Impacts on upstream properties should always be considered along with other investigations that may also be deemed appropriate. It is advisable for the waterway opening of the new structure to be designed so as not to result in more adverse flooding conditions from those that would occur with the existing structure, assuming the existing structure is already performing adequately.

As a minimum, the bridge should also be sized appropriately so that the hydraulic performance will not result in a deficient NBI item no. 71 "waterway adequacy" rating and the new structure will not be susceptible to future significant damage caused by flooding based on the engineer's scour and drift assessment. It is generally not necessary for the engineer of record to submit the hydraulic calculations and report to MoDOT. However, the local agency should keep this information for their own records and make available to MoDOT and/or FHWA if requested.

Federal Emergency Management Agency (FEMA) and Required Certifications

Local agencies that participate in the NFIP have the responsibility to ensure that floodplain developments meet the regulations established by the NFIP as identified in the Title 44, Code of Federal Regulations, Parts 59 through 78. Further information on Floodplain Development and FEMA Certifications can be found in Section 4.

Channel Modification

Channel changes alter the conditions of the natural waterway and may cause an increase in velocity of the flowing water, sometimes resulting in damage to the highway embankment near the stream or excessive scour around footings of structures. Channel modification should be minimized to the fullest extent practical. Where such change is unavoidable, an evaluation must consider the environment, hydraulic, legal, and geomorphic aspects involved. Detailed information on channel modification can be found in Section 4.

Geotechnical Investigation

The geotechnical investigation of the project should be as determined by engineer of record in order to adequately perform the foundation design and determine side slope and spill slope requirements at bridge abutments.

National Highway System (NHS)

In the event of a non-state bridge project being located on the NHS, the design standards given in the federal-aid policy guide Title 23, Subchapter G, Part 625-Design Standard for Highways shall be followed with the following exception. A design vehicle truck loading of 1.25 X the AASHTO HS20 loading is required (HS25) unless suitable justification is provided by the local agency and engineer of record for a reduced loading.

State Owned Right of Way

When a state owned roadway is to be crossed by a bridge, the applicable MoDOT requirements should be followed, with vertical and horizontal clearances subject to approval by MoDOT's District Engineer. It is recommended that the proposed vertical and horizontal clearances be submitted for MoDOT review and acceptance as soon as possible in the early stages of the project.

Sidewalks

Sidewalks are an eligible feature on bridge structures where such access currently exists for pedestrian or combined pedestrian and bikeway use.

RETAINING WALLS

For installations that are permitted to be located on state owned right of way, guidance from the current edition of the *Standard Specification for Highway Bridges* by AASHTO along with applicable MoDOT requirements should be followed. For local agency owned routes, the above may be used as guides or local building codes and ordinances may be used as considered appropriate by the engineer of record to be in keeping with good engineering practice.

PEDESTRIAN BRIDGES

Design Parameters

The engineer of record shall determine all design parameters based on consideration of published AASHTO guidelines and/or local building codes and ordinances except as discussed below.

State Owned Right of Way

When a state-owned roadway is to be crossed by a pedestrian structure, guidance from the applicable AASHTO documents and MoDOT requirements should be followed with vertical and horizontal clearances subject to approval by MoDOT's District Engineer. It is recommended that the proposed vertical and horizontal clearances be submitted for MoDOT review and acceptance as soon as possible in the early stages of the project.

When a state-owned roadway is to be crossed by a pedestrian structure, guidance from the applicable AASHTO documents and MoDOT requirements should be followed with vertical and horizontal clearances subject to approval by MoDOT's District Engineer. It is recommended that the proposed vertical and horizontal clearances be submitted for MoDOT review and acceptance as soon as possible in the early stages of the project.

DIMENSIONAL ACCURACY

DIMENSION	ENGLISH ACCURACY	METRIC ACCURACY
All Stationing	0.01 ft.	0.001 m
Topography		
Stationing	1.0 ft.	0.1 m
Offset	1.0 ft.	0.1 m
Angle	0 degrees 01 minutes	0 degrees 01 minutes
Bearings & Angles	0 degrees 00 minutes 1 second	0 degrees 00 minutes 1 second
Right of way		
Stationing	0.1 ft. (1.0 ft. or 5.0 ft. preferable)	0.01 m (0.1 m or 1 m preferable)
Width	1.0 ft. (5.0 ft. preferable)	0.1 m (1 m preferable)
Area	0.01 acre or 1.0 ft^2	0.001 hectare or 0.1 m^2
Referenced Points		
Stationing	0.01 ft.	0.001 m
Ties	0.1 ft.	0.05 m
Bench Marks		
Stationing	1.0 ft.	0.1 m
Offset	1.0 ft.	0.1 m
Elevation	0.01 ft.	0.005 m
Profile Grade		
P.I. station	0.01 ft.	0.001 m
P.I. elevation	0.01 ft.	0.005 m
Rate of grade	0.001% (Where practical)	0.001% (where practical)
Length of vertical curve	10 ft. increments	5.0 m increments
Stopping sight distance	5.0 ft.	1.0 m
"K" factors	Nearest whole number	Nearest whole number
Flow line elevation	0.1 ft.	0.01 m
Items to be constructed		
Stationing	0.1 ft. (1.0 ft. preferable)	0.01 m (0.1 m preferable)
Culvert Lengths	1.0 ft. (or next even foot for metal pipe culverts)	0.1 m (or next multiple of 300 mm for metal pipe culverts)

Fig. 8-1

GENERAL

According to Missouri State Statutes, plans, specifications, and cost estimates for public roadwork must be prepared by or under the immediate personal supervision of a registered professional engineer.

Plans and specifications must be prepared in such a manner that payment in the contract will be made on the basis of units of work and materials.

Plans and specifications prepared by the engineer may be reviewed by MoDOT on a cursory basis for an individual project basis only and should not necessarily be assumed to apply to other similar projects. Design computations do not need to be submitted to MoDOT unless requested, with the exception of vehicle load rating computations that meet the requirements described in this Section.

ROADWAY

There is no set standard for the order of sheets within the roadway portion of the plans. Items that must be included are typical sections, plan, profile, or plan and profile sheets, special sheets, erosion control plans, traffic control plans, and cross section sheets or data. If applicable, other sheets to be included are culvert sheets, lighting, signals, signing, utility sheets if part of the roadway contract, and standard plans.

The plan, profile, or plan and profile sheets should include a north arrow, graphic scale, description of the project's beginning and ending points, construction details, alignment and profile data, bench marks, and any construction notes. Construction notes should not be placed in the cross section sheets.

WATER QUALITY IMPACTS/LAND DISTURBANCE

The National Pollutant Discharge Elimination Systems (NPDES) program regulates construction activities where 1 acre or more of land is disturbed. If the project proponent has a general NPDES permit for all of their construction activities, this is adequate. If the project proponent does not have a valid general permit and will disturb 1 acre or more of land, a project-specific NPDES permit is required. If the project is entirely within MoDOT right of way, the sponsor may use MoDOT's general permit. In either case, the sponsor will need to develop a site-specific stormwater pollution prevention plan for the project. The sponsor shall contact the Missouri Department of Natural Resources (DNR) NPDES Storm Water Program office at (573) 751-1300 or (800) 361-4827 for further directions. A few cities (Kansas City, Columbia, and others) and counties have obtained their own land disturbance permits from DNR for generic land disturbance purposes; see additional discussion on stormwater and erosion control in Section 4.

TRAFFIC CONTROL

The local agency shall develop and implement a Transportation Management Plan (TMP) in sustained consultation with all stakeholders for each project. The TMP shall consist of strategies to manage work zone impacts and provide for the safe and efficient movement of motorized and non-motorized traffic through or around the construction. The TMP shall include a Temporary Traffic Control (TTC) plan for non-significant projects and TTC, Transportation Operation (TO), and Public Information (PI) plans for projects determined to have significant impact on the public. A significant project is one that, alone or in combination with other concurrent projects nearby, is anticipated to cause sustained work zone impacts greater than what is considered tolerable.

The TTC plan describes measures to be used to facilitate the movement of system users through or around the construction and shall conform to the guidelines set forth in Chapter 6 of the Manual on Uniform Traffic Control Devices (MUTCD). MoDOT's temporary traffic control guidelines (**http://epg.modot.mo.gov/index.php?title=Category:616_Temporary_Traffic_Control**) and Traffic Control for Field Operations manual (**http://epg.modot.org/index.php?title=616.23_Traffic_Control_for_Field_Operations**) may be used as references in the development of the TTC plan. The scope of the traffic control plan should match the complexity of the project.

The TO plan identifies strategies to be used to mitigate impacts of the work zone on the operation and management of the transportation system within the work zone impact area.

The PI plan prescribes the communication strategies to be used to inform affected road users, the general public, area residents and businesses, and appropriate public and transportation entities about the project, the expected impacts of the work, and changing conditions.

The plans and specifications should include the TMP and pay item for implementing the TMP, including providing, installing, moving, replacing, maintaining, cleaning, and removing traffic control devices required by the TTC plan.

The local agency shall designate a trained person on each project who has the primary responsibility, with sufficient authority, for implementing the TMP and other safety and mobility aspects of the project.

RAILROAD CROSSINGS

If the proposed improvements are on or cross railroad right of way, the railway company must be contacted. Railway company approval will be necessary to receive construction authorization. The local agency must contact the affected railway company directly.

UTILITIES

All existing and proposed utility facilities must be shown on the plan sheets. The minimum depth locations and encasement requirements for the utilities located on MHTC/MoDOT right of way is shown in Figure 9-2.

The local agency shall prepare a utility Status Letter and provide it to MoDOT with the final plans submittal. See http://www.modot.mo.gov/business/manuals/documents/UtilityStatusLetter.pdf for a sample letter. Projects must be cleared for Bid Opening and MoDOT district personnel must receive the status letter prior to the bid opening date. Utilities "status" is defined as:

1. All utilities are physically adjusted on the projects, or

2. Utility construction work is active and has been completed to such a point that no impact would be expected to the road contractor. The status of the work is given in the utility job special provisions, or

3. Utilities are not expected to be adjusted by the notice to proceed date for the road project but the utility work will have no impact on the progress of the road contractor's work, or

4. Utilities must be adjusted after the contractor completes stage construction. This information must be outlined in a job special provision, or

5. Utility adjustments, plans, and specifications are included in the bid documents for the road project.

PROJECTS WITH BRIDGES

Bridge Drawings and Contract Documents

Structural drawings, specifications, and special provisions for bridges or culverts must provide sufficient detail that will clearly identify all dimensional and materials requirements and will allow the construction of all structural components in accordance with the engineer's design.

The drawings shall provide appropriate general notes to identify all pertinent design criteria for the project; such as identification of all design loads, design unit stresses for the structural components, bearing pad and joint filler requirements, hydraulic data, geotechnical information (culverts excluded) reinforcing steel clearances, etc. The notes should identify the usage of the appropriate AASHTO Design Standard Specification for Highway Bridges along with a listing of significant exceptions. Plans should also note the applicable construction specifications.

Drawings shall include a summary of estimated quantities, a reinforcing steel bar list and bending diagrams, and a pile data table and footing design-bearing table, where applicable.

1. If useful as an aid and/or reference, information pertaining to the design and detailing of pre-stressed double tee, pre-stressed I-beam, and other types of structures may be accessed at **http://epg.modot.org/index.php?title=Category%3A751_LRFD_Manual_General.**

2. Detail sheets are also available for many superstructure details and substructure units. These may be accessed at **http://www.modot.mo.gov/business/consultant_resources/bridgestandards.htm.**

3. If a concrete box culvert structure is appropriate, plans are readily available for single, double, or triple box culverts from the *Missouri Standard Plans for Highway Construction.* These may be used in conjunction with an additional front sheet for the double and triple box culverts to be completed with information from the standard plans. The standard plans and appropriate front sheet may be obtained from MoDOT for a fee or may be accessed at **http://www.modot.mo.gov/business/standards_and_specs/standardplans.htm.**

Structural Inventory and Appraisal Sheet

The engineer must complete the Structural Inventory & Appraisal (SI&A) Sheet and provide it with the PS&E for any replacement structure (or rehabilitated structure) that will meet the National Bridge Inventory definition of a "bridge." The SI&A Sheet must be completed in accordance with the FHWA's *Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges*, which can be accessed at **www.fhwa.dot.gov/bridge/mtguide.pdf**.

A blank Structural Inventory and Appraisal Sheet that can be filled out electronically and printed is provided at **http://www.modot.mo.gov/business/manuals/documents/siaform.pdf.**

Load Rating Calculations and Load Rating Summary Sheet

Load rating calculations are required for all structures that will be classified as a "bridge" on the National Bridge Inventory (as defined in the above-referenced *Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges*). Inventory and Operating Load Ratings shall be provided compared to the AASHTO HS20 design loading. Load rating calculations for any NBI structure carrying vehicular traffic shall also account for all MoDOT standard load posting vehicles (the H20 and 3S2 vehicles) used to represent truck legal loads in the state. For bridges or culverts located within the limits of commercial zones, an additional load posting recommendation for the commercial loading shall be included, utilizing the MO5 vehicle. (For example, when the operating rating for the MO5 vehicle is less than 70T, a S-C3 posting is required). For information and details regarding MoDOT's rating vehicles, see Section Four of MoDOT's *Bridge Inspection Rating Manual.*

All load ratings are to be calculated using the Load Factor Rating Method in accordance with the AASHTO *Manual for Condition Evaluation of Bridges.* A Load Rating Summary Sheet, signed and sealed by a Missouri Registered Professional Engineer, shall clearly list all of the determined controlling load ratings, indicated in tons. The Load Rating Summary Sheet shall indicate all information needed for the completion of the Load Rating and Posting portion of the SI&A Sheet and the load rating calculations shall provide the information necessary to support the data indicated on the Load Rating Summary Sheet.

Load rating calculations and the load rating summary sheet will generally not be required with the PS&E submittals for projects which will utilize structural systems that are essentially proprietary based such as CMP or concrete arch culvert structures, since identification of a single proprietary manufacturer is generally not allowed in the contract documents. Unless informed otherwise by the local agency or engineer of record at the time of the PS&E submittal, MoDOT will in the interim assume that the presumptive values for the inventory and operating ratings are being achieved through the manufacturer's conformance with the design loading indicated by the local agency's consultant in the contract documents. However, the contract specifications should include the requirement that the awarded manufacturer provide the actual load ratings, signed and sealed by a professional engineer licensed in Missouri. MoDOT districts should secure this information along with an updated SI&A form and forward to the MoDOT-Bridge Division prior to project closeout. Upon receipt of the additional information from the local agency, MoDOT-Bridge Division will update the National Bridge Inventory to indicate the actual ratings.

ESTIMATES

An engineer's estimate showing estimated quantities, unit prices, and extended totals shall be submitted to MoDOT with the detailed plans. Subtotals shall be shown for roadway items, signals, lighting, signing, striping, and bridges. The bid proposal must also include an itemized listing of all pay items included in the project, quantities of each individual pay item, and blanks for the contractor to submit a unit price (and extension) for each pay item. Non-participating work (work that is not eligible for federal participation) shall be identified in the submitted estimate prepared by engineer of record. Any non-reimbursable utility work shall be separated from utility work that is eligible for participation. The use of lump sum contract will not be allowed.

The engineer's estimate should be treated as a confidential document. Any knowledge of the estimate may cause unbalanced bids or provide a contractor who has knowledge of the engineer's estimate an advantage.

WORK BY LOCAL FORCES

As indicated in the Code of Federal Regulations, the contract method based on competitive bidding shall be used for performance of highway work financed with the aid of federal funds unless it can be demonstrated that some other method is more cost effective. When a local agency desires that local forces undertake highway construction work financed with the aid of federal funds, a request must be submitted identifying and describing the following:

1. The project and the kind of work to be performed,

2. The estimated costs,

3. The estimated federal funds to be provided, and

4. The reason or reasons that force account for such project is considered cost effective.

Work by local forces is considered to be the direct performance of work by the contracting agency or its designee utilizing labor, equipment, materials, and supplies furnished by the agency and used under its direct control. When the local agency desires to construct any portion of the project with its own forces, it must be in the public interest that this is the most cost effective way to construct the project (the efficient use of labor, equipment, materials, and supplies to assure the lowest overall cost). Local agencies must demonstrate to MoDOT that they have the equipment and experience to perform the items of work specified. MoDOT shall determine that the organization to undertake the work is so staffed and equipped as to perform such work satisfactorily and cost effectively.

There are two methods by which the local agency can be reimbursed for this type of work, and the estimate should be prepared accordingly. The first method is actual cost. Payment will be made for labor, materials, and equipment rental rates. Estimated hours and rates should be included and final reimbursement will be made based on an audit of actual costs.

The other method is agreed to unit prices. This method requires more extensive justification at the PS&E stage, but reimbursement will be made based on the number of units constructed. This eliminates some record keeping and detailed audit. The agreed unit prices must be developed using quantities, man-hours, pay rates, material costs, and equipment rental rates. The local agency by agreeing to these unit prices also agrees that no construction change order can be made to adjust the unit prices, but a construction change order is allowable for quantity changes. If the local agency and MoDOT can't come to an agreement on the unit price, the local agency can still perform the work by using the actual cost method described above.

MoDOT will not approve work by the local agency's forces unless it can be demonstrated that it can be accomplished at lower cost than if performed by contract. If the local agency determines they do not want to perform an item and the work is within the scope of the construction contract, they can negotiate a change order with the contractor to perform the work and execute a construction change order. The local agency will need to execute a work by local forces proposal (**Figure 9-1**) that must be submitted with the construction estimate.

SPECIFICATIONS AND JOB SPECIAL PROVISIONS

It is recommended that the engineer shall use the latest edition of the *Missouri Standard Specifications for Highway Construction* and Supplemental Specification Revisions. The engineer may modify these specifications, where appropriate for job-specific requirements or conditions, by creating job special provisions. The engineer of record and/or local agency may also write their own custom set of specifications. The specification used shall be referenced on both the drawings and the specifications package as the basic standard for materials and construction - except as modified or superceded by job special provisions or other specifications included in the specifications package. When the *Missouri Standard Specifications for Highway Construction* are supplemented by job special provisions or substituted by other specifications, the cover sheet of the supplementary or substituting specifications package is to be signed and sealed by the engineer.

MoDOT specifications can be made available to local agencies either as a reference or for actual use in contracts. Certain job special provisions are available from MoDOT for a nominal fee;

however, MoDOT Job Special Provisions and Standard Specifications information can also be accessed at **http://www.modot.mo.gov/business/index.htm.**

Local agencies are urged to prepare the specifications and special provisions carefully to ensure that the inspection, testing, and sampling procedures are adequately covered.

When the local agency decides not to inspect at the fabricators shop, the following specifications regarding acceptance of fabricated structural members shall be included in the specification documents (as Job Special Provisions), as applicable to the following categories of structural members:

Acceptance of Pre-cast Double Tee, I-Girder, Box-Girder, and Slab Panels

The following procedures have been established for the acceptance of pre-cast double tee, I-girder, box-girder, and slab panels. Shop drawings shall be submitted to the local agency's engineer for review and approval. The approval is expected to cover only the general design features, and in no case shall this approval be considered to cover errors or omissions in the shop drawings. The local agency or their consultant has the option of inspecting the pre-cast units during fabrication or requiring the fabricator to furnish a certification of contract compliance and substantiating test reports. In addition, the following reports will be required:

1. Certified mill test reports, including results of physical tests on the pre-stressed strands, and reinforcement as required.

2. Test reports on concrete cylinder breaks.

The local agency or consultant must verify and document that dimensions of the units were checked at the job and found to be in compliance with the shop drawings.

Acceptance of Structural Steel

The following procedures have been established for the acceptance of structural steel. Shop drawings shall be submitted to the local agency's engineer for review and approval. The approval is expected to cover only the general design features, and in no case shall this approval be considered to cover errors or omissions in the shop drawings. It is recommended that the contract documents contain provisions that the contractor shall utilize a fabricator that meets the appropriate American Institute of Steel Construction (AISC) certification provisions as outlined in Section 1080.3.1.6 of the 2004 *Missouri Standard Specifications for Highway Construction* and Supplemental Specification Revisions. All welding operations, including material and personnel, shall meet the American Welding Society (AWS) specifications. The local agency or their consultant has the option of inspecting the steel units during fabrication or requiring the fabricator to furnish a certification of contract compliance and substantiating test reports. In addition, the following reports will be required:

1. Certified mill test reports, including results of chemical and physical tests on all structural steel as furnished, and

2. Non-destructive testing reports.

The local agency or consultant must verify and document that dimensions of the units were checked at the job and found to be in compliance with the shop drawings.

(Additional information regarding the AISC Certification provisions may be found at the AISC Internet web site: **www.aisc.org**)

Preparation of Contract Documents Involving Proprietary Products or System

Generally, on federal-aid projects, the use of trade names in plans and specifications is not allowed except as outlined below. The practice of utilizing essentially proprietary products or systems is acceptable if it can be assured that three or more companies can provide an acceptable product. Overall, there are three basic approaches to providing construction plans and specifications that can accommodate the use of proprietary-based products or systems.

1. If the product or system will be specified by using trade names, the contract documents need to be prepared so that at least three (3) different brand names of viable producers are specified in conjunction with appropriate contract requirements and also acceptable equivalents are allowed. If structures are involved, the requirements for final plans and shop drawings in no. 2 below will apply.

2. The engineer can prepare generic or performance-based contract documents which can be met by at least three (3) viable producers or vendors that are identified by the engineer when the PS&E is submitted. Contracts set up to permit alternate bidding of different types or products providing the same function may also be used provided three vendors are available for each type. For structures, the engineer will prepare complete plans and specifications that include sufficient key parameters to define the scope of the project such as structure and opening size, important geometrics, loading, hydraulics, and foundation information. Using this approach the successful fabricator will provide design computations and shop drawings that are signed and sealed by a professional engineer for review and approval by the local agency's engineer. Approved final plans for bridge structures should be secured by the MoDOT districts and forwarded to the MoDOT-Bridge Division for inventory purposes as part of the project closeout.

3. Less than three (3) specified materials or products may be approved if MoDOT concurs in a finding that it is in the public interest. For instance, a local agency may find it desirable to limit traffic signal controllers to one brand for ease of maintenance and the stocking of repair parts. If the local agency wishes to use less than three (3) trade names, the following justification will need to be provided to MoDOT for review/approval:

    a) Show how the item(s) is essential for synchronization with the existing roadway facility or that no equally suitable alternative exists.

b) Show how the use of the product(s) will prove to be cost-effective. This should include historical data supporting the cost effectiveness of the products.

c) Show how using the product(s) will provide ease of maintenance.

d) Provide more detail on its spare parts inventory on what impact using the trade name products(s) will have on this inventory (where applicable).

e) Provide more detail on standardization – that is, provide estimated quantity of product that was implemented in areas surrounding the product (also include the date when the trade name product was implemented) (where applicable).

If MoDOT concurs, we will forward to FHWA for their approval as may be required.

If the single source material cannot be justified, the item will be non-participating unless bidding procedures are used that establish the unit price of each acceptable alternative, in which case participation will be based on the lowest price established.

Shop Drawings

Shop drawings that are prepared in conformance with the engineer's detailed plans and specifications are not typically required to be signed and sealed by a professional engineer. However, this is not applicable for projects where the contractor may be responsible for the design at the shop drawing stage, e.g., MSE walls, pre-cast culverts, and steel trusses.

INSPECTION BY MoDOT AND FHWA

The project job special provisions or drawings shall stipulate that MoDOT and FHWA may make inspections of the work and that the contractor shall grant them access to all parts of the work.

Representatives of MoDOT will make a final inspection on all projects, preferably at the same time as the local agency makes final inspection.

PLANS, SPECIFICATIONS, AND ESTIMATE (PS&E) SUBMITTAL

When the plans, specifications, and the engineer's estimate of project cost and construction engineering have been completed, the local agency shall submit the "PS&E" documents to MoDOT for review.

The project sponsor should submit four sets of plans, specifications, and estimate of project cost and construction engineering to MoDOT. If the project contains a bridge, the completed Structure Inventory and Appraisal Sheet, the vehicle Load Rating Summary Sheet (signed and sealed by the engineer) and load rating calculations must also be submitted at this time. The title sheet of the drawings must be signed by the local agency and all plan sheets signed and sealed by the appropriate professional before MoDOT will approve the submittals. **Submitted drawings shall be 11" x 17".** When the 2004 Missouri Standard Specifications for Highway Construction are supplemented by job special provisions or substituted by other MoDOT-approved specifications,

the cover sheet of the supplementary or substituting specifications package is to be signed and sealed by the engineer.

Work By Local Forces Proposal

(On Local Agency Letterhead)

Mr. Dan Niec, P.E.
District Engineer
Attention: MoDOT District Representative
Missouri Department of Transportation
P.O. Box 8, U.S. Highway 63
Macon, MO 63552

Dear Mr. Niec:

The _____agrees to perform with its own forces the items listed on the engineer's estimate as force account items. We will use the (actual cost/agreed to unit price) (choose one) method. The local agency further agrees to the following:

1. The local agency has the equipment and expertise to perform the force account items.

2. The local agency agrees that if the agreed to unit price method is used, no construction change orders will be requested to change the unit price of items performed by force account. This does not prevent a construction change order to be executed to change the quantity of a particular item.

3. The local agency agrees that if the local agency decides not to perform an item of work that was proposed to be done with its own forces, it will negotiate a construction change order with the contractor who was selected through the competitive bidding process to perform that item.

4. The local agency agrees to diligently perform the work and complete the force account work in a timely manner.

5. The local agency agrees to schedule its work as not to interfere with the work of the contractor.

Respectfully submitted,

(Signed by the Local Agency)

Fig. 9-1

MHTC/MoDOT Utility Vertical Depth and Encasement Requirements

Utility	Size	Depths		Minimum Required Encasement Material
		Parallel	Crossing	
cable tv (coaxial non-fiber)	N/A	24"	30"	duct (enclosed tubular casing or raceway)
electric	N/A	30"	30"	duct (enclosed tubular casing or raceway)
copper cable	N/A	24"	30"	duct (enclosed tubular casing or raceway)
fiber optic cable	N/A	30"	42"	smooth wall, welded steel pipe
fiber optic cable	N/A	30"	72"	polyethylene (PE) plastic and traceable
natural gas pipeline of (PE) plastic	> 6"	30"	30"	smooth wall, welded steel pipe
natural gas pipeline of (PE) plastic	> 6"	30"	72"	smooth wall, welded steel pipe
natural gas pipeline of (PE) plastic	≤ 6"	30"	72"	none, traceable
sewer	N/A	30"	30"	none [1] otherwise smooth wall, welded steel pipe
water	≤ 2"	42"	42"	none, if copper, Type K
water	> 2"	42"	42"	smooth wall, welded steel pipe
welded steel pipelines	N/A	30"	30"	none [2]

[1] Material made of vitrified clay, reinforced concrete, or cast iron, except when installation procedures would produce voids in the roadbed, heavy fills or installations under pressure.

[2] Carrying gaseous or liquid petroleum products that are cathodically protected against corrosion and triple coated in accordance with accepted pipeline construction standards.

Conduits permitted for encasement shall be new material or equivalent and shall conform to the requirements of the latest revision of the MHTC Standard Specifications for:

- reinforced concrete pipe culvert
- vitrified clay culvert pipe
- cast iron or ductile iron pipe
- corrugated metal culvert pipe only where design practices would permit its use as a crossroad culvert
- corrugated metal sectional plate culvert pipe

Smooth wall, welded steel pipe with a minimum wall thickness will be permitted as follows:

Casing Diameter (inches)	Minimum Wall Thickness
less than 6	0.188 (preferred)
6, 8, 10, 12, 14, 16	0.188
18, 20, 22	0.250
24, 26	0.281
28, 30, 32, 34	0.312
36, 38, 40, 48	0.344

Figure 9-2

BID PROPOSALS

Bid proposals must include a number of federal provisions and documents (See Figure 10-1). The provisions are explained in detail in the *Missouri Standard Specifications for Highway Construction* and the *Required Federal Aid Provisions & Federal Wage Rates* publications furnished by MoDOT. Additional provisions are explained in the *Federal Highway Administration Form 1273* publication. All three of these documents are available free of charge on MoDOT's web site at **http://www.modot.mo.gov**. The local agency can also contact the MoDOT district representative to obtain the current edition of these publications and determine whether any other required documents should be included in the bid proposal.

WAGE RATE

Federal Davis-Bacon prevailing wage rate determinations are required on all federal contracts except when the project is located off the federal-aid highway system. Local projects that are located on roadways classified as local roads or rural minor collectors are exempt from the Federal Wage Rate requirement. However, other federal-aid provisions still apply. If other federal funds are being used on a project located off the federal-aid highway system, Davis-Bacon rates may be required by the other federal agency that provides funds. Davis-Bacon determinations may be obtained from MoDOT. The most current version of the federal wage rates will be provided to the local agency when the authority to advertise is granted. The local agency must use the applicable state or federal wage rates effective on the tenth day before the letting for all projects. When state and federal wage rates are both required the higher of the two for each job classification should be used. If the wage rates change between the tenth day and the bid opening date, the wage rates effective on the tenth day will be the rates used for the project. The local agency should request state wage rates from the Industrial Commission, Missouri Department of Labor and Industrial Relations, Box 449, Jefferson City, Missouri 65102 or by calling (573) 751-3403.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

One of the provisions, which must be included, is the Disadvantaged Business Enterprise (DBE) Contract Provisions. All bidding documents must refer to 49 CFR Part 26. The local agency should contact the MoDOT district representative to obtain the current DBE contract provisions. The DBE provisions can be referenced as commonly used forms on the MoDOT website at http://www.modot.mo.gov/business/manuals/localpublicagency.htm. To assist the state in achieving goals, it will be necessary for the local agency to set up goals for socially and economically disadvantaged individuals (DBEs). A request must be made to the MoDOT district representative to establish a DBE goal for each project. For small projects or for projects that do not lend themselves readily to subcontract work, the goals may be reduced or even set at zero, but the provision should still be included. The DBE submittal forms shall be completed and submitted with the bid proposal or delivered by the low and second low bidder within three working days after the bid opening date.

If any DBEs shown on the submittal forms are not listed on the MoDOT approved listing, then that DBE's work will not be counted as DBE participation work and may be cause for rejection of the bid. If the bidder does not meet the established goal, award of contract can be made only if this bidder can document and demonstrate good faith effort to meet the goals. MoDOT will review and approve the good faith effort. DBEs must be listed on the MoDOT approved listing at the time of the contract letting (bid opening).

According to the Federal Highway Administration, Title 23 and 29 prohibit any provision on federal-aid projects unless it meets federal requirements. Therefore, any provision setting a DBE/MBE/WBE goal cannot be allowed unless that program meets the requirements of 49 CFR Part 26. Specifically, Part 26 does not permit separate goals for minorities and females without a specific authorization and waiver. Further, federal regulations state that any amount of federal money used on a project makes that project federally funded and the prohibition is applicable.

Therefore, no project funded by federal money, whether administered by MoDOT or any other entity receiving federal funds, can contain an MBE or WBE goal, even if mandated by city ordinance. Any project submitted with such a goal will not be approved for federal funds.

ON THE JOB TRAINING (OJT)

The intent of the OJT program, based on 23 CFR Section 230, is to recruit entry-level individuals, when feasible, and provide them with meaningful training intended to lead to journey-level employment. It is the policy of the program to require full utilization of all available training and skill-improvement opportunities to assure the increased participation of minority groups, disadvantaged persons and women in all phases of the highway construction industry. All training goals, including the number of training hours will be established by the MoDOT External Civil Rights Division (ECR). The request to establish an OJT goal must be submitted to the MoDOT district representative.

When a project receives a goal, the training special provisions (TSP) shall be included in the bid proposal. The TSP may be obtained from the MoDOT district representative or on the LPA website at http://www.modot.mo.gov/business/manuals/localpublicagency.htm. Prior to the notice to proceed, the contractor shall submit the trainee notification form to MoDOT, Attention: External Civil Rights, P.O. Box 270, 1617 Missouri Blvd., Jefferson City, MO 65102 for approval of the proposed trainee(s).

In addition to the trainee notification form, the contractor must submit monthly trainee reports throughout the course of the training and the trainee completion form and final trainee summary upon completion of the training, which may or may not occur at the completion of the project. These forms shall also be submitted to the MoDOT ECR Division.

For further information and guidance about the OJT program and the submittal forms, you may access the ECR website at http://www.modot.mo.gov/business/contractor_resources/External_Civil_Rights/documents/ResourceManual-2007.pdf or by calling (573) 751-1216.

WARRANTIES

The local agency may include warranty provisions in construction contracts in accordance with the following:

1. Warranty provisions shall be for a specific construction product or feature. Items of maintenance not eligible for federal participation shall not be covered.

2. All warranty requirements and subsequent revisions shall be submitted to MoDOT for advance approval.

3. No warranty requirement shall be approved which in the judgment of MoDOT, may place an undue obligation on the contractor for items over which the contractor has no control.

Routine warranties or guarantees provided by a manufacturer are valid. Contractors' warranties or guarantees providing for satisfactory in-service operation of mechanical and electrical equipment and related components for a period not to exceed 6 months following project acceptance are permissible.

ENVIRONMENTAL CLEARANCES

A copy of the Corps of Engineers 404 Permit, Farmland Conversion Impact Statement, concurrence from the SHPO that Section 106 requirements have been satisfied, and the FEMA Floodplain Development Permit should be included in the bid proposal. More information on environmental issues can be found in Section 4.

LIQUIDATED DAMAGES

The amount of project costs that will be eligible for federal participation will be reduced by the amount of any liquidated damages assessed against the contractor. In determining the amount eligible for participation, the amount of liquidated damages will first be deducted from the amount of construction engineering claimed and then from construction costs if the amount of liquidated damages exceeds the amount of construction engineering. In determining this deduction, a minimum amount will be used as shown in the following table. Local agencies may therefore wish to set the amounts of liquidated damages either equal to or greater than this schedule in order not to lose any federal participation. The liquidated damage rate must be included in the bid proposal.

SCHEDULE OF DEDUCTIONS
FOR EACH DAY OF OVERRUN IN CONTRACT TIME

ORIGINAL CONTRACT AMOUNT (OR THE ENGINEER'S ESTIMATE OF THE TOTAL CONSTRUCTION COST)

From More Than	To and Including	Assessment per day
$ 0	$25,000	$475
25,000	50,000	475
50,000	100,000	500
100,000	500,000	700
500,000	1,000,000	950
1,000,000	2,000,000	1,100
2,000,000	3,000,000	1,225
3,000,000	4,000,000	1,625
4,000,000	5,000,000	2,025
5,000,000	6,000,000	2,425
6,000,000	7,000,000	2,825
7,000,000	8,000,000	3,225
8,000,000	9,000,000	3,625
9,000,000	10,000,000	4,025
10,000,000	70,000,000	4,300

CONTRACTOR REQUIREMENTS

The bid proposal must also stipulate that the prime contractor on a project must perform with its own organization, contract work amounting to not less than 30% of the total original contract price. A prime contractor must have a fully responsive contactor questionnaire on file with the Missouri Highways and Transportation Commission (MHTC) at least seven (7) days prior to the bid opening date if this project involves roadway or bridge work. To get on the approved contractor listing prior to letting, click on the following link:

http://www.modot.mo.gov/pdf/business/Contractor_Questionnaire.pdf. The following sentence could be inserted into the contract that would allow contractors not on the listing to submit a bid for the project. "Section 102.2 of the Missouri Standard Specifications for Highway Construction, 2004 Edition will be waived for this project." This statement should only be used on proposed improvements that do not contain roadway or bridge construction (i.e., landscaping, sidewalks, bicycle path, etc.). If this waiver is not inserted in the contract and the bidder is not on MoDOT's listing, the bidder cannot be awarded the project. The project may be awarded to the second low bidder.

The bid proposal must also stipulate that second-tier subcontracting will not be permitted on the project. It will be the responsibility of the contractor to insure that subcontractors do not subcontract any portion of the work.

If the specifications call for contractor-furnished borrow, the contractor must ensure that all environmental requirements have been satisfied for use of the borrow site. To eliminate possible delays, the local agency shall specify in the engineering services contract that a proposed borrow site be investigated. The project sponsor must provide written certification to the MoDOT district representative, including clearance letters and other evidence of coordination with the appropriate regulatory agencies, that the proposed land disturbance site has been cleared of environmental concerns under all applicable federal and state laws and regulations. More information on obtaining environmental clearance for borrow sites can be found in Section 4.

The following Title VI Civil Rights Assurances notification must be included in the invitation to bidders in the front of all bid proposals and in any magazine advertisements, newspaper advertisements, invitations for bids mailed to prospective bidders and suppliers, and any other means of obtaining submission of bids for work or materials.

"The County/City/Organization of _____ hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

CONTRACTOR LETTING AND AWARD

To obtain construction authorization, the local agency must submit PS&E, all environmental clearances, and the right-of-way clearance certification statement to MoDOT. Authorization will not be granted until right of way is cleared and railroad and utility agreements are executed. Projects on railroad right of way or crossing railroad right of way require written approval from the Railway Company of the final plans prior to construction authorization. Local agency-state agreements must also be executed before construction authorization will be given. Any supplemental agreements pertaining to the preliminary engineering of the project must be submitted, fully executed, prior to construction authorization. Projects utilizing MoDOT funding must receive bid award concurrence from the MHTC.

A project cannot be advertised for letting until MoDOT has issued construction authorization.

PS&E approval, DBE goal approval, and construction authorization will enable the local agency to advertise for bids. Competitive bidding will be required except where work by local agency forces or utility companies has been authorized. All bids must be publicly opened and read and award made to the lowest responsible bidder, provided acceptable bids are received. MoDOT must approve any request to reject any or all bids after the project sponsor has submitted written justification.

PROFESSIONAL LICENSURE, CERTIFICATION, BUSINESS LICENSURE, AND WORK PERMITS

Any permitting or licensing criteria for contractors, subcontractors, and suppliers must be submitted to MoDOT for advanced approval. MoDOT must review all submissions and approves them only if they do not unduly restrict or limit any firm's ability to bid on and receive award of federal-aid projects. If, at any time, modifications are made to the approved requirements, MoDOT will have to approve the revised requirements prior to use.

Law shall require no contractor, regulation, or practice to obtain a license or permit before submission of a bid or before a bid may be considered for award of a contract.

BIDDER QUALIFICATION LANGUAGE

Federal-aid contracts must be awarded based on the lowest responsible and responsive bid submitted by a bidder meeting the criteria of responsibility approved by MoDOT. Any qualifying or other criteria to determine the responsibility of contractors, subcontractors, and suppliers must be submitted to MoDOT for advanced approval. If any modification is made to the approved requirements, MoDOT will have to approve the revised requirements prior to use.

Prequalification of contractors may be required as a condition of submission of a bid or award of contract only if the period between the date of issuing a request for bids and the date of opening of bids affords sufficient time to enable a bidder to obtain the required prequalification rating or approval. All prequalification criteria must be submitted to MoDOT for approval in advance of the date of issuing a request for bids. Prequalification cannot include any criteria that may operate to restrict competition, to prevent any responsible contractor from submitting a bid, or to prohibit the consideration of a bid submitted by any responsible contractor, whether resident or nonresident of the state wherein the work is to be performed. The bidders must be familiar with and aware of the requirements in 23 CFR Section 635.110, 635.112, and 635.114.

Requirements for the prequalification, qualification, or licensure of contractors that operate to govern the amount of work which may be bid upon by or awarded to a contractor shall be approved only if based upon a full and appropriate evaluation of the contractor's capability to perform the work.

Contractors who are currently suspended, debarred or voluntarily excluded under 49 CFR part 29, or otherwise determined to be ineligible shall be prohibited from participating in the Federal-Aid Highway Program.

To satisfy federal requirements, projects must be advertised one time at least 21 days before the bid opening. This advertisement should be placed in a newspaper having a general circulation in the area of the project. FHWA administrative guidelines also allow advertising projects online. Provided that the Local Agency notifies all interested bidders about the website and the website is readily accessible to all interested bidders. Internet advertising is acceptable for federal-aid projects as a supplement to traditional means. Additionally, the local agency should ensure that requirements of state statutes governing local agency operations are also satisfied. The local

agency should advise MoDOT of the first advertising date and the time and location of the bid opening as soon as these are determined. A sample advertisement is shown as Figure 10-2.

The information contained in the plans and specifications (bid proposal) that was approved as part of the final plans package must not be altered prior to being made available to prospective bidders. Any revisions to the plans or bid proposal made after the MoDOT final plan approval date must be submitted to MoDOT for review and approval as an addendum to the final plans package. Approval of the addendum must be attained prior to making the revised plans or bid proposal available to prospective bidders. Failure to receive prior approval of an addendum to the bid package may jeopardize the federal funding for the project. The local agency is required to receive confirmation from every bidder that they have received their copy of the addendum that was issued.

Local agencies may use a bidding procedure called additive alternates to help keep the awarded contract amount within budget. Under this procedure, the local agency submits its construction budget for the federal-aid portion of the project (that is, the amount of funding the agency has available for construction) and also separates the "base-bid" items and the "additive alternates" in the engineers estimate. The "additive alternates" are items that will be selected if the "base plus alternates" price is within budget. The local agency must clearly specify the priority of alternates which will be considered and indicate that the award will be based on the lowest responsive bid. This budgeted amount will be used to help determine which contractor the project will be awarded to, as the agency will be required to award the project to the contractor who can provide the most amount of work (base bid plus alternates) that is within the agency's budget.

Each bidder shall file an anti-collusion statement at the time of the bid. The local agency will provide the anti-collusion statement to each prospective bidder. Failure to submit the anti-collusion statement as part of the bidding documents will make the bid non-responsive and not eligible for award consideration. (See Figure 10-3 for an anti-collusion statement example.)

All bids will be evaluated based on 23CFR Subsection 635.114. MoDOT concurrence must be obtained prior to the award of contract. The sponsors must have MoDOT concurrence to reject bids and re-advertise for bids.

The request for MoDOT concurrence should be accompanied by (contact the appropriate district representative for the number of copies to submit):

Per district requirement please submit

- a cover letter from the sponsor requesting MoDOT concurrence in award
- a tabulation of all bids received
- the executed anti-collusion statements from the first and second low bidder
- the DBE submittal forms for the first and second low bidder
- itemized bid forms from the first and second low bidder (with asterisks placed by the items that the DBE will perform)

Itemized bid subtotals shall be shown for roadway items, signals, lighting, signing, striping, and bridges.

Justification should be provided with any request for concurrence in award if the lowest responsible bid is more than 10% higher than the project estimate.

Following the award of contract, the local agency should submit two fully executed copies of the contract to MoDOT. This submittal should include complete contracts similar to the bid proposals, with the addition of signatures, insurance, and bond forms.

No work is to be initiated on any part of the project until FHWA approves (obligates) federal funding and MoDOT notifies the local agency to proceed.

PS&E Review Checklist
LPA Projects

Project Name: _____
Project Sponsor: _____
Project #: _____

_____ Specifications reference MISSOURI STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION - 2004 EDITION
(Not "MoDOT Specs"

_____ Contract Time for Completion of Work - _____ Calendar / Working Days
(Dec 15 - Mar 15 not counted)

_____ FHWA 1273 Contract Provisions Included in Specs

_____ Itemized Bid Form Used (No Lump Sum Contracts)

_____ Notice to Contractors (LPA 10-4 - Title VI Civil Rights Assurances)

_____ Minimum Liquidated Damages per LPA 10-3

_____ DBE Forms with Goal

_____ DBE Contract Provisions

_____ Anti-Collusion Statement

_____ Warranties/Guarantees (not allowed unless permitted by conditions in LPA 10-2)

_____ Guildelines for Obtaining Environmental Clearance (LPA Fig. 4-11)

_____ Subcontractor Certification Regarding Affirmative Action (LPA Fig. 10-4)

_____ Bid Proposal states No Second Tier Subcontracting (LPA 10-4)

_____ Bid Proposal states Prime Contractor must perform 30% (LPA 10-3)

_____ Information for Bidders states Prime Contractor must have questionnaire on file 7 days prior (LPA 10-3)

_____ Section 106 - SHPO Clearance

_____ 404 COE Permit / 401 Water Quality (If Applicable)

_____ USF&W T&E Clearance (If Applicable)

_____ MDC Heritage Review (If Applicable)

_____ Flood Plain Development Permit (If Applicable)

_____ Farmland Impact Statement (If Applicable)

_____ Copy of Categorical Exclusion

_____ ADA Compliance Certification and/or ADA Post Inspection Checklist (all sidewalk projects)

_____ Approval Letter from Drainage District (If Applicable)

_____ Approval Letter from Railroad (If Applicable)

_____ Utility Relocation - Status Letter from Applicable Agencies (If Applicable)

_____ Federal Wage Rates (if on a federal aid highway system with note higher of two)

_____ State Wage Rates

_____ Non-MoDOT Approved Contractor Allowed Statement (LPA 10-4 - Enhancement Projects)

_____ Right to Inspect Work By MoDOT & FHWA Statement (LPA 9-9)

_____ Traffic Management Plan (LPA 9-1)

_____ MoDOT Permit if on MoDOT R/W

_____ All sheets signed/sealed by PE

_____ Title Sheet has Federal Project Number

_____ Title Sheet has location map

_____ Title sheet signed by local official(s)

_____ Confirm Excessive Unemployment is addressed properly (Not Allowed on Fed-Aid Projects)

_____ OSHA Training Requirements

_____ E-Verify

_____ Bid Item List - 2B Sheets - Is Information Adequate for Bidders?

_____ All Testing specified to be conducted by LPA or Consultant, NOT by Contractor

ARRA Specific Requirements

CCR Registration Required

DUNS Number Required

ARRA Job Special Provision

Sample of Form 1589

Form 1589 Instructions

Reviewed By: _____ Date: _____

SAMPLE ADVERTISEMENT

Road Work
Notice to Contractors

Sealed proposals, addressed to:

(Insert Address)

An endorsed "Proposal" for construction or improving the following routes and projects in _____ County, will be received by the Commission until 10:00 o'clock A.M. (Prevailing Local Time) on the _____day of _____, at the office of the _____ and at that time will be publicly opened and read.

The proposed work includes:_____
_____
_____.

Special Needs: If you have special needs addressed by the Americans with Disabilities Act, please notify_____, at _____, or through Missouri Relay System, TDD _____, at least five (5) working days prior to the bid opening you plan to attend.

The wage rates applicable to this project have been predetermined as required by law and are set forth in this appendices. When Federal wage rates are applicable and included, this contract is subject to the "Work Hours Act of 1962", (P.L. 87-581: 76 Stat. 357) and implementing regulations.

The Commission hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, creed, sex, age, ancestry, or national origin in consideration for an award.

Plans and specifications may be inspected or purchased from the office of the Commission at _____. Complete instructions to bidders and proposal blanks may be obtained at the _____.

Proposals must be on forms provided.
The right is reserved to reject any or all bids.

(Signature block of issuing authority)

Fig. 10 - 2

ANTI-COLLUSION STATEMENT

STATE OF MISSOURI

CITY/COUNTY OF_____

_____

_____ being first duly sworn, deposes and says that he is

_____
Title of Person Signing

of _____

_____
Name of Bidder

that all statements made and facts set out in the proposal for the above project are true and correct; and the bidder (The person, firm, association, or corporation making said bid) has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with said bid or any contract which may result from its acceptance.

Affiant further certifies that bidder is not financially interested in, or financially affiliated with, any other bidder for the above project.

BY_____

BY_____

BY_____

SWORN to before me this _____ day of _____ 20 ___.

_____
Notary Public

My Commission Expires_____

Fig. 10 - 3

SUBCONTRACTOR CERTIFICATION REGARDING AFFIRMATIVE ACTION

Project: _____
Job No. _____
Route: _____
County: _____

Certification Regarding Affirmative Action and Equal Opportunity: The bidder (prospective prime contractor) or proposed subcontractor certifies:

1. Affirmative Action Program: That it has developed and has on file at each of its establishments affirmative action programs pursuant to 41 CFR Part 60-2.

2. Equal Opportunity Clause: That it has participated in a previous contract or subcontract subject to the equal opportunity clause set forth in 41 CFR Part 69-1.4 and executive order no. 11246.

3. Compliance Reports: That it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs and his designate, or the Equal Employment Opportunity Commission, all reports due under the applicable filing requirements contained in 41 CFR Part 60-1.

If the text of the certification above is incorrect, the bidder or subcontractor making the certification shall correct it below:

_____
_____
_____

NOTE: This certification applies to and must be executed by each bidder (prospective prime contractor) or proposed subcontractor if its proposed contract or subcontract on this project will equal or exceed $10,000 or that contractor or subcontractor has contracts or subcontracts on federally assisted projects in any 12-month period which have or can reasonably be expected to have, an aggregate total value exceeding $10,000 41 CFR Part 60-1.5(a)(1). It is a duty and contract obligation of the prime contractor to insure that each of its subcontractors, which meet this criterion, executes and submits to the commission this certification also.

_____
Company

By: _____

Date: _____

_____
Title

Fig. 10 – 4

PRECONSTRUCTION CONFERENCE

No work is to be initiated on any part of the project until federal funding has been approved (obligated) by FHWA and the local agency has been notified by MoDOT to proceed.

A preconstruction conference shall be conducted by the local agency, prior to the start of work, to ensure that all parties involved are aware of their responsibilities. Those invited to attend shall include but not be limited to representatives from the consultant (if applicable), contractor, subcontractors, utilities (if involved), local police, fire, postal, and school agencies (if traffic is to be severely restricted or road closed), and MoDOT. Arrangements for and notice given of the meeting shall be completed at least one week prior to the meeting date. Figure 11-1 outlines some general guidelines for the preconstruction conference.

For projects that have specified contractor furnished borrow, the contractor should be reminded of the requirement that the borrow area must be reviewed by DNR for cultural resource issues, a Farmland Conversion Impact Rating statement should be filed, and the U.S. Fish and Wildlife Service and the Missouri Department of Conservation should be contacted for review of endangered species. A copy of the correspondence from these agencies should be filed with the MoDOT district representative. More information on contractor furnished borrow can be found in Section 4.

CONSULTANT CONSTRUCTION ENGINEERING SERVICES

Under FHWA directive R7-4580.2, neither a consulting engineering firm, nor any of its employees, that is providing engineering and inspection services for the contracting agency shall be allowed to perform work that is the construction contractor's responsibility.

A consultant who provides both project engineering services for the contracting agency and engineering services for the project construction contractor is operating under an arrangement that gives the appearance of a possible conflict of interest and is unacceptable for federal-aid work.

BRIDGE DECK FINISHING

The bridge deck shall be poured and finished in compliance with Section 703.3.5 of the Missouri Standard Specifications for Highway Construction, 2004 Edition. The use of vibratory screeds will not be permitted. Exception to this specification can be approved only for box culvert bridges with adequate justification. MoDOT recommends the local agency schedule pre-pour meetings with the contractor and the local agency's inspection staff. Suggested topics for this pre-pour meeting can be referenced as commonly used forms on the MoDOT website at *http://www.modot.mo.gov/business/manuals/localpublicagency.htm#Forms*.

Proper inspection of the bridge deck is crucial to the successful pour of the bridge slab. These forms are provided for local agency use as a checklist to ensure the proper inspection of the bridge deck is performed.

CHANGE ORDERS

Any change from the original contract must be documented by a change order. Change orders must be submitted to MoDOT to ensure the changes are required for the project and they meet federal funding requirements. Change orders must include a clear, concise reason for the change and adequate justification for negotiated prices. Change orders that involve changes to structures shall state whether the change is a design change or a construction change and shall be submitted to the MoDOT district representative for review.

Change orders are classed as either major or minor. Change orders shall be numbered consecutively, whether major or minor.

A major change order is defined as follows:

1. Any increase in a contract bid item exceeding $20,000,

2. Any addition of a new item exceeding $20,000,

3. Any change in the design of a bridge or retaining wall regardless of cost,

4. Changes beyond the scope or limits of the original project,

5. Changes in the basic design geometry or safety features (i.e. typical section, vertical or horizontal alignment, guard rail),

6. Changes in specifications that would permit the implementation of alternative material into the final product, or

7. Changes involving an extension in contract time.

The contractor, consulting engineer, local agency, and MoDOT must approve major change orders, prior to the work being performed. When it is necessary to proceed with the work, a major change order may be approved by telephone. However, written documentation should follow after telephone approval has been given. Telephone approval should only be requested when time is of the utmost importance. A major change order in writing should be submitted immediately for written approval. MoDOT will retain two (2) copies and return the remainder to the local agency.

Major change order forms shall provide sufficient space for the signatures of the District Engineer and State Construction and Materials Engineer, in addition to the required signatures of the contractor, consulting engineer, and local agency. A "sample copy" of a change order can be seen in Figure 11-2.

Any change not meeting the criteria of a major change order is considered a minor change order. MoDOT approval is required if the item exceeds $20,000. If the new contract item or change to a bid item exceeds this amount, contact MoDOT prior to the work being performed for verbal approval. The contractor, consulting engineer, and the local agency must approve minor change orders prior to the work being performed. Further, minor change orders that include new items, negotiated prices, force account, or construction changes for a bridge or retaining wall must be approved by MoDOT prior to the work being performed. When approval by MoDOT is required, the minor change order shall be submitted. Upon approval by MoDOT, two (2) copies will be retained by MoDOT and the remainder will be returned to the local agency and consulting engineer for distribution.

When it is necessary to proceed with the work, a minor change order may be approved by telephone. A minor change order should be prepared and signed immediately.

Minor change orders that have been approved by the contractor, consulting engineer, the local agency, and if necessary, MoDOT may be submitted for reimbursement of eligible costs. A copy of approved minor change orders shall be submitted to MoDOT with the next progress invoice to facilitate checking of the invoice.

Minor change orders require the eventual approval of MoDOT. Minor change orders may be attached to the next major change order or the final change order as directed by the MoDOT representative. The major change order may include a statement specifically referencing by change order number the attached minor change orders. (Change orders shall be numbered consecutively, whether minor or major.) Approval by MoDOT of the major or final change order will constitute approval of the attached and referenced minor change orders.

Changes should involve adjustments in quantities based on unit prices wherever possible. If the work is not a change in a bid item, it should be done by an agreed price substantiated by documentation to establish that the price is reasonable or it may be done on a force account basis. Any work to be done by force account must be documented by an approved minor change order showing the estimated cost, with said minor change order having been approved by MoDOT before work starts.

Contract time extensions granted by the local agency which affect project costs or liquidated damages shall be subject to the concurrence of MoDOT and will be considered in determining the amount of federal participation. To be approved by MoDOT, extensions of contract time must be fully justified and adequately documented. The local agency will be liable for any liquidated damages for time extensions granted by them and not approved by MoDOT. Under these conditions, the money value of the damages will be deducted from money due the local agency.

VALUE ENGINEERING

See the Missouri Standard Specifications for Highway Construction, 2004 Edition and Supplemental Specification Revisions, Section 104.6 for a guideline on Contractor Proposals for

Value Engineering. After the Consultant Engineer and project sponsor approval of a Value Engineering Change Proposal (VECP), MoDOT approval must be attained prior to the change order being approved.

INITIAL DATA FROM LOCAL AGENCY

Within two working days after the start of work, the local agency shall furnish a letter in duplicate to MoDOT containing the following information:

1. Project identification;
2. Contractor's name and address;
3. Resident engineer's name, address, and phone number;
4. Name of local agency's representative in charge;
5. Name, address, and telephone number of local agency's consultant, if applicable;
6. Date of construction engineering contract approval;
7. Date of notice to proceed;
8. Completion date or working days;
9. Amount of contract;
10. Location and description of work;
11. Date of letting;
12. Date of award;
13. Date of preconstruction conference;
14. Date on which work actually started; and
15. Summary of Disadvantaged Business Enterprise (DBE) intent.

GENERAL DOCUMENTATION REQUIREMENTS

All costs incurred by the local agency for which federal reimbursement is sought must be supported by original source documents or documentation that provides adequate assurance that the quantities of completed work were determined accurately and on a uniform basis. Sample documentation as presented in the Examples for Field Book Documentation book can be obtained from the MoDOT district representative. This would include, but is not limited to, the following:

1. Securely bound high-grade field books and diaries must be used. Field books and diaries can be handwritten bound documents or saved as computer files. If computer files are used, a secure back up should be maintained.

2. Daily entries must be dated and signed in ink by the author.

3. Entries should describe the day's operations, quantities placed, and traffic control use or changes. When computations or diagrams are necessary, they should be shown in the field book.

4. Material receipts must be retained and shall show proper reference to the job and indicate proper weight and measurements and moisture deductions when applicable. Each material

ticket must be validated by both the scale inspector and the inspector at the job site. Certain small quantities are exempted from weight requirements. It is suggested that tickets be bound according to type of material and date. Each bundle would then support the entries in the field book.

5. Testing and certification reports must be retained. It is also necessary that they be received by the local agency prior to their payment to the contractor for the material represented. Certain small quantities are exempted from testing requirements. Certification and test reports shall be labeled with the number of the bid item represented and shall be kept in numerical order.

6. Engineer's payment estimate must never exceed the in-place quantities on which a testing report or a certification has been received. Any quantities in excess of plan quantity must be covered by an approved change order prior to being placed on the payment estimate.

7. If material allowances are used, they must not exceed the estimated quantities required by the job nor the test reports or certifications. Care must also be taken to reduce the material allowance, as the material is paid-in-place. The invoice must be marked paid by the supplier. Being marked paid by the contractor is not allowed.

8. Care should be taken that the necessary change order is properly filled out and approved prior to performance of the work it covers. Changes to the Traffic Control Plan need to be documented by change order. It is suggested that the answer to any change order question be obtained from MoDOT's district office to prevent any loss of reimbursement.

9. Field measurements, when necessary, should be taken and specifically documented in the field book. Contact the MoDOT district representative for examples of acceptable documentation.

10. A summary showing the portion of each bid item installed by date shall be included in the project diary and signed by the inspector.

11. For lump sum items and excavations, an estimated percentage of completed work shall be placed in the summary. Documentation for payment shall be shown in the project diary entries as the work is being accomplished.

12. The MoDOT district representative shall review project diaries and summary of quantities during their inspection of the project and upon final acceptance of the project from the local agency.

The local agency shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the costs incurred. Such materials shall be available at its office for inspection by MoDOT, FHWA, or their authorized representatives at all reasonable times during the contract period and for three years after the date on which the local agency receives reimbursement of its final invoice from MoDOT, and copies thereof shall be furnished if requested.

PROGRESS REPORTS

The local agency shall submit a copy of a monthly report to the MoDOT district representative stating the progress of the work. A sample reporting form is included at the end of this section and labeled Figure 11-3. The local agency may elect to summarize construction activities for the project on a weekly basis. However, these summaries shall be submitted to MoDOT on a monthly frequency.

MATERIALS TESTING

Three different types of samples and tests are required for each project as follows:

1. Job control samples and tests should be run by the local agency as work progresses to assure the local agency that the project is constructed in compliance with the applicable specifications. All project sampling and testing of materials shall be performed by the local agency or by a consultant employed by the local agency.

   The local agency or consultant shall have adequate equipment to perform all required tests and personnel capable of properly operating the equipment as outlined by MoDOT's Materials Manual. See *http://www.modot.mo.gov/business/materials/materialsmanual.htm* for more information.

   Test reports or certifications are necessary for all material incorporated into the work. The test report or certification must show the quantity of material being reported and whether it meets the specifications.

   Actual test results of materials tested are preferred, although certifications from the supplier are acceptable on certain items. A guide schedule for federal-aid acceptance sampling (Figure 11-10) is included at the end of this section.

   Submission of job control test results to MoDOT is not required unless requested by MoDOT or FHWA. These test results must be retained as outlined in Section 11 of the LPA Manual.

2. Independent assurance samples and tests will be performed by MoDOT personnel in accordance with the procedures and at the frequency set forth in Field Section 10 of the MoDOT Materials Manual. Independent assurance samples and tests will not be required of the local agency or the local agency's consultant.

3. In order to facilitate the acceptance of small quantities of materials with a minimum of inspection and testing, MoDOT has approved a schedule of materials quantities which may be accepted without complying with the sampling and testing requirements mentioned above. This schedule of material items is listed on pages 11-12 through 11-14. Any major deviation from this schedule should be approved by MoDOT at the PS&E submission.

INVOICES

Invoices may be submitted by the local agency to MoDOT for reimbursement of all costs contained in the agreements and contracts as they are incurred. For detailed information on the procedures to be followed, see Section 12.

SUBCONTRACTS AND APPROVAL

All contracts shall stipulate that no less than 30% of the contract work shall be performed by the prime contractor's own forces and equipment. All contracts shall further hold to the right of approval of any subcontract prior to performance of subcontract work. The form of approval shall be such as to assure the local agency that the proposed subcontractor is both qualified to perform the proposed items of work and legally bound to comply with all the requirements of the contract as they would apply to the prime contractor, for example, wage rates, equal employment opportunity regulations, submittal of payrolls, etc. No subcontractor may further subcontract any of his work.

At the time of approval, the local agency shall furnish the MoDOT representative the name and address of each subcontractor, the percentage of work sublet to that particular subcontractor, the percentages awarded to DBEs, and the total percentage of work sublet to date. DBEs must be on the MoDOT-approved listing at the time of letting. In figuring the percentage of the contract work performed, all prices for sublet work shall be at contract unit bid prices. A sample form that may be used for submitting subcontractor information and instructions for completing the form are included at the end of this section (Figure 11-4-1 through 11-4-3).

LABOR RECORDS

The local agency shall obtain payrolls and forms related to Equal Employment Opportunity. They shall also ascertain that necessary posters are in place on the project (see Page 11-8).

The prime contractor and each subcontractor on all projects are required to submit one certified copy of labor payrolls for each week that work is in progress. In the event that work is temporarily suspended, the last payroll shall be marked appropriately to note that it will be the last payroll until work is resumed.

Payrolls to be submitted shall be checked for compliance with the contract requirements. The local agency shall retain all payrolls for a period of three years after the date on which the local agency receives reimbursement of its final invoice from MoDOT, during which time they shall be open to inspection by MoDOT.

A certified copy of each weekly payroll must be submitted by the prime contractor within 7 days of the payment date of the payroll. The certification may be attached to the payroll or may be on the payroll itself. The prime contractor will be responsible for the submittal of payrolls and certifications for all subcontractors on the project.

The local agency shall check payrolls, with the following checks being made to insure proper labor compliance:

1. The employee's full name as shown on his social security card, his address, and social security number shall be entered on each payroll.

2. Check the payroll for correct employee classification.

3. Check the payroll for correct hourly wage and, where applicable, the correct overtime hourly rate.

4. Check the daily and weekly hours worked in each classification including actual overtime hours worked (not adjusted hours).

5. All deductions are listed and the net wage shown. The Form WH-347 (explained in a subsequent paragraph) is to be used where fringe benefits are paid into established programs. However, if fringe benefits are paid in cash to the employee, the amount shall be indicated on the payroll.

6. To assure that the payrolls are arithmetically correct, approximately 10% of the extensions on the first three payrolls shall be checked. The contractor is to be advised of any violations noted on the labor payroll. All the errors are to be corrected by means of a supplementary payroll.

7. All checking by the local agency shall be made in red pencil and initialed by the checker.

8. Final payrolls shall be marked "Final" or "Last Payroll."

9. The local agency is to maintain a record of all payrolls.

The prime contractor and each subcontractor are required to submit a weekly statement of compliance within seven days of the payment date of each payroll period. This statement, Form WH-347, is to be submitted in the prescribed form as set out in the "Required Contract Provisions" included in the contract. The local agency is to maintain a record of all statements. This Form WH-347 is available to contractors from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

INFORMATION POSTERS

The contracts for construction projects require that certain information be displayed in a conspicuous place within the project limits for the duration of the contract. The following is a list of required information to be posted both on the project and in the resident engineer's office:

1. In the resident engineer's office:

    a. "Discrimination in Employment is Prohibited by Law in Missouri"

b. PR-1022, title 18, Section 1020, Notice on False Statements

2. On the project:

   a. State and Federal Wage Rates Notice (as required)

   b. Federal Equal Employment Opportunity (EEO) Notice (English and Spanish version)

   c. PR-1022, Title 18, Section 1020, Notice on False Statements

   d. Form FHWA-1495 and FHWA-1495A, Wage Rate Information (post with Federal Wage Rates)

   e. EEO policy statements and name, address, and telephone number of designated EEO Officers for all contractors and subcontractors performing more than $10,000 of work

   f. Notice to labor unions of contractor's commitment to EEO (if requested)

   g. Notice requesting referral of minorities/women by present employees

All posters shall be completed as required, showing names and telephone numbers where indicated.

LABOR INTERVIEWS

Local agency personnel are to conduct one wage rate interview on each project every two weeks. Labor interviews are not required on railroad and other utility adjustments. The interviewer shall determine the employee's name, the classification of the employee, the actual wage paid, and the posted wage. Interviews shall be documented as shown on the attached form (Figure 11-5).

The local agency shall submit two (2) copies of a semi-annual report to the MoDOT district representative containing the following information:

1. Number of contractors or subcontractors against whom complaints were received

2. Number of investigations completed (if complaints were received)

3. Number of contractors or subcontractors found in violation

4. Amount of restitution due under:

   a. Davis-Bacon and Related Acts

   b. Work Hours Act of 1962

   (The Davis-Bacon Act encompasses prevailing wage rate violations, whereas the Contract Work Hours Act encompasses daily and weekly overtime violations.)

5. Number of employees due wage restitution under Davis-Bacon and related Acts and/or Work Hours Act of 1962

6. Amount of liquidated damages assessed under Work Hours Act of 1962

The above report is due not later than April 4 for the period from October 1 to March 31 and not later than October 5 for the period from April 1 to September 30. This report shall include all information gathered on all projects.

EQUAL EMPLOYMENT OPPORTUNITY (EEO) REQUIREMENTS

The EEO requirements are contained in the contract. The local agency should be familiar with those requirements as they must be enforced.

All contractors or subcontractors whose contract or subcontract is $10,000.00 or more must submit Federal-Aid Highway Construction Contractors Annual EEO Report, Form FHWA-1391 (Figure 11-6). Employment data should total correctly on this report.

If a contractor or subcontractor has been active on a project but no work was performed during the above payroll report period, a "No Work Was Performed" report is to be submitted. If a project has not started, no report is required.

FINAL ACCEPTANCE

The local agency shall notify MoDOT when the project is complete. A semi-final inspection is then arranged by the local agency. Representatives from the agency, MoDOT, general contractor, and in some cases, the subcontractor(s) do a walk-through inspection and compile a list of corrections. The sponsor then issues a letter to MoDOT and the contractor listing the corrections and those present at the semi-final inspection.

A final inspection is held after the corrections have been satisfactorily completed. The local agency then accepts the job, assumes maintenance of it, and issues a letter to the contractor and MoDOT stating this. This letter would also include a final working/calendar day count.

"Final Acceptance" by the local agency occurs when the corrections are completed and the agency takes over maintenance of the job. The agency's final acceptance letter with the final working/calendar day count becomes part of the final documents.

"Final Acceptance" by MoDOT occurs after the local agency has submitted all the applicable final documents listed on pages 11-11 and 11-12. MoDOT then issues a final acceptance report, form C-239, and sends a copy of this report to the local agency.

"Substantial Completion" can sometimes be used by sponsors on off-systems jobs to indicate partial acceptance and a halt to the working day count. Completion of the construction activities

that constitute substantial completion should be outlined in the original contract agreement. Final inspection and acceptance then follows the process listed above.

CERTIFICATIONS

Full payment of the final invoice will not be considered until the local agency has furnished two (2) copies of the following documents:

1. The local agency's semi-final inspection letter stating the date of semi-final inspection and listing those who were present. Required for both contractor and local agency work, where applicable.

2. The local agency's final acceptance letter showing the number of working days or calendar days charged and the amount of liquidated damages, if any.

3. A certification stating

   a. "The results of the tests or acceptance samples indicate that material incorporated in the construction work and the construction operations controlled by sampling and testing were in reasonably close conformity with the approved plans and specifications, and such results compare favorably with the results of independent assurance sampling and testing." Any deviations from the specifications must be explained along with the reason for acceptance.

   b. "All field tests were performed in conformity with the governing specifications and the results were in reasonably close conformity with the specifications." Explain any deviations and why the work was accepted.

   c. "The project was constructed substantially in conformity with the plans and specifications for the project."

4. Contractor certification and local agency recommendation

   a. The contractor's certification showing the final DBE participation on the project including the DBEs used, the type of work performed, and the dollar amount paid to each DBE (Figure 11-7).

   b. The local agency's recommendation regarding the contractor's fulfillment of the DBE requirements. If DBE goals were not met, include documentation as to why.

5. Final Invoice

6. Final Detailed Estimate of Quantities

7. Contractor's Certification Regarding Settlement of Claims (Figure 11-8).

8. Final Change Order (if needed)

9. Prevailing Wage Affidavit (Figure 11-9)

MoDOT will certify the dates on which any on-site inspections were made.

WORK BY LOCAL AGENCY FORCES

If the local agency elects, with MoDOT approval, to perform work with its own forces (see Section 9 for more information), it will not be necessary to comply with the aforementioned labor records, postings, payroll checking, interviews, and Davis-Bacon minimum prevailing wages. However, it will be necessary for the local agency to comply with the provisions of Form PR-1273, Required Federal-Aid Provisions - All Federal-Aid Construction Contracts, Section II - Equal Opportunity, and Section III - Non-segregated Facilities. These two sections essentially require that the local agency be an "Equal Opportunity Employer." See Section 12 for required records to support reimbursement for work performed by local agency forces.

FINAL PLANS

If any project involves work on state right of way or if MoDOT will be maintaining any portion of the completed improvement, the local agency shall furnish to the MoDOT district representative two complete sets of final "as built" plans. Final plans shall be submitted within 60 days of final acceptance of the project.

For bridge plans, if there are any design changes, final "as built" bridge plans shall be submitted to the MoDOT district representative.

ACCEPTANCE OF SMALL QUANTITIES OF MATERIAL ON FEDERAL-AID PROJECTS

The guidelines below may be used to reduce the amount of engineering control and sampling and testing for relatively small quantities of materials. These guidelines are intended for use on materials that will not adversely effect the traffic-carrying capacity of the completed facility and are not to be used for concrete in major structures, permanent mainline or ramp pavements, or other structurally critical items.

1. Weighing of Materials

   The project engineer may accept small quantities of material on the basis of weights determined and placed on the delivery ticket by the contractor or supplier. The city representative who observes receipt of the material and obtains the delivery ticket should inspect the load and indicate that the quantity of material delivered appears reasonably in accord with the weight shown on the ticket before accepting the material for incorporation in the work.

   The following quantities of material may be accepted on the basis of weights supplied by the contractor or supplier:

a. Aggregate—Not to exceed approximately 100 tons per day of (1) aggregate for bases, (2) aggregate for surfacing, and (3) sand for primer nor more than approximately 500 tons per project.

b. Bituminous Mixtures—Not to exceed approximately 50 tons per day nor more than approximately 250 tons per project. These quantities may be in addition to any materials of this type required for temporary construction to be maintained by the contractor and removed before final project acceptance.

2. Sampling and Testing of Small Quantities of Miscellaneous Materials

The project engineer may waive sampling and testing of small quantities of miscellaneous materials and accept the material on the basis of one of the two following methods:

a. Acceptance on the basis of visual examination provided the source has recently furnished similar material found to be satisfactory under the city's normal sampling and testing procedures or

b. Acceptance on the basis of certification by the producer or supplier stating that the material complies with the specification requirements

The project engineer or person approving the material should provide the primary documentation of acceptance of material under either of these two methods. The documentation may consist of a daily inspector's report with a statement as to the basis of acceptance of the material and the approximate quantity of material covered by the acceptance.

The following quantities of material may be accepted under the methods indicated above:

1) Aggregates—Not to exceed approximately 100 tons per day nor more than approximately 500 tons per project

2) Bituminous Mixtures—Not to exceed approximately 50 tons per day nor more than approximately 250 tons per project

3) Bituminous Material—Not to exceed approximately 100 gallons per project

4) Paint—Not to exceed approximately 20 gallons per project, acceptance to be based on weights and analysis on the container label

5) Lumber—Recognized commercial grades only may be used

6) Masonry Items—Subject to checking for nominal size and visual inspection, not to exceed approximately 100 pieces

7) Plain concrete or clay pipe—100 feet

3. Portland Cement Concrete

Concrete for the items listed below may be accepted on the basis of occasional conventional field sampling and testing for characteristics such as slump and air, where specified, and test cylinders, with only intermittent or random plant inspection as the project engineer deems necessary for control. Under this system, arrangements should be made for the producer to state on the delivery ticket accompanying each load of concrete the class of concrete being furnished; the weights of cement, aggregates, and water used in the batch; and the time of batching. Only tested aggregates and cement, or supplier-certified cement, may be used.

a. Sidewalks—Not to exceed approximately 500 square yards per day

b. Curb and gutter—Not to exceed approximately 500 lineal feet per day

c. Concrete base course and concrete base course widening—Not to exceed approximately 500 square yards per day

d. Pavement patching and temporary pavements

e. Building floors and foundations

f. Slope paving and headers

g. Paved ditch

h. Guardrail anchorage

i. Metal pile shells

j. Small culvert headwalls

k. Fence posts

l. Catch basins, manhole bases, and inlets

m. Sign, signal, and light bases

General Guidelines for Preconstruction Conference

1. **Introductions**

2. **General Remarks**

    1. Bridge Replacement
    2. Relocation of Roadway
    3. Limits of Project
    4. Number of work Days in Contract

3. **Concerns of Utilities**

    1. Gas
    2. Water
    3. Electric
    4. Telephone
    5. Cable
    6. Sewer
    7. Other

4. **General Discussion with Contractor**

    1. Proposed Operating Schedule
    2. Permits Required
    3. Cooperation with Others

5. **Specific Project Conditions**

    1. Special Requirements
    2. Unusual Conditions
    3. Conflicts and Problems Anticipated
    4. Clarification of Construction Details
    5. Specification Requirements

6. **Traffic Control**

    1. Construction Signing
    2. Detours
    3. Notification of Closures

Fig. 11 - 1 - 1

7. Delegation of Authority by the Contractor and Engineer

1. Lines of Communication

8. Reporting Requirements

1. Required Reports
2. Postings
3. Pay Estimates
4. Payrolls
5. Subcontractors
6. DBE & WBE Certifications
7. Change Orders

9. Date of Notice to Proceed

10. Any Other Items Concerning the Project

The above noted guidelines are general and represent what the Preconstruction Conference should cover on most projects. These are only guidelines and should be geared to the particular project and each local agency involved.

Fig. 11 - 1 - 2

CHANGE ORDER

Sheet No. _____ of _____

Change Order No._____
County_____
Route_____
Project_____
Job No._____

To_____Contractor
You are hereby directed to make the following changes from the contract.

1. Description and Reason for Change (Attach Supplemental Sheets if Required)

2. Estimate of Cost of work Affected by this Change Order.

(A) EST. LINE NO.	(B) CONTRACT ITEM NO.	(C) ITEM DESCRIPTION	(D) UNITS PREVIOUSLY PROVIDED FOR	(E) UNITS TO BE CONSTRUCTED	(F) UNITS OVERRUN, UNDERRUN, CONTINGENT	(G) CONTRACT OR AGREED UNIT PRICE	(H) AMOUNT OF OVERRUN OR PLUS CONTINGENT	(I) AMOUNT OF UNDERRUN OR MINUS CONTINGENT
						$	$	$
						TOTALS	$	$

3. Settlement for Cost of the above Change to be made at Contract Unit Price Except as Noted:

1. CONTRACT AMOUNT		$	The Terms of Settlement outlined above are hereby agreed to.
2. OVERRUN THIS ORDER	$		_____
3. OVERRUN PREVIOUS	$		CONTRACTOR
4. TOTAL OVERRUN TO DATE		$	by :_____ _____
5. TOTAL		$	Date

_____ _____
SUBMITTED ENGINEER DATE

_____ _____
APPROVAL RECOMMENDED LOCAL AGENCY DATE

_____ _____
APPROVAL RECOMMENDED MODOT DATE

_____ _____
APPROVED MODOT CONSTRUCTION DATE

Fig. 11 – 2

01-01-10

PROGRESS REPORT

Period from to _____ to _____

Project Number _____ Percent of work complete _____

Local Agency _____

Working days in contract _____

Working days charged this period _____

Working days previously charged _____

Working days charged to date _____

Working days remaining _____

Narrative of work completed this period and project status:

Anticipated Change Orders:

Traffic Control has been reviewed and deficiencies, if any, have been corrected.

Signed _____
Local Agency Representative

Fig. 11 – 3

REQUEST FOR APPROVAL OF SUBCONTRACT

Project _____
Route _____
County/City _____
TO: _____
(County/City Representative)

We request County/City approval to sublet the items of work listed on the back of this form to:

Subcontractor: _____
Address: _____
_____
Telephone: _____

The Subcontractor is classified:
___ Non-DBE
___ DBE

This request complies with requirements of the Standard Specifications, Supplemental Specifications, and Special Provisions, including but not limited to:

Required Contract Provisions (Form FHWA-1273)
US. Dept. of Labor Wage rates
State Wage Rate Requirements
Non discrimination in Employment
Equal Employment Opportunity
Nonsegregated Facilities
Small Business Act

Respectfully submitted,

_____
(Contractor)

By _____
Date

Have you attached the necessary EEO forms (If Required)?

This portion to be completed by County/City

PREVIOUSLY APPROVED SUBCONTRACTORS	TYPE OF WORK
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	

COUNTY/CITY APPROVAL

_____
Approval - County/City Representative Date

Distribution after approval:
Contractor, County/City Rep.

Subcontractor Number: _____

Fig. 11 - 4 - 1

Item No.	Description	Quantity	Unit Price	Amount Sublet	Amount DBE-Allowance
			Totals	a.	

This portion to be completed by County/City

Original Contract Amount = X=$ _____ Previous Total

Contract DBE Goal = Y= _____% Total to Date b. c.

Maximum DBE Allowance = d = X * Y = d.

Percent Sublet this Request = a/(X - c) * 100 = _____%

Total sublet to Date = b/(X - c) * 100 = _____%

Fig. 11 - 4 - 2

CONTRACTOR'S INSTRUCTIONS FOR FILLING OUT REQUEST TO SUBCONTRACT WORK

FRONT OF FORM

Fill in Project Number, Route, County/City, County/City Representative's Name, Subcontractor's Name, Address and Telephone, Subcontractor Classification, Contractor Signature Block and Date.

Do not write below the double line.

BACK OF FORM

List items in the same order as they appear in the contract.

Quantities on the request may be different than in the contract. Partial quantities are acceptable with an explanation. (Put an * by Quantity and an * with explanation listed below item descriptions.)

The Unit Price on a request can never be more than the unit price stated in the contract (No Exceptions).

The Unit Price on a request may be less than the unit price stated in the contract. (Put an * by unit price and an * with explanation listed below item descriptions.)

Use the following table to determine in what column to place the subcontracted amounts:

	Sublet Amount	DBE Allowance
Without DBE Requirements in Project:		
Non-DBE sub doing work:	Yes	No
DBE sub doing work:	Yes	No
With DBE Requirements in Project:		
Non-DBE sub doing work:	Yes	No
DBE sub doing work:	No	Yes*

*May not exceed the maximum DBE allowance in the contract. It then becomes a non-specialty item and is listed in the appropriate amount column.

Fill in the column Totals, then STOP. Do not write below the double line.

For subcontractors in excess of $10,000.00, submit the proposed subcontractors completed Certification Regarding Equal Opportunity and Affirmative Action in Subcontracting with this request.

Does the proposed subcontractor have the proper insurance submitted? If not, the request cannot be approved.

Form CR-1
Compliance
09/2008

EMPLOYEE INTERVIEW

Labor Compliance/EEO

CONFIDENTIAL

This document contains personal information and pursuant to Civil Code 1798.21 it shall be kept confidential in order to protect against unauthorized disclosure.

Job Number	Contract ID	Contractor Name	Prime ☐ Subcontractor ☐ Other:

LABOR COMPLIANCE

Employee's Name On Payroll (please print)	Social Security No. (Optional)	Job Classification (Craft)

Pay per Hour: Base_____ Fringe_____ (if applicable) | Are you an apprentice/trainee? Yes ☐ No ☐

Work being performed at time of interview: (Offer as much clarity as possible)

EEO COMPLIANCE

Male ☐ Female ☐ | Black ☐ (Not of Hispanic Origin) Caucasian ☐ (Not of Hispanic Origin) Hispanic ☐ Asian ☐ Native American ☐

Paid: Daily ☐ Weekly ☐ Bi-weekly ☐ Monthly ☐ Other: | How long have you worked for your present employer? | How long have you worked on this project?

Describe the type of work you have been performing this past week.

Do you keep record of hours worked? Yes ☐ No ☐	Do you work overtime? Frequently ☐ Seldom ☐ Never ☐	Are you paid time & half for overtime? Yes ☐ No ☐ (If No, explain below ↓)

Explanation:

Has your employer directed your attention to the required wage rate posters on this project? Yes ☐ No ☐	Have you seen these posters? Yes ☐ No ☐ (If No, explain below ↓)	Is anything withheld from your check (Other than Income Tax, FICA, etc.) Yes ☐ (If Yes, explain below ↓) No ☐

Explanation:

Are you aware of the Contactor's Equal Employment Opportunity (EEO) and Sexual Harassment Policies? Yes ☐ No ☐	Does the Contractor hold regular meetings to discuss these policies? Yes ☐ No ☐ If Yes, how often:

Who conducts the meetings?	Who is the EEO Officer for your employer?	Who is the company contact if you have a complaint?

Are you interested in, or has your employer informed you of, training possibilities? Yes ☐ No ☐ (If No, explain below ↓)

Explanation:

EMPLOYEE COMMENTS AND SIGNATURE

No Comments ☐ Comments: _____

Signature | Date

INTERVIEWER COMMENTS AND SIGNATURE

No Comments ☐ Comments: _____

Signature | Date

OFFICE REVIEW/ADMINISTRATIVE ACTION

Payroll Entry Wages	Payroll Entry Labor Classification

Discrepancy: Yes ☐ No ☐	If yes, what was the discrepancy?

What type action taken?	Action taken by:	Date action taken:

Distribution: External Civil Rights ☐ File ☐

Fig. 11-5

FEDERAL-AID HIGHWAY CONSTRUCTION

SUMMARY OF EMPLOYMENT DATA (INCLUDING MINORITY BREAKDOWN)
FOR ALL FEDERAL-AID PROJECTS FOR MONTH ENDING JULY 31ST, _____

OMB NO. 2125-0019

District -Local Agency	NUMBER OF PROJECTS (9-12)	TOTAL DOLLAR VALUE (13-23)
01		

EMPLOYMENT DATA

TABLE A

	TOTAL EMP.		TOTAL MINORITY		AFRICAN AMER.		HISPANIC		NATIVE AMER.		ASIAN AMER.		NON-MINORITY		APPRENTICE		TRAINEES	
	9-13	14-18	19-23	24-28	29-33	34-38	39-43	44-48	49-53	54-58	59-63	64-68	69-73	74-78	79-83	84-88	89-93	94-98
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
02 OFFICIALS																		
03 SUPERVISORS																		
04 FOREMEN/WOMEN																		
05 CLERICAL																		
06 EQUIPMENT OPERATORS																		
07 MECHANICS																		
08 TRUCK DRIVERS																		
09 IRONWORKERS																		
10 CARPENTERS																		
11 CEMENT MASON																		
12 ELECTRICIANS																		
13 PIPEFITTER/PLUMB																		
14 PAINTERS																		
15 LABORERS-SEMI SKILLED																		
16 LABORERS-UNSKILLED																		
17 TOTAL																		

TABLE B

18 APPRENTICES	0	0	0	0	0	0	0	0	0	0	0	0	0	0
19 OJT TRAINEES	0	0	0	0	0	0	0	0	0	0	0	0	0	0

11 PREPARED BY:	DATE	REVIEWED BY:	DATE
SIGNATURE AND TITLE		*SIGNATURE AND TITLE OF STATE HIGHWAY OFFICIAL*	

This report is required by law and regulation (23 U.S.C. 140a and 23 CFR Part 230). Failure to report will result in noncompliance with this regulation.

Form FHWA 1391 (Rev. 3-92) PREVIOUS EDITIONS ARE OBSOLETE

Fig. 11 – 6

(CONTRACTOR'S LETTERHEAD)

DATE: _____

SUBJECT: _____

Disadvantaged Enterprise (DBE) Documentation
Project Number _____

Local Agency _____

TO: _____ Local Agency

In accordance with the Disadvantaged Business Enterprise Contract Provisions, we have listed below the DBE's used on this project and the work they performed. The list also shows the actual dollar amount we paid to each DBE that is applicable to the percentage participation set forth in the contract.

DBE's

ABC Construction Co.	(List Work Performed)	$_____
XYZ Supply & Hauling Co.	(Supply Materials (60%)	
	$1,000.00 x 60%)	$_____
	(Supply Materials 100%)	$_____
	(Hauling Materials)	$ _____
	TOTAL	$_____

If you desire further information, please advise.

Very truly yours,

(Name of Construction Company)

_____Signature_____
(President or Authorized Representative)

Sponsor _____
Project _____

CONTRACTOR'S AFFIDAVIT
REGARDING
SETTLEMENT OF CLAIMS

(To be executed and filed in duplicate)

_____, 20_____

_____

To the _____

This is to certify that all lawful claims for material, lubricants, fuel, coal, coke, repairs on machinery, groceries and foodstuffs, equipment and tools consumed or used in connection with the construction of the above mentioned project, and all insurance premiums, both compensation and all other kinds of insurance on said work, and for all labor performed in said work, whether by subcontractor or claimant in person or by his employee, agent, servant, bailee or bailor, have been paid and discharged.

_____
Contractor

By _____
(Title)

By _____
(Title)

STATE OF _____
ss.
COUNTY OF _____

Subscribed and sworn to before me this _____ day of _____, 20_____, at _____.

_____
Notary Public

(SEAL)

My Commission expires _____, 20 _____.

Fig. 11 – 8

01-01-10

AFFIDAVIT

COMPLIANCE WITH THE PREVAILING WAGE LAW

Before me, the undersigned Notary Public, in and for the County of _____,

State of_____, personally came and appeared _____
_____ of _____
(Name & Title) *(Company Name)*

(a Corporation) (a Partnership) (a Proprietorship), and after being duly sworn did depose and say that all provisions and requirements set out in Chapter 290, Sections 290.210 through and including 290.340, Missouri Revised Statutes, pertaining to the payment of wages to workers employed on public works projects have been fully satisfied and there has been no exception to the full and complete compliance with said provisions and requirements and with Wage Determination No. _____ or Annual Wage Order No. _____ issued by the Division of Labor Standards on project
_____, _____,
(Job No.) *(Route or location, if building construction)*

_____ County, Missouri, and completed on the _____ day of

_____, 20 _____.

_____
(Signature)

Subscribed and sworn to me this _____ day of _____, 20 _____.

My commission expires _____, 20 _____.

Notary Public

Sect. 12 - Reimbursement and Auditing

REIMBURSEMENT AND AUDITING

The Missouri Department of Transportation (MoDOT) will request from the Federal Highway Administration (FHWA) payments for cost of completed work which meets eligibility requirements as set forth by FHWA directives. As a supplement to the specific requirements as outlined elsewhere in this manual, the following audit requirements shall be applied by the local agency to insure full participation:

1. Authorization and federal funding must be approved prior to incurring costs. This applies to all types of work, such as preliminary engineering or right-of-way. Preliminary engineering costs may be incurred only up to the construction contract award stage. Specific MoDOT concurrence in the awarding of any contract must be obtained before a notice to proceed is issued.

2. All costs incurred by the local agency for both contract work and work performed by local agency personnel for whom reimbursement is sought must be supported by original source documents or documentation which provides adequate assurance that the quantities of completed work were determined accurately and on a uniform basis. Whenever the actual cost method of payment is used, reimbursement requests for costs incurred should be substantiated as follows:

    a. Labor costs are supported by the documentation described below in item 3.

    b. Material and equipment costs are supported by submitting a paid receipt from the vendor.

    c. Machinery rental costs are supported by submitting a paid receipt from the rental vendor.

    d. Rental fees for agency-owned equipment and machinery are supported with hourly documentation. The rental rates and operating costs shall be based on either the Dataquest (Dunn & Bradstreet) Rental Rate Blue Book or the current Federal Emergency Management Agency (FEMA) public assistance schedule of equipment rates. The blue book is a standard reference for rental rates on all classes of construction equipment. The FEMA equipment rates and the agency developed prepared rates are an acceptable alternative.

3. Project-specific local agency costs (except for administration costs) are allowable to the extent that they are supported by original source documentation. Daily time records supported by a project number must be kept for audit. They shall include the daily breakdown of the employee's time. The hourly rates must be the rate the employee actually received, plus actual labor additives calculated on a percent of labor basis (Social

Security, Workmen's Compensation, insurance, etc.). The cost of vehicle and other equipment usage may be claimed on an hourly or mileage basis to the extent that the cost can be supported.

4. Incidental costs, arbitrary or otherwise unsupported costs or items not necessary to complete the project will not be reimbursed.

5. Additional construction costs due to error on the part of the contractor are not eligible for federal participation. Also, additional inspection costs incurred as a result of contractor error are normally assessed against the contractor and are not eligible for federal reimbursement. The term contractor shall also include subcontractors, fabricators, and suppliers working on the project.

6. A request must be submitted for additional federal funding if the construction change orders for the project exceed the construction contract. Federal funding for change orders is limited to the TIP amount for projects within an MPO, agreement amount for enhancement projects, and programmed amounts for BRM projects. Change orders for projects are limited to the local agency's federal allocation balance.

7. Additional engineering and/or resulting construction costs due to design errors and omissions are not eligible for federal participation. Participation in added project costs resulting from re-design or plan changes can only be considered in cases where it can definitely be established that the changes were the result of unforeseen site conditions or other causes that would not reasonably be under the control of the local agency or its engineer.

PROGRESS INVOICES

The local agency may submit invoices for reimbursement of costs incurred as the work progresses. The invoices may not be submitted more than once every two weeks. Progress payments for preliminary engineering will not be made until after the preliminary plans have been submitted. The local agency may use either of the following alternate methods of seeking progress payments:

1. the local agency pays the contractor/consultant for work performed and then submits a progress invoice for reimbursement; or

2. the local agency prepares the pay estimate for work performed and monies due the contractor/consultant. This estimate is placed in line for payment under the local agencies normal payment procedure, and at the same time, the local agency submits a progress invoice to MoDOT. If the local agency adopts this method, it must develop cash management procedures to ensure payment is made to the contractor/consultant within two (2) business days of receipt of funds from MoDOT. Failure to disburse the funds promptly will result in a violation of federal cash management provisions and may result in an interest penalty assessment against the funds.

Whichever of the above methods is used, the state will expedite reimbursement back to the local agency as quickly as possible. It is estimated that the average length of time from invoice submittal to receipt of federal reimbursement will be about 20 working days. A local agency cannot withhold or make payment to a contractor/consultant contingent upon "reimbursement" of progress invoices.

The invoice shall be based on the total incurred costs, provided that no nonparticipating costs are involved. The invoice may include material allowance, the payment for which is subject to the approval or disapproval of MoDOT.

If nonparticipating costs are involved, it will be necessary for the local agency to include on each invoice an itemization of nonparticipating charges incurred to date and to deduct them from the total incurred cost of the project. If nonparticipating costs are involved in the project but not yet paid, a statement by the local agency to that effect will suffice.

Figure 12-1 illustrates a sample invoice form, which must be used when submitting all invoices. Items not applicable to the project may be omitted. Special items peculiar to that project should be added.

Two copies of the progress invoice shall be submitted by the local agency. Invoices shall be accompanied by one copy of the supporting details indicating the units for which payment is allowed, the unit price for each item and total price for each item. MoDOT personnel may request additional documentation to support the costs billed on the progress invoice to obtain assurance that the costs are reasonable and allowable. Such documentation may include, but not be limited to, detailed engineering invoices, contractor pay estimates, expense reports, equipment usage logs, payroll information, timesheets, materials or other vendor invoices, and other documentation as needed. The local agency shall also submit two copies of a request for payment of the invoice. If the invoice is submitted on the local agencies letterhead and signed by an authorized local agency official, the letter requesting payment may be omitted.

FINAL INVOICES

Two copies of the final invoice should be submitted after all work has been completed and accepted. The final invoice must be marked Final Invoice and be accompanied by a detailed itemization of total project costs. The final invoice should be submitted in the same manner as progress payment invoices. For detailed information on the procedures to be followed see Section 11.

AUDIT AND FINAL REIMBURSEMENT

The FHWA and the MoDOT have the right to audit the local agency's records at any stage of completion. MoDOT will process invoices by requesting payment from the FHWA. The final invoice will require an audit of project records that will be conducted by MoDOT Audits and Investigations Staff. It is the local agency's responsibility to supply a copy of the final audit report to their respective MPOs. Source documentation (timesheets, lodging receipts, etc.), accounting records, and project records (construction diary, etc.) must be retained for three years

following the date on which the local agency receives reimbursement of their final invoice from MoDOT.

County Name:
Street
City **State** **Zip Code**

Project Number _____ Progress Invoice No. _____ Date: _____
Bridge Number _____
Location _____
Consultant _____
Contractor _____

		Amount	Federal Funds	Soft Match	Local Match
Preliminary Engineering	**Contract Maximum**				
Design Costs to Date					
Survey					
Survey					
Total	$0.00				
Construction Engineering	**Contract Maximum**				
Costs to date					
Construction					
Contractor Estimate					
Change Order					
Total Due Contractor	$0.00				
Work by Local Forces					
Costs to date					
Other Costs					
Right of Way Costs					
Legal Costs					
Utility Adjustments					
Advertising					
Other (list out)					
Total	$0.00				
Non-participating costs, etc. (list out separately)					
Total Costs to Date		$0.00	$0.00	$0.00	$0.00
Commission's Obligation		$0.00			
Less: Previous Payments Requested					
Amount Due		$0.00			

FIG.12-1

Rev. 01-01-07

Sect. 13 - Glossary of Terms

23 CFR: Title 23 of the Code of Federal Regulations is a collection (updated annually) of the general and permanent rules and regulations required to implement the provisions of federal law relating to the National Highway Traffic Safety Administration and Federal Highway Administration.

AASHTO: American Association of State Highway and Transportation Officials

ACHP: Advisory Council on Historic Preservation

ADT: Average Daily Traffic

AGREEMENT: The legal document between agencies necessary to administer projects.

ALLOCATION: The reservation of federal funds to the local agencies each year.

ARCHITECTURAL, ENGINEERING OR OTHER PROFESSIONAL SERVICES: Services required to be performed by contract that are associated with program management, research, planning, development, studies, investigations, surveying and mapping, evaluations, consultations, conceptual designs, design, plans and specifications, value engineering, soils engineering, drawing reviews, construction, tests or construction phase services.

AREMA: American Railway Engineering and Maintenance-of-Way Association

AUTHORIZATION: Approval by FHWA to incur future costs relative to a project.

BRM: On-System Bridge Replacement and Rehabilitation Program

BRO: Off-System Bridge Replacement and Rehabilitation Program

BROOKS ACT: Consultant contracts for engineering and design related services financed with Federal-Aid highway funds must result from negotiations which utilize qualifications based selection procedures. Qualifications based procedures do not allow for price to be used as a factor in the selection process.

CATEGORICAL EXCLUSION (CE): Projects that are minor enough in nature that they will not require preparation of a formal environmental statement.

CHANGE ORDER: A supplement to the contract that provides authority to pay for revisions in quantities or authorize changes to design features or specifications.

CMAQ: Congestion Mitigation and Air Quality

COE: U.S. Army Corps of Engineers

COMMISSION: Missouri Highway and Transportation Commission

COMPETITIVE BIDDING: Construction projects are required to be advertised and awarded to the lowest responsible and responsive bidder through open competitive bidding, unless use of an eligible force account is more cost effective.

CONSTRUCTION ENGINEERING (CE): Construction inspection engineering

CREDIT BRIDGE: Bridge constructed to BRO standards with local funds, 80% of the cost may be applied to a normal federally funded bridge project in lieu of the 20% local match.

CULTURAL RESOURCES: A cultural resource is any archaeological site, building, structure (e.g., bridge), district, or object. A historically significant cultural resource is one that meets certain criteria and is included in, or eligible for inclusion on, the National Register of Historic Places (NRHP) and is termed a historic property or historic resource. Not all cultural resources are historically significant, but potential project impacts to all must be considered.

DBE: Disadvantaged Business Enterprise

DEFICIENT STRUCTURE: A bridge that is either structurally deficient or functionally obsolete.

DESIGN STANDARDS: Projects on the National Highway System (NHS) must be designed with AASHTO and/or FHWA approved standards. It is recommended that all projects follow AASHTO guidelines for design and construction.

DNR: Missouri Department of Natural Resources

DOI: U.S. Department of the Interior

EEO: Equal Employment Opportunity

EPA: Environmental Protection Agency

FEMA: Federal Emergency Management Agency

FHWA: Federal Highway Administration

FORCE ACCOUNT WORK: Work that arises unexpectedly during the construction of a project. The work can be performed by a contractor, a subcontractor, or the local agency's forces and the cost is determined by keeping track of the labor forces, equipment, material, and associated costs used to complete the unexpected work.

FUNCTIONALLY OBSOLETE: A bridge is generally considered functionally obsolete if it is unable to properly accommodate traffic due to poor roadway alignment, waterway, insufficient width, waterway, low structural evaluation, or inadequate clearances. For a more detailed

description of the specific criteria used to determine this, refer to MoDOT's "Bridge Inspection Rating Manual" or the appropriate FHWA publication.

FWS: U.S. Fish and Wildlife Service

HABS: Historic American Building Survey

HAER: Historic American Engineering Record

HAZARDOUS WASTE: Hazardous waste is a material that could cause harm to people or the environment; it can include solid materials, liquids, and gases. Some examples could be gas station releases, drums or containers of known or unknown material, tanks, old dumps, and e-waste. Any container with unknown contents should be considered hazardous until identified by a qualified person. If there is a question about what might be hazardous, contact the Missouri Department of Natural Resources Environmental Emergency Response Unit at 573-634-2436 for assistance with identification.

HBP: Highway Bridge Program

HISTORIC RESOURCE: A historic resource is a cultural resource that meets at least one of the following criteria: a) it is associated with events that have made a significant contribution to our history; b) it is associated with significant persons in our past; c) it has high artistic value, is the work of a master craftsman, or embodies distinctive characteristics of a type, period, or method of construction; or d) it can answer specific research questions and topics or can contribute to our current state of knowledge. Historic resources typically must be at least 50 years of age or older but exceptionally important resources can be less than 50 years old.

HUD: U.S. Department of Housing and Urban Development

INDEPENDENT ASSURANCE TEST: A test performed independently of a job control test and according to the guide schedule in this manual.

IN KIND SERVICES: Donated labor, equipment, or material.

ISTEA: Intermodal Surface Transportation Efficiency Act. Six year Highway Act from October 1, 1991 to September 30, 1997.

JOB CONTROL TEST: Routine test performed on the site by the local agency or its representative to assure that the project is constructed in compliance with the applicable specifications.

LOW WATER BRIDGE: A bridge having a waterway capacity design less than the 10-year frequency discharge.

LOW WATER CROSSING: Waterway crossing other than a bridge where construction improvements have been made to produce a firm surface for vehicles to travel.

LPA: Local Public Agency. City, county, or civic organization sponsoring a federally funded transportation project.

MHTC: Missouri Highways and Transportation Commission

MoDOT: Missouri Department of Transportation

MOA: Memorandum of Agreement

MATERIALS CERTIFICATION: Statements provided by the contractor, fabricator, or manufacturer that certain materials comply with the requirements of the contract.

MISSOURI STANDARD PLANS: Construction detail plans available from MoDOT that meet AASHTO design requirements.

MISSOURI STANDARD SPECIFICATIONS FOR HIGHWAY CONTSTRUCTION, 2004 EDITION: The directions, provisions, and requirements for the performance of the work for the quantity, quality, and proportion of materials.

MPO: Metropolitan Planning Organizations carry out the transportation planning process for communities with a population greater than 50,000.

MUTCD: Manual on Uniform Traffic Control Devices

NBI: National Bridge Inventory

NEPA: National Environmental Policy Act

NHPA: National Historic Preservation Act

NRHP: National Register of Historic Places

OBLIGATION LIMITATION: (Also called Obligation Authority and Contract Control) Limits the amount of federal funds that may be obligated during a certain time period.

OBLIGATION OF FUNDS: The formal commitment by FHWA to participate in a share of the project costs.

OFF-SYSTEM ROUTES: Routes that have a functional classification of rural local, local road or street, or a rural minor collector.

OJT: On the Job Training

ON-SYSTEM ROUTES: Routes that have a functional classification of urban collector, rural major collector, rural or urban arterial, or an expressway.

PE: Preliminary Engineering. All engineering work performed by the local agency or their consultant prior to award of contract.

PS&E: Construction plans, specifications, and quantity estimates.

POSTING: Establishment of a maximum weight limit for vehicles using the bridge.

PRO RATA SHARE: The legal federal share for a project established at the time of project approval. Pro rata share is typically expressed as a percentage of the total participating costs of the project.

PUBLIC INTEREST FINDING: Cost effective justification that must be provided to MoDOT by a local agency that is seeking to do a federally funded project with its own forces.

REHABILITATION: Work required to eliminate the items that cause a bridge to be identified as deficient.

REIMBURSEMENT: Payment of federal funds to a local agency.

RFP: Request for Proposal

SAFETEA-LU: Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. Five year Highway Act from October 1, 2004 to September 30, 2009.

SECTION 106: Section 106 of the National Historic Preservation Act of 1966 is the primary legislation that requires cultural resource investigations. Any project using federal funds or needing federal permits must comply with the Section 106 requirements . The Section 106 process consists of three primary stages, with the outcome of each stage determining whether the activities of the next stage are necessary (36 CFR Part 800).

SECTION 404/WETLANDS: A project may involve activities in an area that contains wetlands or waters of the United States and may require a Section 404 permit from the U.S. Army Corps of Engineers. It is a violation of federal law to place fill in waters of the U.S. or wetlands without the necessary permits.

SECTION 4(f): Provides protection for public parks and recreation areas, wildlife and waterfowl refuges, and significant historic sites on publicly owned land. It requires demonstrating that there is no feasible and prudent alternative to the use of the property and that all possible planning has been done to minimize harm to the property.

SECTION 6(f) OF THE LAND AND WATER CONSERVATION FUND: A project that has potential involvement with parks or other public lands that may have been purchased or improved using monies from the Land and Water Conservation Fund (LWCF).

SEMA: The State Emergency Management Agency has responsibility for coordinating state agencies' response to disasters.

SHPO: State Historic Preservation Officer

SOFT MATCH: Credit earned by counties that replace their deficient bridges with local funding. It can be used in lieu of the 20% local match on bridge projects.

SPONSOR: The local government or public agency responsible for providing matching funds for the proposed project.

SRTS: Safe Routes to School

STIP: Statewide Transportation Improvement Program

STP: Surface Transportation Program

STRUCTURALLY DEFICIENT: A bridge is generally considered to be structurally deficient if it is in relatively poor condition, or has insufficient load carrying capacity for modern design loadings. The insufficient load capacity may be the result of the loads used in the original design or degradation of structural properties due to deterioration. For a more detailed description of the specific criteria used to determine this item, consult MoDOT's "Bridge Inspection Rating Manual" or appropriate FHWA publications.

SUFFICIENCY RATING: A numerical rating of a bridge based on its structural adequacy, safety, serviceability, functional obsolescence and essentially for public use.

TEA21: Transportation Equity Act for the 21st Century. Six year Highway Act from October 1, 1997 to September 30, 2003 with a one-year extension to September 30, 2004.

TIP: Transportation Improvement Program

TITLE 23 U.S.C.: Title 23 of the United States Code contains most of the laws governing the Federal-Aid highway Program.

TRANSPORTATION MANAGEMENT AREAS (TMAs): Metropolitan planning organizations for communities with a population greater than 200,000.

USDA: United States Department of Agriculture

USGS: United States Geological Survey

WBE: *Women's Business Enterprise.* Term not in current usage; definition of Disadvantaged Business Enterprise includes WBEs.

WORK BY LOCAL FORCES: Construction performed by the local agency's work force. If the local agency elects to perform work with its own forces and/or use its own materials and equipment, MoDOT and FHWA must approve all work being done. The work by local forces

must be in the public interest and shown to be cost effective. See Sections 3 and 9 for more detail.

MoDOT INFORMATION

DISTRICT 1
MoDOT - District 1
3602 North Belt Highway
St. Joseph, MO 64506
(816) 387-2350
Fax - (816) 387-2359

DISTRICT 2
MoDOT-District 2
902 North Missouri Street, P.O. Box 8
Macon, MO 63552
(660) 385-3176
Fax - (660) 385-4195

DISTRICT 3
MoDOT - District 3
1711 South Hwy 61, P.O. Box 1067
Hannibal, MO 63401
(573) 248-2490
Fax - (573) 248-2497

DISTRICT 4
MoDOT - District 4
600 Northeast Colbern Road
Lee's Summit, MO 64086
(816) 622-6500
Fax - (816) 622-6323

DISTRICT 5
MoDOT - District 5
P.O. Box 718, 1511 Missouri Blvd.
Jefferson City, MO 65102
(573) 751-3322
Fax - (573) 522-1059

DISTRICT 6
MoDOT - District 6
1590 Woodlake Drive
Chesterfield, MO 63017
(314) 275-1500
Fax - (314) 340-4119

DISTRICT 7
MoDOT - District 7
3901 East 32nd Street, P.O. Box 1445
Joplin, MO 64804
(417) 621-6500
Fax - (417) 629-3140

DISTRICT 8
MoDOT - District 8
3025 East Kearney, M.P.O. Box 868
Springfield, MO 65801
(417) 895-7600
Fax - (417) 895-7711

DISTRICT 9
MoDOT - District 9
910 Springfield Road, P.O. Box 220
Willow Springs, MO 65793
(417) 469-3134
Fax - (417) 469-4555

DISTRICT 10
MoDOT - District 10
2675 North Main Street, P.O. Box 160
Sikeston, MO 63801
(573) 472-5333
Fax - (573) 472-5381

CENTRAL OFFICE
MoDOT – Resource Management (RM)
P.O. Box 270
Jefferson City, MO 65102
(573) 526-8106 Fax - (573) 526-2819

METROPOLITAN PLANNING ORGANIZATIONS

COLUMBIA
Columbia Area Transportation Study Organization
City of Columbia
701 East Broadway, City Building
P.O. Box 6015
Columbia, MO 65202
(573) 874-7318
Fax - (573) 874-7546

JOPLIN
Joplin Area Transportation Study Organization
City of Joplin
321 E. 4th Street
Joplin, MO 64801
(417) 642-0820
Fax - (417) 625-4738

ST. JOSEPH
St. Joseph Area Transportation Study Organization
City of St. Joseph
City Hall, 1100 Frederick Ave.
St. Joseph, MO 64501-2346
(816) 271-5324
Fax - (816) 271-4740

SPRINGFIELD
Springfield Area Transportation Study Organization
City of Springfield
Busch Memorial Building
840 Boonville Avenue
Springfield, MO 65801-8368
(417) 864-1039
Fax - (417) 864-1030

ST. LOUIS
East-West Gateway Council of Governments
Gateway Tower
One Memorial Drive, Suite 1600
St. Louis, MO 63102-2451
(314) 421-4220
Fax – (314) 231-6120

KANSAS CITY
Mid-America Regional Council
600 Broadway, Suite 200
Kansas City, MO 64105-1554
(816) 474-4240
Fax - (816) 421-7758

JEFFERSON CITY
Capital Area Metropolitan Planning
City of Jefferson
320 East McCarty Street
Jefferson City, MO 65101
(573) 634-6410
Fax – (573) 634-6457

OTHER REGULATORY AGENCIES

State Historic Preservation Office
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102
Phone (573) 751-2479

Charles Scott
Field Supervisor
Columbia Field Office
U.S. Fish and Wildlife Service
101 Park DeVille Drive, Suite A
Columbia, MO 65203-0007
Phone (573) 234-2132

Policy and Coordination Division
Missouri Department of Conservation
P.O. Box 180
Jefferson City, MO 65102-0180
Phone (573) 751-4115

Kevin Ward
Federal Highway Administration
3220 West Edgewood, Suite H
Jefferson City, MO 65109
Phone (573) 636-7104

CORPS OF ENGINEER'S OFFICE
(Contact MoDOT District Office if clarification is needed for which Corp Office has jurisdiction)

Commanding Officer
Department of the Army
Little Rock District, Corps of Engineers
P.O. Box 867
Little Rock, AR 72203-0867
Phone (501) 324-5531

Commanding Officer
U.S. Army Corps of Engineers
Kansas City District
700 Federal Office Building
601 East 12th Street
Kansas City, MO 64106
Phone (816) 426-5241

Commanding Officer
Department of the Army
Rock Island District, Corps of Engineers
P.O. Box 2004
Rock Island, IL 61204-2004
Phone (309) 788-6361

Commanding Officer
Department of the Army
Memphis District, Corps of Engineers
167 North Main Street, Room B202
Memphis, TN 38103-1894
Phone (901) 544-3005

Commanding Officer
U.S. Army Corps of Engineers
St. Louis District
1222 Spruce Street
St. Louis, MO 63103-2833
Phone (314) 331-8000