FHWA/MoDOT Partnering Agreement
Design-Build
FHWA Performance Year 2021

I. Definitions:

Projects of Division Interest (PoDIs) - are those projects that contain elements of higher risk, or present a meaningful opportunity for FHWA involvement to enhance meeting program or project objectives.

Design-Build Contract-means an agreement that provides for design and construction of improvements by a contractor or private developer. The term encompasses design-build-maintain, design-build-operate, design-build-finance and other contracts that include services in addition to design and construction. Franchise and concession agreements are included in the term if they provide for the franchisee or concessionaire to develop the project which is the subject of the agreement.

II. Document Organization:

This document is organized in a linear fashion corresponding with the timeline of the Design-Build procurement process.

Appendix A – Projects of Division Interest (PoDI) Selection Process
Appendix B – Design-Build Process Flow Chart
Appendix C – AJR Guidance in Design-Build Projects
Appendix D – FHWA and MoDOT Confidentiality Agreement
Appendix E – FHWA Approval of Final Request for Proposal Letter
Appendix F – MoDOT Request for Authorization Letter
Appendix G - MoDOT Request for Concurrence in Award Letter
Appendix H – FHWA Concur in Award Letter

III. Special Circumstances:

It is understood that this agreement is a dynamic document, and may need to be modified based upon the specific needs of the project or alternative contracting methods. Examples of special circumstances would be:

- Modified alternative contracts (i.e. Design-Build-Finance (DBF), Design-Build-Operate-Maintain (DBOM))
- Accommodation agreements with bordering states
- Local Public Agency use of alternative contracting
- Major bridges or major projects
- Special environmental processes
- Federal grant program processes
- Financial Plan (see the FHWA Guidance)
- NEPA Approval After Award

- Other project specific review requirements

Any changes, clarifications, additions or deletions to the plan will be collaboratively developed and agreed to by FHWA and MoDOT.

IV. Confidentiality:

Confidentiality is also integral to MoDOT's Design-Build process. It is understood that MoDOT and FHWA staff will hold sensitive project information in the strictest confidence. It is understood that both MoDOT and FHWA may, at times, require project involvement from respective internal and external specialist (i.e., FHWA Headquarters or Resource Center experts) for specific aspects of the project where contractual, regulatory, or engineering expertise is needed. When this occurs, both MoDOT and FHWA will insure that project confidentiality is maintained.

FHWA staff cannot sign project-specific confidentiality agreements. However, FHWA employees are bound by 18 USC 1905 which carries a criminal penalty if any employee discloses confidential information. See letter in Appendix D.

V. Roles and Responsibilities of MoDOT and FHWA:

The purpose of this Partnering Agreement is to outline MoDOT and FHWA roles and responsibilities on Design-Build projects, and to ensure MoDOT's Design-Build Program is in conformance with federal laws and regulations while adhering to the MoDOT/FHWA 2015 Stewardship and Oversight Agreement.

MoDOT's Project Director will have primary responsibility for ensuring a Design-Build project is executed in accordance with state and federal laws and regulations while implementing the project goals established for their respective project. The Missouri Highways and Transportation Commission will delegate certain authorities to the Chief Engineer, who will then delegate to the Project Director, as described in the Engineering Policy Guide (EPG) 139.1.4. The Project Director has the responsibility of conferring with MoDOT subject matter experts, such as design, bridge, environmental, financial, utilities or Right of Way (ROW) staff, to assist in the decision-making process, when appropriate. **The Project Director will serve as the main point of contact with FHWA for Design-Build projects.**

FHWA designated Transportation Engineer (TE) will have primary responsibility for ensuring a Design-Build project is executed in accordance with federal laws while implementing FHWA's PoDI Process and required project involvement. **The TE will serve as MoDOT's main point of contact for Design-Build projects.** If the FHWA TE becomes unavailable during a review period, the FHWA Program Implementation Team Leader or FHWA Deputy Division Administrator may be contacted regarding all project-related issues.

The following activities require coordination between MoDOT and FHWA to attain reviews/approvals within the agreed timeframes. In this agreement, all reference to days

and weeks denotes business days. MoDOT and FHWA agree to work as true partners to ensure the success of the Design-Build Program.

The PoDI selection process will be used to identify those elements of the Design-Build project to be reviewed by FHWA-MO Division. The following table identifies the activities, timelines, and approval actions on Design-Build projects. MoDOT will proactively coordinate and collaborate with FHWA to determine an agreed upon level of FHWA involvement in the selected activities of the project. MoDOT and FHWA will provide written responses to comments or inquiries in a timely manner, per the timelines outlined in this table. The approval authority of the activities marked as **REQUIRED** fall under FHWA-MO Division. MoDOT must submit those activities to the designated Transportation Engineer for their review and Approval. The activities marked as **PoDI SELECTED** are those areas that have been identified by the FHWA Transportation Engineer as activities that contain elements of higher risk, or present a meaningful opportunity for FHWA involvement to enhance meeting program or project objectives. The selection of these activities will be in accordance with the PoDI selection process outline in Appendix A, and MoDOT/FHWA 2015 Stewardship and Oversight Agreement.

REQUEST FOR QUALIFICATIONS (RFQ)

Design-Build procurement process begins with short-listing the most highly qualified submitters based on qualifications submitted in response to a Request for Qualifications (RFQ).

Activities		**MoDOT/FHWA Responsibilities**		
Activity	**REQUIRED / PoDI SELECTED**	**Description of Actions and Responsibilities**	**Expected Timeframe (MoDOT)**	**Expected Timeframe (FHWA)**
RFQ Review	**PoDI SELECTED**	MoDOT will provide the entire RFQ to FHWA for review.	Will submit 7 days prior to expected approval.	Will review the RFQ document and will provide concurrence of acceptability or comments within 7 days of receipt.
RFQ/SOQ Evaluation and Selection Process	**PoDI SELECTED**	FHWA will monitor the selection and scoring process but will not be part of the scoring team and will not provide formal approval of the shortlisted teams.	Will provide FHWA with a minimum of 10 days notice for meetings.	Will be available on an as-needed basis. No FHWA approval of the short list of selected teams is required.

RFQ/SOQ Summary Report	**PoDI SELECTED**	The Statement of Qualifications will be evaluated by a prequalification review/short listing team, known as the Executive Selection Committee. The Project Director will meet with the Executive Selection Committee to present details of all SOQs received, as well as the ratings each team received. RFQ/SOQ Summary report will be provided at the Executive Selection Committee Meeting.	Will provide RFQ/SOQ Summary Report presented to the Executive Selection Committee.	n/a

REQUEST FOR PROPOSALS (RFP)

The second phase of a Design-Build procurement process consists of the submission of technical proposals, and sometimes contract price, in response to a Request for Proposals (RFP).

Activities		**MoDOT/FHWA Responsibilities**		
Activity	**REQUIRED / PoDI SELECTED**	**Description of Actions and Responsibilities**	**Expected Timeframe (MoDOT)**	**Expected Timeframe (FHWA) ***
Draft Books (all) & Instruction to Proposers (ITP)	**PoDI SELECTED**	Individual Chapters or Entire Book	Will submit 5 days prior to expected approval. Will submit 7 days prior if submitted in its entirety.	Will provide concurrence of acceptability or comments within 5 days of receipt for individual chapters or section submittals, and 7 days of receipt if submitted in its entirety.
Final Draft RFP	**REQUIRED**	23 CFR 635.112(i) Entire Request for Proposal	Will submit 10 days prior to expected approval.	Will provide concurrence of acceptability or comments within 10 days of receipt.

				FHWA approval of the final RFP will be provided after all review comments have been satisfactorily resolved. Written approval of the final RFP must be given by FHWA prior to its release to the shortlisted firms, and before project authorization can be given. A sample of the FHWA Approval of Final Request for Proposal Letter can be found in Appendix E.
Request for Authorization (Certification of RFP)	**REQUIRED**	23 CFR 635.309(p)	Will submit 10 days prior to expected approval. Will require a formal, written certification that the conditions of 23 CFR 635.309(p) have been met. A sample of MoDOT Request for Authorization Letter can be found in Appendix F.	Will provide concurrence of acceptability or comments within 10 days of receipt. Following FHWA's approval of the RFP and submittal of the written certification, the project must be approved by FHWA in the Fiscal Management Information

				System (FMIS). The FMIS approval/authorization will constitute FHWA approval to release the RFP. A sample of the MoDOT Request for Authorization Letter can be found in Appendix F.
Addendums to RFP	**REQUIRED**	23 CFR 635.112(i) As needed	Will submit 3 days prior to expected approval.	Will provide concurrence of acceptability, comments or deny within 3 days of receipt.

* If significant issues are noted, additional time may be required. Significant issues may require coordination with the FHWA Headquarters Office and/or any resources to resolve, and may prolong the review period.

PROPOSAL PHASE

Activities		**MoDOT/FHWA Responsibilities**		
Activity	**REQUIRED / PoDI SELECTED**	**Description of Actions and Responsibilities**	**Expected Timeframe (MoDOT)**	**Expected Timeframe (FHWA)***
Technical Discussion Phase	**PoDI SELECTED**	The project team may conduct one-on-one confidential meetings with each of the shortlisted design-build proposers.	Will schedule the meetings with each team and provide dates/times to FHWA.	Will be available on an as-needed basis.
Design Exceptions+ .	**PoDI SELECTED**	Reviewed concurrently with MoDOT. Project Director will discuss design exceptions with FHWA TE prior to submittal so that complete and descriptive	Will submit 10 days prior to expected concurrence of acceptability.	Will provide concurrence of acceptability, or provide comments within 10 days of receipt.

		justification is provided. FHWA will review and provide comments or request additional information, to concur with the acceptability of design exceptions.		Final approval will be granted after the project is awarded.
Alternative Applicable Standards (AAS)	**PoDI SELECTED**	Proposers shall be responsible for submitting enough information about the AAS, so that it can be adequately evaluated. MoDOT will provide the backup information and recommendations for approval to FHWA for concurrence.	Will submit 5 days prior to expected approval.	Will provide concurrence of acceptability, comments or deny within 5 days of receipt. Final approval will be granted after the project is awarded.
NEPA Re-Evaluation review / Supplemental NEPA document ++ Special Circumstances for NEPA Approval After Award may be needed based upon the specific needs of a project.	**REQUIRED**	23 CFR 771 and 774 Proposals submitted as part of the Design-Build process may include modifications or changes to the project engineering, location, traffic handling, or other project impacts from those that were evaluated in a NEPA document. FHWA will maintain close coordination throughout the proposal stage of the Design-Build process to assist MoDOT in providing feedback and guidance regarding the NEPA process.	Will submit 7 days prior to expected approval.	Will provide concurrence of acceptability, or provide comments within 7 days of receipt.
Right of Way Conditional Clearance (ROW)	**PoDI SELECTED**	23 CFR 635.309 All right-of-way (ROW) actions must be in conformance with the	Will submit 5 days prior to expected approval.	Will provide concurrence of acceptability and approve all

		Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and implementing 49 CFR Part 24 Regulations.	Will ensure that EPG Section 236.3.4.3 and 236.3.7.8 of the EPG are followed to correspond with the Design-Build process.	conditional clearances within 5 days of receipt.
+++Modified or New Conceptual Access Justification Report (AJR) +++Modifications or New proposals proposed by the shortlisted teams (if applicable)	**REQUIRED**	23 USC 111 Modified or New Conceptual AJR – see the policy on FHWA Missouri website 23 CFR 625 FHWA Policy and Procedures for New or Revised Interstate Access Approval in Missouri	Will follow the process outlined in the AJR Guide and the general steps outlined in the FHWA Missouri website to provide the best results and FHWA Division responses on AJR proposals. Will submit modify AJRs 10 days prior to expected approval. Allow additional time if HQ review is needed.	Will provide concurrence of acceptability, or provide comments within 10 days of receipt. Will provide comments within 40 days of receipt.
Proposal Evaluation Process	**PoDI SELECTED**	FHWA will observe and provide assistance.	Will schedule the meetings and provide dates/times to FHWA.	Will be available on an as-needed basis.
Proposal Evaluation Summary Report	**PoDI SELECTED**	Provided at the Executive Recommendation Committee Meeting	Will schedule the meeting and provide date/time to FHWA.	Will be available on an as-needed basis.

Executive Selection Committee Meeting	**PoDI SELECTED**	FHWA will observe the Executive Selection Committee Meeting and discussion	Will schedule the meeting and provide date/time to FHWA.	Will be available on an as-needed basis.
FHWA Concurrence of Contract Award	**REQUIRED**	Upon approval from the Commission, and before the award is announced publicly, MoDOT will request in writing that FHWA concur in the final award of the contract to the apparent best-value proposer.	Will submit Approval from the Commission 1 day after Approval. A sample of MoDOT Request for Concurrence in Award Letter can be found in Appendix G.	Will provide approval or comments within 1 day of receipt. A sample of FHWA Concur in Award Letter can be found in Appendix H.

* If significant issues are noted, additional time may be required. Significant issues may require coordination with the FHWA Headquarters Office and/or any resources to resolve, and may prolong the review period.

+Non-PoDI projects - Design Exception will require FHWA concurrence of acceptability if an AJR is needed. FHWA will provide concurrence of acceptability, or provide comments within 10 days of receipt.

++NEPA Special Circumstances – FHWA and MoDOT will evaluate the NEPA approval process after award on a case-by-case basis.

+++Access Justification Report (AJR) - see the policy on FHWA Missouri website and Appendix C: AJR Guidance in Design-Build projects.

DESIGN AND CONSTRUCTION PHASE

The design and construction phase of the project will include all actions and activities from contract award through project completion. This phase will include design reviews and meetings, design plan reviews, quality assurance plan review/approval, construction inspections, change orders, design exceptions, status/scheduling meetings, etc.

Activities		**MoDOT/FHWA Responsibilities**		
Activity	**REQUIRED / PoDI SELECTED**	**Description of Actions and Responsibilities**	**Expected Timeframe (MoDOT)**	**Expected Timeframe (FHWA)***

+++Final Access Justification Report (AJR) ++NEPA Re-Evaluation Approval (if applicable)	**REQUIRED**	Prepared by best-value proposer during final design - see the policy on FHWA Missouri website. 23 USC 111 and 23 CFR 625 FHWA Policy and Procedures for New or Revised Interstate Access Approval in Missouri. 23 CFR 771 & 774 Environmental Impact and Related Procedures (NEPA) & SECTION 4(f)	Will follow the process outlined in the AJR Guide and the general steps outlined in the FHWA Missouri website to provide the best results and FHWA Division responses on AJR proposals. Will submit final AJR version 10 days prior to expected approval. Allow additional time if HQ review is needed.	Will provide approval, comments or deny within 10 days of receipt. Will provide comments within 40 days of receipt.
Quality Assurance Plan	**REQUIRED**	The QA program must meet all the requirements of 23 CFR 637.207. FHWA approval of the QA program to be utilized on each project must be received prior to the start of construction.	Will submit 10 days prior to expected approval.	Will provide approval, comments or deny within 10 day of receipt.
Design Exceptions+	**PoDI SELECTED**	Following Award of the Project to the Best Value Proposer, the Contracting Team will finalize the formal Design Exception for Approval in accordance with the MoDOT EPG 131.1. FHWA will review and provide comments or request additional	Will submit 10 days prior to expected approval.	Will provide approval, comments or deny within 10 days of receipt.

		information, to approve or deny the design exceptions.		
Plans Review	**PoDI SELECTED**	Plan sets that require FHWA review will be performed concurrent with the MoDOT review, to expedite the review and concurrence/approval process.	Will submit 5 days prior to expected approval. Allow additional time if HQ review is needed.	Will provide comments within 5 days of receipt.
Change Orders	**PoDI SELECTED**	Change orders that require FHWA review will be performed concurrent with the MoDOT review, to expedite the review and approval process. All change orders must be adequately documented, and include an independent MoDOT estimate of costs.	Will submit 10 days prior to expected approval.	Will provide approval, comments or deny within 10 days of receipt.
Construction and Focus Areas Inspection Reports	**PoDI SELECTED**	FHWA will conduct periodic on-site construction inspections of on-going construction operations based on FHWA's risk based oversight program. Inspections will be documented on a standard FHWA inspection report.	MoDOT project staff will be available on an as-needed basis to join FHWA TE during the field review.	Will schedule the field review and provide dates/times to MoDOT. Copies of the FHWA inspection report will be transmitted to MoDOT in accordance with the FHWA/MoDOT Construction & Materials Partnering Agreement.

* If significant issues are noted, additional time may be required. Significant issues may require coordination with the FHWA Headquarters Office and/or any resources to resolve, and may prolong the review period.

+Non-PoDI projects - Design Exception will require FHWA concurrence of acceptability if an AJR is needed. FHWA will provide concurrence of acceptability, or provide comments within 10 days of receipt.

++NEPA Special Circumstances – FHWA and MoDOT will evaluate the NEPA approval process after award on a case-by-case basis.

+++Access Justification Report (AJR) - see the policy on FHWA Missouri website and Appendix C: AJR Guidance in Design-Build projects.

VI. PoDI Selection Process:

FHWA has developed an internal process for the identification of PoDIs as required and in conformance with FHWA HQ guidance; this internal process will guide the yearly PoDI selection process.

The identification of PoDIs will involve a seven-step process including a risk-based assessment to identify the project's risks, development of the potential PoDIs, short-list of potential projects, project screening, oversight plan development, final PoDI selection, and sharing the PoDI list with MoDOT. The TEs are responsible for identifying the PoDIs and their project specific oversight plans, which incorporates those elements of the project to be reviewed. Each TE will work with the Project Director and Deputy within their respective MoDOT Districts and other MoDOT staff in the development and selection of the PoDIs for each District. The final PoDI selection decision will rest with the Program Implementation Team Leader.

FHWA will provide MoDOT's State Design Engineer, State Construction and Materials Engineer and others a copy of the PoDI Tracker Spreadsheet and Summary tab for inclusion in MoDOT's EPG.

For more information on the PoDI Selection Process see Appendix A.

VII. Ground Rules:

We agree to concentrate efforts in improving our work by following these ground rules:

- We will respect each other by valuing individual opinions and maintaining an open mind to suggestions.

- We will communicate directly with each other by telephone, mail, e-mail and more importantly in face-to-face conversations. After face-to-face conversation(s), all formal requests and/or actions discussed will be followed-up in writing.

- MoDOT Project Director and/or Deputy and FHWA Transportation Engineers will work closely together to add the most value to the project and the overall program.

- We will respond to e-mails and telephone calls within two days unless out of the office during that time.

- We will make every effort to make sure project information has the concurrence of both MoDOT District and Central Office staff.

- We will actively participate in scheduled meetings (i.e. Partnering Meetings, Quality, Materials, Progress Meetings, etc.), add value to the discussion, and refrain from personal agendas. Non-regularly scheduled meeting dates should be determined after management schedules have been considered. Other technical staff will attend as needed to discuss items of mutual interest.

- We will review projects or documents thoroughly on the first submittal. For subsequent submittals, reviews and comments will focus only on the areas commented on previously and will not usually involve a re-review of the original submittal. All changes on subsequent submittals will be clearly identified.

- Most timelines referenced are related to first submittals and are appropriate for a detailed and thorough review. Any subsequent submittals, in response to comments, will have a significantly reduced review time due to all material being a direct response to detailed and specific comments.

- All design and construction submittals will be electronic copies.

- We will revisit and revise this agreement every year and make revisions as necessary.

VIII. Conflict Resolution:

Conflicts are to be resolved at the lowest staff level possible between the FHWA Transportation Engineer and MoDOT Project Director and/or the Deputy Project Director with assistance of the District Engineer and/or MoDOT's Liaison Engineer. After exhausting all possibilities and an agreement cannot be reached, the issue will be elevated in the following manner:

- Elevate the discussion to the MoDOT State Design and/or Construction and Materials Engineers and FHWA Program Implementation Team Leader. We will make every effort to solve the conflict at our level, but no more than 2 weeks after hearing from the parties involved, we will present our cases both verbally and in writing to MoDOT's Chief Engineer and the FHWA Deputy Division Administrator. We will abide by their decision and will share that decision with staff.

- Unresolved issues between MoDOT's Chief Engineer and the FHWA Deputy Division Administrator will be handled through senior management's partnering agreement.

IX. Program Assessment:

The objective of FHWA's risk management process is to establish a consistent approach to identify and prioritize program area risks. Applying the principles of risk makes it possible to identify threats and opportunities; assess and prioritize those threats and opportunities; and determine and prioritize strategies so that we can decide how to address future issues affecting the Federal-aid Highway Programs.

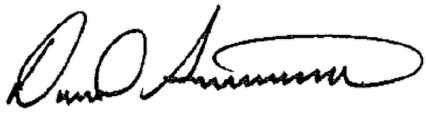
The risk management framework used in the FHWA/MoDOT Strategic Advance identified the top risks from each of the program areas. The Design-Build Program encompasses many program areas; therefore, MoDOT's Design-Build Team will have primary responsibility for implementing the identified strategies to help mitigate the applicable risks listed in the partnering agreements of each program area.

MoDOT Design-Build staff and FHWA agree to coordinated yearly meetings to identify Design-Build Program risk areas for the next performance year, and agree to partner together to identify strategies to help mitigate these risks.

X. Communicating with Management:

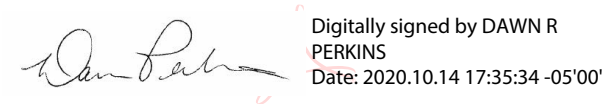
MoDOT and FHWA staff will keep management informed of their activities and how the partner agreement is working by communicating important or controversial issues to management immediately as they arise. We will use the "no surprise philosophy" by providing management with updates as needed.

Signatures page:



10-14-20

Dave J. Simmons — Date
MoDOT Statewide Alternative Project Delivery Coordinator;
Value Engineering Administrator; & Design Grant Coordinator



10/14/2020

Dawn Perkins — Date
Acting FHWA Program Implementation Team Leader

APPENDIX A

Projects of Division Interest (PoDI)
Selection Process

APPENDIX A

PoDI Selection Process:

FHWA has developed an internal process for the identification of PoDIs as required and in conformance with FHWA HQ guidance; this internal process will guide the yearly PoDI selection process.

The identification of PoDIs will involve a seven-step process including a risk-based assessment to identify the project's risks, development of the potential PoDI projects, short-list of the potential projects, project screening, oversight plan development, final PoDI selection, and sharing the PoDI list with MoDOT. The TEs are responsible for identifying the PoDIs and their project specific oversight plans, which incorporates those elements of the project to be reviewed. Each TE will work with the Design Liaison within their respective MoDOT Districts and other MoDOT staff in the development and selection of the PoDIs for each District. The final PoDI selection decision will rest with the PI Team Leader.

Risk-based Assessment:

The PI team will meet to evaluate, and assess the last performance year's focused reviews and determine if there are any outstanding risk that were identified from the focused reviews or other program or project observations. Using a risk-based approach the PI team will identify all the preconstruction and construction focused risk reviews for the next performance year.

Development of Potential PoDI Projects:

Each TE will review the preliminary list of all highway construction projects presented in MoDOT's draft STIP and will develop their list of potential PoDIs. The development of the potential PoDIs will consider what phrase or elements will be reviewed and the 10 risk areas of Complexity, Cost, Schedule, Urgency, Environmental & Stakeholders, Funding, Project Administration, Regional Significance, Corporate Actions, and Local Considerations.

Short Listing of Projects:

The TEs will meet with their respective MoDOT Districts to go over the following: 1) the risk areas to be reviewed for the next performance year; 2) go over the list of potential PoDIs developed by the TE and any suggested projects from the District, and 3) identify a suggested short list of projects and the elements to be reviewed.

The TEs will coordinate with other teams and disciplines within the Division along with the respective MoDOT Design and Construction Liaisons in the short-list development process. While there is no limitation on the number of projects that can make the short-list, there are certain project attributes and/or criteria, which need consideration in order to concentrate efforts on areas of concern and/or opportunities to add value.

Project screening:

After the project short-list, has been developed, the TEs will perform a risk-based assessment of all projects using the Missouri's Risk Screening Tool (MRST). The MRST includes assessments in the 10 risk areas of Complexity, Cost, Schedule, Urgency, Environmental & Stakeholders, Funding, Project Administration, Regional Significance, Corporate Actions, and Local

Considerations.

The TEs will evaluate all 10 risk areas for both risk and Division capacity to manage the risk areas. Risks will be assigned a value as Low, Medium, or Elevated, based upon the resulting analysis of each specific risk area. Division capacity will be assigned as Good, Moderate, or Limited, based upon the Division's experience.

Given both the rural and highly urbanized makeup of Missouri's program, some project risk criteria may be dependent upon the specific district being reviewed. The risk tool will guide the evaluation process:

Urbanized Areas:
Project criteria to be considered as part of the evaluation process in urbanized areas may include items such as project complexity and cost, new or modified access to interstates or major NHS routes, political interest, environmental/NEPA impacts, State/regional significance, and safety and maintenance of traffic considerations.

Rural Areas:
Project criteria in rural areas may include items such as complexity and cost in relation to other projects within the respective district, new or significant modification to interstate access, environmental/NEPA impacts, regional significance in relation to other district projects, complex maintenance of traffic, and the need to maintain FHWA presence in a geographic area.

Projects identified in the STIP as Design Build are not required to be PoDIs, but the TE may want to review certain risk aspects of the Design-Build Process Project. Projects funded under the TIGER / BUILD / INFRA programs will be automatically designated as PoDIs.

Oversight Plan Development:
After the screening, evaluating, and scoring of each potential PoDI on the short list, the TE will develop a project specific oversight plan for those projects they want to move forward with as a PoDI. Based on the risk assessment process the TE will identify those elements or activities they plan to perform on each project. After the proposed PoDI list has been developed, the TE will provide the list to the Division Specialists. The Division Specialist will then determine their level of involvement with the PoDIs and inform the TE of their proposed involvement.

PoDI projects in which the "Core Team" activity is identified, are those projects that if time resources allow, the TE may choose to perform an element or activity to review. These projects will consist of review actions only, unless discussed with the MoDOT Design Liaison and MoDOT HQ staff first.

If the TE needs to modify the current PoDI list, they will notify the specific MoDOT District and appropriate MoDOT HQ staff of the project change a minimum of one month's notice prior to the change. Only those elements/activities previously designated under the "Core Team" PoDIs will be reviewed as part of the new PoDI unless they have discussed the activity modifications with all affected MoDOT staff and the PI Team Leader in advance. Each TE may choose any

number of “Core Team” PoDIs depending on their planned availability.

Final Project Selection:
The PI Team Leader will meet with each TE and discuss their PoDI selections. The PI Team Leader and TE will review and agree upon the final list of projects selected as PoDIs and their proposed focused review elements and activities. The PI Team Leader will check the PoDI spreadsheet for accuracy and consistency to ensure the minimum review requirements are met.

Upon selection of the Final PoDI List, the TEs will enter a project specific PoDI plan for each PoDI into FHWAs PoDI S&O Plan SharePoint site, in accordance with FHWA HQ guidance. The TEs will inform the PI Team Leader when they have entered all project specific PoDI plans into the PoDI S&O Plan SharePoint site. The PI Team Leader will then review and approve the project specific PoDI plans in the SharePoint site.

Provide MoDOT with the PoDI List:
After the Final PoDI selections have been made, and the PoDI Tracker Spreadsheet District Tabs have been reviewed for accuracy and consistency, the PI Team Leader will ensure that the PoDI Tracker Summary Tab is correct. The PI Team Leader will provide MoDOTs State Design Engineer, State Construction Engineer, and others a copy of the PoDI Tracker Spreadsheet and Summary Tab for inclusion in MoDOTs EPG.

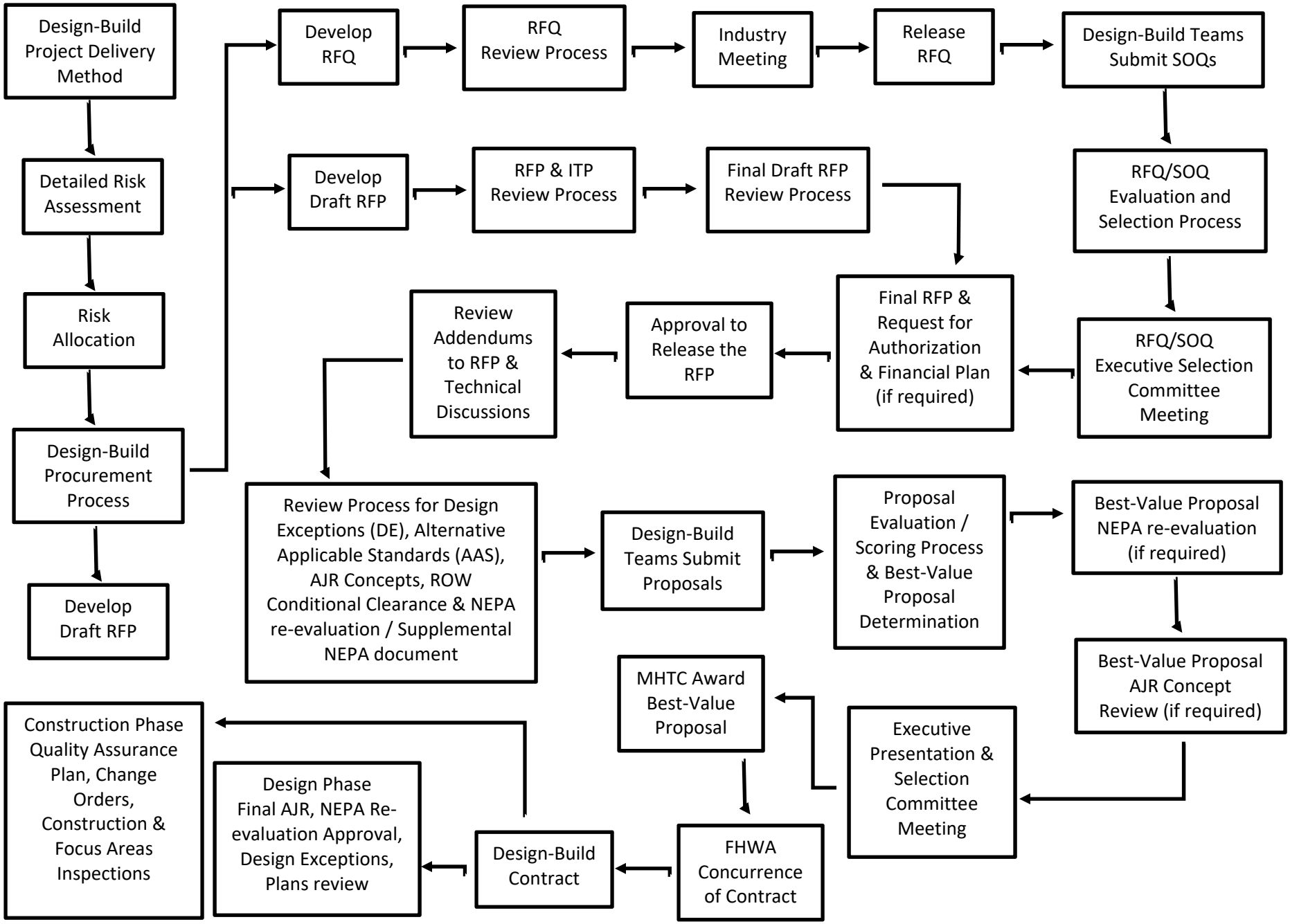
Each TE will provide their MoDOT District’s with a copy of the PoDI list and discuss the final project selections and focused reviews with them at that time.

APPENDIX B

DESIGN-BUILD PROCESS FLOW CHART

APPENDIX B

FHWA-MODOT DESIGN-BUILD PROCESS FLOW CHART



APPENDIX C

AJR GUIDANCE IN DESIGN-BUILD PROJECTS

Appendix C
FHWA – MoDOT Design-Build Agreement
Access Justification Guidance in Design-Build Projects

The goal for both MoDOT and FHWA is to identify the most efficient and cost effective process for appropriately processing modification of access to an interstate in the Design-Build procurement. The Project Director and FHWA TE should collaborate on the appropriate path forward using this guidance.

Risk Analysis

Analyzing risk in projects is paramount to the success of delivering quality projects. MoDOT performs risk assessments on projects as part of the Project Delivery Determination process, preparation of the Request for Proposal, and at the beginning of the Design-Build Contract. The risk associated with obtaining an Access Justification Report approval should be considered when analyzing risk in the project.

Risk Mitigation:

Projects of High Risk – Projects with major impacts to interstate access, interchange reconfigurations, corridors, high volumes, etc.

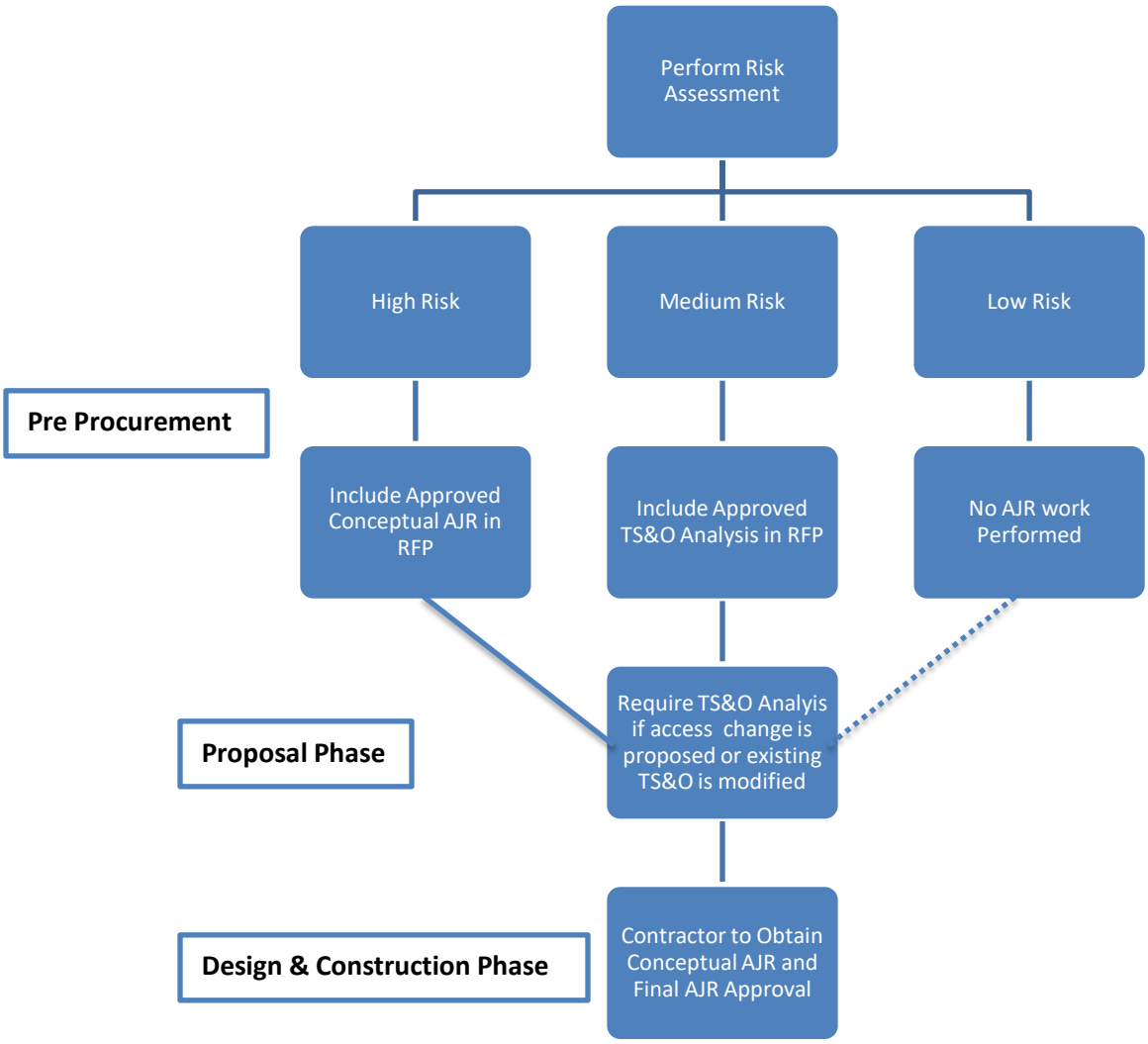
- Pre-Procurement – Conceptual AJR approval shall be prepared and included in the RFP.
- Proposal - The Instructions to Proposers shall include the requirement of a Traffic & Safety Operational Analysis (Policy Point 3) and a Conceptual Signing Plan as part of the proposal if the proposal includes modifications to an existing Conceptual AJR.
- Design and Construction Phase – The Contractor shall be responsible for preparing the any modification to an existing Conceptual AJR for Approval and the Final AJR Approval.

Projects of Medium Risk - Projects with impacts to an interchange that enhance the interchange like adding movements, medium to high volumes, etc.

- Pre-Procurement – A Traffic and Safety Operational Analysis (TS&O) should be prepared and included in the RFP.
- Proposal – The Instructions to Proposers shall include the requirement of a Traffic & Safety Operational Analysis (Policy Point 3) and a Conceptual Signing Plan as part of the proposal if the proposal includes modifications to an existing, or requires a new TS&O.
- Design and Construction Phase – The Contractor should be responsible for preparing the any modification to or any new Conceptual AJR for Approval and the Final AJR Approval.

Projects of Low Risk – Projects with no anticipated impacts to access to the interstate, but there is a potential as part of the Design-Build process.

- Pre-Procurement – No preliminary AJR work is prepared.
- Proposal – The Instructions to Proposers should include the requirement of a Traffic & Safety Operational Analysis (Policy Point 3) and a Conceptual Signing Plan as part of the proposal if the proposal includes any impacts to interstate access if required.
- Design and Construction Phase – The Contractor should be responsible for preparing the any required Conceptual AJR for Approval and the Final AJR Approval.


Perform Risk Assessment
High Risk
Medium Risk
Low Risk
Pre Procurement
Include Approved Conceptual AJR in RFP
Include Approved TS&O Analysis in RFP
No AJR work Performed
Require TS&O Analyis if access change is proposed or existing TS&O is modified
Proposal Phase
Contractor to Obtain Conceptual AJR and Final AJR Approval
Design & Construction Phase

APPENDIX D

FHWA & MoDOT CONFIDENTIALITY AGREEMENT

U.S.Department
of Transportation
Federal Highway Administration

Missouri Division

8/7/2013

3220 W. Edgewood, Suite H
Jefferson City, Missouri 65109
(573) 636-7104
Fax (573) 636-9283
Missouri.FHWA@fhwa.dot.gov

In Reply Refer To:
HDA-MO

Mrs. Kathy Harvey, State Design Engineer
Missouri Department of Transportation, Central Office
105 W. Capitol Avenue
Jefferson City, MO 65102

Subject: Confidentiality on Design Build Projects

Dear Mrs. Harvey,

On occasion, FHWA employees have been requested to sign State Confidentiality Statements related to Federally-assisted procurement actions, consultant negotiations, design build contracts, or development of environmental documents. Based on guidance provided by our Office of Chief Counsel, please be advised that *such action is beyond the regulatory authority of FHWA employees*. However, FHWA staff may elect to participate as an observer and/or technical resource under 23 CFR 1.5 for any project funded or eligible for funding as part of the Federal-aid Highway program.

Regarding confidentiality, all employees of the US Department of Transportation including FHWA are bound by 18 U.S.C. § 1905 which carries a criminal penalty if any employee discloses confidential commercial information. In accordance with these regulations:

1. FHWA employees who need to view the confidential commercial information will use the same degree of care to protect the information as used to protect FHWA information of similar nature, but in any event not less than reasonable care under the circumstances.

2. FHWA employees will withhold confidential commercial information authorized to be withheld under 5 U.S.C. § 552(b)(4), which is co-extensive with 18 U.S.C. § 1905.

3. Under a FOIA request for records that includes confidential commercial information which may be releasable under FOIA, FHWA will promptly notify MoDOT and provide an opportunity to object to the disclosure of the information and to state the basis for the objection. The burden of proof to

justify nondisclosure resides with MoDOT. The MoDOT has the right to file in the District Court to prevent the disclosure of information that it considers confidential; in the event such a filing is made, the process to disclose such information would be stopped and the matter referred to legal counsel.

4. If taken to court on our decision to withhold confidential commercial information under FOIA, FHWA will forcefully argue to the Department of Justice the validity of that decision and urge it to defend that decision by all appropriate means.

In summary, FHWA Missouri Division employees cannot execute confidentiality agreements but will use the best efforts at our disposal to protect confidential information submitted by MoDOT for review or as requested by FHWA for projects funded or eligible for Federal-aid highway funding.

If you should have any further questions please do not hesitate to contact Mr. Scott Bowles at (573) 638-2610.

Sincerely yours,

Scott Bowles
Program Implementation
Team Leader

APPENDIX E

FHWA APPROVAL OF FINAL REQUEST FOR PROPOSAL LETTER

U.S. Department of Transportation
Federal Highway Administration

Missouri Division

3220 W. Edgewood, Suite H
Jefferson City, Missouri 65109
(573) 636-7104
Fax (573) 636-9283
Missouri.FHWA@fhwa.dot.gov

September 19, 2012

Mr. Kevin Keith, Director
Missouri Department of Transportation
Jefferson City, Missouri 65102

Subject: Approval of Final Request for Proposals (RFP) Document
Project Number J6U1028, Route 364 (Page Avenue) Phase 3 Design/Build

ATTENTION: Mr. Mike Castro, Project Director, MoDOT St. Louis District

Dear Mr. Keith:

We have reviewed the subject Final RFP document for the Route 364 (Page Avenue) extension project, as submitted on 09/04/12; FHWA comments relating to the subject document were relayed to project staff on 09/14/12 and 09/17/12. FHWA comments have been adequately addressed. Approval of the subject Final RFP is offered with this letter.

Modifications to the RFP, or any other Governmental Approvals which have been offered for this project, are subject to FHWA review and approval.

If you should have any questions please do not hesitate to contact Mr. Greg Budd at (573) 638-2621.

Sincerely yours,

Urban Transportation Engineer

U.S. Department
of Transportation
Federal Highway Administration

Missouri Division

2/28/2017

3220 W. Edgewood, Suite H
Jefferson City, Missouri 65109
(573) 636-7104
Fax (573) 636-9283
Missouri.FHWA@fhwa.dot.gov

MoDOT NE District
Champ Clark Mississippi River Bridge Project
Attn: Keith Killen, P.E.
MoDOT Project Director

Ms. Paula Gough, P.E., District Engineer
Missouri Department of Transportation
1711 Highway 61 South
Hannibal, Missouri 63401

APPROVAL OF FINAL REQUEST FOR PROPOSAL (RFP) DOCUMENT
Job No. J3P2209B
Route 54 Champ Clark Mississippi River Bridge Design-Build Project
Pike County, Missouri and Pike County, Illinois

Dear Ms. Gough:

The FHWA Missouri Division has had the opportunity to review the Request For Proposal (RFP) document for the above project. FHWA comments relating to the subject document were relayed to MoDOT's Design-Build Team and have been adequately addressed.

MoDOT's RFP Certification letter was received on February 28, 2017 requesting the authorization for final design and physical construction for the subject project, and certifying that the conditions of 23 CFR 635.309(p) have been met.

Please consider this letter as FHWA's Approval of the Request For Proposal and project authorization for final design and physical construction. Modifications or changes to the RFP or any other government approvals which have been offered for this project, are subject to FHWA review and approval.

If you should have any questions or comments, please feel free to contact me at 573-638-2622 or felix.r.gonzalez@dot.gov.

Sincerely yours,

Félix R. González
Transportation Engineer
Northeast District

cc: Edgardo Cordero – Assistant Division Administrator, FHWA
Sandra Moeller – Financial Manager, FHWA
James Stevenson – Program Implementation Team Leader, FHWA

APPENDIX F

MoDOT REQUEST FOR AUTHORIZATION LETTER

Mark Fisher, P.E.
Project Director
US-69 Missouri River Bridge Design Build Project

Missouri Department of Transportation

Kansas City District
600 NE Colbern Rd.
Lee's Summit, MO 64086
Phone: 816-607-2271
1.888.ASK MODOT (275.6636)

February 25, 2014

Mr. Ken Foster, P.E.
Federal Highway Administration
3220 W. Edgewood, Suite H
Jefferson City, Missouri 65109

Re: US-69 Missouri River Bridge Project
J4P2279, US 69
Platte County
Request for Authorization

Dear Mr. Foster:

This letter is to request project authorization for the US 69 Missouri River Bridge Design-Build Project in Platte County, Missouri and Wyandotte County, Kansas. I certify that all requirements listed in 23 CFR 635.309(p) have been met. Each item below details the compliance.

The planning process that was followed conforms to the statewide and metropolitan transportation planning requirements (23 CFR part 450). The Mid-America Regional Council (MARC) approved funding for this project at their July 2014 board meeting. Additionally, this project has already been added to the Statewide Transportation Improvement Program (STIP) and was approved by the Missouri Highway and Transportation Commission at their July 2014 meeting.

An Environmental Assessment (EA) was completed for this project and a Finding Of No Significant Impact (FONSI) was received from FHWA on 11/13/2013. The NEPA process has been completed per 23 CFR 636.109.

FHWA approval of the Request for Proposals (RFP) occurred on February 24, 2014.

MoDOT and KDOT (Kansas Department of Transportation) are purchasing all necessary realty interests in compliance with the Uniform Relocation and Real Properties Acquisition Policies Act, as amended (Uniform Act), 49 CFR part 24 for any necessary property rights within their

respective states. Conditional right of way clearance on the Missouri side was approved for this project on February 25, 2014 and for the Kansas side on February 24, 2014. The Contractor is responsible for acquiring any additional realty interests at their cost following the same requirements with MoDOT oversight. This information is included in the RFP.

Utilities have been identified and located along the corridor and on the bridges. MoDOT has discussed relocation with each utility company. MoDOT/KDOT is working towards executing agreements with utilities attached to the bridges for requirements for re-attachment or relocation. The contractor will be responsible for utility conflicts on this project, beyond the relocations that MoDOT/KDOT have initiated. This process will not begin until the contractor has established their design and the extent of the required relocations and adjustments have been identified. This information is included in the RFP.

There will be railroad impacts within the project area on the Kansas side and KDOT has contacted and begun negotiations with each railroad company that is impacted. All work with the railroads will be in compliance with 23 CFR 646 and section 643.4 of the MoDOT Engineering Policy Guide. This information is included in the RFP.

This project is authorized by 227.107 RSMO.

MoDOT understands that changes to the design-build project concept and scope may require modification of the Statewide Transportation Improvement Program and the Transportation Improvement Program. Compliance will be in accordance with the metropolitan and statewide transportation planning requirements in 23 CFR part 450, and will provide appropriate approval notification to the design builder for such changes.

This Letter completes all requirements of the Code of Federal Regulations for Design Build, and allows for the authorization of funds for the US 69 Missouri River Bridge Project.

Sincerely,

Mark C. Fisher, P.E.
Project Director, US 69 MO River Bridge
Mark.Fisher@modot.mo.gov
816-607-2271

Champ Clark Bridge Project
Keith Killen P.E., Project Director
1711 South Highway 61
Hannibal, MO 63401
www.champclarkbridge.com

February 28, 2017

Mr. Felix Gonzalez P.E
Federal Highway Administration
3220 West Edgewood, Suite H
Jefferson City, Missouri 65109

Re: Champ Clark Mississippi River Bridge Project
J3P2209B, Route 54
Pike County, Missouri and Pike County, Illinois
Request of Authorization

Dear Mr. Gonzalez,

This letter is to request project authorization for the Route 54 Mississippi River Bridge Design-Build TIGER Project in Pike County, Missouri and Pike County, Illinois. I certify that all requirements listed in 23 CFR 635.309(p) have been met. Each item below details the compliance.

The planning process that was followed conforms to the statewide transportation planning requirements (23 CFR part 450). The Missouri Highway and Transportation Commission approved funding for this project at the July 2016 meeting by adding the project to the Statewide Transportation Improvement Program (STIP).

An Environmental Assessment (EA) was completed for the project and a Finding of No Significant Impact (FONSI) was issued by Federal Highway Administration on October 20, 2016. The NEPA process has been completed per 23 CFR 636.109. As identified in the EA multiple environmental permits are required for the project. These permits include the Clean Water Act Section 401 Water Quality Certification required by Missouri Department of Natural Resources (MDNR), Clean Water Act Section 401 Water Quality Certification & Anti-degradation permit required by Illinois Environmental Protection Agency (IEPA), and the Section 404 & Section 10 permits and Section 408 permit required by the US Corps of Army Engineers (USACE). Additionally a United State Coast Guard Permit is required for the project. As required in the Request for Proposals (RFP) the selected apparent best value Design-Build Team will be responsible for obtaining each of these permits based on their final design. MoDOT has been communicating with each of these agencies and documentation of all information is provided in the RFP and any additional information gathered after the RFP release will be provided to the Design-Build Teams via addendum as an effort to expedite the permit process.

Missouri Department of Transportation (MoDOT) and Illinois Department of Transportation (IDOT) are in the process of acquiring all necessary realty interests in compliance with the Uniform Relocation and Real Properties Acquisition Policies Act, as amended (Uniform Act), 49

Champ Clark Bridge Project
Keith Killen P.E., Project Director
1711 South Highway 61
Hannibal, MO 63401
www.champclarkbridge.com

CFR part 24, for any necessary property rights within their respective states. Conditional right of way clearance for Missouri was approved for this project on February 28, 2017. The selected apparent best value Design-Build Team is responsible for acquiring any additional reality interests, at their cost and time, following the same requirements with MoDOT oversight. This information is included in the RFP.

Utilities have been identified and located along the corridor cleared footprint. MoDOT has discussed the possibility of relocation with each utility company in both Missouri and Illinois. No utilities will be relocated prior to selection of apparent best value Design-Build Team. The selected apparent best value Design-Build Team will be responsible for the coordination of utility conflicts on the project. To assist with this process information detailing each utility's point of contact, anticipated cost and estimate time to relocate if needed are included in the RFP.

There will be railroad impacts on the Missouri side of the project. MoDOT has contacted BSNF and a formal agreement was executed for the project on August 5, 2016. All work within the railroads will be in compliance with 23 CF 646 and section 643.4 of the MoDOT Engineering Policy Guide. This information is included in the RFP.

This project is authorized by 227.107 RSMO.

MoDOT understands that changes to the design-build project concept and scope may require modification of the Statewide Transportation Improvement Program. Compliance will be in accordance with the statewide transportation planning requirement in 23 CFR part 450, and will provide appropriate approval notification to the design builder for such changes.

This letter completes requirements of the Code of Federal Regulations for Design Build, and allows for the authorization of funds for the Route 54 Champ Clark Mississippi River Bridge project.

Sincerely,

Keith Killen, P.E.
Project Director, Champ Clark Bridge
Keith.Killen@modot.mo.gov
660.385.8222

MoDOT

Missouri Department of Transportation

St. Louis District
Ed Hassinger, District Engineer

1590 Woodlake Drive
Chesterfield, Missouri 63017-5712
314.275.1500
Fax: 573.522.6475
1.888.ASK MODOT (275.6636)

September 20, 2012

Mr. Greg Budd, P.E.
Federal Highway Administration
3220 W. Edgewood, Suite H
Jefferson City, Missouri 65109

Re: The Route 364 Phase 3 Project
J6U1028, Route 364
St. Charles County
Request for Authorization

Dear Mr. Budd:

This letter is to request project authorization for the Route 364 Phase 3 Project in St. Charles County. I certify that all the requirements listed in 23 CFR 635.309(p) have been met. Each item below details the compliance.

The planning process that was followed conforms to the statewide and metropolitan transportation planning requirements (23 CFR part 450). East-West Gateway Council of Governments (EWGCOG), and the Missouri Highway and Transportation Commission, approved funding for this project at their August 3, 2011 Board meeting.

Air quality modeling has been done by EWGCOG and we are in conformance with 40 CFR parts 51 and 93 as indicated in the Final Environmental Statement dated 11/24/1992 and Record of Decision dated 1/6/1993. The NEPA process has been completed per 23 CFR 636.109.

The Financial Plan was been submitted to FHWA and approved on September 14, 2012.

FHWA approved the Request for Proposal (RFP) on September 19, 2012.

MoDOT is purchasing all necessary realty interests in compliance with the Uniform Relocation and Real Properties Acquisition Policies Act, as amended (Uniform Act), 49 CFR part 24. The Contractor is responsible for acquiring any additional realty interests at their cost following the same guidelines with MoDOT oversight. This information is included in the RFP.

Utilities have been identified and located along the corridor. MoDOT has discussed relocation with each utility company. The cost obligations and the process will follow MoDOT policies. This process will not begin until the Contractor has established their design and the extent of the required relocations and adjustments have been identified. This information is included in the RFP.

The project is authorized by 227.107 RSMO.

MoDOT understands that changes to the design-build project concept and scope may require a modification of the transportation plan and transportation improvement program. Compliance will be in accordance with the metropolitan and statewide transportation planning requirements in 23 CFR part 450 and the transportation conformity requirements in 40 CFR parts 51 and 93 in air quality nonattainment and maintenance areas, and will provide appropriate approval notification to the design builder for such changes.

This letter completes all requirements of the Code of Federal Regulations for Design Build, and allows for the authorization of funds for the Route 364 Phase 3 Project.

Sincerely,

Mike Castro, P.E.
Project Director, Route 364 Phase 3
Michael.castro@modot.mo.gov
314-453-1850, cell 314-401-5081

APPENDIX G

MoDOT REQUEST FOR CONCURENCE IN AWARD LETTER

MoDOT

Missouri Department of Transportation

Northeast District
Paula Gough, District Engineer

1711 Highway 61 S
Hannibal, Missouri 63401
573.248.2490
Fax: 573.248.2467
1.888.ASK MODOT (275.6636)

June 29, 2017

Felix Gonzalez
Federal Highways Administration
Missouri Division
Jefferson City, MO

Subject: Concurrence in Award to Best Apparent Value Proposer
Job Number J3P2209B
Champ Clark Bridge Design-Build Project

Dear Mr. Gonzalez,

Please find the Final Recommendation Report for Job Number J3P2209B, Champ Clark Bridge Design-Build Project. We respectfully request a Concurrence in Award to Massman and HNTB. This report is consistent with the recommendation to the MoDOT Executive Committee on June 27th, 2017. The Missouri Highways and Transportation Commission approved this recommendation at the June Commission meeting on June 29th, 2017.

Sincerely,

Keith Killen
Champ Clark Bridge Design-Build Project Director

APPENDIX H

SAMPLE OF FHWA CONCUR IN AWARD LETTER

U.S. Department of Transportation
Federal Highway Administration

Missouri Division

7/5/2017

3220 W. Edgewood, Suite H
Jefferson City, Missouri 65109
(573) 636-7104
Fax (573) 636-9283
Missouri.FHWA@fhwa.dot.gov

MoDOT Northeast District
Champ Clark Mississippi River Bridge Project
Attn: Keith Killen, P.E.
MoDOT Project Director

Ms. Paula Gough, P.E.
Northeast District Engineer
Missouri Department of Transportation
1711 Highway 61 South
Hannibal, Missouri 63401

CONCUR IN AWARD TO APPARENT BEST VALUE PROPOSER
Job No. J3P2209B
Route 54 Champ Clark Mississippi River Bridge Design-Build Project
Pike County, Missouri and Pike County, Illinois

Dear Ms. Gough:

We are in receipt of the June 30, 2017, submittal of the Final Recommendation Report for the subject Design-Build project, as provided by MoDOT's Project Director. After review of the subject report, in concert with the concurrence from the MoDOT Executive Selection Committee on June 27th, 2017, of the apparent best value proposer, and concurrence from the Missouri Highways and Transportation Commission on June 29th, 2017, FHWA offers concurrence in the award of the project to Massman Construction Co. and HNTB.

We understand that there may be negotiations of final contract details prior to the signing of the executed contract with Massman Construction Co. and HNTB; FHWA asks that any significant changes to terms of the contract be coordinated with FHWA staff, and that a copy of the final executed contract be submitted to our office.

We look forward to our continued work with your staff during the design and construction phases of this project.

If you should have any questions or comments, please feel free to contact me at 573-638-2622 or felix.r.gonzalez@dot.gov.

Sincerely yours,

Félix R. González
Transportation Engineer
Northeast District

cc: Edgardo Cordero – Assistant Division Administrator, FHWA
Jonathan Nelson – Design Liaison, MoDOT
Brandi Baldwin – Deputy Project Director, MoDOT
Sandra Moeller – Financial Manager, FHWA
James Stevenson – Program Implementation Team Leader, FHWA
Sam Snead – Program Analyst, FHWA-HOFM-1
Ryan Brumfield - Transportation Specialist, FHWA-HOFM-1