

**PY2022**  
**FHWA/MoDOT Construction & Materials Program Agreement**

**I. Definitions:**

- a. MoDOT's Values of Safety, Service and Stability are measured by several Tangible Results:
  - Tangible Results are what MoDOT's customers expect the department to accomplish. These are the tangible things that MoDOT's customers will see as the department fulfills its mission. MoDOT delivers results through accountability, innovation and efficiency.
  - Values represent the fundamental principles and philosophy of the agency and guide the agency's behavior. These values establish the boundaries within which all department activities will be conducted.
- b. Missouri's Strategic Highway Safety Plan (SHSP) Show-Me Zero- Driving Missouri Toward Safer Roads:
  - The Show-Me Zero 5-year SHSP identifies strategies having the greatest potential to move Missouri toward zero traffic fatalities.
- c. Project of Division Interest (PoDI):
  - PoDIs are those projects that have an elevated risk, contain elements of higher risk, or present a meaningful opportunity for FHWA involvement to enhance meeting program or project objectives.
- d. Timeframe for completing actions (business days):
  - Consecutive days that FHWA and MoDOT are both open for business, excluding Federal and State Holidays, Saturdays, and Sundays.

**II. Roles and Responsibilities of MoDOT**

MoDOT's Role – Ensure the Construction & Materials Program performs in accordance with state and federal laws and regulations while implementing MoDOT's Tangible Results, Values, and Missouri's Strategic Highway Safety Plan (SHSP) priorities and goals. For our program area, the following tasks are considered the most important and we will work with FHWA as true partners to ensure success:

- Complete the STIP construction projects on time and within budget while upholding the values of safety, quality, diversity, and environmental responsibility.
- Discuss changes that risk federal participation prior to document submittal. In accordance with the FHWA PoDI selection and identified focused reviews, MoDOT Construction & Materials Liaison Engineers and/or district personnel will communicate and discuss construction contract modifications, traffic

control plan changes, environmental commitment changes, contract change orders, materials certification, Value Engineering Change Proposals (VECP) and other project construction activities that are part of the identified review process with the FHWA Transportation Engineers (TE's).

- Provide complete and well-documented change orders 5 business days prior to expected/required approval date if change order approval is identified as a PoDI approval action.
- MoDOT project Resident Engineers or district staff will provide FHWA TE's documentation that supports follow-up action items that may result from project observation findings within the timeframe identified in the inspection report.
- Send invitation to FHWA Program Implementation Team Leader (PITL) and/or FHWA TE's for claim/dispute resolution meetings a minimum of 7 business days in advance and provide FHWA with a hard copy of all information on the claim as it becomes available.
- MoDOT will provide consistent communication and direction to contractors to ensure that federal and state regulations are being met.
- MoDOT will keep FHWA posted throughout the construction phase of the PoDIs and invite the FHWA PITL and/or FHWA TE's to all regularly scheduled construction update meetings, including pre-construction and/or pre-activities meetings.
- MoDOT's Tracker and Division Trackers will be developed and shared with FHWA to complement FHWA's Performance Plan and to ensure success for MoDOT and FHWA.
- MoDOT will involve FHWA in the development of proposed revisions to construction and materials Standard Specifications, Standard Plans and engineering policies prior to requesting approval in accordance with the Engineering Policy Guide (EPG) Approval Process.
- MoDOT will involve FHWA early in the development of construction and materials Job Special Provisions (JSP) prior to submittal for FHWA approval a minimum of 10 business days in advance of anticipated use in Federal-Aid projects.
- MoDOT will invite FHWA to regularly scheduled industry and technical team meetings.
- MoDOT will provide FHWA with annual summary reports for Independent Assurance and Materials Certification in January of each calendar year.

### III. Roles and Responsibilities of FHWA

- Provide MoDOT an accurate and detailed PoDI construction inspection report including checklist within 7 business days of the project reviews. Copies of the project inspections reports will be sent to the State Construction & Materials Engineer, Assistant State Construction & Materials Engineer, Resident Engineer, District Construction & Materials Engineer, and MoDOT Construction & Materials Liaison Engineer. If the 7-business day report requirements cannot be met, a detailed email outlining project observation will be sent to MoDOT and the PODI inspection report shall be provided to MoDOT within 14 business days.
- Shall notify MoDOT project staff immediately upon observation of safety risk perceived as posing eminent threat.
- Shall provide MoDOT Resident Engineer, MoDOT Construction & Materials Liaison Engineer, and District Construction & Materials Engineer an email within 2 business if there are any significant project observations that require timely actions to address the observation.
- Will review and approve change orders identified as a PoDI activity on PoDI projects within 5 business days of receiving them.
- Actively participate in contract claim awards and settlement meetings and discussions.
- In most cases, TE's will provide a minimum of 7 business days in notice of project inspections to appropriate MoDOT Resident Engineer, MoDOT Construction & Materials Liaison Engineer, and Assistant State Construction and Materials Engineer. FHWA reserves the right to visit any federal-aid construction project at any time.
- Provide PoDI final acceptance (if identified as a PoDI activity) within 15 business days of receiving all required documentation from MoDOT so that final payment can occur in a timely manner.
- Provide detailed information on federal position statements and policy changes within 5 business days of receiving information from FHWA Headquarters. Changes that effect MoDOT's operating procedures/policies will be discussed through a meeting of appropriate staff.
- Provide input during development of proposed revisions to construction and materials Standard Specifications, Standard Plans and engineering policies and approve proposed revisions in accordance with the Engineering Policy Guide (EPG) Approval Process.

- Provide input during early involvement with the development of Construction and Materials Job Special Provisions (JSP) and approve the JSP for use in Federal-Aid projects within 10 business days of receipt of request.
- Actively participate in industry and technical team meetings to provide input on Specification development and information on FHWA program activities and initiatives relative to those industries.
- FHWA Performance Plan will be developed and shared with MoDOT to complement MoDOT's Tangible Results and Values to ensure success for MoDOT and FHWA.

#### **IV. Risk Management Process**

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.

MoDOT Construction & Materials Staff and the FHWA agree to coordinate yearly to identify construction and material risk items for the next performance year.

#### **V. Ground Rules**

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

- MoDOT Construction & Materials Liaison Engineers and FHWA TE's, in coordination with FHWA program specialists, will work closely together to add the most value to individual projects and the overall program. This collaboration should include at least one combined field visit to discuss miscellaneous issues or evaluate specific areas of concern. Any project specific or program related support to operations staff provided as part of these collaborative efforts will be presented in a unified voice to the districts.
- We will respect each other by valuing individual opinions and maintaining an open mind to suggestions.
- We will respond to e-mails and telephone calls within 2 days unless out of the office during that time. All formal requests and/or actions discussed will be followed-up in writing.
- We will communicate directly with each other by telephone, mail, e-mail and more importantly in face-to-face conversations.

- We will make every effort to make sure project information and/or decisions have the concurrence of both MoDOT district and Central Office staff.
- We will respect the roles and responsibilities of FHWA and MoDOT.
- We will strive to achieve mutual goals and strategic initiatives.
- We will participate in a regularly scheduled annual meeting with the MoDOT State Construction & Materials Engineer and FHWA Program Implementation Team. Other technical staff will attend as needed to discuss items of mutual interest. FHWA and MoDOT will alternate responsibilities of scheduling the meeting. We will revisit and revise this agreement as part of the meeting.
- We will revise the agreement every year and make revisions as necessary.

## **VI. Conflict Resolution**

In case of conflict, we will resolve it at the lowest level by the FHWA TE working with MoDOT District staff and Construction & Materials Liaison Engineers. If agreement cannot be reached after 7 days, we agree to elevate the issue in the following manner:

- Elevate the discussion to the State Construction & Materials Engineer and FHWA PITL.
- We will make every effort to solve the conflict at our level, but after no more than 14 days after hearing from the parties involved, we will present our cases both verbally and in writing to MoDOT's Assistant Chief Engineer and the FHWA Deputy Division Administrator.
- We will abide by their decision and will share that decision with staff.

## **VII. Performance Evaluation**

We will evaluate the strength of our Construction & Materials program by the following measures. These measures will continue to be monitored and reported quarterly, unless otherwise noted. Measures may be added, modified or deleted by agreement through revision to this partnering agreement.

- Percent of projects completed on time as specified in the contract (Original Completion Date 80%)
- Percent of projects that have Liquidated Damages charged for late completion.

- Percent of changes between Award Amount and Final contract amount for finalized contracts will be within 2%.
- Number and type of traffic accidents in construction work zones.
- Number of worker fatalities and injuries on construction projects.
- Monthly DBE Participation Report on all projects with a DBE goal.
- MoDOT Construction Quality Assurance Program rating assigned by FHWA National Quality Assurance Program Risk Assessment

### **VIII. Communicating with Management**

We will keep management informed of our activities and how our partnering is working by:

- Communicate important or controversial issues to management immediately as they arise. Use the no surprise philosophy.
- We will provide management with minutes of our semi-annual meetings.
- Complete an annual report, which summarize performance indicators and outlines significant achievements.

DATE: January 20, 2022

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State Construction & Materials Engineer

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## APPENDIX - A

### PoDI Selection Process

FHWA has developed an internal process for the identification of PoDI's, which is required and in conformance with FHWA HQ guidance; this internal process will guide the yearly PoDI selection process.

The PoDI process is a 7-step process, FHWA and MoDOT collaboration during each step will include:

1. Program Risk Assessment: FHWA Division will develop construction and materials related risk statements based on construction and materials review observations. FHWA PITL will coordinate the risk assessment process with the MoDOT Construction & Materials Engineer. All risk statements will be prioritized based on their likelihood and impacts of each risk.

PODI Project Risk Assessment: The PoDI project risk assessment will identify those risk areas that will be reviewed during the next Performance Year as part of the PoDI review process.

2. Pre-screening process: This step will consist of a review of the draft STIP. All projects from all MoDOT districts will be reviewed for potential PoDI identification. The FHWA TE assigned to each district will perform an initial review of the draft STIP and develop a list of potential PoDI's based on the risks and planned focused reviews.

3. Short Listing of Projects: The FHWA TE will collaborate with their respective MoDOT Construction & Materials Liaison Engineer to go over the list of potential PoDI projects developed by the TE and any suggested projects from the District, and identify a suggested short list of projects and the elements to be reviewed.

4. Project Screening: Each project on the PoDI short-list will be evaluated using the FHWA developed Missouri Resource Deployment Tool (MRDT). The MRDT contains 10 required risk areas that will be assessed for each project on the PoDI short-list. Based upon the results of the MRDT risk assessment, each project on the short-list will be scored and be identified as a PoDI, potential PoDI or not as PoDI project.

5. 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 as either a PoDI or Potential PoDI. Based on the risk assessment process the TE will identify those elements or activities they plan to perform on each project.

6. Final PoDI Selection: The FHWA PITL will review the risk assessment results for accuracy, consistency, and the available FHWA resources in consideration of current FHWA workload. The PITL will meet with each TE and agree upon the final list of PoDIs for each district.

7. Provide MoDOT with PoDI and Potential PoDI List: Each TE will coordinate and share with their respective MoDOT Construction & Materials Liaison Engineer the final PoDI and potential PoDI project list and corresponding review activities that will be performed for that Performance year on each project.

The final PoDI Summary Spreadsheet will be sent to MoDOT for inclusion in the EPG (section 123.1.1). FHWA will not submit EPG updates to the PoDI Summary Spreadsheet. However, if selected PoDI project's letting date moves significantly that effect the PoDI activities to be reviewed, the TE will coordinate with the MoDOT State Design Engineer to update the project's activity reviews. TE's during the year may elect to add an additional PoDI, these projects will be selected from the Potential PoDI list. Prior to adding a PoDI the TE will coordinate with the MoDOT Construction & Materials Liaison Engineer, MoDOT state Construction & Materials Engineer and/or the MoDOT state Design Engineer.

It is anticipated that the PoDI selection process will be initiated with the submittal of the management draft STIP and be completed with the final PoDI Summary spreadsheet being sent to MODOT.