

Contract No.:



U S DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

EASTERN FEDERAL LANDS HIGHWAY DIVISION

**REELFOOT NATIONAL WILDLIFE REFUGE
PROJECT RRP-REL 10(2)
SAMMS No. 10016806**

SOLICITATION

IFB NO. DTFH71-08-B-00011

**This Contract Cites
Standard Specifications FP-03
U.S. Customary Units**

**CONTRACTOR:
ADDRESS:**

STATE: KENTUCKY

COUNTY: FULTON

PARK / REFUGE / NF: REELFOOT NATIONAL WILDLIFE REFUGE

| ROADWAYS: | STATIONS | FEET |
|------------------------------------|------------------|-------------|
| Long Point Auto Tour Road (paved) | 10+00 to 41+50 | 3,150 |
| Long Point Auto Tour Road (gravel) | 41+50 to 59+74.3 | 1,824.3 |

PROJECT LENGTH TOTAL: 4,974.3'=0.94 miles

TYPE OF IMPROVEMENT:

Resurfacing 0.60 miles of existing gravel road with 3.5" hot asphalt concrete pavement and 0.35 miles of existing gravel road with aggregate surface course, parking lot paving, drainage, striping, and other work.

TABLE OF CONTENTS

| | <u>Page</u> |
|---|------------------------|
| Notice to Bidders | 1 through 2 |
| Checklist for Bid Submission | 1 through 2 |
| *New Questionnaire Form on Calendar Days | 1 Page |
| *SF-1442 Solicitation, Offer, and Award | A-1 through A-2 |
| Continuation of SF 1442 | A-3 through A-4 |
| Bid Schedule Instructions | 1 through 2 |
| *Bid Schedule | B-1 through B-5 |
| *SF-24 Bid Bond | C-1 through C-2 |

FEDERAL ACQUISITION REGULATION & TRANSPORTATION ACQUISITION REGULATION SOLICITATION PROVISIONS & CONTRACT CLAUSES

| | |
|---|------------------------|
| Index to Federal and Transportation Acquisition Regulations | 1 through 6 |
| Representations and Certifications (OCRA online) | D-1 |
| Instructions to Bidders | E-1 |
| *Socioeconomic Program Requirements | F-1 through F-8 |
| Minimum Wage Schedule | F-9 through F-22 |
| *General Contract Requirements | G-1 through G-4 |
| Construction Contract Requirements | H-1 |

SPECIFICATIONS

| | |
|-----------------------------------|------------------|
| Special Contract Requirements | J-1 through J-21 |
| Permits Obtained for this Project | 47 Pages |
| Pavement Report | 25 Pages |
| Plans | 65 Pages |

***BOLD FACED ITEMS ARE TO BE INCLUDED WITH THE BID SUBMITTAL PACKAGE**

NOTICE TO BIDDERS

CONTRACT FORMAT:

Offerors should note that the format of this contract is in accordance with Federal Acquisition Regulations (FAR), promulgated by the General Services Administration (GSA), effective April 1, 1984, including all applicable revisions. Applicable FAR provisions and clauses are incorporated in this contract by reference or full text as indicated in the INDEX before the D-page in this booklet. FAR provisions and clauses incorporated by reference can be accessed on the Internet on the GSA website at www.arnet.gov/far/. Offerors are encouraged to review the documents thoroughly before bidding.

PROPOSAL BOOKLET AND OFFER SUBMITTAL:

It is the responsibility of the Offeror to verify that this proposal is complete as listed in the Table of Contents. The Offeror is responsible for submitting all required forms and documents with the offer. Offerors should use the Checklist for Bid Submittal included in this booklet to check that their bids are complete. **New Questionnaire Form on Calendar Days with required signature.**

CONSTRUCTION CONTRACTS:

As stated in FAR Clause 52.236-1, the **Contractor shall perform on the site, and with its own organization, work equivalent to at least 50%**. Additional guidance is given in FAR Subpart 35.005 where the majority of the project work is complex and specialized such as restoration work, bridge painting, and proprietary construction techniques (i.e. proprietary Cintec arch strengthening.) There are exceptions and they will be reviewed on a case-by-case basis.

HAZARDOUS MATERIALS IDENTIFICATION AND MATERIAL SAFETY DATA:

As required by FAR Clause 52.223-3, Hazardous Materials Identification and Safety Data, the apparent low Offeror must submit prior to award a Material Safety Data Sheet (MSDS's) for all hazardous materials that the Offeror identifies in paragraph (b) of this clause in the D-pages of this booklet. Failure to submit MSDS's may render the Offeror ineligible for award of contract. The apparent low Offeror should submit their MSDS's within two weeks after bid opening.

ATTENTION LARGE BUSINESSES - UTILIZATION OF SMALL BUSINESS CONCERNS:

Large business Offerors should note their responsibilities in the awarding of subcontracts in accordance with FAR Clause 52.219-8, Utilization of Small Business Concerns. The offeror, if a large business concern, should note its responsibility to establish and conduct a Subcontracting Plan in accordance with FAR Clause 52.219-9, Alternate I, Small Business Subcontracting Plan. If the apparent Low Offeror is a LARGE BUSINESS it will be required to submit a Subcontracting Plan within 2 weeks of receipt of request from the Contracting Officer. If the apparent low offeror fails to submit a subcontracting plan acceptable to the Contracting Officer within the allowable time, the offeror may be ineligible for award of the contract. PLEASE NOTE: A sample plan is included in this solicitation package for your use.

FINANCING ASSISTANCE: Minority, Women-owned, and Disadvantaged Business Enterprises (DBE's). The Department of Transportation (DOT) offers working capital financing assistance for transportation related contracts. DOT's Short-Term Lending Program (STLP) offers lines of credit to finance accounts receivable. Maximum line of credit is \$750,000 with interest at the prime rate. For further information, call (800) 532-1169. Internet address: <http://osdbuweb.dot.gov>.

INTERNET BASED DATA BASES - REQUIRED INPUT: According to the FAR Subpart 4.1102 contractors **MUST** be registered in Central Contractor Registration (CCR) **prior** to the award of any contract. Access the following web site to register: www.ccr.gov

According to the FAR Subpart 4.1201 contractors **MUST** complete their Online Annual

Representations and Certifications Application (ORCA) **prior** to the closing date of the bid on line at <http://orca.bpn.gov/>.

According to the FAR Subpart 22.1302 (b) contractors and sub-contractors **MUST** complete the required Annual Vets-100 Form in order to be eligible for a contract award. It can be completed on-line at <http://vets100.cudenver.edu/>.

NOTICE TO BIDDERS - (CONT'D.)

This should be completed before submitting a bid package.

PAYMENT:

Offerors are advised to review the Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects (FP), subsection 109.05, concerning **direct** and **indirect** payment included under a pay item in the bid schedule.

PROGRESS PAYMENTS:

ALL payments will be made via Electronic Funds Transfer (EFT) as such; the payment information in the CCR must be accurate in order for contractors' invoices to be considered proper invoices for the purpose of prompt payment under DOT contracts. Contractors must input and maintain (update as necessary) their EFT information in the CCR database. Offerors are advised that under FAR Clause 52.232-5, Payments Under Fixed Price Construction Contracts, upon request, progress payments will include premiums paid by the Contractor to obtain performance and payment bonds as required under this contract. These payments shall not be made in addition to the contract price. As specified in the FP, "Section 151 - MOBILIZATION", payments for performance and payment bond premiums shall be included in mobilization.

WELFARE-TO-WORK INITIATIVE:

The President's Welfare Reform Bill was initiated to assist welfare recipients and hopefully aid welfare recipients to find gainful employment. In support of this bill, Contractors are encouraged to hire welfare recipients whenever possible and to use welfare recipients in performance of duties on Government contracts.

INCREASING SEAT BELT USE IN THE UNITED STATES:

The President's Executive Order 13043 dated April 16, 1997, was issued to increase the use of seat belts in the United States. In support of this Order, contractors and subcontractors are encouraged to adopt and enforce on-the-job seat belt policies for their employees when operating company-owned, rented, or personally owned vehicles.

OBTAINING BID DOCUMENTS:

Bid documents **will not be** mailed. All bid documents are available for direct download from the Federal Business Opportunities (FBO) website:

<https://www.fbo.gov/index?s=opportunity&mode=list&tab=list&cck=1&au=&ck=>

Type DTFH71 in Keywords/Sol. # Block then click on GO, or the Eastern Federal Lands Highway Division website: <http://www.efl.fhwa.dot.gov/contracting/Documents.aspx>

Contractors are encouraged to register on the FBO website (for this specific project) in order to receive Email Notifications automatically when a document is added or updated for this specific project. All questions about this construction project must be emailed to the following address:

eflhd.contracts@fhwa.dot.gov.

THE CONTRACTOR IS SOLELY RESPONSIBLE FOR MONITORING THE WEB PAGES NOTED ABOVE FOR ALL CHANGES TO THE SOLICITATION AND ACTING ON SAID CHANGES.

PLEASE NOTE: for security reasons, individuals requiring access to all government buildings must present a valid photo ID and be escorted to their destination by a Government employee. All visitors attending bid openings are urged to arrive at least 1 hour prior to schedule bid opening. All visitors must register with the receptionist in Room 100. A Government employee will collect all bids. Prior to bid opening, a Government employee will escort all bidders to the bid opening. Unescorted visitors will be denied entry and no exceptions will be made.

CHECKLIST FOR BID SUBMISSION

The following is a checklist of items included in the proposal/bid package that are required to be completed and returned (or filled in on-line) to the address in Block 8 of the Standard Form 1442, Solicitation, Offer, and Award (page A-1). This checklist is for informational purposes only and is not required to be filled out by the bidder. **Failure to submit a complete bid may be cause to reject your bid.**

1. Bid Envelope:

- a. Addressed as shown in Block 8 of Page A-1
- b. In lower left corner, indicate Solicitation No., Project Name & Number, time for Receipt of Offers and send to Room 105.

2. Standard Form 1442: Solicitation, Offer and Award (Pages A-1 and A-2)

- a. Block 14: Name and Address of Bidder.
- b. Block 15: Telephone Number of Bidder.
- c. Block 16: Remittance Address if different from Block 14.
- d. Block 19: **All** Amendments Acknowledged, with dates of Amendments.
- e. Block 20: Bid is signed and dated.

3. Bid Schedule - (Pages B-1 through B-5)

- a. Unit bid price and bid amount provided for each pay item in numbers.
- b. Corrections initialed.
- c. Price Evaluation eligibility is indicated on the Bid Summary page.

4. Standard Form 24, Bid Bond (Pages C-1 through C-2) (Required if bid guarantee is bid bond)

- a. Date executed
- b. Legal name and address of bidder.
- c. Type of organization.
- d. State of incorporation (if applicable).
- e. Name and business address of Treasury approved surety.
- f. Penal sum of bond (not less than 20% of bid total).
- g. Bid identification.
- h. Signature of Bidder
- i. Seal, if corporation
- j. Signature of Surety
- k. Seal, if corporation

BIDS RECEIVED WITHOUT A VALID BID BOND WILL BE REJECTED.

5. Power of Attorney.

- a. Dated on or before execution date of bond
- b. Power has original signature of surety, or is embossed with surety's seal in the certification section

BIDS RECEIVED WITHOUT A VALID POWER OF ATTORNEY WILL BE REJECTED.

CHECKLIST FOR BID SUBMISSION

6. Fill In's. The following full text Clauses and/or Provision numbers shall be checked or filled in and return with the bid package:

- a. 52.219-4 – HubZone ONLY - See Section F, Clause 52-219-4, paragraph "C", check block if wavier is applicable.

7. Bidder's Qualifications form (provided separately as part of the Bid Documents Package).
Form completed, signed and submitted with bid

8. Bidder's Questionnaire on Calendar Days signature required (if not completed bid shall be found non-responsive).

9. Sub-Contracting Plan - Large Businesses Only: Submittal with the bid is not mandatory, **but it is encouraged**, as it will speed up the award process should your firm be the apparent low bid.

THE FOLLOWING THREE ITEMS ARE NOT TO BE SUBMITTED WITH THE BID; BUT FAILURE TO COMPLETE THE REQUIREMENTS WILL BE CAUSE TO REJECT THE BID.

10. Central Contractor Registration (CCR): The Contractor is currently registered in the Internet-Based CCR database at <http://www.ccr.gov>.

11. Online Representations and Certifications Application (ORCA): The Contractor's Representations and Certifications have been input online via the Internet-Based ORCA electronic database at <http://orca.bpn.gov>.

12. Vets100 Reporting: The Contractor has completed the annual Internet-Based reporting requirement online at <http://vets100>.

NOTE: THE CONTRACTOR IS FULLY RESPONSIBLE TO VERIFY THAT ALL DATA IN THE THREE DATABASES IS CORRECT EACH TIME A BID PACKAGE IS SUBMITTED. FAILURE PROPERLY INPUT AND/OR UPDATE YOUR DATA MAY CAUSE THE BID TO BE REJECTED.

Bidders Qualification questionnaire regarding the preparation of the bid for time:

- 1) Does the bid for time include the impact of normal weather conditions on the work of the Contract?
- 2) Does the bid for time include the impact of the terms of the Contract Specifications regarding work restrictions - including all identified delays, suspensions, and shut-downs?
- 3) Does the bid for time include sufficient time to allow that all contract work can be completed within contract time without the imposition of liquidated damages?
- 4) Does the bid for time include time for the review and approval process for all submittals required by the Contract?
- 5) Does the bid for time include time for the review and approval process for required drawings submitted under Subsection 104.03 of the Specifications?
- 6) Does the bid for time include the lead time required for the procurement, manufacture, and delivery of materials that are to be incorporated into the Contract work?
- 7) Does the bid for time include sufficient time to accommodate the fact that the date of Notice to Proceed is conditional upon the Government awarding the contract up to 60 days after the bid opening?
- 8) Does the bid for time include the 14 days after the award of the Contract that the Contractor has to provide Performance and Payment bonds?
- 9) Does the bid for time include sufficient time to accommodate the fact that the Contracting Officer has up to 30 days after receipt of acceptable Performance and Payment bonds to issue the Notice to Proceed?

I hereby certify that the answer to each and every one of the questions listed above is yes.

Signature of Authorized Representative

Title

Date

Note: If the questionnaire is not signed the bid shall be found non-responsive and rejected.

| | | | | |
|---|---|--|-------------------------------------|-------------------------|
| SOLICITATION, OFFER, AND AWARD <i>(Construction, Alteration, or Repair)</i> | 1. Solicitation No. DTFH71-08-B-00011 | 2. Type of Solicitation <input checked="" type="checkbox"/> Sealed Bid (<i>IFB</i>) <input type="checkbox"/> Negotiated (<i>RFP</i>) | 3. Date Issued 04/15/2008 | Page of Pages 1 OF 4 |
| | IMPORTANT - The "offer" section on the reverse must be fully completed by offeror. | | | |

| | | |
|-----------------|-------------------------------------|--|
| 4. Contract No. | 5. Requisition/Purchase Request No. | 6. Project No. RRP-REL 10(2) |
|-----------------|-------------------------------------|--|

| | | |
|---|------------|--|
| 7. Issued By: Federal Highway Administration Eastern Federal Lands Highway Division Loudoun Tech Center, Room 105 21400 Ridgetop Circle Sterling, Virginia 20166-6511 | CODE: N/A: | 8. Address Offer To: See Block 7 |
|---|------------|--|

| | | |
|--|--------------------------------|--|
| 9. FOR INFORMATION See Blocks 9A & 9B | A. Name: Joanne Lowe | B. Telephone No. (Include area code) (NO COLLECT CALLS) Email All Questions/Inquiries To: eflhd.contracts@fhwa.dot.gov |
|--|--------------------------------|--|

See Continuation of SF 1442

SOLICITATION

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder"

10. The Government requires performance of the work described in these documents (title, identifying no., date):
This Invitation for Bids is for the Reelfoot National Wildlife in Fulton, Kentucky in strict accordance with the Solicitation/Contract instructions, notices, clauses, provisions, *items listed below, and for the quantities of work actually performed at the unit prices as bid in the Bid Schedule, including all applicable Federal, State, and local taxes.

- * FP - Standard Specification for Construction of Roads & Bridges on Federal Highway Projects.
- * Bid Schedule, Section B - pages B-1 through B-5.
- * Special Contract Requirements, Section J - pages J-1 through J-21.
- * Plans (Drawings), Sheets 1 through 65.
- * Pavement Report Pages 1 through 25.

11. The Contractor shall begin performance within **10** calendar days and complete it within calendar days after receiving
 Award, Notice to Proceed. This performance period is mandatory, negotiable. (See *Continuation Sheet)

| | |
|---|--|
| 12A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES," indicate within how many calendar days after award in Item 12B.) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO SEE SUBSECTION 102.06 OF FP. | 12B. CALENDAR DAYS Within 14 calendar days after Notice of Award |
|---|--|

13. ADDITIONAL SOLICITATION REQUIREMENTS:

- a. Offers in original and **0** copies to perform the work required are due at the place specified in Item 8 by **2:00 PM** local time **05/15/2008**. If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.
- b. An offer guarantee **is**, is not required.
- c. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.
- d. Offers providing less than **60** calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

OFFER (Must be fully completed by offeror)

| | |
|--|---|
| 14. Name and Address of Offeror (Include ZIP code) | 15. Telephone No. (Include area code) |
| | 16. Remittance Address (Include only if different than Item 14) |
| CODE | FACILITY CODE |

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation if this offer is accepted by the Government in writing within ___ calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in Item 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.

AMOUNTS ➡ See Bid Schedule - Section "B" Pages

18. The offeror agrees to furnish any required performance and payment bonds.

19. ACKNOWLEDGEMENT OF AMENDMENTS
(The offeror acknowledges receipt of amendments to the solicitation - give number and date of each)

| | | | | | | | | |
|---------------|--|--|--|--|--|--|--|--|
| AMENDMENT NO. | | | | | | | | |
| DATE | | | | | | | | |

| | | |
|--|----------------|-----------------|
| 20a. Name and title of person authorized to sign offer (Type or print) | 20B. Signature | 20C. Offer Date |
|--|----------------|-----------------|

AWARD (To be completed by Government)

21. Items Accepted:

| | |
|------------|---------------------------------------|
| 22. Amount | 23. Accounting and appropriation data |
|------------|---------------------------------------|

| | | |
|---|-----------------------------|---|
| 24. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified) | ITEM See Block 26 | 25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO <input type="checkbox"/> 15 USC 637(a)) <input type="checkbox"/> 41 USC 253(c) () |
|---|-----------------------------|---|

| | |
|---|--|
| 26. ADMINISTERED BY Federal Highway Administration Eastern Federal Lands Highway Division 21400 Ridgetop Circle Sterling, Virginia 20166-6511 | 27. PAYMENT WILL BE MADE BY: Federal Highway Administration Eastern Federal Lands Highway Division Finance Division, Room 357 21400 Ridgetop Circle Sterling, Virginia 20166-6511 |
|---|--|

CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

| | |
|---|---|
| <input type="checkbox"/> 28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return ___ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work requirements identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications incorporated by reference in or attached to this contract. | <input type="checkbox"/> 29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary. |
|---|---|

| | |
|--|--|
| 30a. Name and Title of Contractor or Person Authorized to Sign (Type or print) | 31a. Name of Contracting Officer (Type or print) |
|--|--|

| | | | |
|----------------|-----------|-------------------------------------|-----------|
| 30b. Signature | 30C. Date | 31b. United States of America BY | 31C. Date |
|----------------|-----------|-------------------------------------|-----------|

CONTINUATION OF SF 1442

Block 2:

This project is **UN-RESTRICTED** - Bids will be accepted from **ALL** eligible business concerns.

This procurement is made pursuant to Public Law 100-656 Title VII, which established the Small Business Competitiveness Demonstration Program. This procurement falls under North American Industry Classification System (NAICS) code 237310 - Highway, Street, and Bridge Construction (see FAR Subpart 19.10)

The award of this project is subject to a 10% price evaluation preference for eligible HubZone Small Business Concerns (must be on the SBA listing) (see FAR Clause 52.219-4).

Facsimile and electronic bids will not be accepted.

PHYSICAL DATA AVAILABLE FOR REVIEW

1. Manual on Uniform Traffic Control Devices for Streets and Highways, 2003 Edition, published by the Federal Highway Administration. <http://mutcd.fhwa.dot.gov>.
2. Pavement Report

Block 9:

In accordance with FAR Provision 52.236-27, Site Visit, a Government representative can be available to show the project to prospective bidders. **All requests** for site visits and/or questions concerning this construction project to must be emailed to eflhd.contracts@fhwa.dot.gov. Interested parties must provide the Solicitation Number and the relevant project name with all requests and questions.

*Block 11:

The maximum time for completion of the contract is * **68** calendar days.

The completion time for the contract will be the time offered by the successful bidder, **not to exceed** the maximum time above.

Notice to Proceed, or date specified in the Notice to Proceed will be issued within 30 days following receipt of acceptable performance and payment bonds.

Work Restrictions can be found in SCR Sections 108 and 156 (J – pages).

Block 12A:

Furnish performance and payment bonds in accordance with FAR Clause 52.228-15.

CONTINUATION OF SF 1442

Block 13:

A bid guarantee in the amount of not less than 20 percent of the bid price or \$3 million, whichever is less, is required with this bid. If the bidder fails to provide the required bid guarantee, such failure may require rejection of the bid. Reference FAR Provision 52.228-1, Bid Guarantee.

Other:

The estimated price is expected to fall within the price range of \$500,000 to \$1,000,000.00.

Responsibility of bidders shall be evaluated in accordance with the information provided on the Bidder's Qualification Form, which can be downloaded from FHWA web site. FP-96 or FP-03 versions can be downloaded at the FHWA web site. FHWA web site is <http://www.efl.fhwa.dot.gov/contracting/Documents.aspx>.

Subcontracting Goals

Required from all other than Small business when the requirement is expected to exceed \$500,000 [FAR 19.702]. The Contracting Officer, along review and advisory comments from the Office of Small Disadvantaged Business Utilization (OSDBU), is responsible for approving a reasonable and realistic plan [FAR 19.705-4] [TAM 1219.201(e)(6)]. The legislated subcontracting goals are as shown below. A copy of each subcontracting plan (or contractor statement that no subcontracts are to be awarded) must be provided to OSDBU prior to close of negotiations [TAM 1219.705-5 and - 6].

Legislated subcontracting goals: (15 USC 644 (g)(1))

- 5% Small Disadvantaged Businesses (SDB)
- 5% Small Woman Owned Business Entities (SWBE)
- 3% Service-Disabled Veteran-Owned Small Businesses (SDVOSB)

BID SCHEDULE INSTRUCTIONS

PROJECT: RRP-REL 10(2)

BIDDERS PLEASE NOTE: Before preparing the bid, carefully read the Instructions to Bidders. While preparing the bid, comply with the following:

COMPLETING THE BID SCHEDULE

Complete the Bid Schedule(s) by handwriting in ink or typing. Specify a Unit Bid Price, in figures with cents to only two decimal places, for each pay item in the Unit Bid Price column for which a quantity is given. Do not enter or tender a Unit Bid Price for any pay item for which no estimated quantity appears in the Bid Schedule. Determine the products of the respective unit prices and quantities, and show them, in figures, in the Amount Bid column. If a Unit Bid Price and Amount Bid have been inserted by the Government for a pay item, do not change the Unit Bid Price and Amount Bid for the pay item. Determine the Bid Total by adding the amounts of the several items, and show in the space provided on Page B-4. In case of multiplication errors, the Amount Bid for the item will be based on the Unit Bid Price.

To be eligible for award, bidders must submit prices for each pay item.

Review Subsection 109.05 of the FP-03 regarding scope of payment for direct and indirect payment work.

SCHEDULE OF WORK

The Bid Schedule is comprised of the following:

Schedule A – Consists of the reconstruction, rehabilitation, and resurfacing of the Long Point Auto Tour Road, with rehabilitation and paving of the Observation Tower Parking Area, and other miscellaneous work.

BIDDING OF CALENDAR DAYS

Determine the number of calendar days necessary to complete Schedule A work from Notice to Proceed to contract completion. Specify the number of calendar days (**NOT to exceed the maximum number of calendar days shown in Block 11 of the SF-1442**) in the space provided on the **Bid Summary** (Page B-5). Failure to specify a number of calendar days for contract completion indicates the bidder accepts the maximum contract completion time provided in Block 11 of the SF-1442.

In developing a construction schedule to determine the number of calendar days included in their bid, bidders should include the work limitations shown in the Special Contract Requirements.

Specific work limitations may be (but are not limited to): holidays and weekends; rush hours; night work; no work periods; traffic control or other work phasing. Bidders are also advised to consider those work items that are weather sensitive and when those work items will be performed. Specific work items are (but not limited to): those that require a minimum ambient air temperature (asphalt paving and surface treatment, pavement striping, stone masonry); those that require maintaining a minimum surface temperature (concrete pavement, structural concrete, painting); and those that have specific planting seasons (turf establishment, sod, trees, plants). The total calendar days bid should include any work limitations and any delay days or contractor winter shutdowns required due to weather sensitive work items.

When evaluating the bids, the Government will consider the Contract Administrative Cost for the project to be \$500 per calendar day bid. The Contract Administrative Cost is only used to determine the Total Price of Project.

Add the **Bid Total(s)** and the **Contract Administrative Cost(s)** for each schedule of work as directed on the **Bid Summary** page(s). Show the **Total Price of Project** in the space provided on the **Bid Summary** (Page B-5).

BASIS FOR AWARD

The contract will be awarded to the responsive, responsible bidder with the lowest **Total Price of Project**, which is defined as:

Bid Total of Schedule A + Contract Administrative Cost of Schedule A

The number of calendar days specified by the successful bidder for the completion of Schedule A work will become the performance period for the contract.

NOTE: Contract Administration Cost is used for ranking purposes only.

Bid Schedule

Project: RRP-REL 10(2)
REELFOOT NATIONAL WILD LIFE REFUGE, LONG POINT AUTO TOUR

| Pay Item No. | Estimated Quantity | Unit Bid Price | Amount Bid |
|--------------|---|----------------|------------|
| 15101-0000 | MOBILIZATION | | |
| | ALL | Lump Sum | \$ _____ |
| 15201-0000 | CONSTRUCTION SURVEY AND STAKING | | |
| | ALL | Lump Sum | \$ _____ |
| 15401-0000 | CONTRACTOR TESTING | | |
| | ALL | Lump Sum | \$ _____ |
| 15705-0100 | SOIL EROSION CONTROL, SILT FENCE | | |
| | 7,350 | | |
| | LNFT | \$ _____ | \$ _____ |
| 15705-1300 | SOIL EROSION CONTROL, TEMPORARY DIVERSION CHANNEL | | |
| | 100 | | |
| | LNFT | \$ _____ | \$ _____ |
| 20101-0000 | CLEARING AND GRUBBING | | |
| | 2.2 | | |
| | ACRE | \$ _____ | \$ _____ |
| 20220-1000 | REMOVAL, INDIVIDUAL TREE | | |
| | 10 | | |
| | EACH | \$ _____ | \$ _____ |
| 20301-0100 | REMOVAL OF BOLLARD | | |
| | 18 | | |
| | EACH | \$ _____ | \$ _____ |
| 20301-1100 | REMOVAL OF GATE | | |
| | 1 | | |
| | EACH | \$ _____ | \$ _____ |
| 20301-2400 | REMOVAL OF SIGN | | |
| | 3 | | |
| | EACH | \$ _____ | \$ _____ |
| 20302-2100 | REMOVAL OF PIPE CULVERT | | |
| | 60 | | |
| | LNFT | \$ _____ | \$ _____ |

Bid Schedule A

Project: RRP-REL 10(2)
REELFOOT NATIONAL WILD LIFE REFUGE, LONG POINT AUTO TOUR

| Pay Item No. | Estimated Quantity | Unit Bid Price | Amount Bid |
|--------------|--|----------------|------------|
| 20402-0000 | SUBEXCAVATION 100 CUYD | \$ _____ | \$ _____ |
| 20420-0000 | EMBANKMENT CONSTRUCTION 3,100 CUYD | \$ _____ | \$ _____ |
| 25101-3000 | PLACED RIPRAP, CLASS 3 18 CUYD | \$ _____ | \$ _____ |
| 30101-4000 | AGGREGATE BASE GRADING C OR D 4,070 TON | \$ _____ | \$ _____ |
| 30110-0000 | AGGREGATE SURFACE COURSE 1,935 TON | \$ _____ | \$ _____ |
| 40301-0000 | HOT ASPHALT CONCRETE PAVEMENT 1,475 TON | \$ _____ | \$ _____ |
| 60103-2020 | CONCRETE, HEADWALL FOR 54-INCH EQUIVALENT DIAMETER PIPE CULVERT 2 EACH | \$ _____ | \$ _____ |
| 60202-0400 | 24-INCH EQUIVALENT DIAMETER ARCH OR ELLIPTICAL PIPE CULVERT (ELLIPTICAL) 26 LNFT | \$ _____ | \$ _____ |
| 60202-0900 | 54-INCH EQUIVALENT DIAMETER ARCH OR ELLIPTICAL PIPE CULVERT (ELLIPTICAL) 34 LNFT | \$ _____ | \$ _____ |
| 60915-1000 | WHEELSTOP, CONCRETE 5 EACH | \$ _____ | \$ _____ |
| 61902-2100 | GATE, METAL, 30 FEET WIDTH 1 EACH | \$ _____ | \$ _____ |

Bid Schedule A

Project: RRP-REL 10(2)

REELFOOT NATIONAL WILD LIFE REFUGE, LONG POINT AUTO TOUR

| Pay Item No. | Estimated Quantity | Unit Bid Price | Amount Bid |
|--------------|--|----------------|------------|
| 62402-0300 | FURNISHING AND PLACING TOPSOIL, 4-INCH DEPTH 2.5 ACRE | \$ _____ | \$ _____ |
| 62501-0000 | TURF ESTABLISHMENT 2.5 ACRE | \$ _____ | \$ _____ |
| 63304-0900 | SIGNS, ALUMINUM PANELS, TYPE 3 SHEETING 26 SQFT | \$ _____ | \$ _____ |
| 63401-1500 | PAVEMENT MARKINGS, TYPE H, SOLID 7,700 LNFT | \$ _____ | \$ _____ |
| 63401-1600 | PAVEMENT MARKINGS, TYPE H, BROKEN 2,700 LNFT | \$ _____ | \$ _____ |
| 63405-3250 | PAVEMENT MARKINGS, TYPE H, ACCESSIBILITY SYMBOL 1 EACH | \$ _____ | \$ _____ |
| 63502-0600 | TEMPORARY TRAFFIC CONTROL, BARRICADE TYPE 3 4 EACH | \$ _____ | \$ _____ |
| 63502-0800 | TEMPORARY TRAFFIC CONTROL, CONE, TYPE 18-INCH 20 EACH | \$ _____ | \$ _____ |
| 63504-1000 | TEMPORARY TRAFFIC CONTROL, CONSTRUCTION SIGN 156 SQFT | \$ _____ | \$ _____ |
| 63506-0500 | TEMPORARY TRAFFIC CONTROL, FLAGGER 100 HOUR | \$38.80 | \$3,880.00 |
| 63701-0000 | FIELD OFFICE 1 EACH | \$ _____ | \$ _____ |

Bid Schedule A

Project: RRP-REL 10(2)

REELFOOT NATIONAL WILD LIFE REFUGE, LONG POINT AUTO TOUR

| Pay Item No. | Estimated Quantity | Unit Bid Price | Amount Bid |
|--------------|-------------------------------|----------------|------------|
| 64502-0000 | LOCATE UTILITIES 2 EACH | \$ _____ | \$ _____ |

TOTAL \$ _____

Submitted by: _____
Name of Bidder

BID SUMMARY

Project RRP-REL 10(2)
(Complete for Pages B-1 through B-4)

(1) Schedule A Bid Total (from Page B-4) \$ _____

Contract Administrative Cost

Number of calendar days necessary to complete all Schedule A work from Notice to Proceed (or date specified in the Notice to Proceed) to completion of Schedule A.

(2) _____ calendar days x \$500 per calendar day = \$ _____

Total Price of Project

(1) Bid Total for Schedule A (1) \$ _____

+ (2) Contract Administrative Cost for Schedule A (2) \$ _____

= **TOTAL PRICE OF PROJECT** \$ _____

Does the Bidder claim the Price Evaluation Preference for HUBZone Small Business Concerns as defined in FAR Clause 52.219-4?

Yes

No

| | | |
|--|---|--------------------|
| BID BOND <i>(See instruction on reverse)</i> | DATE BOND EXECUTED <i>(Must not be later than bid opening date)</i> | OMB NO.: 9000-0045 |
|--|---|--------------------|

Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

| | |
|--|--|
| PRINCIPAL <i>(Legal name and business address)</i> | TYPE OF ORGANIZATION <i>("X" one)</i> <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> CORPORATION STATE OF INCORPORATION |
|--|--|

SURETY(IES) *(Name and business address)*

| PENAL SUM OF BOND | | | | | BID IDENTIFICATION | |
|----------------------|----------------------|-------------|------------|-------|--|----------------|
| PERCENT OF BID PRICE | AMOUNT NOT TO EXCEED | | | | BID DATE | INVITATION NO. |
| | MILLION(S) | THOUSAND(S) | HUNDRED(S) | CENTS | | |
| | | | | | FOR <i>(Construction, Supplies, or Services)</i> | |

OBLIGATION:

We, the Principal and Surety(ies) are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The Principal has submitted the bid identified above.

THEREFORE:

The above obligation is void if the Principal - (a) upon acceptance by the Government of the bid identified above, within the period specified therein for acceptance (sixty (60) days if no period is specified), executes the further contractual documents and gives the bond(s) required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by the principal; or (b) in the event of failure to execute such further contractual documents and give such bonds, pays the Government for any cost of procuring the work which exceeds the amount of the bid.

Each Surety executing this instrument agrees that its obligation is not impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the Government. Notice to the surety(ies) of extension(s) are waived. However, waiver of the notice applies only to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.

WITNESS:

The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.

| PRINCIPAL | | | | |
|--------------------------------------|---------------|---------------|---------------|-----------------------|
| SIGNATURE(S) | 1. | 2. | 3. | <i>Corporate Seal</i> |
| | <i>(Seal)</i> | <i>(Seal)</i> | <i>(Seal)</i> | |
| NAME(S) & TITLE(S) <i>(Typed)</i> | 1. | 2. | 3. | |

| INDIVIDUAL SURETY(IES) | | |
|---------------------------|---------------|---------------|
| SIGNATURE(S) | 1. | 2. |
| | <i>(Seal)</i> | <i>(Seal)</i> |
| NAME(S) <i>(Typed)</i> | 1. | 2. |

| CORPORATE SURETY(IES) | | | |
|-----------------------|--------------------------------------|---------------|-----------------------|
| SURETY A | NAME & ADDRESS | STATE OF INC. | LIABILITY LIMIT (\$) |
| | SIGNATURE(S) | 1. | 2. |
| | NAME(S) & TITLE(S) <i>(Typed)</i> | 1. | 2. |
| | | | <i>Corporate Seal</i> |

| | | | | | |
|-----------------|--------------------------------------|----|---------------|----------------------|-----------------------|
| SURETY B | NAME & ADDRESS | | STATE OF INC. | LIABILITY LIMIT (\$) | <i>Corporate Seal</i> |
| | SIGNATURE(S) | 1. | 2. | | |
| | NAME(S) & TITLE(S) <i>(Typed)</i> | 1. | 2. | | |
| SURETY C | NAME & ADDRESS | | STATE OF INC. | LIABILITY LIMIT (\$) | <i>Corporate Seal</i> |
| | SIGNATURE(S) | 1. | 2. | | |
| | NAME(S) & TITLE(S) <i>(Typed)</i> | 1. | 2. | | |
| SURETY D | NAME & ADDRESS | | STATE OF INC. | LIABILITY LIMIT (\$) | <i>Corporate Seal</i> |
| | SIGNATURE(S) | 1. | 2. | | |
| | NAME(S) & TITLE(S) <i>(Typed)</i> | 1. | 2. | | |
| SURETY E | NAME & ADDRESS | | STATE OF INC. | LIABILITY LIMIT (\$) | <i>Corporate Seal</i> |
| | SIGNATURE(S) | 1. | 2. | | |
| | NAME(S) & TITLE(S) <i>(Typed)</i> | 1. | 2. | | |
| SURETY F | NAME & ADDRESS | | STATE OF INC. | LIABILITY LIMIT (\$) | <i>Corporate Seal</i> |
| | SIGNATURE(S) | 1. | 2. | | |
| | NAME(S) & TITLE(S) <i>(Typed)</i> | 1. | 2. | | |
| SURETY G | NAME & ADDRESS | | STATE OF INC. | LIABILITY LIMIT (\$) | <i>Corporate Seal</i> |
| | SIGNATURE(S) | 1. | 2. | | |
| | NAME(S) & TITLE(S) <i>(Typed)</i> | 1. | 2. | | |

INSTRUCTIONS

1. This form is authorized for use when a bid guaranty is required. Any deviation from this form will require the written approval of the Administrator of General Services.
2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
3. The bond may express penal sum as a percentage of the bid price. In these cases, the bond may state a maximum dollar limitation (e.g., (e.g., 20% of the bid price but the amount not to exceed _____ dollars).
4. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitation listed therein. where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designed "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.

 (b) Where individual sureties are involved, a completed Affidavit of Individual surety (Standard Form 28), for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning its financial capability.
5. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal"; and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
6. Type the name and title of each person signing this bond in the space provided.
7. In its application to negotiated contracts, the terms "bid" and "bidder" shall include "proposal" and "offeror."

CONTRACT CLAUSES INDEX

FEDERAL ACQUISITION REGULATION (FAR) & TRANSPORTATION ACQUISITION REGULATION (TAR)

(Updated thru FAC 2005-20 on 09/06/2007)

52.252-2 Clauses Incorporated By Reference (Feb 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address: www.arnet.gov/far/

(End of Clause)

FAR & TAR CLAUSES INCORPORATED BY REFERENCE

| CLAUSE | TITLE | DATE | REMARKS |
|------------------|--|--------|--|
| 52.202-01 | DEFINITIONS | Jul-04 | |
| 52.203-03 | GRATUITIES | Apr-84 | |
| 52.203-05 | COVENANT AGAINST CONTINGENT FEES | Apr-84 | |
| 52.203-07 | ANTI-KICKBACK PROCEDURES | Jul-95 | |
| 52.203-8 | CANCEL. & RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY | Jan-97 | |
| 52.203-10 | PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY | Jan-97 | |
| 52.203-12 | LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS | Sep-07 | |
| 52.204-04 | PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER | Aug-00 | |
| 52.204-07 | CENTRAL CONTRACTOR REGISTRATION | Jul-06 | Contractor Mandatory Internet Data Input |
| 52.209-06 | PROTECTING GOV. INTEREST WHEN SUBCONTRACTING W/ CONT. DEB. SUSP. OR PROP. FOR DEB. | Sep-06 | |
| 52.214-26 | AUDIT AND RECORDS--SEALED BIDDING | Oct-97 | |
| 52.214-27 | PRICE REDUCTION FOR DEFECT. COST OR PRICING DATA-MODIFICATIONS -SEALED BIDDING | Oct-97 | |
| 52.214-28 | SUBCONTRACTOR COST OR PRICING DATA--MODIFICATIONS--SEALED BIDDING | Oct-97 | |
| 52.219-08 | UTILIZATION OF SMALL BUSINESS CONCERNS | May-04 | |
| 52.219-09 ALT 1 | SMALL BUSINESS SUBCONTRACTING PLAN (ALT 1 - (Oct 01)) | Sep-07 | Large Business Mandatory Submittal Requirement |
| 52.219-14 | LIMITATIONS ON SUBCONTRACTING | Dec-96 | |
| 52.219-16 | LIQUIDATED DAMAGES - SUBCONTRACTING PLAN | Jan-99 | |
| 52.222-03 | CONVICT LABOR | Jun-03 | |
| 52.222-04 | CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--OVERTIME COMPENSATION | Jul-05 | |
| 52.222-06 | DAVIS-BACON ACT | Jul-05 | Contractor Mandatory Wage Rates Posting |
| 52.222-07 | WITHHOLDING OF FUNDS | Feb-88 | |
| 52.222-08 | PAYROLLS AND BASIC RECORDS | Feb-88 | Contractor Weekly Payroll Submittals |
| 52.222-09 | APPRENTICES AND TRAINEES | Jul-05 | |
| 52.222-10 | COMPLIANCE WITH COPELAND ACT REQUIREMENTS | Feb-88 | |
| 52.222-11 | SUBCONTRACTS (LABOR STANDARDS) | Jul-05 | |
| 52.222-12 | CONTRACT TERMINATION--DEBARMENT | Feb-88 | |
| 52.222-13 | COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS | Feb-88 | |
| 52.222-14 | DISPUTES CONCERNING LABOR STANDARDS | Feb-88 | |
| 52.222-15 | CERTIFICATION OF ELIGIBILITY | Feb-88 | |
| 52.222-21 | PROHIBITION OF SEGREGATED FACILITIES | Feb-99 | |
| 52.222-26 | EQUAL OPPORTUNITY | Mar-07 | |
| 52.222-27 | AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION | Feb-99 | |
| 52.222-35 | EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, & OTHER ELIGIBLE VETERANS. | Sep-06 | |

CONTRACT CLAUSES INDEX

FEDERAL ACQUISITION REGULATION (FAR) & TRANSPORTATION ACQUISITION REGULATION (TAR)

(Updated thru FAC 2005-20 on 09/06/2007)

FAR & TAR CLAUSES INCORPORATED BY REFERENCE

| CLAUSE | TITLE | DATE | REMARKS |
|-----------------|--|--------|--|
| 52.222-36 | AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES | Jun-98 | |
| 52.222-37 | EMPLOYMENT. REPORTS ON SPECIAL DISABLED VETS, VETS OF THE VIETNAM ERA, ETAL. | Sep-06 | Contractor Annual Mandatory Reporting Requirement |
| 52.222-39 | NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES | Dec-04 | Contractor Mandatory Postings |
| 52.223-05 | POLLUTION PREVENTION AND RIGHT TO KNOW INFORMATION | Aug-03 | |
| 52.223-06 | DRUG-FREE WORKPLACE | May-01 | |
| 52.223-14 | TOXIC CHEMICAL RELEASE REPORTING | Aug-03 | Contractor Annual Contractor Reporting Requirement |
| 52.225-13 | RESTRICTIONS ON CERTAIN FOREIGN PURCHASES | Feb-06 | |
| 52.227-01 | AUTHORIZATION AND CONSENT | Jul-95 | |
| 52.227-02 | NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT | Aug-96 | |
| 52.227-04 | PATENT INDEMNITY-CONSTRUCTION CONTRACTS | Apr-84 | |
| 52.228-02 | ADDITIONAL BOND SECURITY | Oct-97 | |
| 52.228-5 | INSURANCE - WORK ON A GOVERNMENT INSTALLATION | Jan-97 | Contractor Submittal Requirement |
| 52.228-11 | PLEDGES OF ASSETS | Feb-92 | |
| 52.228-12 | PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS | Oct-95 | |
| 52.228-14 | IRREVOCABLE LETTER OF CREDIT | Dec-99 | |
| 52.228-15 | PERFORMANCE AND PAYMENT BONDS - CONSTRUCTION | Nov-06 | Contractor Submittal Requirement |
| 52.229-03 | FEDERAL, STATE, AND LOCAL TAXES | Apr-03 | |
| 52.232-05 | PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS | Sep-02 | Contractor Submittal Requirement |
| 52.232-17 | INTEREST | Jun-96 | |
| 52.232-23 | ASSIGNMENT OF CLAIMS | Jan-86 | |
| 52.232-27 | PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS | Sep-05 | |
| 52.232-33 | PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION | Oct-03 | |
| 52.233-01 ALT I | DISPUTES (Alt-I, Dec-91) | Jul-02 | |
| 52.233-03 | PROTEST AFTER AWARD | Aug-96 | |
| 52.233-04 | APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM | Oct-04 | |
| 52.236-02 | DIFFERING SITE CONDITIONS | Apr-84 | |
| 52.236-03 | SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK | Apr-84 | |
| 52.236-05 | MATERIAL AND WORKMANSHIP | Apr-84 | |
| 52.236-06 | SUPERINTENDENCE BY THE CONTRACTOR | Apr-84 | |
| 52.236-07 | PERMITS AND RESPONSIBILITIES | Nov-91 | |
| 52.236-08 | OTHER CONTRACTS | Apr-84 | |
| 52.236-09 | PROTECTION OF EXIST. VEGETATION., STRUCTURES., EQUIPMENT., UTILITIES, & IMPROVEMENTS | Apr-84 | |
| 52.236-10 | OPERATIONS AND STORAGE AREAS | Apr-84 | |
| 52.236-11 | USE AND POSSESSION PRIOR TO COMPLETION | Apr-84 | |
| 52.236-12 | CLEANING UP | Apr-84 | |
| 52.236-13 | ACCIDENT PREVENTION | Nov-91 | |

CONTRACT CLAUSES INDEX
FEDERAL ACQUISITION REGULATION (FAR) & TRANSPORTATION ACQUISITION REGULATION (TAR)
(Updated thru FAC 2005-20 on 09/06/2007)

FAR & TAR CLAUSES INCORPORATED BY REFERENCE

| CLAUSE | TITLE | DATE | REMARKS |
|-----------------|---|-------------|----------------------------------|
| 52.236-15 | SCHEDULES FOR CONSTRUCTION CONTRACTS | Apr-84 | Contractor Submittal Requirement |
| 52.236-17 | LAYOUT OF WORK | Apr-84 | |
| 52.236-21 | SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION | Feb-97 | |
| 52.236-26 | PRECONSTRUCTION CONFERENCE | Feb-95 | |
| 52.242-13 | BANKRUPTCY | Jul-95 | |
| 52.242-14 | SUSPENSION OF WORK | Apr-84 | |
| 52.243-04 | CHANGES | Jun-07 | |
| 52.244-06 | SUBCONTRACTS FOR COMMERCIAL ITEMS | Mar-07 | |
| 52.245-02 | GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS) | Jun -07 | |
| 52.246-12 | INSPECTION OF CONSTRUCTION | Aug-96 | |
| 52.248-03 ALT I | VALUE ENGINEERING-CONSTRUCTION (Alt-I, Apr-84) | Sep-06 | |
| 52.249-01 | TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE)(SHORT FORM) | Apr-84 | |
| 52.249-02 ALT I | TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) (Alt-I, Sep-96) | May-04 | |
| 52.249-10 | DEFAULT (FIXED PRICE CONSTRUCTION) | Apr-84 | |
| 52.253-01 | COMPUTER GENERATED FORMS | Jan-91 | |

TAR CLAUSES INCORPORATED BY REFERENCE

| CLAUSE | TITLE | DATE | REMARKS |
|---------------|---|-------------|----------------|
| 1252.211-70 | INDEX FOR SPECIFICATIONS | Apr-05 | |
| 1252.242-73 | CONTRACTING OFFICERS TECHNICAL REPRESENTATIVE | Oct-94 | |

FAR & TAR PROVISIONS INCORPORATED BY REFERENCE

| PROVISION | TITLE | DATE | REMARKS |
|------------------|---|-------------|----------------|
| 52.217-03 | EVALUATION EXCLUSIVE OF OPTION | Apr-84 | |
| 52.217-04 | EVALUATION OF OPTIONS EXERCISED AT TIME OF CONTRACT AWARD | Jun-88 | |
| 52.217-05 | EVALUATION OF OPTIONS | Jul-90 | |

CONTRACT CLAUSES INDEX

FEDERAL ACQUISITION REGULATION (FAR) & TRANSPORTATION ACQUISITION REGULATION (TAR)

(Updated thru FAC 2005-20 on 09/06/2007)

FAR & TAR CLAUSES INCORPORATED BY FULL TEXT

| CLAUSE | TITLE | DATE | SECTION | SECTION TYPE | REMARKS |
|-----------------|--|---------|---------|------------------------|-----------------------------------|
| 52.211-10 | COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK | Apr-84 | H | CONSTR. CONTRACT REQS. | Government Fill In |
| 52.211-12 | LIQUIDATED DAMAGES-CONSTRUCTION | Sep-00 | H | CONSTR. CONTRACT REQS. | Government Fill In |
| 52.211-18 | VARIATION IN ESTIMATED QUANTITY | Apr-84 | H | CONSTR. CONTRACT REQS | |
| 52.219-4 | NOTICE OF PRICE EVALUATION. PREFERENCE FOR HUBZONE SB CONCERNS | Jul-05 | F | SOCIOECON PROG REQS | Contractor Fill-In |
| 52.222-23 | NOTICE OF REQ. FOR AFFIRMATIVE ACTION TO ENSURE E.E.O. | Feb-99 | F | SOCIOECON PROG REQS | Contractor Reporting Requirements |
| 52.223-03 ALT I | HAZARDOUS MAT. IDENT. & MATERIAL SAFETY DATA (Alt-I, Jul-95) | Jan-97 | G | GEN'L CONTRACT REQS. | Contractor Submittal Requirements |
| 52.223-09 | EST. OF % OF REC. MAT. CONTENT FOR EPA DESIGN. PRODUCTS | Aug-00 | G | GEN'L CONTRACT REQS | Contractor Reporting Requirement |
| 52.225-09 | BUY AMERICAN ACT-CONSTRUCTION MATERIALS | Jan 05 | F | SOCIOECON PROG REQS | Government & Contractor Fill In's |
| 52-236-01 | PERFORMANCE OF WORK BY THE CONTRACTOR | Apr -84 | H | CONSTR. CONTRACT REQS | Government Fill In |
| 52.236-04 | PHYSICAL DATA | Apr-84 | H | CONSTR. CONTRACT REQS. | Government Fill In |

TAR CLAUSES INCORPORATED BY FULL TEXT

| CLAUSE | TITLE | DATE | SECTION | SECTION TYPE | REMARKS |
|-------------|---|--------|---------|---------------------|---------------------------------|
| FAR PT 22.9 | NONDISCRIMINATION BECAUSE OF AGE POLICY | Feb-64 | F | SOCIOECON PROG REQS | Policy Statement - Not A Clause |

(End of Clauses Index)

CONTRACT PROVISIONS INDEX
FEDERAL ACQUISITION REGULATION (FAR) & TRANSPORTATION ACQUISITION REGULATION (TAR)
(Updated thru FAC 2005-20 on 09/06/2007)

52.252-1 Solicitation Provisions Incorporated by Reference
(Feb 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this address: www.arnet.gov/far/

(End of Clause)

FAR & TAR PROVISIONS INCORPORATED BY REFERENCE

| PROVISION | TITLE | DATE | REMARKS |
|------------------|---|-------------|----------------|
| 52.211-06 | BRAND NAME OR EQUAL | Aug-99 | |
| 52.214-03 | AMENDMENTS TO INVITATIONS FOR BIDS | Dec-89 | |
| 52.214-04 | FALSE STATEMENTS IN BIDS | Apr-84 | |
| 52.214-05 | SUBMISSION OF BIDS | Mar-97 | |
| 52.214-06 | EXPLANATION TO PROSPECTIVE BIDDERS | Apr-84 | |
| 52.214-07 | LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS | Nov-99 | |
| 52.214-18 | PREPARATION OF BIDS--CONSTRUCTION | Apr-84 | |
| 52.214-19 | CONTRACT AWARD--SEALED BIDDING--CONSTRUCTION | Aug-96 | |
| 52.225-10 | NOTICE OF BUY AMERICAN ACT REQUIREMENT - CONSTRUCTION MATERIAL. | May-02 | |

TAR PROVISIONS INCORPORATED BY REFERENCE

| PROVISION | TITLE | DATE | REMARKS |
|------------------|--------------|-------------|----------------|
|------------------|--------------|-------------|----------------|

CONTRACT PROVISIONS INDEX
FEDERAL ACQUISITION REGULATION (FAR) & TRANSPORTATION ACQUISITION REGULATION (TAR)
(Updated thru FAC 2005-20 on 09/06/2007)

| FAR PROVISIONS INCORPORATED BY FULL TEXT | | | | | |
|---|--|-------------|----------------|-------------------------|------------------------------------|
| PROVISION | TITLE | DATE | SECTION | SECTION TYPE | REMARKS |
| 52.204-08 | ANNUAL REPRESENTATIONS AND CERTIFICATIONS | Jan 06 | D | REPS. & CERTIFICATIONS | Mandatory Contractor On-Line Input |
| 52.211-04 | AVAILABILITY FOR EXAM. OF SPECS NOT LISTED IN GSA INDEX OF FED SPECS/STANDARDS & COM. ITEM DESCRIPTION | Jun-88 | E | INSTRUCTIONS TO BIDDERS | Government Fill In. |
| 52.216-01 | TYPE OF CONTRACT | Apr-84 | E | INSTRUCTIONS TO BIDDERS | Government Fill In. |
| 52.228-01 | BID GUARANTEE | Sep-96 | E | INSTRUCTIONS TO BIDDERS | Contractor Submittal Requirement |
| 52.233-02 | SERVICE OF PROTEST | Aug-96 | E | INSTRUCTIONS TO BIDDERS | Government Fill In. |
| 52.236-27 | SITE VISIT (CONSTRUCTION) | Feb-95 | E | CONSTR. CONTRACT REQS. | Government Fill In. |
| OTHER PROVISIONS INCORPORATED BY FULL TEXT | | | | | |
| PROVISION | TITLE | DATE | SECTION | SECTION TYPE | REMARKS |
| NONE | | | | | |

(End of Provisions Index)

FEDERAL ACQUISITION REGULATION AND TRANSPORTATION ACQUISITION PROVISIONS

REPRESENTATIONS AND CERTIFICATIONS

Annual Representations and Certifications. Prospective contractors shall complete electronic annual representations and certifications on-line at this web address: <http://orca.bpn.gov> (See FAR 4.1201) in conjunction with required registration in the Central Contractor Registration (CCR) database (see FAR 4.1102).

Vets100 Form must also be filled-in online at <http://vets100.cudenver.edu/> in accordance with FAR Clause 52.222-37.

Contractors are not eligible for award without completing these requirements.

4.1201); except for the changes identified below [*offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

| FAR Clause | Title | Date | Change |
|------------|-------|------|--------|
| | | | |
| | | | |

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.
(End of Provision)

52.204-8

52.204-8 – Annual Representations and Certifications.

As prescribed in 4.1202, insert the following provision:
Annual Representations and Certifications (Jan 2006)

- (a)
 - (1) The North American Industry classification System (NAICS) code for this acquisition is 237310.
 - (2) The small business size standard is **\$31,000,000**.
 - (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (b)
 - (1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (c) of this provision applies.
 - (2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (c) of this provision instead of completing the corresponding individual representations and certification in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:
 - (i) Paragraph (c) applies.
 - (ii) Paragraph (c) does not apply and the offeror has completed the individual representations and certifications in the solicitation.
- (c) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov> . After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR

(End of Section D)

FEDERAL ACQUISITION REGULATION & TRANSPORTATION ACQUISITION REGULATION PROVISIONS

INSTRUCTIONS TO BIDDERS

52.211-4

AVAILABILITY FOR EXAMINATION OF SPECIFICATIONS NOT LISTED IN THE GSA INDEX OF FEDERAL SPECIFICATIONS, STANDARDS AND COMMERCIAL ITEM DESCRIPTIONS (JUN 1988)

The specifications cited in this solicitation are not available for distribution. However, they may be examined at the following location(s):

**FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION
21400 RIDGETOP CIRCLE
STERLING, VIRGINIA 20166-6511**

Send an email to the following address to make an appointment: **eflhd.contracts@fhwa.dot.gov**

TIME(S) FOR VIEWING: 8 A.M. TO 4 P.M.

All documents are available for direct download from the following website:
www.efl.fhwa.dot.gov/procurement/procurement.htm

(End of Provision)

52.216-1

TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a **firm-fixed-price** contract resulting from this solicitation.

(End of Provision)

52.233-2

SERVICE OF PROTEST (AUG 1996)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from

**FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION
21400 RIDGETOP CIRCLE
STERLING, VIRGINIA 20166-6511**

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of Provision)

52.236-27

Site Visit (Construction). (Feb 1995)

(a) The clauses at 52.236-2, Differing Site Conditions, and 52.236-3, Site Investigations and Conditions Affecting the Work, will be included in any contract awarded as a result of this solicitation. Accordingly, offerors or quoters are urged and expected to inspect the site where the work will be performed.

(b) Site visits may be arranged during normal duty hours by contacting:

Name:

Randy Cook

Refuge Complex Manager

Reelfoot NWR

U.S. Fish and Wildlife Service

4343 Highway 157

Union City, TN 38261

Telephone: 731-287-0650

Email: Randy_Cook@fws.gov

(End of Provision)

(End of Section E)

FEDERAL ACQUISITION REGULATION AND TRANSPORTATION ACQUISITION REGULATION CLAUSES

SOCIOECONOMIC PROGRAM REQUIREMENTS

52.219-4

Notice of Price Evaluation Preference for HUBZone Small Business Concerns.

(Oct 2004)

(a) *Definition.* HUBZone small business concern, as used in this clause, means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

(b) *Evaluation preference.*

(1) Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except—

(i) Offers from HUBZone small business concerns that have not waived the evaluation preference;

(ii) Otherwise successful offers from small business concerns;

(iii) Otherwise successful offers of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is exceeded (see 25.402 of the Federal Acquisition Regulation (FAR)); and

(iv) Otherwise successful offers where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government.

(2) The factor of 10 percent shall be applied on a line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation shall be applied before application of the factor.

(3) A concern that is both a HUBZone small business concern and a small disadvantaged business concern will receive the benefit of both the HUBZone small business price evaluation preference and the small disadvantaged business price evaluation adjustment (see FAR clause 52.219-23). Each applicable price evaluation preference or adjustment shall be calculated independently against an offeror's base offer. These individual preference amounts shall be added together to arrive at the total evaluated price for that offer.

(c) *Waiver of evaluation preference.* A HUBZone small business concern may elect to waive the evaluation preference, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply if the offeror has waived the evaluation preference.

Offer elects to waive the evaluation preference.

(d) *Agreement.* A HUBZone small business concern agrees that in the performance of the contract, in the case of a contract for

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other HUBZone small business concerns;

(2) Supplies (other than procurement from a non-manufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other HUBZone small business concerns;

(3) General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns; or

(4) Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns.

(e) A HUBZone joint venture agrees that in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause will be performed by the HUBZone small business participant or participants;

(f) A HUBZone small business concern non-manufacturer agrees to furnish in performing this contract only end items manufactured or produced by HUBZone small business manufacturer concerns. This paragraph does not apply in connection with construction or service contracts.

(End of clause)

FAR SUBPART 22.9

NONDISCRIMINATION BECAUSE OF AGE (FEB 96)

22.901 Policy. Executive Order 11141, February 12, 1964 (29 CFR 2477), states that the Government policy is as follows:

(a) Contractors and subcontractors shall not, in connection with employment, advancement, or discharge of employees, or the terms, conditions, or privileges of their employment, discriminate against persons because of their age except upon the basis of a bona fide occupational qualification, retirement plan, or statutory requirement.

(b) Contractors and subcontractors, or persons acting on their behalf, shall not specify in solicitations or advertisements for employees to work on Government contracts, a maximum age limit for employment unless the specified maximum age limit is based upon a bona fide occupational qualification, retirement plan, or statutory requirement.

FEDERAL ACQUISITION REGULATION AND TRANSPORTATION ACQUISITION REGULATION CLAUSES

SOCIOECONOMIC PROGRAM REQUIREMENTS

(c) Agencies will bring this policy to the attention of contractors. The use of contract clauses is not required.
(End of Policy Statement)

52.222-23

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction (Feb 1999)

(a) The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

| Goals for Minority Participation for Each Trade | Goals for Female Participation for Each Trade |
|---|---|
| 5.2% | 6.9% |

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the *Federal Register* in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on

- (1) its implementation of the Equal Opportunity clause,
- (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and
- (3) its efforts to meet the goals.

The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

(d) The Contractor shall provide written notification to the

Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, within 10 working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the --

- (1) Name, address, and telephone number of the subcontractor;
- (2) Employer's identification number of the subcontractor;
- (3) Estimated dollar amount of the subcontract;
- (4) Estimated starting and completion dates of the subcontract; and
- (5) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is as follows:

Fulton County, Kentucky

(End of Provision)

52.225-9

Buy American Act-Construction Materials. (Jan 2005)

(a) *Definitions.* As used in this clause-

"Component" means an article, material, or supply incorporated directly into a construction material.

"Construction material" means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site pre-assembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

"Cost of components" means-

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

FEDERAL ACQUISITION REGULATION AND TRANSPORTATION ACQUISITION REGULATION CLAUSES

SOCIOECONOMIC PROGRAM REQUIREMENTS

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

“Domestic construction material” means-

(1) An un-manufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which non-availability determinations have been made are treated as domestic.

“Foreign construction material” means a construction material other than a domestic construction material.

“United States” means the 50 States, the District of Columbia, and outlying areas.

(b) Domestic preference.

(1) This clause implements the Buy American Act (41 U.S.C. 10a - 10d) by providing a preference for domestic construction material. The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to the construction material or components listed by the Government as follows:

NONE

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that-

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American Act.

(1)

(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including-

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American Act applies, use of foreign construction material is noncompliant with the Buy American Act.

(d) *Data*. To permit evaluation of requests under paragraph 2 of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

FEDERAL ACQUISITION REGULATION AND TRANSPORTATION ACQUISITION REGULATION CLAUSES

SOCIOECONOMIC PROGRAM REQUIREMENTS

| Foreign and Domestic Construction Materials Price Comparison | | | |
|--|-----------------|----------|------------------|
| Construction Material Description | Unit of Measure | Quantity | Price (Dollars)* |
| Item 1: | | | |
| Foreign construction material | | | |
| Domestic construction material | | | |
| Item 2: | | | |
| Foreign construction material | | | |
| Domestic construction material | | | |
| [List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.] [Include other applicable supporting information.] [* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).] | | | |

(End of Clause)

52.225-10 -- Notice of Buy American Act Requirement— Construction Materials.

As prescribed in [25.1102](#)(b)(1), insert the following provision:

Notice of Buy American Act Requirement--Construction Materials (May 2002)

(a) *Definitions.* “Construction material,” “domestic construction material,” and “foreign construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Buy American Act--Construction Materials” (Federal Acquisition Regulation (FAR) clause 52.225-9).

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225-9 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) *Evaluation of offers.*

(1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act, based on claimed unreasonable cost of domestic construction material, by adding to the offered price the appropriate percentage of the cost of such foreign

construction material, as specified in paragraph (b)(3)(i) of the clause at FAR 52.225-9.

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) *Alternate offers.*

(1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(2) of the clause at FAR 52.225-9, the offeror also may submit an alternate offer based on use of equivalent domestic construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of the clause at FAR 52.225-9 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at FAR 52.225-9 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested—

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

(End of provision)

Alternate I (May 2002). As prescribed in [25.1102](#)(b)(2), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225-9.

52.225-11

Buy American Act—Construction Materials under Trade Agreements. (Nov 2006)

(a) *Definitions.* As used in this clause--

FEDERAL ACQUISITION REGULATION AND TRANSPORTATION ACQUISITION REGULATION CLAUSES

SOCIOECONOMIC PROGRAM REQUIREMENTS

“Caribbean Basin country construction material” means a construction material that--

(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

“Component” means an article, material, or supply incorporated directly into a construction material.

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

“Cost of components” means--

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

“Designated country” means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom);

(2) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).

“Designated country construction material” means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

“Domestic construction material” means--

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

“Free Trade Agreement country construction material means” a construction material that--

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

“Foreign construction material” means a construction material other than a domestic construction material.

“Least developed country construction material” means a construction material that--

FEDERAL ACQUISITION REGULATION AND TRANSPORTATION ACQUISITION REGULATION CLAUSES

SOCIOECONOMIC PROGRAM REQUIREMENTS

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“WTO GPA country construction material” means a construction material that--

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) *Construction materials.*

(1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country construction materials.

(2) The Contractor shall use only domestic or designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

(3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows: **NONE**.

(4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that--

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient

and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American Act.

(1)

(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including--

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier;

and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.

**FEDERAL ACQUISITION REGULATION AND
TRANSPORTATION ACQUISITION REGULATION CLAUSES**

SOCIOECONOMIC PROGRAM REQUIREMENTS

(3) Unless the Government determines that an exception to the Buy American Act applies, use of foreign construction material is noncompliant with the Buy American Act.

(d) *Data.* To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

| Construction material description | Unit of measure | Quantity | Price (dollars) * |
|-----------------------------------|-----------------|----------|----------------------|
| <i>Item 1</i> | | | |
| Foreign construction material | | | |
| Domestic construction material | | | |
| <i>Item 2</i> | | | |
| Foreign construction material | | | |
| Domestic construction material | | | |

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]

(End of clause)

Alternate I (Nov 2006). As prescribed in [25.1102\(c\)\(3\)](#), add the following definitions of “Bahrainian construction material” and “Mexican construction material” to paragraph (a) of the basic clause, and substitute the following paragraphs (b)(1) and (b)(2) for paragraphs (b)(1) and (b)(2) of the basic clause:

“Bahrainian construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of Bahrain; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different construction material distinct from the materials from which it was transformed.

“Mexican construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of Mexico; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Mexico into a new and different construction material distinct from the materials from which it was transformed.

(b) *Construction materials.*

(1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and all the Free Trade Agreements except NAFTA apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country construction materials other than Bahrainian or Mexican construction materials.

(2) The Contractor shall use only domestic, or designated country construction material other than Bahrainian or Mexican construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

**52.225-12
Notice of Buy American Act Requirement—
Construction Materials Under Trade
Agreements.
(Jan 2005)**

(a) *Definitions.* “Construction material,” “designated country construction material,” “domestic construction material,” and “foreign construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Buy American Act--Construction Materials Under Trade Agreements” (Federal Acquisition Regulation (FAR) clause 52.225-11).

(b) *Requests for determination of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause 52.225-11 in the

FEDERAL ACQUISITION REGULATION AND TRANSPORTATION ACQUISITION REGULATION CLAUSES

SOCIOECONOMIC PROGRAM REQUIREMENTS

request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) Evaluation of offers.

(1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act, based on claimed unreasonable cost of domestic construction materials, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(4)(i) of FAR clause 52.225-11.

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) Alternate offers.

(1) When an offer includes foreign construction material, other than designated country construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225-11, the offeror also may submit an alternate offer based on use of equivalent domestic or designated country construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225-11 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material, and the offeror shall be required to furnish such domestic or designated country construction material. An offer based on use of the foreign construction material for which an exception was requested--

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

(End of provision)

Alternate II (Nov 2006). As prescribed in [25.1102\(d\)\(3\)](#), add the definitions of "Bahrainian construction material" and

"Mexican construction material" to paragraph (a) and substitute the following paragraph (d) for paragraph (d) of the basic provision:

(d) Alternate offers.

(1) When an offer includes foreign construction material, except foreign construction material from a designated country other than Bahrain or Mexico, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225-11, the offeror also may submit an alternate offer based on use of equivalent domestic or designated country construction material other than Bahrainian or Mexican construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225-11 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material other than Bahrainian or Mexican construction material. An offer based on use of the foreign construction material for which an exception was requested--

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

(End of Section F)

MINIMUM WAGE SCHEDULE

U.S. Department of Labor
 Employment Standards Administration
 Wage and Hour Division

GENERAL DECISION: **KY20080025** 04/04/2008 KY25

Date: April 4, 2008

General Decision Number: **KY20080025** 04/04/2008

Superseded General Decision Number: KY20070025

State: Kentucky

Construction Types: Heavy and Highway

Counties: Allen, Ballard, Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Daviess, Edmonson, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, Marshall, McCracken, McLean, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, Warren and Webster Counties in Kentucky.

BALLARD, BUTLER, CALDWELL, CARLISLE, CRITTENDEN, DAVIESS, EDMONSON, FULTON, GRAVES, HANCOCK, HENDERSON, HICKMAN, HOPKINS, LIVINGSTON, LYON, MARSHALL, MCCRACKEN, MCLEAN, MUHLENBERG, OHIO, UNION & WEBSTER COUNTIES:

Heavy and Highway Construction Projects

| Modification Number | Publication Date |
|---------------------|------------------|
| 0 | 02/08/2008 |
| 1 | 04/04/2008 |

* BRIN0004-002 04/01/2008

BALLARD, BUTLER, CALDWELL, CARLISLE, CRITTENDEN, DAVIESS, EDMONSON, FULTON, GRAVES, HANCOCK, HENDERSON, HICKMAN, HOPKINS, LIVINGSTON, LYON, MARSHALL, MCCRACKEN, MCLEAN, MUHLENBERG, OHIO, UNION & WEBSTER COUNTIES:

| | Rates | Fringes |
|-----------------|----------|---------|
| BRICKLAYER..... | \$ 26.20 | 11.55 |
| | | |

BRTN0004-005 05/01/2005

ALLEN, CALLOWAY, CHRISTIAN, LOGAN, SIMPSON, TODD, TRIGG & WARREN COUNTIES:

| | Rates | Fringes |
|-----------------|----------|---------|
| BRICKLAYER..... | \$ 25.10 | 1.60 |

 CARP0357-002 07/01/2007

| | Rates | Fringes |
|--------------------|----------|---------|
| CARPENTER..... | \$ 24.05 | 9.77 |
| Diver..... | \$ 36.45 | 9.77 |
| PILEDRIVERMAN..... | \$ 24.30 | 9.77 |

 CARP1031-007 06/01/2007

ALLEN, BUTLER, EDMONSON, LOGAN, SIMPSON & WARREN COUNTIES:

| | Rates | Fringes |
|-----------------|----------|---------|
| MILLWRIGHT..... | \$ 23.65 | 14.22 |

 CARP1080-005 06/01/2007

BALLARD, CALDWELL, CALLOWAY, CARLISLE, CHRISTIAN, CRITTENDEN,
 FULTON, GRAVES, HICKMAN, HOPKINS, LIVINGSTON, LYON, MARSHALL,
 MCCRACKEN, TODD & TRIGG COUNTIES:

| | Rates | Fringes |
|-----------------|----------|---------|
| MILLWRIGHT..... | \$ 22.50 | 13.34 |

 CARP1080-007 06/01/2007

DAVIESS, HANCOCK, HENDERSON, MCLEAN, MUHLENBERG, OHIO, UNION &
 WEBSTER COUNTIES:

| | Rates | Fringes |
|-----------------|----------|---------|
| MILLWRIGHT..... | \$ 22.43 | 13.31 |

 ELEC0369-006 05/31/2006

BUTLER, EDMONSON, LOGAN, TODD & WARREN COUNTIES:

| | Rates | Fringes |
|------------------|----------|------------|
| ELECTRICIAN..... | \$ 25.91 | 23.5%+4.55 |

 ELEC0429-001 01/01/1998

ALLEN & SIMPSON COUNTIES:

| | Rates | Fringes |
|------------------|----------|---------|
| ELECTRICIAN..... | \$ 15.85 | 4.115 |

 ELEC0816-002 06/01/2007

BALLARD, CALDWELL, CALLOWAY, CARLISLE, CHRISTIAN, CRITTENDEN,

FULTON (Except a 5 mile radius of City Hall in Fulton), GRAVES,
 HICKMAN, LIVINGSTON, LYON, MARSHALL, MCCRACKEN & TRIGG COUNTIES:

| | Rates | Fringes |
|------------------|----------|------------|
| ELECTRICIAN | | |
| Electrician..... | \$ 27.18 | 24.5%+5.15 |

Cable spicers receive \$.25 per hour additional.

 ELEC1701-003 06/01/2007

DAVIESS, HANCOCK, HENDERSON, HOPKINS, MCLEAN, MUHLENBERG, OHIO,
 UNION & WEBSTER COUNTIES:

| | Rates | Fringes |
|------------------------|----------|-------------|
| ELECTRICIAN | | |
| Electrician..... | \$ 25.82 | 27.85%+5.24 |
| Heilarc Welding; Cable | | |
| Splicing..... | \$ 26.07 | 27.85%+5.24 |

 ELEC1925-002 06/01/2004

FULTON COUNTY (Up to a 5 mile radius of City Hall in Fulton):

| | Rates | Fringes |
|--------------------|----------|---------|
| Cable splicer..... | \$ 19.00 | 9.99 |
| ELECTRICIAN..... | \$ 18.50 | 9.99 |

 ENGI0181-017 01/01/2008

| | Rates | Fringes |
|--------------------------|----------|---------|
| Power Equipment Operator | | |
| GROUP 1..... | \$ 23.60 | 12.40 |
| GROUP 2..... | \$ 21.18 | 12.40 |
| GROUP 3..... | \$ 21.56 | 12.40 |
| GROUP 4..... | \$ 20.92 | 12.40 |

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1 - A-Frame Winch Truck; Auto Patrol; Backfiller;
 Batcher Plant; Bituminous Paver; Bituminous Transfer
 Machine; Boom Cat; Bulldozer; Mechanic; Cableway; Carry-All
 Scoop; Carry Deck Crane; Central Compressor Plant;
 Clamshell; Concrete Mixer (21 cu. ft. or Over); Concrete
 Paver; Truck-Mounted Concrete Pump; Core Drill; Crane;
 Crusher Plant; Derrick; Derrick Boat; Ditching & Trenching
 Machine; Dragline; Dredge Operator; Dredge Engineer;
 Elevating Grader & Loaders; Grade-All; Gurries; Heavy
 Equipment Robotics Operator/Mechanic; High Lift; Hoe-Type
 Machine; Hoist (Two or More Drums); Hoisting Engine (Two or
 More Drums); Horizontal Directional Drill Operator;

Hydrocrane; Hyster; KeCal Loader; LeTourneau; Locomotive; Mechanic; Mechanically Operated Laser Screed; Mechanic Welder; Mucking Machine; Motor Scraper; Orangepeel Bucket; Piledriver; Power Blade; Pumpcrete; Push Dozer; Rock Spreader, attached to equipment; Rotary Drill; Roller (Bituminous); Scarifier; Scoopmobile; Shovel; Side Boom; Subgrader; Tailboom; Telescoping Type Forklift; Tow or Push Boat; Tower Crane (French, German & other types); Tractor Shovel; Truck Crane; Tunnel Mining Machines, including Moles, Shields or similar types of Tunnel Mining Equipment

GROUP 2 - Air Compressor (Over 900 cu. ft. per min.); Bituminous Mixer; Boom Type Tamping Machine; Bull Float; Concrete Mixer (Under 21 cu. ft.); Dredge Engineer; Electric Vibrator; Compactor/Self-Propelled Compactor; Elevator (One Drum or Buck Hoist); Elevator (When used to Hoist Building Material); Finish Machine; Firemen & Hoist (One Drum); Flexplane; Forklift (Regardless of Lift Height); Form Grader; Joint Sealing Machine; Outboard Motor Boat; Power Sweeper (Riding Type); Roller (Rock); Ross Carrier; Skid Mounted or Trailer Mounted Concrete Pump; Skid Steer Machine with all Attachments; Switchman or Brakeman; Throttle Valve Person; Tractair & Road Widening Trencher; Tractor (50 H.P. or Over); Truck Crane Oiler; Tugger; Welding Machine; Well Points; & Whirley Oiler

GROUP 3 - All Off Road Material Handling Equipment, including Articulating Dump Trucks; Greaser on Grease Facilities servicing Heavy Equipment

GROUP 4 - Bituminous Distributor; Burlap & Curing Machine; Cement Gun; Concrete Saw; Conveyor; Deckhand Oiler; Grout Pump; Hydraulic Post Driver; Hydro Seeder; Mud Jack; Oiler; Paving Joint Machine; Power Form Handling Equipment; Pump; Roller (Earth); Steerman; Tamping Machine; Tractor (Under 50 H.P.); & Vibrator

CRANES - with booms 150 ft. & Over (Including JIB), and where the length of the boom in combination with the length of the piling equals or exceeds 150 ft. - \$1.00 above Group 1 rate

EMPLOYEES ASSIGNED TO WORK BELOW GROUND LEVEL ARE TO BE PAID 10% ABOVE BASIC WAGE RATE. THIS DOES NOT APPLY TO OPEN CUT WORK.

IRON0070-005 06/01/2007

BUTLER COUNTY (Eastern eighth, including the Townships of Decker, Lee & Tilford);

EDMONSON COUNTY (Northern three-fourths, including the Townships of Asphalt, Bee Spring, Brownsville, Grassland, Huff, Kyrock, Lindseyville, Mammoth Cave, Ollie, Prosperity, Rhoda, Sunfish & Sweden):

| | Rates | Fringes |
|-------------------------|----------|---------|
| Ironworkers: | | |
| Structural; Ornamental; | | |
| Reinforcing; Precast | | |
| Concrete Erectors..... | \$ 23.49 | 15.99 |

IRON0103-004 08/01/2005

BUTLER COUNTY (Townships of Aberdeen, Bancock, Casey, Dexterville, Dunbar, Elfie, Gilstrap, Huntsville, Logansport, Monford, Morgantown, Provo, Rochester, South Hill & Welchs Creek);

CALDWELL COUNTY (Northeastern third, including the Township of Creswell);

CHRISTIAN COUNTY (Northern third, including the Townships of Apex, Crofton, Kelly, Mannington & Wynns);

CRITTENDEN COUNTY (Northeastern half, including the Townships of Grove, Mattoon, Repton, Shady Grove & Tribune);

MUHLENBERG COUNTY (Townships of Bavier, Beech Creek Junction, Benton, Brennen, Browder, Central City, Cleaton, Depoy, Drakesboro, Eunis, Graham, Hillside, Luzerne, Lynn City, Martwick, McNary, Millport, Moorman, Nelson, Paradise, Powderly, South Carrollton, Tarina & Weir);

DAVISS, HANCOCK, HENDERSON, HOPKINS, MCLEAN, OHIO, UNION & WEBSTER COUNTIES:

| | Rates | Fringes |
|-------------------|----------|---------|
| Ironworkers:..... | \$ 23.50 | 12.475 |

IRON0492-003 05/01/2007

BUTLER COUNTY (Southern third, including the Townships of Boston, Berrys Lick, Dimple, Jetson, Quality, Sharer, Sugar Grove & Woodbury);

CHRISTIAN COUNTY (Eastern two-thirds, including the Townships of Bennettstown, Casky, Herndon, Hopkinsville, Howell, Masonville, Pembroke & Thompsonville);

EDMONSON COUNTY (Southern fourth, including the Townships of Chalybeate & Rocky Hill);

MUHLENBERG COUNTY (Southern eighth, including the Townships of Dunnior, Penrod & Rosewood);

ALLEN, LOGAN, SIMPSON, TODD & WARREN COUNTIES:

| | Rates | Fringes |
|-------------------|----------|---------|
| Ironworkers:..... | \$ 20.60 | 9.40 |

IRON0782-006 01/01/2007

CALDWELL COUNTY (Southwestern two-thirds, including the Townships of Cedar Bluff, Cider, Claxton, Cobb, Crowtown, Dulaney, Farmersville, Fredonia, McGowan, Otter Pond & Princeton);

CHRISTIAN COUNTY (Western third, Excluding the Townships of Apex, Crofton, Kelly, Mannington, Wynns, Bennettstown, Casky, Herndon, Hopkinsville, Howell, Masonville, Pembroke & Thompsonville);

CRITTENDEN COUNTY (Southwestern half, including the Townships of Crayne, Dycusburg, Frances, Marion, Mexico, Midway, Sheridan & Told);

BALLARD, CALLOWAY, CARLISLE, FULTON, GRAVES, HICKMAN, LIVINGSTON, LYON, MARSHALL, MCCRACKEN & TRIGG COUNTIES:

| | Rates | Fringes |
|--|----------|---------|
| Ironworkers: | | |
| Projects with a total contract cost of \$20,000,000.00 or above..... | \$ 23.50 | 13.55 |
| All Other Work..... | \$ 22.20 | 12.49 |

LABO0189-005 07/01/2007

BALLARD, CALLOWAY, CARLISLE, FULTON, GRAVES, HICKMAN, LIVINGSTON, LYON, MARSHALL & MCCRACKEN COUNTIES

| | Rates | Fringes |
|--------------|----------|---------|
| Laborers: | | |
| GROUP 1..... | \$ 18.93 | 9.58 |
| GROUP 2..... | \$ 19.18 | 9.58 |
| GROUP 3..... | \$ 19.23 | 9.58 |
| GROUP 4..... | \$ 19.83 | 9.58 |

LABORER CLASSIFICATIONS

GROUP 1 - Aging & Curing of Concrete; Asbestos Abatement Worker; Asphalt Plant; Asphalt; Batch Truck Dump; Carpenter Tender; Cement Mason Tender; Cleaning of Machines; Concrete; Demolition; Dredging; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Level D; Flagperson; Grade Checker; Hand Digging & Hand Back Filling; Highway Marker Placer; Landscaping, Mesh Handler & Placer; Puddler; Railroad; Rip-rap & Grouter; Right-of-Way; Sign, Guard Rail & Fence Installer; Signal Person; Sound Barrier Installer;

Storm & Sanitary Sewer; Swamper; Truck Spotter & Dumper;
Wrecking of Concrete Forms; General Cleanup

GROUP 2 - Batter Board Man (Sanitary & Storm Sewer);
Brickmason Tender; Mortar Mixer Operator; Scaffold Builder;
Burner & Welder; Bushhammer; Chain Saw Operator; Concrete
Saw Operator; Deckhand Scow Man; Dry Cement Handler;
Environmental - Nuclear, Radiation, Toxic & Hazardous Waste
- Level C; Forklift Operator for Masonary; Form Setter;
Green Concrete Cutting; Hand Operated Grouter & Grinder
Machine Operator; Jackhammer; Pavement Breaker; Paving
Joint Machine; Pipelayer; Plastic Pipe Fusion; Power Driven
Georgia Buggy & Wheel Barrow; Power Post Hole Digger;
Precast Manhole Setter; Walk-Behind Tamper; Walk-Behind
Trencher; Sand Blaster; Concrete Chipper; Surface
Grinder; Vibrator Operator; Wagon Driller

GROUP 3 - Asphalt Luteman & Raker; Gunnite Nozzleman; Gunnite
Operator & Mixer; Grout Pump Operator; Blaster; Side Rail
Setter; Rail Paved Ditches; Screw Operator; Tunnel (Free
Air); Water Blaster

GROUP 4 - Caisson Worker (Free Air); Cement Finisher;
Environmental - Nuclear, Radiation, Toxic & Hazardous Waste
- Levels A & B; Miner & Driller (Free Air); Tunnel Blaster;
& Tunnel Mucker (Free Air); Directional & Horizontal
Boring; Air Track Drillers (All Types); Powdermen &
Blasters; Troxler & Concrete Tester if Laborer is Utilized

LABO0189-006 07/01/2007

ALLEN, BUTLER, CALDWELL, CHRISTIAN, DAVIESS, EDMONSON, HANCOCK,
HOPKINS, LOGAN, MCLEAN, MUHLENBERG, OHIO, SIMPSON, TODD, TRIGG
& WARREN COUNTIES

| | Rates | Fringes |
|--------------|----------|---------|
| Laborers: | | |
| GROUP 1..... | \$ 19.88 | 8.63 |
| GROUP 2..... | \$ 20.13 | 8.63 |
| GROUP 3..... | \$ 20.18 | 8.63 |
| GROUP 4..... | \$ 20.78 | 8.63 |

LABORER CLASSIFICATIONS

GROUP 1 - Aging & Curing of Concrete; Asbestos Abatement
Worker; Asphalt Plant; Asphalt; Batch Truck Dump; Carpenter
Tender; Cement Mason Tender; Cleaning of Machines;
Concrete; Demolition; Dredging; Environmental - Nuclear,
Radiation, Toxic & Hazardous Waste - Level D; Flagperson;
Grade Checker; Hand Digging & Hand Back Filling; Highway
Marker Placer; Landscaping, Mesh Handler & Placer; Puddler;
Railroad; Rip-rap & Grouter; Right-of-Way; Sign, Guard Rail
& Fence Installer; Signal Person; Sound Barrier Installer;
Storm & Sanitary Sewer; Swamper; Truck Spotter & Dumper;

Wrecking of Concrete Forms; General Cleanup

GROUP 2 - Batter Board Man (Sanitary & Storm Sewer);
 Brickmason Tender; Mortar Mixer Operator; Scaffold Builder;
 Burner & Welder; Bushhammer; Chain Saw Operator; Concrete
 Saw Operator; Deckhand Scow Man; Dry Cement Handler;
 Environmental - Nuclear, Radiation, Toxic & Hazardous Waste
 - Level C; Forklift Operator for Masonary; Form Setter;
 Green Concrete Cutting; Hand Operated Grouter & Grinder
 Machine Operator; Jackhammer; Pavement Breaker; Paving
 Joint Machine; Pipelayer; Plastic Pipe Fusion; Power Driven
 Georgia Buggy & Wheel Barrow; Power Post Hole Digger;
 Precast Manhole Setter; Walk-Behind Tamper; Walk-Behind
 Trencher; Sand Blaster; Concrete Chipper; Surface
 Grinder; Vibrator Operator; Wagon Driller

GROUP 3 - Asphalt Luteman & Raker; Gunnite Nozzleman; Gunnite
 Operator & Mixer; Grout Pump Operator; Blaster; Side Rail
 Setter; Rail Paved Ditches; Screw Operator; Tunnel (Free
 Air); Water Blaster

GROUP 4 - Caisson Worker (Free Air); Cement Finisher;
 Environmental - Nuclear, Radiation, Toxic & Hazardous Waste
 - Levels A & B; Miner & Driller (Free Air); Tunnel Blaster;
 & Tunnel Mucker (Free Air); Directional & Horizontal
 Boring; Air Track Drillers (All Types); Powdermen &
 Blasters; Troxler & Concrete Tester if Laborer is Utilized

 LABO0189-007 07/01/2007

CRITTENDEN, HENDERSON, UNION & WEBSTER COUNTIES

| | Rates | Fringes |
|--------------|----------|---------|
| Laborers: | | |
| GROUP 1..... | \$ 19.61 | 8.90 |
| GROUP 2..... | \$ 19.86 | 8.90 |
| GROUP 3..... | \$ 19.91 | 8.90 |
| GROUP 4..... | \$ 20.51 | 8.90 |

LABORER CLASSIFICATIONS

GROUP 1 - Aging & Curing of Concrete; Asbestos Abatement
 Worker; Asphalt Plant; Asphalt; Batch Truck Dump; Carpenter
 Tender; Cement Mason Tender; Cleaning of Machines;
 Concrete; Demolition; Dredging; Environmental - Nuclear,
 Radiation, Toxic & Hazardous Waste - Level D; Flagperson;
 Grade Checker; Hand Digging & Hand Back Filling; Highway
 Marker Placer; Landscaping, Mesh Handler & Placer; Puddler;
 Railroad; Rip-rap & Grouter; Right-of-Way; Sign, Guard Rail
 & Fence Installer; Signal Person; Sound Barrier Installer;
 Storm & Sanitary Sewer; Swamper; Truck Spotter & Dumper;
 Wrecking of Concrete Forms; General Cleanup

GROUP 2 - Batter Board Man (Sanitary & Storm Sewer);

Brickmason Tender; Mortar Mixer Operator; Scaffold Builder; Burner & Welder; Bushhammer; Chain Saw Operator; Concrete Saw Operator; Deckhand Scow Man; Dry Cement Handler; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Level C; Forklift Operator for Masonary; Form Setter; Green Concrete Cutting; Hand Operated Grouter & Grinder Machine Operator; Jackhammer; Pavement Breaker; Paving Joint Machine; Pipelayer; Plastic Pipe Fusion; Power Driven Georgia Buggy & Wheel Barrow; Power Post Hole Digger; Precast Manhole Setter; Walk-Behind Tamper; Walk-Behind Trencher; Sand Blaster; Concrete Chipper; Surface Grinder; Vibrator Operator; Wagon Driller

GROUP 3 - Asphalt Luteman & Raker; Gunnite Nozzleman; Gunnite Operator & Mixer; Grout Pump Operator; Blaster; Side Rail Setter; Rail Paved Ditches; Screw Operator; Tunnel (Free Air); Water Blaster

GROUP 4 - Caisson Worker (Free Air); Cement Finisher; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Levels A & B; Miner & Driller (Free Air); Tunnel Blaster; & Tunnel Mucker (Free Air); Directional & Horizontal Boring; Air Track Drillers (All Types); Powdermen & Blasters; Troxler & Concrete Tester if Laborer is Utilized

 PAIN0032-002 05/01/2007

BALLARD COUNTY:

| | Rates | Fringes |
|---|----------|---------|
| Painters: | | |
| Bridges & Dams..... | \$ 28.11 | 10.68 |
| All Other Work..... | \$ 23.81 | 10.68 |
| Spray, Blast, Steam, High & Hazardous (Including Lead Abatement) and All Epoxy - \$1.00 Premium | | |

 PAIN0118-003 05/01/2007

EDMONSON COUNTY:

| | Rates | Fringes |
|---|----------|---------|
| Painters: | | |
| Brush & Roller..... | \$ 17.87 | 9.07 |
| Spray, Sandblast, Power Tools, Waterblast & Steam Cleaning..... | \$ 18.62 | 9.07 |

 PAIN0156-006 04/01/2007

DAVIESS, HANCOCK, HENDERSON, MCLEAN, OHIO, UNION & WEBSTER COUNTIES

| | Rates | Fringes |
|------------------------|----------|---------|
| Painters: | | |
| BRIDGES, LOCKS & DAMS: | | |
| GROUP 1..... | \$ 25.10 | 9.40 |
| GROUP 2..... | \$ 25.35 | 9.40 |
| GROUP 3..... | \$ 26.10 | 9.40 |
| GROUP 4..... | \$ 27.10 | 9.40 |
| ALL OTHER WORK: | | |
| GROUP 1..... | \$ 23.95 | 9.40 |
| GROUP 2..... | \$ 24.20 | 9.40 |
| GROUP 3..... | \$ 24.95 | 9.40 |
| GROUP 4..... | \$ 25.95 | 9.40 |

PAINTER CLASSIFICATIONS

GROUP 1 - Brush & Roller

GROUP 2 - Plasterers

GROUP 3 - Spray; Sandblast; Power Tools; Waterblast;
Steamcleaning; Brush & Roller of Mastics, Creosotes, Kwinch
Koate & Coal Tar Epoxy

GROUP 4 - Spray of Mastics, Creosotes, Kwinch Koate & Coal
Tar Epoxy

PAIN0456-003 05/01/2007

ALLEN, BUTLER, LOGAN, MUHLENBERG, SIMPSON, TODD & WARREN
COUNTIES:

| | Rates | Fringes |
|---|----------|---------|
| Painters: | | |
| BRIDGES, LOCKS & DAMS | | |
| Brush & Roller..... | \$ 21.03 | 7.40 |
| BRIDGES, LOCKS & DAMS | | |
| Spray; Sandblast; Power Tools; Waterblast & Steam Cleaning..... | | |
| | \$ 22.03 | 7.40 |
| ALL OTHER WORK | | |
| Brush & Roller..... | \$ 17.03 | 7.40 |
| ALL OTHER WORK | | |
| Spray; Sandblast; Power Tools; Waterblast & Steam Cleaning..... | | |
| | \$ 18.03 | 7.40 |

ALL OTHER WORK - HIGH TIME PAY
Over 35 feet (up to 100 feet) - \$1.00 above base wage
100 feet and over - \$2.00 above base wage

DURING SPRAY PAINTING AND SANDBLASTING OPERATIONS, POT TENDERS SHALL RECEIVE THE SAME WAGE RATES AS THE SPRAY PAINTER OR NOZZLE OPERATOR

PAIN0500-002 05/01/2007

CALDWELL, CALLOWAY, CARLISLE, CHRISTIAN, CRITTENDEN, FULTON, GRAVES, HICKMAN, HOPKINS, LIVINGSTON, LYON, MARSHALL, MCCRACKEN & TRIGG COUNTIES:

| | Rates | Fringes |
|---------------------|----------|---------|
| Painters: | | |
| Bridges & Dams..... | \$ 24.25 | 9.05 |
| All Other Work..... | \$ 18.00 | 9.05 |

Waterblasting units with 3500 PSI and above - \$.50 premium
 Spraypainting and all abrasive blasting - \$1.00 premium
 Work 40 ft. and above ground level - \$1.00 premium

PLUM0184-002 07/01/2007

BALLARD, CALDWELL, CALLOWAY, CARLISLE, CHRISTIAN, CRITTENDEN, FULTON, GRAVES, HICKMAN, LIVINGSTON, LYON, MARSHALL, MCCRACKEN & TRIGG COUNTIES:

| | Rates | Fringes |
|---------------------------|----------|---------|
| Plumber; Steamfitter..... | \$ 27.58 | 12.35 |

PLUM0502-004 01/01/2008

ALLEN, BUTLER, EDMONSON, SIMPSON & WARREN

| | Rates | Fringes |
|---------------------------|----------|---------|
| Plumber; Steamfitter..... | \$ 29.00 | 12.17 |

PLUM0633-002 07/01/2007

DAVIESS, HANCOCK, HENDERSON, HOPKINS, LOGAN, MCLEAN, MUHLENBERG, OHIO, TODD, UNION & WEBSTER COUNTIES:

| | Rates | Fringes |
|-------------------------|----------|---------|
| PLUMBER/PIPEFITTER..... | \$ 25.67 | 11.15 |

TEAM0089-003 03/31/2005

| | Rates | Fringes |
|--------------------------|-------|---------|
| Truck drivers: | | |
| ALLEN, BUTLER, EDMONSON, | | |
| LOGAN, SIMPSON & WARREN | | |

COUNTIES:

| | | |
|--------------|----------|-------|
| Group 1..... | \$ 17.54 | 10.84 |
| Group 2..... | \$ 17.87 | 10.84 |
| Group 3..... | \$ 17.94 | 10.84 |
| Group 4..... | \$ 17.95 | 10.84 |
| Group 5..... | \$ 18.00 | 10.84 |

BALLARD, CALLOWAY,
 CALDWELL, CARLISLE,
 CHRISTIAN, CRITTENDEN,
 FULTON, GRAVES, HICKMAN,
 LIVINGSTON, LYON,
 MARSHALL, MCCRACKEN, TODD

& TRIGG COUNTIES:

| | | |
|--------------|----------|------|
| Group 1..... | \$ 23.89 | 4.15 |
| Group 2..... | \$ 24.12 | 4.15 |
| Group 3..... | \$ 24.19 | 4.15 |
| Group 4..... | \$ 24.20 | 4.15 |

DAVISS, HANCOCK,
 HENDERSON, HOPKINS,
 MCLEAN, MUHLENBERG, OHIO,
 UNION & WEBSTER COUNTIES:

| | | |
|--------------|----------|------|
| Group 1..... | \$ 19.23 | 9.20 |
| Group 2..... | \$ 19.46 | 9.20 |
| Group 3..... | \$ 19.53 | 9.20 |
| Group 4..... | \$ 19.54 | 9.20 |

TRUCK DRIVER CLASSIFICATIONS FOR ALLEN, BUTLER, EDMONSON,
 LOGAN, SIMPSON & WARREN COUNTIES

GROUP 1 - Greaser, Tire Changer

GROUP 2 - Truck Mechanic

GROUP 3 - Single Axle Dump; Flat Bed; all Terrain vehicles
 when used to haul materials; Semi Trailer or Pole Trailer
 when used to pull building materials and equipment; Tandem
 Axle Dump; Driver of Distributors; Mixer All Types

GROUP 4 - Winch and A-Frame when used in transporting
 materials; Ross Carrier; Fork Lift when used to transport
 building materials; Driver on Pavement Breaker

GROUP 5 - Euclid and Other Heavy Earth Moving Equipment; Low
 Boy; Articulator Cat; Five Axle Vehicle

TRUCK DRIVER CLASSIFICATIONS FOR BALLARD, CALLOWAY, CALDWELL,
 CARLISLE, CHRISTIAN, CRITTENDEN, FULTON, GRAVES, HICKMAN,
 LIVINGSTON, LYON, MARSHALL, MCCRACKEN, TODD & TRIGG COUNTIES

GROUP 1 - Greaser; Tire Changer

GROUP 2 - Truck Mechanic

GROUP 3 - Single Axle Dump; Flat Bed; all Terrain Vehicles
 when used to haul materials; Semi Trailer or Pole Trailer

when used to pull building materials and equipment; Tandem Axle Dump; Driver of Distributors; Mixer All Types

GROUP 4 - Euclid and Other Heavy Earth Moving Equipment; Low Boy; Articulator Cat; Five Axle Vehicle; Winch and A-Frame when used in transporting materials; Ross Carrier

TRUCK DRIVER CLASSIFICATIONS FOR DAVIESS, HANCOCK, HENDERSON, HOPKINS, MCLEAN, MUHLENBERG, OHIO, UNION & WEBSTER COUNTIES

GROUP 1 - Greaser, Tire Changer

GROUP 2 - Truck Mechanic

GROUP 3 - Single Axle Dump; Flat Bed; all Terrain Vehicle when used to haul materials; Semi Trailer or Pole Trailer when used to pull building materials and equipment; Tandem Axle Dump; Driver of Distributors; Mixer All Types

GROUP 4 - Euclid and Other Heavy Earth moving Equipment; Lowboy; Articulator Cat; 5 Axle Vehicle; Winch and A-Frame when used in transporting materials; Ross Carrier; Fork Lift when used to transport building materials; Driver on Pavement Breaker

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.
=====

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION

FEDERAL ACQUISITION REGULATION AND TRANSPORTATION ACQUISITION REGULATION CLAUSES

GENERAL CONTRACT REQUIREMENTS

52.223-3

Hazardous Material Identification and Material Safety Data. (Jan 1997) Alt I (Jul 1995)

(a) "Hazardous material," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

| Material (If none, insert "None") | Identification No. |
|-----------------------------------|--------------------|
| None | |
| | |

(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered non-responsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations

(including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to-

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with paragraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

(i) Except as provided in paragraph (i)(2), the Contractor shall prepare and submit a sufficient number of Material Safety Data Sheets (MSDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.

(1) For items shipped to consignees, the Contractor shall include a copy of the MSDS's with the packing list or other suitable shipping document, which accompanies each shipment. Alternatively, the Contractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by the Contracting Officer.

(2) For items shipped to consignees identified by mailing address as agency depots, distribution centers or customer supply centers, the Contractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS's must be placed in a weather resistant envelope.

(End of Clause)

52.223-9

**Estimate of Percentage of Recovered Material Content
for EPA-Designated Products.
(AUG 2000)**

(a) *Definitions.* As used in this clause— “Post consumer material” means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Post consumer material is a part of the broader category of “recovered material.” “Recovered material” means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this contract, shall—

(1) Estimate the percentage of the total recovered material used in contract performance, including, if applicable, the percentage of post consumer material content; and

(2) Submit this estimate to:

**Contracting Officer
Eastern Federal Lands Highway Division
21400 Ridgetop Circle
Sterling, VA 20166.**

(End of Clause)

52.228-15

**Performance and Payment Bonds -- Construction
(Nov 2006)**

(a) *Definitions.* As used in this clause --

“Original contract price” means the award price of the contract; or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

(b) *Amount of required bonds.* Unless the resulting contract price is \$100,000 or less, the successful offeror shall furnish performance and payment bonds to the Contracting Officer as follows:

(1) *Performance Bonds (Standard Form 25).* The penal amount of performance bonds at the time of contract award shall be 100 percent of the original contract price.

(2) *Payment Bonds (Standard Form 25-A).* The penal amount of payment bonds at the time of contract award shall be 100 percent of the original contract price.

(3) *Additional bond protection.*

(i) The Government may require additional performance and payment bond protection if the contract price is increased. The increase in protection generally will equal 100 percent of the increase in contract price.

(ii) The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) *Furnishing executed bonds.* The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in the Bid Guarantee provision of the solicitation, or otherwise specified by the Contracting Officer, but in any event, before starting work.

(d) *Surety or other security for bonds.* The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier’s check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the *Federal Register* or may be obtained from the:

U.S. Department of Treasury
Financial Management Service
Surety Bond Branch
3700 East West Highway, Room 6F01
Hyattsville, MD 20782
Or via the internet at
<http://www.fms.treas.gov/c570/> .

(e) *Notice of subcontractor waiver of protection (40 U.S.C. 3133(c)).* Any waiver of the right to sue on the payment bond is void unless it is in writing, signed by the person whose right is waived, and executed after such person has first furnished labor or material for use in the performance of the contract.

(End of Clause)

52.248-3

**Value Engineering – Construction.
(Feb 2000)**

(a) *General.* The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP’s) voluntarily. The Contractor shall share in any instant contract savings realized from accepted VECP’s, in accordance with paragraph (f) below.

(b) *Definitions.* “Collateral costs,” as used in this clause, means agency costs of operation, maintenance, logistic support, or Government-furnished property.

“Collateral savings,” as used in this clause, means those measurable net reductions resulting from a VECP in the

agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this clause, means the estimated reduction in Contractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor's development and implementation costs, including subcontractors' development and implementation costs (see paragraph (h) below).

"Value engineering change proposal (VECP)" means a proposal that --

(1) Requires a change to this, the instant contract, to implement; and

(2) Results in reducing the contract price or estimated cost without impairing essential functions or characteristics; provided, that it does not involve a change-

- (i) In deliverable end item quantities only; or
- (ii) To the contract type only.

(c) *VECP preparation.* As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (c)(1) through (7) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

(1) A description of the difference between the existing contract requirement and that proposed, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, and the effect of the change on the end item's performance.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) A separate, detailed cost estimate for

(i) the affected portions of the existing contract requirement and

(ii) the VECP.

The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under paragraph (h) below.

(4) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(5) A prediction of any effects the proposed change would have on collateral costs to the agency.

(6) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

(7) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

(d) *Submission.* The Contractor shall submit VECP's to the Resident Engineer at the worksite, with a copy to the Contracting Officer.

(e) *Government action.*

(1) The Contracting Officer will notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer will notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it will not be liable for any delay in acting upon a VECP.

(2) If the VECP is not accepted, the Contracting Officer will notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause. The Contracting Officer may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral

decision made solely at the discretion of the Contracting Officer.

(f) *Sharing* --

(1) *Rates*. The Government's share of savings is determined by subtracting Government costs from instant contract savings and multiplying the result by --

- (i) 45 percent for fixed-price contracts; or
- (ii) 75 percent for cost-reimbursement contracts.

(2) *Payment*. Payment of any share due the Contractor for use of a VECP on this contract shall be authorized by a modification to this contract to --

- (i) Accept the VECP;
- (ii) Reduce the contract price or estimated cost by the amount of instant contract savings; and
- (iii) Provide the Contractor's share of savings by adding the amount calculated to the contract price or fee.

(g) *Collateral savings*. If a VECP is accepted, the Contracting Officer will increase the instant contract amount by 20 percent of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer is the sole determiner of the amount of collateral savings.

(h) *Subcontracts*. The Contractor shall include an appropriate value engineering clause in any subcontract of \$50,000 or more and may include one in subcontracts of lesser value. In computing any adjustment in this contract's price under paragraph (f) above, the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this contract, but shall exclude any value engineering incentive payments to a subcontractor. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; *provided*, that these payments shall not reduce the Government's share of the savings resulting from the VECP.

(i) *Data*. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

These data, furnished under the Value Engineering -- Construction clause of contract DTFH71-08-C-000XX, shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information

contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations.

(End of Section G)

FEDERAL ACQUISITION REGULATION AND TRANSPORTATION ACQUISITION REGULATION CLAUSES

CONSTRUCTION CONTRACT REQUIREMENTS

52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)

The Contractor shall be required to (a) commence work under this contract within (**SEE SF 1442, BLOCK 11 FOR NUMBER OF DAYS**) calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than (**THE TIME INDICATED IN THE CONTINUATION OF THE SF 1442, BLOCK 11**). The time stated for completion shall include final cleanup of the premises. **(End of Clause)**.

52.211-12 LIQUIDATED DAMAGES--CONSTRUCTION (SEPT 2000)

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of (**SEE SUBSECTION 108.04 OF THE FP-96/FP-03 AND/OR SPECIAL CONTRACT REQUIREMENTS FOR AMOUNT**) for each calendar day of delay until the work is completed or accepted.

(b) If the Government terminates the Contractor's right to proceed, liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of repurchase under the Termination clause. **(End of Clause)**

52.211-18 -- Variation in Estimated Quantity.

As prescribed in [11.703\(c\)](#), insert the following clause in solicitations and contracts when a fixed-price construction contract is contemplated that authorizes a variation in the estimated quantity of unit-priced items:

Variation in Estimated Quantity (Apr 1984)

If the quantity of a unit-priced item in this contract is an estimated quantity and the actual quantity of the unit-priced item varies more than 15 percent above or below the estimated quantity, an equitable adjustment in the contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 115 percent or below 85 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, to be received by the Contracting Officer within 10 days from the beginning of the delay, or within such further period as may be granted by the Contracting Officer before the date of final settlement of the contract. Upon the receipt of a written request for an

extension, the Contracting Officer shall ascertain the facts and make an adjustment for extending the completion date as, in the judgement of the Contracting Officer, is justified. **(End of Clause)**

52.236-1 PERFORMANCE OF WORK BY THE CONTRACTOR. (Apr 1984)

The Contractor shall perform on the site, and with its own organization, work equivalent to at least **50** percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government. **(End of Clause)**

52.236-4 PHYSICAL DATA (APR 1984)

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

(a) The indications of physical conditions on the drawings and in the specifications are the result of site investigations (**SEE CONTINUATION OF SF 1442, BLOCK 9**).

(b) Weather conditions: **CONTACT LOCAL OFFICE OF NATIONAL WEATHER SERVICE, U.S. DEPARTMENT OF COMMERCE.**

(c) Transportation facilities: **N/A**

(d) Other Information: **SEE CONTINUATION OF SF 1442, BLOCK 9.**

(End of Clause)

(End of Section H)

FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION
SPECIAL CONTRACT REQUIREMENTS

Reelfoot National Wildlife Refuge
Project RRP-REL 10(2)

The following Special Contract Requirements amend and supplement the Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects (FP-03) U.S. Customary Units, U. S. Department of Transportation, Federal Highway Administration.

Section 101.—TERMS, FORMAT, AND DEFINITIONS

101.01. Delete the last paragraph.

Section 102.—BID, AWARD, AND EXECUTION OF CONTRACT

102.04. Add the following:

Furnish documentary evidence as to the ownership and value of the assets pledged in support of the bond and details of the security interest in the assets by the individual sureties for the apparent low bidder within 14 calendar days after the opening of bids. Failure to submit evidence within the time required will be grounds for declaring the surety unacceptable.

In addition, the CO may, after reviewing the Affidavit of Individual Surety and documentary information on the security interest and the assets pledged, by certified mail to the surety's business or residence address (as shown on the bond), request the surety to provide further information and/or documents with respect to any of the documents provided. The CO may require such information to be furnished under oath. Failure of the surety to accept such mail, or failure of the surety to respond with the requested information or documents within 7 business days of receipt of the request, will be cause for rejection of the surety.

These requirements are in addition to the requirements in FAR Subpart 28.203, except where in conflict with the requirements in the FAR, in which case the FAR controls.

102.06. Add the following after the last paragraph:

Submit the documentary evidence for individual sureties at the same time as the Affidavit of Individual Surety and security interest in assets pledged. A Contractor submitting an unacceptable individual surety in satisfaction of a performance or payment bond before the issuance of the Notice to Proceed will be permitted one opportunity to substitute an acceptable surety or sureties within 7 business days of receipt of notification that the surety is unacceptable.

The Government's right to direct the substitution of sureties to ensure the continuing acceptability of the bonds during the performance of the Contract according to FAR Clause 52.228-2, Additional Bond Security, is not restricted.

These requirements are in addition to the requirements in FAR Subpart 28.203, except where in conflict with the requirements in the FAR, in which case the FAR controls.

Section 104.—CONTROL OF WORK

104.03(a). Add the following to the third paragraph:

Drawings will be reviewed in the order they are received.

104.03(b). Add the following after 104.03(b):

(c) As-built working drawings. Furnish 2 sets of as-built working drawings. The Government will provide 2 sets of contract drawings to be used exclusively for recording the as-built details of the project.

Keep the as-built working drawings current on a weekly basis and have at least 1 set available on the jobsite at all times. Accurately and neatly record changes from the contract plans, which are made in the work, or additional information, which might be uncovered in the course of construction, as they occur by means of details and notes. Maintain a log of all changes made to the as-built working drawings, and monthly, at the estimate cutoff date, make the as-built working drawings and log available for review by the CO.

Note all additions or revisions to the location, character, and dimensions of the prescribed work shown on the contract drawings. Line out all details shown that are not applicable to the completed work. Use the red-line process (red pencil or red ink) to record on the as-built working drawings and final as-built drawings, as a minimum, but not limited to, the information described below:

(1) Typical section(s)

(a) Revisions in dimensions; and

(b) Revisions in materials.

(2) Plan and profile

(a) Plan

(1) Revisions to the alignment;

(2) Changes in the construction limits;

(3) Revisions in location, type, and grade of road approaches;

(4) Location and type of utilities;

(5) Location, size, and type of underdrains;

(6) Skew of culverts;

(7) Channel changes;

(8) Location of monuments and permanent references;

(9) Elevations for all aerial and underground crossings of utilities; and

(10) Location, length, and type of fencing.

(b) Profile

- (1) Revisions to grades, elevations, and stationing of intersection PIs;
- (2) Equations;
- (3) Culvert diameter, length, type, and stationing;
- (4) Length of culvert extension, and length of existing culvert;
- (5) Location, length, stationing, and type of retaining walls; and
- (6) Location, length, stationing, and end treatment of guardrail.

(3) Bridge

- (a) Stationing of bridge ends;
- (b) Elevations including footing, bearing pads, deck, and top of walls;
- (c) Pile driving record with pile length, size, type, and tip elevation;
- (d) Post-tensioning records including stressing sequence, jacking force, and duct size and layout;
- (e) Construction and concrete placement sequences;
- (f) Bearing details with orientation;
- (g) Expansion joints including actual clearance with atmospheric temperature; and
- (h) Any changes in plan or dimensions including any major changes in reinforcing.

(4) Miscellaneous

- (a) Revisions to parking areas or turnouts;
- (b) Final location, type and length of curbs, sidewalks, etc.;
- (c) Fencing type and limits; and
- (d) Landscaping and planting.

(5) Special Contract Procedures

- (a) Method of excavation, concrete placement, girder erection, structure repairs, etc.

Prepare final as-built drawings after the completion of each definable feature of work as listed in the Contractor Quality Control Plan (Foundations, Utilities, Structural Steel, etc., as appropriate for the project). The as-built working drawings and final as-built drawings will be jointly reviewed for accuracy and completeness by the CO and the Contractor prior to

submission of each monthly pay estimate.

If the monthly review finds that the Contractor is not maintaining the as-built working drawings, payment of the Contractor's invoice will be withheld until the as-built working drawings are brought up to date.

Furnish the as-built working drawings to the CO before the final inspection. Correct all details found during the final inspection that are not shown on the as-built working drawings and return to the CO within 5 working days for approval.

Once final as-built working drawings have been approved by the CO, provide final as-built drawings in the latest version of Adobe Acrobat (PDF) format (at the time of submission) on two sets of CD-R or DVD-R. Include the latest version Adobe Acrobat reader on the CD-R or DVD-R. Provide the final as-built drawings with a resolution quality such that the redlined drawings and notations are clearly discernable. Final payment per Subsection 109.09 will not be made until the CD-R or DVD-R of the final as-built drawings have been reviewed and approved by the CO.

No direct payment will be made for maintaining and furnishing as-built working drawings.

104.05. Add the following:

Operate loaded vehicles hauling material at speeds not exceeding 40 miles per hour, or the posted speed limit whichever is lower, and spaced at 500-foot minimum intervals. Do not exceed 25 miles per hour, or the posted speed limit whichever is lower, or operate more than 1 loaded hauling vehicle at a time on a bridge.

Section 105.—CONTROL OF MATERIAL

105.02(b). Add the following:

If any material is to be excavated from any material source outside the construction limits, other than commercially operated sites, before work begins provide a certification from the State Historic Preservation Officer or Indian Tribal Council, if applicable, stating:

- (1) That a cultural resource survey (a survey for historical sites and archeological remains) has been performed at the proposed site, and
- (2) That no significant cultural resources exist in the area that will be disturbed by the Contractor.

Section 106.—ACCEPTANCE OF WORK

106.03. Delete the first sentence of the second paragraph and substitute the following:

Other than references in or to the FAR or Federal Law, when these Standard Specifications or Supplemental Contract Requirements reference certifications; certificates; or certified

documents, equipment, or individuals, these references are not certifications under Section 4301 of Public Law 104-106, National Defense Authorization Act for Fiscal Year 1996.

106.05(a). Add the following:

At the Preconstruction Conference, the Government will provide a copy of the computer program "QL-PAY," along with instructions. This program computes the quality levels and pay factors as described in this Subsection. Two versions are available: one that runs on MS-DOS operating systems, and one that runs on Windows 3.1 or Windows 95.

Section 107.—LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

107.01. Add the following:

The following permits may be required for this project:

1. Water Quality Permit
2. Burn Permit
3. Hazardous Waste Permit
4. Disposal Permit or Agreement

This list of permits may not be all inclusive of those required for construction. No time or damages, including impact damages, will be allowed for failure to obtain necessary permits or agreements. Provide copies of these permits and agreements upon request.

Comply with the US Army Corps of Engineers permit for replacing the pipe culvert at Sta. 37+50 by the following means:

- a) If using heavy equipment working in wetlands or mudflats, place it on mats, or take other measures to minimize soil disturbance.
- b) Use appropriate soil erosion and sediment controls maintained in effective operating condition during construction, permanently stabilize at the earliest practicable date all exposed soil and other fill as well as any work below the ordinary high water mark or high tide line. If possible, try to perform work within waters during periods of low-flow or no-flow.

107.01. Delete the second sentence of the third paragraph and substitute the following:

Obtain all additional permits or agreements and modifications to Government-obtained permits or agreements that are required.

107.05. Add the following after the second paragraph:

Submit all claims to the insurance company for investigation, regardless of deductible, unless the Contractor has chosen to pay the claim directly. Provide the results of any investigations and subsequent actions to the CO within 1 week of receipt from the insurance company or of action. Determination by the insurance company that the claim is not covered by the policy is not an adequate basis for the Contractor to fail to meet its obligations under the requirements of this Section.

Section 108.—PROSECUTION AND PROGRESS

108.01. Add the following:

Construction operations are limited as follows:

No work will be permitted on Sundays or National legal holidays.

Construction will be allowed only during the months of lighter traffic (June 1-Sept 30). Contractor may close Long Point Auto Tour Road to traffic during the months of lightest traffic (June-July) but must allow FWS and resident access at all times.

Maintain at least one lane of traffic on Long Point Auto Tour Road during construction operations August 1-September 30.

The Contractor's Staging Area may be located at the maintenance yard parking area where designated by the CO.

Maintain access to refuge residence, maintenance yard and residence driveway along Long Point Auto Tour Road at all times.

Section 109.—MEASUREMENT AND PAYMENT

109.08(b). Add the following:

Submit invoices by the 7th day after the closing date. Invoices received after the 16th day following the closing date will not be accepted for payment processing that month. Include late, unprocessed invoice submittals in the following month's invoice.

109.08(c). Add the following:

The government's designated billing office is:

Federal Highway Administration
Eastern Federal Lands Highway Division
Loudoun Tech Center
21400 Ridgetop Circle
Room 200
Sterling, Virginia 20166-6511

Section 152.—CONSTRUCTION SURVEY AND STAKING

152.03. Delete the text of paragraphs **(h)**, **(i)**, **(j)**, and **(k)**.

152.03(a). Add the following:

Set benchmarks (at least every 1,000 ft of roadway). Replace any missing control points.

152.03(I)(9) and (10). Delete the subsections and replace with the following:

- (9) Traffic control (both permanent and temporary) signs, signals, markings, delineators, object markers, etc.

152.03(I). Add the following:

- (10) Excavation limits for various drainage, walls, structures, and other pertinent items.

Section 154.—CONTRACTOR SAMPLING AND TESTING

154.03. Add the following:

Furnish test results to the CO immediately after completing the test. The requirements for furnishing test results do not include sample aging or curing time; therefore, reporting times will be extended accordingly.

Submit proposals for using alternate AASHTO or State approved test methods in writing for approval. Alternate methods may be allowed based on documented equivalence to the method specified.

154.04. Add the following:

On a weekly basis, submit a copy of all current Contractor test results and pay factor calculations based on those tests for items accepted under Subsection 106.05. When large quantities are produced, calculate pay factors as soon as possible. Use this information to make any necessary adjustments to operations to achieve acceptable pay factors. The Government may use the Contractor's test results to determine final pay factors for acceptance according to Subsection 154.05.

Section 155.—SCHEDULES FOR CONSTRUCTION CONTRACTS

155.02. Add the following after the third paragraph:

155.02A. Weather Delays.

(a) Weather Delay Definitions.

(1) **Reasonably Predictable Weather.** The number of workdays that can expected to be lost in any month due to rainfall based on 10-year historical weather data.

(2) **Rain Day.** A potentially lost workday on which rainfall is equal to or greater than 0.10 inches.

(3) Drying Day. A work day(s) immediately following a rainfall equal to or greater than 1.00 inch which is potentially lost because of wet ground conditions.

(4) Workday. A day not excluded from work by Section 108 of the Special Contract Requirements.

(5) Unusually Severe Weather. When the number of Actual Workdays Lost is greater than the calculated Total Lost Days for the month in question.

(b) Reasonably Predictable Weather. Determine Reasonably Predictable Weather for this contract by completing Table 155-1. Calculate data for Table 155-1 as follows:

(1) Using the last 10 years of historical weather data from the nearest NOAA weather data collection station, compute the average number of workdays lost (rain days plus drying days) for each month and the standard deviation from the average. Add the average number of workdays lost to the standard deviation.

(2) The Total number of Lost Days (Average Workdays Lost plus 1 Standard Deviation, rounded to whole days) will be considered normal for each month.

(3) Submit a completed Table 155-1 with the initial construction schedule.

(c) Unusually Severe Weather. Under FAR Clause 52.249-10, Default (Fixed-Price Construction), the Contractor can request time for a delay due to Unusually Severe Weather.

The number of Actual Workdays Lost is calculated by first totaling the actual Rain Days plus the actual Drying Days occurring in the month in question. From this total, deduct any workdays meeting the following conditions:

(1) The Rain Day or Drying Day occurred on a non-work weekday such as a holiday.

(2) Rainfall occurred at a time when no weather dependent work was in progress or occurred during planned or unplanned shutdowns due to other circumstances such as equipment failure, strikes, material supplies, delays, etc.

(3) The Contractor was still working or able to work on weather dependent activities to the extent that less than 50 percent of the workday was lost due to weather.

If the net number of Actual Workdays Lost is greater than the Total Lost Days, then Unusually Severe Weather occurred during the month in question.

(d) Time Adjustments for Rain Delays. If the net number of Actual Workdays Lost to rain is less than the Total Lost Days for the month in question, no time adjustments will be made. If the net number of Actual Workdays Lost is more, then an excusable time extension may be granted. The Contractor must submit a Weather Time Impact Analysis supporting any alleged delays due to Unusually Severe Weather.

(e) Delays Due To Other Weather Conditions. Delays due to other unusually severe weather conditions (snow, extreme cold or heat, high winds, etc.) must be supported with a

Weather Time Impact Analysis using historical weather data.

155.02. Delete the last paragraph and substitute the following:

The Construction Contract Time shown on the construction schedule for contract completion or for any interim completion dates shall be the calendar dates established in the contract.

155.04. Add the following to the first paragraph:

For a computer-generated CPM, use Primavera software or software that is file-compatible with Primavera.

Add the following at the end of the Subsection:

TABLE 155-1

Project Number_____

Location of NOAA Data Collection Station_____

Data Years (10-year history): 19__ through 20__

REASONABLY PREDICTABLE WEATHER

| MONTH | AVERAGE WORKDAYS LOST | STANDARD DEVIATION | TOTAL LOST DAYS |
|-----------|-----------------------|--------------------|-----------------|
| JANUARY | | | |
| FEBRUARY | | | |
| MARCH | | | |
| APRIL | | | |
| MAY | | | |
| JUNE | | | |
| JULY | | | |
| AUGUST | | | |
| SEPTEMBER | | | |
| OCTOBER | | | |
| NOVEMBER | | | |
| DECEMBER | | | |

Section 156.—PUBLIC TRAFFIC

156.03. Add the following:

Hauling will only be permitted from the nearest point of public access to the work site. Minimize hauling over completed pavement.

156.04. Add the following:

(f) Ensure that all drains and inlets within the project limits are fully functional throughout the duration of the project.

156.06(b). Delete the second sentence and replace with the following:

For shoulder drop-offs in excess of 3 inches, provide a 1V:3H fillet with “*Low Shoulder*” warning signs.

156.07. Delete the Subsection and substitute the following:

156.07. Nighttime Operations. Nighttime operations are not permitted. Perform construction operations during the hours of daylight (½ hour after sunrise to ½ hour before sunset).

156.08. Delete the second sentence of the first paragraph and add the following:

The traffic safety supervisor may be the superintendent.

Section 157.-- SOIL EROSION CONTROL

157.03. Add the following:

Minimize the tracking of mud and debris from construction vehicles onto public rights-of-way. Immediately remove any mud or debris deposited on public rights-of-way.

To prevent introduction of exotic plant species, clean all construction equipment prior to entering the refuge.

Section 203.—REMOVAL OF STRUCTURES AND OBSTRUCTIONS

203.01. Add the following:

Salvage sign panels and posts designated for removal and deliver them to the government at the location designated by the CO.

203.05(b). Delete the Subsection and substitute the following:

Burning is prohibited. Dispose of material according to Subsection 203.05(a).

203.05(c). Delete the Subsection and substitute the following:

Burying debris is prohibited. Dispose of material according to Subsection 203.05(a).

Section 204.—EXCAVATION AND EMBANKMENT

204.07. Add the following:

Subexcavation Pay Item will be used when unsuitable material is excavated beyond the identified cut areas. Subexcavate as required beyond the cut limits only after the approval by the CO.

204.13(d). Add the following:

Flush the exposed faces of rock embankment with soil conserved from the excavation.

Section 301.—UNTREATED AGGREGATE COURSES

301.03. Add the following after the second paragraph:

Submit the representative 300-pound sample to the EFLHD Central Laboratory in Sevierville, Tennessee.

301.03. Add the following:

If an alternate State gradation is produced as provided in Subsection 703.05, notify the CO in writing. The target values with respect to the State gradation will be the midpoint of the allowable State specification band. The allowable deviation (D) will be $\frac{1}{2}$ the State specification band width, and the maximum allowable pay factor under subsection 301.08 will be 1.0.

Section 403.—HOT ASPHALT CONCRETE PAVEMENT

403.01. Add the following:

Asphalt binder is designated as performance grade PG 64-22.

403.03(b). Add the following:

For State Department of Transportation mixes, submit a job-mix formula that is currently approved and has been tested by the State within a year of the date of intended use. Include documentation from a State highway official certifying that it is an approved State mix.

403.03(b). Add the following:

Submit all materials and information to the EFLHD Central Laboratory in Sevierville,

Tennessee.

403.03(c). Add the following:

Allow a minimum of 21 calendar days for verification of each job-mix formula after receipt of all materials and information at the EFLHD Central Laboratory.

Section 601.—MINOR CONCRETE STRUCTURES

601.03. Delete the first sentence and substitute the following:

Conform to Table 601-1 or furnish a concrete mix used locally by either a Federal or State agency for the construction of minor concrete structures that also meets the minimum 28-day compressive strength requirement of Table 601-1.

Section 602.—CULVERTS AND DRAINS

602.03. Add the following:

Furnish culvert pipe from the following groups:

- Reinforced concrete pipe, Class, *Class III*

Section 619.—FENCES, GATES, AND CATTLE GUARDS

619.01. Add the following:

The gate as shown in the plans may be substituted by an alternate equivalent design, if approved by the CO. The Contractor may also use alternate materials for the gate, if approved by the CO.

Section 625.—TURF ESTABLISHMENT

625.01. Add the following:

The work does not include areas previously protected by soil erosion control measures according to Section 157, and upon which permanent suitable vegetation has started growth.

625.06. Add the following:

Apply limestone and fertilizer at the following rates:

| <u>Item</u> | <u>Rate (pounds per acre)</u> |
|--|-------------------------------|
| Agricultural Limestone (85 percent CaCO ₃) | 3094 |
| Fertilizer | 704 |

625.07. Add the following:

Apply seed at the rates for each season as follows:

| <u>Name of Seed</u> | <u>Seeding Seasons and Rates (pounds per acre)</u> |
|--------------------------------|--|
| | <u>March and April</u> |
| Ryegrass, Italian, perennial | 15 |
| Bermuda grass, common (hulled) | 10 |
| Fescue, Tall, Kentucky 31 | <u>25</u> |
| Total Seed | 50 |
| | <u>May through August</u> |
| Ryegrass, Italian, perennial | 25 |
| Bermuda grass, common (hulled) | <u>15</u> |
| Total Seed | 40 |
| | <u>September and October</u> |
| Ryegrass, Italian, perennial | 10 |
| Fescue, Tall, Kentucky 31 | 25 |
| Clover, Crimson, inoculate | <u>15</u> |
| Total Seed | 50 |
| | <u>November through February</u> |
| Ryegrass, Italian, perennial | 21 |
| Bermuda grass, common (hulled) | 21 |
| Fescue, Tall, Kentucky 31 | 25 |
| Clover, Crimson, inoculated | <u>15</u> |
| Total Seed | 82 |

625.08. Add the following:

Use straw, hay or wood cellulose fiber mulch.

625.08. Add the following:

Apply mulch at the following rates:

| <u>Mulch</u> | <u>Rate</u> |
|----------------------|-----------------------------------|
| Straw or Hay | 4992 lb/acre (1 to 2 inch mat) |
| Wood cellulose fiber | 1500 lb/acre Air-dry weight |

Section 633.—PERMANENT TRAFFIC CONTROL

633.01. Delete the second paragraph and substitute the following:

Sign panels are designated as aluminum.

Furnish aluminum sign panels.

Furnish galvanized steel posts.

Section 634.—PERMANENT PAVEMENT MARKINGS

634.03. Add the following to the first paragraph:

Place traffic markings before a winter suspension of paving operations.

Section 635.—TEMPORARY TRAFFIC CONTROL

635.02. Delete the Construction sign panels Section reference and substitute the following:

| | |
|--------------------------|--------|
| Construction sign panels | 633.02 |
|--------------------------|--------|

635.03. Add the following:

For all signs and other devices requiring orange color, use fluorescent red-orange or fluorescent yellow-orange color.

635.03(i). Add the following:

Submit a certification that the devices have been successfully crash tested to meet the requirements of NCHRP 350 and/or have been accepted by the FHWA.

635.07. Delete the last sentence and substitute the following:

Remove or completely cover all unnecessary signs, or signs that conflict with the construction signing or Traffic Control Plan. Cover signs that are not removed so that no part of the covered sign is visible to traffic. Provide sign covers for temporary signs meeting the following requirements:

- a) Large enough to completely cover the sign.
- b) Easy to attach to and remove from the sign without damaging the sign face. Do not use adhesives, glues, tapes, or mechanical fasteners that mar the sign face.
- c) Black, non-reflective, and opaque.
- d) Made of plywood (minimum of 3/8-inches thick), aluminum (minimum of 0.040 inches thick), or sheet metal of a sufficient thickness that the covering will not be lifted, bent or damaged by wind.
- e) Durable enough to resist deterioration due to weathering and atmospheric conditions for the duration of the project.

Section 637.—FACILITIES AND SERVICES

637.02. Add the following:

The Government field office space will be provided by the government, at the Reelfoot Refuge management office about 7 miles from the project. Provide high-speed Internet access, as described in Subsection 637.03(a)(7).

637.03. Delete this subsection as well as Tables 637-1 and 637-2 and substitute the following:

Provide local and long distance telephone services. The Government will be responsible for the cost of long distance calls made by Government employees for Government business and charged against this phone service. Bill the Government separately for these charges.

637.03(a). Add the following:

Supply the following equipment in the government-provided field office:

(1) Copy machine. One self-feeding plain paper photo copying machine with the following minimum capabilities:

- (a) Automatic document feeder capable of making at least 8 copies per minute;
- (b) Reproducing copies at standard sizes up to and including 11 x 17 inches; and
- (c) Reducing 11 x 17 inches plan sheets to 8 ½ x 14 inches legal size and to 8 ½ x 11 inches letter size.

Furnish all necessary supplies, except paper. Paper will be supplied by the Government.

(2) Printer. One plain paper printing machine with printing capabilities of standard sizes up to and including 11 x 17 inches. The printer must be capable of printing from direct personal computer (PC) and local area network (LAN) hookups. The printer may be one machine in combination with the copy machine. Furnish all necessary supplies, except paper. Paper will be supplied by the Government.

(3) Facsimile (FAX) machine. One FAX machine with the following minimum capabilities:

- (a) Automatic document feeder with a minimum capacity of 20 pages;
- (b) Sending standard size documents up to and including 11 x 17 inches;
- (c) Printing on plain paper; and
- (d) Automatic dial/redial.

The FAX machine may be one machine in combination with the copy machine. Furnish all necessary supplies, except paper. Paper will be supplied by the Government.

(4) Telephone. Two dual line telephones (touch tone, hold button, intercom, and conference calling capabilities) with 2 separate lines, for the exclusive use of the CO.

(5) Answering machine. One digital answering device capable of answering, recording, storing, and playing back messages at least 30 minutes in length.

(6) Cellular telephone. One durable, hand held digital/cellular wireless telephone(s), manufactured by Motorola/Nextel, or approved equal, for the use of the CO. Furnish cellular telephone(s) that are similar or compatible with the Contractor's key field personnel (Project Superintendent, and Traffic Control Supervisor) to enable the direct communication between the CO and the Contractor's key field personnel. Furnish each cellular telephone(s) with the following minimum capabilities:

(a) Direct Connect feature, or equivalent, to communicate onsite with Contractor's key field personnel;

(b) Voicemail capable of answering, recording, storing, and playing back messages at least 30 minutes in length;

(c) Hands free device that can be used safely and effectively while driving, and is acceptable by the local law enforcement agencies;

(d) Customized communication configuration, independent of the other units, so that the CO may limit any features if necessary;

(e) Carrying case that can be worn on the belt and is appropriate for use on construction projects; and

(f) Other necessary cellular telephone accessories including a cigarette lighter power adapter/charger.

The cellular telephone plan shall provide the necessary amount of monthly Direct Connect airtime and monthly Digital/Cellular airtime for use on the project. Ensure that each unit has unlimited Direct Connect capabilities and each unit is equipped with a minimum of 600 minutes per month of local and long distance airtime for official business only.

(7) High-speed Internet access. Provide, install, and maintain high-speed Internet access service having at least 768kbps download and 256kbps upload speed. The high-speed Internet access service can be provided via DSL, FIOS, a dedicated T1 line, or cable. Alternate Internet access service options may be submitted to the CO for approval. The system must include a modem and a router with a firewall or a router and a firewall appliance. The system must have the capability to support simultaneous Internet access of at least 3 workstations connected by Category 6 RJ45 LAN office drop cables. If the router supports wireless Internet access, this feature must be disabled. Wireless Internet access does not meet U.S. DOT security requirements and is not acceptable. The firewall configuration must be submitted to the CO for approval and cannot be changed after it is approved, unless a change request is submitted and approved in advance. Only U.S.

DOT equipment is to be connected to the system.

(8) One, minimum 2-drawer metal file cabinet, fire-resistant, with lock.

If any equipment supplied becomes defective, is stolen, or for any other reason does not function as intended, replace the equipment with an equal or better unit at no additional cost to the Government. Replace any defective equipment within eight hours after being notified by the CO.

The Contractor will retain ownership of all equipment supplied by the Contractor. The CO will notify the Contractor when the equipment is no longer needed and request its removal.

Section 645.—LOCATING UTILITIES

Description

645.01. This work consists of locating and marking existing utilities by excavating test pits to, or using electromagnetic devices, where a physical conflict with proposed construction is suspected and the location is ordered by the CO. The work will consist of locating & protecting the utilities during the construction.

Locate and protect the existing underground telephone line while replacing the 48" pipe culvert at Sta. 37+50 and locate and protect the underground waterline at Sta. 40+00+/- . Also, avoid and protect the underground phone line, which is located 2'-3' below ground along the roadway from Sta. 10+00 to Sta. 39+00, and the overhead electric line located along the road at Sta. 10+50 to Sta. 34+00 & crossing the road at Sta. 10+50+/- and Sta. 38+50 to Sta. 39+00. The existing underground telephone line is believed to be 2'-3' below ground. The plans show approximate locations of the utilities.

AT&T will be able to relocate any minor facilities during construction such as individual buried drops, on short notice if necessary. This work would apply to the phone line at Sta. 37+50 when the pipe culvert is being replaced. The AT&T Contact information is: John Caywood, OSP Design Specialist, AT&T Network Services, (270) 444-5056 – office, (270) 227-5350 – cell

Material

645.02. Materials for restoring the test pit area to its original condition shall be replacement of the materials excavated or their equivalent in newly furnished materials meeting the various applicable sections of this specification.

Construction Requirements

645.03. General. Notify Kentucky Underground Protection, Inc. (<http://www.kentucky811.org/>) 48 hours prior to any excavation, at 1(800)752-6007 or (502)266-5677 to have the utilities marked in the field. Notify the CO 48 hours prior to any excavation.

Exercise special care and extreme caution in order to protect and avoid damage to any utility company facilities. Existing utilities have been generally located and shown on the plans as they

are believed to exist. The Government assumes no responsibility for the accuracy of locations shown on the plans. Locate and ensure the safety of all existing utilities. Repair any damage resulting from Contractor's operations at no additional expense to the Government.

Locate by test pit any utility that may be in conflict with the proposed work. If a conflict appears to exist, then notify the CO in writing immediately and provide information on the location and elevation of the utility so that the CO can adjust the proposed work.

645.04. Locating Utility. Use electromagnetic devices to establish alignment of utilities where applicable. When necessary, thread a metal rod through non-metallic utility pipes to locate them. Where neither method is feasible, locate the utility by perpendicular trench or test pits.

645.05. Excavation. Excavate carefully so as not to disturb utility at its assumed depth. When excavating within roadway pavements where traffic is being maintained, excavate by air-vacuum methods or equivalent, keeping the area of disturbance to a minimum. Uncover the utility sufficiently to make accurate measurements.

645.06. Record. Describe the utility found (size, material, function), determine the elevation of the top of utility, and prepare a field sketch of the pit. Indicate the date and the station and offset of the utility, noting whether the baseline or the centerline of proposed facility is being referenced. Submit 1 copy to the CO within 24 hours.

645.07. Marking. Mark the utility location by flags or paint. Maintain the markings, including repainting faded or damaged markings as ordered by the CO, for the duration of the project, or until the CO determines that the markings are no longer needed.

645.08. Restoration. Backfill with original material, thoroughly compacting the material with a mechanical tamper. Restore aggregate base courses and pavement using equivalent materials and thicknesses. For portland cement concrete pavements, use fast setting concrete. For asphalt concrete pavements, cold patch, resurfacing of pit will be permitted so long as, in the opinion of the CO, it is thoroughly compacted.

645.09. Acceptance. Locating utilities will be evaluated under Subsection 106.02.

Measurement

645.10. Measure the Section 645 items listed in the bid schedule according to Subsection 109.02. Measure locating the telephone line at the 48" pipe culvert replacement area at Sta. 37+49 & locating the underground water line at Sta. 40+00+/- . Do not measure locating the existing underground telephone line outside of the pipe culvert replacement limits at Sta. 37+49 & the overhead electric line.

For markings, do not measure maintaining the markings.

Payment

645.11. The accepted quantities will be paid at the contract price per unit of measurement for the Section 645 pay items listed in the bid schedule. Payment will be full compensation for the work prescribed in this Section. See Subsection 109.05.

Section 703.—AGGREGATE

703.05(a). Delete items (3) and (4).

703.05(b). Add the following:

(3) Plasticity Index, AASHTO T90 3 Max

703.05(b). Add the following:

Material shall have a minimum California Bearing Ratio of 70% as determined by AASHTO T 193 at 95% of maximum dry density in accordance with AASHTO T 180 (Method D).

703.05(b)(1) Add the following:

At the option of the Contractor, the gradation only of the aggregate base may conform to the requirements of the States of Kentucky or Tennessee:

Section 805.-COARSE AGGREGATES, Subsection 805.06, Dense Graded Aggregate (DGA) and Crushed Stone Base (CSB), as shown in the table for Sizes of Coarse Aggregates, as specified in the 1998 Edition of the Standard Specifications for Road and Bridge Construction of the Kentucky Transportation Cabinet, Department of Highways, which are as follows:

Percentage by Weight Passing

| <u>Sieve Designation</u> | <u>DGA</u> | <u>Crushed Stone Base</u> |
|------------------------------|------------|-------------------------------|
| 2 ½ in. | - | 100 |
| 2 in. | - | - |
| 1 ½ in. | - | 90-100 |
| 1 in. | 100 | - |
| ¾ in. | 70-100 | 60-95 |
| 3/8 in. | 50-80 | 30-70 |
| No. 4 | 30-65 | 15-55 |
| No. 30 | 10-40 | 5-20 |
| No. 40 | - | - |
| No. 100 | - | - |
| No. 200 | 4-13 | 0-8 |

Section 903.-AGGREGATES, Subsection 903.05, Gradings B or C, as specified in the March 1, 1995 Edition of the Standard Specifications for Road and Bridge Construction of the Tennessee Department of Transportation, which are as follows:

| <u>Sieve Designation</u> | <u>Percentage by Weight Passing</u> | |
|--------------------------|-------------------------------------|------------------|
| | <u>Grading B</u> | <u>Grading C</u> |
| 2 in. | 100 | - |
| 1 ½ in. | 95-100 | 100 |
| 1 in. | - | 90-100 |
| ¾ in. | 65-95 | - |
| 3/8 in. | - | 45-74 |
| No. 4 | 35-55 | 30-55 |
| No. 16 | 15-45 | - |
| No. 100 | 4-15 | 4-15 |

703.07(a). Delete item (4).

703.07(b). Delete item (1).

Section 710.—FENCE AND GUARDRAIL

710.04(a). Add the following:

Treat fence, gate, and bollard posts according to 716.03.

Section 713.—ROADSIDE IMPROVEMENT MATERIAL

713.01. Add the following:

For furnished topsoil, submit a soil analysis report from the State University Agricultural Extension Service or other approved soil testing laboratory. Include in the report the soil textural classification (percentage of sand, silt, clay and organic matter) and additive recommendations.

713.03. Add the following:

Furnish fertilizer containing the following minimum available nutrients:

| | |
|---------------------------|-----|
| Total nitrogen | 10% |
| Available phosphoric acid | 10% |
| Water-soluble potash | 10% |

PAVEMENT REPORT NUMBER FY07-07
FHWA Project RRP-REL 10(2)
Reelfoot National Wildlife Refuge
Fulton County, Kentucky

**Pavement Construction for Long Point Auto Tour Road
And Observation Tower Parking Area**

December 2006



U.S. Department of Transportation
Federal Highway Administration
Eastern Federal Lands Highway Division
21400 Ridgetop Circle
Sterling, VA 20166

TABLE OF CONTENTS

1 INTRODUCTION..... 1

1.1 GENERAL 1

1.2 PROJECT DESCRIPTION..... 1

1.3 PROJECT PURPOSE-AND-NEED 1

1.4 REGIONAL GEOLOGY 1

2 PROCEDURES AND RESULTS 2

2.1 FIELD INVESTIGATION..... 2

2.2 SAMPLING 2

2.3 FIELD TESTS AND MEASUREMENTS 2

2.4 DATA SUMMARY 2

2.5 LABORATORY INVESTIGATION..... 3

2.6 FINDINGS 3

 2.6.1 *Subsurface Condition*..... 3

 2.6.2 *Surface Condition* 3

3 ANALYSIS AND CONCLUSIONS 4

3.1 PAVEMENT DESIGN..... 4

4 RECOMMENDATIONS..... 4

4.1 EARTHWORK..... 4

4.2 PAVEMENT SECTION 5

5 DISCLAIMER/LIMITATIONS CLAUSE..... 6

APPENDICES

- Appendix A - Project Location Map and Geological Map
- Appendix B - Boring Location Plan and Boring Logs
- Appendix C - Laboratory Test Results
- Appendix D - Pavement Design Analysis

Note: Design changes, made subsequent to distribution of this report and prior to project advertisement, will be documented by a memo inserted after the title page

PAVEMENT REPORT NUMBER FY07-07
FHWA Project RRP-REL 10(2)
Reelfoot National Wildlife Refuge
Fulton County, Kentucky

**Pavement Construction for Long Point Auto Tour Road
And Observation Tower Parking Area**

1 INTRODUCTION

1.1 General

This report presents the results of the pavement and subsurface investigations, analysis, design, and recommendations for Long Point Auto Tour Road and Observation Tower Parking Area in the Reelfoot National Wildlife Refuge in Fulton County, Kentucky. A Project Location Map is presented in Figure 1 of Appendix A.

1.2 Project Description

Based on the Design Scope Report (dated July 2006), this project consists of constructing a paved roadway for Long Point Auto Tour Roads from Kentucky State Route 1282 extending approximately 0.63 mile. The remaining 0.3-mile section of Long Point Auto Tour Road will be widened to 16 feet and will be resurfaced with gravel. In addition, Observation Tower Parking Area, located adjacent to Long Point Auto Tour Road, will be paved.

1.3 Project Purpose-and-Need

According to Highway Design and Wheeler National Wildlife Refuge (NWR), the Purpose-and-Need for this project is to provide a structurally and functionally adequate pavement structure with a 25-year performance period for proposed pavement structure.

1.4 Regional Geology

According to the United States Geological Survey (USGS), the project site lies within the Gulf Coastal Plain near the northern extremity of the Mississippi embayment. The Mississippi embayment is a southward-plunging trough overlain by sedimentary deposits. Unconsolidated sediments primarily consist of Cretaceous and Cenozoic deposits typically hundreds to thousands of feet thick. Geologic maps indicate that the unconsolidated sediments in the area of the proposed project consist of sand, with layers of gray clay, silt, and lignite of the Jackson Group. Overlying the Jackson Group sediments are recent unconformable surficial deposits associated with the Mississippi River and tributaries. These alluvial deposits consist of sand, silt, clay, and gravel. To the east of the alluvial deposits are surficial loess formations. The loess is primarily clayey and sandy silt. A Geologic Map is presented in Figure 2 of Appendix A.

2 PROCEDURES AND RESULTS

2.1 Field Investigation

The Eastern Federal Lands Highway Division (EFLHD) pavement personnel conducted a field investigation on November 13, 2006 consisting of augering 4 borings. The location of each boring is presented on the Boring Location Plans in Appendix B. All borings were advanced using powered hand auger to a depth of 1 to 2 feet. Boring Logs are presented in Appendix B.

2.2 Sampling

Sampling of materials beneath the tip of rotary augers was performed in Borings B-1 through B-4 as borings advanced. Sampling was conducted continuously for all 4 borings. Representative portions of collected samples were preserved in glass jars for laboratory testing. The sampling sequence for the borings is summarized on the Boring Logs in Appendix B.

2.3 Field Tests and Measurements

The pavement personnel performed the following field tests and measurements during the course of the subsurface exploration. Boring locations were determined from features present on-site and by referencing the existing roadway. Boring elevations were estimated from topography maps developed by Highway Design. A field description by color and texture was made for each recovered sample.

2.4 Data Summary

The results of field tests and measurements were recorded on the field personnel's logs and appropriate data sheets in the field. These data sheets and logs contain information concerning the boring methods; samples attempted and recovered; indications of the presence of various materials such as gravel, pebbles, organic matter, etc.; and observations of groundwater. They also contain interpretations by the pavement personnel of the conditions based on the performance of the equipment and visual examination of the cuttings brought to the surface by the drilling tools. Therefore, the field data represents both factual and interpretative information.

The Boring Logs in Appendix B of this report represent a compilation of field and laboratory data and descriptions of the soil samples by a pavement engineer. These records occasionally do not include all data recorded on field personnel's logs and field data sheets, but do include all information considered relevant to the design and construction of this report. Water was not encountered during or after drilling in any of the borings, however, fluctuations in the ground water level due to seasonal and climatic effects should be expected.

2.5 Laboratory Investigation

At the conclusion of the fieldwork, laboratory testing was conducted on 4 soil samples from Borings B-1 through B-4. Laboratory tests on the samples included Sieve Analysis (AASHTO T-27), Atterberg limits (AASHTO T-89, T-90), Moisture Content (AASHTO T-265) and Soil Classification (AASHTO M-145). Laboratory test results are represented in Appendix C and summarized in Table 1.

Table 1 - Results of Laboratory Testing for Jar Samples

| Boring | Sample | Sample Depth (ft) | %-200 | Water Content (%) | LL ⁽¹⁾ | PI ⁽²⁾ | Classification |
|--------|--------|-------------------|-------|-------------------|-------------------|-------------------|----------------|
| B-1 | J-1 | 0.3 – 1 | 4.3 | 6.0 | N/D | N/P | A-1-a |
| B-2 | J-1 | 0.3 – 1 | 10.5 | 4.6 | N/D | N/P | A-1-a |
| B-3 | J-1 | 0.3 – 0.8 | 6.0 | 5.5 | N/D | N/P | A-1-a |
| B-3 | J-2 | 0.8 – 1.2 | 8.5 | 9.8 | N/D | N/P | A-1-a |
| B-4 | J-1 | 0.3 – 1 | 10.5 | 6.5 | N/D | N/P | A-1-a |
| B-4 | J-2 | 0.3 – 1.3 | 11.7 | 17.0 | N/D | N/P | A-1-b |

(1) N/D = Not determined; (2) N/P = Non-Plastic

2.6 Findings

The findings at the project site are summarized below. Refer to the Boring Logs in Appendix B and the Laboratory Test Results data in Appendix C for more detailed information.

2.6.1 Subsurface Condition

Approximately 3 inches of aggregate surfacing was encountered in all four borings. Dark brown sand and gravel with a minor quantity of silt (A-1-a and A-1-b) was encountered in all four borings below aggregate surfacing to a depth of 0.8 to 1.3 feet from the ground surface. Laboratory tests yielded water content (WC) ranged from 5.5 to 17 with an average of 8.2. This sand and gravel material appears to be a fill material. Below the sand and gravel layer, dark brown clay was encountered to a boring termination depth of 2 feet from the ground surface.

2.6.2 Surface Condition

As indicated above, aggregate surfacing was present from Sta.10+00 to Sta.51+00 and parking area, but aggregate surfacing was absent from Sta.51+00 to Sta.59+60 of Long Point Auto Tour Road.

3 ANALYSIS AND CONCLUSIONS

3.1 Pavement Design

Flexible pavement design analyses were performed in accordance with 1993 AASHTO Pavement Design procedure using the DARWin (Version 3.01) Pavement Design System to determine the future structural number (SN) necessary for the proposed roadways. The flexible pavement design analysis and overlay design analysis were for a 25-year performance period. The design analysis to determine the 18-kip ESALs for the roadway was performed using the Rigorous ESAL Calculation in DARWin and based upon average daily traffic of 100 with 5% recreational vehicle volume, 5% light truck volume, 1% heavy truck volume and 1% bus volume for Long Point Auto Tour Road. The traffic growth rate of 2% was assumed. The vehicle classification data were obtained from Project Development. The effective roadbed soil resilient modulus (M_R) was determined for the roadway from empirical correlations to soil classifications. The average value of M_R for the project was estimated to be 6,000 psi. Other parameters specified in the analysis included a reliability of 75 percent, an overall standard deviation of 0.49, and initial serviceability index of 4.2, and a terminal serviceability index of 2.0. The results of the analysis are presented in Appendix D.

4 RECOMMENDATIONS

The following pavement recommendations are based on the existing conditions at the time of the field reconnaissance in November 2006. The recommendations included here reference the FP-03, "Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects" (FP-03 Specifications).

4.1 Earthwork

Construction Season: Performing all work during a non-freezing, non-thawing season is recommended. Based on the DSR, the project site could be closed to the public in the months of June and July. Construction during road closure will enhance construction quality, expedite construction time, and reduce the cost associate with temporary traffic control.

Soil Cover for Buried Structures: All proposed pipes and other proposed buried structures should have a minimum soil cover of 12 inches.

Subgrade Preparation: Due to the presence of the existing aggregate surfacing and/or 10-inch (+) thick sub-base at the project site, the proposed HMA pavement or aggregate surfacing may be placed on the existing ground surface. Prior to placing the either pavement, the existing material at the surface should be scarified to a minimum depth of 6 inches, should add and incorporate additional aggregate base material (where required), and re-compacted. Scarifying should be performed as per Subsection 204.09(a) and re-compacting as per Subsection 204.11(a) of the FP-03 Specifications.

If unsuitable materials are encountered in isolated areas within roadway, shoulders and side slopes, sub-excavation of unsuitable materials is recommended. Sub-excavated areas should be backfilled and compacted with the import material. Import material should be in accordance with Subsection 703.05(b) of the FP-03 Specifications. Based on the field investigation, a minimum of 20 cubic yards of sub-excavation and backfill should be included in the project quantity.

Aggregate Base Course: As indicated above, during subgrade preparation and for the proposed aggregate surface areas, aggregate base course material should be placed and compacted to at least 95% of maximum density in accordance with the Section 301 of the FP-03 Specifications. The gradation and material should be Base Aggregate, Grading C or D as per Section 703.05(b) of the FP-03 Specifications.

4.2 Pavement Section

A minimum flexible pavement section with 25-year performance period for the project site is provided in Table 2 below.

Table 2 – Minimum Pavement Section for Long Point Auto Tour Road

| Layer | Minimum Thickness (in) | Comments |
|---------------------------|------------------------|---|
| Asphalt Concrete Pavement | 3 ½ | Hot Asphalt Concrete Pavement, Class A, Grading C or E as per Section 402 and Subsection 703.07 of the FP-03 Specifications |
| Aggregate Base | Where required | Base Aggregate, Grading C or D as per Subsection 703.05(b) of the FP-03 Specifications |

A minimum of 6 inches of aggregate surfacing, using aggregate base material is recommended for non-paved areas.

5 DISCLAIMER/LIMITATIONS CLAUSE

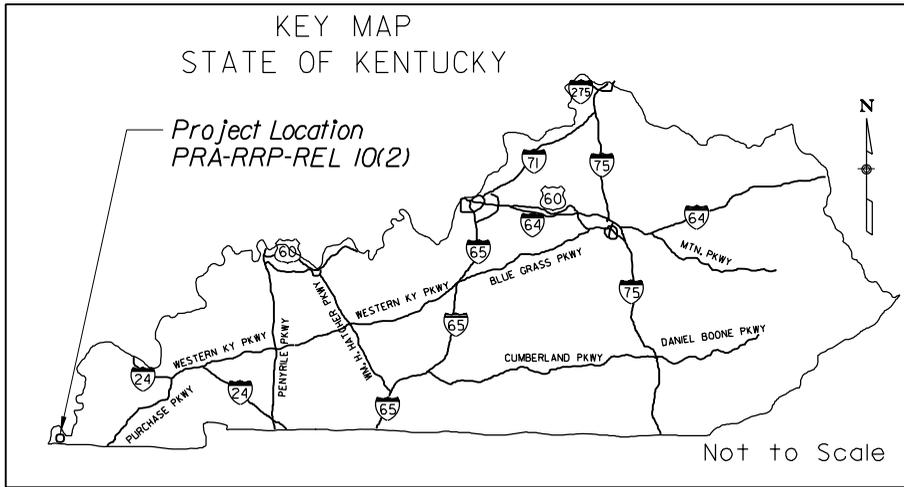
The subsurface explorations and tests described in the section on Procedures and Results have been conducted in accordance with standard practices and procedures (except as specifically noted). The results of these explorations and tests represent conditions at the specific locations indicated. Subsurface and conditions between these locations may vary. The Analysis and Conclusions section and the Recommendations section in this report include interpretations and recommendations developed by the Government in the process of preparing the design. These interpretations are not intended as a substitute for the personal investigation, independent interpretation, and judgment of the Contractor.

Christopher Chang

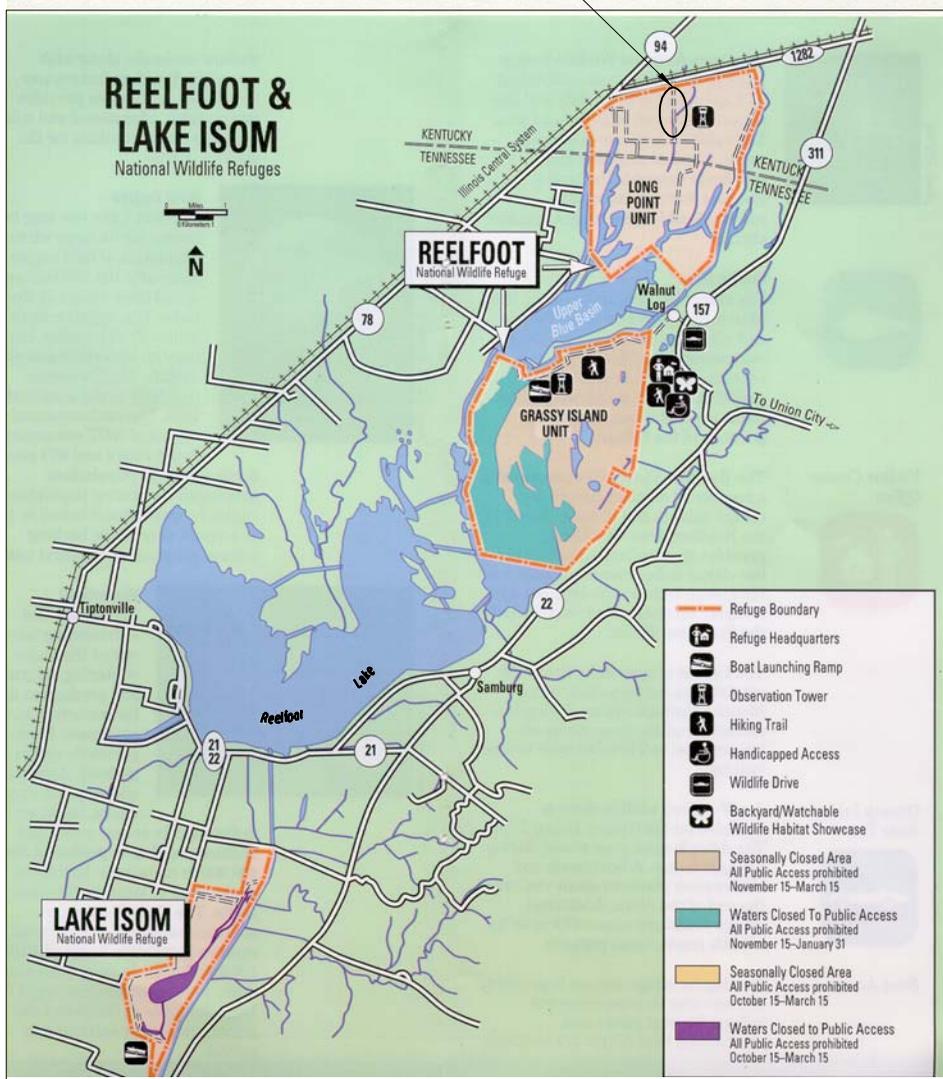
Digitally signed by Christopher Chang
DN: cn=Christopher Chang, c=US, o=FHWA, ou=FHWA-EFLHD-
TS-Pavement, email=christopher.chang@fhwa.dot.gov
Reason: I am the author of this document
Date: 2007.01.03 10:48:31 -0500'

Prepared by:
Christopher Chang
Pavement Engineer

APPENDIX A – Project Location Map and Geological Map



*Project RRP-REL 10(2)
Long Point Auto Tour Road*



7:02:59 AM M:\Projects\refuge\N\rel10(2)\Nechserv\pavement\Maps\WorkingFiles\rel-maps.dgn

11/7/2006

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION
STERLING, VIRGINIA

PROJECT MAPS FIGURE 1

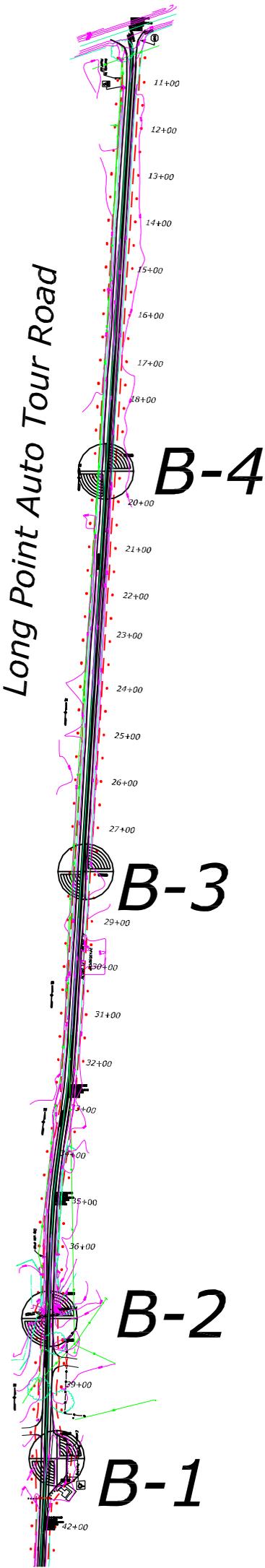
| REG | STATE | PROJECT | SHEET NO. | TOTAL SHEETS |
|-----|-------|---------------|-----------|--------------|
| 4 | TN | RRP-REL 10(1) | 1 | 1 |

APPENDIX B – Boring Location Plan and Boring Logs

Route 1282



Long Point Auto Tour Road



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12/22/2006

U.S. DEPARTMENT OF TRANSPORTATION
 FEDERAL HIGHWAY ADMINISTRATION
 EASTERN FEDERAL LANDS HIGHWAY DIVISION
 STERLING, VIRGINIA

Boring location Plan

REG

STATE

PROJECT

TN

RRP-REL 10(12)



BORING LOG

U. S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION

Project Name: RRP-REL 10(2) Boring No.: B-1 Sheet: 1 of 1

Project Location: Reelfoot National Wildlife Refuge, Fulton County, KY Boring Location: Observation Tower Parking Area

Groundwater Depth: _____ Surface Elevation: _____ Boring Began: 11/13/06 Completed: 11/13/06

Encountered at: Caved at: _____ Boring Method: Powered Auger Inspector: Thornton

At Completion: Hammer Wt. & Type: _____ Hole Diameter: 4.0 in. Operator: Chang

After _____ hrs Hammer Drop: _____ Rock Core Diam: _____ Weather: Clear

| Elevation (feet) | Graphic Log | Layer Depth (ft) | MATERIAL DESCRIPTION Density, Color, Plasticity, Size, Proportions, Moisture | Depth Scale (ft) | SAMPLE | | | | ▼ Water Content % | | | | | | |
|------------------|-------------|------------------|---|------------------|---|-----|------|-----------------|-------------------|----|--------------|----|----|----|--|
| | | | | | Type | No. | Rec. | Blows per 6 in. | Plastic Limit | | Liquid Limit | | | | |
| | | | | | ● Standard Penetration Test Data (Blows / ft) | | | | | 10 | 20 | 40 | 60 | 80 | |
| | | 0.3 | 4-inch thick AGGREGATE SURFACE | | | | | | | | | | | | |
| | | 1.0 | Brown SANDY GRAVEL , trace Silt [A-1-a] - moist | | J-1 | | | | | | | | | | |
| | | 2.0 | Dark Brown CLAY , trace Sand - moist | | | | | | | | | | | | |
| | | | End of Borehole @ Depth 2' | | | | | | | | | | | | |
| | | | | 5 | | | | | | | | | | | |

Sample Types:

- Auger Cuttings
- Vane Shear
- SPT

- UD
- Penetrometer
- Rock Core

Remarks:

No groundwater encountered during or after drilling.



BORING LOG

U. S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION

Project Name: RRP-REL 10(2) Boring No.: B-2 Sheet: 1 of 1

Project Location: Reelfoot National Wildlife Refuge, Fulton County, KY Boring Location: Long Point Auto Tour Road, Sta. 37+50

Groundwater Depth: _____ Surface Elevation: _____ Boring Began: 11/13/06 Completed: 11/13/06

Encountered at: Caved at: _____ Boring Method: Powered Auger Inspector: Thornton

At Completion: Hammer Wt. & Type: _____ Hole Diameter: 4.0 in. Operator: Chang

After _____ hrs Hammer Drop: _____ Rock Core Diam: _____ Weather: Clear

| Elevation (feet) | Graphic Log | Layer Depth (ft) | MATERIAL DESCRIPTION Density, Color, Plasticity, Size, Proportions, Moisture | Depth Scale (ft) | SAMPLE | | | | ▼ Water Content % Plastic Limit ———— Liquid Limit | | | | | |
|------------------|-------------|------------------|---|------------------|--------|-----|------|-----------------|--|----|----|----|----|----|
| | | | | | Type | No. | Rec. | Blows per 6 in. | ● Standard Penetration Test Data (Blows / ft) | | | | | |
| | | | | | | | | | | 10 | 20 | 40 | 60 | 80 |
| | | 0.3 | 3-inch thick AGGREGATE SURFACE | | | | | | | | | | | |
| | | 1.0 | Brown SAND AND GRAVEL , trace Silt [A-1-a] - moist | | J-1 | | | | | | | | | |
| | | 2.0 | Dark Brown CLAY , trace Sand - moist | | | | | | | | | | | |
| | | | End of Borehole @ Depth 2' | | | | | | | | | | | |

Sample Types:

- Auger Cuttings
- Vane Shear
- SPT

- UD
- Penetrometer
- Rock Core

Remarks:

No groundwater encountered during or after drilling.



BORING LOG

U. S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION

Project Name: RRP-REL 10(2) Boring No.: B-3 Sheet: 1 of 1

Project Location: Reelfoot National Wildlife Refuge, Fulton County, KY Boring Location: Long Point Auto Tour Road, Sta. 28+00

Groundwater Depth: _____ Surface Elevation: _____ Boring Began: 11/13/06 Completed: 11/13/06

Encountered at: Caved at: _____ Boring Method: Powered Auger Inspector: Thornton

At Completion: Hammer Wt. & Type: _____ Hole Diameter: 4.0 in. Operator: Chang

After _____ hrs Hammer Drop: _____ Rock Core Diam: _____ Weather: Clear

| Elevation (feet) | Graphic Log | Layer Depth (ft) | MATERIAL DESCRIPTION Density, Color, Plasticity, Size, Proportions, Moisture | Depth Scale (ft) | SAMPLE | | | | ▼ Water Content % Plastic Limit ———— Liquid Limit | | | | | |
|------------------|-------------|------------------|---|------------------|--------|-----|------|-----------------|--|----|----|----|----|----|
| | | | | | Type | No. | Rec. | Blows per 6 in. | ● Standard Penetration Test Data (Blows / ft) | | | | | |
| | | | | | | | | | | 10 | 20 | 40 | 60 | 80 |
| | | 0.3 | 3-inch thick AGGREGATE SURFACE | | | | | | | | | | | |
| | | | Brown GRAVEL , some Sand, trace Silt [A-1-a] - moist | | J-1 | | | | | | | | | |
| | | 1.2 | | | J-2 | | | | | | | | | |
| | | | Dark Brown CLAY , trace Sand - moist | | | | | | | | | | | |
| | | 2.0 | End of Borehole @ Depth 2' | | | | | | | | | | | |

Sample Types:

- Auger Cuttings
- Vane Shear
- SPT

- UD
- Penetrometer
- Rock Core

Remarks:

No groundwater encountered during or after drilling.



BORING LOG

U. S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION

Project Name: RRP-REL 10(2) Boring No.: B-4 Sheet: 1 of 1

Project Location: Reelfoot National Wildlife Refuge, Fulton County, KY Boring Location: Long Point Auto Tour Road, Sta. 19+50

Groundwater Depth: _____ Surface Elevation: _____ Boring Began: 11/13/06 Completed: 11/13/06

Encountered at: Caved at: _____ Boring Method: Powered Auger Inspector: Thornton

At Completion: Hammer Wt. & Type: _____ Hole Diameter: 4.0 in. Operator: Chang

After _____ hrs Hammer Drop: _____ Rock Core Diam: _____ Weather: Clear

| Elevation (feet) | Graphic Log | Layer Depth (ft) | MATERIAL DESCRIPTION Density, Color, Plasticity, Size, Proportions, Moisture | Depth Scale (ft) | SAMPLE | | | | ▼ Water Content % | | | | | | |
|------------------|-------------|------------------|---|------------------|---|-----|------|-----------------|-------------------|----|--------------|----|----|----|--|
| | | | | | Type | No. | Rec. | Blows per 6 in. | Plastic Limit | | Liquid Limit | | | | |
| | | | | | ● Standard Penetration Test Data (Blows / ft) | | | | | 10 | 20 | 40 | 60 | 80 | |
| | | 0.3 | 3-inch thick AGGREGATE SURFACE | | | | | | | | | | | | |
| | | 1.3 | Brown SAND , some Gravel, trace Silt [A-1-a, A-1-b] - moist | | J-1 | | | | | | | | | | |
| | | 2.0 | Dark Brown CLAY , trace Sand - moist | | J-2 | | | | | | | | | | |
| | | 2.0 | End of Borehole @ Depth 2' | | | | | | | | | | | | |

Sample Types:

Auger Cuttings

Vane Shear

SPT

UD

Penetrometer

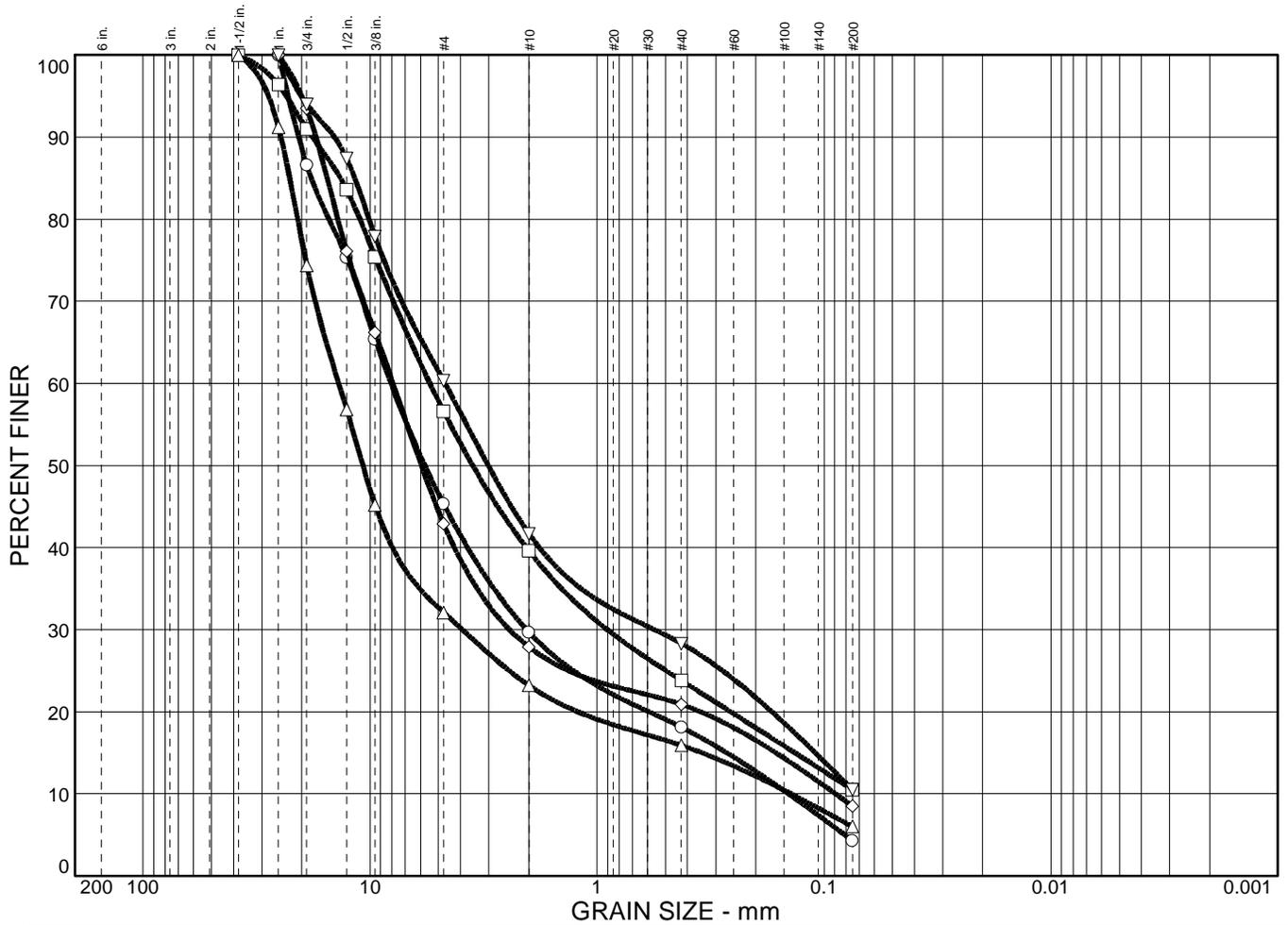
Rock Core

Remarks:
No groundwater encountered during or after drilling.

BORING LOG RRP-REL 10(2).GPJ FHWA_VA.GDT 12/22/06

APPENDIX C – Laboratory Test Results

Particle Size Distribution Report

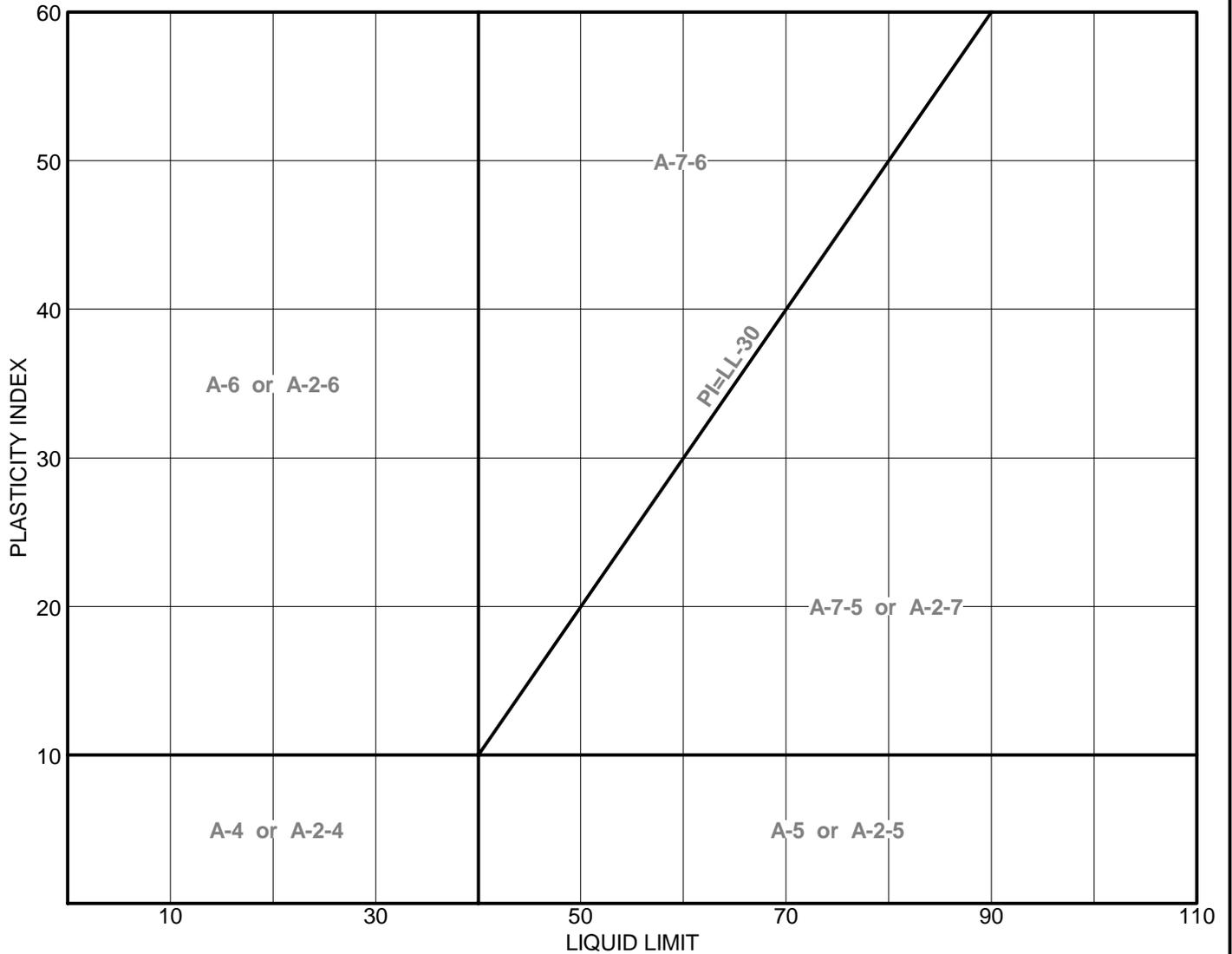


| | % + 3" | % GRAVEL | % SAND | % SILT | % CLAY |
|---|--------|----------|--------|--------|--------|
| ○ | 0.0 | 54.7 | 41.0 | 4.3 | |
| □ | 0.0 | 43.4 | 46.1 | 10.5 | |
| △ | 0.0 | 67.9 | 26.1 | 6.0 | |
| ◇ | 0.0 | 57.1 | 34.4 | 8.5 | |
| ▽ | 0.0 | 39.7 | 49.8 | 10.5 | |

| SOIL DATA | | | | | |
|-----------|--------|------------|-------------|---|--------|
| SYMBOL | SOURCE | SAMPLE NO. | DEPTH (ft.) | DESCRIPTION | AASHTO |
| ○ | | B-1/J-1 | 0.3-1.0 | Poorly graded gravel with sand | A-1-a |
| □ | | B-2/J-1 | 0.3-1.0 | Poorly graded sand with silt and gravel | A-1-a |
| △ | | B-3/J-1 | 0.3-0.8 | Poorly graded gravel with silt and sand | A-1-a |
| ◇ | | B-3/J-2 | 0.8-1.2 | Poorly graded gravel with silt and sand | A-1-a |
| ▽ | | B-4/J-1 | 0.3-1.0 | Poorly graded sand with silt and gravel | A-1-a |

| | |
|--|--|
| Particle Size Distribution Report FEDERAL HIGHWAY ADMINISTRATION EASTERN FEDERAL LANDS HIGHWAY DIVISION | Client: FHWA/EFLHD Project: Reelfoot NWR Project No.: RRP - REL 10(2) |
|--|--|

LIQUID AND PLASTIC LIMITS TEST REPORT

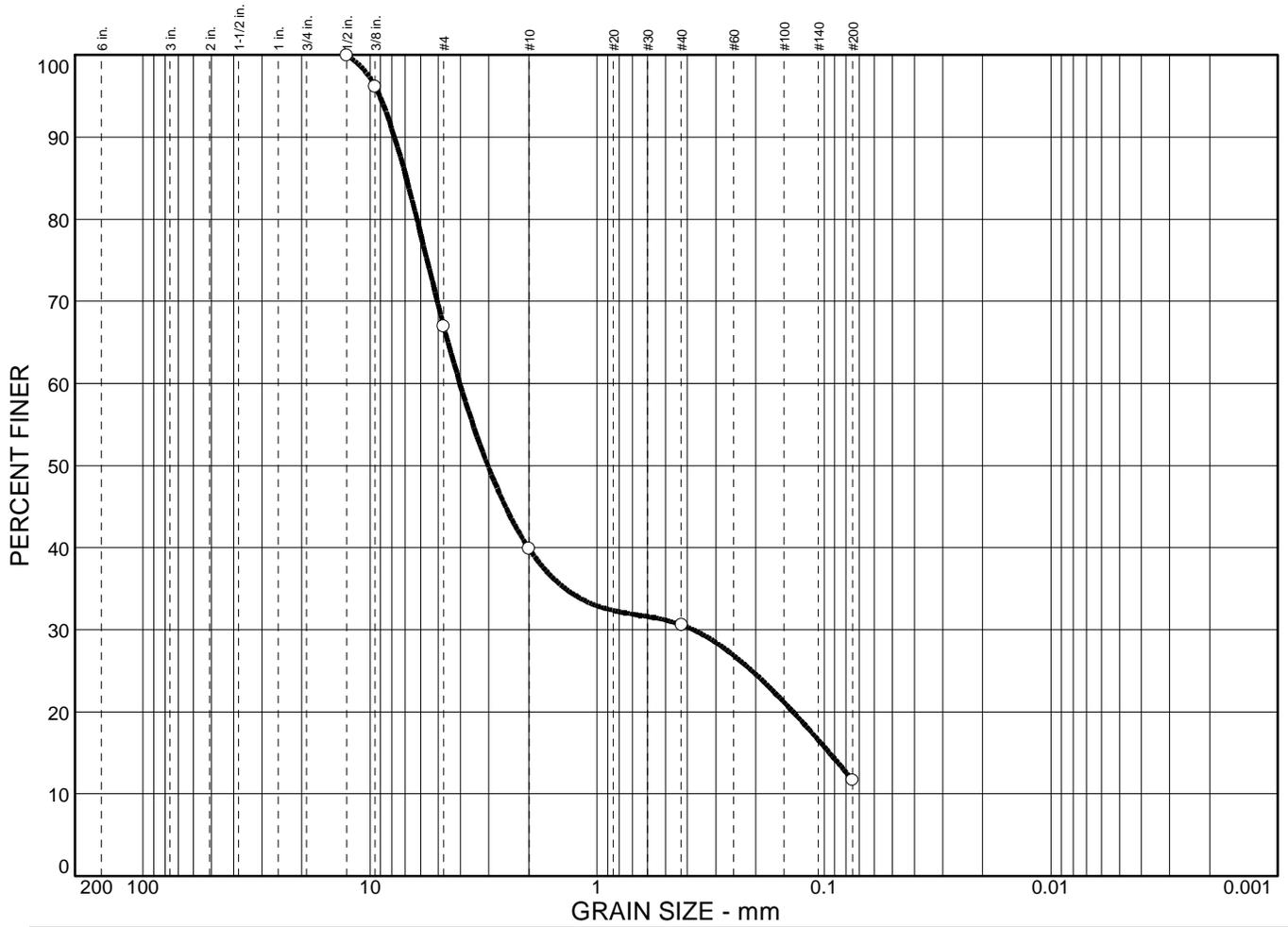


| SOIL DATA | | | | | | | | |
|-----------|--------|------------|-------------|---------------------------|-------------------|------------------|----------------------|--------|
| SYMBOL | SOURCE | SAMPLE NO. | DEPTH (ft.) | NATURAL WATER CONTENT (%) | PLASTIC LIMIT (%) | LIQUID LIMIT (%) | PLASTICITY INDEX (%) | AASHTO |
| ● | | B-1/J-1 | 0.3-1.0 | 6.0 | NP | NV | NP | A-1-a |
| ■ | | B-2/J-1 | 0.3-1.0 | 4.6 | NP | NV | NP | A-1-a |
| ▲ | | B-3/J-1 | 0.3-0.8 | 5.5 | NP | NV | NP | A-1-a |
| ◆ | | B-3/J-2 | 0.8-1.2 | 9.8 | NP | NV | NP | A-1-a |
| ▼ | | B-4/J-1 | 0.3-1.0 | 6.5 | NP | NV | NP | A-1-a |

LIQUID AND PLASTIC LIMITS TEST REPORT
 FEDERAL HIGHWAY ADMINISTRATION
 EASTERN FEDERAL LANDS HIGHWAY DIVISION

Client: FHWA/EFLHD
Project: Reelfoot NWR
Project No.: RRP - REL 10(2)

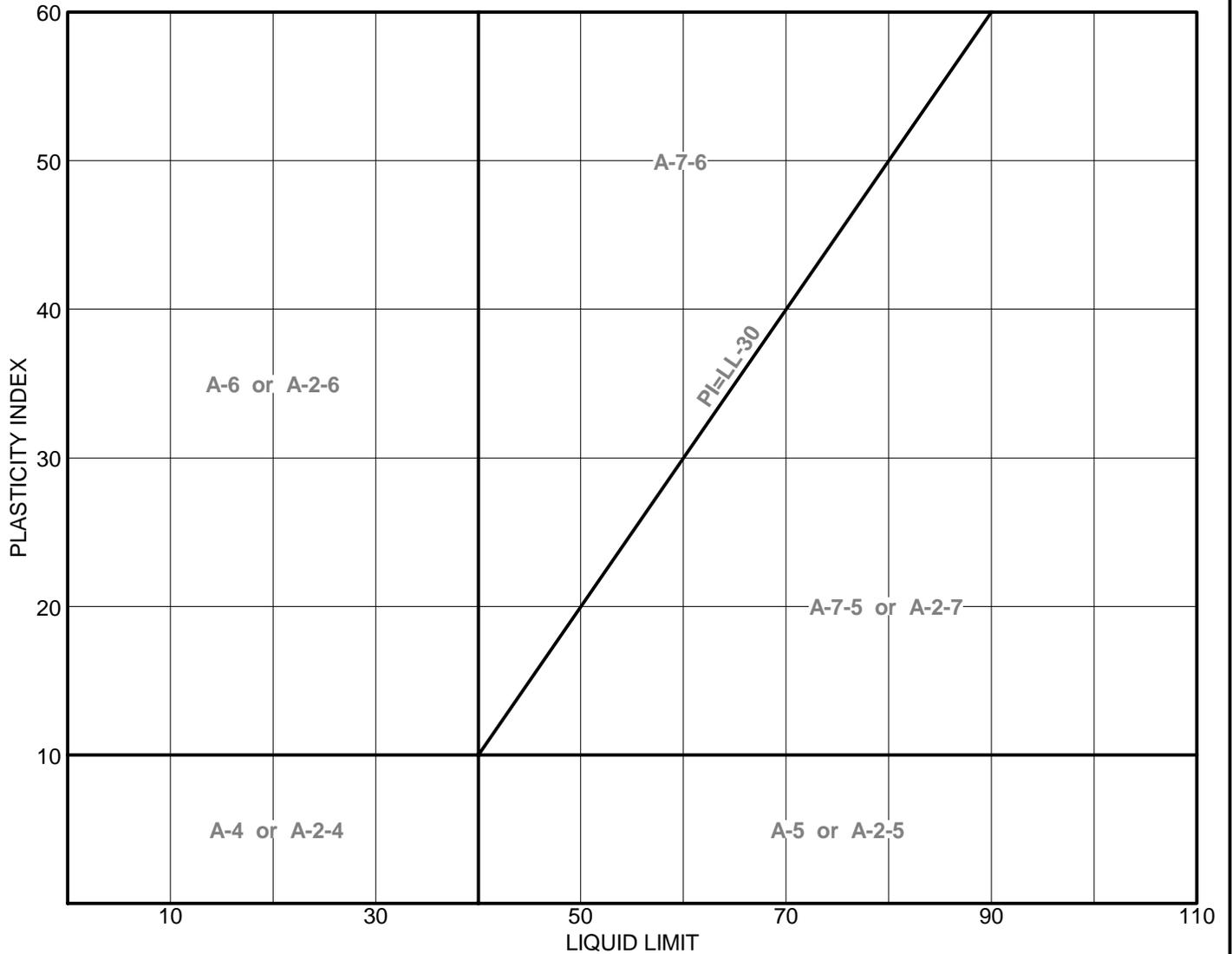
Particle Size Distribution Report



| | % + 3" | % GRAVEL | % SAND | % SILT | % CLAY |
|---|--------|----------|--------|--------|--------|
| ○ | 0.0 | 33.0 | 55.3 | 11.7 | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| SOIL DATA | | | | | |
|-----------|--------|------------|-------------|---|--------|
| SYMBOL | SOURCE | SAMPLE NO. | DEPTH (ft.) | DESCRIPTION | AASHTO |
| ○ | | B-4/J-2 | 0.3-1.3- | Poorly graded sand with silt and gravel | A-1-b |
| | | | | | |
| | | | | | |
| | | | | | |

LIQUID AND PLASTIC LIMITS TEST REPORT



| SOIL DATA | | | | | | | | |
|-----------|--------|------------|-------------|---------------------------|-------------------|------------------|----------------------|--------|
| SYMBOL | SOURCE | SAMPLE NO. | DEPTH (ft.) | NATURAL WATER CONTENT (%) | PLASTIC LIMIT (%) | LIQUID LIMIT (%) | PLASTICITY INDEX (%) | AASHTO |
| • | | B-4/J-2 | 0.3-1.3- | 17.0 | NP | NV | NP | A-1-b |

LIQUID AND PLASTIC LIMITS TEST REPORT
 FEDERAL HIGHWAY ADMINISTRATION
 EASTERN FEDERAL LANDS HIGHWAY DIVISION

Client: FHWA/EFLHD
Project: Reelfoot NWR
Project No.: RRP - REL 10(2)

APPENDIX D – Pavement Design Analysis

1993 AASHTO Pavement Design

DARWin Pavement Design and Analysis System

A Proprietary AASHTOWare
Computer Software Product

Flexible Structural Design Module

RRP-REL10(2)

Reelfoot National Wildlife Refuge
Long Point Auto Tour Road
and Observation Tower Parking Area

Flexible Structural Design

| | |
|--|-----------|
| 18-kip ESALs Over Initial Performance Period | 50,000 |
| Initial Serviceability | 4.2 |
| Terminal Serviceability | 2 |
| Reliability Level | 75 % |
| Overall Standard Deviation | 0.49 |
| Roadbed Soil Resilient Modulus | 6,000 psi |
| Stage Construction | 1 |
| Calculated Design Structural Number | 2.07 in |

Rigorous ESAL Calculation

| | |
|--------------------------------------|-------|
| Performance Period (years) | 25 |
| Two-Way Traffic (ADT) | 100 |
| Number of Lanes in Design Direction | 1 |
| Percent of All Trucks in Design Lane | 100 % |
| Percent Trucks in Design Direction | 50 % |

| Vehicle Class | Percent of ADT | Annual % Growth | Average Initial Truck Factor (ESALs/Truck) | Annual % Growth in Truck Factor | Accumulated 18-kip ESALs over Performance Period |
|---------------|----------------|-----------------|--|---------------------------------|--|
| 1 | 83 | 2 | 0.0007 | 0 | 340 |
| 2 | 5 | 2 | 0.25 | 0 | 7,312 |
| 3 | 5 | 2 | 0.3 | 0 | 8,774 |
| 4 | 5 | 2 | 0.6 | 0 | 17,549 |
| 5 | 1 | 2 | 1.2 | 0 | 7,019 |
| 6 | 1 | 2 | 1.2 | 0 | 7,019 |
| Total | 100 | - | - | - | 48,014 |

| | |
|-----------------------------------|----------|
| Growth | Compound |
| Total Calculated Cumulative ESALs | 48,014 |

Specified Layer Design

| <u>Layer</u> | <u>Material Description</u> | Struct Coef. <u>(Ai)</u> | Drain Coef. <u>(Mi)</u> | Thickness <u>(Di)(in)</u> | Width <u>(ft)</u> | Calculated <u>SN (in)</u> |
|--------------|-----------------------------|--------------------------------|-------------------------------|------------------------------|----------------------|------------------------------|
| 1 | HMA Course | 0.42 | 1 | 3.5 | 10 | 1.47 |
| 2 | Exiisting Fill | 0.07 | 1 | 10 | 10 | 0.70 |
| Total | - | - | - | 13.50 | - | 2.17 |

PERMITS OBTAINED FOR THIS PROJECT



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
MEMPHIS DISTRICT, CORPS OF ENGINEERS
167 NORTH MAIN STREET B-202
MEMPHIS, TENNESSEE 38103-1894
February 13, 2008

RECEIVED
2008 FEB 21 AM 10:00
EASTERN FEDERAL LANDS
HIGHWAY DIVISION
STERLING, VA

Operations Division

Mr. Kevin S. Rose
U. S. Department of Transportation
Federal Highway Administration
21400 Ridgetop Circle
Sterling, VA 20166-6511

Dear Mr. Rose:

This is in reference to your request for authorization from the U.S. Army Corps of Engineers for the replacement of the culvert at Rittenhouse Slough along the Long Point Auto Tour Road. The project is located within the Reelfoot National Wildlife Refuge in Fulton County, Kentucky at latitude 36.51214 and longitude 089.32074 (see attached map).

The project will also include the regrading and paving of an initial 0.63-mile section of Long Point Auto Tour Road. This road connects to the approximately 4560 square feet Observation Tower Parking Area that will also be paved. The existing 30' long 48" diameter culvert on Rittenhouse Slough will be replaced with a 34' long equivalent 54" elliptical pipe. During construction, approximately 100 foot of temporary diversion channel will be constructed to carry water around the site. The remaining 0.3 mile section of roadway will be widened to a consistent width of 16 feet, then scarified, placed with additional aggregate surface material, compacted, and bladed. (see attached map).

The proposed work meets the criteria of Nationwide Permit 23, (Approved Categorical Exclusions) pursuant to the Federal Register, Volume 72, Number 47, dated March 12, 2007. No impacts to Federally listed threatened or endangered species are expected to occur. The attached general and special conditions must be met. Note specifically General Conditions 11 and 12 concerning endangered species and historic properties. If all conditions cannot be met, an individual permit may be required.

A copy of the basis for our approved jurisdictional determination is enclosed. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Also enclosed is a combined form that includes a notification of appeal process (NAP) and request for appeal (RFA). If you request to appeal this determination you must submit a completed RFA form to the Mississippi Valley Division Office at the following address: James B. Wiseman, Jr., Administrative Appeals Review Officer, P.O. Box 80, Vicksburg, Mississippi 39181-0080, telephone (601) 634-5820.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been

received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by April 14, 2008. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

This permit conveys no property rights, either in real estate or material, or any exclusive privileges. Furthermore, no injury to property or invasion of rights or any infringement of Federal, state, or local laws or regulations is authorized.

This verification is valid for two years from the date of this letter unless authorization is modified, suspended, or revoked, and will remain valid if the nationwide permit is reissued without modification, or the activity complies with the subsequent modification. The provisions of 33 CFR 330.6(b) will apply if the permit authorization expires, is suspended, revoked, or modified such that the activity no longer complies with the terms and conditions. If you commence, or are under contract to commence this activity before the date the nationwide permit is modified or revoked you will have twelve (12) months from the date of modification or revocation to complete the activity under the present terms and conditions of this permit.

This JD is valid for five years from the date of this letter unless new information warrants revision of the determination before the expiration date.

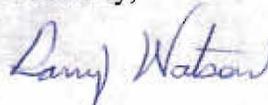
The decision regarding this action is based on information found in the administrative record that documents the District's decision-making process, the basis for the decision, and the final decision.

Regulations require that the Memphis District be informed of the completion date so that a compliance inspection can be scheduled. Please complete and return the enclosed "Certificate of Compliance" within 30 days of the completion of this project.

Finally, a customer service survey is enclosed for your consideration. Although not required, results from this survey are used to help us determine areas in which we need to improve. Please feel free to fill out the form and return it to us. Your comments, positive or negative, will not affect any current or future dealings with the Memphis District Regulatory Branch or the Corps of Engineers.

If you have questions, please contact Randy Clark at (901) 544-0735 and refer to File No. MVM-2008-074.

Sincerely,



Larry D. Watson
Chief
Regulatory Branch

Enclosures

CERTIFICATE OF COMPLIANCE

File: MVM-2008-074

Name of Permittee: Kevin S. Rose

Date of Issuance: February 13, 2008

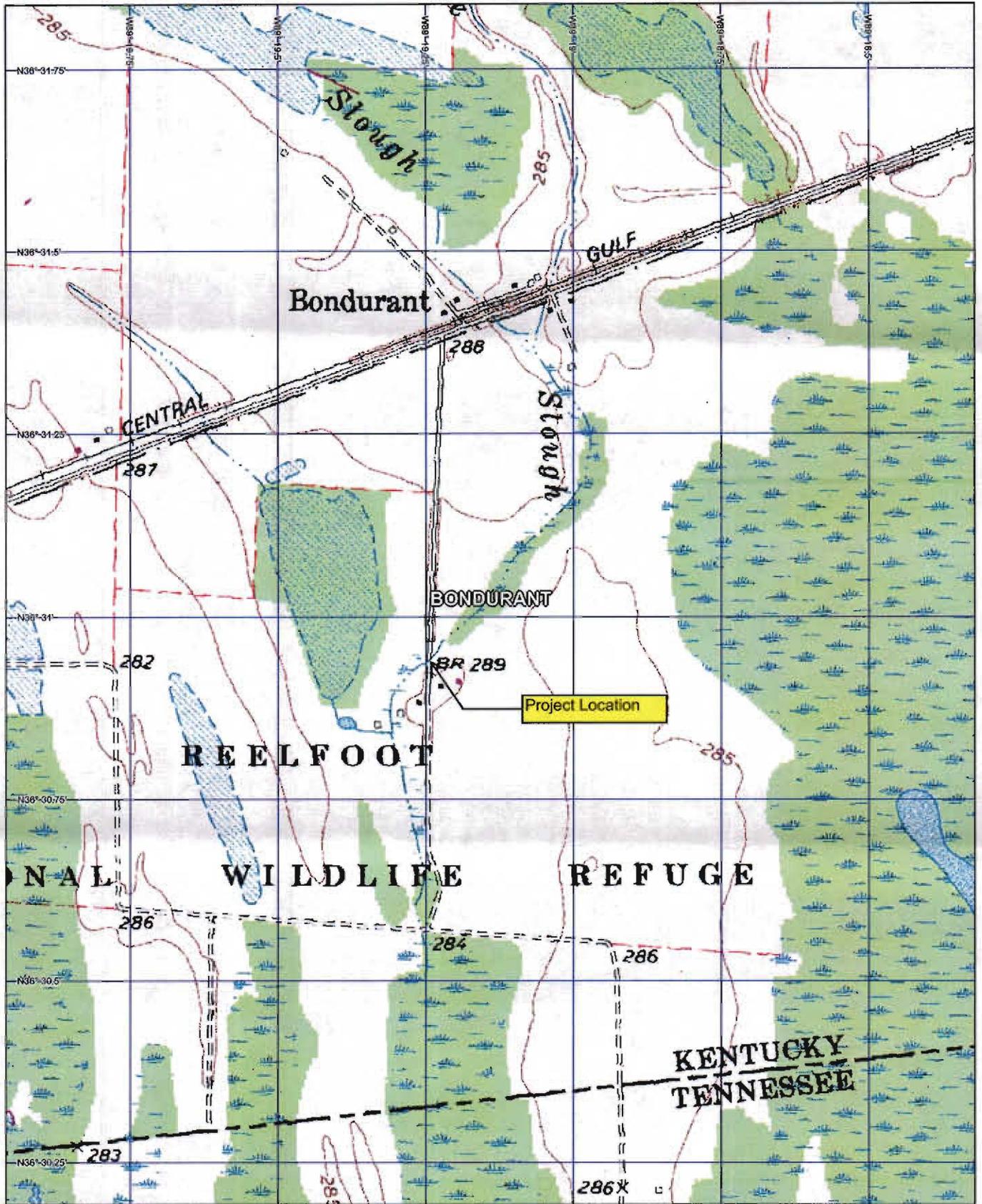
Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

**Regulatory Branch
Corps of Engineers Memphis District
167 N Main Street Room B202
Memphis, TN 38103-1894**

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation (if needed) was completed in accordance with the permit conditions.

Signature of Permittee



| ROW | STATE | PROJECT | SHEET NO. | TOTAL SHEETS |
|-----|-------|---------------|-----------|--------------|
| SE | KY | RRP-REL 10(2) | A1 | 65 |

U.S. DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
**REELFOOT
NATIONAL WILDLIFE REFUGE**

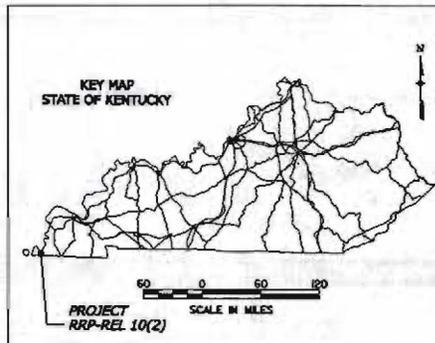
PLANS FOR PROPOSED
PROJECT RRP-REL 10(2)

RECONSTRUCTION, REHABILITATION, AND
RESURFACING OF LONG POINT AUTO TOUR ROAD

FULTON COUNTY, KENTUCKY

INDEX TO SHEETS

| SHEET NO | DESCRIPTION |
|-------------|--|
| A-1 | TITLE SHEET |
| A-2 | CONVENTIONAL SYMBOLS AND ABBREVIATIONS |
| A-3 | PROJECT LOCATION MAP |
| A-4 | SURVEY INFORMATION SHEET |
| B-1 | TYPICAL SECTIONS |
| C-1 to C-5 | TABULATION OF QUANTITIES & SUMMARIES |
| D-1 to D-11 | PLAN AND PROFILE SHEETS |
| M-1 | EROSION CONTROL NARRATIVE |
| M-2 | DRAINAGE CROSS SECTIONS |
| N-1 | TEMPORARY TRAFFIC CONTROL PLAN |
| P-1 to P-3 | PERMANENT SIGNING & STRIPING PLANS |
| S-1 to S-17 | STANDARDS & DETAILS |
| T-1 to T-21 | CROSS SECTIONS |



DESCRIPTION OF PROJECT

IMPROVEMENT: RESURFACE WITH 3.5" HACP &
AGGREGATE SURFACE COURSE

PROJECT LENGTH: 0.94 Miles

ROAD: 8" aggregate surface course or
3.5" hot asphalt concrete pavement

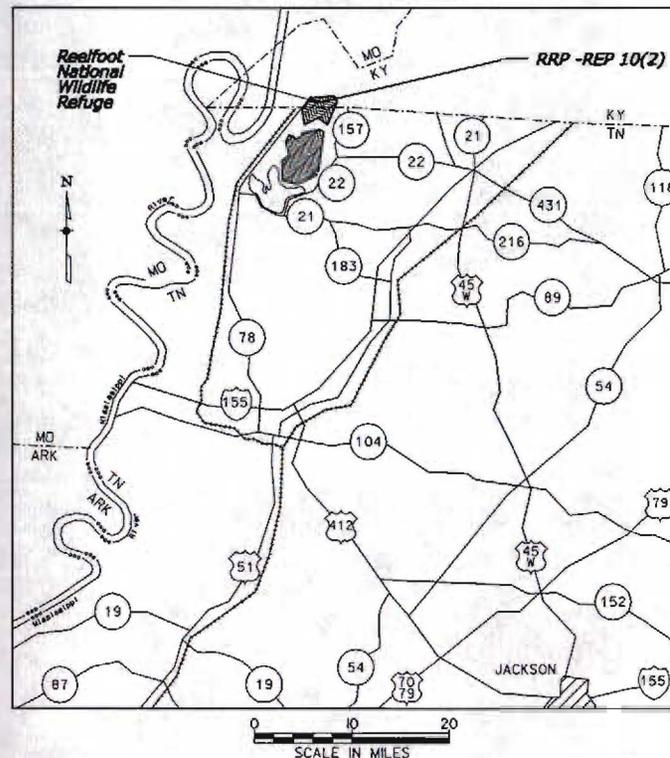
| | WIDTH | TYPE |
|-----------------|--------|----------------------------------|
| SURFACE: | Varies | Hot Asphalt Concrete & Aggregate |
| BASE | Varies | Aggregate |
| ROADBED | Varies | Existing |

DESIGN DESIGNATION:

| | |
|------------|-------|
| ADT (2008) | 75 |
| ADT (2028) | 100 |
| DHV | 15 |
| D | 50/50 |
| %Truck | 1% |
| V (MPH) | 25 |
| C/A | None |
| e(max) | 6% |

SPECIFICATIONS:

"Standard Specifications for Construction of
Roads and Bridges on Federal Highway Projects",
FP-03 U.S. Customary Units.



95% SUBMISSION

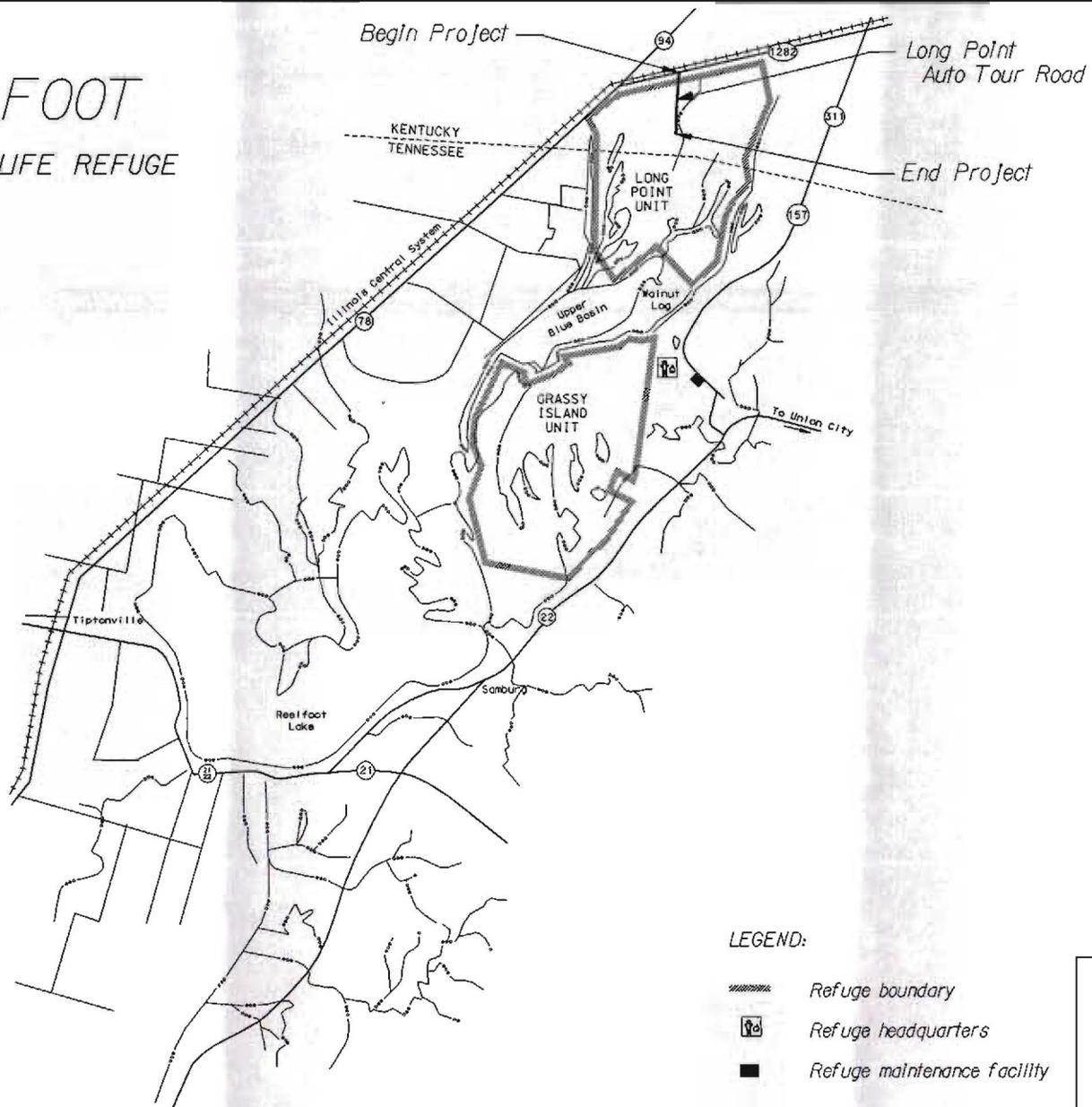
PLANS PREPARED BY



| REG | STATE | PROJECT | SHEET NO. |
|-----|-------|---------------|-----------|
| SE | KY | RRP-REL 10(2) | A-3 |

REELFOOT

NATIONAL WILDLIFE REFUGE



- LEGEND:**
-  Refuge boundary
 -  Refuge headquarters
 -  Refuge maintenance facility

U.S. DEPARTMENT OF TRANSPORTATION
 FEDERAL HIGHWAY ADMINISTRATION
 EASTERN FEDERAL LANDS HIGHWAY DIVISION
 STERLING, VIRGINIA

REELFOOT NATIONAL WILDLIFE REFUGE
 LOCATION
 MAP

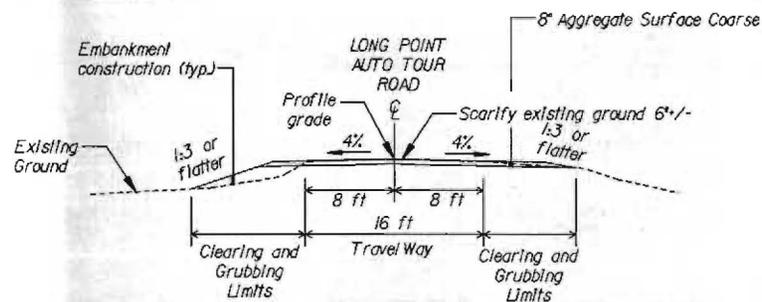


SCALE IN MILES

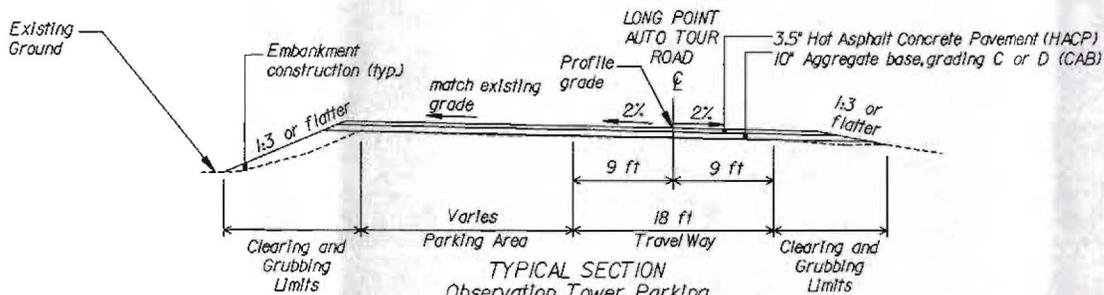
9/18/2006 10:00 AM M:\P\Reelfoot\refuge\mvs\reel\map\locat\locat10.dgn

| REG | STATE | PROJECT | SHEET NO. |
|-----|-------|---------------|-----------|
| SE | KY | RRP-REL 10121 | B-1 |

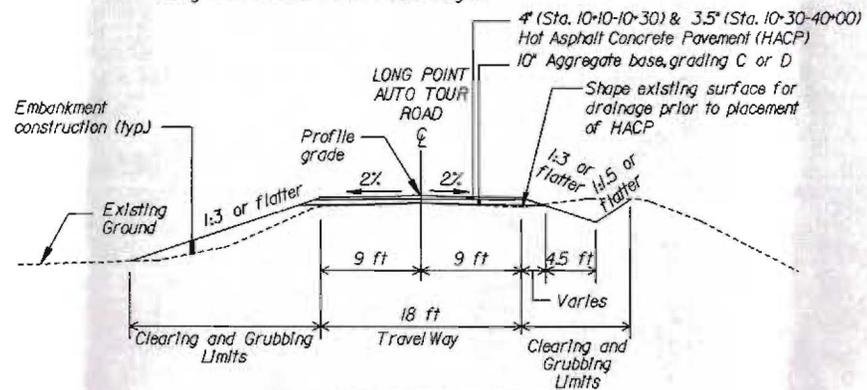
- Place topsoil, 4-inch depth, and turf establishment on all disturbed areas except for paved areas.



TYPICAL GRAVEL SECTION
41+50 TO 59+74.30
LONG POINT AUTO TOUR ROAD



TYPICAL SECTION
Observation Tower Parking
40+00 to 41+50
(Long Point Auto Tour Road Right)



TYPICAL PAVEMENT SECTION
10+10 TO STA 40+00
LONG POINT AUTO TOUR ROAD

Not to Scale

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION
STERLING, VIRGINIA

REELFOOT NATIONAL WILDLIFE REFUGE

TYPICAL SECTIONS

9/26/08 AM 4:17:10 local time \\snp\cadd\RRP-REL10121\Drawings\REL10121.dwg
 1/14/2009

23. Approved Categorical Exclusions. Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where:

(a) That agency or department has determined, pursuant to the Council on Environmental Quality's implementing regulations for the National Environmental Policy Act (40 CFR part 1500 et seq.), that the activity is categorically excluded from environmental documentation, because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment; and

(b) The Office of the Chief of Engineers (Attn: CECW-CO) has concurred with that agency's or department's determination that the activity is categorically excluded and approved the activity for authorization under NWP 23.

The Office of the Chief of Engineers may require additional conditions, including pre-construction notification, for authorization of an agency's categorical exclusions under this NWP.

Notification: Certain categorical exclusions approved for authorization under this NWP require the permittee to submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27). The activities that require pre-construction notification are listed in the appropriate Regulatory Guidance Letters. (Sections 10 and 404)

Note: The agency or department may submit an application for an activity believed to be categorically excluded to the Office of the Chief of Engineers (Attn: CECW-CO). Prior to approval for authorization under this NWP of any agency's activity, the Office of the Chief of Engineers will solicit public comment. As of the date of issuance of this NWP, agencies with approved categorical exclusions are the: Bureau of Reclamation, Federal Highway Administration, and U.S. Coast Guard. Activities approved for authorization under this NWP as of the date of this notice are found in Corps Regulatory Guidance Letter 05-07, which is available at:

<http://www.usace.army.mil/inet/functions/cw/cecwo/reg/rqlsindx.htm>. Any future approved categorical exclusions will be announced in Regulatory Guidance Letters and posted on this same web site.

C. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

1. **Navigation.** (a) No activity may cause more than a minimal adverse effect on navigation.
(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
3. **Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
4. **Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
5. **Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48.
6. **Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
7. **Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
10. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
11. **Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
12. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
13. **Removal of Temporary Fills.** Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
14. **Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.
15. **Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
16. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
17. **Endangered Species.** (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.
(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.
(c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no

effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWP.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, on waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require pre-construction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(e)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

22. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

23. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

24. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

25. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:
"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

26. Compliance Certification. Each permittee who received an NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

27. Pre-Construction Notification. (a) **Timing.** Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity:

- (1) Until notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) If 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) **Contents of Pre-Construction Notification.** The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);
- (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;
- (5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
- (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize

the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) **Form of Pre-Construction Notification:** The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) **Agency Coordination:** (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring pre-construction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

(5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) **District Engineer's Decision:** In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (1) that the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

D. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWP's do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWP's do not grant any property rights or exclusive privileges.
4. NWP's do not authorize any injury to the property or rights of others.
5. NWP's do not authorize interference with any existing or proposed Federal project.

E. Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration, establishment (creation), enhancement, or preservation of aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Discharge: The term "discharge" means any discharge of dredged or fill material and any activity that causes or results in such a discharge.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects waterbodies with their adjacent uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 20.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete project: This term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete project must have independent utility (see definition). For linear projects, a "single and complete project" is all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purpose of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured by a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NVIPs, a waterbody is a jurisdictional water of the United States that, during a year with normal patterns of precipitation, has water flowing or standing above ground to the extent that an ordinary high water mark (OHWM) or other indicators of jurisdiction can be determined, as well as any wetland area (see 33 CFR 328.3(b)). If a jurisdictional wetland is adjacent--meaning bordering, contiguous, or neighboring--to a jurisdictional waterbody displaying an OHWM or other indicators of jurisdiction, that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of "waterbodies" include streams, rivers, lakes, ponds, and wetlands.



ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

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General Certification--Nationwide Permit # 23 Categorical Exclusions

This General Certification is effective March 19, 2007, in conformity with the requirements of Section 401 of the Clean Water Act of 1977, as amended (33 U.S.C. §1341), as well as Kentucky Statute KRS 224.16-050.

The Commonwealth of Kentucky hereby certifies under Section 401 of the Clean Water Act (CWA) that it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 5, established pursuant to Sections 301, 302, 304, 306 and 307 of the CWA, will not be violated for the activity covered under NATIONWIDE PERMIT 23, namely Categorical Exclusions, provided that the following conditions are met:

1. The activity will impact less than one acre of jurisdictional wetlands and less than 300 linear feet of intermittent or perennial stream. Impacts to ephemeral streams are not limited under this general certification.
2. The activity will not occur within waters of the Commonwealth identified by the Kentucky Division of Water as Outstanding State or National Resource Waters, Cold Water Aquatic Habitat, or Exceptional Waters.
3. Projects that do not meet the conditions of this general certification require an individual Section 401 water quality certification.
4. Activities qualifying for coverage under this general water quality certification are subject to the following conditions:
 - Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse.

General Certification--Nationwide Permit # 23
Categorical Exclusions
Page Two

- In areas not riprapped or otherwise stabilized, revegetation of stream banks and riparian zones shall occur concurrently with project progression. At a minimum, revegetation will approximate pre-disturbance conditions.
- To the maximum extent practicable, all in stream work under this certification shall be performed during low flow.
- Heavy equipment, e.g. bulldozers, backhoes, draglines, etc., if required for this project, should not be used or operated within the stream channel. In those instances where such in stream work is unavoidable, then it shall be performed in such a manner and duration as to minimize turbidity and disturbance to substrates and bank or riparian vegetation.
- Any fill shall be of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters and/or cause violations of water quality standards. If riprap is utilized, it is to be of such weight and size that bank stress or slump conditions will not be created because of its placement.
- If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when work will be done.
- Removal of existing riparian vegetation should be restricted to the minimum necessary for project construction.
- Should evidence of stream pollution or jurisdictional wetland impairment and/or violations of water quality standards occur as a result of this activity (either from a spill or other forms of water pollution), the Kentucky Division of Water shall be notified immediately by calling 800/928-2380.

Non-compliance with the conditions of this general certification or violation of Kentucky state water quality standards may result in civil penalties.

This general certification will expire on March 19, 2012, or sooner if the USACE makes significant changes to this nationwide permit.

KENTUCKY REGIONAL GENERAL CONDITIONS

These regional conditions are proposed in addition to but do not supercede the requirements in the Federal Register (Volume 72 No. 47 of March 12, 2007)

Notifications for all Nationwide permits should include a location map (USGS topographical map) and project drawings on 8 1/2" x 11" paper.

1. For activities in Outstanding State Resource Waters (ORWs) and Coldwater Aquatic Habitat Waters (CAHs) for the NWP's listed below, a Pre-Construction Notification (PCN) will be required to the Corps. The Corps will coordinate with the appropriate resource agencies (see attached list) on these NWP's for impacts to ORWs and CAHs, or for impacts greater than 0.25 acre of "waters of the United States".

NWP 3 (Maintenance), 7 (Outfall Structures and Associated Intake Structures), 12 (Utility Line Activities), 14 (Linear Transportation Projects), 21 (Surface Coal Mining Activities), 27 (Aquatic Habitat Restoration, Establishment and Enhancement Activities), 29 (Residential Developments), 39 (Commercial and Institutional Developments), 40 (Agricultural Activities), 41 (Reshaping Existing Drainage Ditches), 42 (Recreational Facilities), 43 (Stormwater Management Facilities), 44 (Mining Activities), 49 (Coal Remining activities), 50 (Underground Coal Mining Activities).

2. Nationwide Permit No. 14 – Linear Transportation Projects

- (a) Activities in Section 10 navigable waters will require a PCN to the Corps.
- (b) New public road alignments or realignments are limited to a permanent loss of 500 linear feet of intermittent or perennial stream length at each crossing. Public road crossings with permanent losses greater than 500 linear feet of intermittent or perennial stream associated with new alignments or realignments will be evaluated as an individual permit i.e., a Letter of Permission or as a Standard Individual Permit.
- (c) All linear transportation project crossings resulting in the permanent loss of greater than 300 linear feet of intermittent or perennial stream will require mitigation to compensate for impacts to the waters of the U.S. The permanent loss of stream includes the linear feet of stream that is permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity and not restored to pre-construction contours and elevations after construction. In addition to the notification requirements contained in Nationwide Permit 14, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity for the permanent loss of greater than 300 feet of intermittent and perennial stream. (See general condition 27 and the definition of "loss of waters of the United States" in the Nationwide Permits for further information.)

3. Nationwide Permit No. 27 – Aquatic Habitat Restoration, Establishment and Enhancement Activities

- (a) All work in Section 10 navigable waters will require a PCN to the Corps

Further information:

Outstanding Resource Waters (ORW's) in Kentucky are streams designated by the Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet. The list can be found at the following link: http://nrepcapps.ky.gov/special_waters/specialwaters.htm.

Information on Pre-Construction Notification (PCN) can be found at NWP General Condition No. 27 (Federal Register, Volume 72, No. 47, Monday, March 12, 2007, pp 11194-11196).

Mitigation includes activities that avoid, minimize, and compensate for impacts.

COORDINATING RESOURCE AGENCIES

Mr. Ronald Mikulak
Chief, Wetlands Regulatory Section
U.S. Environmental Protection Agency
Region IV
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303

Mr. Lee Andrews
U.S. Fish & Wildlife Service
JC Watts Federal Building, Room 265
330 West Broadway
Frankfort, Kentucky 40601

Mr. David W. Morgan
Environmental and Public Division of Water
Division of Water
14 Reilly Road
Frankfort, Kentucky 40601

Dr. Jonathan W. Gassett
Commissioner
Department of Fish and Wildlife Resources
#1 Game Farm Road
Frankfort, Kentucky 40601

Ms. Donna M. Neary
State Historic Preservation Officer
Kentucky Heritage Council
300 Washington Street
Frankfort, Kentucky 40601

ADDITIONAL COORDINATING RESOURCE AGENCY
NWPS 21, 49, AND 50

Mr. Paul Ehret
Kentucky Department of Natural Resources
Division of Mine Permits
#2 Hudson Hollow
Frankfort, Kentucky 40601

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 2-13-08

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: USACE - Memphis District; MVM 2008- 074

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Kentucky County/parish/borough: Fulton City: Bondurant
Center coordinates of site (lat/long in degree decimal format): Lat. 36.51214° **N**, Long. 089.32074° **W**.
Universal Transverse Mercator:

Name of nearest waterbody: Rittenhouse Slough

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Rittenhouse Slough

Name of watershed or Hydrologic Unit Code (HUC):

- Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
 Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

- Office (Desk) Determination. Date:
 Field Determination. Date(s): 2/8/08

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

- Waters subject to the ebb and flow of the tide.
 Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- TNWs, including territorial seas
 Wetlands adjacent to TNWs
 Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
 Non-RPWs that flow directly or indirectly into TNWs
 Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
 Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
 Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
 Impoundments of jurisdictional waters
 Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: linear feet: width (ft) and/or acres.
Wetlands: 0 acres.

c. Limits (boundaries) of jurisdiction based on: **Pick List**

Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):³

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: .

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: **Pick List**
Drainage area: **Pick List**
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

- Tributary flows directly into TNW.
 Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: .

Identify flow route to TNW⁵: .
Tributary stream order, if known: .

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

(b) General Tributary Characteristics (check all that apply):

Tributary is: Natural
 Artificial (man-made). Explain:
 Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):

Average width: feet
Average depth: feet
Average side slopes: **Pick List**.

Primary tributary substrate composition (check all that apply):

Silts Sands Concrete
 Cobbles Gravel Muck
 Bedrock Vegetation. Type/% cover:
 Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: highly eroding.

Presence of run/riffle/pool complexes. Explain: no.

Tributary geometry: **Pick List**

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime:

Other information on duration and volume:

Surface flow is: **Pick List**. Characteristics:

Subsurface flow: **Pick List**. Explain findings:

Dye (or other) test performed:

Tributary has (check all that apply):

Bed and banks
 OHWM⁶ (check all indicators that apply):
 clear, natural line impressed on the bank the presence of litter and debris
 changes in the character of soil destruction of terrestrial vegetation
 shelving the presence of wrack line
 vegetation matted down, bent, or absent sediment sorting
 leaf litter disturbed or washed away scour
 sediment deposition multiple observed or predicted flow events
 water staining abrupt change in plant community
 other (list):

Discontinuous OHWM.⁷ Explain:

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

High Tide Line indicated by: Mean High Water Mark indicated by:
 oil or scum line along shore objects survey to available datum;
 fine shell or debris deposits (foreshore) physical markings;
 physical markings/characteristics vegetation lines/changes in vegetation types.
 tidal gauges
 other (list):

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: water is discolored.

Identify specific pollutants, if known:

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

(iv) Biological Characteristics. Channel supports (check all that apply):

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:
 - Other environmentally-sensitive species. Explain findings:
 - Aquatic/wildlife diversity. Explain findings:

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain:

Wetland quality. Explain:

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain:

Surface flow is: **Pick List**

Characteristics:

Subsurface flow: **Pick List**. Explain findings:

Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain:

Ecological connection. Explain:

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain:

Identify specific pollutants, if known:

(iii) Biological Characteristics. Wetland supports (check all that apply):

- Riparian buffer. Characteristics (type, average width):
- Vegetation type/percent cover. Explain:
- Habitat for:
 - Federally Listed species. Explain findings:
 - Fish/spawn areas. Explain findings:
 - Other environmentally-sensitive species. Explain findings:
 - Aquatic/wildlife diversity. Explain findings:

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately () acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:

TNWs: linear feet width (ft), Or, acres.
 Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**

- Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: The site is abutting Rittenhouse Slough that flows continuously year-round and empties into Reelfoot Lake, which flows to Running Reelfoot Bayou, which flows to the Obion River and empties into the Mississippi River.
- Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: 4 linear feet width (ft).
- Other non-wetland waters: acres.
- Identify type(s) of waters: .

3. Non-RPWs⁸ that flow directly or indirectly into TNWs.

- Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.
- Identify type(s) of waters: .

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
- Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
- Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. Impoundments of jurisdictional waters.⁹

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from "waters of the U.S.," or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):¹⁰

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain: .
- Other factors. Explain: .

⁸See Footnote # 3.

⁹To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

Identify water body and summarize rationale supporting determination:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.
Identify type(s) of waters: .
- Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
 - Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
- Lakes/ponds: acres.
- Other non-wetland waters: acres. List type of aquatic resource: .
- Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters' study: .
- U.S. Geological Survey Hydrologic Atlas: .
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: .
- USDA Natural Resources Conservation Service Soil Survey. Citation:Fulton County.
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): .
or Other (Name & Date): .
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law: .
- Applicable/supporting scientific literature: .
- Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD:

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

| | | | |
|--------------------------|--|-----------------------------------|-------------------|
| Applicant: Kevin S. Rose | | File Number: MVM-2008-074 (RC) | Date: 2-13-2008 |
| Attached is: | | | See Section below |
| | INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission) | | A |
| | PROFFERED PERMIT (Standard Permit or Letter of permission) | | B |
| | PERMIT DENIAL | | C |
| X | APPROVED JURISDICTIONAL DETERMINATION | | D |
| | PRELIMINARY JURISDICTIONAL DETERMINATION | | E |

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

- A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.
- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
 - **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.
- B: PROFFERED PERMIT:** You may accept or appeal the permit
- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
 - **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.
- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
 - **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Larry Watson, Chief
U.S. Army Corps of Engineers, Regulatory Branch
167 North Main Street, Rm. B-202
Memphis TN 38103-1894
Telephone (901) 544-3471

If you only have questions regarding the appeal process you may also contact:

James B. Wiseman, Jr.
Administrative Appeals Review Officer
Mississippi Valley Division
P.O. Box 80 (1400 Walnut Street)
Vicksburg, MS 39181-0080
(601) 634-5820
(601) 634-5816 (fax)

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

| | | |
|----------------------------------|-------|-------------------|
| Signature of appellant or agent. | Date: | Telephone number: |
|----------------------------------|-------|-------------------|



TRANSPORTATION CABINET

Steven L. Beshear
Governor

Department of Highways District 1 Office
5501 Kentucky Dam Road
P.O. Box 3010
Paducah, KY 42002-3010
(270) 898-2431

Joseph W. Prather
Secretary

February 4, 2008

LEO DARIO
21400 RIDGETOP CIRCLE
STERLING, VA 20166

SUBJECT: Fulton County, RS-38-1282-1.115
KY 1282 ()
Permit Number 01-0062-08

Dear LEO DARIO:

Your application for an encroachment permit has been approved by the Department of Highways. We are returning two copies of the approved permit so one may be kept in your record files. The other copy must be given to the party responsible for completing the project and must be kept at the jobsite at all times.

Please see that the work is done in strict conformity with the permit and any other applicable conditions (See Form TC99-21 and any other attached documents, conditions or specifications). The work should be completed no later than January 1, 2009. When the permitted work and any necessary restoration have been completed please notify this office by using the attached form which will serve as notification for final inspection.

If there are any questions regarding this permit, please do not hesitate to contact Susan Oatman, P.E., Permits Engineer at 270-898-2431 or fax number 270-898-7457.

Sincerely,

James E. LeFevre, P.E.
Chief District Engineer
Department of Highways
District 1 -Paducah
P.O. Box 3010
Paducah, KY 42002-3010

RECEIVED
2008 FEB -7 PM 2:01
EASTERN FEDERAL LANDS
HIGHWAY DIVISION
STERLING, VA



NOTICE OF COMPLETION OF ENCROACHMENT PERMIT WORK

Please return this form to the District Office when work is completed and ready for final inspection.

Applicant Identification

Name: FEDERAL HIGHWAY ADMINISTRATION

Contact Person: LEO DARIO

Address: 21400 RIDGETOP CIRCLE

City: STERLING

State: VA Zip: 20166

Telephone: 703-404-6356

Project Identification

Permit Number: 01-0062-08

County: Fulton

Route Number: 1282

Road Name:

Milepoint: 1.115

I wish to notify the Department of Highways that the above mentioned permit work and any necessary right of way restoration have been completed and are ready for final inspection.

Applicant

Please Return To:

Department of Highways
District 1 Paducah
P.O. Box 3010
Paducah, Ky. 42002-3010

Attention:

Susan Oatman, P.E., Permits Engineer

Released Date _____

ENCROACHMENT PERMIT

PERMIT NO. 01-0062-08

| | |
|--|--|
| <p>APPLICANT IDENTIFICATION:</p> <p>NAME: <u>Federal Highway Administration/Eastern Fed. Lands Highway Division</u></p> <p>CONTACT PERSON: <u>Leo R. Dario, P.E.</u></p> <p>ADDRESS: <u>21400 Ridgetop Circle</u></p> <p>CITY: <u>Sterling</u></p> <p>STATE: <u>Virginia</u> ZIP CODE: <u>20166</u></p> <p>PHONE: area code (<u>703</u>) <u>404-6356</u></p> | <p>PROJECT IDENTIFICATION:</p> <p>ACCESS CONTROL: <input checked="" type="checkbox"/> By Permit <input type="checkbox"/> Partial <input type="checkbox"/> Full</p> <p>COUNTY: <u>Fulton</u> PRIORITY ROUTE NO: <u>1282</u></p> <p>MILEPOINT: <u>1.115</u> <input type="checkbox"/> Left <input checked="" type="checkbox"/> Right <input type="checkbox"/> X-ing</p> <p>PROJECT STATUS: <input checked="" type="checkbox"/> Maint. <input type="checkbox"/> Const. <input type="checkbox"/> Design</p> <p>PROJECT # STATE: _____</p> <p>PROJECT # FEDERAL: <u>RRP-REL 10(2)</u></p> <p>ROAD/STREET NAME: <u>Long Point Auto Tour Road</u></p> |
| <p>TYPE OF ENCROACHMENT:</p> <p><input type="checkbox"/> COMMERCIAL ENTRANCE - BUSINESS _____</p> <p><input type="checkbox"/> PRIVATE ENTRANCE: <input type="checkbox"/> Single Family <input type="checkbox"/> Farm</p> <p><input type="checkbox"/> UTILITY: <input type="checkbox"/> Overhead <input type="checkbox"/> Underground</p> <p><input type="checkbox"/> GRADE: <input type="checkbox"/> Fill <input type="checkbox"/> Landscape on R/W</p> <p><input type="checkbox"/> AIRSPACE: <input type="checkbox"/> Agreement <input type="checkbox"/> Lease</p> <p><input checked="" type="checkbox"/> OTHER: (Specify) <u>Reconstruction of private road.</u></p> | <p>ATTACHMENTS:</p> <p><input type="checkbox"/> Standard Drawings (List on TC 99-21 under Misc.)</p> <p><input checked="" type="checkbox"/> Applicant's Plans</p> <p><input type="checkbox"/> Highway Plan and Profile Sheets</p> <p><input type="checkbox"/> TC 99-3 (Ponding Encroachment Specs. and Conditions)</p> <p><input type="checkbox"/> TC 99-4 (Rest Area Usage Specs. and Conditions)</p> <p><input type="checkbox"/> TC 99-5 (Tree Cutting/Trimming Specs. and Conditions)</p> <p><input type="checkbox"/> TC 99-6 (Chemical Use of Specs. and Conditions)</p> <p><input type="checkbox"/> TC 99-10 (Typical Highway Boring Crossing Detail)</p> <p><input type="checkbox"/> TC 99-12 (Overhead Utility Encroachment Diagram)</p> <p><input type="checkbox"/> TC 99-13 (Surface Restoration Methods)</p> <p><input type="checkbox"/> TC 99-21 (Encroachment Permit General Notes and Specs.)</p> <p><input type="checkbox"/> TC 99-22 (Agreement for Services to be Performed)</p> <p><input type="checkbox"/> TC 99-23 (Mass Transit Shelter Specs. and Conditions)</p> <p><input type="checkbox"/> Other Attachments (Specify): _____</p> |
| <p>TYPE OF INDEMNITY: <input type="checkbox"/> Bond <input type="checkbox"/> Cash</p> <p><input type="checkbox"/> SELF-INSURED AMOUNT ENCUMBERED \$ _____</p> <p><input checked="" type="checkbox"/> OTHER <u>Waived</u></p> | |
| <p>NAME AND ADDRESS OF LOCAL INSURANCE AGENCY OR SELF-INSURED REPRESENTATIVE:</p> <p>_____</p> | |
| <p>INDEMNITY: The applicant, in order to secure this obligation, has deposited with the Transportation Cabinet as a guarantee of conformance with the Department's Encroachment Permit requirements, an indemnity in the amount of \$ _____ as determined by the Department. It shall be the responsibility of the applicant or permittee, his heirs and assignees to keep all indemnities in full force until construction or reconstruction has been completed and duly accepted by an authorized agent of the Transportation Cabinet, Department of Highways.</p> | |
| <p>BRIEF DESCRIPTION OF WORK TO BE DONE.</p> <p>Reconstruct entrance apron (at the intersection of Long Point Tour Road and KY Route 1282) by paving with 10-inch aggregate base course and 4-inch hot asphaltic concrete pavement binder/surface course plus widening with 45' turning radius. Also, temporary placement of proposed construction signs along KY Route 1282.</p> | |
| <p>IMPORTANT (PLEASE READ): Applicant <input type="checkbox"/> does <input type="checkbox"/> does not intend to apply for excess R/W.</p> | |

When the work is completed in accordance with the terms of this encroachment permit, your indemnity will be released. However, the permit is effective until revoked by the Transportation Cabinet and the terms on the permit accompanying permit documents and drawings remain in effect as long as the encroachment exists. **FUTURE MAINTENANCE OF THE ENCROACHMENT IS THE RESPONSIBILITY OF THE PERMITEE.** It is important that you understand the requirements of this encroachment permit application and accompanying documents. If you have not done so, it is suggested that you review these documents and place the permit package in a safe place for future reference.

A copy of this permit and all documents shall be given to your contractor and shall be readily available at the work site for the encroachment permit inspector to review at all times. Failure to meet this requirement may result in cancellation of this permit.

IN THE EVENT THIS APPLICATION IS APPROVED, THIS DOCUMENT SHALL CONSTITUTE A PERMIT FOR THE APPLICANT TO USE THE RIGHT-OF-WAY, BUT ONLY IN THE MANNER AUTHORIZED BY THIS DOCUMENT AND REGULATIONS OF THE DEPARTMENT AND THE DRAWINGS, PLANS, ATTACHMENTS, AND OTHER PERTINENT DATA ATTACHED HERETO AND MADE A PART HEREOF.

Released Date _____

ENCROACHMENT PERMIT

PERMIT NO. 01-0062-08

| | |
|---|--|
| <p>APPLICANT IDENTIFICATION: NAME: <u>Federal Highway Administration/Eastern Fed. Lands Highway Division</u> CONTACT PERSON: <u>Leo R. Dario, P.E.</u> ADDRESS: <u>21400 Ridgetop Circle</u> CITY: <u>Sterling</u> STATE: <u>Virginia</u> ZIP CODE: <u>20166</u> PHONE: area code (<u>703</u>) <u>404-6356</u></p> | <p>PROJECT IDENTIFICATION: ACCESS CONTROL: <input checked="" type="checkbox"/> By Permit <input type="checkbox"/> Partial <input type="checkbox"/> Full COUNTY: <u>Fulton</u> PRIORITY ROUTE NO: <u>1282</u> MILEPOINT: <u>1.115</u> <input type="checkbox"/> Left <input checked="" type="checkbox"/> Right <input type="checkbox"/> X-ing PROJECT STATUS: <input checked="" type="checkbox"/> Maint. <input type="checkbox"/> Const. <input type="checkbox"/> Design PROJECT # STATE: _____ PROJECT # FEDERAL: <u>RRP-REL 10(2)</u> ROAD/STREET NAME: <u>Long Point Auto Tour Road</u></p> |
|---|--|

TYPE OF ENCROACHMENT:

COMMERCIAL ENTRANCE - BUSINESS _____

PRIVATE ENTRANCE: Single Family Farm

UTILITY: Overhead Underground

GRADE: Fill Landscape on R/W

AIRSPACE: Agreement Lease

OTHER: (Specify)
 Reconstruction of private road.

ATTACHMENTS:

Standard Drawings (List on TC 99-21 under Misc.)

Applicant's Plans

Highway Plan and Profile Sheets

TC 99-3 (Ponding Encroachment Specs. and Conditions)

TC 99-4 (Rest Area Usage Specs. and Conditions)

TC 99-5 (Tree Cutting/Trimming Specs. and Conditions)

TC 99-6 (Chemical Use of Specs. and Conditions)

TC 99-10 (Typical Highway Boring Crossing Detail)

TC 99-12 (Overhead Utility Encroachment Diagram)

TC 99-13 (Surface Restoration Methods)

TC 99-21 (Encroachment Permit General Notes and Specs.)

TC 99-22 (Agreement for Services to be Performed)

TC 99-23 (Mass Transit Shelter Specs. and Conditions)

Other Attachments (Specify): _____

TYPE OF INDEMNITY: Bond Cash

SELF-INSURED AMOUNT ENCUMBERED \$ _____

OTHER Waived

NAME AND ADDRESS OF LOCAL INSURANCE AGENCY OR SELF-INSURED REPRESENTATIVE:

INDEMNITY: The applicant, in order to secure this obligation, has deposited with the Transportation Cabinet as a guarantee of conformance with the Department's Encroachment Permit requirements, an indemnity in the amount of \$ _____ as determined by the Department. It shall be the responsibility of the applicant or permittee, his heirs and assignees to keep all indemnities in full force until construction or reconstruction has been completed and duly accepted by an authorized agent of the Transportation Cabinet, Department of Highways.

BRIEF DESCRIPTION OF WORK TO BE DONE.

Reconstruct entrance apron (at the intersection of Long Point Tour Road and KY Route 1282) by paving with 10-inch aggregate base course and 4-inch hot asphaltic concrete pavement binder/surface course plus widening with 45' turning radius. Also, temporary placement of proposed construction signs along KY Route 1282.

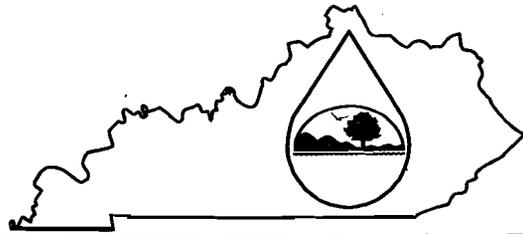
IMPORTANT (PLEASE READ): Applicant does does not intend to apply for excess R/W.

When the work is completed in accordance with the terms of this encroachment permit, your indemnity will be released. However, the permit is effective until revoked by the Transportation Cabinet and the terms on the permit accompanying permit documents and drawings remain in effect as long as the encroachment exists. **FUTURE MAINTENANCE OF THE ENCROACHMENT IS THE RESPONSIBILITY OF THE PERMITEE.** It is important that you understand the requirements of this encroachment permit application and accompanying documents. If you have not done so, it is suggested that you review these documents and place the permit package in a safe place for future reference.

A copy of this permit and all documents shall be given to your contractor and shall be readily available at the work site for the encroachment permit inspector to review at all times. Failure to meet this requirement may result in cancellation of this permit.

IN THE EVENT THIS APPLICATION IS APPROVED, THIS DOCUMENT SHALL CONSTITUTE A PERMIT FOR THE APPLICANT TO USE THE RIGHT-OF-WAY, BUT ONLY IN THE MANNER AUTHORIZED BY THIS DOCUMENT AND REGULATIONS OF THE DEPARTMENT AND THE DRAWINGS, PLANS, ATTACHMENTS, AND OTHER PERTINENT DATA ATTACHED HERETO AND MADE A PART HEREOF.

KPDES FORM NOI-SW



**Kentucky Pollutant Discharge Elimination System
 (KPDES)
 Notice of Intent (NOI)
 for Storm Water Discharges
 Associated with Industrial Activity Under the
 KPDES General Permit**

Submission of this Notice of Intent constitutes notice that the party identified in Section I of this form intends to be authorized by a KPDES permit issued for storm water discharges associated with industrial activity. Becoming a permittee obligates such discharger to comply with the terms and conditions of the permit.

ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM (See Instructions on back)

I. Facility Operator Information

| | | | |
|-------------------------------|--|----------------------------------|--------------|
| Name: | Eastern Federal Lands Highway Division, FHWA | Phone: | 571-434-1541 |
| Address: | 21400 Ridgetop Circle | Status of Owner/Operator: | F |
| City, State, Zip Code: | Sterling, Virginia, 20166 | | |

II. Facility/Site Location Information

| | | | |
|---|-----------------------------------|--|---------------|
| Name: | Reelfoot National Wildlife Refuge | | |
| Address: | 4343 Highway 157 | | |
| City, State, Zip Code: | Union City, TN, 38261 | | |
| County: | Fulton | | |
| Site Latitude: (degrees/minutes/seconds) | 36° 30' 57" N | Site Longitude: (degrees/minutes/seconds) | 89° 19' 15" W |

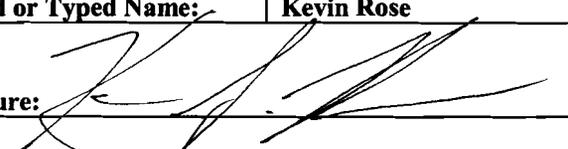
III. Site Activity Information

| | | | | | | | |
|---|---|-----|--|-----|--|-----|--|
| MS4 Operator Name: | N/A | | | | | | |
| Receiving Water Body: | Rittenhouse Slough | | | | | | |
| Are there existing quantitative data? | Yes <input type="checkbox"/> If Yes, submit with this form. No <input checked="" type="checkbox"/> | | | | | | |
| SIC or Designated Activity Code Primary | 9512 | 2nd | | 3rd | | 4th | |
| If this facility is a member of a Group Application, enter Group Application Number: | | | | | | | |
| If you have other existing KPDES Permits, enter Permit Numbers: | | | | | | | |

IV. Additional Information Required FOR CONSTRUCTION ACTIVITIES ONLY

| | | | |
|---|---|-------------------------|-----------|
| Project Start Date: | July 2008 | Completion Date: | June 2009 |
| Estimated Area to be disturbed (in acres): | 2 | | |
| Is the Storm Water Pollution Prevention Plan in Compliance with State and/or Local Sediment and Erosion Plans? | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | | |

V. Certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

| | |
|-------------------------------|---|
| Printed or Typed Name: | Kevin Rose |
| Signature: |  |
| Date: | 1/22/08 |

**Kentucky Pollutant Discharge Elimination System (KPDES)
Instructions
Notice of Intent (NOI) for Storm Water Discharges Associated with Industrial Activity
To Be Covered Under The KPDES General Permit**

WHO MUST FILE A NOTICE OF INTENT (NOI) FORM

Federal law at 40 CFR Part 122 prohibits point source discharges of stormwater associated with industrial activity to a water body of the Commonwealth of Kentucky without a Kentucky Pollutant Discharge Elimination System (KPDES) permit. The operator of an industrial activity that has such a storm water discharge must submit a NOI to obtain coverage under the KPDES Storm Water General Permit. If you have questions about whether you need a permit under the KPDES Storm Water program, or if you need information as to whether a particular program is administered by the state agency, call the **Storm Water Contact, Industrial Section, Kentucky Division of Water at (502) 564-3410.**

WHERE TO FILE NOI FORM

NOIs must be sent to the following address:

**Section Supervisor
Inventory & Data Management Section
KPDES Branch, Division of Water
Frankfort Office Park
14 Reilly Road
Frankfort, KY 40601**

COMPLETING THE FORM

Type or print legibly in the appropriate areas only. If you have any questions regarding the completion of this form call the **Storm Water Contact, Industrial Section, at (502) 564-3410.**

SECTION I - FACILITY OPERATOR INFORMATION

Give the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same as the name of the facility. The responsible party is the legal entity that controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

Enter the appropriate letter to indicate the legal status of the operator of the facility.

F = Federal M = Public (other than federal or state)
S = State P = Private

SECTION II - FACILITY/SITE LOCATION INFORMATION

Enter the facility's or site's official or legal name and complete street address, including city, state, and ZIP code.

SECTION III - SITE ACTIVITY INFORMATION

If the storm water discharges to a municipal separate storm sewer system (MS4), enter the name of the operator of the MS4 (e.g., municipality name, county name) and the receiving water of the discharge from the MS4. (A MS4 is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by a state, city, town, borough, county, parish, district, association, or other public body which is designed or used for collecting or conveying storm water.)

If the facility discharges storm water directly to receiving water(s), enter the name of the receiving water.

Indicate whether or not the owner or operator of the facility has existing quantitative data that represent the characteristics and concentration of pollutants in storm water discharges. If data is available submit with this form.

List, in descending order of significance, up to four 4-digit standard industrial classification (SIC) codes that best describe the principal products or services provided at the facility or site identified in Section II of this application.

If the facility listed in Section II has participated in Part 1 of an approved storm water group application and a group number has been assigned, enter the group application number in the space provided.

If there are other KPDES permits presently issued for the facility or site listed in Section II, list the permit numbers.

SECTION IV - ADDITIONAL INFORMATION REQUIRED FOR CONSTRUCTION ACTIVITIES ONLY

Construction activities must complete Section IV in addition of Sections I through III. Only construction activities need to complete Section IV.

Enter the project start date and the estimated completion date for the entire development plan.

Provide an estimate of the total number of acres of the site on which soil will be disturbed (round to the nearest acre).

Indicate whether the storm water pollution prevention plan for the site is in compliance with approved state and/or local sediment and erosion plans, permits, or storm water management plans.

SECTION V - CERTIFICATION

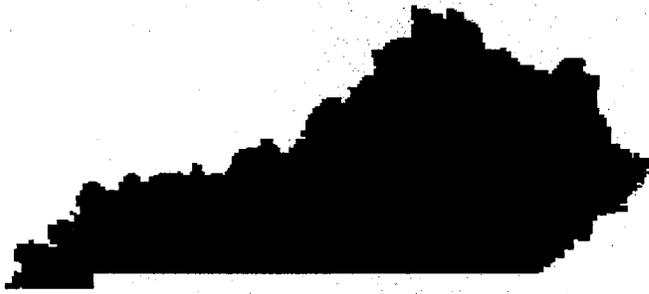
Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality, state, Federal, or other public facility: by either a principal executive officer or ranking elected official.

KPDES



STORM WATER

GENERAL

PERMIT

PERMIT NO.: KYR10

GENERAL KPDES PERMIT FOR STORM WATER POINT SOURCE DISCHARGES

CONSTRUCTION ACTIVITIES

In compliance with the provisions of the Kentucky Revised Statutes Chapter 224 and pursuant to 401 KAR 5:055, Section 5, the following discharges are authorized:

All new and existing storm water discharges associated with construction activity that are required to have a permit pursuant to 401 KAR 5:055, Section 1 and KRS 224.16-050.

Specifically excluded from authorization under this permit are operations that:

1. Are subject to an existing individual KPDES permit or application,
2. Are subject to a promulgated storm water effluent guideline or standard,
3. The Director has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard or to the impairment of a 303(d) listed water, or
4. Are into a surface water that has been classified as an Exceptional or Outstanding or National Resource Water.

The receiving water for any discharge authorized by this permit is located within the political boundaries of the Commonwealth of Kentucky. Such authorization is in accordance with the effluent limitations and other conditions set forth in PARTS I, II, III, and IV hereof. This permit consists of this cover sheet, PART I 1 page, PART II 1 page, PART III 1 page, and PART IV 4 pages.

This permit shall become effective on October 1, 2002.

This permit and the authorization to discharge shall expire at midnight, September 30, 2007.

9/13/02
Date Signed

Jeffrey W. Pratt
Jeffrey W. Pratt, Director
Division of Water

Robert W. Logan
Commissioner

A. Effluent Limitations and Monitoring Requirements

No monitoring is required.

B. Schedule of Compliance

The permittee shall achieve compliance with all requirements upon notification of coverage under this general permit.

STANDARD CONDITIONS FOR KPDES PERMIT

The permittee is also advised that all KPDES permit conditions in KPDES Regulation 401 KAR 5:065, Section 1 will apply to all discharges authorized by this permit.

This permit has been issued under the provisions of KRS Chapter 224 and regulations promulgated pursuant thereto. Issuance of this permit does not relieve the permittee from the responsibility of obtaining any other permits or licenses required by this Cabinet and other state, federal, and local agencies.

PART III

OTHER REQUIREMENTS

A. Retention of Records:

The permittee shall keep the Best Management Practices (BMP) plan developed in accordance with PART IV of this permit one (1) year after coverage under this permit ends. This period may be extended by request of the Director at any time.

B. Reopener Clause:

This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under 401 KAR 5:050 through 5:080 and KRS 224 if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in this permit; or
2. Controls any pollutant not limited in this permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of KRS Chapter 224 when applicable.

C. Other Discharges:

All discharges covered by this permit shall be composed entirely of storm water except for discharges from fire fighting activities, fire hydrant flushing, potable water sources, waterline flushing, irrigation or lawn watering, detergent free building or pavement washing where spills or leaks of toxic materials have not occurred or have been completely removed, air conditioning condensation, natural springs, and uncontaminated ground water sources.

This permit can only authorize storm water discharges from construction activity that are mixed with storm water discharges from other industrial activity, including dedicated asphalt and concrete plants, if the other industrial activity discharge is in compliance with a different KPDES permit.

D. Releases in Excess of Reportable Quantities:

The presence of hazardous substances or oil in the storm water discharge shall be minimized in accordance with the BMP plan. Coverage under this permit does not relieve the permittee of the reporting requirements of 40 CFR Part 117 and 40 CFR Part 302.

PART IV

BEST MANAGEMENT PRACTICES

A storm water Best Management Practices (BMP) plan shall be developed in accordance with good engineering practices for each site covered by this permit. The BMP plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges from the site. The BMP plan shall describe and ensure the implementation of practices that are to be used to reduce the pollutants in storm water discharges and to assure compliance with the terms and conditions of this permit. Facilities must implement the BMP plan required by this PART as a condition of this permit.

The BMP plan shall:

1. Be completed before submittal of the NOI for coverage under this permit.
2. Be implemented beginning with the initiation of construction activities.

Signature and Plan Review:

The BMP plan shall be signed in accordance with PART II and shall be kept onsite.

The permittee shall make the BMP plan available upon request to the Director, to a state or local agency approving sediment, erosion, grading or storm water management plans, or in the case of a storm water discharge to a MS4 with a KPDES permit, to the operator of the system.

After a review, the permittee may be notified that the BMP plan does not meet the minimum requirements of this PART. In that case, the permittee shall modify the BMP plan within seven (7) days of notification and shall submit a written certification that the requested changes have been made.

BMP plans required by this permit are considered reports that shall be made available to the public, upon written request by the public, in accordance with Section 308(b) of the Clean Water Act (CWA). However, the permittee may claim any portion of the BMP plan as confidential, in accordance with 40 CFR Part 2.

Plan Modification:

The permittee shall modify the BMP plan when there is a change in design, construction, operation, or maintenance of the site which has a significant effect on the potential for the discharge of pollutants to waters of the Commonwealth and shall implement the changes within seven (7) days.

Modification for Ineffectiveness:

The permittee shall amend the BMP plan if it proves to be ineffective in controlling the discharge of pollutants to waters of the Commonwealth and shall implement the changes within seven (7) days.

Minimum Requirements:

The BMP plan shall include, as a minimum, Items A through H.

A. Site Description:

The BMP plan shall include a clear description of the nature of the construction activity, the order of major soil disturbing activities, estimates of the total project area and the total disturbed area, the post construction runoff coefficient, any existing data describing soil condition or discharge quality, receiving water name, and a site map. The site map shall indicate drainage patterns and show approximate slopes after grading, areas of disturbance, the location of control measures, surface waters or wetlands, and storm water discharge locations.

B. Sediment and Erosion Control Measures:

The BMP plan shall include a clear description of what sediment and erosion control measures will be used and when they will be implemented. (For example, perimeter controls for one (1) portion of the site will be installed after the necessary clearing and grubbing, but before clearing and grubbing the remaining portions of the site. Perimeter controls will be actively maintained until upward portions of the site are stabilized). The following control measures shall be used as a minimum.

1. Soil Stabilization Practices - Existing vegetation shall be preserved where possible. All disturbed areas of the site shall be stabilized. Stabilization shall begin within 14 days on areas of the site where construction activities have permanently or temporarily (for 21 days or more) ceased. When snow cover causes delays, stabilization shall begin as soon as possible.

Stabilization practices include seeding, mulching, placing sod, planting trees or shrubs, and using geotextile fabrics and other appropriate measures.

2. Perimeter Structural Practices - Silt fences or other equivalent structural practices shall be used on all side and down slope borders of the site. Alternatively, a sediment basin shall be used that provides 3,600 cubic feet of storage capacity per disturbed acre drained. For common drainage locations that serve more than ten (10) disturbed acres at one time, a sediment basin must be used if possible.

Structural practices include protecting drain inlets and outlets and using silt fences, earthen dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, reinforced soil retaining systems, gabions, sediment basins and other appropriate measures. The installation of these devices may be subject to Section 404 of the CWA.

3. Storm Water Management Devices - Management devices shall be installed during construction to control the pollutants in storm water discharges that will occur after construction has been completed. Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow so that the original physical and biological characteristics and functions of the receiving waters, such as the hydroperiod and hydrodynamics, are maintained and protected. When considering storm water management devices, the goal should be 80% removal of Total Suspended Solids that exceed predevelopment levels. If this goal is not met, the permittee shall provide justification for refusing each device based on site conditions.

Management devices include velocity dissipation devices, storm water retention and detention basins, wet ponds, vegetated swales and natural depressions used for flow reduction, runoff infiltration devices, sequential systems that combine several devices and other appropriate measures. The installation of these devices may be subject to Section 404 of the CWA.

The permittee is not responsible for the maintenance of these devices once discharges associated with construction activity have been eliminated.

C. Other Control Measures:

No solid materials, including building materials, shall be discharged to waters of the Commonwealth, except as authorized by a Section 404 permit.

Off-site vehicle sediment tracking and dust generation shall be minimized.

Waste disposal methods and sanitary sewer or septic systems shall comply with applicable state or local regulations.

D. Other State or Local Plans:

The BMP plan shall include any requirements specified in sediment and erosion control plans, storm water management plans or permits that have been approved by other state or local officials. Upon submittal of the NOI, other requirements for surface water protection are incorporated by reference into and are enforceable under this permit (even if they are not specifically included in the BMP plan required by this permit). This provision does not apply to master or comprehensive plans, non-enforceable guidelines or technical guidance documents that are not identified in a specific plan or permit issued for the construction site by state or local officials.

E. Maintenance:

The BMP plan shall include a clear description of the maintenance procedures necessary to keep the control measures in good and effective operating condition.

F. Inspections:

Qualified personnel shall inspect all storm water control measures, discharge locations, vehicle exits, disturbed areas of the construction site and material storage areas at least once every seven (7) days (and within 24 hours of the end of a storm that is 0.5 inches or greater) and areas that have been temporarily or finally stabilized at least once a month. Revisions to the BMP plan based on the results of the inspection shall be implemented within seven (7) days.

Control measures shall be inspected to ensure correct operation. Accessible discharge locations shall be inspected to ensure that velocity dissipation devices are effective in preventing significant impacts to receiving waters. Vehicle exits shall be inspected for evidence of, or the potential for, off-site sediment tracking. Disturbed areas and material storage areas that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system.

A report summarizing the scope of the inspection, names and qualifications of personnel making the inspection, the date of the inspection, major observations relating to the implementation of the BMP plan, and any corrective actions taken shall be made and kept as part of the BMP plan for at least three (3) years after the date of inspection, or until one (1) year after coverage under this permit ends. The report shall be signed in accordance with Part II of this permit.

G. Non-Storm Water Discharges:

The BMP plan shall identify and ensure the implementation of appropriate pollution prevention measures for any non-storm water component of a discharge as listed in PART III C, except for flows from fire fighting activities.

H. Contractors and Subcontractors:

The BMP plan shall clearly state the contractor or subcontractors that will implement each control measure identified in the BMP plan. All contractors and subcontractors identified in the BMP plan must sign a copy of the certification statement below in accordance with PART II of this permit before conducting any professional service at the site:

"I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification."

The certification must include the name and title of the person providing the signature, the name, address, and telephone number of the contracted firm, the address, or other identifying description of the site and the date the certification is made. All certification statements must be included in the BMP plan.



COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

FRANKFORT OFFICE PARK
14 REILLY RD
FRANKFORT KY 40601

FACT SHEET

**GENERAL KPDES PERMIT FOR STORM WATER POINT SOURCE DISCHARGES
CONSTRUCTION ACTIVITIES**

KPDES No.: KYR10
Date: July 22, 2002

1. COVERAGE UNDER THIS GENERAL PERMIT

Area of Coverage:

This permit covers all areas of the Commonwealth of Kentucky.

Discharges Eligible for Coverage:

This permit covers all new and existing storm water discharges associated with construction activity. Only construction activities that disturb five (5) acres or more are required to have coverage under this permit. Beginning in March 2003, construction activities that disturb one (1) acre or more are also required to have coverage under this permit.

Limitations on Coverage:

This permit does not authorize discharges that:

1. Are subject to an existing individual KPDES permit or application,
2. Are subject to a promulgated storm water effluent guideline or standard,
3. The Director has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard or to the impairment of a 303(d) listed water, or
4. Are into a surface water that has been classified as an Exceptional or Outstanding or National Resource Water.

2. REQUIREMENTS FOR GENERAL PERMIT COVERAGE

Notice of Intent:

A signed copy of a Notice of Intent (NOI) form must be submitted to the following address 48 hours before construction activity begins:

Kentucky Division of Water
KPDES Branch
Inventory and Data Management Section
14 Reilly Road
Frankfort, Kentucky 40601



Unless notified by the Director to the contrary, owners or operators who submit the above notification are authorized to discharge storm water associated with construction activity under the terms and conditions of this permit. Discharge may begin 48 hours after the NOI is postmarked, even if the permittee has not yet received a copy of the general permit from the Division of Water.

Notice of Termination:

When all storm water discharges associated with construction activity are eliminated and the site has been finally stabilized, the owner or operator must submit a signed copy of a Notice of Termination (NOT) form in order to end coverage under this general permit and nullify its requirements. NOTs are to be sent to the above address.

Change of Ownership:

When the owner or operator of a site covered by this permit changes, the new owner or operator must submit a notice 48 hours before the change in order to transfer coverage under this general permit. Change of ownership notices are to be sent to the above address.

3. ADDITIONAL INFORMATION

Municipal Notification:

Sites which discharge storm water associated with construction activity to a municipal separate storm sewer system (MS4) shall submit a signed copy of the NOI to the operator of the MS4 48 hours before construction activity begins.

Other Storm Water Discharges:

Storm water discharges authorized by this permit may be combined with other sources of storm water that are not associated with construction activity if the resulting discharge is in compliance with this permit.

4. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

No monitoring is required.

5. JUSTIFICATION OF PERMIT CONDITIONS

The following regulations are pursuant to KRS 224.10-100, 224.70-100, and 224.70-110.

Best Management Practices:

This requirement is consistent with 401 KAR 5:065, Section 2(10).

Antidegradation:

The conditions of 401 KAR 5:029, Section 1(1) will be satisfied by coverage under this permit. A review under Section 1(2), (3), and (4) will not be applicable.

6. COMPLIANCE SCHEDULE

The permittee shall achieve compliance with all requirements upon notification of coverage under this general permit.

7. PERMIT DURATION

This permit is valid for five (5) years. Upon issuance of a new general permit, the permittee will have coverage automatically renewed. A new NOI or other notification is not necessary.

8. PERMIT INFORMATION

The application, draft permit, fact sheet, public notice, comments received, and additional information is available from the Division of Water at 14 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

9. REFERENCES AND CITED DOCUMENTS

All material and documents referenced or cited in this fact sheet are part of the permit information as described above and are readily available at the Division of Water Central Office. Information regarding these materials may be obtained from the person listed below.

10. CONTACT

Additional information concerning this permit may be obtained from Ronnie Thompson at the address noted in Item 8 or at (502) 564-2225, extension 423.

11. PUBLIC NOTICE INFORMATION

Please refer to the attached Final Permit Decision Cover Letter or Public Notice for details regarding the procedures for a final permit decision, deadline for comments, and other information required by 401 KAR 5:075, Sections 12 and 4(2)(e).