

RECREATIONAL TRAILS PROGRAM
PROJECT AGREEMENT
BETWEEN THE STATE OF MISSOURI
AND A STATE AGENCY, POLITICAL SUBDIVISION OR ORGANIZATION

Exhibit A

Project Sponsor

City of Columbia

Project Number

2016-10

Project Title

MKT Trail Bridges 5 and 7 Replacement Project

Project Period

October 15, 2016 – December 31, 2019

Project Scope (Description of Project)

Replacement of two existing trail bridges along the MKT Trail

PROJECT COSTS

Total Costs: \$250,000 Grant Amount: \$150,000

Additional Grants Management Requirements

No expenditures made prior to signature and return of this agreement is eligible for reimbursement.

Projects must be completed within the project period as stated above.

All trails and associated facilities, for which grant funds are expended, must be available and open to the public for a period of twenty-five years.

Final Reimbursement request must be received by our office within 60 days of the project completion or end date.

Sponsors agree to follow all federal, state, local, environmental and permitting requirements.

If the scope of work on this project changes, the sponsor agrees to contact the GMS immediately.

Attachments

The following are hereby incorporated into this agreement:

1. The Recreational Trails Program Administrative Guide.

**RECREATIONAL TRAILS PROGRAM
PROJECT AGREEMENT
BETWEEN THE STATE OF MISSOURI
AND A STATE AGENCY, POLITICAL SUBDIVISION OR ORGANIZATION**

The State of Missouri, Department of Natural Resources, represented by the State Liaison Officer, and the Political Subdivision named above (hereinafter referred to as the Recipient), mutually agree to perform this agreement in accordance with the Recreational Trails Program terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, and assurances attached hereto and hereby made a part hereof.

The State of Missouri hereby promises, in consideration of the promises made by the Recipient herein, to obligate to the Recipient the amount of money referred to above, and to tender to the Recipient that portion of the obligation which is required to pay Missouri's share of the costs of the above project stage, based upon the above percentage of assistance. The Recipient hereby promises, in consideration of the promises made by the State of Missouri herein, to execute the project stage described above in accordance with the terms of this agreement.

The provisions of this agreement remain in effect for all parties, their successors, interest and assigns.

In witness thereof, the parties hereto have executed this agreement as of the date entered below.

THE STATE OF MISSOURI

**STATE AGENCY, POLITICAL
SUBDIVISION, OR ORGANIZATION**



Signature

Signature

William J. Bryan

Name

Name

Director, Division of State Parks

Title

Title

10/13/16

Date

Date

Please return to:
Department of Natural Resources
Division of State Parks
Attn: RTP Planner
P.O. Box 176
Jefferson City, MO 65102

2016 Recreational Trails Program Project Administration Guide

Missouri State Parks
Grants Management Section
PO Box 176
Jefferson City, MO 65102-0176
573-522-8191
573-526-4395 (FAX)
lwcf.rtp@dnr.mo.gov



MISSOURI DEPARTMENT OF NATURAL RESOURCES
DIVISION OF STATE PARKS

TABLE OF CONTENTS

Table of Contents	i
List of Acronyms	iv
Section I. Project Administration Overview	1
Section II. NEPA Review and Determination	4
Completing the NEPA Determination Form	4
Section 106 Review	5
Threatened or Endangered Species	5
Section 6(f)(3) Lands	6
Impacts to Jurisdictional Waters	6
Water Quality Impacts	7
Floodplain Impacts	7
Air Quality	8
Hazardous Waste	8
Ozark National Scenic Riverways	9
Wild and Scenic Rivers	9
Farmlands	9
Environmental Justice	9
Noise Impacts	10
Temporary Construction Impacts	10
Permanent Impacts to Travel Patterns	10
Public/Tribal Involvement	10
Section III. Real Property Acquisition	12
Section IV. Project Development	15
Maintaining Your RTP Project File	15
Project Development Procedures	16
Contracting for Services or Materials	16
Purchase/Service Contracts Under \$25,000	16
Purchase/Service Contracts \$25,000 or Greater	16
Force Account Labor and Use of In-House Equipment	17
Donations	17
Buy America Provisions	17
Buy America Waiver Requests	17
Signs	18
Invasive Species	18
Permitting	18
Accessibility	18
Trailhead Amenities	19
Trails/Trailside Amenities	19
Educational Projects	20
Other Power-Driven Mobility Devices	20
Section V. Reimbursement and Reporting Requirements	22
Quarterly Reports	22
Amendment Requests	22
Time Extensions	22
Change in Project Scope	22
Change in Project Budget	22
Project Cancellation	23
Reimbursement Requests	23
Reimbursement Statement	23
Reimbursement Log	23
Individual and Volunteer Time Record	23

Equipment Use Log	23
Cost Documentation.....	23
Documentation of Contract Labor	23
Documentation of Force Account and In-House Equipment Usage	23
Documentation of Volunteer Services	23
Documentation of Purchase	24
Final Reimbursement Request	24
Section VI. Project Closeout and Post-Completion Requirements	25
Project Completion.....	25
RTP Acknowledgement Sign	25
Project Closeout Packet.....	25
Final Reimbursement Request	25
Final Inspection Request Form.....	25
As-Built Site Map.....	25
As-Built Facility Plans	25
Post-Construction Certification.....	25
Control and Tenure Documentation	25
Record Retention.....	25
Long-Term Stewardship Responsibilities.....	26
Inspections	26
Public Access	26
Maintenance Requirements for Equipment Purchased with RTP Funds	26
Educational Projects.....	26
Appendix A. NEPA Determination Form	27
Appendix B. Real Property Acquisition Documentation	41
Real Property Acquisition Documentation Checklist.....	41
Sample Notice of Interest.....	42
Sample Waiver Valuation	43
Sample Written Offer to Purchase	44
Sample Written Statement of Just Compensation	45
Sample Waiver of Right to Just Compensation	46
Appendix C. FHWA-1273 Required Contract Provisions for Federal-Aid Construction Projects.....	47
Appendix D. Missouri Department of Natural Resources Federal Financial Assistance Agreements General Terms and Conditions	60
Appendix E. Contract Compliance Required Documentation	79
Affidavit of Compliance with Prevailing Wage Law	80
Certification of Non-Segregated Facilities	81
Certification Regarding Department, Suspension, Ineligibility and Voluntary Exclusion over \$25,000	82
Anti-Lobbying Certification.....	84
Appendix F. Buy America	85
Sample Buy America Certification	86
Sample Letter Step Certification.....	87
Sample Letter Step Certification.....	88
Sample Buy America Waiver Request	89
Appendix G. Accessibility Checklist	90
Appendix H. Reporting, Reimbursement and Amendment Request Forms	132
Quarterly Report Form	133
Extension Request	134
Reimbursement Statement	135
Reimbursement Log	136
Individual and Volunteer Time Record	137
Equipment Use Record	138
Equipment Purchase Record	139

Appendix I. Project Closeout Forms and Checklist.....	140
Project Closeout Packet Checklist	140
Final Inspection Request	141
Post Construction Certification	142

LIST OF ACRONYMS

ABA	Architectural Barriers Act
ADA	Americans with Disabilities Act
ATV	All-Terrain Vehicle
CAA	Clean Air Act
CE	Categorical Exclusion
CFR	Code of Federal Regulations
CWA	Clean Water Act
DNR	Department of Natural Resources
DOJ	U.S. Department of Justice
DSP	Division of State Parks
EA	Environmental Assessment
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FAST	Fixing America’s Surface Transportation (Act)
FEMA	Federal Emergency Management Agency
FFATA	Federal Funding Accountability and Transparency Act
FHWA	Federal Highway Administration
FONSI	Finding of No Significant Impact
GMS	Grants Management Section
IPaC	Information for Planning and Conservation
LWCF	Land and Water Conservation Fund
MBE	Minority Business Enterprise
MDC	Missouri Department of Conservation
MOA	Memorandum of Agreement
MPO	Metropolitan Planning Organization
NAAQS	National Air Quality Standards
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
NHPA	National Historic Preservation Act
NPDES	National Pollutant Discharge Elimination System
NPS	National Park Service
NRCS	Natural Resources Conservation Service
NTP	Notice to Proceed
NWP	Nationwide Permit
ONSR	Ozark National Scenic Riverways

OPDMD	Other Power-Driven Mobility Devices
OHV	Off-Highway Vehicle
ORV	Off-Road Vehicle
ROD	Record of Decision
RTP	Recreational Trails Program
SHPO	State Historic Preservation Office
SWPPP	Storm Water Pollution Prevention Plan
T&E	Threatened and Endangered
TIP	Transportation Improvement Program
Uniform Act	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended
USACE	U.S. Army Corps of Engineers
USFS	U.S. Forest Service
USFWS	U.S. Fish and Wildlife Service
WBE	Women Business Enterprise

SECTION I. PROJECT ADMINISTRATION OVERVIEW

Congratulations on having your proposed trail project recommended for funding through the 2016 Recreational Trails Program (RTP)! The Recreational Trails Program is a federally-funded assistance program authorized by the U.S. Congress under the Fixing America's Surface Transportation (FAST) Act. The purpose of RTP is to help states provide and maintain trails and trail-related facilities for both motorized and non-motorized recreational use. For more information about RTP or the FAST Act, visit http://www.fhwa.dot.gov/environment/recreational_trails/.

The U.S. Department of Transportation, Federal Highway Administration (FHWA), oversees RTP and has delegated administration of the program to the Missouri Department of Natural Resources (DNR). The Division of State Parks (DSP), a division within DNR, has direct oversight of the program. Within DSP, the Grants Management Section (GMS) is the section responsible for assisting you with all aspects of applying for and administering your RTP grant project.

Now that you've received a notice of award letter from DNR, the following provides a general overview of the process for administering your grant. Subsequent chapters of this guide detail the process more thoroughly. Sponsors have **three years** from the date the project agreement is signed to complete their RTP project. It's important that you, the project sponsor, demonstrate every effort to complete your project within the agreed-upon timeframe indicated on the Project Agreement. To this end, GMS has created a project timeline example on page 3, outlining the anticipated timeframe for each phase of the project. Most projects will be completed well within the project timeline but it is acknowledged that unforeseen issues can arise that may delay project completion. GMS staff will work with project sponsors on a case-by-case basis for extension requests or other amendments to the project, the procedures for which are discussed in Section V of this manual.

- **Mandatory project administration workshops.** Sponsors are required to attend a mandatory project administration workshop. During the workshop, FHWA and GMS staff will explain the requirements for administering the RTP grants. Additionally, they will help you understand the Federal Highway Administration's statutory provisions for Buy America as well as the federal requirements for conducting an environmental review of your project. At the project administration workshop, GMS staff will provide you with two copies of the Project Agreement that will need to be signed by the project sponsor and submitted to the GMS office. Also during the workshop, GMS staff will provide you a copy of DNR's Sub-Recipient Information Form, which will need to be completed and submitted to the GMS office. Additionally, staff will provide instruction on how to register to complete a State of Missouri Vendor Input/ACH-EFT Application (<https://oa.mo.gov/vendors>), which allows reimbursement funds to be transferred electronically to the sponsor's account at their bank or financial institution.
- **NEPA review.** Documentation of compliance with the National Environmental Policy Act (NEPA) and other federal environmental laws, regulations, and Executive Orders must be provided as part of an authorized construction project under RTP. Most RTP projects will qualify as Categorical Exclusions (CE) under NEPA. However, each project must be reviewed to assure that it does not have a significant impact on the environment. As part of the review, project sponsors are required to complete a NEPA Determination Form and provide concurrence documentation from various state and federal agencies in order for GMS and FHWA to determine if a project is classified as a CE under NEPA. The NEPA Determination Form is provided in Appendix A and steps for completing the NEPA review are provided in Section II. NEPA Review and Determination. During the workshop, GMS and FHWA staff will explain the process for completing the NEPA review. **In order for your project to remain active, you are strongly encouraged to complete your environmental review and submit the NEPA Determination Form and all determination documentation to GMS staff within six months of signing the Project Agreement.** You should begin the design phase of your project concurrently with the NEPA review process since the design phase will identify potential impacts to resources and any required permits.
- **Acquisition of real property.** Federally-assisted real property acquisition, which includes private property acquired with RTP funds, must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Also known as the "Uniform Act," this act ensures that landowners are fully informed of their rights and are justly compensated when selling or leasing private property or selling/leasing some type of interest in the property (such as an easement). As part of this assurance, the Uniform Act requires an appraisal and an appraisal review to be performed. If your project includes the acquisition of real property, Section III of this guide outlines the steps you must perform to show compliance with the Uniform Act. Appendix B provides the supporting documentation you will be required to submit to GMS to demonstrate compliance. **You have up to six months from the date your Project Agreement is signed to provide GMS staff the documentation showing compliance with the Uniform Act (when required).**
- **Buy America waiver.** Buy America is a federal stipulation that requires all transportation infrastructure projects be built with American-made products. Projects funded with federal RTP funds must comply with this federal requirement.

Specifically, any project that permanently incorporates steel or iron products in the project (such as steel I-beams for bridges) or purchases a motorized piece of equipment used for trail construction or maintenance (such as a tractor) must ensure that the product or equipment is domestically produced. Section IV of this guide explains the statutory provisions of Buy America (23 CFR 635.410) and the process for requiring a waiver if necessary. **If a Buy America waiver is required, it is strongly recommended that you begin this process concurrently with the NEPA review.**

- **Notice to Proceed (NTP) letters.** Formal Notice to Proceed (NTP) letters will be issued by GMS that provide approval to proceed with specified phases of the project. These letters will be issued once all compliance requirements have been met. Depending on the scope of the project, the cost categories in the funding request and the timing of compliance documentation submittals, a project sponsor may receive multiple Notice to Proceed (NTP) letters throughout the life of the project. For instance, a project sponsor would receive an initial NTP letter authorizing expenses associated with planning, such as conducting the NEPA review and developing a preliminary project design, if those costs were included in the sponsor's budget table and narrative as reimbursable activities. A second NTP letter would be issued for construction-related activities once GMS and FHWA staff review the required compliance documentation for NEPA determination and concur that the project qualifies as a CE. For projects that include acquisition of real property, another NTP letter would be issued upon receipt of documentation demonstrating compliance with the Uniform Act. And a NTP letter would be issued upon receipt of a Buy America waiver, in those instances where the project sponsor submits a waiver request for any steel or iron product. **It's important to remember that you can't begin any construction activities, acquire real property or acquire motorized equipment until after receiving a NTP letter for those particular phases of your project.**

Any costs incurred prior to receiving NTP will not be reimbursed; however, some costs incurred prior to receiving NTP may be used as match, such as planning, engineering or environmental review costs (up to 10% of the total grant request). Costs in these categories incurred up to 18 months prior to project approval and notice to proceed may be used as match if they were identified in your budget table and budget narrative. Examples of planning costs include property appraisals and appraisal reviews for land acquisition and/or land donations. Examples of engineering costs include development of design and/or construction documents; and costs associated with the bidding process, such as advertisement and development of bid packets; etc. Examples of environmental review costs include costs associated with evaluations such as archaeological surveys, environmental approvals, and applicable permits.

- **Project development.** Section IV. Project Development outlines the required documents you will need to maintain in your project file; the procurement procedures you are required to use, including the bid process for goods and contracted labor; and the submission of project plans and specifications for review, including demonstration of compliance (where required and where possible) with the Americans with Disabilities Act (ADA).
- **Requesting reimbursements and reporting project status.** Section V. Reimbursement and Reporting Requirements describes the process for submitting funding reimbursement requests, including required cost documentation and time accounting records; submitting quarterly status reports; and requesting project amendments, such as changes in project scope or time extensions.
- **Project completion.** Section VI. Project Closeout and Post-Completion Requirements outlines the process for submitting a final reimbursement request, the post-construction certification, as-built site maps and site plans, and other closeout documents that are required at the completion of the project to ensure the project meets all federal and state regulations. Section VI also describes the post-completion record retention, stewardship, operation and maintenance requirements a project sponsor must follow to ensure longevity of the project.
- **Contact information.** For questions and to submit any correspondence regarding your RTP project, including all required forms and documentation, please use the below contact information:

RTP Planner
Grants Management Section
Missouri State Parks
PO Box 176
Jefferson City, MO 65102-0176
573-522-8191
573-526-4395 (FAX)
lwcf.rtp@dnr.mo.gov

Sample RTP Project Timeline

Project Phases	Year 1												Year 2												Year 3						
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	
Project Administration Workshop	█																														
Notice to Proceed for NEPA Review and Project Design		█																													
NEPA, Uniform Act, Permitting Compliance & Buy America			█	█	█	█	█	█																							
Design Phase*				█	█	█	█	█	█																						
Compliance Documentation Review by GMS & FHWA									█	█	█																				
Notice to Proceed for Construction & Acquisition Activities												█																			
Bid/Award													█	█	█	█															
Construction																	█	█	█	█	█	█	█	█	█	█	█	█	█	█	
Project Closeout																													█	█	█

*The Design Phase will likely have some overlap with the NEPA Review & Permitting stage, as the design of the project will identify potential resource impacts and required permits. It is important to remember, however, that no construction activities can occur until after all compliance documentation is reviewed, a Categorical Exclusion Determination is made and a Notice to Proceed is issued.

SECTION II. NEPA REVIEW AND DETERMINATION

In 1970, the National Environmental Policy Act (NEPA) was signed into law. NEPA established a national environmental policy intentionally focused on federal activities and the desire for a sustainable environment balanced with other essential needs of present and future generations of Americans. Federal agencies have to comply with NEPA before they make final decisions about federal actions that could have environmental effects. Thus, NEPA applies to a very wide range of federal actions that include, but are not limited to, federal construction projects, plans to manage and develop federally owned lands, and federal approvals of non-federal activities such as grants, licenses, and permits.

Because your project has been recommended for RTP funding, you are required to conduct a NEPA review. Most RTP projects typically qualify as Categorical Exclusions (CE) under NEPA (<http://www.fhwa.dot.gov/legregs/directives/fapg/cfr0771.htm>). CEs are actions that meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significant environmental impacts. They are actions that do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise or water quality impacts; do not have significant impacts on travel patterns; and do not otherwise, either individually or cumulatively, have any significant environmental impacts. An Environmental Assessment (EA) or Environmental Impact Statement (EIS) will be required for a project that does not qualify as a CE. An EA is prepared for actions in which the significance of the environmental impact is not clearly established. If the EA finds a project to have no significant impacts on the environment, a Finding of No Significant Impact (FONSI) is issued. An Environmental Impact Statement (EIS) is prepared for projects where it is known that the action will have a significant effect on the environment. The EIS includes consideration of a range of reasonable alternatives, analyzes the potential impacts resulting from the alternatives, and issues a Record of Decision (ROD). The ROD specifies the environmentally preferable alternative and identifies the measures that will be implemented to avoid, minimize and compensate for environmental impacts.

In order for GMS and FHWA staff to determine if your project qualifies as a CE, you must complete the NEPA Determination Form found in Appendix A. The form can also be filled out electronically as a fillable Microsoft Word document available at <https://mostateparks.com/page/61220/recreational-trails-program-rtp-grants>. The review process requires that you coordinate with other federal and state agencies for their determinations regarding the potential environmental and resource impacts of your project. You must attach determination documentation from these agencies to the NEPA Determination Form in order for GMS and FHWA to establish if your project is classified as a CE under NEPA. If GMS and FHWA concur that your project meets the requirements for a Categorical Exclusion, a Notice to Proceed (NTP) letter will be sent to you. The NTP letter will outline any commitments you are required to incorporate in your project to minimize impacts to the environment and significant resources. **Do not begin any phase of your project that requires a NTP letter before receiving one from DNR.** Any costs incurred prior to receiving the NTP letter will not be reimbursed; however, some costs incurred prior to receiving NTP may be used as match, such as planning, engineering or environmental review costs (up to 10% of the total grant request). Costs in these categories incurred up to 18 months prior to project approval and notice to proceed may be used as match if the costs were included in your budget table and narrative. Examples of environmental review costs include costs associated with cultural evaluation such as archaeological surveys, environmental approvals, and applicable permits. If you intend to submit a reimbursement request for planning, engineering or environmental review costs and if these costs were identified in your budget table and narrative, contact GMS staff to ensure cost eligibility.

Completing the NEPA Determination Form

The instructions below will assist you in completing the NEPA Determination Form and coordinating with the various federal and state agencies responsible for reviewing your project for impacts. If you have already previously completed all or some of the agency coordination listed below, make sure to still complete the NEPA Determination Form and attach the requisite documentation outlined below. For the Section 106 Review, the determination documentation must be dated within a three-year period of the grant application. Because conditions may change or new information may become available, prior determination documentation for federally- and state-listed threatened and endangered species will only be accepted if generated within 90 days prior to submitting the NEPA Determination Form. New reports will need to be requested if outside this 90-day period.

General Project Information

For Question 1, Project Number and Project Title, use the information included on your Project Agreement to complete this question. Questions 2-5 are self-explanatory and should be completed using the information from your RTP application. Question 6 addresses projects that are exempt from NEPA review. These consist of educational projects that do not include construction activities or projects for equipment purchase only (motorized vehicles and motorized construction/maintenance equipment are subject to federal Buy America provisions, described in Section IV). If your project meets one of these conditions, indicate which and skip to the Certification of Responsible Person section on the form. If in doubt as to whether or not your project meets one of the exemption categories, consult with GMS staff prior to completing the form.

For Question 7, provide a brief description of the project scope and identify the physical limits of the review area. Examples of this are: “In this project, we intend to construct 2.3 miles of 8 foot wide crushed limestone trail between _ and _. The environmental review area for this project extends 20 feet in all directions from the centerline of the trail” or “In this project, we propose to improve the North Trailhead of Willow Creek Trail by expanding the parking lot to add 10 additional parking spaces, constructing a pre-cast vault toilet, and installing a wooden informational kiosk. The environmental review area for this project encompasses 21,780 square feet (half an acre), in which the trailhead parking lot and restroom will be constructed.” Include a map that delineates your project limits and the environmental review area. Any resources identified within the environmental review area should be noted on the map. Additionally, identify the location and extent of any tree removal that may be required for your project. The environmental review area is the area established around your project within which any impacts to the environment is expected to occur from construction of the project and from any indirect impacts (such as stormwater runoff, etc.). It is important to identify an area sufficiently large enough to encompass modifications to your project design because very minor design tweaks that occur within the area are very easy to review and “environmentally clear” versus design modifications that extend beyond your identified environmental review boundary. **If significant changes in the project footprint or scope occur, contact GMS staff immediately since these may require initiating a new NEPA review.**

Section 106 Review

Under the National Historic Preservation Act (NHPA), Congress established a comprehensive program to preserve the historical, archaeological and cultural resources of our nation. Section 106 of NHPA requires federal agencies to consider the effects on these resources of projects they carry out, approve or fund. The State Historic Preservation Office (SHPO) is the agency authorized for ensuring Section 106 compliance. To initiate a Section 106 Review, submit a Section 106 Project Information Form to SHPO. Instructions for completing and submitting the form are found at <https://dnr.mo.gov/shpo/sectionrev.htm>. The form is a fillable PDF requiring Adobe Acrobat Reader, available as a free download from <https://get.adobe.com/reader/>. You will also be required to submit topographic maps of the site, project plans and photos of any existing structures.

If the information you provided is sufficient to make a determination, SHPO will send you a Cultural Resource Assessment that will indicate that no historic properties will be affected. Indicate this on the NEPA Determination Form and attach a copy of the Cultural Resource Assessment to the form. If the information you submitted is not sufficient to make a determination, SHPO will send you a letter requesting additional information or may require that a cultural or archaeology survey be conducted by a professional archaeologist or architectural historian. Coordinate with SHPO on the requirements of the survey and completing a Section 106 Survey Memo Form. Once the survey has been completed and reviewed by SHPO, indicate the determination results from the survey and attach the concurrence letter from SHPO. If your project has an adverse effect determination, further consultation between SHPO, GMS and FHWA is required. A Memorandum of Agreement (MOA) between your organization and SHPO may be required, outlining avoidance measures. Attach a copy of any coordination correspondence, including a MOA if required, to the form. List any commitments required by SHPO for avoiding resource damage or, if avoidance measures are outlined in a MOA, indicate, “See attached MOA” in the space provided. The Section 106 Review must be satisfactorily completed before the NEPA Determination Form can be approved, which means that an effect determination must be made and a MOA executed (if necessary).

Threatened and Endangered Species

The Endangered Species Act (ESA) requires that federal agencies, in consultation with the U.S. Fish and Wildlife Service (USFWS), ensure that any actions they fund, authorize, or carry out will not jeopardize the continued existence of federally-listed threatened or endangered (T&E) species or destroy or adversely modify designated habitat critical to those species. For the ESA, the following effect determinations are made: “No Effect,” “May Affect, Not Likely to Adversely Affect,” and “May Affect, Likely to Adversely Affect.” To evaluate the project’s impact to federally-listed T&E species or their habitat, use the USFWS’s Information for Planning and Conservation (IPaC) search tool to request an official species list of T&E species and the presence of critical habitat that should be considered when evaluating the potential impacts of your project. The IPaC search tool can be found at <https://ecos.fws.gov/ipac/>, and will require you to enter information about your project and delineate your project’s boundaries on an online map. You will need to request an Official Species List, which will be generated automatically and emailed to you. Attach a copy of the official species list to the NEPA Determination Form. In addition to determining your project’s impact on federally listed T&E species, you must also determine its impact on state-listed endangered species or species and habitats of conservation concern by entering your information into the Missouri Natural Heritage Review Website (<https://naturalheritagereview.mdc.mo.gov/>). You will need to follow the website’s instructions for creating a user login and password, and for entering your project information and project boundary. The Missouri Department of Conservation (MDC) will email you a Natural Heritage Review Report, which must also be attached the NEPA Determination Form.

After a review of the species and habitats listed on the Official Species List and Natural Heritage Report that have potential to be located your project area, you must conduct an evaluation to determine if your project may impact those species or their

habitats. It is highly recommended that you hire a professional environmental consultant to conduct the evaluation. You must indicate on the NEPA Determination Form whether or not impacts are anticipated and you must summarize your project impacts, for each species listed.

- If impacts are anticipated, you will need to describe what activities will likely cause impact and to what extent.
 - For instance, if your project will require tree removal, please indicate the magnitude of the tree removal (i.e., acreage or number of trees) and the time of year for tree-clearing.
 - Make sure the location and anticipated footprint of tree removal is identified on your Environmental Review Area Map.
 - Attach photos of the trees so that bark characteristics of the main trunk and large branches, along with any cavities, are clearly illustrated.
 - If your project requires the renovation or replacement of a bridge, attach photos of the undersides of the bridge illustrating any bird nests or unusual staining on the substructure or underside of the decking.
- You must then describe any commitments you will undertake to avoid and minimize any potential impact to listed species.
- If no impacts are anticipated for a particular species, you will need to provide reasons why none are anticipated, such as, “This project does not involve any tree clearing, so there will be no effects on summer roosting habitat for listed bat species;” or “This project does not impact any aquatic habitats so there will be no effects on listed fish or mussel species;” or “This project does not impact the Missouri or Mississippi rivers so there will be no effects on pallid sturgeon.”

If the project “may affect” threatened and endangered species, GMS staff will review the information you provide and work with FHWA to internally consult with USFWS for concurrence with a “May Affect, Not Likely to Adversely Affect” determination. Once the USFWS concurrence letter is received, GMS will summarize any commitments required by the USFWS to be incorporated in your project and will attach them to the NEPA Determination Form, and will provide you a copy. If there is a “May Affect, Likely to Adversely Affect” determination made, a Biological Assessment will then need to be prepared and formal consultation with the USFWS, through FHWA and DNR, will need to occur. GMS staff will contact you if this latter instance transpires. Coordination with the USFWS must be completed for projects having anything other than a “no effect” determination, before the NEPA Determination Form is approved.

Section 6(f)(3) Lands

Parks or other lands that were funded by the Land and Water Conservation Fund (LWCF) are federally protected in perpetuity under Section 6(f)(3) of the Land and Water Conservation Fund Act. For assistance in determining if your project is located on 6(f)(3)-protected property, contact GMS staff. If it is determined that your project is located on property protected under Section 6(f)(3), GMS staff will review your project to determine if negative impacts will result from your project and what measures you will be required to take to avoid or mitigate resource impacts. Attach a copy of GMS’ determination letter to the NEPA Determination Form and include any commitment requirements from the letter in the space provided in question 17.

Impacts to Jurisdictional Waters

Section 404 of the Clean Water Act (CWA) regulates the discharge of dredged or fill material into jurisdictional waters of the United States. Jurisdictional waters include large lakes, rivers, streams and wetlands, including those that don’t always contain water. Activities in jurisdictional waters of the United States regulated under this program include fill for development, water resource projects (such as dams and levees), and infrastructure development. Some specific examples of construction activities that would require permitting include placing culverts under road crossings, placing rip rap along stream banks and installing stormwater outfall pipes. Section 404 requires a federal permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g. certain farming and forestry activities). A state-issued 401 Water Quality Certification (401 Certification) is also needed for any project that needs a federal 404 Permit. The permitting and certification process is shared between the U.S. Army Corps of Engineers (USACE) and the Missouri Department of Natural Resources (DNR).

In order to determine if your project will require a 404 Permit and a 401 Certification, you will need to establish if any of the following are in your environmental review area:

- Creek or stream channel (even if the bed is currently dry)
- Lake
- River
- Drainage ditch
- Wetlands – if you’re unsure if your project contains wetlands, look for these indicators: an area that often has standing water; a low spot that holds water for several days after it rains; the water table in the area is not far from the surface; the area is near a river, lake or pond; or the area contains plants more typical of a wetland, such as cattails, rushes and sedges. A useful tool for identifying potential wetlands is the Wetlands Mapper, provided through the National Wetlands Inventory (<https://www.fws.gov/wetlands/Data/Mapper.html>).

If any of the above conditions exist within your project area, then you will need to determine if your project has the potential to impact any jurisdictional water. Project sponsors are strongly encouraged to hire or consult with a professional who is qualified to identify wetlands and other jurisdictional waters to determine if the project will have an impact on those resources. Many activities involving relatively minor impacts are authorized under Nationwide Permits, or NWP. To find out if your project falls under a NWP, you will need to contact the USACE District Office that oversees the district in which your project is located. A map of Missouri's USACE districts is available here: <http://dnr.mo.gov/env/wpp/401/images/corps-map3.gif>. The USACE will indicate whether your project is covered under a NWP or if you will be required to complete an individual 404 permit application (<http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>). The USACE will then send you a letter authorizing your project under a particular permit, and will send a copy of your letter to DNR. If the USACE's letter to you indicates that DNR has "conditionally certified" your activity and the letter includes DNR's conditions, you will not need to contact DNR for further certification. If the USACE's letter to you indicates that you must obtain an individual 401 certification, please follow the instructions for submitting your application materials to DNR, which can be found at <http://dnr.mo.gov/env/wpp/401/index.html>.

If the USACE and/or DNR determine that there will be impacts to jurisdictional waters and/or wetlands, please indicate on the NEPA Determination Form the extent of the impact (i.e., acreage of non-wetland jurisdictional waters impacted, acreage of wetland jurisdictional waters impacted). Indicate the 404/401 permit type that is anticipated or has been acquired and any conditions of the 404/401 permit. If the permit is not yet in-hand, include a commitment to follow the conditions of the permit. Submit a copy of the permit to GMS, once obtained.

Water Quality Impacts

The Clean Water Act (CWA) also established the National Pollutant Discharge Elimination System (NPDES), which is a permitting program that addresses water pollution by regulating point sources that discharge pollutants to waters of the United States. The Environmental Protection Agency (EPA) has authorized the NPDES permit program to state governments to perform many permitting, administrative, and enforcement aspects of the program. DNR is the regulatory agency that administers the NPDES permit program in Missouri. DNR requires a Land Disturbance Permit for projects that disturb one or more acres or disturb less than one acre when part of a larger common plan of development that will disturb a cumulative total of one or more acres over the life of the project. A permit must be obtained prior to starting land disturbance activities. To obtain a land disturbance permit, a Storm Water Pollution Prevention Plan (SWPPP) is also required. Prior to the issuance of a land disturbance permit, the project sponsor needs to have already developed a SWPPP. A sample SWPPP can be found at http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs144p2_042752.pdf. For your convenience, DNR has created the ePermitting system to allow you to apply for your Land Disturbance Permit online (<http://dnr.mo.gov/env/wpp/epermit/help.htm>). On the NEPA Determination Form, indicate if your project will disturb one acre or more. Indicate if there are any of the following within the environmental review area: wells, sinkholes, sensitive streams, springs or caves. Describe how your project may impact these areas. If no impacts are anticipated, indicate how you made that determination. List the conditions of the Land Disturbance Permit or, if the permit is not yet in-hand, include a commitment to obtain the permit prior to construction and to follow the conditions of the permit. Submit a copy of the permit to GMS, once obtained.

Floodplain Impacts

Communities (cities, counties or states) participating in the National Flood Insurance Program (NFIP) are required to regulate construction in the floodplain. Communities accomplish this by requiring permits for development in special flood hazard areas. Additionally, the Federal Emergency Management Agency (FEMA) has mandated that any project in a floodplain must be reviewed to determine if the project will increase flood heights. FEMA defines a floodplain as any land area susceptible to being inundated by water. The 100-year flood, or a flood with a one percent annual chance of being equaled or exceeded in a given year, has been adopted by FEMA as the base (regulatory) flood for the NFIP. The water surface elevation of the base flood is known as the base flood elevation. A special flood hazard area is land in the floodplain inundated by the 100-year flood and is commonly referred to as the "100-year floodplain." A floodplain development permit is required for any construction in a special flood hazard area. Special flood hazard areas are typically shown as "A zones" on flood insurance maps.

To determine if your project is in a floodplain or special flood hazard area, use the FEMA Flood Map Service Center (<https://msc.fema.gov/portal>). If you determine your project is within a floodplain or special flood hazard area, you must obtain a floodplain development permit from the local floodplain authority (i.e., community or county). For a list of communities and counties participating in the NFIP, see <http://www.fema.gov/cis/MO.pdf>. In some instances, a No-Rise Certification may be required by the community or county before a permit is issued. On the NEPA Determination Form, indicate if your project is in a floodplain or special flood hazard area. If a permit is required, and it is already obtained, state the name of the permit and attach a copy. List the commitments required by the permit or, if the permit is not yet in-hand, include a commitment to obtain the permit prior to construction and to follow the conditions of the permit.

Air Quality

The Clean Air Act (CAA) is the federal law that regulates air emissions. Among other things, this law authorizes EPA to establish National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants. Most RTP projects and project-related activities are exempt from air quality conformity requirements of the CAA, unless the project is considered “regionally significant” as defined by 23 CFR 450.104 (<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&rgn=div5&view=text&node=23:1.0.1.5.11&idno=23>) or is located in a nonattainment area. Projects outside the St. Louis and Kansas City Metropolitan Planning Organization (MPO) areas generally will not meet the definition of “regionally significant.” For projects within the St. Louis and Kansas City MPO areas, the project sponsor will need to coordinate with the MPO to determine the level of analysis required. For MPO contact information, see <http://www.fhwa.dot.gov/modiv/programs/mpo.cfm>. If a project is determined to be regionally significant, conformity will be demonstrated through an established process for inclusion in a metropolitan Transportation Improvement Program (TIP). Indicate on the NEPA Determination Form if your project is in either the St. Louis or Kansas City MPO and provide documentation that you’ve coordinated with the MPO in determining if your project is considered regionally significant.

Air quality standards also regulate open burning. Open burning of tree trunks, tree limbs and vegetation from land clearing operations is allowed without a permit if the burning takes place outside the city limits of any incorporated area or municipality and at least 200 yards from the nearest inhabited dwelling. Local jurisdictions (i.e., municipalities, counties, etc.) may have additional restrictions on open burning. Prior to conducting any open burning, the project sponsor should contact the city or county of jurisdiction for any local restrictions or required permits. The open burning of certain trade wastes, primarily untreated wood wastes such as pallets or crates, throughout the state, and vegetation from land clearing operations in the Springfield-Greene County area and the Kansas City and St. Louis Metropolitan areas, may be permitted when it can be shown that open burning is the only feasible method of disposal or that disposal is in the public interest. In a nonattainment area, a permit may be denied, revoked, or suspended when conditions exist where burning would be considered detrimental to air quality standards. The open burning permit may require the project sponsor to use an air curtain destructor. An air curtain destructor is an air pollution control device designed to increase burning efficiency, reducing air contaminant emissions during open burning. Permit applications are available at <http://dnr.mo.gov/forms/#AirPollution> or any regional or local agency office. If your project may require open burning of vegetative waste from land clearing, you will need to indicate on the NEPA Determination Form any permits that may be required. If a permit is required, and it is already obtained, attach a copy. List the commitments required by the permit or, if the permit is not yet in-hand, include a commitment to obtain the permit prior to construction and to follow the conditions of the permit.

Hazardous Waste

Hazardous waste is waste that poses substantial or potential threats to public health or the environment. A site assessment of your project area must be completed to determine the presence of hazardous waste materials on-site or adjacent to the project boundaries. To assist you with determining the potential for hazardous substances at or adjacent to your project site, DNR has provided the Missouri Hazardous Substance Site Locator, an online map of hazardous waste cleanup sites (https://dnr.mo.gov/molts/gov/mo/dnr/lts/map/init_map.action). Project sponsors are strongly encouraged to consult a professional who is qualified to identify hazardous substances or determine the likelihood of their being present in and around the project site, especially if previous land uses at or near the project site were industrial or commercial in nature. Key indicators that may indicate the presence of hazardous waste include stained or discolored soil; dead or dying vegetation; drums or containers containing unknown substances; or piles of waste materials that include batteries or transformers. Additionally, if your project requires the renovation or demolition of a structure that was built before 1976, it may contain asbestos or lead-based paint.

On the NEPA Determination Form, indicate if there are any known hazardous waste sites in the environmental review area and whether or not your project will impact any of these sites. If there will be impacts, provide a description of what those impacts will be. If potential hazardous materials are encountered during construction activities at the project site, all work must cease immediately until a hazardous materials expert has reviewed the location and completed any necessary coordination and remediation. In the event hazardous materials are encountered, you must immediately contact the DNR Regional Office in your area (<https://dnr.mo.gov/regions/>) as well as GMS staff. By marking the box next to the commitment statement on the NEPA Determination Form, you are agreeing to comply with this requirement. All project sponsors must check this box, regardless of whether or not hazardous materials are suspected of being present within the environmental review area.

If you suspect that your project site may have contaminants, DNR’s Hazardous Waste Program offers a Brownfields/Voluntary Cleanup Program (BVCP) under a cooperative agreement with the EPA to conduct brownfield assessments of properties for public entities such as cities, counties and quasi-governmental entities, as well as for not-for-profit organizations. The assessment program provides funding and technical assistance to help communities assess properties for the presence of

hazardous substances. For more information about the BVCP or to apply for a site assessment, visit <https://dnr.mo.gov/env/hwp/bvcp/hwpvcp.htm>.

Ozark National Scenic Riverways

Ozark National Scenic Riverways (ONSR), managed by the National Park Service (NPS), protects 134 miles of the Current and Jacks Fork rivers in Shannon, Carter, Dent and Texas counties. The establishment of the Ozark National Scenic Riverways authorized the Secretary of the Department of the Interior to acquire interest, including scenic easements, on private land within the boundary of the Riverways. Scenic easements account for 9,257 acres within the ONSR, and are managed to maintain the natural environment and scenery for the benefit of the visiting public. Easements are designed to ensure that developments do not degrade the scenic and natural quality of private lands within the boundary of the Riverways. Scenic easements retain a 300 foot wide strip along the riverbanks that remains open to public use. If your project is within the scenic easement of the ONSR, contact FHWA and GMS immediately. Consultation between you, ONSR, FHWA and GMS staff is required before developing your project. On the NEPA Determination Form, describe the impacts your project will have and summarize the coordination with the NPS. List all environmental commitments required by the NPS.

Wild and Scenic Rivers

The National Wild and Scenic Rivers System was created by Congress in 1968 to preserve certain rivers with outstanding natural, cultural and recreational values in a free-flowing condition for the enjoyment of present and future generations. A 44.4-mile section of the Eleven Point River in Oregon and Ripley counties is designated a Wild and Scenic River. About half the lands within the Eleven Point Scenic River are private lands, while the remainder of the area is managed by the U.S. Forest Service (USFS). The private lands along the Scenic River are protected by the USFS under scenic easements to ensure protection of their scenic values and natural resources. If your project is within the scenic easement of the Eleven Point River, contact FHWA and GMS immediately. Consultation between you, USFS, FHWA and GMS staff is required before developing your project. On the NEPA Determination Form, describe the impacts your project will have and summarize the coordination with the USFS. List all environmental commitments required by the USFS.

Farmlands

In 1980, the Council on Environmental Quality directed that federal agencies must assess the effects of their actions on farmland soils classified by the Natural Resources Conservation Service (NRCS) as prime or unique. Because of this directive and the fact that your project will be receiving federal funding assistance, you will need to determine if the project will impact prime or unique farmland. Prime farmland is defined as soil that produces general crops such as common foods, forage, fiber, and oil seed. Unique farmland produces specialty crops such as fruits, vegetables, and nuts. To determine if your project site will be converting prime or unique farmland, use the NRCS' Web Soil Survey (<http://websoil.nrcs.usda.gov/app/>). If the soil survey indicates that your project will impact prime or unique farmland, you will need to complete parts I and III of the Farmland Conversion Impact Rating Form (http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045394.pdf) and submit the form to your local NRCS field office (<http://www.nrcs.usda.gov/wps/portal/nrcs/main/mo/contact/>). Coordinate completion of the form with the NRCS to determine if impacts generate a score of 160 or higher. Attach a copy of the completed form to the NEPA Determination Form. If the impact score is 160 or higher, coordinate with GMS, FHWA and NRCS regarding what measures should be taken to minimize the impacts. List those measures in the commitment section on the NEPA Determination Form. If there are no impacts to prime or unique farmland or the score on the Farmland Impact Rating Form is less than 160, then no commitment statement is necessary.

Environmental Justice

Presidential Executive Order 12898, "General Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," requires all federal agencies to identify and address the disproportionately high or adverse human health or environmental effects of their programs and policies on minorities and low-income populations and communities. Because your project is receiving federal funding, you will need to determine if your project ensures environmental justice for all those who will be impacted by the project. According to the EPA, environmental justice is the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people, including a racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

Environmental justice pertains to minority populations and low-income populations. Low-income populations are those with household incomes at or below the Department of Health and Human Services poverty guidelines. Minority populations include the following five minority groups: Black, Hispanic or Latino, Asian American, American Indian and Alaskan Native, and Native Hawaiian or Other Pacific Islander. Use the U.S. Census Bureau's American Fact Finder search tool (<http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>) to determine if your project area contains populations that

meet the low-income or minority population standards. Determine if your project area contains higher than average concentrations of these populations when compared to the rest of the community or county in which your project is located. If it doesn't, indicate so on the NEPA Determination Form. If your project area does contain a higher than average concentration of low-income or minority populations, determine if your project will disproportionately impact these populations. An example of a disproportionate impact would be if a low-income residential neighborhood flanks one side of a trail project and an affluent neighborhood flanks another and the trail project provides access to residents of the affluent neighborhood but doesn't provide access to residents from the low-income neighborhood. If the project does not disproportionately impact low-income or minority populations, indicate so on the NEPA Determination Form. If the project does disproportionately impact these populations, describe those impacts and what efforts will be done to minimize the impacts. Also, describe any public outreach efforts that engaged the affected populations. Any commitments resulting from this should be stated in the space provided on the NEPA Determination Form.

Noise Impacts

The Noise Control Act of 1972 established a national policy to promote an environment for the public free from noise that jeopardizes their health and welfare. For non-motorized trail projects, there are no noise requirements. An important consideration in the development of motorized projects is the impact of noise on other recreationists, nearby homes and nearby businesses. For motorized projects, the project sponsor must determine if construction of the trail will introduce a permanent noise source to a noise-sensitive area or move a noise source closer to a noise-sensitive area. The project sponsor must also engage in outreach efforts to determine if there are public concerns regarding noise impacts. If the project will introduce noise or move noise closer to a noise-sensitive area, or if there are concerns expressed by the public regarding negative impacts, a noise impact assessment must be conducted. Sponsors are strongly encouraged to hire or consult with a professional to conduct the assessment. On the NEPA Determination Form, describe the noise impacts of the project and list commitments that will be taken to minimize the impacts. These could include necessitating equipment requirements such as spark arrestors, mufflers or noise dissipative devices; implementing design features that absorb or decrease noise, such as using vegetation or terrain as natural sound barriers or constructing berms; and engaging in educational efforts, such as posting signs reminding users of trail etiquette.

Temporary Construction Impacts

Another important aspect to consider is if project construction will temporarily impact recreational use or access to the project area during the construction period. You will need to determine if construction activities will cause any restrictions of access to the existing trail system or area (such as a park, any private properties, roadways, parking lots, playgrounds, pathways or sidewalks) where the project is being constructed. If it is a new trail where there is a significant impact to the use of the area, check yes and describe the impacts and what measures will be/have been taken to minimize those impacts. If it is a new trail and there are no significant impacts to the use of the surrounding area, then check no. If it is a renovation project, an alternative route should be signed and created (if needed) so users can continue to use the surrounding area. In this instance, check the yes box and describe the impacts (such as, duration of access restriction) and what measures will be taken to minimize those impacts (detours, signage, etc.). Additionally, describe how the public has been or will be informed of project construction (i.e., public hearings or meetings, informational letters or fliers mailed to adjacent property owners, temporary signage, etc.). Attach copies of minutes from any public hearings or meetings, copies of informational letters or fliers, screenshots of web or Facebook pages, etc., demonstrating efforts to inform the public about the construction activities.

Permanent Impacts to Travel Patterns

Determine if the project will have a permanently negative affect on access to existing recreational facilities, private properties, parking facilities, roadways, pathways or sidewalks. If there will be any permanent negative access change as a result of the project, please describe those changes, what measures will be done to minimize impacts, and what outreach efforts you've initiated or will initiate to solicit public comment about the permanent impacts.

Public/Tribal Involvement

Describe public outreach completed and/or planned for the project, including any efforts you may have implemented as part of or prior to the application process. Include copies of any documentation demonstrating proof of public outreach, such as newspaper advertisements for public meetings or hearings, meeting minutes, letters, fliers, questionnaires or online surveys, screenshots of web or Facebook pages, etc. Indicate if there is known public controversy or opposition to the project. Typically, opposition to a project does not occur until the construction begins, in which case having well-documented public involvement shows that the public was given an opportunity to comment. Describe what efforts you've taken to address or mitigate public concerns about the project.

Certification of Responsible Person

A responsible official of the sponsor's agency or organization must sign and date this section certifying that the information in the form is correct and that the project sponsor will adhere to the commitments outlined in the form. By signing, the project

sponsor also acknowledges that any change in project scope or commitments will require further review and coordination with GMS and FHWA staff before implementing those changes.

Once you've completed the NEPA Determination Form, submit the form and all determination documentation to GMS at the address listed on the form. GMS staff will review the form and attached documentation. GMS staff will then submit the form and documents to FHWA for their review. FHWA staff will review the form and documentation and, if staff concurs that the project qualifies as a CE, will sign the form indicating concurrence and return the form to GMS. Upon receipt of FHWA's concurrence, a Notice to Proceed (NTP) letter will be sent to you authorizing you to begin the next phase of your project. The NTP letter will reiterate the environmental commitments you must implement to avoid or minimize impact to resources and any other requirements needed for a NTP for construction activities.

For projects that include the acquisition of real property or motorized equipment, or projects that permanently incorporate steel or iron products, you will be required to comply with additional federal requirements regarding the Uniform Act (outlined in Section III of this guide) and Buy America (outlined in in Section IV). For expediency's sake, it is strongly recommended you begin the compliance process for both concurrently with the NEPA review.

SECTION III. REAL PROPERTY ACQUISITION

Recreational Trails Program (RTP) legislation prohibits condemnation of any kind of interest in property; therefore, acquisition or lease of land or right-of-way easements on which to develop a trail project must be from a willing landowner. Additionally, acquisition of real property interests through easement or lease agreement must be for a period of at least 25 years. Provisions stated in the easement or lease agreement cannot be detrimental to the proposed recreational development. The easement or lease agreement must also state that it cannot be revoked at will by the landowner and that the land must be retained in public trail use for the duration of the easement or lease period.

All acquisition of real property with RTP funds, whether through purchase, donation, easement or lease, must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr24_main_02.tpl). Known as the "Uniform Act," this act also applies to acquiring property with non-federal funds when the intent is to apply for RTP funds for development of a trail project. In other words, a project sponsor cannot knowingly circumvent the federal law by acquiring real property with local funds and not follow the regulations of the act, and then apply for RTP funds at a later date to develop a trail or trailhead. The Uniform Act ensures that landowners are fully informed of their rights and are justly compensated when selling or leasing private property or selling/leasing any type of interest in the property (such as a trail easement or temporary construction easement). As part of this assurance, the Uniform Act requires an appraisal and an appraisal review to be performed. Additionally, the act also covers the provision of relocation assistance to owners or tenants displaced by the acquisition. Below are the steps you must perform to show compliance with the Uniform Act when acquiring real property with RTP funds. Appendix B provides the supporting documentation you will be required to submit to GMS to demonstrate compliance. You have up to six months to provide GMS staff the documentation showing compliance with the Uniform Act. **It's important to remember that you can't take title to the property, even if it's a donation, until GMS and FHWA staff have reviewed all compliance documentation, FHWA has authorized the project, and you've received a Notice to Proceed (NTP) letter from DNR.**

This section outlines specific procedures under the Uniform Act that you must follow when acquiring land with RTP funds. Appendix B provides a checklist of the documentation you are required to submit to GMS, as well as templates for the various letters and statements that are required. Once GMS has received your documentation, it will be submitted to FHWA for their review and approval. Upon receipt of concurrence from FHWA, DNR will issue you a NTP letter to acquire the real property or property interests.

- 1. Conduct title search.** Conduct a title search of the property to be acquired to determine ownership of the property, any liens or restrictions on the property, or any rights or interests held by others. It is recommended that a title company conduct the title search.
- 2. Contact seller.** Make initial contact with the seller to see if the land might be available for sale or for donation, if the landowner would be willing to negotiate a permanent easement or right-of-way, or if the landowner would be willing to lease the property for the trail project. At this point, the price cannot be negotiated since it must be based on an appraisal. If the initial contact is made via a telephone call, follow up with a letter that indicates notice of interest to the property. The Notice of Interest letter must include a statement of landowner rights, which is that a landowner has the right of just compensation for the property. Because condemnation is prohibited by RTP regulations, the letter must also state that the landowner's property will not be condemned if the sponsor and landowner are unable to reach an agreement. A sample Notice of Interest letter is provided in Appendix B. Unless the project sponsor has their own written guidelines that fully incorporate compliance requirements of the Uniform Act and all applicable state and local requirements, sponsors are encouraged to enclose a copy of FHWA's booklet entitled, "Acquisition: Acquiring Real Property for Federal and Federal-Aid Programs and Projects." A pdf of the booklet can be found at http://www.fhwa.dot.gov/real_estate/uniform_act/acquisition/acquisition.pdf.
- 3. Determine relocation assistance eligibility.** Determine whether or not the owners, any business(es), or any tenants on the property might be eligible for relocation assistance. The landowner and any tenants must be informed of their relocation rights. It is recommended that both the owner and any tenants be given a copy of FHWA's booklet entitled, "Relocation: Your Rights and Benefits as a Displaced Person under the Federal Relocation Assistance Program," a PDF of which can be found at (https://www.fhwa.dot.gov/real_estate/publications/your_rights/rights2014.pdf). While not typical to most acquisition projects related to trail development, a relocation plan will be required for any persons displaced from the acquisition of the property. Refer to FHWA's "Relocation" booklet for more information.
- 4. Conduct appraisal and appraisal review.** Before negotiating a purchase price with the landowner, the real property to be acquired must be appraised. Have the property appraised by a licensed appraiser, with the landowner given the opportunity to accompany the appraiser. The appraisal must then be reviewed by a certified review appraiser. Costs for both of these are eligible for reimbursement or can be used as part of the sponsor's match as planning costs up to 10% of the grant request, if they were identified in the budget table and narrative. GMS does not provide appraisal services. For a list of certified

appraisers, visit <https://www.asc.gov/Pages/FindAnAppraiser.aspx>. Exceptions to the appraisal requirement include the following conditions:

- a. Waiver valuation when fair market value is less than \$10,000.** If the acquisition of property is not complicated and a review of the available data suggests that the fair market value will likely be \$10,000 or less, an appraisal is not required. Instead, a waiver valuation from a qualified person knowledgeable of the general market values in the project area will be acceptable. A sample Waiver Valuation has been provided in Appendix B. Note that the averaging of the final values of two or more appraisal reports to estimate the fair market value of a property is unacceptable and does not meet the requirements of the Uniform Act.
 - b. When property is being donated.** An appraisal is also not required when the landowner is donating the property and releases the project sponsor from their obligation to appraise the property. However, if the value of the donated property is being used as the project sponsor's match, an appraisal or waiver valuation will still need to be conducted to determine the fair market value of the property, in order to determine the match amount.
- 5. Establishment and Offer of Just Compensation.** Before initiating negotiations with the property owner, the project sponsor must establish an amount which they believe is just compensation for the real property. The amount can't be less than the approved appraisal of the fair market value of the property and must take into account the value of allowable damages or benefits to any remaining property. The project sponsor will then make a written offer to the owner to acquire the property for the full amount believed to be just compensation. The written offer must enclose a copy of the appraisal and appraisal review. Appendix B provides a sample Offer of Just Compensation.
- 6. Statement of Just Compensation.** The Offer of Just Compensation must also include a written statement for the basis of the Offer of Just Compensation. The statement must include the amount offered as just compensation; a description and location identification of the real property and/or the interest in the real property to be acquired; identification of the buildings, structures and other improvements which are included as part of the offer; and whether or not there are any other separately held ownerships in the property (such as tenant-owned improvements) – the statement must indicate that these ownership interests are not included in this offer. If the project sponsor is acquiring a portion of the property and not the whole, there may be damages or benefits to the remaining property. The Statement of Just Compensation must also reflect these damages or benefits. A sample Statement of Just Compensation is provided in Appendix B.
- 7. Real property donations.** In the case where the landowner is willing to donate the real property, an Offer of Just Compensation and a Statement of Just Compensation are not required. Instead, the landowner must sign a Waiver of Right to Just Compensation, which states that the landowner waives their rights to just compensation and agrees to donate the property or property interest. Appendix B provides a sample Waiver of Right to Just Compensation. In some cases, a landowner may be willing to sell real property for less than the full market value, but is not able to donate the entire value of the land. The difference between the sale price and the appraised fair market value can be considered donated land value. For a RTP project, federal reimbursement may be provided for the purchase part of the acquisition but not for the donated part. However, the donated value can be used as match for the purchase cost of the same tract of property or for development costs of the trail project. Landowners making partial donations must also sign a Waiver of Right to Just Compensation. By signing, the landowner is acknowledging a partial donation of the property and waives his or her rights to compensation for the donated parcel. The appraisal requirements outlined above apply to both full and partial donations, as do the requirements for notifying the landowner and any tenants of their rights.
- 8. Landowner negotiations.** Once the landowner has received the Offer of Just Compensation and Statement of Just Compensation, the owner must be given reasonable opportunity to consider the offer and present any additional information or material the owner believes is relevant to determining the value of the property. The owner must also be given opportunity to suggest modifications to the proposed terms and conditions of the purchase.
- 9. Updating Offer of Just Compensation.** The project sponsor must have the initial appraisal updated or obtain a new appraisal if the information presented by the owner indicates the need is warranted; or if a material change in the character or condition of the property is such that it requires updated information; or if a significant delay has occurred since the initial appraisal. If the new appraisal information indicates that a change in the purchase offer is warranted, the sponsor must provide the landowner with a new Offer of Just Compensation and Statement of Just Compensation reflecting this updated appraisal information.
- 10. Provide justification for purchase offer if higher than appraised value.** The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and the project sponsor considers the higher price as being reasonable, prudent and in the public interest. A detailed and well-documented statement on this difference with all pertinent appraisal documents and a history of negotiations documenting discussions of price between the landowner and the sponsor should be submitted. The statement should also indicate the importance of the proposed purchase as opposed to other alternative sites, or other justification regarding the need to purchase the subject property at a higher amount. If GMS and FHWA agree the higher negotiated price represents a

reasonable cost, that amount can be eligible for assistance if sufficient funds are available in the fiscal year apportionment and have not already been obligated to other grant projects.

- 11. Notice to Proceed letter required before purchasing the property.** Once GMS and FHWA staff review all of the above required compliance documentation and concur with the findings, a Notice to Proceed (NTP) letter will be sent to the project sponsor. At this point, the sponsor will be able to move forward in acquiring the real property. **Do not acquire the property until receiving the NTP letter.**
- 12. Record the deed.** Once the sponsor has paid the negotiated purchase price, any closing costs, relocation benefits, etc., and taken title to the property, the deed must be recorded with the Recorders Officer and a copy submitted to GMS. Sponsors must include a deed clause indicating the land will remain a public trail for a minimum of 25 years (Notice of Limitation of Use). The deed must also include a non-discrimination statement as required by 49 C.F.R. § 21 (<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=5fc7946b772f5f6b1177c7eeebb0fc39&rgn=div5&view=text&node=49:1.0.1.1.15&idno=49>).
- 13. Submit reimbursement request.** A reimbursement request for the RTP share of the acquisition costs can then be submitted to GMS, the process for which is outlined in Section V.

SECTION IV. PROJECT DEVELOPMENT

Maintaining Your RTP Project File

Before you begin developing your project, you'll need to create a project file that includes relevant documents. The file must be made available upon request for audit purposes and must be maintained for a period of five years starting from the date of submission of the final payment request (see "Record Retention" in Section VI of this manual). The project file will also help keep your project organized and on-track as you complete each stage of the project. The project file should include the following documents:

- **RTP application and supporting documentation.** A copy of your RTP grant request application and the supporting documentation you were required to submit with the application should be kept in your project file. GMS uses the project narrative, budget table and budget narrative from your application to develop the project scope and budget indicated on the Project Agreement, so a copy of the application is a helpful reference document to have in your file.
- **Proof of land ownership or leaseholder/easement rights.** A copy of the land deed, lease or easement agreement is required if the project sponsor currently owns or leases the land for the project, or has a permanent trail easement. The lease or easement agreement must show a 25-year commitment or include a letter from the landowner indicating willingness to renew the agreement if the original agreement was for less than 25 years.
- **Project Agreement.** A signed copy of the Project Agreement must be kept in your project file. The Project Agreement is between the project sponsor and the Department of Natural Resources and includes the project number, used for identification purposes; the project title which should be used on all future correspondence regarding the project; the project period, including a start date and an end date; a description of the project scope; the total project budget; and the amount of RTP funds requested. Additionally, the agreement provides a signature line for Division of State Parks' director and the project sponsor.
- **Sub-Recipient Information Form.** Retain a copy of the signed Sub-Recipient Information Form that you were given during the administration workshop. The Sub-Recipient Information Form is a requirement of the Federal Funding Accountability and Transparency Act (FFATA), which provides oversight and transparency for the expenditure of federal funds.
- **State of Missouri Vendor Input/ACH-EFT Application.** Keep a copy of the completed Vendor Input/ACH-EFT Application in your file, but remember to also submit the application to the Office of Administration. This process allows electronic reimbursement funds to be transferred to your agency's or organization's bank account.
- **NEPA Determination Form.** Your file should also include a copy of the NEPA Determination Form you were required to complete as part of the NEPA review, as well as the supporting documentation that you submitted. Additionally, your file should include copies of all agency determination letters and any other correspondence from those agencies regarding their review of your project.
- **Real property acquisition documentation.** For land acquisition projects, the project file should retain a copy of each of the documents listed on the Real Property Acquisition Documentation Checklist in Appendix B.
- **Notice to Proceed.** Copies of the Notice to Proceed (NTP) letters from DNR must be retained in your file as well. The NTP letters will be sent to you if GMS and FHWA staff concur with all compliance documentation required by NEPA, the Uniform Act and Buy America. The NTP letters will outline any required environmental commitments that must be incorporated in the project. **Do not start any construction activities, acquire property, or purchase equipment or materials before receiving a NTP letter.**

Documents that will be added to your project file as you move toward completing your project include the following, which must be retained for the retention period as well:

- Planning and engineering documents and specifications
- Bid documents and signed contracts
- Any required permits
- A completed accessibility checklist and a written policy regarding use of Other Power-Driven Mobility Devices (OPDMD), as outlined below
- A Buy America waiver (if required), which is discussed later in this section
- All written correspondence between you and GMS, and you and any contractor, supplier, etc., working on your project
- Copies of project amendment requests, if required
- An as-built site map
- As-built facility plans if using RTP funds to construct trailhead or trailside amenities
- Reimbursement documentation, including copies of invoices, employee and volunteer timesheets, equipment use logs, etc. (see Section V of this guide for more detail)

- Completed quarterly report forms, as described in Section V
- Project close-out documentation, which is described in Section VI of this guide

Project Development Procedures

Development of a project site may be by contract, force account (in-house labor), in-kind contribution, or a combination of these methods. The procedures regarding each of these methods are explained below, as are the procurement procedures for purchasing materials and equipment. The project sponsor should use their own documented procurement procedures that reflect applicable state and local laws and regulations, provided that procurement conforms to the federal Brooks Act (<https://www.fhwa.dot.gov/programadmin/121205.cfm>), standards set forth in the "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards" (<http://www.ecfr.gov/cgi-bin/text-idx?SID=e5a3e230b18df274b27ba83528b43156&mc=true&node=pt.1.200&rgn=div5>) and the terms and conditions outlined in the "Missouri Department of Natural Resources Federal Financial Assistance Agreements General Terms and Conditions." A copy of DNR's terms and conditions is found in Appendix D and a PDF copy can also be downloaded from the web at <https://mostateparks.com/page/61220/recreational-trails-program-rtp-grants>.

Contracting for Services or Materials:

Per the DNR terms and conditions outlined in Appendix D, every effort must be made to solicit bids from minority business enterprises (MBE) and women business enterprises (WBE). To find certified MBE and WBE firms, use the Missouri Office of Equal Opportunity's MBE/WBE search webpage (<https://apps1.mo.gov/MWBCertifiedFirms/>) and search by "Services Provided." Project sponsors must inform all bidders that federal funds are being used in the project, and all relevant federal, state and local requirements apply. The following documentation must be included in the bidding documents.

- **Form FHWA-1273** must be included in all Federal-Aid design-build or materials-purchase contracts and is found in Appendix C. A PDF copy can also be downloaded from <https://mostateparks.com/page/61220/recreational-trails-program-rtp-grants>. While Form FHWA-1273 may be referenced in bid proposal or request for proposal documents, the document itself must also be physically incorporated in all bidding documents. If an architectural or engineering firm prepares the plan specifications for the project, make sure their standard contractual statements do not conflict with federal requirements.
- **Affidavit of Compliance with Prevailing Wage Law.** Per Section K of the DNR Federal Financial Assistance Agreements Terms and Conditions, construction contracts in excess of \$2,000 must comply with the Davis-Bacon Act, as amended, with respect to wage rates. At the completion of the construction work, the contractor must sign an affidavit indicating compliance with the act. The affidavit is found in Appendix E. Contract Compliance Required Documentation and can also be downloaded as a PDF copy from <https://mostateparks.com/page/61220/recreational-trails-program-rtp-grants>.
- **Certification of Non-Segregated Facilities**, found in Appendix E.
- **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion over \$25,000**, found in Appendix E. To ensure that ineligible contractors are not awarded a contract, project sponsors are required to check the Contractor Debarment List maintained by the Missouri Department of Labor and Industrial Relations, at http://labor.mo.gov/DLS/PrevailingWage/debarment_list. Project sponsors are also required to check with the U.S. Department of Labor's Office of Federal Contract Compliance Programs for a list of contractors that have been declared ineligible to receive federal contracts (<https://www.dol.gov/ofccp/regs/compliance/preaward/debarlst.htm>).
- **Anti-Lobbying Certification**, found in Appendix E.
- **Buy America Provisions.** Buy America provisions are to be included in all bid documents. The provisions are outlined further in this section.

Purchase/Service Contracts Under \$25,000:

After receipt of the appropriate NTP letter(s), no other approval is required from GMS staff for purchase or service contracts under \$25,000, nor is a formal bid process required. It is recommended, however, that you make every effort to solicit three bids or estimates to ensure the most advantageous and cost-efficient contract is made for your project.

Purchase/Service Contracts \$25,000 or Greater:

When contracting for a service or purchase of materials of \$25,000 or higher, bids must be solicited through a formally-advertised, sealed-bid process. A copy of all bidding documents must be submitted to GMS for approval prior to advertising for bids. Construction plans must include a project map that labels areas and resources that need to be avoided during construction, as identified during the NEPA review. Similarly, construction specifications must include all environmental commitments indicated on the NEPA Determination Form. GMS staff will make every effort to review and approve your bid documents within two weeks of receiving. Note that GMS review of bids and contracts does not relieve you of the responsibility for full compliance with federal, state and local regulations applicable to your project.

Once you have GMS approval, the request for bids must be publicly advertised for a minimum of three weeks and a copy of the advertisement submitted to GMS as proof of compliance. The advertisement must include a statement that this is an

equal opportunity bidding event and MBE/WBE firms are encouraged to respond. Project sponsors are required to advertise bidding opportunities in multiple publications and formats so that all interested contractors and suppliers have opportunity to submit bids.

Contracts must be awarded to the lowest responsible and responsive contractors or suppliers who have the ability to perform successfully under the terms and conditions of the contract. Prior approval must be obtained from GMS before awarding the contract. When the project sponsor considers the lowest bidder unresponsive or not responsible, the next lowest bidder may be awarded the contract. If a contract is awarded to other than the lowest bidder, a letter of justification for this action must be sent to GMS with the bid summary. Contractors must sign an affidavit of compliance with prevailing wage law; a certification of non-segregated facilities; a certification regarding debarment, suspension, ineligibility and voluntary exclusion over \$25,000; anti-lobbying certification; and Buy America certification (see sample Buy America Certification in Appendix F). Copies of the bid tabulation summary sheet and all contracts must be submitted to GMS within 15 (fifteen) days after awarding the contract. Any proposed change orders to the contract must first be cleared with GMS before the change order is negotiated.

Force Account Labor and Use of In-House Equipment:

Salaries of in-house staff are eligible for the project sponsor's match. Use of an agency's or organization's internal labor force should be valued at the current hourly rate of individual employees working on the project, and should be directly tied to completing the elements listed in the project scope. For use of in-house equipment, use the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates to determine the cost of operating various pieces of mechanized equipment (<https://www.fema.gov/schedule-equipment-rates>). Documenting the use of force account labor and use of in-house equipment is discussed in Section V. Reimbursement and Reporting Requirements.

Donations:

The value of volunteer labor can also be used for the project sponsor's match. A volunteer's donated time will be valued at \$10/hour unless the person is professionally skilled in the work being performed on the project. When this is the case, the wage rate this individual is normally paid for performing this service may be used. For donated materials, use the fair market value of those items. Documenting the use of volunteer labor and donated material as match is discussed in Section V as well.

Buy America Provisions

All Federal-Aid construction contracts must comply with 23 U.S.C. 313 and 23 C.F.R. 635.410. The Buy America law in Title 23 U.S.C. 313 and subsequent requirements in Title 23 C.F.R. 635.410 provide the basis for FHWA's policy on Buy America:

- A domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in any project funded under Title 23 (Federal-Aid highway program) must meet the requirement with certifications on all steel or iron products and their coatings.
- An alternate bidding procedure that may be used on projects with approval from FHWA Division Administrator (you must consult with the GMS office and follow the procedure agreed to by FHWA).
- A minimal usage criteria for non-domestic products, which allows their usage if the cost of materials does not exceed one-tenth of one percent (0.1 %) of total project cost or \$2,500, whichever is greater (documentation will be required prior to enacting the minimum usage criteria; consult with GMS staff).
- A waiver process based on public interest or the availability of domestic products, such as the Quarterly Vehicle and Equipment Waiver described below. All requests for waivers must be submitted to GMS and FHWA for approval.

Since the Recreational Trails Program is funded with Title 23 funds, project sponsors who use RTP funds to purchase any of the following must ensure that these items are manufactured in the United States: vehicles such as ATVs, motorized construction/maintenance equipment, or any iron or steel product permanently incorporated into the project (such as bridges that use steel I-beams, fencing, rebar, posts, bolts, etc.). Additionally, any coating material applied to the iron or steel products must be applied in the United States. **All advertisements for bids and all contracts must include a Buy America provision.** FHWA requires step certifications, where each handler (supplier, fabricator, manufacturer, processor, applier of coatings, etc.) certifies that their step in the process was domestically performed. The contractor or vendor must provide these certifications prior to incorporation of the material in the project. See Appendix F for a sample step certification. If the low bid is from a vendor who is supplying a non-domestic vehicle or motorized equipment product, you must either accept the next low bid or complete and submit a Buy America Waiver Request, which is described below. FHWA has provided additional information regarding the Buy America requirements in the two following websites: <http://www.fhwa.dot.gov/construction/cqit/buyam.cfm> and http://www.fhwa.dot.gov/construction/contracts/buyam_ga.cfm. Sample Buy America certifications and a sample Buy America Waiver Request are provided in Appendix F.

Buy America Waiver Requests:

The Secretary of Transportation may waive the Buy America requirement if the Secretary finds that:

- It would be inconsistent with the public interest;
- Such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- Inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent (this is a standing waiver codified in regulations when alternate bidding procedures are used).

All waivers have to be posted in the Federal Register. All waiver requests are first posted on the FHWA's website for a 15-day comment period prior to publishing the final decision in the Federal Register. To access FHWA's Notice of Buy America Waiver Requests website, visit <http://www.fhwa.dot.gov/construction/contracts/waivers.cfm>. You can also use this website to sign up to receive an automatic notification whenever the FHWA is considering issuing a Buy America waiver. FHWA acknowledges that certain types of equipment and vehicles may not be able to fully comply with Buy America requirements, so has provided a Quarterly Vehicle and Equipment Waiver that is based on the condition that the final assembly/final manufacturing of the vehicles, equipment, or modifications occurs in the United States. FHWA will contact GMS for quarterly waiver requests. However, if your project scope of work includes purchase of a vehicle, motorized construction/maintenance equipment, or steel or iron products for which you determine a waiver request is required, you are encouraged to submit your waiver request as early as possible. It is recommended to begin the waiver process concurrently with the NEPA review. Use the sample waiver request in Appendix F and submit the request to GMS using the contact information on page 2 of this guide; the request can be mailed, faxed or emailed to our office. Once our office receives your request, we will then forward it to FHWA, who will post the request in the Federal Register for comment. The process may take three to six months for the waiver request to be approved. **A waiver request must be approved by FHWA prior to GMS issuing a NTP to purchase the item or items.**

Signs

Projects that incorporate signs that function as traffic control devices must conform with the Manual on Uniform Traffic Control Devices (MUTCD), which can be found at http://mutcd.fhwa.dot.gov/kno_2009r1r2.htm. Signs that do not function as traffic control devices are not subject to the MUTCD. However, informational signs and kiosks must take into consideration the needs of various users, such as people who are blind or have impaired vision, people who use wheelchairs or other personal assistance mobility devices, and children. Refer to the Accessibility Checklist in Appendix G. Steel signs and signposts must also conform to Buy America requirements.

Invasive Species

Other factors to consider when developing your project include landscaping with native species and implementing measures to prevent the spread of noxious or invasive species. Project sponsors should landscape with native species for seeding and make sure all equipment brought on site is cleaned and inspected prior to use to ensure there is no plant debris or seeds from noxious weeds being spread by the equipment. For information about controlling noxious weeds, see the Missouri Department of Agriculture's website at <http://agriculture.mo.gov/plants/ipm/noxiousweeds.php>. For water trail projects that incorporate boat ramps or other access, it is recommended that information be provided to trail users on methods for preventing the spread of zebra mussels, a harmful exotic species that spreads rapidly by "hitchhiking" on boats. Information can be provided either through signage at trailheads or through print publication. The Missouri Department of Conservation has provided a factsheet that can be downloaded and printed (http://mdc.mo.gov/sites/default/files/resources/2010/08/zebra_mussels.pdf).

Permitting

Several of the permits you will be required to acquire for completion of your project have already been outlined in Section II. NEPA Review and Determination. To ensure that your project follows all permitting requirements, it is recommended you use DNR's Permit Assistant webpage to determine what permits you may be required to obtain (<http://dnr.mo.gov/mopermitassistant/index.jsp>). Additionally, you are expected to be familiar with and comply with any local permitting requirements that apply to your project.

Accessibility

As you begin designing your trail project, you must take into consideration the access needs of people with varying physical abilities. Federal regulations regarding accessibility and outdoor recreation are promulgated under two separate statutes, the Americans with Disabilities Act (ADA) and the Architectural Barriers Act (ABA). The ADA is a broad federal civil rights law that prohibits discrimination based on disability. The law defines "disability" as "...a physical or mental impairment that substantially limits a major life activity." The ADA has five main sections, or "titles," of which the relevant ones for this administration guide are Title II, which covers services and programs of state and local governments; and Title III, which covers "public accommodations." (Federal entities are covered by the ABA, which ensures that all federal facilities are fully accessible to everyone.)

Title II entities are non-federal public entities such as school districts, townships, cities, counties and states. Most RTP project sponsors fall under this category, such as a municipal park and recreation department. Title II reads in part, "No qualified individual

with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity..." For more information about ADA as it relates to Title II entities, the U.S. Department of Justice (DOJ) has provided several online manuals that help explain what state and local governments must do to ensure that their services, programs, and activities are provided to the public in a nondiscriminatory manner (<https://www.ada.gov/ta-pubs-pg2.htm#titleii>).

Title III entities are private entities that provide public accommodations. Title III states that, "...no individual may be discriminated against on the basis of disability with regards to the full and equal enjoyment of the...facilities...of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation." A place of public accommodation means a facility operated by a private entity whose operations affect commerce and fall within particular categories, including most places of recreation, transportation, education, dining, commerce, and lodging. For example, trails open to the public, which a nonprofit land trust manages on private land via trail easements, would constitute a place of public accommodation. The Department of Justice has provided several online manuals for Title III entities as well (<https://www.ada.gov/ta-pubs-pg2.htm#titleiii>).

Trailhead Amenities:

To provide guidance on how Title II and Title III entities should comply with the ADA, the Department of Justice has issued the 2010 ADA Standards for Accessible Design (https://www.ada.gov/2010ADASTandards_index.htm). These design standards are minimum accessibility standards for buildings and other structures. As of March 15, 2012, compliance with these regulations is required for any new construction and any alterations to existing facilities. The 2010 ADA Design Standards contain technical specifications for building and site elements common to trailheads, such as parking, accessible routes, ramps, drinking fountains, and restrooms. It also specifies how many accessibility features must be incorporated in each facility. Title II and Title III entities are required to provide accessible parking and accessible routes to connect users to any accessible recreation-related facilities that are subject to the 2010 ADA Design Standards.

For projects that use RTP funding for the development of trailhead amenities, such as restrooms, parking areas, access routes, etc., these facilities must be ADA-compliant. For your convenience, an accessibility checklist has provided in Appendix G that provides the ADA design standards for the most common trailhead-related amenities, such as parking, access routes, restroom facilities, water fountains and hydrants, overlooks, etc. The accessibility checklist is also available at <https://mostateparks.com/page/61220/recreational-trails-program-rtp-grants>. Project sponsors are encouraged, however, to consult with a design professional for further assistance to ensure ADA compliance. At the completion of your project, you will be required to submit the checklist along with as-built facility plans and an as-built site map, in addition to other closeout documents, to GMS staff. If you will be incorporating features or elements not listed on the accessibility checklist, consult a design professional or the DOJ's ADA standards manual to determine if accessibility standards are available.

Trails/Trailside Amenities:

It may not be practicable to implement accessibility standards for your trail development project (as opposed to a trailhead development project). There are several conditions or exceptions that may preclude making a trail accessible. For instance, a trail's intended user group may make it impossible to design and construct a trail that is considered accessible – a mountain bike trail is a good example of this. Other conditions include the following:

- When existing terrain would make it impractical to design an ADA-compliant trail, such as a trail that is steeply sloped and would require extensive cuts or fill that would be difficult to construct and maintain, or would be difficult to prevent erosion and other drainage issues from occurring.
- When prevailing construction practices would prohibit the ability to construct an ADA-compliant trail. For instance, an area may only allow the use of hand tools for trail construction because of resource concerns or policy prohibitions (such as in a state-designated wild area), which would make the construction of an accessible trail virtually impossible.
- When constructing an accessible trail would fundamentally alter the setting or purpose of the area. For example, primitive trails in natural settings with little to no development or trails intended to provide a rugged experience would not be capable of being made accessible.
- When federal, state or local laws would prevent the construction activities required to make a trail accessible, because of impacts to a resource protected under the Endangered Species, National Historic Preservation, Wilderness, or National Environmental Policy acts or other federal, state or local laws protecting significant resources.

In addition, trail accessibility standards have not yet been developed and incorporated into the ADA for Title II and III entities, so the Department of Justice does not currently require local governments and private organizations to make their trails accessible. However, for the Recreational Trails Program, project sponsors are strongly encouraged to incorporate accessibility standards where feasible. To this end, GMS staff recommends project sponsors use the U.S. Access Board's accessibility standards manual entitled, "Outdoor Developed Areas: A Summary of Accessibility Standards for Federal Outdoor Developed Areas," which includes trail standards for pedestrian trails (<https://www.access-board.gov/guidelines-and->

[standards/recreation-facilities/outdoor-developed-areas/a-summary-of-accessibility-standards-for-federal-outdoor-developed-areas](#)). Although this manual was developed for federal facilities, it has applicability to other agencies and organizations attempting to develop accessible and sustainable outdoor recreation areas. Additionally, the U.S. Forest Service (USFS) has compiled a comprehensive manual that incorporates accessible design standards for outdoor settings and trails that uses the Access Board's standards manual, but provides a more detailed explanation of each standard's technical requirements with illustrative graphics (<http://www.fs.fed.us/recreation/programs/accessibility/pubs/htmlpubs/hm12232806/index.htm>). Both of these manuals only cover trails intended for pedestrian use and do not cover trails for other types of use, such as bicycling, equestrian, water or ATV trails.

For accessibility guidance in developing trails for other than pedestrian use, the following resources may be helpful:

- *Equestrian Design Guidebook for Trails, Trailheads, and Campgrounds* (http://www.fhwa.dot.gov/environment/recreational_trails/publications/fs_publications/07232816/index.cfm)
- *Pennsylvania Trail Design & Development Principles: Guidelines for Sustainable Non-Motorized Trails* (http://www.dcnr.state.pa.us/cs/groups/public/documents/document/dcnr_20028130.pdf)
- American Trails' Resource Library for Accessible Trails (<http://www.americantrails.org/resources/accessible/index.html>)
- American Trails' Resource Library for Motorized Trail Recreation (<http://www.americantrails.org/resources/motors/>)
- The Federal Highway Administration's resource webpage for manuals and guides on trail design, construction, maintenance, operation and signs (http://www.fhwa.dot.gov/environment/recreational_trails/guidance/manuals.cfm)
- *Pennsylvania Trail Design Manual For Off-Highway Recreational Vehicles* (http://www.dcnr.state.pa.us/cs/groups/public/documents/document/dcnr_002295.pdf)
- For water trails that include launch ramps, see the Access Board's guide on boating facilities (<https://www.access-board.gov/guidelines-and-standards/recreation-facilities/guides/boating-facilities>).
- The Iowa Department of Natural Resources has put together a guide for designing water trails, available as a free pdf download. Chapter 3 of the guide addresses universal design in water trails (<http://www.iowadnr.gov/Things-to-Do/Canoeing-Kayaking/Water-Trail-Development-Tools/Water-Trails-Toolkit>).
- For assistance with providing information about trails to trail users with disabilities, visit Access Recreation's website at http://www.accessrecreation.org/home/Access_Recreation_Home.html.
- FHWA has compiled a list of resources related to trail design, construction and maintenance at http://www.fhwa.dot.gov/environment/recreational_trails/publications/.

For your convenience, the most common pedestrian trail accessibility standards from both the Access Board and Forest Service manuals have been added to Section 4 in the accessibility checklist in Appendix G. If you indicated on your project application that you intended to make your trail project (as opposed to a trailhead project) meet ADA guidelines, then you will need to complete the accessibility checklist and submit it along with an as-built map of your project to GMS when closing out your project.

Educational Projects:

It may not be practicable to implement accessibility guidelines for all projects, but project sponsors are encouraged to consider incorporating where feasible. For educational programs, accessibility considerations should include access by wheelchair or other personal mobility devices, Braille materials, or telecommunications devices for the hearing impaired. If an element of the educational project involves a site that can't practicably be made accessible, then reasonable accommodations should be considered to make the site accessible through video or other experiential means. Educational projects that use RTP funding for informational signs or kiosks must take into consideration the needs of various users, such as people who are blind or have impaired vision, people who use wheelchairs or other personal assistance mobility devices, and children. Refer to Section 3 of the accessibility checklist in Appendix G. For educational projects that include developing websites or educational videos, the U.S. Access Board has provided standards for complying with Section 508 of the Rehabilitation Act (<https://www.access-board.gov/guidelines-and-standards/communications-and-it/about-the-section-508-standards/guide-to-the-section-508-standards>). Although these standards refer specifically to federal agencies, they have applicability to other entities interested in ensuring access to electronic and information technology.

Other Power-Driven Mobility Devices (OPDMD):

In March 2011, the Department of Justice issued regulations regarding ADA and the use of Other Power-Driven Mobility Devices (OPDMD) on trails open to the public. These regulations cover trails managed by Title II and Title III entities. The regulations distinguish between wheelchairs and OPDMDs. A wheelchair is a device purposely designed for use by a person with a mobility-impairment. An OPDMD, on the other hand, is a device not expressly designed for, but can be used by, a person with a mobility-impairment. OPDMDs are any devices or vehicles powered by batteries, fuel or other engines, that can be used by a person with a mobility-impairment for the purpose of locomotion. This includes golf carts, Segways®, ATVs, ORVs, etc., without regard to size, width, weight or horsepower.

A person who has a mobility impairment may use an OPDMD on public trails UNLESS a prior assessment of that route or area has determined the use of the specific class of OPDMD the person has requested to use cannot be operated in that location:

- without creating a substantial risk of serious harm to the immediate environment, or natural or cultural resources; or,
- because it poses a safety risk to users; or,
- because it poses a conflict with federal land management laws and regulations.

The assessment must demonstrate a thorough review of the following five assessment factors:

- the type, size, weight, dimensions and speed of the class of device;
- the facility's volume of pedestrian traffic;
- the facility's design and operational characteristics;
- whether legitimate safety requirements can be established to permit the safe operation of that specific class of OPDMD at that facility;
- and, as outlined above, whether the use of the OPDMD creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or poses a conflict with federal land management laws and regulations.

If, after completing an assessment, a trail manager determines that there are trails that cannot accommodate the use of certain types of OPDMDs (or any at all) because of the risk factors described above, the managing entity will then need to draft a written policy that establishes adequate reasons for banning or limiting OPDMD use based on the above five assessment factors. The public will also need to be informed, in advance, of the OPDMD policy. These requirements relate in general to existing trails open to public use but, more specifically, they also relate to new trail projects. This means that, in order to comply with the OPDMD regulations, project sponsors using RTP funds for trail projects will need to complete an assessment of the new trail to determine if it can accommodate OPDMDs and, if their use must be restricted, draft an OPDMD policy and demonstrate that the public has been informed of the policy. There are no specific rules for informing the public, so posting the policy to the project sponsor's website or Facebook page, or posting information at the trailhead, is considered sufficient demonstration. A screenshot of the website or Facebook page, a photo of the information posted at the trailhead, or some other proof that the public has been informed will need to be submitted to GMS staff, along with a copy of the assessment and the OPDMD policy, when you submit your project closeout documentation.

American Trails has provided a very comprehensive webpage that addresses questions regarding the interpretation of the OPDMD regulations (<http://www.americantrails.org/resources/accessible/power-mobility-questions-answers.html>). They have also compiled a list of state, local and private organizations that have completed assessments and drafted OPDMD policies, and have provided links to those policies at <http://www.americantrails.org/resources/accessible/OPDMD-trail-policies-assessments.html>. These resources may be helpful to you when completing your trail assessment and drafting an OPDMD policy (where necessary) but it's important that you don't just adopt another organization's OPDMD policy without evaluating and documenting the five assessment factors outlined above. A written policy alone, without a supporting assessment, will not meet the Department of Justice's requirements. To read the DOJ ruling related to state and local governments (28 CFR § 35.137), see https://www.ada.gov/regs2010/titleII_2010/titleII_2010_withbold.htm. To read the DOJ ruling related to private organizations that provide public access (28 CFR § 36.311), see https://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_withbold.htm. The DOJ has also provided an easy-to-understand summary of the OPDMD ruling and how to implement it at <https://www.ada.gov/opdmd.pdf>.

SECTION V. REIMBURSEMENT AND REPORTING REQUIREMENTS

This section describes the process for submitting quarterly status reports; funding reimbursement requests, including required cost documentation and time accounting records; and requesting project amendments, such as changes in project scope or time extensions.

Quarterly Reports

After you've received your NTP letter(s) and have begun developing your project, you will be expected to keep GMS apprised of the status of your project through quarterly reports. The reports need to be submitted each quarter until the project is complete, using the Quarterly Report Form in Appendix H. The form has also been provided as a fillable PDF that can be downloaded from <https://mostateparks.com/page/61220/recreational-trails-program-rtp-grants>. Quarters are January-March, April-June, July-September and October-December of each calendar year. Submit your quarterly report by the end of the month following each quarter; see the below table for an example. Reports can be faxed, mailed or emailed to the contact information provided on page 2 of this guide. It is recommended that you establish some form of reminder system to alert you when the reports are due. GMS staff may send you a friendly reminder if your quarterly report hasn't been submitted. Reimbursements may not be processed if quarterly reports are not submitted as required.

Quarterly Reports Schedule	
Quarter	Due Date
January – March	April 30
April – June	July 31
July – September	October 31
October - December	January 31

Amendment Requests

In unusual circumstances, you may find that you need to amend an element of your project agreement. Amendments to your project agreement will require FHWA approval to ensure your project's eligibility. A significant change in project scope may also require additional NEPA evaluation. The process for requesting amendments is outlined below.

Time Extensions:

Should you be unable to complete your project by the end date of your project period because of extenuating or unusual circumstances beyond your control, you may request a time extension using the Extension Request in Appendix H. An electronic request form is also available upon request from GMS staff. Time extension requests **MUST** be made before your original project period expires to ensure funding remains available for your project. When reviewing your request, GMS staff may require additional information from you such as a revised schedule for completing key milestones and an assurance that the project is still viable. The form can be faxed, mailed or emailed to the contact information provided on page 2 of this guide.

Change in Project Scope:

Proposed changes to the project scope must be made in writing to GMS staff, either through email or by mail. GMS will in turn coordinate with FHWA staff for their approval to ensure that the project eligibility remains valid. Include an explanation for why you cannot complete the project as originally approved as well as a justification of the proposed change. Approved project scopes may change the amount of grant reimbursement you receive. You must also provide documentation that the change in project scope does not conflict with the project scope described in the NEPA documentation. If the change is outside of what was cleared in the NEPA document or impacts resources previously not impacted, then a reevaluation is needed and any appropriate coordination with resource agencies needs to be completed.

Change in Project Budget:

Often when your project scope changes, so will your project budget table. You can move up to 10% of your grant award between budget categories without GMS approval. Moving more than 10% of your grant award between budget categories requires GMS and FHWA approval. If you wish to move more than 10% of the grant funds in your budget, submit a request in writing to the GMS office (again, requests can either be emailed or mailed). Include the proposed new budget breakdown. Adding new budget categories would likely constitute a change in project scope and would require GMS and FHWA approval. If this is the case, a NEPA reevaluation may also be required and documentation provided before any approval could be granted.

Project Cancellation

In extreme circumstances, you may determine that your organization will be unable to complete your project and will need to cancel the project. Your project must be withdrawn prior to any reimbursement of grant funds and prior to signing any contracts. Once a partial reimbursement has been made, the project cannot be withdrawn. To withdraw a project, submit a written request to GMS.

Reimbursement Requests

Reimbursement requests may be submitted quarterly in conjunction with Quarterly Reports but, in order to ensure that projects do not become inactive, project sponsors are required to submit at least one reimbursement request annually. Reimbursement requests may be emailed, faxed or mailed to the address on page 2 of this guide. Reimbursement requests must include the following:

- **Reimbursement Statement**, provided in Appendix H and also online at <https://mostateparks.com/page/61220/recreational-trails-program-rtp-grants>. The Reimbursement Statement is the signed statement from the project sponsor formally requesting grant reimbursement. For each Reimbursement Statement submitted, indicate whether this is the first billing, second billing, or third and so on, under "Billing Number" at the top of the form. The total cost for your project this billing period must agree with the total of all invoices, labor, equipment, in-kind contributions and donations shown on the Reimbursement Log form.
- **Reimbursement Log**, provided in Appendix H and also online at <https://mostateparks.com/page/61220/recreational-trails-program-rtp-grants>. The Reimbursement Log documents the costs of your project and should reflect the list of eligible costs indicated in your budget table. Each item listed on the log must be supported by the appropriate documentation, as outlined in the Cost Documentation section below.
- **Individual and Volunteer Time Record**, provided in Appendix H and online at the address above. Use the Time Record to document the hourly rate of all force account (in-house) employees and all volunteers working on the project. See the Cost Documentation section below for further details.
- **Equipment Use Log**, also provided in Appendix H and online at the address above. The Equipment Use Log documents the cost of in-house equipment usage and, when appropriate, the cost of using loaned equipment, as outlined in the Cost Documentation section below.

Cost Documentation

Only eligible costs will be reimbursed or allowed to be used as the sponsor's match. Eligible costs are those that relate directly to your project scope, are specified in your project budget table and narrative, and were incurred within the project period identified on your project agreement.

Documentation of Contract Labor:

When submitting invoices to the project sponsor for completed work, contractors must also include a certified copy of their employee payroll and a signed Statement of Compliance indicating that the payrolls are correct and complete and that each employee has been paid the prevailing wage rate for the work performed. For more information about Missouri prevailing wage rates and how to complete the Contractors Payroll Form (http://labor.mo.gov/sites/default/files/pubs_forms/LS-57-AI.pdf), visit the Missouri Department of Labor and Industrial Relations prevailing wage webpage at <http://labor.mo.gov/DLS/PrevailingWage/pwContractors>.

Documentation of Force Account Labor and In-House Equipment Usage:

This type of cost involves the use of your organization's paid work crews (on your payroll) and/or equipment in the completion of your project. Use the Individual and Volunteer Time Record for each employee who works on an aspect of the project. Indicate the employee's hourly rate at the top of the form. The description of work must be tied directly to the project's scope. Both the employee and their supervisor must sign the Individual and Volunteer Time Record. Copies of payroll checks must accompany the time record forms and reflect the dates indicated on the forms. Additionally, a copy of the employee's earnings record, which shows rate of pay, gross pay and deductions for the pay period, must be included. A computer payroll register may be substituted for the earnings record. Fringe benefit reports must indicate the percentage each fringe benefit is of gross salary.

Track equipment use on the Equipment Use Log, using one form for each type of equipment used and noting the type of equipment, hours of use, and hourly rate. The Equipment Use Log must be signed by the equipment operator and his/her supervisor. Use the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates to determine the cost of operating various pieces of mechanized equipment (<https://www.fema.gov/schedule-equipment-rates>).

Documentation of Volunteer Services:

The value of volunteer labor can also be used for the project sponsor's match. A volunteer's donated time will be valued at \$10/hour unless the person is professionally skilled in the work being performed on the project. When this is the case, the wage rate this individual is normally paid for performing this service may be used. Use the Individual and Volunteer Time Record for each volunteer who works on an aspect of the project. The description of work must be tied directly to the project's scope. Both the volunteer and the project manager must sign the Individual and Volunteer Time Record.

The value of donated supplies, materials and equipment that are permanently acquired should be reasonable and not exceed the current market prices at the time they are purchased for the project. Use the Reimbursement Log to record donated contributions of supplies and materials, and provide the fair market value by listing the comparable prices from other vendors or the amount paid by the donor. Cash donations must be documented by a copy of the check from the donor and a copy of the project sponsor's bank account statement showing the deposit. If your project includes the value of a land donation, the steps you followed in Section III will have provided you with an appraisal valuation, a copy of which you will have already submitted to GMS. Document the appraised value of the real property on the Reimbursement Log.

Occasionally, equipment used in the construction of a facility will be loaned to the project sponsor. The sponsor may claim the value of the equipment use as donated contribution to the sponsor's share of project costs. Use the Equipment Use Log as you would for in-kind equipment usage and, in place of the employee signature, have the volunteer sign instead. The project manager supervisor must sign as well. Use FEMA's Schedule of Equipment Rates to value the cost of operating the piece of equipment.

Documentation of Purchase:

Follow the Contracting and Buy America requirements outlined in Section IV., as applicable. Use the Reimbursement Log to record any materials, supplies, vehicles or motorized construction/maintenance equipment you purchase as part of the project. Submit supporting documentation with the log, which includes copies of invoices, copies of receipts, and copies of checks used to pay the invoices. Ensure all copies of invoices and receipts are legible. Invoices should include the project number assigned to your project, as indicated on your project agreement. Invoices must be dated prior to the project period end date and paid for within 30 days after the project end date. Ensure that any checks written to pay invoices and receipts are from the project sponsor's bank account. For vehicle purchase (such as ATVs) or motorized construction/maintenance equipment, the sponsor must also complete the Equipment Purchase Record in Appendix H and submit with the reimbursement request. If a Buy America waiver was required and issued for this purchase, a copy of the waiver must be attached to the Equipment Purchase Record.

Final Reimbursement Request

Your final reimbursement request should be submitted within **60 days** after project completion or following the end date of the project period indicated on your project agreement, whichever comes first. The final reimbursement request should include the Reimbursement Statement, the Reimbursement Log, the Individual and Volunteer Time Record form, the Equipment Use Log as appropriate, and all supporting cost documentation as outlined above. Additionally, a Final Inspection Request and a Project Closeout Packet must accompany your final reimbursement request. A copy of the Final Reimbursement Request is provided in Appendix I and detailed instructions for completing it and compiling the Project Closeout Packet are included in Section VI. Project Closeout and Post-Completion Requirements.

SECTION VI. PROJECT CLOSEOUT AND POST-COMPLETION REQUIREMENTS

Project Completion

The date of completion is the date when all work in a project is completed, or the date the project expires, whichever comes first. The project sponsor should submit the final reimbursement request, final inspection request and all required project close-out documents within **60 days** after the date of completion (see the Project Closeout Packet section below). GMS staff will conduct a final inspection of the project site, using the as-built plans submitted by the project sponsor, the original project scope, and any subsequent amendments as aids in determining project compliance. If a vehicle or motorized construction/maintenance equipment were purchased as part of the project, GMS staff will require to see the equipment during the final inspection.

RTP Acknowledgement Sign

Once the project is complete, a sign acknowledging the Recreational Trails Program must be posted at the project site, and should be placed at the entrance to a trailhead or trail. An acknowledgement sign must be maintained at the project site for at least 25 years. For your convenience, a sign may be ordered online from the Missouri Vocational Enterprises at <http://doc.mo.gov/mve/html/ordering.html> (reference #S-14189 when ordering). The cost of the sign may be reimbursed if signs are a cost element identified in your budget table.



Project Closeout Packet

Documents to be submitted as part of your project closeout packet include the following. Use the Project Closeout Documents Checklist in Appendix I to ensure that you've submitted all required documentation. GMS staff must receive your project closeout packet within **60 days** after the date of completion, to ensure time to schedule an inspection, resolve any outstanding issues and process your final reimbursement request.

- **Final reimbursement request.** Use the Reimbursement Statement form provided in Appendix H (or the electronic form at <https://mostateparks.com/page/61220/recreational-trails-program-rtp-grants>). Under "Billing Status," check the box marked "Final." Include a Reimbursement Log, relevant time and equipment use records, and all pertinent cost documentation, as outlined in Section V.
- **Final Inspection Request form.** A copy of the Final Inspection Request form is provided in Appendix I. On the form, provide three potential dates when you or someone from your organization who is familiar with the project could meet with GMS staff for a final inspection. It's important that the proposed dates fall within a 30-day window following the submittal of your project closeout packet. This will give GMS time to contact you to schedule an inspection and you time to resolve any outstanding issues noted by GMS during the inspection. Additionally, it will allow GMS time to process your final reimbursement.
- **As-built site map.** An as-built site map must be submitted showing the location of the project area and any trailhead/trailside facilities. The plan must identify the work funded by the grant, completion date, and boundaries of the site. The plan must also identify any accessible amenities and structures, and should include a copy of the completed Accessibility Checklist. In a few cases, there may be no changes from the site map submitted with the application other than labeling it with the completion date. This plan will become a part of the permanent records maintained by GMS on behalf of DNR. It is also to be kept permanently in the project sponsor's public property records and available for public inspection with the project agreement.
- **As-built facility plans.** As-built plans showing elevations and floor plans of all structures and facilities must be submitted. The plans must also indicate the accessibility standards that were incorporated into the project. A copy of the completed Accessibility Checklist must also be included.
- **Post-Construction Certification.** A copy of the signed Post Construction Certificate (found in the Appendix I) must accompany the final reimbursement for development projects. This form is to be completed by the supervising architect or engineer on the project. If the project did not involve a contract architect or engineer, then the project sponsor's architect, engineer or project manager should inspect the project and sign the Post Construction Certification.
- **Control and tenure documentation.** If not already submitted to GMS, copies of property titles, leases, easements, or appropriate documents must be submitted as part of a project's documentation. This includes copies of deeds or easements of real property acquired with RTP funds or real property donated as part of this project.

Record Retention

For audit purposes, the project sponsor will need to retain financial records, supporting documents, environmental clearances and all other records pertinent to the RTP grant for a period of five years starting from the date of submission of the final payment request, per Section B of Appendix D (DNR Federal Financial Assistance Agreements General Terms and Conditions). Refer to Section IV for a list of documents you are required to maintain in your project file.

Long-Term Stewardship Responsibilities

Property developed with federal assistance must be properly operated and maintained for general public use. The site should appear attractive and inviting to the public. Proper sanitation and sanitary facilities should be maintained in accordance with applicable federal, state and local standards. The site should be kept safe for public use. Buildings, roads, and other improvements should be kept in reasonable repair throughout their lifetime to prevent undue deterioration and to encourage public use. Evidence of vandalism should be repaired as quickly as possible.

Inspections:

Completed projects will be inspected periodically by GMS staff. Copies of the inspection reports will be sent to the project sponsor. The purpose of these inspections is to ensure that the site is being used for the purposes intended; the site is attractive and properly maintained; and the area is accessible and open to the general public.

Public access:

All facilities developed with RTP funds must be operated and maintained in public use for 25 years. The facility should be kept open for general public use at reasonable hours and times of the year according to the type of area or facility. The project must be open to entry and use by all persons regardless of race, religion, color, sex, national origin, age, disability, or place of residence. The site cannot be restricted for use only by community or county residents. Project sponsors may impose reasonable limits on the type and extent of use of areas and facilities developed with RTP funds when such a limitation is necessary for maintenance or preservation.

If fees are charged to use federally-funded sites or facilities, the project sponsor must submit a complete schedule of all charges to be assessed for those using the facilities to GMS. If trails are partially funded by local tax revenues, a higher user fee may be charged to out-of-city or out-of-county residents. Where there is no charge for residents, but a fee is charged to nonresidents, nonresident fees cannot exceed fees charged for residents at comparable state or local public facilities. Reservations, membership or annual permit systems available to residents must also be available to nonresidents and the period of availability must be the same for both.

Maintenance requirements for equipment purchased with RTP funds:

The use, control and maintenance of equipment purchased with RTP funds must follow the procedures outlined in Section H in Appendix D (DNR Federal Financial Assistance Agreements General Terms and Conditions). It is especially incumbent on you to ensure that any equipment purchased with RTP funding will be used primarily for the construction and maintenance of trail-related projects. You are required to establish adequate safeguards to prevent against loss, damage, or theft of the equipment, and to develop adequate maintenance procedures to keep the equipment in good condition for its useful life.

Educational projects:

The expected longevity for educational projects varies depending on the nature of the project. The most common types of projects have been categorized below, with their respective required lifespans:

- Education projects that have a construction element to them, such as a project to install trail markers or informational kiosks, are expected to be maintained for 25 years.
- Projects that result in a print or electronic publication, including website development, are expected to be retained for a minimum of five years. Per conditions outlined in the DNR General Terms and Conditions in Appendix D, prior approval by GMS staff is required before printing and distributing any materials funded through RTP.
- Educational programs, such as workshops, that are developed using RTP funds do not fall within the strictures outlined above since the implementation of these types of programs may be a one-time effort or part of an on-going educational campaign. However, project sponsors should submit a schedule of events to GMS along with any program materials given to participants. Additionally, sponsors are encouraged to submit photographs of programs that have been held.

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NEPA Determination Form*

APPENDIX B. REAL PROPERTY ACQUISITION DOCUMENTATION CHECKLIST

The following items are required documents to indicate compliance with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Please submit **one copy** of each item to the Grants Management Section (GMS), at the address below. Use this checklist to ensure that you've included all required documentation.

RTP Planner
Grants Management Section
Missouri State Parks
PO Box 176
Jefferson City, MO 65102-0176

- Title Search/Title Clearance Report** identifying owner of the property, any liens or restrictions on the property, or any rights or interests held by others. Original to be kept by the project sponsor, with a copy sent to GMS.
- Notice of Interest** in real property sent to the landowner, with a copy of the letter retained by the project sponsor and a copy sent to GMS. The letter must include a statement of landowner and tenant rights. In the absence of the sponsor's own written guidelines for compliance with the Uniform Act and all applicable state and local requirements, the sponsor should enclose copies of the following booklets provided by the Federal Highway Administration, as appropriate: "Acquisition: Acquiring Real Property for Federal and Federal-Aid Programs and Projects" (http://www.fhwa.dot.gov/real_estate/uniform_act/acquisition/acquisition.pdf) and "Relocation: Your Rights and Benefits as a Displaced Person under the Federal Relocation Assistance Program" (https://www.fhwa.dot.gov/real_estate/publications/your_rights/rights2014.pdf).
- Appraisal Report or Waiver Valuation**, the original retained by the sponsor, a copy given to the landowner and a copy sent to GMS. Property that is valued less than \$10,000 may not require an appraisal and may only require a waiver valuation. A sample Waiver Valuation is provided in this appendix.
- Review Appraisal Report** by a certified review appraiser. The original should be retained by the project sponsor and a copy sent to the landowner and GMS.
- Written Offer of Just Compensation** and all required attachments sent to the landowner, with a copy kept by the project sponsor and a copy sent to GMS. A sample Offer of Just Compensation is provided in this appendix.
- Written Statement of Just Compensation** sent to the landowner, with a copy kept by the sponsor and a copy sent to GMS. A sample is provided in this appendix.
- Waiver of Right to Just Compensation** signed by the landowner, indicating voluntary donation of the property, either in part or a full donation. A sample is provided in this appendix. Signed originals should be kept by the sponsor and the landowner, with a copy sent to GMS.
- Statement of Justification of Difference in Value** must be submitted to GMS, when the negotiated price is more than the approved appraised value. This statement should relay the history of negotiations between the sponsor and the landowner, the importance of the proposed purchase as opposed to alternative sites, or other justification regarding the need to purchase the property at higher than appraised value.

**NOTICE OF INTEREST
(SAMPLE)**

Date

Name of Landowner

Address

City, State ZIP

Dear _____ (*Name of Landowner*),

On behalf of _____ (*Name of Project Sponsor*), I am writing to inform you of our interest in acquiring the property located at _____ (*Address of Property*), further described as _____ (*Legal Description of Property*). Our records indicate the property is owned by _____ (*Name of Landowner*). Acquiring the property will allow us to develop _____ (*Name of Project*).

We have received funds through the Federal Highway Administration's (FHWA) Recreational Trails Program (RTP) to develop this project. Because federal funds are being used for the project, it is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. To help you understand your rights under the act, we have enclosed two informational booklets. Under the act, you are entitled to just compensation based on the fair market value of your property. Additionally, you and any tenant currently on the property may be eligible for relocation assistance. And, because RTP regulations prohibit property condemnation of any kind, your property will not be condemned if you do not wish to enter negotiations for the acquisition of your property

We are hopeful that, because of the benefits to be derived from the project, we can reach an agreement with you to acquire the land and/or property rights needed to accomplish the project, either through purchase, lease, easement or donation. If you would be interested in discussing acquisition options, please contact _____ (*Name of Project Sponsor's Representative*) at _____ (*Phone Number/Email Address*). He/She will outline the next steps of the process.

Thank you very much for your consideration of our proposal.

Sincerely,

Signature of Project Sponsor's Authorized Representative

Title of Project Sponsor's Authorized Representative

c: RTP Planner, Missouri Department of Natural Resources, Division of State Parks

Enclosures: "Acquisition: Acquiring Real Property for Federal and Federal-Aid Programs and Projects"
"Relocation: Your Rights and Benefits as a Displaced Person under the Federal Relocation Assistance Program"

**WAIVER VALUATION
(SAMPLE)**

Project Name _____
Parcel Address _____
Parcel Number _____
County _____

Property Owner _____
Owner's Address _____

Date Owner Invited To Accompany Person _____
Assessing Value: _____

Identification of Property _____

Lot: _____ Zoning: _____ Area _____ Sq. Ft.: _____ Acres: _____

Past Sales of Property (5 years): _____

Improvements to Property since Last Sale:

Description of Acquisition : _____

Calculation of Value of Land to be Acquired:

Land: _____ acres at \$_____/per acres = \$_____

Basis for Value:

Calculation of Value of Improvements to be Acquired:

Type of Improvement: _____ = \$_____

Type of Improvement: _____ = \$_____

Type of Improvement: _____ = \$_____

Basis for Value:

Final Value Estimate:

Land Value \$_____ + Value of Improvements \$_____ = \$_____

Prepared by: _____

Date: _____

Signature of Preparer: _____

Required Attachments:

Site Plan

Photograph of Acquisition Area

Comparable Sale or Other Value Support

**WRITTEN OFFER OF JUST COMPENSATION
(SAMPLE)**

Date

Name of Landowner

Address

City, State ZIP

Dear _____ *(Name of Landowner)*,

On behalf of _____ *(Name of Project Sponsor)*, I am writing this Offer of Just Compensation for the property located at _____ *(Address of Property)*, further described as _____ *(Legal Description of Property)*.

We have had the property appraised by a licensed appraiser and this report has been thoroughly analyzed by a certified review appraiser and found to be well-supported. Please find enclosed a copy of the appraisal and appraisal review. A Statement of Just Compensation is also enclosed, that provides the basis for the Offer of Just Compensation. Based on the appraisal and review, _____ *(Name of Project Sponsor)* hereby makes you an offer in the amount of \$ _____ *(Appraised Value)* for the purchase of your property. Relocation benefits to which you may be entitled are in addition to the acquisition price of your property.

If this offer meets with your approval, or if you have any questions, please contact _____ *(Name of Project Sponsor's Representative)* at _____ *(Phone Number/Email Address)*. Our staff has prepared _____ *(Description of Conveyance Documents)* to assist in finalizing the acquisition.

Thank you very much for your cooperation and favorable consideration of this offer.

Sincerely,

Signature of Project Sponsor's Authorized Representative
Title of Project Sponsor's Authorized Representative

c: RTP Planner, Missouri Department of Natural Resources, Division of State Parks

Enclosure: Appraisal Report
Appraisal Review Report
Statement of Just Compensation

**WRITTEN STATEMENT OF JUST COMPENSATION
(SAMPLE)**

Description and Location of Property

 (Name of Project Sponsor) proposes to purchase land and improvements on (Legal Description of Property) from owner at (Address of Landowner) .

Purpose of Purchase

 (Name of Project Sponsor) intends to use the parcel for construction of (Name of Project) .

Improvements

(Provide a description of the physical setting and improvements, buildings, etc., on the property.)

Declaration of Offer

Based on an appraisal by a licensed appraiser and an appraisal review by a certified review appraiser, (Name of Project Sponsor) hereby makes an offer in the amount of \$ (Appraised Value) for the purchase of said property. This offer is for the fair market value of the property and does not include any considerations of decrease or increase in value attributable to the project for which it is being acquired. It reflects no relocation payments which the owner/tenant may be entitled to receive under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

Definition of Fair Market Value

“Fair Market Value is the highest price estimated in terms of money which the property would bring if exposed for sale in the open market, allowing a reasonable time in which to find a purchaser buying with knowledge of all the uses and purposes for which it is adapted and for which it is capable of being used.”

Appraisal Techniques

The following techniques were utilized to determine the fair market value of this property.

(List the techniques used by the appraiser to determine fair market value, such as Cost Approach, Sales Comparison Approach, and Value Estimate by the Income Capitalization Approach.)

Final Estimate of Value

(Provide an explanation of how the appraiser arrived at the final opinion of value and how the results of each approach were weighed in that opinion, and the reliability of each approach to this particular piece of property. The final estimate of value should be a single amount that reflects all contributing values of the property from improvements, etc.)

**WAIVER OF RIGHT TO JUST COMPENSATION
(SAMPLE)**

WAIVER OF ACQUISITION RIGHTS AND BENEFITS UNDER THE FINAL GOVERNMENT-WIDE RULE IMPLEMENTING THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED.

I, _____ have been informed of my rights to receive just compensation for the portion
(Owner's Name)
of my property which will be used by _____ to construct _____
(Govt. Agency or Organization) *(Project Name)*
in the _____
(Project Area)

I have received a copy of "Acquisition: Acquiring Real Property for Federal and Federal-Aid Programs and Projects" and "Relocation: Your Rights and Benefits as a Displaced Person under the Federal Relocation Assistance Program" and was contacted by a representative of _____ on _____
(Govt. Agency or Organization) *(Date)*
to outline my rights under the Uniform Act, including my right to have the property appraised at no cost to me; my right to accompany the appraiser during this process; and my right to receive Just Compensation based upon the appraisal or valuation process. I was also given the opportunity to discuss any concerns I might have regarding the information I have been provided. I have received a copy of the plat which identifies my property and I understand which portion of my land I will be donating to the _____
(Govt. Agency or Organization)

I have determined that is in my best interest to waive all or a portion of my acquisition rights and benefits accruing to me under the Uniform Act, and prefer to donate an easement or donate my land as described below.

Easement or Land Description _____
Or Partial Land Donation _____

Let it be known that by signature hereon, I freely and without duress waive any and all rights accruing to me for a purchase under the Uniform Act.

Signature of Owner(s):

Name of Owner(s):

Address of Owner(s):

Plat #: _____ Date: _____

*This page intentionally left blank for insertion of
FHWA-1273 Required Contract Provisions
for Federal-Aid Construction Projects*

*This page intentionally left blank for insertion of
Missouri Department of Natural Resources
Federal Financial Assistance Agreements
General Terms and Conditions*

*This page intentionally left blank for insertion of
Affidavit of Compliance with Prevailing Wage Law*

**CERTIFICATION OF
NON-SEGREGATED FACILITIES**

The federally assisted construction contractor certifies that he/she does not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The federally assisted construction contractor certifies further that he/she will not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she will not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The federally assisted construction contractor agrees that a breach of this section is a violation of the Equal Opportunity Clause in this contract. As used in this caption, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national of because of habit, local custom, or otherwise. The federally assisted construction contractor agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that he/she will retain such certifications in his/her files.

NOTE-. The penalty for making false statements in offers is prescribed in 18 U. S. C. 1001.

Contractor Signature _____

Typed Name & Title _____ Date _____

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Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion*

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Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion*

Anti-Lobbying Declaration
Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure From to Report Lobbying", in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Applicant, Recipient Company,
Exporter, Ancillary Service Provider
or Local Cost Provider

Signature of Authorized Representative

Date

Name and Title

Company Address

**Sample
Buy America Certification**

Project Number: _____

Project Title: _____

The undersigned Proposer hereby certifies on behalf of itself and all contractors (at all tiers) that it will meet Buy America requirements in 23 CFR 635.410, using one of the following provisions:

_____ **The project/product contains no steel or iron products manufactured outside the United States.**

To be considered domestic, all steel and iron used and all products manufactured from steel and iron must be produced in the United States and all manufacturing processes for these materials, including application of a coating, must occur in the United States. Coating includes all processes that protect or enhance the value of the material to which the coating is applied. Buy America requirements apply to any steel or iron component of a manufactured product regardless of the overall composition of the manufactured product (e.g. Buy America applies to the steel wire mesh or steel reinforcing components of a precast reinforced concrete pipe). If there is ANY foreign steel or iron in your project/product you may not check this box.

_____ **The project/product has minimal use of steel or iron products manufactured outside the United States.**

The Buy America regulation does “not prevent a minimal use of foreign steel and iron materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater.” For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project. If this minimal use clause applies to your project, then please provide documentation indicating that this requirement is being met.

_____ **The project/product has foreign steel or iron; a Buy America waiver is required.**

The Contracting Entity may, but is not obligated to, seek a waiver of Buy America requirements if grounds for the waiver exist. However, Proposer certifies that it will comply with the applicable Buy America requirements if a waiver of those requirements is not available or not pursued by the Contracting Entity. The waiver process can take time and the project may not move forward until a waiver is completed.

A false certification is a criminal act in violation of 18 USC 1001. Should this Agreement be investigated, Proposer has the burden of proof to establish that it is in compliance.

Proposer: _____

Signature of Authorized Official: _____

Name of Authorized Official: _____

Title: _____

Date: _____

**Sample Letter
Step Certification**

Date

Company Name
Company Address
City, State Zip

Subject: Buy America Step Certification for Project **(XX-XXXX)**

I, **(company representative)**, certify that the **(melting, bending, coating, galvanizing, cutting, etc.)** process for **(manufacturing or fabricating)** the following products and/or materials shipped or provided to the subject project is in full compliance with the Federal Highway Administration (FHWA) Buy America requirements as specified in Title 23 of the Federal Code of Regulations (CFR) Section 635.410.

Pay Item, Products and/or Materials:
Provide description.

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative

**Sample Letter
Step Certification**

Date

Company Name

Company Address

City, State Zip

Subject: Buy America Certification for Project (**XX-XXXX**)

I, (**company representative**), certify that the following products and/or materials shipped/provided to the subject project are in full compliance with the Federal Highway Administration (FHWA) Buy America requirements as specified in Title 23 of the Federal Code of Regulations (CFR) Section 635.410.

Pay Item, Products and/or Materials

Provide description.

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative

**Sample
Buy America Waiver Request**

Date

RTP Planner
Grants Management Section
Missouri State Parks
PO Box 176
Jefferson City, MO 65102-0176

Subject: Buy America Waiver Request for Project # ***(insert project number)***

To Whom it May Concern:

The ***(insert project sponsor name)*** is requesting a waiver from Buy America requirements to permit the acquisition of ***(insert product description, avoiding use of brand names)***, for RTP Project # ***(insert project number and title)***. We are requesting this waiver because ***(insert exceptions outlined from page 17 of this guide)***. We ask that you forward our waiver request to the Federal Highway Administration for posting in the Federal Register for comment. Thank you.

Sincerely,

Signature of Project Sponsor's Authorized Representative
Title of Project Sponsor's Authorized Representative

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EQUIPMENT PURCHASE RECORD

RTP Project #: _____

RTP Project Title: _____

Description of Equipment, Parts and/or Accessory: _____

Make/Model: _____

Serial # or Identification #: _____

Title Holder: _____

Date Acquired: _____

Purchase Price: _____

Issue Date of Buy America Waiver: _____

TITLE HOLDER/PURCHASER AGREEMENT

I, as a representative for _____, agree to ensure that the above described grant-funded equipment and/or parts will be used for the purpose of completing the Recreational Trails Program grant project for which the equipment or parts were purchased. Upon completion of the grant project, I will ensure this equipment is used and maintained for the primary purpose of constructing and/or maintaining recreational trails throughout its useful life. In the event the title holder no longer needs the equipment for this purpose, I agree to ensure that the Missouri Department of Natural Resources is notified prior to the disposition of the equipment in accordance with the equipment disposition procedures as described in the Missouri Department of Natural Resources' General Terms & Conditions. I attest that the equipment and/or parts were acquired pursuant to the Federal Highway Administration's Buy America requirements. I attest that a Buy America Waiver issued by the Federal Highway Administration is attached to this form.

Signature of Title Holder's Representative

Date

Printed Name

Name of Project Sponsor

APPENDIX I. PROJECT CLOSEOUT FORMS AND CHECKLIST

The following items are required documents to submit when closing out your project and submitting your final reimbursement request. Please submit **one copy** of each item to the Grants Management Section (GMS), at the address below. Use this checklist to ensure that you've included all required documentation in the Project Closeout Packet.

RTP Planner
Grants Management Section
Missouri State Parks
PO Box 176
Jefferson City, MO 65102-0176

- Reimbursement Statement Form.** Under "Billing Status," check the box marked "Final."
- Reimbursement Log Form**
- Individual and Volunteer Time Record Form**
- Equipment Use Record**, as appropriate.
- Final Inspection Request Form**
- As-Built Site Map**, as appropriate.
- As-Built Floor Plans**, as appropriate.
- Accessibility Checklist**, as appropriate.
- OPDMD Assessment and Written Policy**, as appropriate.
- Post-Construction Certification Form**
- Control and Tenure Documentation**, if not already submitted.

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Final Inspection Request Form*

POST CONSTRUCTION CERTIFICATE

This certificate must be submitted with the final billing. The form must be signed by the project sponsor and by the architect or engineer who supervised the construction. If the project did not involve a contract architect or engineer, the project sponsor's architect, engineer or project manager should inspect the project and sign the form.

As-Built Plans

One copy of as-built plans must be submitted to the Grants Management Section, with a copy retained in the project sponsor's file. If deviations in design or site location were not made to plans previously submitted the Grants Management Section, a set of the original as-built plans with a revised date is sufficient. As-built plans must include:

- a) A site plan showing the location of the project area and any trailhead/trailside facilities.
- b) Elevations and floor plans of structures.
- c) A stamp by a certified architect or engineer, if the project involved either.

POST CONSTRUCTION CERTIFICATION:

I hereby certify that construction of Recreational Trails Program Project Number _____ has been completed in accordance with the original and revised plans and specifications on file with the Grants Management Section. The plans and specifications are consistent with the scope of the project approved by the Federal Highway Administration and the Grants Management Section, on behalf of the Missouri Department of Natural Resources. The project has been constructed in accord with all applicable federal, state and local building rules and regulations and is acceptable for public use.

A RESPONSIBLE OFFICIAL FROM THE SPONSORING ORGANIZATION MUST SIGN AND DATE THE CERTIFICATION

Signature of Project Sponsor

DATE _____

Signature of Project Architect/Engineer

DATE _____

Certification Number of Stamp (if applicable) _____