

Kentucky Transportation Cabinet (KYTC)

DESIGN-BUILD

Instructions to Proposers (ITP)  
March, 2019

Contract No. 19-9001 State Project # FD52 008 0275 006-010

County Boone Route I-275

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## 1. **PROJECT IDENTIFICATION**

Contract No. 19-9001 State Project # FD52 008 0275 006-010

County: Boone Route: I-275

Local Route Name: Graves Road

### 1.1 **PROJECT SCHEDULE**

The submittal process shall involve a 3-step process (Statements of Qualifications, Technical Proposal, and Price Proposal). Below is a schedule of dates for the submittal:

<b>Date</b>	<b>Submittal</b>
Early March, 2019	Advertisement
March 14, 2019	Pre-Proposal Meeting (Mandatory)
March 29, 2019	Statements of Qualifications Due
April 12, 2019	Short-list
April 15, 2019 thru June 14, 2019	Alternate Technical Concept Process
June 28, 2019	Alternate Technical Concept Approvals
July 26, 2019	Last Day for Questions
August 2, 2019	Technical Proposals Due
August 16, 2019	Price Proposals Due
September 2019	Project Award
August 1, 2022	Project Completion Date

### 1.2 **PROJECT-RELATED INFORMATION**

The following information is available for review and use by the Design-Build Team (DBT) in the online archive at the following location:

<https://transportation.ky.gov/Construction-Procurement/Pages/Design-Build-Projects.aspx>

- A. Construction plans for the existing Graves Road overpass (Drawing #: 16930)
- B. Geotechnical Engineering Report R14-04 - KY 237 Widening (N. Bend Rd toward KY 8)
- C. Geotechnical Engineering Report L11-01 - I-275 Slide #8 Beginning @ MP8.62
- D. A preliminary design executive summary for reference information only.

The following information is available for review and use by the Design-Build Team (DBT) at the Pre-Proposal Meeting:

- A. Preliminary design files including the currently proposed alignment for the project
- B. Additional preliminary survey and utility location information, gathered in 2019.
- C. Mapping and Ortho-photography for the project

None of the information provided herewith or at the Pre-Proposal meeting should be considered complete or as-built information. The Design-Build Teams (DBT(s)) are advised to verify the preceding information to determine if it accurately depicts existing field conditions.

## **2. PRE-PROPOSAL MEETING**

This pre-proposal meeting is to discuss and clarify all issues that the project may have.

Location: Boone County Court House  
2950 Washington Street  
Burlington, KY 41005  
Date: March 14, 2019  
Time: 10:00 a.m. Eastern Time

The meeting is mandatory for contractors and consultants who intend to be leads on a DBT.

## **3. ADDENDA PROCESS**

Addenda to this solicitation may be necessary prior to the closing date and will be furnished by mail, email, or the web to all prospective DBTs if prior to receipt date and to all DBTs determined to be eligible for award if after receipt date. The KYTC will respond to questions that are received by 4:00 pm (EST) 7 days prior to the bid submittal. The responses will be posted 3 days prior to the submittal deadline.

All questions prior to the award shall be directed to:

Name: Rachel Mills, P.E.,  
Director, Division of Construction Procurement  
Phone: 502-564-3500  
Email: [Rachel.Mills@ky.gov](mailto:Rachel.Mills@ky.gov)

Or see the website at: <http://transportation.ky.gov/Construction-Procurement/Pages/default.aspx>

## **4. DESIGN-BUILD TEAM**

### **4.1 PREQUALIFICATION**

It is required that the Design Build Team (DBT) consist of a KYTC pre-qualified Contractor who has engaged the services of KYTC pre-qualified Design Consultant(s) to perform all work required in this ITP. If the Design Consultant(s) submitted does not meet all the required qualifications, KYTC may reject the DBT's proposal. All subconsultants and subcontractors utilized by the DBT on this project shall be pre-qualified to perform work for KYTC or their services shall not be allowed.

To respond to a project listed in this ITP the project team must be prequalified in the specified areas by the response due date of the advertisement. If there are questions concerning prequalification, contact Mrs. Claressa (Ressie) Hamilton at (502) 564-4555. Responses that do not have all areas of prequalification fulfilled will be returned.

#### **4.1.1 CONTRACTOR PREQUALIFICATION**

Consistent with Section 102.01 of Kentucky's 2012 Standard Specifications for Road and Bridge Construction ("Standard Specifications") all organizations and individuals bidding on Department projects and accepting subcontracts on Department of Highways ("Department") projects shall apply for and receive Department prequalification and possess a Certificate of Eligibility as provided in regulations published by the Department according to KRS 176.140.

The DBT must be prequalified in at least one of the following work items to be registered as an eligible bidder for the project. Since the project is an alternate bid project, the company shall need only to be prequalified in a work item corresponding with its bid type:

<u>Alternate Pavement Type</u>	<u>Qualifications for Bidder</u>
Asphalt Pavement	A, C2
Concrete Pavement	A, B

The bidding company for the DBT shall be prequalified prior to submission of the Statements of Qualifications. Organizations and individuals providing other services shall be prequalified and possess a Certificate of Eligibility prior to performing the work.

**4.1.2 PROFESSIONAL SERVICES PREQUALIFICATION**

The DBT shall provide all necessary services to design and construct all permanent and temporary portions of the project, inclusive of acquiring all rights of way/easements and relocating all affected utilities. Work shall conform to current KYTC, federal, and AASHTO standards, practices, policies, guidelines and specifications where applicable. Additional documents identified within the scope of work shall be provided under separate cover as part of the contract documents. KYTC standards, practices, policies, guidelines and specifications shall control in case of a conflict. The standard of care for all such services performed or furnished under this Agreement shall be the care and skill ordinarily used by members of the engineering profession practicing under similar conditions at the same time and locality.

Design firms prequalified shall perform only those tasks which they are prequalified to complete. The DBT shall need to have KYTC prequalifications in a variety of disciplines in order to perform. KYTC prequalifications shall include but not be limited to:

Geotechnical	Laboratory Testing Services
Geotechnical	Drilling Services
Geotechnical	Engineering Services
Highway Design	Rural Roadway Design
Highway Design	Urban Roadway Design
Highway Design	Surveying
Utility Design	Communication
Utility Design	Electrical Level 1
Utility Design	Gas Level 1
Utility Design	Water & Sewer Level 1
Utility Design	Water & Sewer Level 2
Utility Design	Utility Preconstruction Coordination
Utility Design	Utility Construction Inspection
Right-of-Way	Acquisition Services
Right-of-Way	Relocation Services
Legal Services	Titles (According to statewide contract list)
Legal Services	Condemnations (According to statewide contract list)
Structure Design	Spans Under 500 Ft

Traffic Operations	Traffic Engineering Services
Traffic Operations	Electrical Engineering Traffic Signal Services
Traffic Operations	Electrical Engineering Roadway Lighting Services
Environmental	Hazmat (for ROW acquisition)

The DBT shall be aware that changes to the preliminary design documents may require the DBT to be prequalified in additional areas.

Design firms shall be sufficiently staffed and capable of performing the required work on this contract. These design firms may be subcontractors responsible for the design and engineering of the project.

There may be multiple consultants working on the DBT. However, one consultant shall be designated as the Lead Designer. The DBT shall include qualified engineers and surveyors to be in direct responsible charge of engineering and surveying endeavors and who are professionally registered in the state of Kentucky. Designs prepared for the project shall be signed and stamped by a licensed Kentucky Professional Engineer. To qualify for selection, interested DBTs shall be prequalified through KYTC for the performance of the work. Licensure shall be acquired prior to performing any work when prequalification requires work be performed by a licensed individual. Services requiring prequalification may only be performed by firms prequalified for those services at the time of performance of the services.

#### **4.2 STATEMENTS OF QUALIFICATIONS (SOQ)**

A DBT shall submit one (1) unbound version of the SOQ, and one (1) CD/DVD or one (1) USB “thumb” drive containing two (2) electronic files of the SOQ as follows:

- A. One electronic searchable single file PDF which does not restrict printing of copying text, images, and other content.
- B. One electronic password-protected single file PDF which restricts copying of text, images, and other content.

The SOQ shall be received no later than 4:00 p.m. Eastern Time on March 29, 2019. The KYTC shall reject any proposal received after aforementioned time and date and return it unopened to the DBT. In order to be considered, the original SOQ shall be signed in blue ink by an authorized representative of the DBT.

The submittal shall either be mailed or hand-delivered to:

Ms. Rachel Mills, P.E., Director  
Division of Construction Procurement  
200 Mero Street, 3<sup>rd</sup> Floor  
Frankfort, KY 40622

The outside cover of the package containing the proposal shall be marked:

Statement of Qualifications for  
Boone County Graves Road Interchange  
Item No. 6-78  
CID No. 19-9001  
Design-Build: FY 2019 Design Build #1

#### 4.2.1 **FORMAT**

To ensure a timely and consistent review, the format of the SOQ must adhere to the requirements of this section. The following table lists the maximum number of pages which may be used by the Proposer in the SOQ. Content should be organized by parts as indicated.

<b>Part</b>	<b>Content</b>	<b>Maximum Pages</b>
A	Introduction	2
B	Project Understanding and Approach	18
C	Design-Build Project Team and Resumes	
D	Capabilities and Experiences – Including Form A (Appendix A)	15
Total		35

The SOQ must conform to the following format:

- A. Each page must be 8.5” x 11” with single-space type no smaller than 11-point font. Pages may contain graphics and photographs where applicable.
- B. All pages shall be numbered with a footer depicting, at a minimum, Proposer’s name and page number (Proposer – Page X of XX). Margins shall be at least 1” all around. Deviations from formatting requirements may result in rejection of the LOQ.
  1. Printing should be double-sided. If single-sided printing is used, the backs of pages must be left blank.
  2. A single 11” x 17” page may be substituted for two 8.5” x 11” pages.
- C. Binding covers front and back are allowed as well as a transmittal letter; however, information on the outside covers and transmittal letter may not be used for evaluating the LOQ. The insides of the front and back covers must be left blank. No writing, photos, graphs, etc., will be allowed on the inside of covers.
- D. Tabs between pages may be used; however, other than identification on the tab, the tab page must be blank. No writing, photos, graphs, etc., will be allowed on the tab pages other than section identification.
- E. This response will be a “standalone” document. No additional information may be attached to made reference to via webpage or other means.

##### 4.2.1.1 **Part A – Introduction**

The introduction shall contain the following information:

- A. The Introduction page(s) shall be on the Lead Contractor's letterhead and identify the full legal name and address. (Font, font size, and page margin requirements may be disregarded as it pertains to the Lead Contractor’s letterhead if the Lead Contractor’s standard blank letterhead would violate the formatting limitations.) Proposers who are joint ventures may submit on any letterhead of the joint venture’s members, or submit on a new letterhead depicting the joint venture. The Introduction shall be signed by an authorized representative of the Proposer's organization. All signatures in the Introduction submitted with the unbound version of the SOQ shall be original and signed in ink.

The electronic versions do not require a signature.

- B.* Identify the name, title, address, phone and fax numbers, and e-mail address of an individual who will serve as the Point of Contact for the Proposer.
- C.* Identify whether the Lead Contractor will be structured as a corporation, Limited Liability Company, general partnership, joint venture, limited partnership or other form of legal organization. Note: The Department recommends that Lead Contractors who are joint ventures register their company or fictitious name with the Kentucky Secretary of State.
- D.* Identify the full legal name of the Lead Contractor and the Lead Designer for this Project. The Lead Contractor is defined as the prime/general contractor responsible for overall construction of the Project and will serve as the legal entity who will execute the Contract with the Department.
- E.* Provide the name of the principal(s) or officer(s) of the Lead Designer. Provide the firm's registration number of the Lead Designer confirming that the firm is properly registered with the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors at the time of submittal, who will be responsible for the design work included in this contract. The Lead Designer is the firm that employs the DBT Design Project Manager.
- F.* A statement that the Proposer's Lead Contractor and Lead Designer are prequalified with the Department in accordance with the requirements of the Department.
- G.* A statement confirming the commitment of the Key Personnel identified in the submittal to the extent necessary to meet the Department's quality and project duration expectations.
- H.* A statement warranting that no members of the Proposer have a personal conflict of interest or an organizational conflict of interest. (See Section 5.2)
- I.* A statement that the Proposer will comply with the Department's DBE goals for this Contract, and will comply with the Department's Nondiscrimination policy.
- J.* A Certification of authorized submitter that information contained within is correct. Include typed name and title, the clause "I certify that the information included within this document is, to the best of my knowledge, correct as of the date indicated", the signature (one copy must have original signature, and the date)
- K.* A Certification that the Lead Consulting firm is currently registered with the Commonwealth of Kentucky in accordance with KRS 322.060 to perform the engineering services needed for this project, and the firm's Kentucky Registration Number. This includes subconsultant firms. Additional pages are allowed to provide subconsultant certification of firm registration and Kentucky Registration Number.
- L.* In accordance with Federal Acquisition Regulation 52.209-5, the Vendor shall certify with bid response, that to the best of its knowledge and belief, the Vendor and/or its Principals is (are) not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any State or

Federal agency.

- M. In response to a legal opinion concerning the application of Official Order No. 102295, "Conflict of Interest", consultants responding to this advertisement are required to identify any potential conflicts of interest in regards to any financial or other personal interest in a project and/or any financial or other personal interest in any real property that may be acquired for a project. In the case that a potential conflict is identified, the consultant will be asked to recommend a solution in dealing with this conflict.

#### **4.2.1.2 Part B – Project Understanding and Approach**

Describe the Proposer's project understanding and anticipated approach to the project; specifically addressing:

- A. Managing bid and procurement risks specific to the Project during procurement,
- B. Monitoring the quality of the Work to ensure high quality for the duration of the Project, and
- C. Ensuring timely initiation of Roadway design and physical project construction.

The Department has also identified the following as significant tasks with considerable risks involved with the project. Identify the highest risks for each and describe the Proposer's approach to mitigate and manage the risks to the significant tasks:

- A. Right-of-Way acquisitions
- B. Utility relocations

One additional significant task, as identified by the Proposer, specific to the Proposer's anticipated approach to the Project.

#### **4.2.1.3 Part C – Design-Build Project Team**

For the DBT to be eligible for selection, the Lead Contractor must be prequalified as stated previously in the instructions.

For the DBT to be eligible for selection, either the prime or a subconsultant must be prequalified in each service area listed within the advertisement.

- A. List the services (from the KYTC prequalification categories) that the lead design consultant and any subconsultant(s) will be performing for this project, and the status of prequalification (Prequalified, Submitted and Pending, or Prequalification not required).
- B. For services to be performed by the lead consultant, list the name(s) of the employee(s) intended to perform the work. For subconsultant services, list the firm name.
- C. List the services not applicable for prequalification categories but which may be performed, and the name of the prime employee(s) or subconsultant firm name who intend to perform the work.



The Proposer shall provide sufficient information to enable the Department to understand and evaluate the Proposer's Team. Include the following:

- A. The Proposer shall provide an organizational chart showing the "chain of command" of the anticipated roles proposed for the Proposer's organization regarding the Project. The organizational chart shall show Key Personnel, key subconsultants, all named firms that will be performing work (including those firms identified in association with Section 4.1.2 of the ITP regarding prequalification), and other anticipated personnel integral to the success of the Project.  
*Note: Font requirements will not be enforced, but Proposers are to ensure the Organization Chart is legible and clear. One 11" x 17" sheet, folded to 8.5" x 11" size, will be allowed for the Organization Chart. This sheet will count as a single sheet for the purposes of page count. The content of the 11"x17" sheet will be limited to the organizational structure and relationships among the Proposer's team.*
- B. Describe the general experience of the firms that are part of the DBT. Focus on specific firm experience that relates to carrying out the proposed project and how the experience will ensure success of the Proposer's general approach to the Project. Describe any notable expertise or other special capabilities of members of the DBT (Persons or Firms) that are critical to your project approach. Firms listed on Form A shall be specifically addressed as to their role on the Proposer's team.
- C. Identify the Key Personnel as described in Sections 4.2.1.3.1 – 4.2.1.3.7 below. Provide information within the SOQ to demonstrate the abilities of all identified personnel through a description of qualifications, experiences, and performance of similar tasks on previous similar recent relevant projects, background, and education. These qualifications and experience should provide confidence to the Department that the Project will be effectively managed through personal competence and accountability. This information shall be expounded through resumes provided in Part D (Section 4.2.1.4). Resumes for individuals who are not identified in the SOQ as Key Personnel shall not be included. For all Key Personnel, provide the following information:
  1. The individual's position and authority within the Proposer.
  2. Previous projects, similar in nature to the proposed project or other significant efforts for which the individual has performed a similar function.
  3. Identify percentage of time that the individual will be dedicated to the Project during the following:
    - a. Design phase
    - b. Construction phase
  4. Relevant experience, professional registrations, education and other components of qualifications applicable to this project.

5. Any unique qualifications.
6. A statement indicating that the individual is currently employed by a member of the Proposer at the time of the SOQ submittal.

Duties may be performed by more than one person. If this is the case, provide information for each person and clarify individual duties. (Note: Part C page count will not be increased.)

Any person proposed as Key Personnel position requiring a Professional Engineering license who is not a Kentucky P.E. at SOQ submission may be proposed if 1) the person is licensed in another state and 2) submits a commitment in the SOQ to becoming licensed in Kentucky prior to Award.

**4.2.1.3.1 DBT Project Manager**

The DBT Project Manager shall be ultimately responsible for the Proposer's performance. Ensures that personnel and other resources are made available. Responsible for contractual matters. This position is required for the duration of all design and construction-related activities on the Project.

**4.2.1.3.2 DBT Design Project Manager**

The DBT Design Project Manager shall be responsible for actively managing the overall design of the project. Must be an employee of the Lead Designer. Responsible for overall design of the project inclusive of all structures and structural elements (bridge substructures and superstructures, retaining walls) and roadway/highway items (alignment, drainage, pavement, signing, lighting, traffic signals, maintenance of traffic, etc.) Must be a KY P.E. at the time of Award. The DBT Design Project Manager shall have ten years of experience on major highway projects.

**4.2.1.3.3 DBT Structural Lead (Design)**

The DBT Structural Lead shall be responsible for overall design of structures and structural elements. Responsible to ensure that all requirements of the design for all structural elements on the Project, including bridges, box culverts, walls, and foundations are met. Shall have no less than 10 years of experience in design of complex structures. Must be a KY P.E. at time of award. This position is required for the duration of all structure design-related activities on the Project.

**4.2.1.3.4 DBT Roadway and Maintenance of Traffic Lead (Design)**

The DBT Roadway and Maintenance of Traffic (MOT) Lead shall be responsible for meeting the design requirements of the Contract Documents for all roadway and MOT elements on the Project, including railroad coordination. The DBT Roadway/MOT Lead shall have 10 years of experience working in a similar capacity on major highway projects with complex roadway design. Must be a KY P.E. at the time of Award. This

position is required for the duration of the roadway design-related activities on the Project.

**4.2.1.3.5 DBT Right-of-Way Acquisition Manager**

The DBT Right-of-Way Acquisition Manager shall be ultimately responsible for the acquisition and management of all Rights of Way and easements necessary to complete the roadway project and utility relocations. The DBT Right-of-Way Acquisition Manager shall be responsible for coordination and communication with applicable KYTC personnel and shall ultimately be responsible to acquire property within a timetable that allows completion of the project within the provided schedule. The DBT Right-of-Way Acquisition Manager shall have 10 years of experience (under the laws of eminent domain) in highway rights-of-way appraisal, negotiation, property management and/or relocation assistance and possess any licenses or certifications required for the same.

**4.2.1.3.6 DBT Utility Relocation Manager**

The DBT Utility Relocation Manager shall be ultimately responsible for the coordination of design and construction of any utility relocations necessary to complete the project. The DBT Utility Relocation Manager shall have 10 years of relevant experience in utility relocation and possess any licenses or certifications required for the same

**4.2.1.3.7 DBT Construction Manager**

The DBT Construction Project Manager actively manages the overall construction of the project. Must be an employee of the Lead Contractor. Responsible for overall construction inclusive of all structures and structural elements (bridge substructure and superstructure, retaining walls) and roadway items (alignment, drainage, pavement, lighting, traffic signals, signage maintenance of traffic, etc.). The DBT Construction Manager shall have ten years of experience working in a similar capacity on major highway projects. The DBT Construction Project Manager shall be located in the field office on a full-time basis for the construction duration of the Project unless modification is requested by the DBT and approved by KYTC in its sole discretion.

**4.2.1.4 Part D – Capabilities and Relevant Experience**

Provide specific information as it relates to previous project experience, available resources, and anticipated design/construction methods. Include submission of Form A.

**4.2.1.4.1 Project Management Methodologies**

This section should include details describing the following:

- A. How the Proposer will coordinate with stakeholders (Boone County, Distribution Companies, and Utility Companies, etc.).

- B. How the Proposer will coordinate with KYTC to ensure Proposer sharing of information & reporting to ensure a high-quality project
- C. The Proposer's internal procedures for planning and monitoring the Project to ensure timely completion and achievement of critical project milestones while considering project risks, available resources, and production levels.
- D. The Proposer's procedures to ensure a cost-effective design and subsequent cost effective construction while meeting or exceeding the project requirements

**4.2.1.4.2 Past Projects/Technical Experience – Design and Construction**

The section shall include past projects and technical experience attachments (not exceed 10 pages total) that provide narrative descriptions of the ten relevant experiences (5 Design Projects, 5 Construction Projects) listed on Form A. Technical experience attachments shall be on distinct pages and not continue across multiple pages, limited to 1 page per experience listed on Form A. The narratives should demonstrate experiences in each of the following areas:

- A. Construction of projects of similar scope and complexity, as applicable to the Contractor.
- B. Design of projects of similar scope and complexity, as applicable to the Designer.
- C. Timely completion of projects of similar scope and complexity.
- D. Proposed Key Personnel members' roles with the project, if applicable.
- E. Ability to meet or exceed DBE commitments and to properly manage DBEs.

Each technical experience attachment must include the following information:

- A. A narrative describing the project.
- B. Bid construction costs.
- C. Name of the project, the owner's contract information (project manager name, phone number, e-mail address), and project number. If the owner's project manager is no longer with the owner, provide an alternate contact at the agency that is familiar with the project. The alternate contact must have played a leadership role for the owner during the project.
- D. Dates of design (if applicable) and construction (if applicable).
- E. Detailed description of the work or services provided and percentage of the overall project actually performed.
- F. Description of original scheduled completion deadlines and actual completion dates, as applicable to the

Designer and/or Contractor. Describe reasons for completing the project in advance of the contract completion deadline. Describe reasons for completing the projects later than the contract completion deadline specified within the original contract. Describe any reasons for assessed liquidated damages and/or penalties, if applicable.

- G. Description of project challenges and subsequent mitigation efforts by the Proposer to overcome those project challenges and how these challenges and mitigation efforts may relate to this project.
- H. Description of OJT and DBE efforts, if applicable.
- I. An Owner's reference shall be included for each project listed. As a minimum, the reference shall include an individual's name and current telephone number.

Provide an attachment (to be only included in Part D) listing all projects designed and/or constructed by the Lead Designer and/or Lead Contractor that have resulted in the assessment of liquidated damages and/or penalties exceeding \$50,000 in the last five years if applicable to the respective role.

**4.3 SOQ REVIEW AND SHORT-LISTING PROCESS**

SOQs will be evaluated by a SOQ Technical Evaluation Team to consist of Department representatives from KYTC District 6 and KYTC Central Office.

The Department’s SOQ Technical Evaluation Team will rank (at their sole discretion) the Proposer’s Statements of Qualifications based upon the evaluation criteria below and in accordance with the Department’s internal SOQ Evaluation Guidelines.

The SOQ shall be evaluated and scored based on the following point distribution:

<b>Part</b>	<b>Evaluation Criteria</b>	<b>Maximum Points</b>
B	Project Understanding and Approach	30
C	Design-Build Project Team and Resumes	30
D	Capabilities and Experiences – Including Form A (Appendix A)	40
Total		100

Failure to meet all requirements may render an SOQ non-responsive. The extent to which a Proposer meets or exceeds evaluation criteria will be comparatively ranked by the Department SOQ Technical Evaluation Team and will be reflective of the Department SOQ Technical Evaluation Team’s rankings (in their sole discretion) of the Statements of Qualifications submitted by Proposers. The Department reserves the right to find clerical errors *de minimis*.

The Technical Evaluation Team may be assisted by any number of Technical subgroups and/or subject matter experts within the Department, FHWA, County, other involved agencies, and/or contracted by the Department.

For each of the ranking topics, the SOQ Technical Evaluation Team will determine the highest ranked Proposer within each ranking topic, with the highest ranked Proposer receiving the maximum number of points. Lower ranked Proposers will receive commensurately lower rankings based on a relative comparison to the highest ranked Proposer. Evaluations and rankings will consider Department identified strengths, weaknesses, and committed betterments found within the SOQ.

The Department may request the Proposer to affirm an identified committed betterment found within the SOQ. This affirmation request will be made in writing to the Proposer prior to final rankings. If an affirmation request is made by the Department, the Proposer shall respond in writing within 48hrs either confirming the Department's understanding or clarifying the intent. Any response to the affirmation request may not expound upon the information within the SOQ.

The rankings will be based on the information provided by the Proposer within the SOQ, independent investigation of any information, prior experiences with the Proposer by the Department, existing public information, and evaluation information obtained from the owners of previous projects.

The Technical Evaluation Team will present the findings, rankings, and shall make a recommendation to the Executive Level Evaluation Team. This Executive Level Evaluation Team will consist of designees of:

- A. KYTC Deputy Secretary
- B. KYTC State Highway Engineer
- C. KYTC Assistant State Highway Engineer (Project Development)
- D. KYTC Assistant State Highway Engineer (Project Delivery & Preservation)
- E. KYTC District 6 Chief District Engineer

The Executive Level Evaluation Team will examine the Technical Level Evaluation Team's findings and will render ultimate selection of the Short-listed Proposers with concurrence from the Technical SOQ Evaluation Team. The Executive Level Evaluation Team may Short-list up to 5 DBTs.

The Deputy Secretary has final authority to determine the best interests of the Department in selection of the Short-listed Proposers.

## **5. RESTRICTIONS ON PARTICIPATION IN DESIGN-BUILD CONTRACTS**

To facilitate this procurement, various rules have been established and are described in the following paragraphs.

### **5.1 CAMPAIGN FINANCE LAW STATEMENT PURSUANT TO KRS 45A.110 AND KRS 45A.115**

Each member of the DBT shall certify that neither he/she nor any member of his/her immediate family having an interest of ten percent (10%) or more in any business entity involved in the performance of this project, has contributed more than the amount specified in KRS 121.056 (2), to the campaign of the gubernatorial candidate elected at the last election preceding the date of this solicitation. Each member of the DBT further swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the company which he/she represents, has knowingly violated any provisions of the

campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the company which he/she represents shall not violate any provisions of the campaign finance laws of the Commonwealth.

A Commonwealth of Kentucky sworn statement regarding campaign financing laws shall be completed and signed by an authorized agent of the DBT and submitted with the Price Proposal by August 16, 2019.

## **5.2 CONFLICT OF INTEREST**

The DBTs certify, by the signatures of duly authorized representatives that they are legally entitled to enter into this solicitation and contract and that they shall not be violating, either directly or indirectly, any conflict of interest statute under KRS Chapters 45A or 11A or ethical provisions under KRS Chapter 11A. Forms shall be signed and submitted by an authorized agent of the DBT with the Price Proposal on August 16, 2019.

## **5.3 NO CONTINGENT FEES**

No person or selling agency shall be employed or retained or given anything of monetary value to solicit or secure this contract, excepting bona fide employees of the DBT or bona fide established commercial or selling agencies maintained by the DBT for the purpose of securing business. For breach or violation of this provision, the KYTC shall have the right to reject the proposal, annul the contract without liability, or, at its discretion, deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee or other benefit.

## **5.4 RESTRICTIONS ON COMMUNICATION WITH KYTC STAFF**

From the date of advertisement of the ITP until a contract is awarded, Proposers are not allowed to communicate with any KYTC staff concerning this project except:

- A. During the Pre-Proposal Conference with KYTC staff present or
- B. Via written questions to those specified in Section 3.
- C. As outlined in the Alternate Technical Concept process in Section 6.1.

For violations of this provision, the KYTC may reject the proposal.

## **5.5 PROPOSAL PREPARATION**

The DBT shall follow any pertinent sections of this RFP, in the preparation of the proposal. Failure to provide any of the data required may result in the proposal being excluded from further evaluation.

## **5.6 PAYMENT AND CONDITIONS OF STIPEND**

Subject to the conditions of the ITP, KYTC will provide a payment of \$50,000 to each nonselected, responsive, DBT. The term "payment" as used in this section shall mean \$50,000.

By submitting its Technical Proposal for this project, the DBT forms a contract and agreement with KYTC for its technical proposal, conceptual design, and any approved Alternate Technical Concepts, whether submitted with the technical proposal or not. Furthermore, by submitting its Technical Proposal for this project, the DBT acknowledges that it is eligible for payment if the DBT's proposal is not selected. The payment shall be

payable by the KYTC to the DBT after KYTC enters into contract with the successful DBT, unless payment is waived by the unsuccessful DBT.

The payment shall be due only if the DBT submits a Technical Proposal that is responsive to the RFP as defined herein. The payment shall be full and final consideration for all documents submitted in the Technical Proposal or Approved Technical Concepts. Except for that intellectual property developed apart from or prior to DBT commencing work on the Technical Proposal for this project, KYTC shall retain an undivided joint interest in all rights and intellectual property submitted with the Technical Proposal.

If Technical Proposals have been submitted, but the KYTC does not Award the contract, all responsive DBTs shall receive a payment, unless payment is waived by the DBT. If the KYTC withdraws the contract prior to Technical Proposal submission, no payment shall be made.

An unsuccessful DBT, who otherwise qualifies for the payment, may elect to waive the payment within 10 days of the KYTC's Award decision and retain its rights to its Technical Proposal and approved Alternate Technical Concepts. By accepting payment of the Stipend, DBTs agree to waive all claims and causes of action against the KYTC related to the project in any way.

#### **5.7 DISPOSITION OF PROPOSALS**

All proposals, approved concepts, and preliminary plans become the property of the Commonwealth of Kentucky unless an unsuccessful DBT waives the stipend payment to retain its rights to its technical proposal and Alternate Technical Concepts as identified in Section 5.6. The successful proposal shall be incorporated by reference into the resulting contract.

#### **5.8 BONDING REQUIREMENTS**

A 5% bid proposal guaranty per Section 102.09 of the Standard Specifications shall be required to bid this project.

#### **5.9 DBT RESPONSE AND PROPRIETARY INFORMATION**

The KYTC shall not disclose any portion of any proposal prior to contract award to anyone outside the KYTC, other than representatives of the federal government, if required, and the members of the Awards Committee or their designates. After a contract is awarded in whole or in part, the KYTC shall have the right to duplicate, use, or disclose all proposal data, except proprietary data as described below, submitted by DBTs in response to this solicitation as a matter of public record. Although the KYTC recognizes the DBT's possible interest in preserving selected data which may be part of a proposal, the KYTC shall treat such information as provided by the DBT pursuant to Kentucky's Open Records Act, KRS 61.870 et seq.

Information areas which normally might be considered proprietary shall be limited to: individual personnel data, customer references, selected financial data, formulae, and financial audits, which if disclosed would permit an unfair advantage to competitors. If a proposal contains information in these areas that a DBT declares proprietary in nature, each sheet containing such information shall be clearly designated as proprietary at the top and bottom of the page and shall be submitted under separate cover marked "PROPRIETARY DATA". Proposals containing information declared by a DBT to be proprietary, either in



whole or in part, outside the areas listed above, may be deemed unresponsive to the solicitation and may be rejected.

Except as provided in Section 5.6 the KYTC shall have the right to use all ideas, or adaptations of those ideas, contained in any proposal received in response to the solicitation. Selection or rejection of the proposal shall not affect this right.

#### **5.10 PROPOSAL ADDENDA AND RULES FOR WITHDRAWAL**

Prior to the date specified for receipt of offers, a submitted proposal may be withdrawn by submitting a written request for its withdrawal to the Director of the Division of Contract Procurement. Withdrawal of the proposal by the DBT shall forfeit any payment of the stipend that the DBT may have been entitled to receive.

The KYTC shall accept addenda, revisions, or alterations to its proposal from any DBT until close of business (c/o/b) on the due date. The KYTC shall not accept any unsolicited addenda, revisions, or alterations to any proposal after the c/o/b on the due date. If the KYTC issues an addendum to the solicitation after c/o/b on the due date, then any DBT may respond. A DBT's response shall precisely respond to the contents of the Commonwealth's addendum.

The KYTC reserves the right to request clarification or additional information.

#### **5.11 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM**

It is the policy of the Kentucky Transportation Cabinet ("the Cabinet") that Disadvantaged Business Enterprises ("DBE") shall have the opportunity to participate in the development and performance of highway construction projects financed in whole or in part by Federal Funds in order to create a level playing field for all businesses who wish to contract with the Cabinet. To that end, the Cabinet will comply with the regulations found in 49 CFR Part 26, and the definitions and requirements contained therein shall be adopted as if set out verbatim herein.

The Cabinet, consultants, contractors, subcontractors, and sub-recipients shall not discriminate on the basis of race, color, national origin, or sex in the performance of work performed pursuant to Cabinet contracts. The contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of federally assisted highway construction projects. The DBT will include this provision in all its subcontracts and supply agreements pertaining to contracts with the Cabinet.

Failure by the DBT to carry out these requirements is a material breach of its contract with the Cabinet, which may result in the termination of the contract or such other remedy as the Cabinet deems necessary.

##### **5.11.1 DBE GOAL**

The DBE goal established for this contract is 9% of the total value of the contract.

The DBT shall exercise all necessary and reasonable steps to ensure that DBEs participate in at least the percent of the contract as set forth about as goals for this contract.

### **5.11.2 OBLIGATION OF THE DBT**

Each member of the DBT shall designate and make known to the KYTC a liaison officer who is assigned the responsibility of effectively administering and promoting an active program for utilization of DBEs.

Contractors are encouraged to use the services of banks owned and controlled by minorities and women.

Further conditions for DBE participation are outlined in Appendix B.

## **5.12 PROTESTS**

The Secretary of the Kentucky Transportation Cabinet, or his designee, shall have authority to determine and resolve protests and other controversies of actual or prospective DBTs in connection with the solicitations or selection for award of a contract.

Any actual or prospective DBT, who is aggrieved in connection with solicitation or selection for award of a contract, may file a protest with the Secretary of the Transportation Cabinet. A protest or notice of other controversy shall be filed promptly, and in any event within two calendar weeks after such aggrieved person knows or should have known of the facts giving rise thereto. All protests or notices of other controversies shall be in writing to:

Secretary, Transportation Cabinet  
c/o Andy Barber, State Highway Engineer  
200 Mero Street; 6<sup>th</sup> Floor  
Frankfort, KY 40622

The Secretary of the Kentucky Transportation Cabinet shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reason for the decision. The decision by the Secretary of the Kentucky Transportation Cabinet shall be final.

## **5.13 EQUAL EMPLOYMENT OPPORTUNITY ACT**

The Equal Employment Opportunity Act of 1978 applies to all State government projects with an estimated value exceeding \$250,000.

The consultants for the selected DBT must submit the following documents in accordance with the requirements of the ITP—EEO-1: Employer Information Report, Affidavit of Intent to Comply, Employee Data Sheet and Subcontractor Report or a copy of the Kentucky EEO Approval Letter issued by the Finance and Administration Cabinet, Office of EEO and Contract Compliance.

- A. The consultants for the selected DBT may obtain copies of the required EEO documents from the Finance and Administration Cabinet's Office of Equal Employment Opportunity Contract Compliance website at the following address: <https://finance.ky.gov/offices/Pages/equalOpportunity.aspx>
- B. The consultants for the selected DBT must advise each subconsultant with a subcontract of more than \$500,000 of the subconsultant's obligation to comply with the KY EEO Act. Further, the selected consultant is responsible for compiling EEO documentation from their subconsultants and submitting the documentation to the Finance and Administration Cabinet, Office of EEO and Contract Compliance.

- C. Failure to complete, sign and submit all required documents will delay the award/ contract modification process as incomplete submissions will not be processed.
- D. Pursuant to [KRS 45.610\(2\)](#), the Finance and Administration Cabinet, Office of EEO and Contract Compliance reserves the right to request additional information and/or documentation and to conduct on-site monitoring reviews of project sites and/ or business facilities at any point for the duration of any contract which exceeds \$500,000 to ascertain compliance with the Act and such rules, regulations and orders issued pursuant thereto.
- E. All questions regarding EEO forms or contract compliance issues must be directed to the Finance and Administration Cabinet, Office of EEO and Contract Compliance via e-mail: [Finance.ContractCompliance@ky.gov](mailto:Finance.ContractCompliance@ky.gov) or via telephone: (502) 564-2874.

KYTC will notify the Finance and Administration Cabinet, Office of EEO and Contract Compliance about any change order that increases the value of a contract above \$500,000. At a minimum, this notice should include the contract number, contract amount and contact information for the selected consultant. The Office of EEO and Contract Compliance will contact the selected consultant for required information.

The Finance and Administration Cabinet will maintain a list of approved vendors. This Web-based list will be available to State agencies and the general public. The Finance and Administration Cabinet will not accept compliance certifications from the federal government or other states. Only forms developed by the Finance and Administration Cabinet, Office of EEO and Contract Compliance will be accepted and processed. The Finance and Administration Cabinet will not pre-approve vendors. Unsolicited submittals will not be processed nor will unsolicited submittals be returned to the vendor. The Finance and Administration Cabinet, Office of General Counsel will contact KYTC General Counsel about any selected consultant that fails to comply with the Act. Finance and KYTC will determine the appropriate course of action for noncompliant selected consultants.

The requirements of 41 CFR Part 60 shall apply to this Contract and the DBT shall submit EEO Certification with its Proposal. In addition, within 30 days of Award of Contract, the DBT shall file Standard Form 100 (EEO-1) with KYTC's Division of Construction Procurement, unless the DBT has submitted the form within 12 months preceding the date of the Award.

Further conditions regarding the Equal Employment Opportunity act are outlined in Appendix C.

#### **5.14 EMPLOYMENT WAGE, RECORD, AND INSURANCE REQUIREMENTS**

See Appendix C for applicable requirements. It is understood and agreed to by the DBT that the Prevailing Wage Schedule for compensation to employees for the work categories and occupations for the county for which this project is located shall be strictly adhered to.

#### **5.15 VIOLATION OF TAX AND EMPLOYMENT LAWS**

KRS 45A.485 requires the DBT to reveal to the KYTC, prior to the award of a contract, any final determination of a violation by the DBT within the previous five (5) year period of the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to the state sales and use tax, corporate and utility tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

To comply with the provisions of KRS 45A.485, the DBT shall report any such final determination(s) of violation(s) to the KYTC by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

KRS 45A.485 also provides that, for the duration of any contract, the contractor shall be in continuous compliance with the provisions of those statutes which apply to the contractor's operations, and that the contractor's failure to reveal a final determination as described above or failure to comply with the above statutes for the duration of the contract, shall be grounds for the KYTC's

DBT shall identify one of the following in its Price Proposal submitted on August 16, 2019:

- A. The DBT has not violated any of the provisions of the above statutes within the previous five (5) year period.
- B. The DBT has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). A list of such determination(s) is attached.

#### **5.16 FHWA 1273**

This Highway Improvement Project shall be under the laws and regulations of the Commonwealth. This is a Federal-aid highway contract and all federal laws and regulations, including FHWA-1273 and Civil Rights.

WHEREAS, the DBT shall outline, undertake and complete the work as described in the Contract Documents in a manner consistent with FHWA Form 1273 (Appendix C of this Advertisement) and all applicable State and Federal laws and regulations.

#### **5.17 ACCESS TO RECORDS**

The contractor, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. In the event of a dispute between the contractor and the contracting agency, Attorney General, or the Auditor of Public Accounts over documents that are eligible for production and review, the Finance and Administration Cabinet shall review the dispute and issue a determination, in accordance with Secretary's Order 11-004.

#### **5.18 RECIPROCAL PREFERENCE (NOT APPLICABLE)**

#### **5.19 REGISTRATION WITH THE SECRETARY OF STATE BY A FOREIGN ENTITY**

Pursuant to [KRS 45A.480\(1\)\(b\)](#), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by [KRS 14A.9-010](#) to obtain a certificate of authority to transact business in

the Commonwealth (“certificate”) from the Secretary of State under [KRS 14A.9-030](#) unless the person produces the certificate within fourteen (14) days of the bid or proposal opening. Therefore, foreign entities should submit a copy of their certificate with their solicitation response. If the foreign entity is not required to obtain a certificate as provided in [KRS 14A.9-010](#), the foreign entity should identify the applicable exception in its solicitation response. Foreign entity is defined within [KRS 14A.1-070](#).

For all foreign entities required to obtain a certificate of authority to transact business in the Commonwealth, if a copy of the certificate is not received by the contracting agency within the time frame identified above, the foreign entity’s solicitation response shall be deemed non-responsive or the awarded contract shall be cancelled.

Businesses can visit <https://www.sos.ky.gov/Pages/default.aspx> to register with the Secretary of State.

## **5.20 EXECUTIVE BRANCH CODE OF ETHICS**

See Appendix C for restrictions relating to former KYTC employees.

## **5.21 CERTIFICATION REGARDING RESPONSIBILITY MATTERS**

If Federal Funds are used, in accordance with Federal Acquisition Regulation 52.209-5, the Vendor shall certify with bid response, that to the best of its knowledge and belief, the Vendor and/or its Principals is (are) not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any State or Federal agency. "Principals", for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager, plant manager, head of subsidiary, division, or business segment, and similar positions).

## **5.22 REQUIRED AFFIDAVIT FOR BIDDERS OR PROPOSERS**

In accordance with [KRS 45A.110](#) and [KRS 45A.115](#), neither the bidder or proposer as defined in [KRS 45A.070\(6\)](#), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky, and the award of a contract to the bidder or Proposer or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth. The Proposer must adhere to the following:

- A. The bidder or Proposer swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and all subcontractors therein, are aware of the requirements and penalties outlined in [KRS 45A.485](#); is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state; is duly registered with the Kentucky Secretary of State to the extent required by Kentucky law; and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded.
- B. The bidder or Proposer swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by [KRS Chapter 139](#), and will remain registered for the duration of any contract awarded.
- C. The bidder or Proposer swears and affirms under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract

awarded.

- D. The bidder or Proposer swears and affirms under penalty of perjury that the entity bidding, is not currently engaged in, and will not for the duration of the contract engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which Kentucky can enjoy open trade, as defined in Executive Order No. 2018- 905.
- E. The bidder or Proposer swears and affirms that the entity bidding, and all subcontractors therein, have not violated any of the prohibitions set forth in KRS 11A.236 during the previous ten (10) years, and further pledge to abide by the restrictions set forth in such statute for the duration of the contract awarded.

## **6. PROJECT DESCRIPTION & MANDATORY REQUIREMENTS**

The purpose of this project is to improve mobility and safety in a rapidly growing area adjacent to I-275 between Interstate Exits 8 and 11 in northern Boone County.

The mandatory requirements for the project as identified in the Recommended Alternative of the Interchange Justification Study (IJS) included in Appendix D, are as follows:

- A. A new interchange at I-275 and Graves Road including the loop ramp design and the eastbound 275 combination of ramps separated by barrier wall as proposed in the recommended alternative of the IJS;
- B. The widening of the Graves Road corridor as identified in the typical sections included in Appendix E. The widening shall extend from KY 20 and Bullittsville Road northward to KY 237, and including signalized intersections at KY 20, both exit ramp termini and Worldwide Boulevard. In addition Graves Road / KY 237 roundabout shall be widened from a single lane to two lanes;
- C. A modified tie-in of Williams road to Graves Road;
- D. The extension of the westbound I-275 mainline, three-lane typical section from just west of the KY 237 Interchange to just west of the proposed Graves Road Interchange with concrete pavement;
- E. The addition of an eastbound auxiliary lane along I-275 between the Graves Road and KY 237 Interchanges with concrete pavement;
- F. Minor adjustments to the I-275/KY 237 interchange ramps as described in Section 3.2 of Interchange Justification Study;
- G. The addition of a dual left turning movement from northbound KY 237 to westbound I-275.

In addition to the mandatory requirements identified above, KYTC has determined the last acceptable completion date for the project shall be August 1, 2022. There will be a lump sum \$1,000,000.00 incentive to the DBT if the new interchange with a connection to Worldwide Blvd. and the relocated Williams Road are completely finished, with the exception of final surfacing, before October 31, 2020. Under no circumstances will an extension to the October 31, 2020, milestone incentive date be given; except that, if KYTC issues an extension to contract time according to section 10.4.18 of the ITP, then KYTC will also consider if an extension should be applied to the milestone incentive date. Early substantial completion date of the project is preferred. If the project is not completed by the completion date identified in the DBT's proposal, per Section 108.09 of the Standard Specifications, liquidated damages shall be applied for each calendar day including weekends and holidays. Contrary to current specifications, the liquidated damage rate shall be \$5,000.00 per day, and will be assessed through the winter months and during any times when a work item cannot be pursued due to seasonal limitations.

## **6.1 ALTERNATE TECHNICAL CONCEPT (ATC)**

### **6.1.1 DEFINITION**

An Alternative Technical Concept (ATC) is a change to the Project Scope that provides a solution that is equal to or better than the required scope as determined by KYTC. The ATC process allows for innovation, increased flexibility, time reductions, and cost savings to deliver the best value for the public. Where the Contract Documents reference specific patented, proprietary material; or semi-finished or finished article, product, or item for incorporation into the work, the DBT may submit an ATC for approval of an alternative material, article, product, or item that meets or exceeds the requirements and intent of the Contract work, provided that the material, article, product, or item is equal or better in quality, performance, and function, based upon documented engineering analysis. ATCs are not intended to replace pre-bid questions.

### **6.1.2 SUBMISSION REQUIREMENTS**

DBTs may submit ATC documents for consideration by the KYTC beginning April 15, 2019. KYTC will review all ATCs through June 14th, 2019. Each ATC may include multiple issues to be considered by KYTC. The DBTs shall clearly identify each individual portion of the ATC proposal that is a proposed change to the Project Scope.

A DBT shall submit one (1) unbound version of the ATC, and one (1) CD/DVD or one (1) USB “thumb” drive containing two (2) electronic files of the ATC as follows:

- A. One (1) electronic searchable single file PDF which does not restrict printing or copying text, images, and other content.
- B. One (1) electronic password protected single file PDF which restricts copying of text, images, and other content.

Alternate Technical Concepts shall be received no later than 4:00 p.m., Eastern Time, on June 14, 2019. The KYTC shall reject any proposal received after aforementioned date and time and return it unopened to the DBT. In order to be considered, the original ATC shall be signed in blue ink by an authorized representative of the DBT.

The submittal shall either be mailed or hand delivered to:

Rachel Mills, PE, Director  
Division of Construction Procurement  
200 Mero Street  
Frankfort, KY 40622

The outside cover of the package shall be marked:

Alternate Technical Concept for  
Boone County Graves Road Interchange  
Item No. 6-78  
CID No. 19-9001  
Design-Build: FY 2019 Design-Build #1

### **6.1.3 *EVALUATION OF ATCs***

ATCs are approved by the KYTC at its discretion and the KYTC reserves the right to reject any ATC submitted. KYTC shall attempt to evaluate all ATCs and ATC reconsiderations within 14 calendar days of receipt. However, this timeframe cannot be guaranteed, particularly for complex or unusual concepts. KYTC will either accept or deny all ATCs no later than 30 days before proposals are due. KYTC shall not consider any change that would require excessive time or cost for review, evaluation, or investigation.

### **6.1.4 *CONTENTS***

ATCs shall contain the following information detailed below. Incomplete ATC submittal packages shall be returned by KYTC without review or comment. They may be resubmitted before the deadline for ATC submittals.

#### **6.1.4.1 Description**

A detailed description of the ATC including specifications and conceptual drawings.

#### **6.1.4.2 Usage**

A description of where and how the ATC would be used on the project.

#### **6.1.4.3 Deviations**

References to all requirements in the Project Scope that are inconsistent with the proposed ATC, an explanation of the nature of these deviations, and a request for approval of such deviations.

#### **6.1.4.4 Analysis**

An analysis justifying the ATC and demonstrating why modifications or revisions to requirements of the Project Scope should be allowed. Include information on how the ATC meets or exceeds the project goals.

#### **6.1.4.5 Traffic and Safety Impacts**

A discussion of the impacts the ATC will have on vehicular traffic and safety, including an operational analysis, if relevant.

#### **6.1.4.6 Maintenance of Traffic Impacts**

A discussion of the impacts the ATC will have on maintenance of traffic during construction including any impacts on other roadways due to diversion of traffic on proposed or potential detour.

#### **6.1.4.7 Environmental Impacts**

A discussion of how the ATC is in accordance with the approved Environmental Documents and permits.

#### **6.1.4.8 Right-of-Way**

A discussion of decreased or additional right-of-way acquisition needed to implement the proposed ATC.

#### **6.1.4.9 Utilities**

A discussion of decreased or additional utility (public and private) impacts as a result of ATC implementation.



#### **6.1.4.10 Maintenance**

A discussion of the long term maintenance of the proposed ATC.

#### **6.1.4.11 History**

When applicable, a detailed description of other projects on which the proposed ATC has been used, including contact information (name, title, phone number, address, and email) for project owners that can confirm ATC implementation.

#### **6.1.4.12 Inspection**

Any additional testing and inspection requirements.

#### **6.1.4.13 Schedule**

A discussion of project schedule impacts, including design, construction, right-of-way acquisition, utility relocation, and permitting issues.

### **6.1.5 *ONE-ON-ONE MEETINGS***

Each short-listed DBT shall be permitted to request one-on-one pre-ATC meetings with KYTC to discuss potential ATCs. Meetings will last no more than two hours. The location of the meetings will be determined by the nature of the ATC. The meetings will be held once every two weeks on Wednesdays beginning April 17, 2019 through June 12, 2019. Short-listed DBTs shall submit a request for a meeting by the Friday in advance of the proposed meeting date. The request must include the issues that the DBT wishes to discuss and/or a general description of the involved ATC concepts in enough detail for the KYTC to select appropriate individuals to attend the meeting. KYTC attendees may participate by teleconference or videoconference. One purpose of one-on-one meetings is to provide DBTs with a general overview of the KYTC's assessment of a proposed ATC's viability. No final decisions will be made. Verbal communications, including one-on-one meetings, will be considered non-binding. Discussions during one-on-one meetings shall be confidential.

### **6.1.6 *KYTC RESPONSE***

KYTC shall review all ATCs and respond with one of the following determinations:

- A. The ATC is approved and may be included in the DBT's Technical Proposal.
- B. The ATC is approved subject to conditions. The ATC may be included in the DBT's Technical Proposal provided that all approval conditions have been met. Failure to clearly demonstrate that all conditions have been met may render the DBT's Technical Proposal non-responsive.
- C. The ATC is not approved in its present form, but may be resubmitted for reconsideration. The reconsideration request must address all KYTC comments, questions, and concerns. Reconsideration requests must meet all ATC submission and content requirements.
- D. The ATC is not approved. Inclusion of the ATC in the Technical Proposal will render the Technical Proposal non-responsive.
- E. The proposal is not an ATC.

The KYTC may, at its discretion, request additional information or clarification regarding a proposed ATC and/or conduct one-on-one meetings with DBTs to discuss their ATC. Verbal communications regarding ATC proposals shall be

considered non-binding.

**6.1.7 INCORPORATION INTO TECHNICAL PROPOSAL**

The DBT may incorporate zero, one, or more approved ATCs (or conditionally approved ATCs, if all conditions are met) into their Technical Proposal. The Technical Proposal must clearly state which ATCs have been incorporated and indicate what, if any, conditions are met. Approved ATCs should be clearly shown on the Technical Proposal plans. The Price Proposal shall reflect all incorporated ATCs.

**6.1.8 DISCLOSURE**

If, during evaluation of an ATC proposal, the KYTC becomes aware of a deficiency in the Project Scope that would have an impact on the ability of DBTs to make a best value offer, KYTC may, at its discretion, issue an addenda to correct this deficiency.

Other than as listed in the above paragraph, all conversations related to ATC proposals between the KYTC and DBTs shall be kept confidential during the bidding process. ATC proposals may be made public after the payment of the stipend has been tendered and/or upon Contract Execution or as required by Kentucky's Open Records Act. All documents received by the KYTC are subject to KRS 61.870 to 61.884, also known as the Open Records Act, and are subject to release unless a statutory exception exists that exempts the documents from public release. If any information in an ATC or Technical Proposal is to be treated as "confidential or proprietary," the DBT must identify each and every occurrence of the information within the Proposal by:

- A. Listing the page numbers of every occurrence of the "confidential or proprietary" information on the cover sheet submitted with the ATC or Technical Proposal; and
- B. Placing an asterisk before and after each line of the ATC or Technical Proposal that contains "confidential or proprietary" information. "Confidential or proprietary" may include trade secrets.

Prior to Award, KYTC shall not share with, or convey to, any person the information provided by the DBT, unless disclosure is required by law or the DBT gives prior written approval for such disclosure. In the event the KYTC is required to disclose any information the DBT considers confidential or proprietary, pursuant to applicable law, KYTC shall notify the DBT in writing prior to disclosing such information. KYTC shall use reasonable efforts to give notice of disclosure at least three days in advance of release. However, upon Award, all information provided to KYTC that was used in the evaluation of the Bids will be considered a public record unless the DBT refuses to accept a Stipend (non-selected DBTs) or contract Award (selected DBT). KYTC shall not be obligated to maintain in confidence any information that is not confidential or proprietary including information that: (1) is already known by the state, (2) is or comes into the public domain through no fault of the state, (3) is independently developed by the state, or (4) comes to the state from a third party in a manner not in violation of any obligation of confidentiality by such third party to the DBT. Kentucky law generally requires that documents that contain both confidential and non-confidential information be disclosed with confidential information redacted.

## **7. GENERAL PROVISIONS FOR THE SCOPE OF THE WORK**

The DBT shall provide for the engineering services, design, and preparation of detailed construction plans for the construction of the proposed project. The DBT shall also provide services as described in Section 10 for the acquisition of right-of-way necessary to construct the proposed project and shall provide for the relocation of utilities impacted by the proposed project as described in Section 11. Further, the DBT shall provide for the furnishing of materials, construction and completion in every detail of all the work described in this RFP in order to fulfill the intent of the contract.

### **7.1 GOVERNING REGULATIONS**

All services, including but not limited to survey, design and construction work, performed by the DBT and all subcontractors, shall be in compliance with all applicable AASHTO Design Standards, KYTC Department of Highway's Standard Specifications for Road and Bridge Construction, Standard Drawings, Manuals and Guidelines. As a part of the DBT's technical proposal submittal, a detailed general schedule outlining the items listed in Section 13.1.2.1 of the ITP shall be submitted. A comprehensive schedule detailing all project milestone dates shall be prepared for Department review and approval within 30 days of the award of the contract. This schedule shall show all major design, right-of-way, utility and construction activities and the critical path to completion. The comprehensive Progress Schedule required for this Project is the CPM schedule. The CPM schedule format shall be as described in the CPM Special Note in Appendix F. The DBT shall designate a Schedule Representative who shall be responsible for coordinating with the Engineer during the preparation and maintenance of the schedule and throughout execution of the entire contract.

The fact that the bid items for this Design-Build project are general rather than specific shall not relieve the DBT of the requirement that all work performed and all materials furnished shall be in reasonable conformity with the specifications. The DBT's Consultant shall reference in the plans the appropriate Construction and Material Specifications Item Number for all work to be performed and all materials to be furnished.

It shall be the responsibility of the DBT to acquire and utilize the necessary KYTC manuals that apply to the design, right-of-way, utility, and construction work required to complete this project.

### **7.2 LUMP SUM BID ITEMS**

For this project, a single "all-inclusive" Lump Sum bid item is to be utilized. The components that are to be incorporated in this bid item are described throughout the ITP and shall include but are not limited to:

- A.* Project Development Services
- B.* Right of Way Acquisition Services
- C.* Utility Relocation
- D.* Grade & Drain
- E.* Asphalt Paving
- F.* Concrete Paving
- G.* Traffic Signals
- H.* Signing
- I.* Lighting
- J.* Structures

The DBT shall provide supplemental cost information and supporting documentation of those costs for each of the components listed. The sum of the individual component costs shall equal the value of the “all-inclusive” single lump sum bid item for the project. Certain aspects and requirements for each of these items are discussed in the following sections. Some components are discussed in multiple sections due to the nature of the work involved. As stated previously, the intent of this “all-inclusive” single lump sum bid item is to incorporate all features of the project into this bid item. Please be advised that three percent (3%) of the total lump sum bid price shall be used as the Demobilization cost for this project.

In addition, the DBT shall be required to furnish the Department with a Schedule of Values showing a complete breakdown of the lump sum bid item established for this project at the time of submittal of the DBT price proposal. In order to document how the lump sum bid price was determined, the DBT shall supply, using standard KYTC bid item codes whenever possible, all work items, quantities, units, and prices to support the lump sum bid submitted. Any non-standard bid items used shall be thoroughly explained in the bid proposal. The breakdown shall include all materials to be used in the work, and shall be in sufficient detail to provide KYTC with a means to check partial payment requests. The Schedule of Values shall be developed using the current version of Estimator software by Info Tech Inc., Gainesville, FL, 32608, or an equivalent program approved by the Engineer. The DBT shall provide any necessary training and license needed for KYTC to use the software. Submit the Estimator file in the Version required by KYTC. The successful DBT shall be required to update the schedule of values when final designs, or portions of the design, are approved.

The DBT shall also provide a separate estimated cost of the right-of-way acquisition and relocation costs that KYTC will pay to the property owners disturbed by the project. (This estimate will not be utilized in determining overall cost of the project but it will be used for KYTC budgeting purposes). This estimate should not include services for right-of-way acquisition as these services as described in Section 10 are to be included in the lump sum bid as described above.

### **7.3 BASIS OF PAYMENT**

All items covered by Construction and Material Specifications, Supplemental Specifications, Proposal and Special Provision notes with unit price as a basis of payment shall be included in the Lump Sum bid item established for the project. All costs for work and services shall be included in the lump sum item for the Project.

“In progress” payments for the project shall be made utilizing the supplemental cost information included in the schedule of values supplied for each of the components identified as parts of the “all inclusive” single Lump Sum bid item. KYTC personnel shall track and measure the completed individual items within the schedule of values to determine the amounts of the actual “in progress” payments.

### **7.4 FINAL PAYMENT**

In addition to the normal requirements in Sections 105.12 and 109 of the Standard Specifications, the DBT shall prepare and submit the following prior to the request for final payment:

- A. All original project files and notes utilized in the preparation of the survey, design and construction of the project.
- B. As-Built Plans in PDF and ArcGIS format previously approved by an engineer.

## **7.5 PRE-DESIGN-PRECONSTRUCTION CONFERENCE**

The DBT shall attend a mandatory Pre-Design-Preconstruction Conference to be scheduled upon award and name a Project Manager who shall act as a liaison between the DBT and KYTC.

## **7.6 KYTC CONTACTS**

All communication during design and construction and construction shall be with KYTC's Project Manager. All submittals identified elsewhere in this document shall be simultaneously sent to the KYTC's Project Manager and to the other KYTC personnel if designated by the KYTC Project Manager.

District Project Manager:	Robert Franxman
Phone Number:	(859) 341-2700
Email Address:	<a href="mailto:Robert.Franxman@ky.gov">Robert.Franxman@ky.gov</a>

At the Pre-Design-Preconstruction Conference, the DBT shall name a Project Manager who shall act as a liaison between the DBT and KYTC.

## **7.7 ENTRY ON PRIVATE PROPERTY**

Prior to performing any project development work, the awarded DBT shall send notification letters indicating the date and duration of entry to any affected property owners no less than forty-eight (48) hours nor more than thirty (30) days prior to the date of entry. The DBT shall forward copies of all notification letters distributed to KYTC's Project Manager. Any subsequent claims for compensation due to damages incurred during the project development phase shall be negotiated between the DBT and the affected property owners.

## **7.8 FIELD OFFICE**

The DBT shall provide a Field office to be available and completely functional no later than 1 week prior to the start of construction work. Furnish the field office with a means for maintaining a room temperature between 68 and 80 degrees, with electric service, potable hot and cold water and neat, sanitary, enclosed toilet accommodations. Furnish associated lavatory, sanitary and cleaning supplies and arrange for waste disposal. The field office shall be on the project site unless an alternate location is approved by the engineer. The office shall be at least approximately 500 sf containing space for a meeting area and seating to accommodate 15 persons and 4 separate desk and chair workstations for use by KYTC. The office shall include Wi-Fi though broadband internet connection with a minimum speed of 100 MBPS.

## **8. HAZARDOUS MATERIALS**

KYTC is unaware of any hazardous or contaminated materials within the project limits. However, the DBT is advised that any hazardous materials or contaminated areas encountered as a part of the design and construction of the project shall be the responsibility of the DBT to identify, and take the appropriate steps to coordinate with KYTC for disposal of said materials in accordance with all laws and regulations.

Should the DBT encounter hazardous or contaminated areas on the project, the DBT shall prepare a Contaminated Materials Management Plan (CMMP) to address the methodologies to be employed by the DBT to minimize the disturbance of contaminated materials and to coordinate with KYTC for disposal of any contaminated materials encountered by the DBT as the result of the DBT's design and construction. KYTC shall retain status as "generator" of all wastes regulated

under federal RCRA and applicable state laws. It shall be the DBT's responsibility to identify, and coordinate with KYTC to handle, manage and, if necessary, dispose of, all contaminated materials in accordance with all applicable local, state and federal regulations. It is understood that wherever practicable, contaminated materials shall be managed on the construction site.

Under most circumstances, KYTC will complete disposal of Hazardous Materials using KYTC forces within 14 calendar days. In the event that disposal extends beyond 14 days and delays are caused to the controlling item of the critical path schedule, or the DBT is required to perform disposal of the Hazardous Material, a supplemental agreement will be executed with the DBT according to section 104.03 of the Standard Specifications.

DBT shall have both the responsibility and authority to conduct any additional environmental assessment and/or testing it deems necessary to identify, and coordinate with KYTC to handle, manage, transport and dispose of contaminated materials encountered during construction, within the confines of local, state and federal environmental statutes, regulations and ordinances. All environmental data collected shall be retained for KYTC review and be made available, if requested.

The DBT shall be solely responsible for the health and safety of its own employees with regard to contaminated materials. DBT shall be liable for any loss or damage incurred by its employees or third parties as a result of its management, handling or improper disposal of contaminated materials. DBT shall indemnify KYTC for any damages incurred there from.

DBT shall assure that all contaminated materials requiring off-site disposal are coordinated with KYTC to be transported and disposed of in accordance with applicable local, state and federal laws in a regulated facility approved by KYTC. The DBT shall be responsible for manifesting and gaining approval for disposal of each shipment of contaminated materials designated for disposal at a regulated facility. DBT shall retain copies of all manifests and associated documentation for review by KYTC upon request.

Section 8 for Hazardous Materials shall not apply to asbestos materials present in buildings or structures to be demolished. Section 8 shall only apply to the abatement of underground Hazardous Materials.

## **9. ENVIRONMENTAL**

### **9.1 ENVIRONMENTAL DOCUMENT**

The project received National Environmental Policy Act (NEPA) clearance via a Categorical Exclusion 3 with an approval date of late February 2019, that is provided in Appendix G. The project approval was based on the impacts identified in the plans as presented in this proposal. Any impacts outside of the identified disturbance areas have not been cleared under the NEPA process. If the Design Build Team chooses to pursue impacts outside of the identified area, it is their sole responsibility to conduct the necessary field work and complete any necessary coordination to obtain environmental clearances, including updates to the environmental document. Additionally, anyone conducting work or fieldwork for any of the clearances will need to be on KYTC's list of approved consultants for the appropriate areas. As part of the environmental clearance for the project, several commitments were made for the project, as outlined below.

## **9.2 THREATENED AND ENDANGERED SPECIES**

Due to the limited flowering season of Running Buffalo Clover (*Trifolium stoloniferum*), KYTC was unable to conduct the Biological Assessment (BA) for that species during the NEPA evaluation phase. As such, a commitment was made to conduct that BA prior to construction. KYTC will conduct this evaluation in Spring 2019 (as dictated by the plant's flowering period) and the results coordinated with the US Fish & Wildlife Service. Results of the survey and any necessary clearances will be provided prior to contract award.

In order to comply with restrictions associated with imperiled bats, tree clearing restrictions will be imposed on this project. No clearing of trees 5 inches or greater (diameter breast height) shall occur from June 1 – July 31. Failure to comply will result in violation of the Endangered Species Act. Any questions regarding this requirement should be directed to:

Danny Peake, Director  
Division of Environmental Analysis  
200 Mero Street  
Frankfort, KY 40601

## **9.3 ARCHAEOLOGICAL CLEARANCE**

During the environmental evaluation phase of the project, access was denied to four parcels for archaeological evaluation. Through a Memorandum of Agreement (MOA), archaeological investigation was deferred until prior to construction. KYTC will continue to seek access to these parcels and provide any necessary clearances on these parcels prior to project award. It is anticipated that these areas will be cleared prior to the contract being awarded. Construction activities cannot begin on these parcels until all clearances are obtained.

## **9.4 SURFACE WATER PERMIT**

The DBT shall be aware of Clean Water Act permits issued by the US Army Corps of Engineers (USACE) and the Kentucky Division of Water (KDOW) as may apply to the Work. This shall include both Nationwide and Individual USACE Section 404 permits, KDOW section 401 Individual Water Quality Certifications. KYTC will secure the necessary USACE 404 and KDOW section 401 permit for the project for impacts identified in the preliminary design files distributed at Pre-Proposal meeting. Upon award of the contract, the DBT will coordinate with KYTC and the appropriate agencies to have the permit amended and transferred into their ownership.

The DBT shall be responsible for complying with all provisions set forth in the Permits. KYTC will pay (in advance) any costs or in-lieu fees associated with the permits as they pertain to the identified impacts within this document. If the DBT chooses to impact areas outside of the areas identified, it is their responsibility to coordinate changes the USACE and KDOW and pay any additional in-lieu fees.

## **9.5 ASBESTOS COMPLIANCE**

The DBT will be responsible for meeting the requirements of the 10 Day Notice with the Kentucky Division for Air Quality (DAQ). DEP form 7036 will be completed and filed with the Florence Regional DAQ Office located at 8020 Veteran's Memorial Drive Suite 110, Florence KY 41042 at least 10 days prior to removal of the bridge structure on Graves Road over Interstate 275. KYTC will provide the results of the Asbestos inspection and laboratory results to be included with the notice.

## **9.6 CONSTRUCTION STORM WATER PERMIT (KYR10)**

Projects that are not required to have a Section 402 Individual KPDES permit, must request coverage under the program's General Construction Storm Water Permit (KYR10). The DBT must submit to KYTC's project manager a BMP plan for the project and receive approval prior to beginning work. All temporary erosion control is the responsibility of the DBT as outlined in the Special Note for Erosion Control found in Appendix H. The DBT will be responsible for filing the Notice of Intent (NOI) with the Kentucky Division of Water requesting coverage under the KYR10 permit.

## **10. RIGHT-OF-WAY (ROW)**

### **10.1 GENERAL REQUIREMENTS**

The DBT shall be responsible for determining actual right of way needs (including easements for drainage, erosion control, utility relocations, and maintenance of traffic) that their design requires. Generally, KYTC district 6 only purchases right of way 10 feet beyond the back of sidewalks.

The DBT shall stake and flag all existing and proposed right of way and easements needed in the field prior to the start of construction. The DBT shall maintain these markings throughout the duration of the project.

All elements of the Right of Way Process shall be performed with discretion and confidentiality. The acquisition of private property for public use is a serious matter. Those in government charged with managing and implementing property acquisition programs have the responsibility to the government body and to the public to ensure that such right of way programs are executed professionally and fairly

All right of way documents, including the appraisal report, offer letter, and relocation assistance shall not be shown to, read to, permitted to be read by, or lent to a person other than those DBT Right of Way Team in discharge of the official business of the Division of Right of Way & Utilities. The DBT shall not disclosure or discuss confidential information about any parcel or owner(s) of a parcel. The DBT Right of Way Team shall be the only person's to discuss confidential information and then shall only discuss with KYTC Division of Right of Way Personnel.

The following sections outline the DBTs responsibilities for acquisition of right of way as deemed necessary by their design.

### **10.2 DESIGN-BUILD TEAM CONFLICT OF INTEREST**

If at any time, the DBT or to the best of the DBT's knowledge, any DBT-Related Entity directly or indirectly: (i) acquires or has previously acquired any interest in real property likely to be parcels of the Project Right-of-Way or the remainders of any such parcels; (ii) loans or has previously loaned money to any interest holder in any real property likely to be a Project Right-of-Way parcel and accepts as security for such loan the parcel, or the remainder of any such parcel that is not a whole acquisition, or (iii) purchases or has previously purchased from an existing mortgagee the mortgage instrument that secures an existing loan against real property likely to be a Project Right-of-Way parcel, or the remainder of any such parcel, the DBT shall promptly disclose the same to KYTC. In the case of acquisitions, loans or mortgage purchases that occurred prior to the execution of the Agreement, such disclosure shall be made within ten (10) days after execution of the Agreement.



In the event that the DBT, or any subsidiary or parent company of the DBT, acquires a real property interest, whether title or mortgage, in parcels of the Project Right-of-Way, the real property interest acquired or a release of mortgage as the case may be, shall be conveyed to the State of Kentucky, without the necessity of eminent domain.

The DBT shall not acquire or permit the acquisition by the DBT or any DBT-Related Entity of any real property interest in a Project Right-of-Way parcel, whether in fee title or mortgage, for the purpose of avoiding compliance with the laws, practices, guidelines, procedures and methods described.

### **10.3 CLEARANCE/DEMOLITION OF PROJECT RIGHT-OF-WAY**

The DBT shall be responsible for the clearance/demolition of buildings that are within the project right of way limits. Prior to demolition of any improvements, the DBT shall obtain photographs of the property and all improvements. The DBT shall also have photos of any other items of dispute in and of a quality suitable for presentation as evidence in court. Following acquisition or possession of any parcel of Project Right-of-Way, the DBT shall:

- A.* Follow property management guidelines as set forth by KYTC Right of Way Manual.
- B.* Secure and protect the buildings, improvements and fixtures on the Project Right-of-Way until they are disposed of or demolished. DBT shall board-up, mow, and winterize as required by KYTC or applicable Law.
- C.* Coordinate with the owner and occupants to assure the clearance of personal property from the Project Right-of-Way, as applicable.
- D.* Provide for any insect and rodent control and initiate extermination as required to protect the adjacent properties and rid the Project Right-of-Way from infestations.
- E.* Secure Governmental Approvals required for demolition and environmental surveys or tests, and notify KYTC in writing of all such activities.
- F.* The DBT shall be required to prepare necessary documentation for disposal of improvements, including the coordination and disposal of all contaminated or hazardous materials encountered, fixtures, and buildings in accordance with applicable Laws.
- G.* Provide written notification to KYTC of any real and/or personal property remaining on the Project Right-of-Way after vacated by the occupants and not acquired as part of the acquisition.
- H.* Terminate all utility service(s) when appropriate.
- I.* Process all required forms, documents and permit applications in order to proceed with the timely demolition or removal of any and all improvements, buildings and fixtures located within the Project Right-of-Way, as applicable.
- J.* Demolish and/or remove all improvements.
- K.* Notify KYTC upon completion of the demolition and clearance of the Project Right-of-Way, as applicable.

### **10.4 PROCUREMENT OF RIGHT-OF-WAY**

The DBT shall be responsible for all services and costs necessary to properly obtain the Right-of-Way and/or easements needed to complete the roadway project and utility relocations except for the purchase price of the property, which KYTC shall retain responsibility for. The services for right of way acquisition described herein Section 10 are

to be included in the lump sum bid as part of the price proposal. In addition, the DBT shall provide a separate estimate for the right of way acquisition and relocation costs that KYTC will pay to the property owners disturbed by the project.

The DBT shall provide all services necessary to acquire title to the Project Right-of-Way and/or easements, in form and substance acceptable to KYTC, in the name of the Commonwealth of Kentucky. This shall include coordination of relocation of displaces and clearance/demolition of the improvements from the Project Right-of-Way, as more fully described in the following sub-sections.

Except as otherwise set forth in the Agreement, the DBT's Project Right-of-Way staff and/or Contractors shall function as independent contractors while acquiring Project Right-of-Way, and not as an agent, representative, or employees of KYTC.

**10.4.1 *STANDARDS FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT***

The DBT shall acquire Project Right-of-Way in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act, otherwise referenced as the UNIFORM Act, as well as applicable state and federal Law and the practices, guidelines, procedures, and methods contained in the following as it pertains to Right-of-Way:

- A. KYTC Right of Way Manual and Relocation Assistance Manual (Kentucky properties)

Pursuant to the applicable federal regulations, the DBT shall (i) acquire Right-of-Way parcels for the Project on behalf of KYTC, but without the direct participation of KYTC, subject to KYTC rights of review, approval, and audit; (ii) certify acceptance of the KYTC Policies and Procedures; (iii) provide adequate access to all occupied properties; and (iv) maintain utility service to occupied properties until relocation is complete.

**10.4.2 *SOFTWARE REQUIREMENTS FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT***

The DBT shall employ software that is compatible with the software in use by KYTC, or fully transferable to the KYTC system. The DBT must supply and maintain a web-based, parcel-by-parcel database that incorporates the fields and information required by KYTC. The DBT must maintain and participate in the KYTC Right-of-Way and Utilities Management System (RWUMS) for appraisal, appraisal review and acquisitions, and any other required Right-of-Way tracking system required by KYTC or otherwise agreed to by the parties. The database shall be fully accessible to persons authorized by KYTC.

**10.4.3 *DBT'S RIGHT-OF-WAY ACQUISITION PLAN***

The DBT shall prepare a Right of Way Acquisition Plan and schedule prior to the start of any right of way activities. The Right-of-Way Acquisition Plan shall be submitted to KYTC for approval prior to beginning any of the activities identified in the plan.

The Right-of-Way Acquisition Plan shall clearly present the DBT's methodology to be used to secure the Right-of-Way needed to construct the Project. The Right-of-Way Acquisition Plan shall set forth DBT's organization, including names,

titles and qualifications of Project Right-of-Way personnel, integration of the Project Right-of-Way schedule into the Project Schedule, interface between design and Project Right-of-Way activities, documentation and reporting, quality control procedures, and quality review standards.

The Right-of-Way Acquisition Plan shall contain, at a minimum, the following:

- A. The name of KYTC approved title attorneys to be used for title services.
- B. The name and qualifications of the proposed Right-of-Way Acquisition Manager (AM).
- C. The resumes and qualifications for appraisers, appraisal reviewers, relocation agents, negotiators, real estate attorneys, property management agents, approved condemnation attorneys, and Right-of-Way personnel who shall have the minimum qualifications and experience specified in the KYTC Right-of-Way Manual.
- D. A completed Project Report (form TC 62-75) provided in Appendix I.

The Right-of-Way Acquisition Plan shall establish the specific means by which the DBT shall:

- A. Provide sufficient personnel to achieve, in accordance with the Project Schedule, the goals and milestones established for Project Right-of-Way acquisition, relocation assistance, appraisals and appraisal review, and clearance/demolition of the improvements from the Project Right-of-Way.
- B. Provide administrative support.
- C. Provide for non-English speaking, visually impaired, or hearing impaired translation, as necessary.
- D. Provide documentation and reports.
- E. Produce and distribute acquisition and relocation brochures as approved by KYTC.
- F. Establish, implement, and maintain quality control procedures and quality review standards for the acquisition for Project Right-of-Way.
- G. Prevent fraud, waste, and mismanagement.
- H. Provide methods for dispute resolution.
- I. Provide for expeditious navigation through condemnation proceedings.

#### **10.4.4 SCHEDULE AND REVIEW PROCEDURES FOR THE RIGHT-OF-WAY ACQUISITION PLAN**

The Project Schedule shall indicate the date to begin the acquisition of the Project Right-of-Way and the anticipated completion date of acquisition activities for each parcel. KYTC shall be advised of all properties and temporary rights or interests in real property to be acquired by the DBT. In developing the Project Schedule, the DBT shall give priority to the acquisition of parcels that have significant impact on the Project Schedule and/or affect the Critical Path as so indicated. The bi-monthly status reports shall provide updated projections for the acquisition date of each parcel.

Prior to beginning acquisition of a parcel, the DBT shall submit a complete Acquisition Package for said parcel. The Acquisition Package shall be prepared in accordance with the UNIFORM ACT as well as the KYTC Right-of-Way Manuals. Also, any unusual issues with the parcel shall be denoted. The submittal shall be made to the Project Manager for KYTC or their designee. Upon approval of the parcel Acquisition Package by KYTC, the DBT is released to acquire the parcel. KYTC shall retain all submittals as reference documents only. Submittal of the Acquisition Package to KYTC does not release the DBT from any responsibilities regarding the lawful performance of the acquisition of the Right-of-Way as defined by the ITP and other applicable laws and regulations. No adjustments to the Project Schedule shall be allowed due to this requirement.

The DBT is advised that for scheduling purposes, KYTC will be allowed up to 30 Calendar Days to process payments to respective property owners once the acquisition process has been completed and submitted to KYTC for execution.

#### **10.4.5 PROJECT SCOPE OF SERVICES FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT**

The DBT shall complete all administrative activities and prepare all documentation sufficient for the DBT to acquire the Project Right-of-Way. The DBT shall provide all Project Right-of-Way maps and surveys, appraisals, legal descriptions, acquisition documentation, requests to acquire Project Right-of-Way, condemnation-related activities, and funding/closing procedures. The DBT shall use only those attorneys that are on KYTC's Office of Legal Services statewide contract list for title reports, closings, and condemnation. Except as otherwise authorized by applicable State and federal policy and regulations for early acquisition and approved by KYTC, the DBT shall not proceed with acquisition of the Project Right-of-Way until Right-of-Way maps and legal descriptions for the applicable constructible segment as established by the logical termini of the Project have been prepared and approved by KYTC. KYTC shall provide a separate release for each approved segment. Further, the DBT shall not commence any negotiations with landowners nor shall eminent domain procedures begin until the Acquisition Package from the Right-of-Way AM for that particular parcel has been submitted and approved by KYTC.

If the DBT and the landowner cannot negotiate an agreed-upon purchase price, the DBT shall advise KYTC that the DBT has elected to commence acquisition of the property through eminent domain procedures. The DBT shall not be permitted to commence any condemnation action through the statutory procedure without the express written consent of KYTC. Consent may be withheld by KYTC at their sole and absolute discretion. In the event KYTC withholds consent and delays are caused to the controlling item of the critical path schedule, the department will consider an extension of Contract time according to section 108.07 of the Standard Specifications.

The DBT shall not begin construction on any parcel of real estate unless property rights for the parcel have been conveyed and recorded in favor of KYTC, possession has been obtained through eminent domain procedures or a Consent and Release Agreement has been validly executed and delivered by all necessary parties to KYTC.

**10.4.6 ACQUISITION PROCESS SUMMARY FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT**

The DBT's major activities with respect to the acquisition of the Project Right-of-Way are:

- A. Project Right-of-Way surveying and mapping
- B. Title services
- C. Appraisal services
- D. Appraisal review
- E. Negotiations
- F. Closing services
- G. Relocation assistance
- H. Performance of Condemnation services
- I. Clearance and demolition of Project Right-of-Way
- J. Environmental due diligence
- K. Documentation and document control
- L. Progress reports
- M. Project Right-of-Way administration and management
- N. Project Right-of-Way quality management
- O. Preparation of the acquisition packet for approval
- P. Obtaining rights of entry, as necessary

**10.4.7 RIGHT-OF-WAY PERSONNEL QUALIFICATIONS**

DBT Right-of-Way personnel qualifications shall meet minimum standards set out in KYTC Right-of-Way Manuals.

**10.4.8 DOCUMENTATION, REPORTING, AND LEGAL RESPONSIBILITIES FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT**

The DBT is responsible for preparing all specific reports and supporting documentation for review and approval during the acquisition process required by the UNIFORM ACT, all applicable laws and regulations, and the Policies and Procedures for KYTC, as required. At the sole discretion of KYTC, should evidence be presented or it is suspected that the DBT is not following all laws and regulations in regards to the procurement of Right-of-Way for the Project, KYTC reserves the right to audit the DBT's Project documentation to verify contract requirements are being met. No adjustments to the Project schedule shall be allowed due to performance of an audit. If evidence is found that the DBT has failed to conform with all applicable laws and requirements established for the procurement of Right-of-Way as detailed in the ITP for this Project, the DBT may be subject to litigation and penalties as determined by a Court of Law in Kentucky. By submittal of a Proposal for this Project, the DBT acknowledges and agrees that the sole responsibility for the lawful procurement of Right-of-Way for this Project is the DBT's. Further, any delays, work stoppages, or financial penalties resulting from a failure to comply with all applicable laws and requirements for the lawful procurement of Right-of-Way for this Project are the responsibility of the DBT and the DBT agrees to hold harmless KYTC.

All correspondence with KYTC and property owners relating to acquisition of real property shall include a heading with the following information (at a minimum):

- A. County/State
- B. Project – Item Number Highway Designation
- C. Parcel number
- D. Name of record owner(s)

In administering and managing its Project Right-of-Way activities, the DBT shall:

- A. Maintain parcel records on file of all aspects of the acquisition process in accordance with KYTC requirements and applicable Law. Each parcel file shall include all documents required by the KYTC Right-of-Way Manuals as applicable and the UNIFORM ACT.
- B. Provide monthly summaries for the cost of Project Right-of-Way acquisition and related relocation assistance including amounts authorized and amounts paid on a parcel-by-parcel basis as requested by KYTC.
- C. Maintain and electronically transmit to KYTC, in a format acceptable to KYTC, bi-monthly status reports including appraisal, acquisition, and relocation status of all parcels and activities related to Project Right-of-Way.
- D. Input and update parcel status in KYTC approved web-based tracking system or as directed by KYTC.

**10.4.9 REVIEW RESPONSIBILITIES OF KYTC FOR ACQUISITION PACKAGES**

KYTC shall have the following responsibilities with acquisition of Project Right-of-Way:

- A. Upon receipt of a complete Acquisition Package prepared by the DBT's Right-of-Way AM, KYTC will review the package for completeness. KYTC will complete this review and approval in no longer than five (5) business days.
- B. KYTC will provide the DBT with a maximum amount that can be used as an administrative settlement for each parcel. Any increase to the approved amount shall require additional documentation.

**10.4.10 RESPONSIBILITIES OF THE DBT AND KYTC OFFICE OF LEGAL SERVICES FOR USE OF CONDEMNATION FOR EMINENT DOMAIN FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT**

The DBT shall be responsible for filing and concluding the condemnation suit for eminent domain on behalf of the State upon receipt of the approved condemnation package and executive order. The responsibilities of the DBT in connection with acquisition of Project Right-of-Way in regards to use of State's right for condemnation for eminent domain shall include but not be limited to:

- A. Provide records that the DBT has negotiated in good faith, in accordance with the UNIFORM ACT and the Right-of-Way Manual for KYTC. Document the reason(s) for condemnation including recommendations for property closure.

- B.* Conduct all eminent domain-condemnation activities in accordance with the policies and procedures as described in the Right-of-Way Manual for KYTC, and all other applicable laws and regulations.
- C.* After non-response or upon receipt of a copy of the rejected final offer from a property owner or other property right holder entitled to compensation, request an updated title report from the title attorney issuing the original title commitment.
- D.* Use the information from the title report to join all parties having a property interest. Spouses of property holders with compensable rights must also be joined.
- E.* Prepare a condemnation packet containing two copies each of the following documents: Report Form indicating all joined parties in the suit, negotiation logs, the updated title report not more than 90 days old, appraisal receipt acknowledgment, pre-appraisal contact sheet, signed and sealed field notes, parcel sketch, bisection clause and access clause exhibits (if necessary), final offer letter reflecting latest appraisal, any correspondence sent by the DBT or from the owner of the compensable interest or representatives, one copy of the appraisal report not more than 90 days old, and proof of good faith negotiations. Submit two complete condemnation packets to the KYTC Right-of-Way Administrator.
- F.* Send a copy of the complete petition to the title attorney and confirm with the title attorney that the appropriate parties were joined in the case and that no changes in title have occurred since the original litigation guaranty was issued.
- G.* Upon approval of the Condemnation Package by the KYTC Office of Legal Services, file the petition for condemnation with the appropriate court clerk after a determination that a timely settlement is not feasible.
- H.* Be responsible for the all services and other duties required for the successful prosecution of the suit, including attendance in court and filing necessary documents to complete all eminent domain proceedings. This may include appearances at pre-commissioner's hearing preparations, special commissioner's hearings, and subsequent proceedings including jury trials and related proceedings.
- I.* Provide written monthly updates as to the parcel status to the KYTC Right-of-Way Administrator throughout the process.
- J.* Serve in person a "Notice of Hearing or Trial" at least 11 days prior to the date of the special commissioners' hearing, trial, or other hearings and notice requirements as directed or authorized by the court.
- K.* Call and send reminder letters two to three weeks in advance of any hearing to the KYTC Right-of-Way Administrator such that KYTC is kept apprised of the progress of the court case.
- L.* Make payment to all commissioners involved in the hearing and include payment for commissioners as part of general Project Right-of-Way services.

- M. Schedule and pay for all court related expenses including, but not limited to, court reporter services, transcription costs, mediation fees, expert witness fees, exhibits, and exhibit workbooks as required for the successful prosecution of the case. All documents and exhibits used in the special commissioner's hearings shall be retained as part of the Project records.
- N. File in a timely manner and provide proper service of objections after completion of the special commissioner's hearing as required. Within three days after objections have been filed, the DBT, at its cost, shall order transcripts of such hearing and provide said documents to the KYTC Right-of-Way Administrator.

KYTC and KYTC's Office of Legal Services shall have the following responsibilities in connection with acquisition of Project Right-of-Way in regards to use of State's right for condemnation for eminent domain:

- A. Upon receipt of a complete condemnation package from the DBT, KYTC shall coordinate with the KYTC Office of Legal Services to review the condemnation package. KYTC shall deliver the complete condemnation package to the KYTC Office of Legal Services within two business days after receipt from the DBT.
- B. Upon receipt of the condemnation package by the KYTC Office of Legal Services, the office shall have 20 business days to approve the condemnation package and determine if is acceptable to move forward with filing of the condemnation suit. If condemnation package is acceptable, the KYTC Office of Legal Services shall issue an executive order authorizing the DBT to file the condemnation suit on behalf of the State. The KYTC Office of Legal Services reserves the right to request that the DBT revise the condemnation package as required prior to approval in order to meet all legal requirements for the filing of condemnation suits for eminent domain. All re-submittals required from the DBT shall be approved in 10 business days.
- C. KYTC will return the approved condemnation package and executive order authorizing the DBT to file suit on behalf of the State to the DBT within two business days after receipt of the approved condemnation package from KYTC's Office of Legal Services.

**10.4.11 *ADDITIONAL REPORTING REQUIREMENTS FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT***

In addition, the DBT shall provide the following reports and electronic files:

- A. Monthly Parcel Report: DBT shall provide a report, prior to the first of the month, listing all parcel deletions, parcel additions, and parcel splits.
- B. Monthly Progress Report: DBT shall provide a report of all survey activity that occurred over the previous month, including a two-week look ahead of anticipated survey activity.
- C. CAD Files: The DBT shall provide digital CAD files in MicroStation format which include: property lines and/or existing Right-of-Way lines, as



surveyed; proposed Right-of-Way lines; parcel numbers; resource files; level assignments; and plot files. DBT shall submit CAD files prior to submitting the first Acquisition Package and provide updates as needed.

**10.4.12 TITLE SERVICES FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT**

With respect to title services, and in compliance with KYTC Policies and Procedures, the DBT shall:

- A. Complete titles as directed by Right-of-Way manuals and legal services in KY.
- B. Select and contract with one or more title attorneys that are on KYTC's Office of Legal Services statewide contract list. The DBT shall be responsible for obtaining a five-year sales history, a preliminary title commitment or preliminary title report, and, if necessary or appropriate, copies of all underlying documents and a plot of all easements, including existing Utility property interests, referenced therein for each parcel (including fee acquisitions, slope easements, other drainage and roadway Right-of-Way or easements and abandonment of Utility easements) to be acquired by KYTC for the Project. Each title report shall be dated not more than 30 days prior to the date of submittal to KYTC of the Acquisition Package for such parcel. The DBT shall, at its own cost, review each title report to ensure that it complies with the format required by the Right-of-Way Manual for KYTC. The DBT shall, at its own cost, retain the services of a real estate attorney, licensed and approved by KYTC, to be available for title support and acquisition assistance. All title reports must be in the following required format (format as required by KYTC's Office of Legal Services): clearly indicate which exclusions and exceptions shall be deleted upon acquisition of the subject parcel, and clearly indicate any required deliverables to the title attorney to clear identified exclusions and exceptions. Title reports shall be in accordance with KYTC's Right-of-Way Manual. The DBT shall notify the title attorney, by letter, which exceptions may be removed, including easements that: (a) are appurtenant to and/or of benefit to the parcel but not included in the parcel to be acquired, and (b) are a burden on the parcel and not acceptable.
- C. Review the preliminary title commitment or report to ensure that all current owners of record title are contacted and that negotiations or condemnation actions are conducted with all appropriate parties.
- D. Work with the current owners of record title to each parcel or interest in a parcel or their designee and all other appropriate parties to clear any title exceptions or exclusions not acceptable to KYTC.
- E. Ensure that all Project Right-of-Way shall be acquired in fee simple absolute or easement interest as appropriate, free and clear of any and all liens and encumbrances. Title to the Project Right-of-Way shall be in the name of the Commonwealth of Kentucky.

**10.4.13 APPRAISALS FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT**

The DBT shall complete fair market value appraisals with appraisers meeting the minimum qualifications established herein. All appraisals, for all parcels to be acquired, shall be prepared in conformance with applicable law (including the UNIFORM Act), and in accordance with professional appraisal methods and KYTC's Division of R/W & Utilities Appraisal Guidelines manual. The DBT shall select appraisers from KYTC list of approved fee appraisers.

**10.4.13.1 Appraisal review for Right-of-Way Acquisitions by the DBT**

All necessary review appraisals shall be prepared in conformance with applicable law (including the UNIFORM Act), and in accordance with professional appraisal methods and KYTC standards for all parcels to be acquired. The DBT shall select review appraisers from KYTC's list of approved fee appraisers. KYTC will evaluate the review appraisal and issue approval or denial within 5 business days.

**10.4.14 PROJECT RIGHT-OF-WAY ACQUISITIONS BY THE DBT**

Acquisition Packages submitted by the DBT to KYTC will include the following items, prepared for each parcel in accordance with the requirements of this section or Right-of-Way manual:

- A. A cover sheet setting forth the following information for each parcel.
  1. County/State Project item number
  2. Parcel number and number of parts
  3. Name of owner
  4. Extent of acquisition (partial or whole acquisition)
  5. Type of conveyance (fee, easement, etc.)
- B. A complete legal description of the parcel adequate to effect the desired acquisition of the parcel, signed and sealed by a Registered Land Surveyor. A legal description and parcel plat is required for each parcel. Control of access shall be addressed in all legal descriptions. All descriptions shall be in recordable form and shall be prepared in a form and manner acceptable to KYTC in all respects.
- C. A title report, current within 180 Days, including copies of all documents identified in the exceptions listed therein and a plot of all easements identified therein. The Acquisition Package shall include the DBT's analysis of each preliminary title report or title commitment to determine potential problems and proposed methods to cure title deficiencies. The DBT shall perform title curative work. The DBT shall include copies of all curative documents in the Acquisition Package.
- D. A copy of the appraisal report; review appraisal report; and all supporting documentation, review, and supporting documents.
- E. A real/personal property report detailing what items making up each parcel are classified as real estate, tenant-owned improvements, or personal property. Particular attention shall be paid to items that have questionable classifications.

- F. Replacement Housing Calculations, notification of business eligibility, completed displacee interviews, all comparables used in estimating the Replacement Housing Calculations, and letter to displacee(s) explaining Replacement Housing Calculations. Calculations and replacement housing benefit package shall be prepared and reviewed by a qualified consultant, in conformance with KYTC standard relocation procedures and State and federal laws and regulations.
- G. The proposed initial offer letter, MOU, deed, and any other documents, which shall be prepared by the DBT as required.

Upon approval of the Acquisition Package from the DBT Right-of-Way AM by KYTC, the DBT may proceed with the offer to the property owner.

**10.4.15 *RIGHT-OF-WAY NEGOTIATIONS FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT***

The DBT shall conduct all negotiations in accordance with the KYTC Right-of-Way Manual.

**10.4.16 *RELOCATION ASSISTANCE FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT***

The DBT shall coordinate and perform the administrative requirements necessary to relocate any occupants from Project Right-of-Way. All work prepared by the DBT with respect to relocation assistance shall be performed in accordance with the KYTC Right-of-Way Manual.

KYTC will be responsible for the payment of all appropriate relocation costs for the respective parcel.

**10.4.17 *CLOSING SERVICES FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT***

For purposes of closing services, the DBT shall:

- A. Prepare the escrow agreement and closing documents, including a closing memorandum identifying all parties involved in the closing, and listing all documents to be executed and/or delivered in connection with the closing.
- B. Select and contract with one or more attorneys that are on KYTC's Office of Legal Services statewide contract list to perform closings. Attend closings; provide curative documents and exhibits as required and in conjunction with the applicable title attorney. Confirm that all conditions to closing are satisfied.
- C. Coordinate with the applicable title attorney to obtain an updated title commitment within 24 hours prior to closing and provide an approved updated title commitment within 30 Days following closing and transmit the same to KYTC.
- D. Obtain and deliver to KYTC one certified copy of each instrument of conveyance immediately after closing to KYTC within five business days after receipt. Cause to be delivered to KYTC a copy of the recorded deed within 10 business days after the attorney receives the recorded deed.

#### 10.4.18 **CONDEMNATION FOR RIGHT-OF-WAY ACQUISITIONS BY THE DBT**

When it has become apparent that the condemnation process must be utilized in order to obtain possession of a parcel the DBT shall not condemn any parcel without prior approval of the KYTC's Office of Legal Services. The DBT shall submit to the parcel owner (s) a 10-day letter notifying the property owners of the pending condemnation process.

The DBT shall be responsible for all aspects for the filing and execution of condemnation suits for the acquisition of Right-of-Way, including the preparation of all documentation required, and attorneys' expenses needed for obtaining clear title to each parcel authorized for condemnation of the Project. The DBT shall use only those attorneys that are on KYTC's Office of Legal Services statewide contract list to perform condemnation services. The KYTC Office of Legal Services reserves the right to review and approve the condemnation package prepared by the DBT prior to the filing of a condemnation suit for eminent domain. In order to expedite review by the KYTC Office of Legal Services, the DBT shall provide the following information in the condemnation package:

- A. **Approved** Condemnation Pay Statement (RWUMS)
- B. Record of Contacts (RWUMS) **and Correspondence** (10 Day Letter, Notice of Condemnation Letter, Etc.)
- C. Notice of Proposed Acquisition Letter (Rev. 5/2017)
- D. FMV Offer to Purchase Letter (RWUMS)
- E. **Approved** Parcel Summary (**Include all encumbrances-Item 3**) (RWUMS)
- F. Appraisal Report or **Approved** MAR (RWUMS – not more than 90 days old) with **Approved** MAR Range of Values and Color Photos
- G. Finalized Deed of Conveyance/Deed of Easement/Grant of Easement to KYTC prepared by Staff/Closing Attorney. (Include and attach Microsoft Word Version of Deed of Conveyance/Deed of Easement/Grant of Easement separately for OLS.)
- H. Title report (not more than 90 days old - cover sheets only - **Source deeds not needed**) (TC-11-18 Version 6/2014)
- I. Colored plan sheet(s) indicating the property to be acquired
- J. Report Form indicating all joined parties in the suit,
- K. Negotiation logs
- L. Appraisal receipt acknowledgment
- M. Pre-appraisal contact sheet
- N. Signed and sealed field notes
- O. Bisection clause and access clause exhibits (if necessary)
- P. Final offer letter reflecting latest appraisal
- Q. Proof of good faith negotiations. Submit two complete condemnation packets to the KYTC Right-of-Way Administrator.

Contract time shall not be extended due to the length of time required for acquisition of the property necessary to complete the project. The contractor shall be aware that it is possible that condemnation through eminent domain may be required and contract time will not be extended to account for condemnation suits.

The only possibilities for extension of contract time due to R/W acquisitions shall be if:

- A. KYTC withholds consent to file suit against a property owner and delays are caused to the controlling item of the critical path schedule, or
- B. A condemnation suit escalates into a “Right to Take” challenge and delays are caused to the controlling item of the critical path schedule.

In the event either of these circumstances occurs the department will consider an extension of Contract time according to section 108.07 of the Standard Specifications. Those considerations will be made based upon the date when KYTC withheld consent, or the date when a property owner files a “Right to Take” challenge.

## **11. UTILITIES**

### **11.1 GENERAL REQUIREMENTS**

A number of existing utilities are located within or in the vicinity of the Project Right-of-Way, some pursuant to statutory rights and some pursuant to property rights. DBTs are advised it is their responsibility to locate all utilities and take into account impacts their design creates.

This Section establishes procedures and requirements for adjusting utilities, if deemed necessary, including such processes as coordination with utility owners, administration of the engineering, construction, and other activities necessary for utility adjustments, and required documentation.

The DBT shall cause all utility adjustments necessary to accommodate construction, operation, maintenance and/or use of the project, in both its initial configuration and in its ultimate configuration. The DBT shall be responsible for preparing and executing all agreements with the utility owners impacted by the project. Some utility adjustments may be performed by the utility owner with its own forces and/or contractors and consultants (i.e., utility owner-managed); all others shall be performed by the DBT with its own forces and/or contractors and consultants (subject to any approval rights required by the utility owner for those working on its facilities) (i.e., DBT-managed). The allocation of responsibility for the utility adjustment work between DBT and the utility owners shall be specified in the Utility Agreements executed by the DBT with the respective utility owner. All costs associated with the design, right-of-way (utility easement) and relocation of utilities for this project shall be the responsibility of the DBT. The DBT shall clearly demonstrate in the schedule prepared for the project how the utility relocation work is to be accomplished. No contract time extensions shall be granted to the DBT due to relocation of utilities for the project.

The DBT’s obligations regarding reimbursement to utility owners for all costs of utility adjustment work shall be as set forth in the Utility Agreements prepared for the project by the DBT and in conformance with FHWA’s Program Guide for Utility Relocation and Accommodation for Federal-Aid Projects. In general, in order to facilitate the timely relocation of the utilities for the Project, KYTC has advised all respective utility companies thought to be potentially impacted by the project that the costs associated with utility relocation work shall be reimbursed to the respective utility owner by the DBT. This includes both public and private utilities. However, as per FHWA’s Program Guide for Utility Relocation and Accommodation for Federal-Aid Project, any “betterments” to the utilities

made as part of the relocation work are not eligible project expenses and shall not be included in the project costs. The DBT and the respective utility owner shall clearly demonstrate in the agreements prepared for the project how any “betterments” planned for the Utility facilities during the relocation work are paid for using non-project funds. The DBT shall be responsible for strictly adhering to this requirement. Should it be determined that project funds have been used for betterment of the utility facilities without prior approval by KYTC, an amount equal to the cost determined to be expended upon betterment of the utility facilities relocated for the project shall be deducted from the DBT’s contract amount.

This Section does not address utility services to the project. Utility services to the project shall be the subject of separate agreements between the DBT and utility owners.

**11.1.1 *WHEN UTILITY ADJUSTMENT IS REQUIRED***

A utility adjustment may be necessary to accommodate the project for either or both of the following reasons: (a) a physical conflict between the project and the utility; and/or (b) an incompatibility between the project and the utility based on constructability, future operation, safety, and maintenance. The physical limits of all utility adjustments shall extend as necessary to functionally replace the existing utility, whether inside or outside of the project right-of-way. Section 11.2.4.2 contains provisions that address the acquisition of easements for utilities to be installed outside of the project right-of-way.

Utilities may remain in their existing locations within the project right-of-way if the existing location shall not adversely affect the construction, operation, safety, maintenance and/or use of the project and if the utility is not adversely affected by the project.

**11.1.2 *CERTAIN COMPONENTS OF THE UTILITY ADJUSTMENT WORK***

**11.1.2.1 Coordination**

The DBT shall communicate, cooperate, and coordinate with KYTC, the utility owners, and potentially affected third parties, as necessary for performance of the utility adjustment work. The DBT shall be responsible for preparing and securing execution of all necessary agreements.

Please be advised that the utility owner, as part of the review and comment for the Utility Agreement by KYTC, shall be responsible for obtaining an Encroachment Permit for all utility relocation work to be done within the public right-of-way. The DBT shall be responsible for all coordination needed to ensure that the Encroachment Permits and any other approvals needed from the appropriate regulatory agencies are received and approved by the proper authority prior to any utility relocation work within the public right-of-way taking place.

**11.1.2.2 Placement of Utilities**

Longitudinal underground utilities shall not be located within the proposed roadway. When crossing the roadway, crossings shall occur perpendicular to the proposed roadway.

**11.1.2.3 Flowable Fill Requirements**

The DBT shall use flowable fill as the backfill media any place underground utility facilities cross under the existing or proposed roadway surfaces.

**11.1.2.4 Betterments**

The utility owner shall be reimbursed only for the cost of constructing the most economical type of facilities that satisfactorily meet the service requirements of the former facilities unless the utility owner specifies a lesser replacement, or if the utility owner has standards dictating larger minimums than the facilities which currently exist. Please see KYTC Policy Manuals and FHWA's Program Guide for Utility Relocation and Accommodation for Federal-Aid Projects for additional requirements in this regard.

If the utility owner proposes to include enhancements or "betterment," all costs associated with the betterment are the responsibility of the utility owner and shall not be included in the project cost. The DBT shall perform all coordination necessary to ensure that any utility betterment planned for the project by the utility owner is adequately addressed in the utility agreement and properly documented in the encroachment permit prior to beginning the relocation.

**11.1.2.5 Protection in Place**

The DBT shall be responsible for Protection in Place of all utilities impacted by the project as necessary for their continued safe operation and structural integrity.

**11.1.2.6 Abandonment and Removal**

As applicable to work being performed by the DBT, the DBT shall make all arrangements and perform all work necessary to complete each abandonment or removal (and disposal) of a utility in accordance with the approved utility agreement. The DBT shall obtain governmental approvals and consent from the affected utility owner and any affected landowner(s) or shall confirm that the utility owner has completed these tasks.

**11.1.2.7 Service Lines and Utility Appurtenances**

As applicable to work being performed by the DBT, whenever required to accommodate construction, operation, maintenance, and/or use of the project, the DBT shall cause Service Line Adjustments and Utility Appurtenance Adjustments. On completion of these, the DBT shall cause full reinstatement of the roadway, including reconstruction of curb, gutter, sidewalks, and landscaping, whether the utility adjustment work is performed by the Utility Owner or by the DBT.

**11.1.2.8 Early Adjustments (Not Applicable)**

**11.1.2.9 Agreements between the DBT and Utility Owners**

Except as otherwise stated in this Section or in the Agreement, each utility adjustment shall be specifically addressed in a utility agreement. The DBT is responsible for preparing, negotiating, and obtaining

execution by the utility owners, of all utility agreements (including preparing all necessary exhibits and information about the project, such as reports, plans, and surveys). A utility agreement is not required for any utility adjustment consisting solely of protection in place in the utility's original location within the project right-of-way, unless the utility owner is being reimbursed for costs incurred by it on account of such protection in place.

**11.1.2.10 Utility Agreements**

The DBT shall enter into one or more utility agreements with each affected utility owner to define the design, material, construction, inspection, and acceptance standards and procedures necessary to complete utility adjustments, as well as to define the DBT's and the utility owner's respective responsibilities for utility adjustment costs and utility adjustment activities such as design, material procurement, construction, inspection, and acceptance. A utility agreement may address more than one utility adjustment for the same utility owner. Additional adjustments may be added to an existing utility agreements by a utility agreement amendment.

The DBT shall prepare each utility agreement using KYTCs standard form or a similar document approved by KYTC. Promptly following issuance of a notice to proceed, the DBT shall begin negotiations with each affected utility owner to reach agreement on one or more utility agreements. The DBT shall use good faith efforts to finalize a utility agreement with each affected utility owner within a reasonable time period after issuance of NTP. Each utility agreement (including the utility adjustment plans attached thereto) shall be subject to KYTC review and comment as part of the utility agreement /encroachment permit approval process.

**11.1.2.11 Utility Agreement Amendments**

Modification of an executed utility agreements or any component thereof shall be addressed using a utility agreement amendment. A utility agreement amendment may be used only when the allocation of responsibility for the utility adjustment work covered by that utility agreement amendment is the same as in the underlying utility agreement; otherwise, an additional utility agreement and new encroachment permit shall be required.

Each utility agreement amendment (including any utility adjustment plans attached thereto) shall be subject to KYTC approval as an amendment to the original encroachment permit.

**11.1.3 *RECORDKEEPING***

The DBT shall maintain construction and inspection records in order to ascertain that utility adjustment work is accomplished in accordance with the terms and in the manner proposed on the approved utility adjustment plans and otherwise as required by the applicable utility agreement(s). The DBT may use the modified KYTC Utility Relocation Progress Report.



## **11.2 ADMINISTRATIVE REQUIREMENTS**

### **11.2.1 STANDARDS**

All utility adjustment work shall comply with all applicable laws, agency Encroachment Permit requirements, this RFP, regulatory agency approvals, the applicable utility adjustment standards, and the requirements as set forth in the utility company standards and specifications.

### **11.2.2 COMMUNICATIONS**

The DBT is responsible for holding meetings and otherwise communicating with each utility owner as necessary to accomplish in a timely manner the utility adjustments necessary to construct the project. KYTC will participate in these meetings if requested by the utility owner or the DBT, or otherwise as deemed appropriate in order to facilitate the progress on the project.

At least five business days in advance of each scheduled meeting, the DBT shall provide notice and an agenda for the meeting separately to KYTC and the appropriate utility owner. The DBT shall prepare minutes of all meetings with utility owners and shall keep copies of all correspondence between the DBT and any utility owner. Copies of these meeting minutes shall be forwarded to KYTC for the project files within one week following the respective meeting.

### **11.2.3 UTILITY ADJUSTMENT MANAGER**

The DBT shall provide a utility adjustment manager with appropriate qualifications and experience for the utility adjustment work required for this project.

The utility adjustment manager's (UM) primary work responsibility shall be the performance of all the DBT's obligations with respect to utility adjustments. The UM shall be authorized by the DBT to approve all financial and technical modifications associated with utility adjustments and modifications to the utility agreement.

### **11.2.4 REAL PROPERTY MATTERS**

The DBT shall provide the services described below in connection with existing and future occupancy of property by utilities.

#### **11.2.4.1 Documentation of Existing Utility Property Interests**

It shall be the DBT's responsibility to determine all existing utility property interest within the project right-of-way claimed by any utility owner.

#### **11.2.4.2 Acquisition of Replacement Utility Property Interests**

The DBT shall be responsible for working with each utility owner for acquiring any replacement utility property interests that are necessary for its utility adjustments. The DBT shall have the following responsibilities for each acquisition:

- A. The DBT shall coordinate with, and provide all project information needed to each utility owner as necessary for the utility owner to identify any replacement utility property interests required for its utility adjustments.

- B. If the DBT and/or DBT subcontractors assists a utility owner in acquiring a replacement utility property interest, the DBT shall ensure that the following requirements are met:
  - 1. The files and records must be kept separate and apart from all acquisition files and records for the project right-of-way.
  - 2. The items used in acquisition of replacement utility property interests (e.g., appraisals, written evaluations, and owner contact reports) must be separate from the purchase of the project right-of-way.
- C. The DBT shall reimburse the utility owner for all replacement utility property interests required for its utility adjustments. No betterment in terms of property interest shall be paid for using project funds.

**11.2.5 DOCUMENTATION OF REQUIREMENTS**

The DBT shall prepare, and obtain execution by the utility owner of (and record in the appropriate jurisdiction, if applicable), all agreements including all necessary exhibits and information concerning the project (e.g., reports, plans, and surveys). Each agreement shall identify the subject utility(ies) by the applicable Encroachment Permit Number and shall also identify any real property interests by parcel number or highway station number or by other identification acceptable to KYTC.

**11.3 DESIGN**

**11.3.1 DBT'S RESPONSIBILITY FOR UTILITY IDENTIFICATION**

The DBT bears sole responsibility for ascertaining, at its own expense, all pertinent details of utilities located within the project right-of-way or otherwise affected by the project, whether located on private property or within an existing public right-of-way, and including all service lines.

**11.3.2 TECHNICAL CRITERIA AND PERFORMANCE STANDARDS**

All design plans for utility adjustment work, whether furnished by the DBT or by the utility owner, shall be consistent and compatible with the following:

- A. The project as designed and constructed
- B. Any utilities remaining in, or being installed in, the same vicinity
- C. All applicable governmental approvals/permits
- D. Private approvals of any third parties necessary for such work
- E. KYTC Policies and Procedures as set forth in Kentucky's State Utility and Rail Guidance Manual and as specified in the approved utility agreement.

The DBT shall be responsible for validating that all utility adjustments performed as part of this project adhere to these criteria.

### **11.3.3 *UTILITY ADJUSTMENT PLANS***

Utility adjustment plans, whether furnished by the DBT or by the utility owner, shall be signed and sealed by a registered Professional Engineer (PE), if required by the utility owner, regulatory agencies, or KYTC.

#### **11.3.3.1 Plans Prepared by DBT**

Where the DBT and the utility owner have agreed that the DBT shall furnish a utility adjustment design, the DBT shall prepare and obtain the utility owner's approval of plans, specifications, and cost estimates for the utility adjustment (collectively, "Utility Adjustment Plans") by having an authorized representative of the utility owner sign the plans as "reviewed and approved for construction." The Utility Adjustment Plans (as approved by the utility owner) shall be attached to the applicable utility agreement and estimate, which shall serve as the appropriate Encroachment Permit application submitted for KYTC approval. Please be advised that the utility company is ultimately responsible for execution of the utility agreement, regardless of who prepares the plans. The DBT is responsible for facilitating this process in a manner such that all requirements are adequately addressed and commitments fulfilled in accordance with all provisions set forth in the contract documents.

Unless otherwise specified in the applicable utility agreement(s), all changes to utility adjustment plans previously approved by the utility owner (excluding estimates, if the utility owner is not responsible for any costs) shall require written utility owner approval. The DBT shall transmit any KYTC comments to the utility owner and shall coordinate any modification, re-approval by the utility owner, and re-submittal to KYTC as necessary to obtain KYTC approval, as applicable.

#### **11.3.3.2 Plans Prepared by the Utility Owner**

For all Utility Adjustment Plans to be furnished by a utility owner, the DBT shall coordinate with the utility owner as necessary to confirm compliance with the project plans, including possible changes being proposed by the DBT. Those utility adjustment plans shall be attached to the applicable utility agreement and estimate, which shall serve as the appropriate Encroachment Permit for KYTC approval. The DBT shall be responsible for coordination with the utility company to ensure that all KYTC comments to the utility owner are adequately addressed in the design and construction of the project, including, any modification, re-approval by the utility owner and re-submittal to KYTC as necessary to obtain KYTC approval.

#### **11.3.3.3 Design Documents**

Each proposed utility adjustment shall be shown in the design documents, regardless of whether the utility adjustment plans are prepared by the DBT or by the utility owner.

**11.3.3.4 Certain Requirements for Underground Utilities**

Casing or long life materials as specified in accordance with the KYTC Permits Manual and the KYTC Utilities Manual shall be required for use on the project, where applicable.

**11.3.3.5 Utility Agreement Submittals**

Each utility adjustment shall be addressed in a utility agreement prepared jointly by the DBT and the utility owner and submitted to KYTC for review and comment. The DBT shall coordinate with the utility owner to prepare all components of each utility agreement. Completion of the review and approval process for the applicable utility agreement, as well as issuance of any required KYTC approvals, shall be required before the start of construction for the affected utility adjustment work.

In its sole discretion, KYTC has the authority to approve the placement of utilities within project right-of-way. It shall be the responsibility of the DBT to work with the utility owner to prepare all required documentation to be included with each subsequent utility agreement submittal.

The DBT shall arrange for the utility owner to execute each utility agreement and subsequent Encroachment Permit required to do the work on the Project.

Provisions governing the procedure for and timing of utility agreement submittals are in Section 11.5 (Deliverables).

All utility adjustments covered by the same initial utility agreement may be addressed in a single Encroachment Permit. Please refer to the KYTC Encroachment Permit Manual for additional information. In general, the utility agreement package required for each utility relocation shall include:

- A.* Encroachment Permit application (KYTC).
- B.* Utility agreement (executed between the DBT and the Utility Owner).
- C.* Utility adjustment plans and specifications as referenced in the utility agreement.
- D.* Roadway plans and profile and/or structure plans and X-sections clearly indicating existing and proposed utility location. For utilities deemed acceptable to remain in place by the utility owner and the DBT, the location of the utility, both horizontally and vertically, along with any special construction requirements or protection needed to prevent damage to the facility during construction of the project, must be clearly defined.
- E.* Utility relocation cost estimate as defined in the utility agreement including definition and separation of any betterment proposed.

- F. Six complete utility agreement packages as described herein or as directed by KYTC. Once review and comment is complete, three copies shall be returned to the DBT and utility company for their use.

## **11.4 CONSTRUCTION**

### **11.4.1 GENERAL CONSTRUCTION CRITERIA**

All utility adjustment construction performed by the DBT shall conform to the requirements listed below. In addition, the DBT is responsible for verifying that all utility adjustment construction performed by each utility owner conforms to the requirements described below. In case of nonconformance, the DBT shall cause the utility owner (and/or its contractors, as applicable) to complete all necessary corrective work or to otherwise take such steps as are necessary to conform to these requirements.

- A. All criteria identified in Section 11.3 (DESIGN).
- B. The utility adjustment plans and agency requirements included in the Encroachment Permit approved by KYTC.
- C. Approved utility agreement amendments.
- D. All project safety and environmental requirements.
- E. Erosion prevention and sediment control requirements.
- F. Easement acquisition procedures.

### **11.4.2 INSPECTION OF UTILITY OWNERS' CONSTRUCTION**

The DBT shall set forth procedures for inspection of all utility adjustment work performed by utility owners (and/or their contractors) to verify compliance with the applicable requirements described in Section 11.4.1 (General Construction Criteria). The inspection shall validate that the utility work adheres to the above criteria, is as designed, and conforms to the approved utility agreement and any approved amendments. The DBT should be aware utility facility owners may require a representative from the company to inspect the work performed on that company's facilities during active construction.

### **11.4.3 SCHEDULE UTILITY ADJUSTMENT WORK**

The utility adjustment work (other than construction) may begin at any time following issuance of an encroachment permit number. The DBT should be aware there may be seasonal restrictions on utility outages. No time extensions will be granted for any utility company restrictions. The DBT shall not arrange for any utility owner to begin any demolition, removal, or other construction work for any utility adjustment until all of the following conditions are satisfied:

- A. The utility adjustment is covered by an executed utility agreement (and any conditions to commencement of such activities that are included in the utility agreement have been satisfied);
- B. Availability and access to affected replacement utility property interests or public right-of-way have been obtained.
- C. If any part of the construction work for the utility adjustment shall affect the project right-of-way, then approvals from the KYTC shall be received.

- D. The review and comment process has been completed and required approvals have been obtained for the Encroachment Permit covering the utility adjustment.
- E. All governmental and permitting approvals necessary for the utility adjustment construction have been obtained, and any pre-construction requirements contained in those approvals have been satisfied.
- F. The DBT has verified that all utility adjustments address the project needs and are not in conflict with one another.
- G. The DBT has conducted a preconstruction joint utility meeting to schedule and plan all utility owner adjustments. KYTC shall be invited to attend this meeting.
- H. All other conditions to that work stated in the ITP have been satisfied.

Any delays incurred due to utility relocation work on the project are the responsibility of the DBT. This shall include delays incurred due to utility relocations and unforeseen utility repairs. The DBT shall be responsible for direct coordination with all utility companies involved in the project. The DBT will have to coordinate and work in conjunction with any utility owner, no matter if the DBT is physically relocating features for that utility owner or not. In addition, it may be necessary to phase work to avoid active utilities that ultimately become inactive. Relocation of those utilities that will ultimately become inactive may either be performed by the DBT, or the relocation may need to be performed by the utility owner. Other than utility relocation costs contained in the lump sum bid amount for the project, KYTC will not provide any additional monetary compensation or time extensions for delays caused during the relocation of any utility.

**11.4.4 STANDARD OF CARE REGARDING UTILITIES**

The DBT shall carefully and skillfully carry out all work impacting utilities and shall mark, support, secure, exercise care, and otherwise act to avoid damage to utilities. At the completion of the work, the condition of all utilities shall be equivalent to their use and function prior to construction.

**11.4.5 EMERGENCY PROCEDURES**

The DBT shall provide emergency procedures with respect to utility adjustment work. The DBT shall obtain emergency contact information from, and establish emergency procedures with, each utility owner.

**11.4.6 UTILITY ADJUSTMENT FIELD MODIFICATIONS**

The DBT shall establish a procedure to be followed if a utility adjustment field modification is proposed by either the DBT or a utility owner, after the utility agreement (which includes the utility adjustment plans) has been approved. The procedure shall contain, at minimum, the following processes:

- A. The utility owner’s review and approval of a utility adjustment field modification proposed by the DBT, or the DBT’s review and approval of a utility adjustment field modification proposed by the Utility Owner.
- B. Submittal of plans for the proposed utility adjustment field modification to KYTC for its approval.

- C. Transmittal of utility adjustment field modifications to the appropriate construction field personnel.
- D. Inclusion of any utility adjustment field modifications in the record drawings for the Project.

The DBT shall cause the procedure to be followed for all utility adjustment field modifications, whether the construction is performed by the DBT or by the utility owner.

**11.4.7 SWITCHOVER TO NEW FACILITIES**

After a newly adjusted utility has been accepted by the utility owner and is otherwise ready to be placed in service, the DBT shall coordinate with the utility owner regarding the procedure and timing for placing the newly adjusted utility into service and terminating service at the utility being replaced. The DBT should be aware there may be seasonal restrictions on utility outages. No time extensions will be granted for any utility company restrictions.

**11.4.8 RECORD DRAWINGS**

The DBT shall provide record drawings to each utility owner for utilities adjusted by the DBT, in accordance with the applicable utility agreement(s).

The DBT shall provide As-Built Record Drawings to KYTC (regardless of whether design and/or construction of the subject utilities was furnished or performed by the DBT or by the utility owner). These drawings shall show the location of, and label as such, all abandoned utilities and shall show and label all other utilities, whether remaining in place or relocated, located within the project right-of-way, or otherwise impacted by the project. The DBT shall provide the record drawings for each adjustment to KYTC not later than 90 days after the utility owner accepts the adjustment.

**11.4.9 MAINTENANCE OF UTILITY SERVICE**

All utilities shall remain fully operational during all phases of construction, except as specifically allowed and approved in writing by the utility owner. The DBT shall schedule utility adjustment work in order to minimize any interruption of service, while at the same time meeting the project schedule and taking into consideration seasonal demands. Again, the DBT should be aware there may be seasonal restrictions on utility outages. No time extensions will be granted for any utility company restrictions.

Any intentional or accidental disruption of service due to damage to gas, sewer, or water mains caused by any of the DBT's operations without three days advance notice to the utility facility owner shall be cause for liquidated damages in the amount of five thousand dollars per day (\$5,000/day) per occurrence against the DBT until such a time as the utility facility is restored.

Any intentional or accidental disruption of any individual gas, sewer, or water service caused by any of the DBT's operations without three days advance notice to the utility facility owner shall be cause for liquidated damages in the amount of five hundred dollars per day (\$500/day) per occurrence against the contractor until such a time as service is restored.

In the case of a main disruption, liquidated damages shall be charged at the main disruption rate only. Liquidated damages shall not be charged in addition to service disruptions when a main disruption is involved.

Any cost associated with damage during construction shall be the responsibility of the DBT.

#### **11.4.10 TRAFFIC CONTROL**

The DBT shall be responsible for the coordination of all traffic control made necessary by the utility adjustment work, whether performed by the DBT or by the utility owner. Traffic control for utility adjustments shall be coordinated with, and subject to approval by, the local agency(ies) with jurisdiction. Traffic control shall comply with the guidelines of the MUTCD and of Section 12.1 (Maintenance of Traffic) of this RFP document. Delegation of responsibilities regarding who performs the traffic control operations during the utility adjustment work shall be included in the utility agreement.

#### **11.4.11 UNKNOWN UTILITIES**

If during construction, the DBT uncovers a utility facility that the respective utility company did not know existed, the DBT is to bring this to KYTC's attention immediately. KYTC will review the situation with the respective utility company and the DBT to determine the best course of action to minimize impacts to the utility facility and the project schedule. If it is determined by KYTC that establishing the presence of the unknown utility was not possible by the DBT during the procurement phase, KYTC will consider this a changed condition and work with the DBT and the utility company to make the appropriate adjustments for cost as part of a change order. The project schedule shall only be revised if it can be demonstrated to the satisfaction of the KYTC that the unknown utility conflict has materially affected the critical path for the project.

The DBT shall follow the procedures for extra work/change orders identified in Sections 104.02 (Alterations of Plans or Character of Work), 108.07 (Determination and Extension of Contract Time), and 109.04 (Extra Work) of the Standard Specifications.

### **11.5 DELIVERABLES**

The DBT shall provide all submittals described in this section to meet the project schedule, taking into account KYTC-designated review and response time. For this Project, KYTC requires 10 business days for review, comment, or approval of Encroachment Permits, provided that all required documentation is included with the Encroachment Permit submittal. At the sole discretion of KYTC, if it is determined that additional information is required in order to review and process the Encroachment Permit for approval, the DBT shall revise the encroachment permit application to include the required revisions or missing information as identified by KYTC, and said agency shall have 10 business days from the date of re-submittal for review and comment.

#### **11.5.1 DBT'S UTILITY TRACKING REPORT AND PROJECT COORDINATION REQUIREMENTS**

The DBT shall maintain a utility tracking report in tabular form, listing all utilities located within the project right-of-way or otherwise potentially affected by the project. The utility tracking report shall include sufficient information regarding all



factors needed to reasonably determine the status of each utility to be relocated as part of the project. The DBT shall submit the utility tracking report to KYTC and update it monthly. The DBT shall facilitate, at a minimum, monthly utility company status meetings to discuss any project issues and to update KYTC on the progress being made on the project.

#### **11.5.2 UTILITY COMPANY CONTACTS**

See Appendix J

## **12. DESIGN AND CONSTRUCTION REQUIREMENTS**

### **12.1 MAINTENANCE OF TRAFFIC (MOT)**

Maintenance of Traffic Special Provisions in addition to the Governing Regulations listed in Section 7.1 of this document: The DBT shall submit an approach for MOT for the project that incorporates the elements listed as well as propose any innovative ideas that may expedite the work. A Traffic Management Plan shall need to be submitted and approved (form can be found on the KYTC Highway Design Web Page).

#### **12.1.1 GENERAL**

All MOT procedures shall be in accordance with Manual on Traffic Control Devices (MUTCD) except when the KYTC standard drawings or standard specifications are more restrictive the KYTC documents shall govern. The speed limit on any road within the project be reduced by 10 MPH with approval from the engineer.

#### **12.1.2 MOT RESTRICTIONS**

No lane closures shall be allowed on I-275, KY-237 and Worldwide Drive during observance of any National Holidays identified in Section 101 of the Standard Specifications and between the dates of November 1<sup>st</sup> and January 15<sup>th</sup>. Under special circumstances, KYTC reserves the right to restrict the use of lane closures due to unforeseen special events. In principle, the DBT shall maintain the current lane configuration (or better), for the life of the project (except for the closure of Graves Road over I-275 and a one week closure of Worldwide Drive at the intersection with Graves Road) including access to all adjoining properties. Williams road shall remain open and connected to either existing or proposed Graves Road at all times. Suggestions for additional working hours may be proposed by the DBT to KYTC as a part of the DBT project proposal.

Interstate lane closures shall only be permitted between the hours of 8:00 PM and 6:00 AM. All work on I-275, except traffic control operations and final pavement markings shall be conducted behind temporary concrete barrier wall as identified in the Standard Drawings. A lane closure for separation must be in place during barrier wall placement. Access to and from the work zone adjacent to the interstate shall be at the beginning or end of the string of barrier wall or at one approved entrance / exit point to be designed and submitted by the DBT for approval. Construction operations on I-275 using shoulder closures without barrier wall are prohibited unless they are less than one work shift and positive separation of at least 11 feet is provided.

Temporary Raised Pavement Markers, Type IVA as identified in section 112 of the Standard specifications shall be required when I-275 traffic lanes are situated outside their normal position.

Delineators for barriers shall be required on temporary concrete barrier wall according to section 509 of the Standard Specifications.

Construction operations on roadways other than I-275 may be allowed without barrier wall during all daylight hours provided any resulting temporary drop-off conditions and signing requirements are adequately addressed. In general, any drop-off condition 4 inches or less shall be protected by barrels or delineators spaced every 40 feet. Drop-offs greater than 4 inches shall be wedged with DGA or other suitable materials on a 3:1 or flatter slope in conjunction with barrels spaced every 40 feet. If a positive separation of 8 feet or greater can be achieved between traffic and the drop-off, no wedging shall be required (except not drop-offs will be allowed on I-275). Temporary drop-offs during working hours that construction operations are taking place should be kept to a minimum. Drop-offs greater than 4 inches, resulting from excavations directly adjacent to traffic (with no positive separation), shall be limited to 500 feet in length. The intent of this requirement is to keep the temporary "wedging operation" in close proximity to the work to promote safety for the motorist.

All temporary striping shall be temporary paint, and all striping removal shall be performed by water-blasting. Temporary tape may only be used for short segments and durations with the approval of the engineer.

Paved and unrestricted 2-way access at least 30 feet wide shall be provided to the Fires Station on Graves Road at all times. The pavement depth shall at least match the depth of asphalt base provided for approach roads in the typical sections depicted in Appendix E.

The DBT shall submit the MOT plan to KYTC for approval. The KYTC will approve or provide comments within 14 calendar days.

### **12.1.3 MAINTAIN PAVEMENT**

Contrary to section 105.11, the contractor will be required to perform pothole patching. Upon receipt of the "notice to begin work", the contractor shall be responsible for routine pothole patching. The contractor shall be responsible for patching both directions of I-275 between milepoints 6.5 and 10, Graves Road throughout the project length, KY 237 throughout the project length and any other pavements encompassed by the project. The contractor shall inspect and repair issues as necessary and significant spot issues shall be repaired within 24 hours of notice, for the safety and protection of the traveling public and their property and may require temporary, quick repairs. Other, more extensive repairs, may need to be scheduled in order to provide a more permanent preventative repair that will last throughout the winter. Maintaining the pavement within the project limits shall be considered a component of the overall traffic control plan and shall be subject to Section 112.03.15 – A) of the standard specifications, except that only the prescribed dollar values in that section shall be used in lieu of the project liquidated damage rate.

### **12.1.4 LIGHTING**

Contrary to Section 105.11 of the Standard Specifications, lighting shall be maintained by the DBT. Lighting shall be maintained on the mainline interstate and

all associated ramps between milepoints 6.5 and 10.0 and the KY 237 roundabout at Graves Road. Existing or proposed lighting must remain burning throughout the entire timeline of the project; from the date Notice to Begin Work is distributed until the Project Completion Notice is issued. In the event that existing or proposed lighting cannot remain burning, temporary lighting shall be provided that meets the design parameters of the currently existing lighting.

In order to maintain the lighting system, the successful bidder may need to investigate and or perform work in areas outside the work. Maintaining the lighting system shall require the successful bidder to perform any work necessary to ensure all lights remain burning; all necessary shall be performed according to section 716 of the Standard Specifications. In the event that maintaining the lighting system requires new poles, transformer bases or light arms, the cabinet will provide those at no cost to the DBT; however all other materials and devices necessary to maintain the lighting shall be provided by the DBT. Maintaining the lighting system shall be considered a component of the overall traffic control plan and shall be subject to Section 112.03.15 – A) of the standard specifications, except that only the prescribed dollar values in that section shall be used in lieu of the project liquidated damage rate.

## **12.2 LOCATION & DESIGN**

Location & Design Special Provisions in addition to the Governing Regulations listed in Section 7.1 of this document.

### **12.2.1 SURVEY**

All project survey requirements shall be in accordance with Section 300 of the KYTC Design Manual. Survey / Staking for construction shall be according to section 201 of the Standard Specifications; except that KYTC shall not provide any of the services described in section 201.03.01, those items of work shall be provided by the DBT. Placement of proposed Right of Way monuments, in accordance with KYTC standards, shall be required on this project. Placement of all proposed Right of Way monuments shall be performed by a Registered Surveyor, with a current registration, recognized by the Kentucky State Board of Registration for Professional Engineers and Surveyors. Costs associated for this item shall be borne by the DBT.

The DBT shall provide the following items prior to final acceptance of the As-Built Plans:

- A. Listing of all new monumentation, set (horizontal and vertical) plotted on the As-Built Plans.
- B. Copies of all Deeds, Plats, Maps, and other written evidence used to establish points related to the project including summaries of all parole evidence acquired as part of the survey operation.

### **12.2.2 FUNCTIONAL CLASSIFICATION OF ROADWAY**

Urban Interstate	(I-275)
Urban Collector	(Graves Road & KY 237)

Interstate Ramp design shall be performed according to the standards established by the KYTC Design Manual.

**12.2.3 DESIGN SPEED CRITERIA**

65 mph (I-275)  
35 mph (Graves Road & KY 237)

**12.2.4 GEOMETRIC CRITERIA**

Geometric Criteria for the preliminary design information completed by KYTC is included in Appendix R. The DBT's final designs shall be equivalent to these criteria or should offer an improvement to these criteria. The entrance grades provided in Appendix R are for information only. Further design may require the grades to be adjusted, however, the grades proposed should be utilized as the maximum grade for that particular entrance. If DBT proposes to utilize a greater grade, then it must be approved by the Engineer.

**12.2.5 PAVEMENT**

See Appendix E for thickness details

Material Transfer Vehicle Required: Yes  X  No

*See Special Note for Materials Transfer Vehicle in the Standard Specifications.*

Pavement Ride Quality Required: Yes  X  No

*See Section 410 of the Standard Specifications for Asphalt Pavement. Category B shall apply for Asphalt Pavement.*

*See Section 501 of the Standard Specifications for Concrete Pavement. Category B shall apply for Concrete Pavement.*

**12.2.6 TYPICAL SECTION**

See Appendix E (No variations of typical section dimensions permitted).

**12.2.7 DRAINAGE FOLDER REQUIRED**

Yes  X  No

**12.2.8 DESIGN EXCEPTIONS**

The current edition of AASHTO's A Policy on Geometric Design of Highways and Streets Section 6.2.1 and Section 5.2.1 recommends that in rolling terrain, a design speed of 50 mph (rural collectors) and 40 mph (rural locals) respectively should be utilized with average daily traffic (ADT) greater than 2,000. KY 20 and Bullittsville Rd both have a posted speed limit of 35 mph. The horizontal curves and minimum grades required to accommodate these design speeds would have detrimental impacts to the residences surrounding the project. Both roads are also coming to an intersection and shall be required to slow down or stop. The project team has requested a design exception to utilize a 35 mph design speed to minimize impacts and match the conditions of the existing roadway.

The DBT shall advise of any proposed design features that do not meet the minimum design criteria. Due to the sensitive nature of the approval process for a Design Exception, it is a requirement that all design exceptions be submitted for consideration by the KYTC in writing no less than 45 days prior to submittal of the technical proposal. A detailed explanation of the justification for this exception shall be provided with this request. All DBTs shall be made aware of the request as well as approval or disapproval in writing. KYTC does not intend to approve design exceptions after the contract is awarded unless extreme and unforeseen

circumstances may be demonstrated. The safety of the traveling public shall not be compromised by a design exception.

The following items need to be individually discussed for any requested design exception:

- A. Amount and character of traffic
- B. Type of project (e.g. new construction, 3R)
- C. Accident history relevant to the exception request
- D. Specific information pertinent to the type of exception being requested (i.e. deferral of bridge widening requests should address structural and function adequacy of existing bridge and project a future time for widening and etc.)
- E. Underlying reason for requesting exception
- F. Effect, if any, exception shall have on other standards (i.e. design speed exception would affect requirements for grade, curvature, sight distance, etc.)
- G. Effect of the exception on the safety and operation of the facility
- H. Cost of attaining full standards (phrases such as obtaining the standard would be too “costly” or beyond the scope of the project are of little value in making a decision)
- I. Future improvements and their relation to the requested exception
- J. Any features which would tend to mitigate the deviation

#### **12.2.9 FUEL AND ASPHALT ADJUSTMENTS**

Fuel and asphalt price adjustments, as detailed in the supplemental specifications, shall be applicable for this project. Payments are based on actual quantities placed per day rather than estimated values and the base “index” values used to determine price adjustments shall be based on the values for the first of the month for when the price proposals are submitted to KYTC.

#### **12.2.10 FENCING**

Right of Way fencing is required. Right of Way fencing locations shall be designed according to any design or permitting manual. The DBT shall be responsible for removing existing Right of Way fencing when it is in conflict with the design developed by the DBT.

Pedestrian fencing for the Graves Road Bridge over I-275 shall be black vinyl coated fence according to section 817 of the Standard Specifications.

#### **12.2.11 ADDITIONAL DESCRIPTION OF REQUIRED WORK AND SPECIAL PROVISIONS**

All areas disturbed along residential properties shall be restored using sod as the seeding and protection. Vertical concrete surfaces in excess of 30 inches in height and 48 inches in width shall receive an architectural treatment. The architectural treatment shall approved by the engineer, but generally be of the “stacked stone” variety with at least ¾ inch reveal. The architectural treatment shall be surrounded by a 4 inch chamfered smooth border. Approach roads and commercial entrances may require reconstruction, as a part of this reconstruction, existing widths and profile grades shall be maintained or improved upon. This may require work off the existing Right of Way and in accordance with Section 10 of this document. Intelligent compaction of soils, aggregates and asphalt mixtures shall be used in

along with paver mounted temperature profiles and E-ticketing as described in Appendix S.

#### **12.2.12 ADDITIONAL CONSIDERATIONS**

In developing the roadway design, gravity retaining walls should be used as a last resort to minimize ROW impacts.

### **12.3 STRUCTURES**

#### **12.3.1 STRUCTURE DESIGN/ADVANCE SITUATION FOLDER**

The DBT shall have a consultant DBT member pre-qualified in Structure Design, Bridges under 500 feet. The DBT shall be responsible for preparing any structure plans required. The structure plans shall be developed in accordance with Division of Structure Design Guidance Manual (<http://transportation.ky.gov/bridges/GuidanceManual.htm>). Review times shown in the Guidance Manual shall begin when a submittal is received. Submittals required shall be Advance Situation Folder, Stage 1 Preliminary Plans, Stage 2 Preliminary Plans, Stage 1 Final Plans and Stage 2 Final Plans. The structure plans shall be signed and sealed by a Licensed Professional Engineer. Structures may be submitted individually. The Division of Structural Design shall provide drawing numbers for each structure. The DBT shall present electronic copies in PDF format of plans and calculations for all submittals to the Division of Structural Design. This shall be in addition to any required hard copies.

#### **12.3.2 EXISTING STRUCTURES IDENTIFICATION AND DATA**

Plans are available for the existing Graves Road overpass at:

<https://transportation.ky.gov/Construction-Procurement/Pages/Design-Build-Projects.aspx>

The DBT should verify all pertinent information needed to facilitate the design and construction.

#### **12.3.3 DESIGN AND CONSTRUCTION REQUIREMENTS OF STRUCTURE**

All design and structure construction shall be in compliance with all applicable AASHTO design criteria as well as current KYTC standards.

All Shop Drawings shall be approved by DBT. PDF copies shall be provided to the Division of Structural Design.

#### **12.3.4 FOUNDATION INVESTIGATION AND GEOTECHNICAL INVESTIGATIONS**

All geotechnical information needed by the DBT for foundation investigation and all geotechnical investigations necessary to prepare the DBT's technical and price proposals shall be the responsibility of the DBT. The subsequent reports shall be submitted for review and approval by KYTC Geotechnical Branch. Please allow 14 calendar days for this review. Existing Geotechnical Information is for information purposes only.

#### **12.3.5 GEOTECHNICAL, FOUNDATIONS, SLOPES, AND WALLS**

All geotechnical information needed by the DBT for roadway and foundation investigation and all geotechnical investigations necessary to prepare the DBT's bid

shall be the responsibility of the DBT. The subsequent reports shall be submitted for review and approval by the Cabinet's Geotechnical Branch. Please allow 14 calendar days per submittal for this review.

- A.* The DBT's Geotechnical engineering firm shall be prequalified for Geotechnical engineering work (Engineering, Laboratory Testing and Drilling) in Kentucky.
- B.* Design shall be in accordance with AASHTO LRFD Bridge Design Specifications, latest edition, except where overridden by state design standards. All design shall use LRFD methods except where such methods are not provided for in the AASHTO design manual, or these requirements. Where state standards recommend ASD design methods, equivalent LRFD methods shall be used. Specific approval to use non LRFD methods is required
- C.* All geotechnical design and geotechnical explorations performed by the DBT shall be completed and submitted to KYTC in accordance with the latest copy of the KYTC Geotechnical Guidance Manual. The design shall be in accordance with the Guidance Manual except where overridden by these requirements. Meetings and submittals shall be in accordance with the Geotechnical Manual.

The DBT shall produce and submit a Foundation Analysis and Design Report for each structure and a Geotechnical Engineering Roadway Report for slopes and subgrade design. These reports shall include all engineering analyses and design recommendations.

- D.* If the DBT determines subsurface explorations are necessary to properly design and construct the work in accordance with KYTC requirements, the DBT shall perform the subsurface explorations and analysis at its own expense. The DBT shall selectively locate subsurface explorations on the basis of field observations, and design considerations. Location of explorations shall be as topography, site conditions, soil conditions, and design factors dictate.

The DBT shall provide all subsurface exploration plans and explorations to KYTC in accordance with the KYTC Geotechnical Manual.

- E.* Foundations for structures shall be designed in accordance with the KYTC Geotechnical Guidance Manual, KYTC Structural Guidance Manual, AASHTO LRFD Bridge Design Specifications, and with applicable Special Notes located in the Appendix K to this Project Scope document.
- F.* The DBT shall design retaining walls in accordance with the KYTC Geotechnical Guidance Manual, KYTC Structural Design Guidance Manual, AASHTO LRFD Bridge Design Specifications, and with applicable Special Notes located in Appendix K.
  - 1.* The DBT shall design foundations for gravity retaining walls in accordance with the KYTC Geotechnical Manual. The gravity walls shall be constructed in accordance with KYTC Standard

Drawing RGX-002. The geometry of the gravity walls may vary from the Standard Drawing only if approved by the Department.

2. Gabion basket retaining walls shall not be permitted for permanent construction.
  3. Metal “Bin” type retaining walls shall not be permitted for permanent construction.
  4. Only preapproved Mechanically Stabilized Earth (MSE) wall systems shall be used on this Project. See the Special Note for MSE retaining walls located in Appendix K for preapproved systems. Only inextensible reinforcement shall be allowed.
- G. Reinforced soil slopes shall not be designed at a slope ratio steeper than one (1) Horizontal to one (1) Vertical. Reinforced soil slopes shall be designed in accordance with design procedures presented in the latest version of Publication No. FHWA NHI-00-043, “Mechanically Stabilized Earth Walls and Reinforced Soil Slopes.”
- H. The DBT shall be responsible for analysis and design of soil slopes. Slopes steeper than three to one (3H:1V) shall be reinforced. Slopes three to one (3H:1V) or flatter may require reinforcement or other remediation measures depending on soil conditions.
1. Where embankment settlement is anticipated to exceed 3 inches in total settlement, the DBT shall submit an instrumentation plan for review to monitor settlement and determine when the pavement section can be placed.
  2. All geotechnical instrumentation shall be left in place for future readings after the project has been completed. Instrumentation destroyed by the DBT shall be replaced at the DBT’s expense.
  3. Shale cannot be used in the upper two feet of the subgrade.
  4. If shale that has a possibility of being acidic producing is used on the project, testing shall be required to determine the acidic producing potential. Acidic producing shale cannot be left exposed. The acidic producing shale shall be encased with a minimum 2.5-foot layer of compacted clay soil. A minimum of 4 feet of clay shall be required on top of the embankment to control the corrosion of guardrail and/or sign post, etc. from the acidic shale. Sulfate resistant cement (ASTM C-150 Type II) shall be used for subsurface structures such as pipes, culverts, bridges, etc.
  5. The subgrade should be constructed in accordance with the pavement design specifications. For a chemically stabilized subgrade a minimum preliminary CBR design value of 3.0 (**CBR**



**valued will be decided after soil testing is complete)** is recommended for the soil beneath the chemically stabilized subgrade. Chemical treatment for the top 8 inches of subgrade is recommended (**Stockpiling of soil may be required**). The chemical identified for treating the soil types encountered on this project **shall be cement**. It is suggested that 6 percent, by dry mass, be utilized to determine plan quantities, using an average dry density **to be determined after soil testing is complete**. The chemical shall be applied in accordance with Section 208 of the current edition of Standard Specifications for Road and Bridge Construction; however, Contrary to Section 208 of the Standard Specifications, the curing time and testing of the subgrade may be constructed with an expedited schedule according to Appendix L. Where chemical stabilization is not feasible (cross over's, tie-in's, etc...) a minimum of 1 foot of Kentucky Coarse #2's, 3's or 23's shall be used. The granular material shall be wrapped with Geotextile Type IV fabric.

6. Any ponds located within project limits shall be drained and mucked out a minimum of 3 feet. This material shall just be limited to final dressing of slopes. Refill shall consist of suitable earth material or Kentucky Coarse #2's, 3's or 23's shall be used. The granular material shall be wrapped with Geotextile Type IV fabric.
  7. Some areas of deep organic soils may be encountered. The organic material shall be removed. This material shall just be limited to final dressing of slopes. Refill shall consist of suitable earth material or Kentucky Coarse #2's, 3's or 23's shall be used. The granular material shall be wrapped with Geotextile Type IV fabric.
  8. If springs are encountered during construction proper mitigation procedures shall be followed to allow for positive drainage.
  9. Working platforms for Embankment or subgrade construction, consisting of limestone, may be needed in some areas. The granular material shall be wrapped with Geotextile Fabric Type IV.
  10. Foundation embankment benches and longitudinal perforated pipe underdrains shall be constructed in accordance with Standard Drawings RGX-010 and RDP-006. If stability is a concern the benches shall be constructed one at a time beginning with the lowest bench. Each bench shall be backfilled prior to excavation of the next bench. This procedure shall be followed to help maintain stability of the existing slopes in these areas.
- I. Excavation support methods may be required. A dewatering method may be needed in some areas. The DBT shall be responsible for the stability of any excavations or temporary cuts. Protection of adjacent structures and

utilities is the responsibility of the DBT. The DBT shall be responsible for any damage to the existing infrastructure. Any damage shall be repaired immediately.

## **12.4 PERMANENT TRAFFIC CONTROL**

### **12.4.1 PAVEMENT MARKINGS AND DELINEATORS**

The DBT shall provide all pavement striping, intersection markings, lane markings, and delineator posts in accordance with the MUTCD and applicable KYTC standards. The DBT shall provide striping plans no later than the final plan submittal stage for review and approval by KYTC. The DBT shall also provide inlaid pavement markers on I-275 and Graves road according to the specification in Appendix M. The DBT shall be aware that removal of existing pavement marker castings and permanent patching of the resultant hole with Fibercrete, or an approved equal, is required.

Other special provisions in addition to the Governing Regulations are listed in Section 7.1 of this document.

### **12.4.2 SIGNING SPECIAL PROVISIONS**

All temporary signing shall be provided by the DBT for this project. Detour signage shall be submitted, approved and erected for the Graves Road Closure and any other closure deemed necessary by the Engineer. The DBT shall expect that up to 6 variable message boards may be required at a single time.

The DBT shall provide permanent sign plans as early as possible for KYTC approval. Review of the permanent signing plans may take up to 21 days. The IJS provided in Appendix D provides permanent signing details. The DBT shall design, fabricate and install all permanent signage for the project.

Other special provisions in addition to the Governing Regulations are listed in Section 7.1 of this document.

### **12.4.3 TRAFFIC SIGNALS SPECIAL PROVISIONS**

Design, Construction and implementation of new traffic signals for the project shall be addressed as part of the DBT bid proposal. Traffic signals shall be completed at the Graves Road intersections with KY 20, both exit ramp termini and Worldwide Boulevard. Traffic data to for use in the design of the signalized interstections has been provided in Appendix N. The DBT shall provide plans for review and approval of the new traffic signals. Review of the traffic signal plans may take up to 21 days.

Other special provisions in addition to the Governing Regulations are listed in Section 7.1 of this document

### **12.4.4 ROADWAY LIGHTING SPECIAL PROVISIONS**

Design, Construction and implementation of new lighting for the project shall be addressed as part of the DBT bid proposal. Roadway Lighting shall be completed at the Graves Road interchange and the KY 237 roundabout at Graves Road. The DBT shall provide plans for review and approval of the new lighting. Review of the lighting plans may take up to 21 days.

Other special provisions in addition to the Governing Regulations are listed in Section 7.1 of this document.

### **13. PROPOSAL SUBMISSION AND SELECTION CRITERIA**

For determination of the successful bidder, the DBT shall be required to provide the KYTC two separate bidding submittals for the project. The first submittal shall be a technical proposal and the second submittal shall be a price proposal. The Scoring Committee will evaluate the technical proposal and provide a score to the awards committee. The price proposal shall be submitted after the scoring committee has completed scoring the proposals and the awards committee will establish an overall score. The KYTC's Project Awards Committee will select the winning Design Build Team for this project and the award will be made accordingly. The price proposals will be opened on August 16, 2019 and the award will be made In September 2019.

All properly submitted proposals from proposers allowed to submit a proposal shall be accepted by the KYTC. However, the KYTC reserves the right to request necessary amendments which may become part of the DBT's proposal; reject all proposals; reject any proposal that does not meet mandatory requirements; or cancel this solicitation, in the best interest of the KYTC. For comparison purposes, the Awards Committee shall prepare a cost estimate based upon information provided by the DBT in the proposal submittal. For acceptance purposes, the KYTC may use this estimate to accept or reject any or all proposals.

The KYTC also reserves the right to waive minor irregularities in proposals providing such action is in the best interest of the KYTC.

If the KYTC waives minor irregularities, such waiver shall in no way modify the solicitation requirements or excuse the DBT from full compliance with the specifications and other contract requirements if the DBT is awarded the contract.

The Scoring Committee members shall evaluate and score the technical proposal. This evaluation shall be based on the information contained in the DBT's technical proposal concerning the information outlined below.

#### **13.1 TECHNICAL PROPOSAL (30%)**

A DBT shall submit one (1) unbound version of the Technical Proposal, and one (1) CD/DVD or one (1) USB "thumb" drive containing two (2) electronic files of the Technical Proposal as follows:

- A. One electronic searchable single file PDF which does not restrict printing or copying text, images and other content.
- B. One electronic password protected single file PDF which restricts copying of text, images and other content.

The Technical Proposal shall be received no later than 4:00 p.m., Eastern Time, on August 2, 2019. The KYTC shall reject any proposal received after aforementioned time and date and return it unopened to the DBT. In order to be considered, the original Proposal shall be signed in blue ink by an authorized representative of the DBT.

The submittal shall either be mailed or hand-delivered to:

Ms. Rachel Mills, P.E., Director

Division of Construction Procurement  
 200 Mero Street, 3<sup>rd</sup> Floor  
 Frankfort, KY 40622

The outside cover of the package shall be marked:  
 Technical Proposal for  
 Boone County Graves Road Interchange  
 Item No. 6-78  
 CID No. 19-9001  
 Design-Build: FY 2019 Design Build #1

**13.1.1 INCORPORATION OF TECHNICAL PROPOSAL**

All Technical Proposal elements that exceed the requirements of the Bid Documents (i.e., can reasonably be interpreted as offers to provide higher quality items or additional services) shall be incorporated by reference into the awarded DBT’s Contract requirements.

**13.1.2 TECHNICAL PROPOSAL EVALUATION**

The Technical Proposal shall be developed using narratives, tables, charts, plots, drawings, and sketches as appropriate. The purpose of the Technical Proposal is to document the proposed DBT’s understanding of the Project; its selection of appropriate design criteria; and its approach for completing all design, right of way acquisition, utility relocation, quality management, and construction activities.

A DBT may submit only one proposal. The format and content are as specified. Alternate proposals shall not be allowed. Each proposal shall be prepared simply and economically, providing a straightforward, concise description of the DBT’s ability to meet the requirements of this solicitation. Fancy bindings, colored displays or promotional materials shall receive no evaluation credit. Emphasis shall be on completeness and clarity of content. The KYTC retains the right to request, receive and consider additional information and clarifications throughout the evaluation process.

The Technical Proposal shall be evaluated on how well each of the following items is addressed:

<b>Part</b>	<b>Evaluation Criteria</b>	<b>Maximum Points</b>
A	Project Schedule, Organization and Management	20
B	Right of Way Acquisition Plan	15
C	Roadway Design Concepts	15
D	Bridges, Structures, and Geotechnical Concepts	15
E	Construction (includes Construction Management Plan, Quality Plan, and Safety Plan)	20
F	Utility Coordination and Relocation Plan	15
G	DBE Plan	Pass/Fail
Total		100

The Technical Proposal shall be organized in Parts as indicated

Technical Proposal content requirements are found in the following sections as well as within the Project Scope.

**13.1.2.1 Part A – Project Schedule, Organization, and Management**

Include a detailed general schedule to clearly demonstrate the DBT approach for completing the project, with the following specific dates (at a minimum):

- A.* Begin R/W Acquisition Date (Include specific dates for any parcel(s) deemed critical)
- B.* Begin Utility Relocation Dates (include all overhead and underground, including dates for critical shutdowns or “switchovers”)
- C.* Final Plans-in-Hand and Drainage Inspection Date
- D.* Maintenance of Traffic Plan Submittal Date
- E.* Submittal of Review Plans Date
- F.* Final Plan Submittal Date (see also “Buildable Units” Section 15)
- G.* Construction Start Date
- H.* Date of Completed ROW Acquisition
- I.* Date of Completed Utility Relocation
- J.* Proposed Completion Date

The proposed schedule shall carry forward and be integrated to each section of the technical proposal.

The Proposed Completion Date of the successful Proposer shall become the Fixed Completion Date for the contract. The latest acceptable Completion Date shall be August 1, 2022.

Demonstrate an integrated team approach between the team members including the contractors, designers, subcontractors, DBE firms, and KYTC. Describe the team’s experience on delivering major projects. Describe the qualifications and experience of the Key Personnel assigned to the project, specifically how they have performed these tasks on previous projects and how they will collaborate for the Graves Road Interchange.

Demonstrate that the DBT has the capability to effectively communicate and coordinate with the KYTC public information team.

Provide a project organization chart for the Project, showing the relationships between DBT Management and Key Personnel shown on the chart and the functional relationships with other critical participants on the DBT.

Describe the DBT’s concept of design management, right of way acquisition, utility relocation and construction management and how they interrelate with the other elements of the DBT’s organization for the Project. Identify a staffing plan including specific responsible personnel and organizational units. Provide a design and construction organization

chart, as a subset of the project organization chart, for the Project showing the relationships between functions shown on the chart and the functional relationships with subconsultants and subcontractors. The chart shall also indicate how the DBT intends to divide the Project into work segments to enable optimum construction performance.

At a minimum, the Technical Proposal should address personnel assigned to manage project development in the following areas:

- A. Project Manager\*
- B. Design Manager\*
- C. Roadway / MOT Design Lead Engineer\*
- D. Structural Design Lead Engineer\*
- E. Right of Way Acquisition Manager\*
- F. Utility Project Manager\*
- G. Geotechnical Engineering
- H. Drainage Engineering
- I. Traffic Engineering
- J. Lighting Engineering
- K. Environmental Compliance Manager
- L. Signage Engineer
- M. Constructability
- N. Schedule Representative (Project Development & Construction)
- O. DBE/EEO Project Plan Coordinator

At a minimum, the Technical Proposal should address personnel assigned to manage the construction for the following areas:

- A. Project Manager
- B. Construction Manager \*
- C. Quality Control Manager for Construction Materials
- D. Roadway Construction
- E. Bridge Construction
- F. Drainage and Environmental Construction
- G. Maintenance of Traffic
- H. Public Safety
- I. Project Safety
- J. Utility Coordination
- K. Environmental/Permits/Erosion Control\*\*

*\* Must be the same as the previously submitted with the statements of qualifications (SOQ). Key Personnel may not at any time be removed, replaced, or added without written approval of KYTC. Requests for removal, replacements, and additions shall be submitted in writing. To qualify for approval, the written request shall document that the qualifications of the proposed replacement or addition will be equal to or better than those of the Key Personnel submitted in the SOQ.*

*\*\*Can be the same as the Environmental Compliance Manager assigned to manage design development.*

Describe the qualifications and experience of the individuals assigned to these tasks and describe the specific management tasks they will perform. Include information relative to each individual’s familiarity with the proposed project and similar projects.

Provide a detailed report of all current projects being worked on by members of the DBT and identify all areas where individuals will have significant responsibilities outside of the Graves Road Interchange project.

Individuals must be currently employed by a member of the DBT.

KYTC shall use the following criteria to distribute Project Organization and Management points:

	<b>Component of Project Organization and Management</b>	<b>Percentage of Proposed Project Organization and Management Points</b>
<b>A.1</b>	Project Schedule, Completion Date & Organization	60
<b>A.2</b>	Project Management Plan	20
<b>A.3</b>	DBT Experience on projects of similar complexity	20

**13.1.2.2 Part B – Right of Way Concepts**

Describe the team’s universal strategy for acquiring project right of way, including:

- A. The teams experiences in acquiring R/W for major projects and in acquiring R/W within tight time frames;
- B. The team’s schedule and approach for systematically acquiring parcels that allows utility relocation and road construction to begin as soon as possible;
- C. The team’s strategy for dealing with condemnation lawsuits in a manner that does not delay the project schedule.

Summarize the information required to complete the project report identified in section 10.4.3 of the ITP. The information shall include:

- A. Total number of acquisitions required;
- B. Total number of entire and partial acquisition;
- C. Total number of each type of relocation;
- D. Estimated number of parcels in each category (Major, Minor, MAR)
- E. Estimated number of condemnations required.

KYTC will use the following criteria to distribute ROW Concepts points:

	<b>Component of Right of Way Concepts</b>	<b>Percentage of Proposed Right of Way Concepts Points</b>
<b>B.1</b>	ROW Acquisition Strategy	50
<b>B.2</b>	Project Report Information	50

**13.1.2.3 Part C – Roadway Design Concepts**

The design approach indicated in the Technical Proposal shall reflect a single unified design concept for the Project and shall demonstrate:

- A. An understanding of the Project criteria, Basic Configuration, and mandatory elements for the project;
- B. That the proposed design meets KYTC’s general and project specific criteria;
- C. That the proposed design meets project goals; and
- D. How the DBT will perform design checking and deliver quality plans.

KYTC will use the following criteria to distribute Roadway Design Concepts points:

	<b>Component of Roadway Design Concepts</b>	<b>Percentage of Proposed Roadway Design Concepts Points</b>
<b>C.1</b>	Interchange Design	50
<b>C.2</b>	Graves Road Design	50

**13.1.2.4 Part D – Bridges, Structures, and Geotechnical Concepts**

Structures, and geotechnical concepts are critical components of the Graves Road Interchange. The Project includes an Interstate overpass and the potential for various retaining wall structures. As a minimum, the Technical Proposal shall address the following issues:

- A. Describe any specific design features that would reduce the need for maintenance or would make inspection/maintenance procedures more efficient, safer, and/or less costly.
- B. Discuss solutions to manage the risks associated with proposals based on limited design information.
- C. How the proposed structures will minimize the long term maintenance cost to KYTC.
- D. Describe how the proposed structures will accommodate the future maintenance functions, including but not limited to, control of drainage, replacement of the deck joints and seals, replacement of the bearings, and future deck replacements.
- E. Describe how the DBT will perform and manage the geotechnical challenges associated with the project.
- F. Discuss settlement of embankments and ways the DBT intends to address.
- G. List expected geotechnical issues anticipated and the anticipated approach that will be used to resolve those issues. Indicate if any of the proposed solutions will require additional maintenance or monitoring during the life of the facility. Indicate if the proposed solution(s) will restrict future construction adjacent to the structures, including installation and repair of utilities.



- H.* Indicate the experience of the geotechnical engineer and the contractor in designing and installing the proposed geotechnical solutions and foundation systems identified above. State if geotechnical specialty subcontractors are proposed for design and/or installation of the geotechnical solutions or foundation systems.

KYTC will use the following criteria to distribute Bridges, Structures, and Geotechnical Concepts points:

	<b>Component of Bridges, Structures, and Geotechnical Concepts</b>	<b>Percentage of Proposed Points</b>
<b>D.1</b>	I-275 Bridge Crossing	30
<b>D.2</b>	Miscellaneous Structures and Retaining Walls	30
<b>D.3</b>	Geotechnical Challenges	40

**13.1.2.5 Part E – Construction**

The Technical proposal shall address the following construction issues:

- A.* Provide a brief narrative description of the DBT’s overall plan for constructing the Project. Describe the construction concept that will be used for each construction phase. Specifically describe how traffic will be maintained. Describe in general the anticipated construction work for each phase.
- B.* Provide a narrative description of the DBT’s proposed major buildable units (Section 15) and how these will be constructed in the phasing described above. Provide a schedule showing when the major buildable units will be constructed. Discuss project risks and approach to address risks.
- C.* Describe the DBT’s approach to achieve quality expectations. Describe the relationship between the construction, inspection, materials sampling testing, and acceptance functions.
- D.* Describe the safety considerations specific to this Project. Discuss the firm's overall approach to safety.
- E.* Demonstrate that the DBT has considered right of way acquisitions, utility relocations, permitting, constructability, and maintenance of traffic activities in determining the proposed construction schedule.
- F.* Describe the DBT’s plans and procedures to ensure timely deliveries of materials to achieve the project schedule. Include information with respect to anticipated fabrication times. Also describe anticipated staging areas needed.

KYTC shall use the following criteria to distribute construction points:

	<b>Component of Construction</b>	<b>Percentage of Construction Points</b>
<b>E.1</b>	Construction Sequencing and Logistics	40
<b>E.2</b>	Approach to Achieving Quality	20
<b>E.3</b>	Coordination with Utilities, Permitting, and Maintenance of Traffic	20
<b>E.4</b>	Safety	20

**13.1.2.6 Part F – Utility Coordination and Relocation Plan**

Both public and private utilities are present throughout the footprint of the Graves Road Interchange project. The DBT shall be required to coordinate with the utility companies and arrange for any utility relocations necessary.

The Technical Proposal shall address the following utility issues:

- A. Describe the proposed coordination with utility owners.
- B. Demonstrate that the DBT has considered utilities in determining the proposed construction schedule.

KYTC shall use the following criteria to distribute Utilities points:

	<b>Component of Utility Coordination and Relocation Concepts</b>	<b>Percentage of Proposed Utilities Points</b>
<b>F.1</b>	Utility Coordination/Relocation Plan	100

**13.1.2.7 Part G – Disadvantaged Business Enterprise (DBE) Plan**

Contractors shall include the following certification in the technical proposal. PROPOSALS SUBMITTED WHICH DO NOT INCLUDE CERTIFICATION OF DBE PARTICIPATION WILL NOT BE ACCEPTED. These bids will not be considered for award by the Cabinet and they will be returned to the bidder.

“The proposer certifies that it will secure participation by Disadvantaged Business Enterprises (“DBE”) in the amount of 9% percent of the total value of this contract and that the DBE participation will consist of both a project development component and a construction component and that the DBE participation will be in compliance with the requirements of 49 CFR.”

	<b>Component of DBE Plan</b>	<b>Percentage of Proposed DBE Plan Points</b>
<b>G.1</b>	DBE Statement	Pass / Fail

**13.1.3 *TECHNICAL PROPOSAL SCORING***

The following table provides a general indication of anticipated scoring of each evaluation criteria.

<b>Definition</b>	<b>Scoring Range (percentage)</b>
The Technical Proposal component demonstrates an approach that is considered to significantly exceed the ITP requirements and objectives in a beneficial way (providing advantages, benefits, or added value to the Project) and that provides a consistently outstanding level of quality. Must have a significant strength or number of strengths and no weaknesses.	90-100
The Technical Proposal component demonstrates an approach that is considered to exceed the ITP requirements and objectives in a beneficial way (providing advantages, benefits, or added value to the Project) and offers a generally better than acceptable quality. Must have strengths and no significant weaknesses.	80-89
The Technical Proposal component demonstrates an approach that is considered to meet the ITP requirements and objectives and offers an acceptable level of quality. It has strengths even though minor or moderate weaknesses exist.	70-79
The Technical Proposal component demonstrates an approach that is marginally acceptable.	60-69
The Technical Proposal component demonstrates an approach that contains no strengths and contains minor or significant weaknesses.	0-59

#### **13.1.4 *FORMAT OF TECHNICAL PROPOSAL***

The technical proposal is limited to 35 pages 8.5” by 11” which shall include the information requested in this solicitation. The DBT may provide unlimited 11” by 17” pages for supporting details and graphics (ie plan sheets, profiles, etc). An 11” by 17” sheet shall not contain only text but shall contain pictures, graphs, charts, plans, or other graphics. Preliminary plans shall be completed with a readable scale on 11” by 17” sheets. The DBTs are encouraged to be as concise as possible. The technical proposal shall include preliminary plans in accordance with the following:

Roadway plans shall be at an approximate 30 percent level of completion and shall at a minimum include the following:

- A. Layout Sheet – includes index of sheets
- B. Typical Sections (typical sections shall be provided that reflect the provided options for either asphalt and/or concrete)
- C. Geometric Detail Sheets (As applicable)
- D. Plan and Profile Sheets (Project limits, alignments and profiles, major drainage features, roadside barrier locations, right-of-way)
- E. Construction Detail Sheets – as needed
- F. Conceptual Maintenance of Traffic Plans (typical sections, plans, profiles, construction phasing details, traffic control devices)
- G. Critical Cross Sections: Cross Sections shall be provided electronically. Paper copies are not required.

Bridge plans shall include:

- A. Layout Sheet, showing plan and profile and including pier type, abutment type, wingwall type and expected foundation types and depths
- B. Typical Section
- C. Construction Phasing details(as applicable)

Retaining Wall plans shall include:

- A. Preliminary retaining wall layout with summary of wall types and expected foundation types

Major Drainage Structure plans shall include:

- A. Master plan showing type, size and location

### **13.2 PRICE PROPOSAL (70%)**

The total price offered by the DBT for its Proposal for all work specified in the Contract is referred to herein as the "Price Proposal". The Price Proposal shall be organized to correspond to the items listed in this section.

#### **13.2.1 PRICE PROPOSAL**

Provide a hardcopy of Form PP (Price Proposal) included in Appendix O. The price proposal shall bear original signature(s) by an authorized employee of the Proposer. All other methods of submitting the Price Proposal shall be considered non-responsive and ineligible for Award.

Price Proposals are qualified based on Sections 7.1 and 7.2 and evaluated on the basis of Section 13.3. The final Price Proposal shall be a Lump Sum Bid dollar amount.

In addition, to the price proposal the DBT shall be required to furnish the Department with an initial Schedule of Values showing a complete breakdown of the lump sum bid item established for this project. In order to document how the lump sum bid price was determined, the DBT shall supply, using standard KYTC bid item codes whenever possible, all work items, quantities, units, and prices to support the lump sum bid submitted. Any non-standard bid items used shall be thoroughly explained in the bid proposal. The breakdown shall include all materials to be used in the work, and shall be in sufficient detail to provide KYTC with a means to check partial payment requests. The Schedule of Values shall be developed using the current version of Estimator software by Info Tech Inc., Gainesville, FL, 32608, or an equivalent program approved by the Engineer. The DBT shall provide any necessary training and license needed for KYTC to use the software. Submit the Estimator file in the Version required by KYTC.

The DBT shall also provide a separate estimated cost of the right-of-way acquisition and relocation costs that KYTC will pay to the property owners disturbed by the project. This estimate should not include services for right-of-way acquisition as these services as described in Section 10 are to be included in the lump sum bid as described above.

#### **13.2.2 BID BOND**

Provide a Bid Bond. The KYTC Bid Bond form is available on-line at:

<http://transportation.ky.gov/Organizational-Resources/Forms/TC%2014-14.pdf>

or by contacting the KYTC at 502-564-3500. Each Proposer shall submit a Bid Bond with its Proposal in the amount of at least five percent of the Proposal Price, issued by a surety meeting the requirements of the Contract. Alternatively, DBTs may submit cash, a certified check, or a cashier's check payable to KYTC in this amount. A Bid Bond shall not be conditioned in any way to modify the minimum five percent required. Proposals that fail to include a Bid Bond or cash deposit in compliance with this subsection shall be deemed non-responsive and shall be rejected by KYTC.

This bond shall be submitted with the Price Proposal in the same sealed envelope and will not be opened until completion of the review of the Technical Proposals.

### **13.2.3 DOCUMENTS REQUIRED FOR KYTC BID**

The DBT shall take note and review the following documents and provide the necessary affidavits and certifications required. These documents can be found in the General Conditions Appendix P.

- A. Required Affidavit for Bidders, Proposers, and Contractors
- B. Secretary's Order 11-004, Vendor Document Disclosure
- C. Provisions Relative to KRS 45A.485
- D. Documents Required for Federal Projects. The documents include:
  1. Employment Requirements Relating to Nondiscrimination of Employees
  2. Executive Branch Code of Ethics
  3. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity

### **13.2.4 SUBMITTAL REQUIREMENTS**

KYTC shall not accept Price Proposals by facsimile or electronic transmission. Any Price Proposal that fails to meet the deadline or delivery requirement shall be rejected and returned to the DBT without having been opened, considered, or evaluated. The KYTC shall not be responsible for a late Bid due to failure of the DBT to allow sufficient time for delivery of the Price Proposal.

The Price Proposal, Bid Bond, an updated Acknowledgement of Receipt of proposal addenda, form AOR (see Appendix Q) and above required documents shall be placed into a sealed envelope.

Sealed Price Proposals shall be submitted by mail or hand by 2:00 PM (EST) August 16, 2019 to:

Mrs. Rachel Mills, P.E., Director  
Division of Construction Procurement  
200 Mero Street, 3rd Floor  
Frankfort, KY 40622

The outside cover of the package containing the proposal shall be marked:

Price Proposal for  
Boone County Graves Road Interchange  
Item No. 6-78.00  
CID No. 19-9001  
Design-Build: FY 2019 Design Build #1

KYTC shall not open the Price Proposal until the completion of the evaluation of the Technical Proposals.

### **13.3 VALUE-BASED FORMULA USED FOR SELECTION**

Scoring of the Technical Proposal and Price Proposal plan shall be combined using a normalized weighted formula as follows:

$$SB = 100 [0.30 (TB/TH) + 0.70 (PL/PB)]$$

Where

PB = DBT's Price Proposal

PL = Lowest Price Proposal (all DBTs)

TB = DBT's Technical Proposal Score

TH = Highest Technical Proposal Score (all DBTs)

The DBT's Overall Score (SB) shall be rounded to a tenth of a point. Rounding of Scores to the nearest tenth of a point shall be accomplished by the round-up method: e.g., 75.45, 75.46, 75.47, 75.48, and 75.49 would be rounded up to 75.5; and 75.41, 75.42, 75.43, and 75.44 shall be rounded to 75.4. The DBT with the highest overall score shall be recommended to the KYTC Awards Committee for Contract Award. In the event that two or more DBTs achieve the same rounded final score (SB), the "tied" DBT with the lowest Price Proposal (PB) shall be recommended to the KYTC Awards Committee for Contract Award. The KYTC Awards Committee has final authority to determine the best interests of the KYTC in awarding (or not awarding) the Contract.

## **14. PLAN SUBMITTALS AND REVIEW REQUIREMENTS**

### **14.1 QUALITY CONTROL**

The DBT, upon selection by the Awards Committee, shall be responsible for the professional quality, technical accuracy and adherence to the Governing Regulations listed in Section 7.1 of this document, for all plan submittals required under this contract.

The DBT shall immediately notify the Department of any apparent discrepancy between the various design and construction manuals and the Conceptual Documents.

Unless stated otherwise, review comments do not revise the scope or intent of the project and do not constitute a request for changes beyond the current contracted Scope of Services.

In the event the Department determines that any required submission is incomplete, contains inaccuracies which preclude a meaningful review, or does not adhere to the Governing Regulations listed in section 7.1 of this document, the Department will advise the DBT of the short comings and direct the DBT to revise and resubmit the plan. No time extension shall be granted as a result of such action. The Department will schedule a review meeting or issue review comments as appropriate.

In the event the DBT believes that any review comment, or orders issued by the Department, require a change to the scope of the agreed work, the DBT shall first contact the Department for clarification and shall, within 10 days of receipt of the comments or orders, provide

written notice to the District Project Manager and Project Engineer concerning the reasons why the DBT believes the scope has been changed.

**14.2 MAJOR DESIGN DECISION**

Separate submittals for concurrence with major design decisions are required. Major design decisions involve significant utility relocation, unforeseen acquisition of ROW, traffic operation or geometric decisions that involve two or more viable solutions, and any other decision that impacts the public, operation of the facility or future maintenance.

When the DBT becomes aware of additional decisions during the course of the design, they shall advise KYTC’s Project Manager in writing.

**14.3 FINAL PLANS IN HAND REVIEW SUBMISSION**

For each Buildable Unit the Consultant shall submit Final Plans In Hand detailed design plans as per the KYTC Design Manual for review. All submissions shall be shown on the required Progress Schedule. The Department shall have 14 calendar days from receipt to review complete submissions. This review time shall be shown on the required Progress Schedule. Following the review, the Department will return to the DBT marked plans noted ‘ACCEPTED’, ‘ACCEPTED AS NOTED’ or ‘NOT ACCEPTED’. The DBT shall correct errors, incorporate changes, perform investigations and make related changes to the plans and supporting documents prior to submitting construction plans.

The DBT shall supply half-size (11” x 17”) paper prints simultaneously to the parties indicated below along with an electronic PDF version. Each affected utility company shall receive one half-size (11” x 17”) set of plans.

<b>Plans Distribution Table</b>	<b>Number of half size sets</b>
KYTC District Office with PDFs on CDs	2
KYTC Central Office	1

**14.4 CONSTRUCTION PLANS**

After the review comments for the final plan review submission have been complied with, and following approval of the design documentation, the DBT shall prepare plan sets for use during construction. All review comments shall be resolved in writing by the DBT to satisfaction of the Department before DBT submits the construction plans. Each plan sheet shall have its last revised date noted on the sheet and clearly marked ‘Approved For Construction’. Physical construction shall not begin until the plans marked ‘Approved For Construction’ (by the Project Manager) are delivered to each party on the Plan Distribution Table below. KYTC will comment on these plans within 14 working days of their submission by the Project Manager. No time extensions will be approved by the Project Manager if the plan distribution is not completed and project delays occur as a result.

The DBT shall supply full size (22”x35”) and/or half size (11”x17”) paper prints and electronic pdf version of each plan submission simultaneously to the parties indicated below:

<b>Plans Distribution Table</b>	<b>Number of half size sets</b>
KYTC District Office	4
KYTC Central Office	2

## **15. BUILDABLE UNITS**

**Definition:** Buildable Units are portions of the projects which may be designed, reviewed and built with only limited controls and assumptions coming from the design of other portions of the project. Often a Buildable Unit will be defined by a geographic area within the plan, but it may also be defined by types of work or construction stages which may require or permit similar, nearby work to be divided into separate Buildable Units. All Buildable Units shall summarize the materials required to construct that portion of the project. The summary shall include the Construction and Material Specifications Item Number, and a description of the materials to be used.

**General:** The DBT may break the project work into two or more separate BU which may be progressed through design and construction with minimal or known effect on each other and/or which may be dealt with sequentially such that sufficient data is available for design and review of each BU. In order that the design and construction of one BU may proceed without significant approved information from an associated BU, the DBT may develop and propose assumptions which will allow for the first BU to proceed through design and/or construction. These assumptions shall be submitted for review and comment but their accuracy and effort upon the final design are the sole responsibility of the DBT. Should error in these assumptions result in additional work, remedial work or other changes to assume an acceptable design or should they result in the need to remove work and substitute additional work, the DBT shall be responsible for all such costs including, removal of unacceptable materials from the site, modification, additional work, repairs, etc. as necessary to produce an acceptable result.

If the DBT elects to develop Buildable Units, The DBT shall prepare, for review by the Department, a table of Buildable Units for the project with each BU described in detail. This table of Buildable Units will be approved or comments given within 14 calendar days after the submission. If the table is approved, the DBT shall modify the Progress Schedule to show a separate group of activities for BU and these activities shall encompass all of the design and construction work in each BU. Work activities shall be further separated in the Progress Schedule to show a meaningful completion status (i.e. separate activities comprising the placement of a bridge deck on steel beams shall describe; shoring, form building, steel placement, placement of conduit & joints, pouring concrete, forming parapets, pouring or slip forming parapets, provision of membranes, provision of wearing surfaces, curing, repair, form removal, cleaning, etc.)

The Final Review Submission and construction plans shall specifically be identified by the Buildable Unit code. If the design of a BU requires input information from an adjacent or related BU, the source for that information in previously approved plans shall be cited or the DBT shall provide an estimated value of the data. The input data shall also be carefully identified. In the same way any assumption, calculations or results from the stage and BU which are used as input to another BU to verify previous assumptions. Should assumptions not match values calculated later, the DBT shall re-analyze all affected components and determine appropriate changes. Should those elements have already been constructed, the DBT shall recommend repairs, adjustments, modifications or replacement of the existing work as necessary to comply with the Scope of Work. All costs for re-design, re-submission, modifications, removals, disposal of materials and new work needed to remedy the project and bring it to compliance shall be borne by the DBT and no time extensions shall be approved for this.



## **INDEX OF ATTACHMENTS**

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- Appendix B: DBE Conditions
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- Appendix F: CPM Note
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- Appendix H: Special Note for Erosion Control
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