

AN ORDINANCE APPROVING A COST APPORTIONMENT AGREEMENT WITH MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION REGARDING THE POWDER COATING OF TRAFFIC SIGNALS ON LADUE ROAD (ROUTE AB) AT I-270 SOUTH BOUND ON/OFF RAMPS, I-270 NORTH BOUND ON/OFF RAMPS AND EMERSON ROAD AND CONTAINING AN EMERGENCY CLAUSE.

WHEREAS, Missouri Department of Transportation (MoDOT) is designing and bidding a milling and resurfacing project on Ladue Road from Highway 141 to Emerson Road; and

WHEREAS, The City desires to have the new traffic signals included on this project to be black powder coated which is an enhancement to the project and such enhancement costs must be 100% paid for by the City; and

WHEREAS, all persons who presented themselves and desiring to be heard were given an opportunity to be heard and a copy of the proposed ordinance has been made available for public inspection prior to its consideration by the City Council; and

NOW, THEREFORE, be it ordained by the City Council of the City of Creve Coeur, Missouri, as follows:

SECTION 1: The cost apportionment agreement between Missouri Highways and Transportation Commission and the City of Creve Coeur, attached hereto as "Exhibit 1" to install black powder coating on various signals on Ladue Road related to a resurfacing project being designed and bid by MoDOT is hereby approved for an estimated amount of \$20,000. The cost apportionment agreement as executed shall be consistent with the provisions and intent of this Ordinance and in the form of "Exhibit 1" with such changes deemed appropriate by the executing officer as are consistent with the intent of this Ordinance. The City Administrator and his designated representatives are hereby authorized and directed to take any and all actions necessary, desirable, convenient or proper in order to carry out the intent of this Ordinance, the matters herein authorized, and the rights and duties of the City under the agreement.


SECTION 2: This ordinance is an emergency measure which required passage on the day of introduction to expedite the agreement to powder coat the traffic signals to meet the requirements of MoDOT and shall become effective immediately in accordance with Section 3.11 (f) of the City Charter.

ADOPTED THIS 24th DAY OF JUNE, 2024.


TIMOTHY CARNEY, PRESIDENT OF THE CITY COUNCIL

APPROVED THIS 24th DAY OF JUNE, 2024.


DR. ROBERT HOFFMAN, MAYOR

ATTEST:

KELLIE HENKE, CITY CLERK



CCO Form: DE63
Approved: 12/17 (BDG)
Revised: 03/24 (TLP)
Modified:

Municipal and Cost Apportionment Agreement
Route: AB
County: St. Louis
Job No.:J6S3633
Agreement No. 2024-05-84227

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION MUNICIPAL AND COST APPORTIONMENT AGREEMENT

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Creve Coeur, Missouri, a municipal corporation (hereinafter, "City").

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties agree as follows:

(1) IMPROVEMENT DESIGNATION: The public improvement designated as Route AB, St. Louis County, Job No. J6S3633 shall consist of signals at I-270 South bound on/off Ramps, I-270, North bound on/off ramps, and Emerson Rd. Such signals shall be powder coated (herein the "Enhancements").

(2) IMPROVEMENT WITHIN CITY: The improvement within the City is located along Route AB at I-270 South bound on/off Ramps, I-270 North bound on/off ramps, and Emerson Rd intersections.

(3) EXTENT OF AGREEMENT: This Agreement shall apply only to the portion of the improvement lying within the city limits as they exist on the date this Agreement is executed by the City.

(4) LOCATION: The general location of the public improvement is shown on an attached sketch marked "Exhibit A" and made a part of this Agreement. The detailed location of the improvement is shown on the plans prepared by the Commission for the above-designated route and project.

(5) PURPOSE: It is the intent of this Agreement to outline the parties' responsibilities with respect to the construction and maintenance of those improvements to the State Highway System located within the City limits described in paragraphs (1) and (2) above and designated as Commission Job No. J6S3633. The parties' responsibilities with respect to the funding of said improvements are outlined further herein.

(6) PROJECT RESPONSIBILITIES: With regard to project responsibilities under this Agreement, the parties agree to contribute as follows:

(A) The Commission will be responsible for the preparation of detailed right-of-way and construction plans and project specifications. This includes design, letting of project, and inspection of project. The plans shall be prepared in accordance with and conform to Commission requirements.

(B) The Commission will be responsible for letting the work for the herein improvement, which includes advertising the project for bids and awarding the construction contract. The Commission will solicit bids for the herein improvement in accordance with plans developed by the Commission, or as the plans may from time to time be modified in order to carry out the work as contemplated.

(C) The Commission will be responsible for construction of the herein improvements, which includes administration of the construction contract and inspection of the project work. The project shall be constructed in accordance with and conform to Commission requirements.

(D) The City will be responsible for the preparation of project specifications for the powder coated and painted signal post and mast arms at the specified intersections.

(7) PAYMENT RESPONSIBILITIES: With regard to payment responsibilities under this Agreement, the parties agree to as follows:

(A) The total cost of the project is estimated at six million three hundred thirteen thousand dollars (\$6,313,000). The total cost of the project includes preliminary engineering, right of way acquisition (including easements), construction, and construction engineering. The total costs include the Enhancements to be paid for by the city.

(B) The City will be responsible for one hundred percent (100%) of the Enhancement cost added to commission project J6S3633. The total cost of the Enhancements will include construction and inspection. The details of the estimated cost breakdown are listed in "Exhibit B", which is attached hereto and made part thereof. The current estimate of the City's responsibilities is twenty thousand dollars (\$20,000). The City shall remit a check in the amount of twenty thousand dollars (\$20,000) to cover estimated construction costs no later than five (5) days prior to the Commission's advertisement of the project for bids. The check should be made payable to the *Missouri Highways and Transportation Commission –Local Fund*. If the City fails to make the required deposit, the Commission is under no obligation to continue with the project.

(C) The Commission, excluding the cost of the Enhancements, will pay for one hundred percent (100%) of the total project cost, currently estimated at six million two hundred ninety three thousand dollars (\$6,293,000).

(D) The City is responsible for the balance of the construction and

inspection cost for Enhancements on project J6S3633 in excess of twenty thousand dollars (\$20,000) and will receive all underruns on the City's Enhancements. The Commission is responsible for overruns exceeding \$6,293,000 on the project excluding costs of Enhancements and will receive any cost savings.

(E) If, at the time of the letting, the lowest responsive bid is higher than the estimated construction and inspection cost amount, the City, upon written notification from the Commission shall remit a check in the amount of its share of the difference between the estimated amount and the lowest responsive bid no later than one (1) day prior to the date of the Commission meeting wherein the subject bid will be considered for award or a later date set by the Commission in its sole discretion. In the event the Commission, in its sole discretion, extends the day the City payment is due, it shall notify the City of the new due date in writing, which shall be binding immediately upon the City's receipt of the written notice. The check must be made payable to the *Missouri Highways and Transportation Commission –Local Fund*. The Commission, in its sole discretion, reserves the right to take action at the said Commission meeting and either reject all bids if the City fails to make the payment by the due date, or award the contract to the lowest responsive bidder contingent upon receipt of the additional funds from the City by the extended due date. If the Commission makes a contingent award of the contract and the City fails to make the required deposit(s) by the extended due date, the contingency of the contract award by the Commission shall be deemed unsatisfied, the award of the contract shall be deemed null and void and the Commission shall be under no obligation to continue with the project.

(8) COMMINGLING OF FUNDS: The City agrees that all funds deposited by the City, pursuant to this Agreement with the Commission, may be commingled by the Commission with other similar monies deposited from other sources. Any deposit may be invested at the discretion of the Commission in such investments allowed by its Investment Policy. All interest monies shall be payable to the *Local Fund* and credited to the project. If the amount deposited plus any applicable credited interest with the Commission shall be less than the actual obligation of the City for this project, the City, upon written notification by the Commission, shall tender the necessary monies to the Commission to completely satisfy its obligation. Upon completion of the project, any excess funds or interest credited to the City shall be refunded to the City based on its pro rata share of the investment.

(9) RIGHT-OF-WAY USE: The City grants the right to use the right-of-way of public roads, streets, alleys and any other property owned by the City as necessary for construction and maintenance of said public improvement.

(10) CLOSE AND VACATE: The City shall temporarily close and vacate all streets or roads, or parts thereof, which may be necessary to permit the construction of the project in accordance with the detailed plans.

(11) RIGHT-OF-WAY ACQUISITION: No acquisition of additional right of way is anticipated in connection with the City Enhancements on Job. No. J6S3633 or

contemplated by this agreement.

(12) LIGHTING

(A) The installation, operation, and maintenance by the Commission of any lighting system on the public improvement covered by this Agreement shall be only in accordance with the Commission's policy on highway lighting in effect at the time of any such installation and only to the extent the Commission then deems warranted. No street lighting system shall be installed or maintained by or for the City on the improvement without approval of the Commission.

(B) The Commission will, at its cost and expense, install, operate, and maintain basic highway intersection or interchange lighting at warranted locations on the improvement. The construction, installation, and maintenance of any other or further lighting system on the public improvement covered by this Agreement shall be only in accordance with the Commission's policy on highway lighting in effect, and to the extent deemed warranted by the Commission, at the time of any such installation. No lighting system shall be installed or maintained by the City on the improvement without approval of the Commission.

(13) TRAFFIC CONTROL DEVICES: The installation, operation and maintenance of all traffic signals, pavement markings, signs, and devices on the improvement, including those between the highway and intersecting streets shall be under the exclusive jurisdiction and at the cost of the Commission. The City shall not install, operate, or maintain any traffic signals, signs or other traffic control devices on the highway or on streets and highways at any point where they intersect this highway without approval of the Commission.

(14) DRAINAGE: The Commission will construct drainage facilities along the improvement and may use any existing storm and surface water drainage facilities now in existence in the area. It is understood by and between the parties that the area of the improvement is within the jurisdiction of the St. Louis Metropolitan Sewer District.

(15) PERMITS: The Commission shall secure any necessary approvals or permits from the Surface Transportation Board, the Public Service Commission of Missouri, or any other state or federal regulating authority required to permit the construction and maintenance of the highway.

(16) COMMENCEMENT OF WORK: The Commission shall construct the highway in accordance with final detailed plans approved by the Federal Highway Administration (or as they may be changed from time to time by the Commission with the approval of the FHWA) at such time as federal and state funds are allocated to the public improvement in an amount sufficient to pay for the federal and state government's proportionate share of construction costs. The obligation of the Commission toward the actual construction of the public improvement shall be dependent upon the completion of plans in time to obligate federal funds for such construction, upon approval of the plans

by the FHWA, upon the award by the Commission of the contract for the construction, and upon the approval of the award by the FHWA.

(17) MAINTENANCE:

(A) Except as provided in this Agreement, upon completion of the public improvement, the Commission will maintain all portions of the improvement within the Commission owned right-of-way. Maintenance by the Commission shall not in any case include maintenance or repair of sidewalks whether new or used in place, water supply lines, sanitary or storm sewers (except those storm sewers constructed by the Commission to drain the highway), city-owned utilities within the right-of-way or the removal of snow other than the machine or chemical removal from the traveled portion of the highway.

(B) When it is necessary to revise or adjust city streets, the right-of-way acquired for these adjustments and connections will be deeded to the City.

(C) City maintains and touches up any powder coating of signals.

(18) ACCEPTED WITHIN HIGHWAY SYSTEM: Effective upon execution of this Agreement, the Commission temporarily accepts the portion of the City street system described in this Agreement as part of the State Highway System for the purposes of this project. However, during the construction period contemplated in this Agreement:

(A) The Commission will assume no police or traffic control functions not obligatory upon Commission immediately prior to the execution of this Agreement, and

(B) The City shall perform or cause to be performed normal maintenance on the project site.

(19) CITY TO MAINTAIN: Upon completion of construction of this improvement, the City shall accept control and maintenance of the improved City street that was temporarily accepted as part of the State Highway System for the purposes of this project pursuant to paragraph (19) above and shall thereafter keep, control, and maintain the same as, and for all purposes, a part of the City street system at its own cost and expense and at no cost and expense whatsoever to the Commission. All obligations of the Commission with respect to the City street system under this Agreement shall cease upon completion of the improvement.

(20) POLICE POWERS: It is the intent of the parties to this Agreement that the City shall retain its police powers with respect to the regulation of traffic upon the improvement contemplated. However, the City will enact, keep in force, and enforce only such ordinances relating to traffic movement and parking restrictions as may be approved by the Commission and as are not in conflict with any regulations for federal aid. The Commission shall not arbitrarily withhold approval of reasonable traffic regulations, signs, and markings which will permit the movement of traffic in accordance with accepted traffic

regulation practices.

(21) RESTRICTION OF PARKING: Since the improvement is being designed and constructed to accommodate a maximum amount of traffic with a minimum amount of right-of-way, the City shall take whatever actions that are necessary to prevent parking upon the highway or any part of the area of the highway right-of-way within the limits of the improvement.

(22) OUTDOOR ADVERTISING: No billboards or other advertising signs or devices or vending or sale of merchandise will be permitted within the right-of-way limits of the project and the City shall take whatever actions that are necessary to enforce this Section.

(23) WITHHOLDING OF FUNDS: In the event that the City fails, neglects, or refuses to enact, keep in force or enforce ordinances specified or enacts ordinances contrary to the provisions in this Agreement, or in any other manner fails, neglects or refuses to perform any of the obligations assumed by it under this Agreement, the Commission may, after serving written request upon the City for compliance and the City's failure to comply, withhold the expenditure of further funds for maintenance, improvement, construction, or reconstruction of the state highway system in the City.

(24) FEDERAL HIGHWAY ADMINISTRATION: This Agreement is entered into subject to approval by the Federal Highway Administration and is further subject to the availability of federal and state funds for this construction.

(25) INDEMNIFICATION: To the extent allowed or imposed by law, the City shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the City's wrongful or negligent performance of its obligations under this Agreement.

(26) INSURANCE:

(A) The City is required or will require any contractor procured by the City to work under this Agreement:

(1) To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

(2) To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and the Missouri Department of Transportation and its employees, as additional insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities (\$600,000 per claimant and \$4,000,000 per

occurrence) as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(B) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(27) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment approved and signed by representatives of the City and Commission, respectively, each of whom being duly authorized to execute the contract amendment on behalf of the City and Commission, respectively.

(28) COMMISSION REPRESENTATIVE: The Commission's St. Louis District Engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(29) CITY REPRESENTATIVE: The City's City Administrator is designated as the City's representative for the purpose of administering the provisions of this Agreement. The City's representative may designate by written notice other persons having the authority to act on behalf of the City in furtherance of the performance of this Agreement.

(30) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

(A) Mark Perkins
City Administrator, City of Creve Coeur
300 N. New Ballas Road
Creve Coeur, MO 63141
FacsimileNo: (314)872-2539

(B) To the Commission:
Missouri Department of Transportation
Thomas Blair P.E.
MoDOT St. Louis District
1590 Woodlake Drive
Chesterfield, MO 63017

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(31) ASSIGNMENT: The City shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(32) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of the contract.

(33) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(34) SOLE BENEFICIARY: This Agreement is made for the sole benefit of the parties hereto and nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Commission and the City.

(35) AUTHORITY TO EXECUTE: The signers of this Agreement warrant that they are acting officially and properly on behalf of their respective institutions and have been duly authorized, directed and empowered to execute this Agreement.

(36) SECTION HEADINGS: All section headings contained in this Agreement are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

(37) AUDIT OF RECORDS: The City must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at all reasonable times at no charge to the Commission and/or its designees or representatives during the period of this Agreement and any extension thereof, and for three (3) years from the date of final payment made under this Agreement.

(38) COMMISSION RIGHT OF WAY: All improvements made within the state-owned right-of-way shall become the Commission's property, and all future alterations, modifications, or maintenance thereof, will be the responsibility of the Commission, except as otherwise provided by this Agreement or a separate written agreement.

(39) NO INTEREST: By contributing to the cost of this project or improvement, the City gains no interest in the constructed roadway or improvements on Commission right of way whatsoever. The Commission shall not be obligated to keep the constructed improvements or roadway in place if the Commission, in its sole discretion, determines removal or modification of the roadway or improvements, is in the best interests of the state highway system. In the event the Commission decides to remove the landscaping,

roadway, or improvements, the City shall not be entitled to a refund of the funds contributed by the City pursuant to this Agreement.

(40) ADDITIONAL FUNDING: In the event the Commission obtains additional federal, state, local, private or other funds to construct the improvement being constructed pursuant to this Agreement that are not obligated at the time of execution of this Agreement, the Commission, in its sole discretion, may consider any request by the City for an off-set for the deposited funds, a reduction in obligation, or a return of, a refund of, or a release of any funds deposited by the City with the Commission pursuant to this Agreement. In the event the Commission agrees to grant the City's request for a refund, the Commission, in its sole discretion, shall determine the amount and the timing of the refund. Any and all changes in the parties' financial responsibilities resulting from the Commission's determination of the City's request for a refund pursuant to this provision must be accomplished by a formal contract amendment signed and approved by the duly authorized representative of the City and the Commission.

(41) NO ADVERSE INFERENCE: This Agreement shall not be construed more strongly against one party or the other. The parties to this Agreement had equal access to, input with respect to, and influence over the provisions of this Agreement. Accordingly, no rule of construction which requires that any allegedly ambiguous provision be interpreted more strongly against one party than the other shall be used in interpreting this Agreement.

(42) ENTIRE AGREEMENT: This Agreement represents the entire understanding between the parties regarding this subject and supersedes all prior written or oral communications between the parties regarding this subject.

(43) VOLUNTARY NATURE OF AGREEMENT: Each party to this Agreement warrants and certifies that it enters into this transaction and executes this Agreement freely and voluntarily and without being in a state of duress or under threats or coercion.

(44) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations or for convenience by providing the City with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the City.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City on 2024-06-25 | 10:25 AM PDT (Date).

Executed by the Commission on 2024-06-25 | 2:19 PM CDT (Date).

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

DocuSigned by:
By: Eric E. Schroeter
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Title: Assistant Chief Engineer

City of Creve Coeur

DocuSigned by:
By: Mark Perkins
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Title: City Administrator

ATTEST:

DocuSigned by:
Paula Horton
A4666CD79967195...
Secretary to the Commission

ATTEST:

DocuSigned by:
By: Kellie Henke
636E83959C93459...
Title: City Clerk

APPROVED AS TO FORM:

DocuSigned by:
Jason D. Saay
8123EAFB71B4715...
Commission Counsel

APPROVED AS TO FORM:

DocuSigned by:
By: [Signature]
9D9A47E6CC8C43C...
Title: City Attorney

Ordinance Number 5898

EXHIBIT A

Exhibit B

MoDOT Project Number: J6S3633

Description: Pavement resurfacing and signals

Total Project Cost Estimate: \$6,313,000

Local Entity: City of Creve Couer

	Current Estimate J6S3633	City Responsibility
Preliminary Engineering	\$430,000	\$0
Right of Way Acquisition (including easements)	\$1,176,000	\$0
Right of Way Incidentals	\$0	\$0
Utilities	\$0	\$0
Construction	\$4,404,000	\$18,000
Construction Engineering	\$303,000	\$2,000
Total	\$6,313,000	\$20,000

Project Responsibilities:

Design	MoDOT/City
Right of Way Acquisition	MoDOT
Letting	MoDOT
Inspection	MoDOT

Financial Responsibilities:

District	\$6,293,000	99.7%
City	\$20,000	.3%
Total:	\$6,313,000	100%

How are overruns and underruns handled?

The City is responsible for the balance of the construction and inspection cost for Enhancements cost on project J6S3633 in excess of twenty thousand dollars (\$20,000) and will receive all underruns on the City's Enhancements. The Commission is responsible for overruns exceeding \$6,293,000 on the project excluding costs of Enhancements and will receive any cost savings.

Certificate Of Completion

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 Source Envelope:
 Document Pages: 13
 Certificate Pages: 6
 AutoNav: Enabled
 Enveloped Stamping: Enabled
 Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Completed
 Envelope Originator:
 Stuart McNeil
 1860 Michael Faraday Drive
 Suite 100
 Reston, VA 20190
 stuart.mcneil@modot.mo.gov
 IP Address: 168.166.80.221

Record Tracking

Status: Original
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 Holder: Stuart McNeil
 stuart.mcneil@modot.mo.gov
 Location: DocuSign

Signer Events

Mark Perkins
 mperkins@crevecoeurmo.gov
 City Administrator
 Security Level: Email, Account Authentication (Optional), Access Code

Signature

DocuSigned by:

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Carl Lumley
 clumley@chgolaw.com
 City Attorney
 Security Level: Email, Account Authentication (Optional)

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Kellie Henke
 khenke@crevecoeurmo.gov
 City Clerk
 Security Level: Email, Account Authentication (Optional)

DocuSigned by:

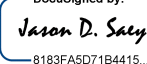
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Electronic Record and Signature Disclosure:

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Jason D. Saey
 Jason.Saey@modot.mo.gov
 Regional Counsel
 Missouri Department of Transportation
 Security Level: Email, Account Authentication (Optional)

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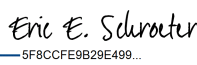
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Signer Events	Signature	Timestamp
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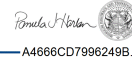
Eric E. Schroeter
Eric.Schroeter@modot.mo.gov
Assistant Chief Engineer
Missouri Department of Transportation
Security Level: Email, Account Authentication (Optional)

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Electronic Record and Signature Disclosure:
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Pamela Harlan
Pamela.Harlan@modot.mo.gov
Secretary to the Commission
Missouri Department of Transportation
Security Level: Email, Account Authentication (Optional)

DocuSigned by:

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Signature Adoption: Uploaded Signature Image
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In Person Signer Events	Signature	Timestamp
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Erin Smith
erin.smith@modot.mo.gov
Security Level: Email, Account Authentication (Optional)

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Electronic Record and Signature Disclosure:
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Dana Kaiser
Dana.Kaiser@modot.mo.gov
Senior Executive Assistant
Missouri Department of Transportation
Security Level: Email, Account Authentication (Optional)

COPIED

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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Tara Herx
tara.herx@modot.mo.gov
Senior Executive Assistant
Missouri Department of Transportation
Security Level: Email, Account Authentication (Optional)

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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Carbon Copy Events	Status	Timestamp
Jennifer Jorgensen jennifer.jorgensen@modot.mo.gov Asst Secretary to the Commission MoDOT Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Accepted: 6/7/2023 9:45:35 AM ID: 43e1faf8-03d4-4d0e-95b0-9dcba940a033	COPIED	Sent: 6/25/2024 12:45:52 PM

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/20/2024 4:18:22 PM
Certified Delivered	Security Checked	6/25/2024 2:19:38 PM
Signing Complete	Security Checked	6/25/2024 2:19:46 PM
Completed	Security Checked	6/25/2024 2:19:46 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure

**Missouri Highways and Transportation Commission
DocuSign, Inc. Express Electronic Signature Agreement**

The Missouri Highways and Transportation Commission (hereinafter, Commission), acting by and through the Missouri Department of Transportation (MoDOT) is willing to provide to the Authorized Representative of the Contractor/Vendor/Consultant (Entity) who is duly authorized to act on behalf of said Entity (hereinafter you or I) and accept from you your electronically affixed authorized signature and seal, as required to validate a binding agreement between the Commission and the Entity, on all Commission/MoDOT documents, including but not limited to disclosures, agreements, contracts, notices, purchase orders, change orders, modifications, amendments, supplements, correspondence, and the like, (hereinafter, Commission Documents) that are processed, generated, and exchanged by and between the Commission and you, acting on behalf of the Entity, electronically through the utilization of the DocuSign, Inc. Express (DocuSign) eSignature Application. In consideration of mutual covenants, you agree as follows:

- 1) You are the person duly authorized and designated by the Entity to receive, access and agree to the terms of this agreement on behalf of the Entity by clicking the Agree button below.
- 2) You have the authority to specifically consent and agree that the Commission, in its discretion, provide all disclosures, agreements, contracts, notices, purchase orders, change orders, modifications, amendments, supplements, correspondence, and all other evidence of the transaction between the Commission and the Entity electronically (hereinafter all such documentation is referred to as electronic record(s)).
- 3) The email address, User ID and password authorized to access the electronic agreement via DocuSign are your own and are not shared with any other person.
- 4) All of the required notices and disclosures will be sent to the email address authorized through DocuSign.
- 5) You are duly authorized to receive electronically through DocuSign, access and act upon all electronic records, to provide all required information and electronically affix your signature and seal, as applicable, on behalf of the Entity named in such Commission Documents via DocuSign,.
- 6) The system through which you are accessing DocuSign and its eSignature Application meets the minimum requirements to access DocuSign, view, receive, retrieve, download, print, store, send and transmit all electronic records and any and all other communications sent to you from the Commission through the DocuSign web site.
- 7) All communications in electronic format from the Commission to you through DocuSign are considered in-writing. You have the ability to download and print any documents processed through DocuSign for 30 calendar days after such documents are first sent, as long as you are an authorized user of the DocuSign system. After such time, you may request copies by contacting the Commission through the Secretary to the Commission at mhtc@modot.mo.gov or by telephone at 573-751-2824. You shall print or download for your records a copy of any communication that is important to you to retain.
- 8) You have implemented appropriate security measures to ensure that only you have access through DocuSign to receive, access and electronically affix signatures to electronic records, as applicable, Commission/MoDOT sends to you through DocuSign. It is your sole responsibility to ensure your adequate protection, confidentiality and secrecy of the DocuSign Authentication Code, and any other user ID and/or Password combinations that may be required for you to access the DocuSign eSignature services and any disclosure thereof to any other person or

communication thereof through unsecure medium, such as traditional electronic mail, shall be entirely at your risk. You shall be liable for any unauthorized usage of your ID/Password combination and the DocuSign Authentication Code.

9) You agree and authorize the Commission to respond to and act upon any and all transactions initiated and transmitted by you electronically through DocuSign. Any transaction initiated and transmitted by you to the Commission through DocuSign and its eSignature application shall be deemed to have been authorized by you, and the Commission is entitled to assume that the said transactions are so authorized by you and the Commission shall be protected upon acting thereon.

10) You shall be fully liable to the Commission for every transaction entered into using a valid DocuSign Authentication Code sent to you through certified mail, telephone call or Short Message Service (SMS) text, with or without your knowledge. In no event will the Commission be liable to you for any special, direct, indirect, consequential or incidental loss or damages even if you have advised the Commission/MoDOT of such possibility. The Commission shall not be liable for any misuse, if any, of any data placed on the internet by third parties hacking or accessing the application and hosting server without authorization.

11) The Entity shall take responsibility for all the transactions with the Commission conducted electronically through DocuSign and will abide by the record of the transactions generated by DocuSign or by the Commission/MoDOT through DocuSign. Further such record of transactions shall be conclusive proof and binding for all purposes and may be used as conclusive evidence in any proceedings. All records of the Commission and DocuSign, whether in electronic form, magnetic medium, documents or any other form, with respect to electronic transactions sent or received through use of DocuSign shall be conclusive evidence of such transactions and shall be binding on the Entity.

12) The Commission/MoDOT shall not be liable for any loss or damage whatsoever caused, arising directly or indirectly, in connection with the services and /or this Agreement, including without limitation any: (A) Loss of data; and (B) Interruption or stoppages to your access to DocuSign and its eSignature application and/or processing of electronic transactions due to any operational or technical difficulties/reason beyond our control for any other reason. The Commission, along with its members, employees, agents, executors, successors and assigns shall not be liable for any damages or claims or injuries arising out of or in connection with the use of DocuSign and its eSignature application or its non-use including non-availability or failure of performance, loss or corruption of data, loss of or damage to property (including profit and goodwill), work stoppage, computer failure or malfunctioning or interruption of business, error, omission, deletion, defect, delay in operation or transmission, communication line failure or for any failure to act upon electronic transaction for any cause.

13) You shall keep confidential all information, in whatever form, produced, prepared, observed or received by you to the extent that such information is confidential by law or otherwise required by the Commission.

14) This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Missouri. It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

15) The terms of this agreement and any amendments thereafter shall remain in full force and effect for as long as DocuSign is active, or by thirty (30) days written notification by either party

of their intent to cancel this agreement.

By checking the I Agree button, I confirm that:

1. I am the person named in the documents to which I will electronically affix my signature; that I am authorized to sign such documents on behalf of the Entity named in the documents; that I will read and know the contents of such electronically signed documents including all exhibits attached thereto, and that the statements made therein are true, and that I will not omit any information needed to make such documents true; and that I will take appropriate security measures to insure that I have sole access to the documents sent to me by the Commission and MoDOT through the email address provided on DocuSign.
2. I and the Entity shall indemnify and save harmless the Commission, its members, employees, officers, successors, assigns, agents and representatives against any and all claims, losses, damages, costs, liabilities and expense actually incurred, suffered or paid by the Commission, its members, employees, officers, successors, assigns, agents and representatives, directly or indirectly, and also against all demands, actions, suits, proceedings made, filed, instituted against the Commission, its members, employees, officers, successors, agents and representatives in connection with, or arising out of, or relating to the Commission accepting and acting or not accepting and not acting for any reason whatsoever pursuant to, in accordance with or relying upon, data received, through DocuSign and its eSignature application you or any unauthorized use of your ID/Password combination, the DocuSign Authentication Code, or the DocuSign eSignature application.
3. I agree to the DocuSign, Inc. Express (DocuSign) Electronic Signature Agreement terms and conditions outlined above.