
AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF WELDON SPRING, MISSOURI, TO EXECUTE AN AGREEMENT WITH THE MISSOURI HIGHWAY & TRANSPORTATION COMMISSION REGARDING SIDEWALK CONSTRUCTION AND MAINTENANCE ALONG OLD HIGHWAY 94 BETWEEN DUNBARTON DRIVE AND SOUTH BREEZE ROAD AND MATTERS RELATING THERETO

WHEREAS, the City of Weldon Spring, Missouri, is a fourth class ("Entity") located in St. Charles County, Missouri, being duly created, organized, and existing under the laws of the State of Missouri; and

WHEREAS, the Missouri Highway & Transportation Commission owns and operates, as part of the State Highway System, Old Highway 94 between South Breeze Road and O'Fallon Road; and

WHEREAS, the Weldon Spring is desirous of having certain tasks performed related to the installation and maintenance of sidewalk improvements.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WELDON SPRING MISSOURI, AS FOLLOWS:

SECTION 1: That the Board of Aldermen of the City of Weldon Spring, Missouri, hereby authorize the Mayor to execute a Municipal Agreement with the Missouri Highway and Transportation Commission for sidewalk construction and maintenance along Old Highway 94 between Dunbarton Drive and South Breeze Road. A copy of which is attached hereto as "**Exhibit A**" and is incorporated by reference herein.

SECTION 2: The vote on the aforesaid being deemed an emergency by the Board of Aldermen, the Board does hereby waive and dispense with the tabling procedure set forth in City Code, Section 110.070 (3) and does hereby authorize the reading of the above bill twice at this meeting, and a vote thereon immediately following said reading.

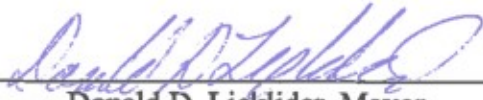
SECTION 3: This Ordinance shall be in full force and effect upon its enactment and approval.

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BILL NO. 1221


ORDINANCE NO. 24-08

READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF WELDON SPRING, MISSOURI, THIS 9th DAY OF May, 2024.



Donald D. Licklider, Mayor

Attest:



William C. Hanks, City Clerk



CCO Form: DE65
Approved: 12/07 (BDG)
Revised: 01/23 (BDG)
Modified:

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
SIDEWALK IMPROVEMENTS AGREEMENT**

THIS AGREEMENT is made and entered into by and between the Missouri Highways and Transportation Commission (hereinafter, "Commission"), whose address is P.O. Box 270, 105 W. Capitol, Jefferson Entity, Missouri 65102, and the City of Weldon Spring (hereinafter, "Entity"), whose address is 5401 Independence Rd, Weldon Spring, MO 63304 .

WITNESSETH:

WHEREAS, the Commission owns and operates, as part of the State Highway System, Old Highway 94 between South Breeze Road and O'Fallon Road; and

WHEREAS, the Entity is desirous of performing certain tasks related to the installation and maintenance of sidewalk improvements.

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

(1) PROPOSAL: The Entity proposes and the Commission will allow the installation, including maintenance, of sidewalk improvements on Commission right-of-way as provided in this Agreement.

(2) LOCATION: The general location of the sidewalk improvements to be installed and maintained pursuant to this Agreement is along the left side of Route Old Highway 94 from station 38+60 to station 46+90 between Dunbarton Drive to approximately 72 feet east of the intersection of South Breeze Lane, St. Charles County, Missouri, as shown on the attachment marked as Exhibit A, which is incorporated herein by reference.

(3) COSTS: All costs associated with the construction of the proposed sidewalk improvements, including, but not limited to, signing, traffic signals, and traffic control during construction, will be borne entirely by the Entity, with no cost incurred by the Commission.

(4) PLANS: The Entity shall have detailed plans prepared at no cost to the Commission, which are to be submitted to the Commission's District Engineer for the Commission's review and approval. The Commission's District Engineer, in his/her sole discretion, may require modifications to the plans prior to approving the plans.

(5) **TRAFFIC CONTROL DEVICES:** All pavement marking, signs, and traffic signals installed with the proposed improvements shall be in accordance with the latest revision of the *Manual on Uniform Traffic Control Devices for Streets and Highways*.

(6) **RELOCATION:** The Entity shall secure the removal, relocation or adjustment of any public or private utilities located on private easements or public right-of way, if the construction of the herein contemplated improvements so required, without cost to the Commission.

(7) **INSPECTION:** The Entity will allow inspection of the construction and maintenance activities of the herein contemplated improvements by the Commission's District Engineer, or his authorized representative, at any time and shall take no attempts to prevent said inspection. Within thirty (30) days following notice by the Entity to the Commission that construction is complete, the Commission will inspect the work to determine that it is acceptable. The sidewalk improvements will not be placed in operation until the Commission authorizes.

(8) **INDEMNIFICATION:**

(A) To the extent allowed or imposed by law, the Entity 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 Entity's wrongful or negligent performance of its obligations under this Agreement.

(B) The Entity will require any contractor procured by the Entity 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 named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities (\$650,000 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.

(C) 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.

(9) **OWNERSHIP AND MAINTENANCE:** All improvements made pursuant to this Agreement within the state-owned right-of-way shall become the Commission's property. The Entity, at its sole cost and expense, is responsible for maintaining all sidewalks constructed or installed pursuant to this Agreement in fully operational, safe and aesthetically acceptable condition. All future alterations, modifications, or maintenance of the sidewalk improvements will be the responsibility of the Entity. Maintenance by the Entity will include, but is not limited to, crack repair, patching holes, removing litter, debris, trash, and leaves, and removal of snow and ice (through methods approved by the Commission). All sidewalks constructed pursuant to this Agreement shall be maintained in a condition safe for use of the sidewalks by the general public at all times. If the Entity fails to maintain the sidewalks in a safe condition, the Commission may cancel this Agreement and remove the sidewalks from Commission right of way or the Commission may maintain the sidewalks at the Entity's cost and expense.

(10) **PERMITS:** Before beginning work, the Entity shall secure from the Commission's District Engineer a permit for the proposed improvement. The Entity shall comply with any additional conditions placed on the permit by the Commission.

(11) **BOND:** The Entity shall secure sufficient bond, as determined by the Commission's District Engineer or his authorized representative, for the construction of the proposed improvement on Commission right-of-way.

(12) **CONSTRUCTION OF IMPROVEMENTS:** All construction of the proposed improvements shall be according to the latest editions of the Missouri Highways and Transportation Commission's *Standard Specifications for Highway Construction*, Standard Plans for Highway Construction, and the Missouri Department of Transportation's *Approved Products List for Traffic Signals and Highway Lighting*.

(13) **AMENDMENTS:** Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representative of the Entity and the Commission.

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

(15) **AUDIT OF RECORDS:** The Entity 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.

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

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

(18) MISSOURI NONDISCRIMINATION CLAUSE: The Entity shall comply with all state and federal statutes applicable to Entity relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of the Civil Rights Act of 1964 as amended (42 U.S.C. Sections 2000d and 2000e, *et seq.*); and with any provision of the "Americans with Disabilities Act" (42 U.S.C. Section 12101, *et seq.*).

(19) 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.

(20) 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.

(21) 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 Entity.

(22) NO INTEREST: By constructing and maintaining the sidewalk improvements on Commission right of way, the Entity gains no interest in Commission right-of-way whatsoever. The Commission shall not be obligated to keep the constructed improvements in place if the Commission, in its sole discretion, determines removal or modification of the improvements is in the best interests of the state highway system. In the event the Commission decides to remove the improvements, the Entity shall not be entitled to a refund of the funds expended by the Entity pursuant to this Agreement.

(23) 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.

(24) 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.

(25) **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.

(26) **DURATION:** Unless otherwise terminated pursuant to (9) or (16), above, or through mutual agreement of the parties, this Agreement shall be in effect for a continuing duration upon execution of this Agreement.

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

Executed by the Entity on 2024-05-14 | 8:38 AM CDT (DATE).

Executed by the Commission on 2024-05-14 | 1:37 PM CDT (DATE).

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

By DocuSigned by:
Eric E. Schroeter
6F8CCFE8828E498...

Title Assistant Chief Engineer

CITY OF WELDON SPRING

By DocuSigned by:
Donald D. Licklider
ER3E17503EB45E

Title Mayor

ATTEST:

DocuSigned by:

A4866CD7896249B...

Secretary to the Commission

ATTEST:

By DocuSigned by:
William C. Hanks
8D01B1495E83437

Title city clerk

Approved as to Form:

DocuSigned by:
Erin Smith
7F858789B9C...

Commission Counsel

DocuSigned by:
Donald C. Stollberg
008E08328BE4E4

Title City Administrator

Ordinance Number: _____