

BILL NO. 2024-051

ORDINANCE NO. 8673

A SPECIAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI, AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR MUNICIPAL AGREEMENT

WHEREAS, the Missouri Highways and Transportation Commission (hereinafter "Commission") has proposed an agreement for public improvements within the City's limits, which includes the temporary detouring of traffic for construction purposes; and

WHEREAS, the general location of the public improvement and detour route is shown on an attached sketch marked "Exhibit A," which is incorporated herein by reference and made a part of this Agreement; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager or his designee is hereby authorized and directed to execute on behalf of the City of Nevada, Missouri, a Municipal Agreement with the Missouri Highways and Transportation Commission for the public improvement project as outlined, including the detour route shown in "Exhibit A," which is attached.

SECTION 2. The City of Nevada, Missouri, hereby grants the Commission the right to use the right-of-way of public roads, streets, alleys, and any other property owned by the City as necessary for the construction and maintenance of the public improvement described in the Agreement.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Nevada, Missouri, this 19th day of November 2024.



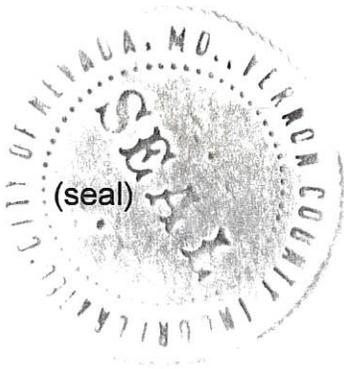
ATTEST:


CYNTHIA DYE, CITY CLERK


GEORGE C. KNOX, MAYOR

CERTIFICATION

I, Cynthia Dye, the undersigned City Clerk of the City of Nevada, Missouri, hereby certify that the attached copy of **Ordinance No. 8673** adopted by the City Council of the City of Nevada on November 19, 2024, is a true and correct copy, as the same appears of record in my office and that the same has not been amended or repealed.



City of Nevada
State of Missouri


Cynthia Dye, City Clerk

Signed and sealed this 21st day of November 2024.

CCO Form: DE11
Approved: 04/93 (CEH)
Revised: 03/24 (TLP)
Modified:

Municipal Agreement
Route: RT W
County: Vernon
Job No.:7P3485

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
MUNICIPAL AGREEMENT**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Nevada, 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 W, Vernon County, Job No. 7P3485 shall consist of replacement of bridge Y0186 with the addition of a shared use path.

(2) IMPROVEMENT WITHIN CITY: The improvement within the City is located as follows:

On Atlantic Street from its intersection with RT W, east 0.71 miles to N Osage Blvd. Then North along N Osage Blvd, 0.53 miles, to E Highland Ave. Then west along E Highland Ave, 0.73 miles to RT W. Length of detour on city routes is 1.97 miles (hereafter "the detour route")

(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 and detour route 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.7P3485

(6) 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.

(7) 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.

(8) RIGHT-OF-WAY ACQUISITION: No acquisition of additional right-of-way is anticipated in connection with Job No. 7P3485 or contemplated by this Agreement.

(9) UTILITY RELOCATION:

(A) The Commission and the City shall cooperate to secure the temporary or permanent removal, relocation, or adjustment of public utilities or private lines, poles, wires, conduits, and pipes located on the right-of-way of existing public ways as necessary for construction of the improvement and the cost shall be borne by such public utilities or the owners of the facilities except where the City is by existing franchise or agreement obligated to pay all or a portion of such cost, in which case the City will pay its obligated portion of the cost.

(B) The Commission shall secure the removal, relocation, or adjustment of any public or private utilities located upon private easements and shall pay any costs incurred therein.

(C) It is understood and agreed by the parties to this Agreement that no city-owned utility facilities will require relocation or adjustment in connection with this improvement, but that should utility facilities be discovered at any time during development or construction of this improvement, relocation or adjustment of the same will be done and performed under a supplemental agreement covering the subject, and in accordance with Commission policy then in effect on division of costs for adjustment of utility facilities.

(D) In cases of public utilities owned by the City which must be moved, adjusted, or altered to accommodate construction of this improvement, and such city-owned utilities, poles, wires, conduits, and pipes are located within the present city limits and located on an existing city street, not state highway right-of-way, but being taken over by the Commission as a part of its highway right-of-way, the City will perform the necessary removal, adjustment, alterations and relocation, and the Commission will reimburse the City except as otherwise provided. The City shall perform the removal, adjustment, alterations and relocation in accordance with the detail plans, estimates of costs and bills of materials prepared by the City in accordance with Federal Aid Policy Guide, Title 23 CFR Subchapter G, Part 645, Subpart A (FAPG 23 CFR 645A), dated December 9, 1991 and any revision of it, and approved by the Commission's District Engineer, and shall perform all work and keep the records of the costs in accordance with FAPG 23 CFR 645A and its revisions. Upon the completion of any such work and on receipt by the Commission of the original and four copies of a bill for the actual costs

incurred by the City in making any such removal, adjustment, alteration and relocation, the Commission shall reimburse the City for the actual cost necessitated by construction of this public improvement. The Commission's obligation toward the cost of any such removal, adjustment, alteration and relocation shall extend only to those costs incurred in accordance with FAPG 23 CFR 645A and its revisions.

(E) Should it be necessary to alter, relocate or adjust any city-owned utility facilities outside the present city limits on public right-of-way or on state highway right-of-way within or outside the city limits or within the right-of-way of a public way other than a city street or alley, the alteration, relocation, or adjustment shall be made by the City at its cost.

(F) The City agrees that any installation, removal, relocation, maintenance, or repair of public or private utilities involving work within highway right-of-way included in this project shall be done only in accordance with the general rules and regulations of the Commission and after a permit for the particular work has been obtained from the Commission's District Engineer or his authorized representative. Similarly, the City will allow no work on the highway right-of-way involving excavation or alteration in any manner of the highway as constructed, including but not limited to driveway connections, except in accordance with the rules and regulations of the Commission and only after a permit for the specific work has been obtained from the Commission's District Engineer or his authorized representative. The City shall take whatever actions that are necessary to assure compliance with this Subsection.

(10) LIGHTING: 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.

(11) 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.

(12) 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. The City shall be responsible for receiving and disposing of storm and surface water discharged from those drainage facilities which the Commission constructs within the limits of highway right-of-way to the extent of the City's authority and

control of the storm sewer facilities or natural drainage involved.

(13) 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.

(14) 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.

(15) MAINTENANCE:

(A) Except as provided in this Agreement, upon completion of the improvement, the Commission will maintain all portions of the improvement within the Commission owned right-of-way. The Commission will remove snow from the traveled portion of the highway using a snowplow or chemical means. Maintenance by the Commission shall NOT include maintenance or repair of water supply lines, sanitary or storm sewers (except those storm sewers constructed by the Commission to drain the highway), or city-owned utilities within the right-of-way.

(B) The Commission shall make an assessment of the existing condition of the entire length of the detour route. The condition assessment shall consist of digital photographs of noted key defects and deterioration and video recording of the entire length of the detour route. Upon removal of the detour, the commission shall reassess the pavement condition and make repairs to any pavement damaged during the detour.

(16) 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.

(17) CITY TO MAINTAIN: Upon completion of construction of this improvement and termination of the detour route, the City shall accept control and maintenance of the detour route that was temporarily accepted as part of the State Highway System for the purposes of this project pursuant to paragraph (16) 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 and completion of repairs as called for in paragraph (15).

(18) 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.

(19) 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.

(20) 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.

(21) 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.

(22) 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.

(23) 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.

(24) 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.

(25) 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.

(26) COMMISSION REPRESENTATIVE: The Commission's Southwest 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.

(27) CITY REPRESENTATIVE: The City's Mayor 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.

(28) **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) To the City:
City of Nevada
Attn: George Knox, Mayor
110 S Ash Street
City of Nevada, MO 64772
Email:gknox@nevadamo.gov
Facsimile No: (417)381-1938

(B) To the Commission:
Missouri Department of Transportation
Attn:Stacy Reese, Southwest District Engineer
3025 E Kearney
Springfield, MO 65803
Email: Stacy.reese@modot.mo.gov
Facsimile No: (417)895-7610

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.

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

(30) **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.

(31) **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.

(32) **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.

(33) **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.

(34) 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.

[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 2024-12-03 | 5:45 PM PST (Date).

Executed by the Commission on 2024-12-09 | 6:46 AM CST (Date).

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

City of Nevada

DocuSigned by:
Eric Schroeter
By: 5F8CCFE9B29E499...

Signed by:
George Knox
By: F96A50A14BE341E...

Title: Assistant Chief Engineer

Title: Mayor, City of Nevada

ATTEST:

ATTEST:

DocuSigned by:
Paula Hoban
By: A4666CD7996249B

Signed by:
Corathia Dye
By: C6DB221A608D42A

Secretary to the Commission

Title: city clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

DocuSigned by:
Dannett Gallavanti
By: F3EA3BFA87F8407...
Commission Counsel

By: _____

Title: _____

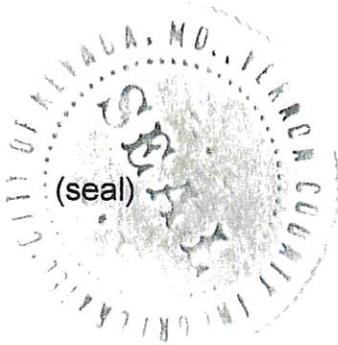
Ordinance Number 8673

EXHIBIT A- Location

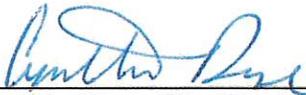


CERTIFICATION

I, Cynthia Dye, the undersigned City Clerk of the City of Nevada, Missouri, hereby certify that the attached copy of **Ordinance No. 8673** adopted by the City Council of the City of Nevada on November 19, 2024, is a true and correct copy, as the same appears of record in my office and that the same has not been amended or repealed.



City of Nevada
State of Missouri


Cynthia Dye, City Clerk

Signed and sealed this 21st day of November 2024.

BILL NO. 2024-051

ORDINANCE NO. 8673

A SPECIAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI, AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR MUNICIPAL AGREEMENT

WHEREAS, the Missouri Highways and Transportation Commission (hereinafter "Commission") has proposed an agreement for public improvements within the City's limits, which includes the temporary detouring of traffic for construction purposes; and

WHEREAS, the general location of the public improvement and detour route is shown on an attached sketch marked "Exhibit A," which is incorporated herein by reference and made a part of this Agreement; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager or his designee is hereby authorized and directed to execute on behalf of the City of Nevada, Missouri, a Municipal Agreement with the Missouri Highways and Transportation Commission for the public improvement project as outlined, including the detour route shown in "Exhibit A," which is attached.

SECTION 2. The City of Nevada, Missouri, hereby grants the Commission the right to use the right-of-way of public roads, streets, alleys, and any other property owned by the City as necessary for the construction and maintenance of the public improvement described in the Agreement.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Nevada, Missouri, this 19th day of November 2024.



ATTEST:

Cynthia Dye
CYNTHIA DYE, CITY CLERK

George C. Knox
GEORGE C. KNOX, MAYOR

Certificate Of Completion

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Source Envelope:
Document Pages: 12
Certificate Pages: 6
AutoNav: Enabled
Envelope Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Completed

Envelope Originator:
Brittany Mitchell
1860 Michael Faraday Drive
Suite 100
Reston, VA 20190
Brittany.Mitchell@modot.mo.gov
IP Address: 168.166.80.221

Record Tracking

Status: Original
10/18/2024 11:20:38 AM

Holder: Brittany Mitchell
Brittany.Mitchell@modot.mo.gov

Location: DocuSign

Signer Events

George Knox
gknox@nevadamo.gov
Mayor, City of Nevada
Security Level: Email, Account Authentication (Optional), Access Code

Signature

Signed by:

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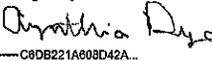
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Cynthia Dye
cityclerk@nevadamo.gov
City Clerk
Security Level: Email, Account Authentication (Optional), Access Code

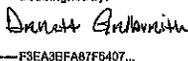
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Danett Galbraith
danett.galbraith@modot.mo.gov
Regional Counsel - SW
Security Level: Email, Account Authentication (Optional)

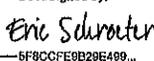
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Eric Schroeter
eric.schroeter@modot.mo.gov
Assistant Chief Engineer
Missouri Department of Transportation
Security Level: Email, Account Authentication (Optional)

DocuSigned by:

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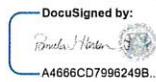
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Electronic Record and Signature Disclosure:
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Signer Events

Pamela J. Harlan - MHTC
 pamela.harlan@modot.mo.gov
 Secretary to the Commission
 Missouri Department of Transportation
 Security Level: Email, Account Authentication
 (Optional)

Signature

Signature Adoption: Uploaded Signature Image
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Timestamp

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In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp**

Mary Wilson
 mwilson@nevadamo.gov
 Security Level: Email, Account Authentication
 (Optional)

COPIED

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Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Dana Kaiser
 dana.kaiser@modot.mo.gov
 Senior Executive Assistant
 Missouri Department of Transportation
 Security Level: Email, Account Authentication
 (Optional)

COPIED

Sent: 12/9/2024 6:46:51 AM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Jennifer Jorgensen
 jennifer.jorgensen@modot.mo.gov
 Asst Secretary to the Commission
 MoDOT
 Security Level: Email, Account Authentication
 (Optional)

COPIED

Sent: 12/9/2024 6:46:51 AM

Electronic Record and Signature Disclosure:
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Witness Events**Signature****Timestamp****Notary Events****Signature****Timestamp****Envelope Summary Events****Status****Timestamps**

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Envelope Summary Events**Status****Timestamps**

Certified Delivered
Signing Complete
Completed

Security Checked
Security Checked
Security Checked

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12/9/2024 8:07:22 AM
12/9/2024 8:07:22 AM

Payment Events**Status****Timestamps****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.