

CHAPTER I
GENERAL INFORMATION

CCO FORM: DE11
Approved: 4/93 (CEH)
Revised: 7/01 (BDG)
Modified:

Route _____, _____ County
Job No. _____
City of _____
Municipal Agreement

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 _____, 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:

**This Agreement contains italicized directions for the drafter when preparing the Agreement. Once the Agreement is prepared, be sure to delete all instruction lines and be sure that all paragraphs and subparagraphs are in numerical or alphabetical order*

(1) IMPROVEMENT DESIGNATION: The public improvement designated as Route _____, _____ County, Job No. _____ shall consist of _____.

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

**Description Example: Beginning at Station 100+00, a point 568 feet north of the northeast corner of Section 6, Township 23 North, Range 3 East, run in a generally southerly direction along existing Route 179 to Station 700+25, a point where the centerline of present Route 179 intersects the south city limits. Length of improvement within city is (express in miles or feet).*

**(NOTE: It is important that the improvement within the city be referenced to established reference points such as existing highway, street, and railroad intersections and so on, which will be meaningful to members of the city council and others reading the description or hearing it read. All station numbers listed in the description must be shown on the town sketch)*

(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 that the Commission shall provide without cost to the City, except as otherwise provided in this Agreement, a highway for traffic in the City and the Commission shall so design and construct the highway to serve operating necessities and requirements of local and through traffic.

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

**Close and Vacate Streets: Use the following paragraph if any streets are to be temporarily closed or permanently vacated.*

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(7) CLOSE AND VACATE STREETS: The City shall duly close and vacate all city streets or roads, or parts thereof, which may be necessary to permit the construction of the project in accordance with the detailed plans. Whenever the Commission deems it necessary to close any street or road permanently or temporarily during construction, the City shall be advised in time to make provisions for the diversion and rerouting of traffic.

**Right-of-Way Acquisition is covered in paragraph (8). Use subparagraph (A) with 100% right-of-way by the Commission. When the City participates in the cost, delete the underlined words and add an appropriate sentence at the end. Example: "The City shall reimburse the Commission for the actual costs incurred in the right-of-way acquisition."*

Use on subparagraph (B) if no right-of-way is involved. Show the Job No. in the appropriate space.

When access control is acquired, use subparagraph (C) with right-of-way cost participation by the City or others. Use subparagraph (D) with 100% right-of-way by the Commission.

(8) RIGHT-OF-WAY ACQUISITION:

(A) Upon approval of all agreements, plans and specifications by the Commission and the Federal Highway Administration (FHWA), the Commission will file copies of the plans with the city clerk of the City and the county clerk of the county and proceed to acquire at its expense, at no cost or expense to the City, any necessary right-of-way required for the construction of the improvement.

(B) No acquisition of additional right-of-way is anticipated in connection with Job No. _____ or contemplated by this Agreement.

(C) The portion of state highway covered by this Agreement shall be a _____ access highway between stations _____. Rights of access between the highway and abutting property shall be procured and the cost classified as right-of-way cost and paid for in the same manner as other right-of-way costs. Only such rights of ingress and egress shall be allowed as indicated on the plans approved by the Commission and FHWA.

(D) The portion of state highway covered by this Agreement shall be a _____ access highway and rights of access between the highway and abutting property shall be procured and the cost classified as right-of-way cost and paid for by the Commission in the same manner as other right-of-way costs. Only such rights of ingress and egress shall be allowed as indicated on the plans approved by the Commission and FHWA.

**Utility Adjustments: Include only the following subparagraphs as necessary to cover the various utility adjustments or relocations connected with this improvement. If there is any doubt, include it.*

- (A) *Privately-owned facilities on existing public ways.*
- (B) *Privately-owned facilities on privately-owned right of way.*
- (C) *No adjustment necessary to city-owned facilities.*
- (D) *City-owned facilities on city street.*
- (E) *City-owned facilities inside present city limits on state right-of-way or outside present city limits on public way.*
- (F) *Covers excavation permits, include in all agreements.*

(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.

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(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 paragraph.

**Lighting Provisions: Include appropriate subparagraph-(A) for continuous or (B) for basic lighting. One should be included to handle future lighting. Modify as necessary to cover any cost paid by the City.*

(10) 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.

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(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.

**Drainage Provisions: Use (B) within the jurisdiction of the St. Louis Metropolitan Sewer District, use (A) in all others.*

(12)DRAINAGE:

(A) 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.

(B) 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.

(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.

**Commencement of Work: In paragraph (14), delete underlined words if there is no right-of-way acquisition.*

(14)COMMENCEMENT OF WORK: After acquisition of the necessary right-of-way, 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 and right-of-way 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.

**Maintenance: In paragraph (15), use subparagraph (C) only if it is appropriate. Use subparagraph (D) if sidewalks currently exist or if sidewalks will be constructed as part of the project.*

(15)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) Effective upon completion of construction, the Commission shall transfer ownership to the City, and the City will accept the portions of existing highways within City replaced by this improvement.

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(D) The City shall inspect and maintain the sidewalks constructed by this project in a condition reasonably safe to the public and, to the extent allowed by law, shall indemnify and hold the Commission harmless from any claims arising from the construction and maintenance of said sidewalks.

**Use Paragraphs (16) and (17) only if a City road is temporarily being taken into the State system.*

(16)ACCEPTED WITHIN HIGHWAY SYSTEM: Effective upon execution of this Agreement, the Commission 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, the City shall accept control and maintenance of the improved street 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 under this Agreement shall cease upon completion of the improvement.

(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 action that are necessary to enforce this paragraph.

(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 by law, the City shall be responsible for injury or damages as a result of any services and/or goods rendered by or through the City under the terms and conditions of this Agreement. In addition to the liability imposed upon the City on the account of personal injury, bodily injury, including death, or property damage, suffered as a result of the City's performance under this Agreement, the City assumes the obligation to save harmless the Commission, including its agents, employees and assigns, and, to the extent allowed by law, to indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission, including legal fees. The City also agrees to hold harmless the Commission, including its agents, employees and assigns, from any wrongful or negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the City for any purpose under this Agreement, and, to the extent allowed by

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law, to indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission.

(24)AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved on or between the duly authorized representatives of the City and Commission.

(25)COMMISSION REPRESENTATIVE: The Commission's _____ 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.

(26)CITY REPRESENTATIVE: The City's _____ 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.

(27)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:
[NOTE: City's Representative Designated in Paragraph 26]

Facsimile No: _____

(B) To the Commission:
[NOTE: Commission Representative Designated in Paragraph 25]

Facsimile No: _____

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.

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

(29)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.

(30)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.

(31)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.

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(32) 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.

(33) 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.

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

Executed by the City this ___ day of _____, 20__.

Executed by the Commission this ___ day of _____, 20__.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

CITY OF _____

By _____

Title _____

Title _____

ATTEST:

ATTEST:

By _____

Secretary to the Commission

Title _____

Approved as to Form:

Approved as to Form:

Commission Counsel

Title _____

Ordinance Number _____