

CCO Form: DE07  
 Approved: 07/97 (DPP)  
 Revised: 04/18 (BDG)  
 Modified: 07/19 (BDG)

Cost Apportionment Agreement  
 Route: Interstate 70  
 Counties: Cooper and Boone  
 Job No.: J513358  
 2019-06-50225

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
 COST APPORTIONMENT AGREEMENT**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Columbia, Missouri (hereinafter, "Entity").

WITNESSETH:

WHEREAS, the Commission owns and maintains Interstate 70 in Cooper and Boone Counties as part of the State Highway System;

WHEREAS, the parties desire the improvement or reconstruction of Interstate 70, extending generally 4.2 miles from approximately Sta. 1410+00 to approximately Sta. 125+00 (Equation: 1504+89.52 BK = 0+00.00 AH); and

WHEREAS, the Entity is willing to provide assistance in the construction or reconstruction of the improvements, subject to the terms and conditions herein.

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

(1) PURPOSE: The purpose of this Agreement is to co-ordinate the participation by the Entity in the cost of the Commission's public improvement for Interstate 70, in the Counties of Cooper and Boone, designated as Job No. J513358. This public improvement will involve the replacement of the bridge over the Missouri River (L0962) near Rocheport, Missouri.

(2) LOCATION: The transportation improvement that is the subject of this Agreement is contemplated at the following location:

*Beginning in Cooper County at approximately Station 1410+00, near the Route 179 interchange, run in a generally easterly direction along existing Interstate 70 to approximately Station 125+00 at State Route BB interchange in Boone County. (Equation: 1504+89.52 BK = 0+00.00 AH); Length of improvement is 21,990 feet (approximately 4.2 miles).*

The general location of the public improvement is shown on attachment marked "Exhibit A" and incorporated herein by reference.

(3) 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 representatives of the Entity and the Commission.

(4) COMMISSION REPRESENTATIVE: The Commission's Central District's 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.

(5) 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 acquire right-of-way as needed for the project in accordance with Commission requirements.

(C) 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.

(D) 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.

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

(A) The Entity shall remit a check in the amount of Two Million Dollars (\$2,000,000.00), no more, no less, no later than one month prior to the Commission's award of the project. This check should be made payable to *Director of Revenue - Credit State Road Fund*. If the Entity fails to make the deposit, the Commission is under no obligation to continue with the project.

(B) The Commission will be responsible for obtaining the remainder of the total project cost, currently estimated at two-hundred forty million dollars (\$240,000,000.00). Of this amount, the Commission shall provide two-hundred thirty-five million, eight hundred thousand dollars (\$235,800,000.00). The additional funds currently estimated at four million two hundred thousand dollars (\$4,200,000.00) will be

provided by other entities as detailed in Exhibit B.

(7) COMMINGLING OF FUNDS: The Entity agrees that all funds deposited by the Entity, 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 *State Road Fund*.

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

(9) 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.

(10) APPROVAL OF FHWA AND AVAILABILITY OF FUNDS: This Agreement is entered into subject to the approval of the Federal Highway Administration and is further subject to the availability of federal and state funds for this construction.

(11) 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 this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Entity.

(12) 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.

(13) 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.

(14) 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.

(15) NO INTEREST: By contributing to the cost of this project or improvement, the Entity gains no interest in the constructed roadway or improvements 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 Entity shall not be entitled to a refund of the funds contributed by the Entity pursuant to this Agreement.

(16) 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.

(17) 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.

(18) 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 Entity 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 Entity with the Commission pursuant to this Agreement. In the event the Commission agrees to grant the Entity'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 Entity'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 Entity and the Commission.

(19) 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.

(20) 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.

(21) 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.

(22) 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 immediately after delivery in person, or by facsimile or electronic mail addressed as follows:

Commission to: Missouri Department of Transportation  
Attn: David Silvester, District Engineer  
1511 Missouri Boulevard

Jefferson City, MO 65102  
Facsimile No: (573) 751-8267  
Email: [David.Silvester@modot.mo.gov](mailto:David.Silvester@modot.mo.gov)

Entity to: City of Columbia  
Mr. John Glascock, City Manager  
701 E. Broadway, P.O. Box 6015  
Columbia, Missouri 65205  
Facsimile No.: 573-442-8828  
Email: [cmo@CoMo.gov](mailto:cmo@CoMo.gov)

or to such other place as the parties may designate in accordance with this Agreement.

(23) 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.

(24) 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 (\$500,000 per claimant and \$3,000,000 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.

*[Remainder of Page Intentionally Left Blank; Signatures and Execution Appear on Following Page]*

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

Executed by Entity this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed by the Commission this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION**

**CITY OF COLUMBIA, MISSOURI** 

By \_\_\_\_\_  
Title \_\_\_\_\_

By \_\_\_\_\_  
John Glascock  
Title Interim City Manager

ATTEST:

\_\_\_\_\_  
Secretary to the Commission

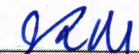
ATTEST:

By \_\_\_\_\_  
Sheela Amin  
Title City Clerk

APPROVED AS TO FORM:

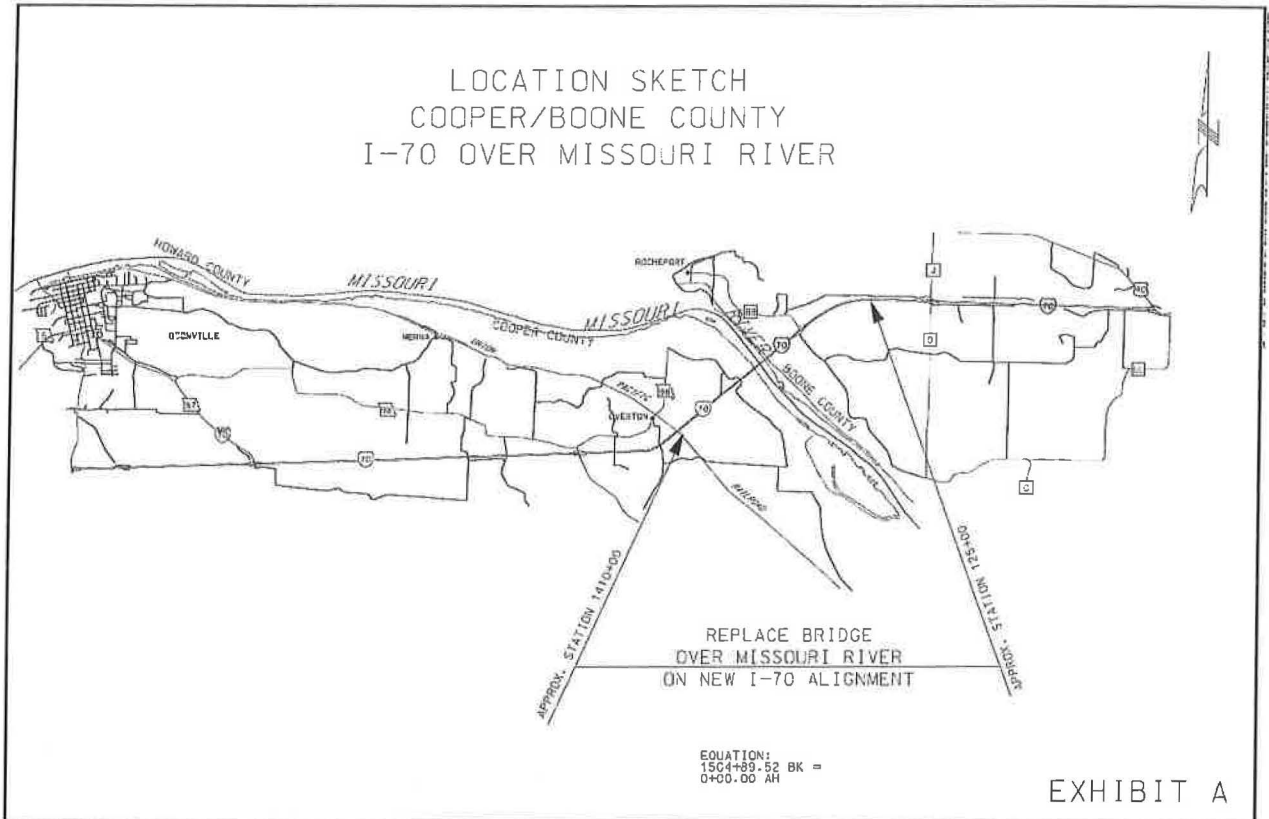
\_\_\_\_\_  
Commission Counsel

APPROVED AS TO FORM:

By \_\_\_\_\_  
Nancy Thompson  
Title City Counselor 

Ordinance Number \_\_\_\_\_

# EXHIBIT A





## Exhibit B

**Project Name:** I-70 Cooper/Boone County

**MoDOT Project Number:** J5I3358

**Description:** Bridge Replacement over Missouri River near Rocheport

**Total Project Cost Estimate:** \$240,000,000.00

**Local Entity:** City of Columbia

	Current Estimate	Cost Share/Participation Eligible
Preliminary Engineering	\$3,030,000.00	\$
Right of Way Acquisition (including easements)	\$6,100,000.00	\$
Right of Way Incidentals	\$78,000.00	\$
Utilities	\$4,850,000.00	\$
Construction	223,842,000.00	\$4,200,000.00
Construction Engineering	\$2,100,000.00	\$
<b>Total</b>	<b>\$240,000,000.00</b>	<b>\$4,200,000.00</b>

### Project Responsibilities:

Preliminary Engineering Oversight	MoDOT
Right of Way Acquisition and Utilities	MoDOT
Request for Proposals (RFP)	MoDOT
Inspection and Construction Oversight	MoDOT

### Financial Responsibilities:

MoDOT	\$235,800,000.00	98.25%
City of Columbia	\$2,000,000.00	0.83%
Boone County	\$2,000,000.00	0.83%
City of Boonville	\$100,000.00	.042%
Cooper County	\$100,000.00	.042%
<b>Total:</b>	<b>\$240,000,000.00</b>	<b>100%</b>

**How are overruns and underruns handled?**

**The Commission is responsible for all overruns/underruns for the project.**