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Approved: 1/20 (MWH)  
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Modified:

Entity: City of Columbia  
Project Number: GOVCS06

## MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION GOVERNOR'S TRANSPORTATION COST SHARE AGREEMENT

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

WITNESSETH:

WHEREAS, pursuant to Section 4.430 of Truly Agreed to and Finally Passed House Bill 4 (hereinafter, "TAFP HB 4 2019") from the 2019 legislative session, the Missouri General Assembly (**GA**) has appropriated Fifty Million dollars (\$50,000,000) in general revenue funds to the Commission to be expended for road and bridge projects under the *Governor's Transportation Cost Share Program (Program)*; and

WHEREAS, pursuant to Section 4.435 of Truly Agreed to and Finally Passed House Bill 2004 (hereinafter, "TAFP HB 2004") from the 2020 legislative session, the Missouri GA re-appropriated thereby reducing the funds to Twenty-five Million dollars (\$25,000,000) in general revenue funds to the Commission to be expended for road and bridge projects under the Governor's Transportation Cost Share Program; and

WHEREAS, pursuant to the January 6, 2021 Commission meeting, the Commission to set aside Twenty-five million (\$25,000,000) of state road funds to be expended for road and bridge projects under the Governor's Transportation Cost Share Program; and

WHEREAS, the Entity applied to the Commission for participation in the *Governor's Transportation Cost Share Program*; and

WHEREAS, on January 8, 2020, the Commission approved the Entity's application to the *Governor's Transportation Cost Share Program* subject to the terms and conditions of this Agreement.

WHEREAS, the Commission will administer these Program funds to the Entity with the understanding that such funds will be used for the purpose of funding road and bridge improvement projects, as further described within TAFP HB 4 2019 and TAFP HB 2004 and within this Agreement.

WHEREAS, the Entity desires to construct certain improvements, more specifically

described below, using federal funds; and

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

(1) AMOUNT OF PROGRAM: The total amount of this Program, as provided within Section 4.430 of TAFP HB 4 2019, Section 4.435 of TAFP HB 2004, and the January 6, 2021 Commission meeting, is Fifty Million dollars (\$50,000,000). The parties to this Agreement agree that the Commission will administer funds from the Program in an amount not to exceed Fifty Million dollars (\$50,000,000). These funds made available from the Commission to the Entity are subject to appropriations made by the GA and gubernatorial release of such funds appropriated to the Commission. In the event state funds appropriated within Section 4.430 of TAFP HB 4 2019 and/or Section 4.435 of TAFP HB 2004 are reduced so that the Commission is incapable of completely satisfying its obligations to the Entity, the Commission may recompute and reduce this Program. The designation of this program does not create a lump sum quantity contract, but rather only represents the amount of funding available for eligible expenses. In no event will the Commission reimburse the Entity for improvements or work that are not actually performed. The release of all funding under this Agreement is subject to review and approval of all project expenses to ensure that they are qualifying expenses. These funds are for construction contract costs only. Preliminary engineering, environmental services, right of way services and acquisitions, utilities, construction inspection and other costs shall not receive the funds from HB 4 Section 4.430 or HB 2004 Section 4.435. The Entity shall be solely responsible for all ineligible costs.

(2) REQUEST FOR RE-APPROPRIATION OF FUNDS AND EXTENSION OF TIME FOR COMPLETION OF PROJECT: It is anticipated the Twenty-Five Million dollars (\$25,000,000) provided within Section 4.435 of TAFP HB 2004 will not be fully expended by June 30, 2021. Therefore, the Commission will request for the re-appropriation and extension of time. If the re-appropriation is not approved, the Entity has the discretion to complete the construction of the project at the Entity's expense and at no cost and expense whatsoever to the Commission.

(3) PROGRAM TIME PERIOD: This Agreement provides funding for expenditures for the *Governor's Transportation Cost Share Program* projects to the Entity for State Fiscal Year (**SFY**) 2021 (July 1, 2020 - June 30, 2021). In the event the funds are re-appropriated by the GA into another SFY, the Program Time Period will automatically be adjusted to reflect the new SFY.

(4) PURPOSE: The purpose of this Agreement is to provide financial assistance to the Entity in accordance with Section 4.435 of TAFP HB 2004 and the January 6, 2021 Commission meeting to coordinate the participation by the Commission in the cost of the Entity's project GOVCS06. The purpose is for a Cost Share Program with public and private entities for public road and bridge projects satisfying a transportation need, provided that these funds shall not supplant, and shall only

supplement, the current planned allocation of road and bridge expenditures under the most recently adopted State Transportation and Improvement Plan (**STIP**), including all amendments thereto, as of the date of passage of this bill by the GA. The Entity's responsibilities relating to funding are also outlined in a separate **Missouri Highways and Transportation Commission Federal Aid Demonstration Project Program Agreement** executed by the parties on June 1st, 2020. The Entity shall abide by and carry out the conditions and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273. The Entity shall at all times comply with all applicable FHWA regulations, policies, procedures and directives, as they may be amended or promulgated from time to time during the term of this Agreement. The Entity's failure to comply shall constitute a material breach of this Agreement.

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

Beginning at Station 95+74.58 (the end of the existing Discovery Parkway pavement), a point 133 linear feet northeast of the center of the Discovery Parkway/Discovery Drive intersection, runs in a generally northeast direction through open field to station 172+89.00, a point where the centerline of present Rolling Hills Road is 194 linear feet south of the center of the Rolling Hills Road/New Haven Road intersection. Length of improvement is 7,714.42 linear feet.

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

(6) SCOPE OF WORK: The Entity shall undertake and complete the work described in the Entity's Scope of Work Statement, which is attached and marked as "Exhibit B" and is incorporated herein by reference. The project will be defined by the Entity's Scope of Work Statement.

(7) 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.

(8) COMMISSION REPRESENTATIVE: The Commission'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.

(9) ENTITY REPRESENTATIVE: The Entity's Director of Public Works is designated as the Entity's representative for the purpose of administering the provisions of this Agreement. The Entity's representative may designate by written notice other persons having the authority to act on behalf of the Entity in furtherance of the

performance of this Agreement.

(10) PROJECT RESPONSIBILITIES: With regard to project responsibilities under this agreement, the parties agree as follows:

(A) The Entity shall be responsible for the design, acquisition of right of way, letting of the Project, construction and inspection of the Project. The Entity's responsibility to letting the work for this herein Project includes advertising the project for bids and awarding the construction contract. The Entity shall solicit bids for the herein improvement.

(B) The Commission shall not be responsible for the project design, acquisition of right of way, letting of the project, construction or inspection of the Project.

(C) The Entity shall be responsible for construction of the herein improvement, which includes administration of the construction contract and inspection of the project work.

(D) The Entity shall commence work on the project upon receipt of written notice to proceed from the Commission.

(E) Project Efficiency: The Entity shall proceed with the project in a sound, economical and efficient manner in order to accomplish the items listed in the Scope of Work Statement, Exhibit B, within the prescribed Program Time Period.

(F) Project Inspection: The Commission shall have the right to inspect and review the work performed on this project.

(G) Notification of Change of Conditions: The Entity shall immediately notify Commission, in writing, of any change in conditions or law or of any event which may significantly impair its ability to carry out the project in accordance with the provisions of this Agreement.

(11) REIMBURSEMENT FOR ELIGIBLE EXPENSES: The Commission will reimburse the Entity for eligible construction contract expenses in accordance with Section 4.435 of TAFP HB 2004 based on actual construction contract costs.

(A) The Program funds are only eligible to be used for construction contract costs. All other project costs, including but not limited to preliminary engineering, environmental services, right-of-way services and acquisitions, utilities, construction administration and inspection shall be the responsibility of the Entity. The breakdown details of the estimated total project cost are shown in "Exhibit C," which is attached hereto and incorporated herein by reference. The current construction contract cost estimate is six million one hundred twenty-six thousand nine hundred seventy dollars

(\$6,126,970.00).

(B) The Governor's Transportation Cost Share Program share of the project construction contract cost will be fifty percent (50%) not to exceed three million sixty-three thousand four hundred eighty-five dollars (\$3,063,485.00).

(C) The Entity shall be responsible for the balance of the construction contract costs and all ineligible costs that are not the Commission's responsibility by the terms of this Agreement. in excess of three million sixty-three thousand four hundred eighty-five dollars (\$3,063,485.00).

(D) The Entity may request reimbursement for eligible costs at any time subsequent to the execution of this Agreement by both parties. Requests for reimbursement shall be submitted to the Missouri Department of Transportation (**MoDOT**) monthly and shall be supported with invoices and documentation that its providers were paid in full for the work performed.

(E) The Entity's request for reimbursement must include a construction progress summary that includes an estimated percent complete, list of major items of work completed during the pay period and status of schedule.

(F) It is understood and agreed by and between the parties that the Commission shall make no reimbursement payment which could cause the aggregate of all payments under this Agreement to exceed 50% of construction contract costs up to three million sixty-three thousand four hundred eighty-five dollars (\$3,063,485.00) as approved by the Commission.

(G) Within ninety (90) days of final inspection of the project funded under this Program, the Entity shall provide to the Commission a final payment request and all financial performance and other reports as required by this Agreement.

(H) If the Commission determines that the Entity was overpaid, the amount of overpayment shall be remitted to the Commission.

(I) Reimbursement requests must be submitted by May 31<sup>st</sup> of the Program Time Period to ensure reimbursement.

(12) EXPENDITURE OF PROGRAM FUNDS: All funds not expended by the Entity at the end of the Program Time Period within this Agreement may be redistributed to another Applicant at the discretion of the Commission.

(13) WITHDRAWAL OF PROGRAM OFFER: The Commission reserves the right to amend or withdraw this Program offer at any time prior to acceptance by the Entity.

(14) ENTITY TO MAINTAIN: Upon completion of construction of this improvement, the Entity shall accept maintenance of the improvements made by this

project at no cost and expense whatsoever to the Commission. Any traffic signals installed on highways maintained by the Commission will be turned over to the Commission upon completion of the project for maintenance. Any aesthetic improvements installed on highways maintained by the Commission upon completion of the project will be the sole responsibility of the Entity for maintenance. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(15) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations 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.

(16) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, Entity shall acquire any additional necessary right of way required for the project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act.

(17) ENTITY'S PRELIMINARY PLANS: The Entity shall provide the Commission with plans setting forth the general analysis and explanation of reasons for design choices.

(18) REVIEW OF BIDS AND CONTRACT AWARD: The Entity shall award the contract to the lowest, responsive, responsible bidder. The Commission will review all contractors' bids and concur with the selection of the apparent successful low bidder prior to the Entity awarding the construction contract.

(19) NOTICE TO PROCEED: After the Commission receives copies of the executed construction contract between the Entity and the contractor, the performance and payment bonds, and any other documentation as required by this Agreement, the Commission will authorize the Entity to issue a notice to proceed with construction.

(20) CONSTRUCTION PROGRESS AND INSPECTION REPORTS: The Entity shall provide and maintain adequate, competent and qualified engineering supervision and construction inspection at the project site during all stages of the work to ensure that the completed work conforms with the project plans and specifications. Project oversight by other personnel does not relieve the Entity of this responsibility.

(21) PROMPT PAYMENT: The Commission and the Entity require all contractors to pay all subcontractors and suppliers for satisfactory performance of services in compliance with section 34.057 RSMo, Missouri's prompt payment statute. Pursuant to section 34.057 RSMo, the Commission and the Entity also require the prompt return of all retainage held on all subcontractors after the subcontractors' work is