

CCO Form: MO26  
Approved: 07/14 (MWH)  
Revised: 07/22 (MWH)  
Modified:

Project No. FRE23000304

## MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION AGREEMENT FOR FREIGHT ENHANCEMENT PROGRAM

This AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and City of Columbia-COLT Railroad (hereinafter, "Grantee").

### WITNESSETH:

WHEREAS, the purpose of this Agreement is to provide financial assistance to the Grantee, pursuant to section 226.225 RSMo, and to state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the project will be undertaken and completed.

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

(1) SCOPE OF WORK: Grantee agrees to undertake, carry out, and complete the project, as described in Grantee's **Project Description Statement**, a copy of which is attached as Appendix A to this Agreement and incorporated herein by reference, within the specified project completion time frame in accordance with the terms and conditions of this Agreement.

(2) AMOUNT OF GRANT: The parties to this Agreement agree that the Commission's financial share for this project shall not exceed Fifty-Three and Seven tenths percent (53.7%) of the total cost of this project, or Three Hundred Twenty-Eight Thousand Two Hundred Sixty dollars (\$328,260). Funds made available to the Grantee are subject to appropriations made by the General Assembly, gubernatorial release of such funds appropriated to the Commission, and Commission decisions regarding the allocation of such funds. In the event state funds available to the Commission for freight enhancement projects are reduced so that the Commission is incapable of completely satisfying its obligations to all the Grantees for the current state fiscal year, the Commission may recompute and reduce this grant. The designation of this grant does not create a lump sum quantity contract, but rather only represents the amount of funding available for qualifying expenses. In no event will the Commission provide the Grantee funding for improvements or work that are not actually performed.

(3) COMPLETION OF PROJECT BY GRANTEE:

(A) Permits: The Grantee shall secure all necessary state and federal approvals or permits required to accomplish the construction and maintenance of the

project.

(B) Commencement of Work: The Grantee shall commence work on the project upon receipt of written notice to proceed from the Commission.

(C) Project Efficiency: The Grantee shall proceed with the project in a sound, economical and efficient manner in order to accomplish the items listed in the **Project Description Statement**, Appendix A, within the prescribed time frame.

(D) Compliance With Laws: The Grantee shall proceed with the project in accordance with the provisions contained herein, the **Project Description Statement**, Appendix A, and the attachments hereto, and all applicable laws and regulations.

(E) Information Furnished by the Grantee: The Grantee shall submit to the Commission such data, reports, contracts, records, documents, and other information relating to the project as the Commission may require at any time.

(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 Grantee 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 contract.

(H) Concurrence to Proceed: Grantee costs incurred with the project phases listed below must have prior review and concurrence to proceed from Commission to be eligible for funding, including local match requirements, through this Agreement.

1. Advertisement for Professional Services or Equipment Procurement
2. Notice to Proceed for Professional Services Contract
3. Purchase of Right of Way
4. Plans, Specifications, and Engineer's Estimate (PS&E) for Contractor Services.
5. Advertisement for Contractor Services
6. Contractor Selection
7. Contractor Notice to Proceed; and
8. Contractor Change Orders

(4) PROJECT PERIOD: This Agreement provides funding to the Grantee for the 2023 Fiscal Year (July 1, 2022 to June 30, 2023).

(5) WARRANTY: The construction contract documents and specifications shall not require contractor to warranty work after acceptance by Grantee unless based in latent defects, fraud or gross mistakes as may amount to fraud. Manufacturer's warranties for capital equipment acquired through this project are permitted.

(6) CONTRACTOR QUALIFICATIONS: Grantee may require all contract bidders be prequalified prior to submitting bids on the project. Contract awards where qualifications are considered after the bid opening will not be eligible for reimbursement through the Agreement.

(7) ADVERTISEMENT FOR CONTRACT BIDS: Grantee must post public announcement of the invitation to bid for construction work on Commission's website a minimum of twenty-one (21) days prior to bid opening.

(8) REVIEW OF BIDS AND CONTRACT AWARD: The Commission shall review all contractors' bids and concur with the selection of the apparent successful bidder prior to the Grantee awarding the construction contract.

(9) AUDIT OF RECORDS: The Grantee 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.

(10) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations or for convenience by providing the Grantee 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 Grantee.

(11) PROGRESS REPORTS AND PAYMENTS:

(A) At intervals, not exceeding twice monthly, Grantee shall furnish to the Commission statements or vouchers indicating the items completed on the project and the cost thereof for the preceding period. The Grantee shall clearly indicate on this statement or voucher the amount of the Grantee's obligation and the amount of the Commission's obligation. Grantee's reimbursement request shall include supporting documentation for each expense to verify the following:

1. The goods or service purchased is within the **Project Description Statement**, Appendix A;

2. The vendor who incurred the expenses; and
3. The amount charged for the goods or services.

(B) Grantee shall submit proof of payment to the Commission within thirty (30) days for each expense reimbursed in Paragraph (11)(A). Additional invoices will not be processed by the Commission until the Grantee's documentation is received by and acceptable to the Commission.

(C) The Commission will promptly reimburse the Grantee for eligible expenses on a timely basis subject to Paragraphs (11)(A) and (11)(B).

(D) Progress reports outlining the work completed during the preceding period shall be attached to the statement or voucher requesting payment by the Commission. This report will identify any problems or issues which might prevent the Grantee from the successful accomplishment of the Project Description Statement, Appendix A, by the end of the project period.

(E) Within forty-five (45) days of final inspection of the project funded under this grant, the Grantee shall provide to the Commission a final payment request and all financial performance and other reports as required by the conditions of this grant.

(F) The Commission may, in its sole discretion, perform a final audit of project costs. The Commission shall reimburse the Grantee any moneys due. The Grantee shall refund any overpayments as determined by the final audit.

(12) INDEMNIFICATION:

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

(B) The Grantee will require any contractor procured by the Grantee 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.

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

(14) COMMISSION REPRESENTATIVE: The Department of Transportation's Multimodal Operations Director 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.

(15) GRANTEE'S REPRESENTATIVE: The Grantee, as designated in Paragraph (16)(A), will designate by written notice to the Commission all other persons having the authority to act on behalf of the Grantee in furtherance of the performance of this Agreement.

(16) 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 Grantee:

CITY OF COLUMBIA  
6501 NORTH BROWN STATION RD.  
P.O. BOX 6015  
COLUMBIA, MO, 65205  
Facsimile No: (573)474-8784

(B) To the Commission:

Multimodal Operations Director, MoDOT  
105 W. Capitol  
Jefferson City, MO 65102  
Facsimile No: (573) 526-4709

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.

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

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

(19) BANKRUPTCY: Upon filing for any bankruptcy or insolvency proceeding by or against the Grantee, whether voluntarily, or upon the appointment of a receiver, trustee, or assignee, for the benefit of creditors, the Commission reserves the right and sole discretion to either cancel this Agreement or affirm this Agreement and hold the Grantee responsible for damages.

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

(21) 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.

(22) 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.

(23) NONSOLICITATION: The Grantee warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Grantee, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to annul this Agreement without liability, or in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

(24) DISPUTES: Any disputes that arise under this Agreement shall be decided by the Commission or its representative.

(25) PROFESSIONAL SERVICES BY COMPETITIVE PROPOSALS: Contracts for architectural, engineering and/or land surveying services, as defined in section 8.287

RSMo, shall be procured by competitive proposals, and the procurement process shall comply with sections 8.285-8.291 RSMo. GRANTEE must post public announcement of the invitation for proposals on Commission's website a minimum of twenty-one (21) days.

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

(A) The Grantee shall issue a notice to the contractor within ten (10) days of authorization by the Commission, unless otherwise approved by the Commission.

(B) Any construction work performed prior to the Grantee's issuance of a Notice to Proceed shall not be eligible for funding participation.

(27) CONSTRUCTION OBSERVATION/INSPECTION REQUIREMENTS: In conjunction with submittal of the Notice to Proceed documentation, the Grantee shall provide a construction observation/inspection program setting forth a format for accomplishment of resident observation, construction inspection and overall quality assurance.

(28) CONSTRUCTION PROGRESS AND INSPECTION REPORTS: The Grantee 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 the Commission's project manager or other personnel does not relieve the Grantee of this responsibility.

(A) The Grantee shall require the resident project representative to keep daily construction records and shall submit to the Commission a weekly construction progress and inspection report, completed by the resident project representative. A weekly summary of tests completed shall be included.

(B) Prior to final acceptance, the Grantee shall provide to the Commission a testing summary report bearing the engineer's seal and including a certification from the engineer that the completed project is in compliance with the plans and specifications.

(C) Certification statements from construction contractors must be provided to ensure all workers, material suppliers, etc. have been paid.

(29) CHANGE ORDERS/SUPPLEMENTAL AGREEMENTS: All change orders/supplemental agreements must be submitted to the Commission for approval prior to implementation to ensure funding eligibility. Requests for additional work for items not included in the original bid must be accompanied by a cost analysis to substantiate the proposed costs.

(30) PROMPT PAYMENT: The Commission and the Grantee 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 Grantee also require the prompt return of all retainage held on all subcontractors after the subcontractors' work is satisfactorily completed, as determined by the Grantee and the Commission.

(31) STATE WAGE LAWS: The Grantee and its subcontractors shall pay the prevailing hourly rate of wages for each craft or type of worker required to execute this project work as determined by the Department of Labor and Industrial Relations of Missouri, and they shall further comply in every respect with the minimum wage laws of Missouri. The Grantee shall take those acts which may be required to fully inform itself of the terms of, and to comply with, any applicable state wage laws.

(32) NON-EMPLOYMENT OF UNAUTHORIZED ALIENS: Pursuant to section 285.530 RSMo, no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri. As a condition for the award of any contract or grant in excess of five thousand dollars by the State or by any political subdivision of the State to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall:

(A) By sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. E-Verify is an example of a federal work authorization program. The business entity must affirm its enrollment and participation in the E-Verify federal work authorization program with respect to the employees proposed to work in connection with the services requested herein by providing acceptable enrollment and participation documentation consisting of **completed** copy of the E-Verify Memorandum of Understanding (MOU). For business entities that are not already enrolled and participating in a federal work authorization program, E-Verify is available at <https://www.e-verify.gov/>.

(B) By sworn affidavit, the Grantee affirms that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. A copy of the affidavit referenced herein is provided within this document, attached as Appendix B.

*The Remainder of This Page Is Intentionally Left Blank.*



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


Executed by the Grantee this \_\_\_\_\_.

Executed by the Commission this \_\_\_\_\_

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

CITY OF COLUMBIA  
COLT RAILROAD

\_\_\_\_\_  
Title \_\_\_\_\_

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

Attest:

Attest:

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

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

Approved as to Form:

Approved as to Form:

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

\_\_\_\_\_  
Title \_\_\_\_\_

Ordinance No. \_\_\_\_\_  
(if applicable)

PROJECT DESCRIPTION STATEMENT  
(APPENDIX A)

**Description of the project:** The Freight Enhancement Grant sought now will provide COLT the opportunity to handle the heavier, more cost-efficient freight loads required in the global economy. The suggested improvements demonstrate significant long-term investment and benefits for COLT now and for in the future by bringing the railroad up to industry standards. The scope of work will incorporate the removal and upgrade of aging inferior 90 pound rail and replaced with industry standard 115 pound rail, remove defective ties and install new, add ballast and provide tamping. COLT's capital improvement project will provide upgrades throughout the COLT corridor where problems are identified, with emphasis on CT mile marker 136.37 to 136.87, the weakest portion of the corridor.

SWORN AFFIDAVIT  
(APPENDIX B)

**Certificate Of Completion**

Envelope Id: 8E90A51D7E174542A25C1C730BB40BFA  
Subject: Please DocuSign: 2022-08-71748.pdf  
Source Envelope:  
Document Pages: 11  
Certificate Pages: 6  
AutoNav: Enabled  
EnvelopeId Stamping: Enabled  
Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

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

**Record Tracking**

Status: Original  
8/9/2022 5:03:31 PM

Holder: STACEY FOWLER  
STACEY.FOWLER@modot.mo.gov

Location: DocuSign

**Signer Events**

De'Carlton Seewood  
decarlon.seewood@como.gov  
Security Level: Email, Account Authentication  
(Optional)

**Electronic Record and Signature Disclosure:**  
Accepted: 8/23/2022 7:50:51 AM  
ID: edfd0b3c-3e5a-4def-95e4-a10363f69916

Sheela Amin  
Sheela.Amin@como.gov  
Security Level: Email, Account Authentication  
(Optional)

**Electronic Record and Signature Disclosure:**  
Accepted: 8/28/2022 2:43:27 PM  
ID: d4460845-8c7f-4e43-afd4-70f233bed865

Nancy Thompson  
Nancy.Thompson@como.gov  
Security Level: Email, Account Authentication  
(Optional)

**Electronic Record and Signature Disclosure:**  
Accepted: 8/19/2022 3:58:53 PM  
ID: aba376f9-39ab-45c8-b7ae-6e922b88b69d

Megan Waters-Hamblin  
Megan.waters-hamblin@modot.mo.gov  
Security Level: Email, Account Authentication  
(Optional)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Eric E. Schroeter  
Eric.Schroeter@modot.mo.gov  
Security Level: Email, Account Authentication  
(Optional)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Pam Harlan  
Pamela.Harlan@modot.mo.gov  
Security Level: Email, Account Authentication  
(Optional)

**Electronic Record and Signature Disclosure:**

**Signature**

**Timestamp**

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**Signer Events**

Accepted: 12/22/2021 11:42:38 AM  
 ID: 2c664348-0ef1-42bb-97b6-7b0938b1e411

**Signature****Timestamp****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**

Cheryl Ball  
 Cheryl.Ball@modot.mo.gov  
 Admin of Freight & Waterways  
 Missouri Department of Transportation  
 Security Level: Email, Account Authentication  
 (Optional)  
**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

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Jerica L. Holtsclaw  
 Jerica.Holtsclaw@modot.mo.gov  
 Design Liaison Engineer  
 Missouri Department of Transportation  
 Security Level: Email, Account Authentication  
 (Optional)  
**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

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Sarah Taibert  
 Sarah.Taibert@como.gov  
 Security Level: Email, Account Authentication  
 (Optional)  
**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

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Dana L. Kaiser  
 Dana.Kaiser@modot.mo.gov  
 Security Level: Email, Account Authentication  
 (Optional)  
**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

TERA N. HERX  
 tara.spencer@modot.mo.gov  
 Security Level: Email, Account Authentication  
 (Optional)  
**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Jennifer Jorgensen  
 Jennifer.Jorgensen@modot.mo.gov  
 Security Level: Email, Account Authentication  
 (Optional)  
**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

**Carbon Copy Events**

Lisa Hoffman

lisa.hoffman@modot.mo.gov

Security Level: Email, Account Authentication  
(Optional)**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign**Status****Timestamp****Witness Events****Signature****Timestamp****Notary Events****Signature****Timestamp****Envelope Summary Events****Status****Timestamps**

Envelope Sent

Hashed/Encrypted

8/9/2022 5:13:52 PM

**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](mailto: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.