

BILL NO. 4788

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WEST PLAINS, MISSOURI, AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION RAILWAY-HIGHWAY CROSSING IMPROVEMENT PROGRAM SECOND SUPPLEMENTAL AGREEMENT.

WHEREAS, a supplemental agreement was passed and approved by the city council of the City of West Plains on January 16th, 2024; and

WHEREAS, the City Council of the City of West Plains, Missouri deems it wise and necessary to approve the second supplemental agreement between the Missouri Department of Transportation and the City of West Plains for the Railway-Highway Crossing Improvement Program Agreement.

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

Section 2: That this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS _____ DAY OF _____ 20_____.

CITY OF WEST PLAINS, MISSOURI

BY: _____

MAYOR MICHAEL TOPLIFF

ATTEST:

CITY CLERK KELLIE MAYERS

CCO Form: FS27
Approved: 05/02 (BDG)
Revised: 10/22 (MWH)
Modified: 12/24 (MWH)

Howell County
City of West Plains
Project RRP 000S(627)

Award name/number: RRP 000S(627)
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
RAILWAY-HIGHWAY CROSSING IMPROVEMENT PROGRAM
SECOND SUPPLEMENTAL AGREEMENT**

THIS SECOND SUPPLEMENTAL AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of West Plains (hereinafter, "City").

WITNESSETH:

WHEREAS, on April 6, 2021, the Commission and the City previously entered into a Program Agreement #2020-09-59182 as to public improvements designated as RRP 000S(627), for the construction of a railroad overpass on Route 160 and the closure of Thornbrough Street (hereinafter, "Original Agreement"); and

WHEREAS, on March 4, 2024 the Commission and the City entered into a Supplemental Agreement #2023-12-82767 (hereinafter, "Supplemental Agreement"); and

WHEREAS, the Commission and the City now desire to further revise the Original Agreement.

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

(1) REVISION: Paragraph (8) REIMBURSEMENT of the Original Agreement is hereby removed and replaced with the following:

(8) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government or Commission and by the City as follows:

(A) The Commission shall make a lump sum payment to the City as an incentive for the closure of the at-grade railroad crossings on Route 160 and Thornbrough Street. The lump sum payment will be nine hundred thousand dollars (\$900,000). Payment of the incentive will be paid upon execution of this Agreement and invoice by the City for payment. The City shall use the incentive payments on transportation safety improvement projects, including the construction or construction engineering of the railroad overpass. The Commission shall not be responsible for

any other costs associated with the herein improvements.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(2) ORIGINAL AGREEMENT: Except as otherwise modified, amended, or supplemented by this Second Supplemental Agreement, the Original Agreement and all previous Supplemental Agreements between the parties shall remain in full force and effect and shall extend and apply to this Second Supplemental Agreement as if fully written in this Second Supplemental 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 this _____ (date).

Executed by the Commission this _____ (date).

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

CITY OF WEST PLAINS

By _____

Title: _____

Title: _____

ATTEST:

ATTEST:

Secretary to the Commission

By _____

Title: _____

Approved as to Form:

Approved as to Form:

Commission Counsel

Title: _____

Ordinance No.: _____

BILL NO. 4762

ORDINANCE NO. 4762

AN ORDINANCE OF THE CITY OF WEST PLAINS, MISSOURI, AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION RAILWAY-HIGHWAY CROSSING IMPROVEMENT PROGRAM SUPPLEMENTAL AGREEMENT.

WHEREAS, the City Council of the City of West Plains, Missouri deems it wise and necessary to approve the supplemental agreement between the Missouri Department of Transportation and the City of West Plains for the Railway-Highway Crossing Improvement Program Agreement.

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

Section 2: That this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 16TH DAY OF JANUARY 2024.

CITY OF WEST PLAINS, MISSOURI

BY: 
MAYOR MICHAEL TOPLIFF

ATTEST:


CITY CLERK ALLISON SKINNER

CCO Form: FS27
Approved: 05/02 (BDG)
Revised: 10/22 (MWH)
Modified: 12/23 (MWH)

Howell County
City of West Plains
Project RRP 000S(627)

Award name/number: RRP 000S(627)
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
RAILWAY-HIGHWAY CROSSING IMPROVEMENT PROGRAM
SUPPLEMENTAL AGREEMENT**

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

WITNESSETH:

WHEREAS, on April 6, 2021, the Commission and the City previously entered into a Program Agreement as to public improvements designated as RRP 000S(627), for the construction of a railroad overpass on Route 160 and the closure of Thornbrough St., (hereinafter, "Original Agreement"); and

WHEREAS, the Commission and the City now desire to revise the Original Agreement.

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

(1) REVISION: Paragraphs (8) REIMBURSEMENT, (11) WORK ON STATE RIGHT OF WAY, and EXHIBIT B of the Original Agreement are hereby removed and replaced with the following:

(8) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the City as follows:

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs. All federally funded projects are required to have a project end date. Any costs incurred after the project end date are not eligible for reimbursement. The federal share for this project will be twenty-eight (28%) percent not to exceed two million five hundred thousand dollars (\$2,500,000). The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the

project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(11) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project RRP 000S(627) will involve work on the state's right of way, the City shall provide reproducible final plans to the Commission relating to such work.

Exhibit B – Project
Schedule

Project Description: RRP 000S(627) – Rte. 160 railroad overpass construction

Task	Date
Notification deadline that City has all funding in place to construct project.	6/01/2021
Construction Contract Award	12/2024

(2) ORIGINAL AGREEMENT: Except as otherwise modified, amended, or supplemented by this Supplemental Agreement, the Original Agreement between the parties shall remain in full force and effect and shall extend and apply to this Supplemental Agreement as if fully written in this Supplemental 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 this 2024-02-28 | 10:41 AM CST (date).

Executed by the Commission this 2024-03-04 | 9:48 AM CST (date).

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

CITY OF WEST PLAINS

DocuSigned by:
Eric E. Schroeter
5E8CCE9B29E499

DocuSigned by:
Sallal
B4A983AE21DC436

Title: Assistant Chief Engineer

By City Administrator
Title: _____

ATTEST:

ATTEST:

DocuSigned by:
Priscilla Hester
A4666CD7996249B

DocuSigned by:
Kellie Mayers
3E1D7589D4F3474

Secretary to the Commission

By Interim City Clerk
Title: _____

Approved as to Form:

Approved as to Form:

DocuSigned by:
Megan L. Waters-Hamblin
BA34EE9E50E5407

Commission Counsel

Title: _____

Ordinance No.: 4762

BILL NO. 4762

ORDINANCE NO. 4762

AN ORDINANCE OF THE CITY OF WEST PLAINS, MISSOURI, AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION RAILWAY-HIGHWAY CROSSING IMPROVEMENT PROGRAM SUPPLEMENTAL AGREEMENT.

WHEREAS, the City Council of the City of West Plains, Missouri deems it wise and necessary to approve the supplemental agreement between the Missouri Department of Transportation and the City of West Plains for the Railway-Highway Crossing Improvement Program Agreement.

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

Section 2: That this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 16TH DAY OF JANUARY 2024.

CITY OF WEST PLAINS, MISSOURI

BY: Michael Topliff
MAYOR MICHAEL TOPLIFF

ATTEST:

Allison Skinner
CITY CLERK ALLISON SKINNER

Certificate Of Completion

Envelope Id: A91E8089212440CDBF6758CBF366BD53
 Subject: Complete with DocuSign: 2023-12-82767.pdf
 Source Envelope:
 Document Pages: 4
 Certificate Pages: 6
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 EnvelopeId Stamping: Enabled
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Status: Completed

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

Record Tracking


Status: Original
 2/28/2024 7:25:24 AM
 Holder: Troy E. Hughes
 Troy.Hughes@modot.mo.gov

Location: DocuSign

Signer Events

Sam Anselm
 sam.anselm@westplains.gov
 City Administrator
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Signature

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Timestamp

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Kellie Mayers
 Kellie.mayers@westplains.gov
 Interim City Clerk
 Security Level: Email, Account Authentication (Optional), Access Code

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Megan L. Waters-Hamblin
 Megan.Waters-Hamblin@modot.mo.gov
 Senior Administrative Counsel
 Missouri Department of Transportation
 Security Level: Email, Account Authentication (Optional)

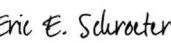
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 Signed: 2/28/2024 11:42:33 AM

Signature Adoption: Pre-selected Style
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Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

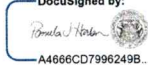
Eric E. Schroeter
 Eric.Schroeter@modot.mo.gov
 Assistant Chief Engineer
 Missouri Department of Transportation
 Security Level: Email, Account Authentication (Optional)

DocuSigned by:

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 Signed: 3/1/2024 12:20:36 PM

Signature Adoption: Pre-selected Style
 Using IP Address: 168.166.80.221

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Signer Events	Signature	Timestamp
<p>Pamela Harlan pamela.harlan@modot.mo.gov Secretary to the Commission Missouri Department of Transportation Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Accepted: 12/22/2021 11:42:38 AM ID: 2c664348-0ef1-42bb-97b6-7b0938b1e411</p>	<p>DocuSigned by:  A4666CD7996249B...</p> <p>Signature Adoption: Uploaded Signature Image Using IP Address: 168.166.80.221</p>	<p>Sent: 3/1/2024 12:20:38 PM Viewed: 3/4/2024 9:48:51 AM Signed: 3/4/2024 9:48:56 AM</p>
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
<p>Dana L. Kaiser Dana.Kaiser@modot.mo.gov Senior Executive Assistant Missouri Department of Transportation Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div style="border: 1px solid blue; padding: 5px; text-align: center; font-weight: bold; color: blue;">COPIED</div>	<p>Sent: 2/28/2024 11:42:35 AM</p>
<p>Tara Herx tara.herx@modot.mo.gov Senior Executive Assistant Missouri Department of Transportation Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div style="border: 1px solid blue; padding: 5px; text-align: center; font-weight: bold; color: blue;">COPIED</div>	<p>Sent: 2/28/2024 11:42:35 AM</p>
<p>Jennifer Jorgensen jennifer.jorgensen@modot.mo.gov Asst Secretary to the Commission MoDOT Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Accepted: 6/7/2023 9:45:35 AM ID: 43e1faf8-03d4-4d0e-95b0-9dcba940a033</p>	<div style="border: 1px solid blue; padding: 5px; text-align: center; font-weight: bold; color: blue;">COPIED</div>	<p>Sent: 3/1/2024 12:20:38 PM</p>
<p>Lisa Gerling lisa.gerling@modot.mo.gov Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div style="border: 1px solid blue; padding: 5px; text-align: center; font-weight: bold; color: blue;">COPIED</div>	<p>Sent: 3/1/2024 12:20:39 PM</p>
Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Certified Delivered	Security Checked	3/4/2024 9:48:51 AM
Signing Complete	Security Checked	3/4/2024 9:48:56 AM
Completed	Security Checked	3/4/2024 9:48:56 AM

Payment Events	Status	Timestamps
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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.