ORDINANCE #67484
Board Bill No. 80

AN ORDINANCE RECOMMENDED BY THE BOARD OF PUBLIC SERVICE; AUTHORIZING AND DIRECTING THE MAYOR AND COMPTROLLER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF ST. LOUIS AND Missouri Highways and Transportation Commission relating to THE construction and maintenance of the I-64 improvement and reconstruction project; anD containing an emergency clause.

WHEREAS, The Board of Aldermen hereby finds it in the best interest of its citizens to cooperate with the State of Missouri in the re-building of I-64/Highway 40 and to coordinate as many of the construction activities with the State as possible and to negotiate as little disruption to the residents as possible.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Mayor and Comptroller are hereby authorized and directed to execute a Municipal Agreement, substantially in the form as attached hereto as Exhibit A and incorporated herein by reference, by and between the City of St. Louis and the Missouri Highways and Transportation Commission.

SECTION TWO. This being an ordinance for the immediate preservation of the public peace, health or safety, and providing for public work or improvements, it is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and shall become effective immediately upon its passage and approval by the Mayor.

Exhibit A

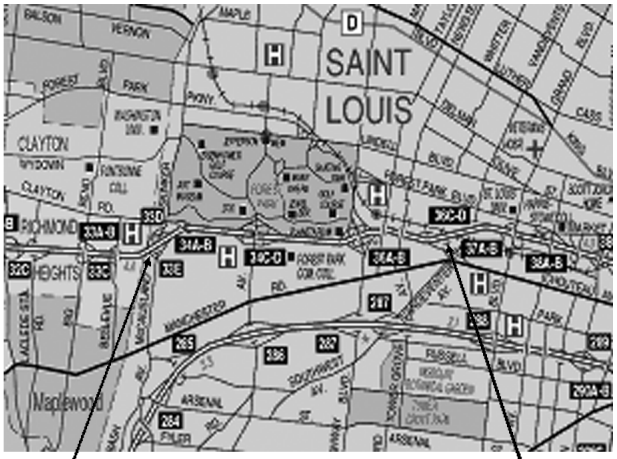

EXHIBIT A

CONTRACT BETWEEN
MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION
-and-
CITY OF ST. LOUIS

ROUTE I-64
JOB NOS. J6I0978 and J6I1248

CCO Form: UT1A
Approved: 02/06 (BDG)
Revised:
Modified:

Route: I-64
County St. Louis
Job. No. J6I0978
MUA No. 012

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
MASTER UTILITY AGREEMENT
(Design-Build Projects)

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter **"Commission"**) and the City of St. Louis Water Division (hereinafter **"City"**).

WITNESSETH:

WHEREAS, the Commission is preparing preliminary plans, specifications and estimates of costs for a New Design/Build Project in St. Louis City & St. Louis County, Job No. J6I0978 (hereinafter, **"the Project"**), which is a design and construction project for improvements to Route I-64 and associated bridge and roadway improvements with approximate project limits from west of Spoede Rd. in St. Louis County to west of Sarah St. in St. Louis City;

WHEREAS, the Commission proposes to construct the Project, in accordance with a design-build contract entered into between the Commission and a contractor (hereinafter, **"Design-Build Contract" or "DB Contract"**);

WHEREAS, the Commission intends to solicit Design-Build proposals for the project, and to require the successful proposer (hereinafter, **"the Contractor"**) to complete the design and construction of the project.;

WHEREAS, from time to time, the construction, reconstruction, improvement, maintenance and operation of the project will require changes to a utility owned by the City. Such activities may require the City to relocate, abandon, protect, remove, replace, reinstall or modify its utilities;

WHEREAS, the Commission and the City desire to cooperate for the purpose of ensuring that the utility work for all City-owned utilities necessary to accommodate the project is promptly performed, and in close coordination with the Contractor's performance of the project, in order to minimize delay, uncertainty, and risk, and to eliminate resulting additional project costs;

WHEREAS, to accomplish that purpose, the Commission and the City desire to enter into this Agreement, which contains general terms applicable to such coordination and to the performance of all such utility work;

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

(2) SCOPE OF AGREEMENT: The parties to this Master Utility Agreement (hereinafter "Agreement") intend to provide for a process to coordinate the relocation of the City's Facilities in order to minimize delays, uncertainties, risks and resulting additional Project costs, and to provide reimbursement in accordance with State law. Any amount to be paid by the Commission shall not exceed the amount on which the federal government bases its reimbursement. Preliminary design of the project has identified certain utilities owned by the City at one or more specific location(s) within the scope of the Project that may require relocation or other utility work, all as generally shown on the Utility Information Sheet (UIS) for each such location shown as Exhibit "1", which is attached hereto and incorporated herein;

(3) Standard Conditions: The following provisions are incorporated herein as terms and conditions of this Agreement. In the event of a conflict or inconsistency between this Agreement, its incorporated material, and its exhibits or attachments, such conflict or inconsistency shall be resolved in favor of the most restrictive provision. The Commission shall make the original determination of which provision is the most restrictive. Any determination shall not result in any cost to the City.

(A) Title 23, Code of Federal Regulations, Part 645, and the edition of the FHWA Program Guide: Utility Adjustments and Accommodation on Federal Aid Highway Projects (collectively, the **"Federal Regulation"**), in effect at the execution of this Agreement, and any subsequent amendments and replacements.

(B) All Exhibits referenced herein.

(4) DEFINITIONS: The definitions contained in Exhibit "2", which is attached hereto and incorporated herein by reference, shall apply when the terms defined therein are used in this Agreement.

(5) MASTER AGREEMENT: This Agreement is a Master Utility Agreement which establishes a general framework for processing the Utility Work for Facilities owned by the City that need to be relocated for the Project. The actual performance of all Utility Work shall be pursuant to Work Orders issued under this Agreement, as described below. This Agreement shall apply to all Utility Work that is required for the Project, whether performed by the Contractor or by the City. The Commission and the City agree to a process for the performance of the design and/or of the construction of the relocations at the UIS location(s) as summarized on the Utility Tracking Report, as shown on Exhibit "3", which is attached hereto and incorporated herein by reference and the parties also agree to identify the party (the City or the Contractor) responsible to perform the design and/or the construction of the relocations in conjunction and coordination with the performance of the project work;

(6) LEGAL AUTHORITY. The City and the Commission warrant that they possess the legal authority to enter into this Agreement and that they have taken all actions required by their procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize their undersigned signatory to execute this Agreement and to bind each other to its terms.

(7) DELEGATION TO THE CONTRACTOR. The City acknowledges that the Commission will perform the design and construction of the Project by means of a DB Contract with the Contractor that the Commission has procured in compliance with 227.107 RSMo, and that the Commission's entry into such DB Contract may have an impact on the Utility Work to be performed hereunder, including, without limitation, matters relating to scheduling and coordination of the Utility Work. Accordingly, the parties agree as follows:

(A) The Commission may delegate to the Contractor the duty to perform certain Commission obligations hereunder in lieu of the Commission performing same, as designated by the Commission in the DB Contract; provided, however, that the Commission's obligations to pay the City or the Contractor and/or to collect payment from the City or the Contractor, as applicable, for the performance of Utility Work will not be delegated to the Contractor. The Contractor may perform some of the Commission's obligations under this Agreement including, without limitation, negotiation of any Work Orders as shown in Exhibit "4", which is attached hereto and incorporated herein by reference, and the City agrees to cooperate with the Contractor concerning such performance.

(B) The Contractor may exercise certain of the Commission's rights hereunder, as designated by the Commission in the DB Contract.

(C) The City agrees to coordinate its efforts with the Contractor and with the Commission.

(8) REIMBURSEMENT REQUIREMENTS. The parties recognize that this Agreement governs reimbursement for all Utility Work performed pursuant to this Agreement, to the fullest extent consistent with applicable law.

(A) All plans, specifications, estimates, and billings submitted by the Contractor or the City to the Commission for the purpose of receiving reimbursement shall comply with the requirements of the Federal Regulation and with all the Commission requirements applicable at the time of execution of this Agreement.

(B) If any Utility Work is undertaken by the City's contractor under a competitive bidding process in a portion of the Project subject to the Federal Regulation, all bidding and contracting shall be conducted in accordance with all federal and State laws and regulations applicable to the City and the Project. If requested by the Commission, it shall be a condition of the City entering into any contract for Utility Work hereunder that the contractor shall furnish such bonds, insurance and/or indemnities as the Commission may require.

(9) FEDERAL/STATE/LOCAL REQUIREMENTS. The City shall at all times in the performance of the Utility Work comply with all applicable Federal and State and local laws, and their implementing regulations, as they exist at the time of execution of this Agreement, which are incorporated herein by this reference as terms and conditions of this Agreement. The City shall also require compliance with these laws and regulations in all subcontracts entered into under this Agreement. Where requested by the Commission, in its discretion, the City must obtain the Commission's approval prior to the award of any subcontract for the performance of any part of the Utility Work for which the Commission is responsible for the cost. Such approval shall not be unreasonably withheld.

(10) TERM. The term of this Agreement will commence upon its execution by the City and the Commission. This

Agreement will continue, with the exception of the continuing records retention requirement which shall extend beyond the term, until:

(A) All of the anticipated Utility Work needed for the Project at the various Utility Design Sheet locations has been completed; and

(B) Three years after the Commission makes any final payment owed to the City (if any); and

(C) The City repays the Commission for the Contractor's performance of any Utility Work for which the City was responsible for the cost.

(11) AUDIT OF RECORDS: For actual cost reimbursement work, the City shall develop the adjustment cost of the work by using the actual and related indirect cost accumulated in accordance with an established accounting procedure used by the City in its regular operations and shall keep a detailed and accurate account of all labor, materials, supplies, incidentals, and other necessary costs involved in making such changes. The Commission's engineer in charge of said project, or any authorized agent of the Commission or the Federal Highway Administration, shall have access during normal business hours to such City records. These records must be available during the contract period and any extension, and for three (3) years from the date of final payment at no charge.

(12) THE UTILITY DESIGN SHEET: The Utility Work to be performed under this Agreement shall be as described on a Utility Design Sheet (UDS), in substantially the form described in Exhibit "5", which is attached hereto and incorporated herein by reference, for a specific location.

(13) GENERAL PROCEDURES: The Contractor shall provide quality control for the Project Work but shall not be required to provide quality control for the Utility Work performed by the City. Any additional quality control for the Utility Work that the City requires shall be the responsibility of the City at the Commissions cost. The City or its designated representative shall operate all valves and supervise all shut-offs and disconnections for the construction of the Utility Work. The City must notify the Commission in writing of all cases of non-compliance by any party in the performance of the Utility Work within fourteen Working Days that the City knew or should have known of the non-compliance.

(14) COORDINATION: The City shall coordinate and cooperate with the Commission and the Contractor to ensure that any Utility Work that is needed for the Project is performed promptly, and in close coordination with the Contractor's performance of the Project, in order to minimize delay and uncertainty as to the scope or nature of the Project Work and to eliminate resulting additional costs. Coordination shall include:

(A) Pre-Design Utility Meeting: Within sixty days of the Notice to Proceed with Design Work, the parties shall conduct a pre-design coordination meeting to review potential Utility conflict(s). At the pre-design coordination meeting, the City shall meet with the Contractor to review the Utility Information Sheet (UIS) information and address concerns with any potential conflicts. With the UISs, a preliminary level of Utility impact is communicated between both parties. The purpose of the meeting will be to communicate major utility relocation and the design issues between the Utility Owners and the DB Contractor.

(B) Initial Coordination Meeting: Prior to beginning the Work Order process, the parties shall conduct an initial coordination meeting when the Contractor has achieved a level of design to determine Utility conflict(s). At the initial coordination meeting, the City shall coordinate with the Contractor to address a proposed resolution and address pertinent information for the UDS. With the UDS information, a preliminary level of design and estimated costs, the Contractor shall schedule a meeting with the City and the Commission to negotiate the Work Orders, to review the schedule of the Project final design and construction at the specific UDS location(s), and to review the proposed resolution of the Utility conflict(s). The purpose of the meeting will be to coordinate the performance of the Project Work and incorporate the design and construction of the Utility Work at the UDS location(s). If determined by the Contractor and the City that no Utility conflict exists then the Contractor shall provide the City a Utility No-Conflict Closeout Form to review and sign, as shown on Exhibit "6",

(C) Coordination of Relocations: The Contractor shall avoid relocation of the City's Facilities to the extent practicable. If the Contractor and City cannot agree whether a relocation can be avoided, the Commission, in consultation with the City, shall make that determination, which shall be subject to dispute resolution. When practicable in accordance with the foregoing, the City's's Facilities will be left in place and protected. When physical relocation of the City's's Facilities cannot be reasonably avoided in accordance with the foregoing, the City shall relocate (or allow the relocation of) such Facilities and cooperate with requirements for the Project, in accordance with the provisions of this Agreement. Where there are joint users in or on any such

Facilities or any part thereof, the City shall use its best efforts to cooperate with the Commission and the Contractor in identifying any joint users and to assist in the Utility Work.

(D) Change in Contractor's Design: If the Contractor and the City have agreed to a physical relocation of the City's Facility(ies), and design and/or construction has commenced after which a change in the Contractor's design results in additional design or a second relocation of such Facility(ies), the Contractor and the City agree to coordinate with each other in changing the design or in relocating the Facility(ies). Payment for any such second design and/or relocation caused by the Contractor shall be the responsibility of the Contractor.

(E) The Commission, the City, and the Contractor shall meet as reasonably requested by each other to review and coordinate time schedules and to track Utility Work progress. The City shall be available to meet within 4 business days of being notified that a meeting is requested.

(F) The Company shall not interfere with the performance of the Project Work by any entity provided, however, Commission shall require the Contractor to follow all technical and installation requirements and take any reasonable steps necessary to protect the integrity of the utilities from damage. "Interfere" means any action or inaction that interrupts, delays, or damages the Project Work.

(15) TECHNICAL CRITERIA/PERFORMANCE STANDARDS: Any performance by either the Contractor or the City of the design or the construction of the Utility Work shall be consistent with the terms of this Agreement. Any performance by either the Contractor or the City of the design or the construction of the Utility Work shall also be consistent with the City's written specifications, standards of practice and construction methods that are current at the time of the DB Contract proposal due date, as well as any applicable permit requirements. The City shall provide any such written specifications, standards of practice and construction methods to the Commission and the Contractor by no later than the beginning of design if the Contractor is performing the design or by no later than the date a Work Order is signed for that Utility Work if the Contractor is performing the construction. If so provided they shall be deemed to be incorporated herein by this reference, and if they are not so provided, the Contractor shall have no obligation to perform the Utility Work in accordance with them. The plans for the design of the Utility Work shall show at least the following: existing topography, right-of-way, lanes of travel, and the location of the utilities. Regardless of which party prepares the plans for that design, the plans shall be subject to review and approval by the other party, by execution of a Design Approval Letter (as described in Exhibit "7", which is attached hereto and incorporated herein by reference). Any such review shall be promptly provided within fourteen days unless a longer period is specified in a Work Order issued for that Utility Work. The final plans and specifications, including any applicable permit requirements, shall govern the scope of the Utility Work. In the event plans and specifications are not complete as of the date of this Agreement, or are to be prepared hereafter, the most recent drawings or plans and specifications are referenced in order to clarify the intentions of the Contractor and the City, but they shall be automatically supplemented by the final plans when they are completed. The final plans, when completed, shall be deemed incorporated as part of this Agreement.

(16) WORK ORDER PROCESS: Before any party commences any Utility Work, the Commission, the City, and the Contractor must execute a Work Order in accordance with the process stated below.

(A) Form: The Work Orders shall be in substantially the form attached as Exhibit "4". Neither the Contractor nor the City shall proceed with its performance of any Utility Work at any specific UDS location before a Work Order authorizing that Utility Work is fully executed.

(B) Contents/Amendment: The Work Order, and the various Agreements or documents subsequently executed or prepared pursuant to it, will ultimately address the scope of the Utility Work to be performed, the party responsible to perform such Utility Work, the lump sum amount or the estimated cost (as applicable) for such Utility Work, the schedule for performance for such Utility Work, any necessary Commission Utility Permits (see Exhibit "8", Permit Application) and all other conditions applicable to the performance of such Utility Work, except those already included in this Agreement. The Work Order shall include design plans, any applicable design details available and any existing R/W/easement documents for the construction of the Utility Work at the particular UDS location(s).

(C) Negotiation: The Commission, the City, and the Contractor shall promptly meet and confer to resolve, through good faith negotiation, any comments or disagreements with respect to the contents of any Work Order. After negotiation and Agreement between the Commission, the City, and the Contractor of the scope of the Utility Work, the party responsible to perform that Utility Work, the lump sum amount or the estimated cost for that Utility Work (as applicable), and the schedule for performance of that Utility Work, the Contractor shall prepare the Work Order.

(D) Submission/Response/Execution: The Contractor shall submit to the City a Work Order providing notice of the Utility Work and a schedule for the performance of that Utility Work. The City shall respond (by executing or commenting on problems) to all Work Orders within fourteen days after the City's receipt thereof. No Work Order will be effective until it is fully executed by all parties.

(E) Standard: Performance of the Utility Work, and payment for that Utility Work (if applicable), shall be governed by the standards, procedures, and terms set forth in this Agreement and in such Work Order. All standards, procedures, terms, and conditions set forth in this Agreement shall be deemed incorporated into each Work Order issued. Further, all terms and conditions that are applicable to such Utility Work and that are not already included in this Agreement shall be specifically described and included in the Work Order. Failure to execute a Work Order does not excuse the performance of any other obligation by any party under this Agreement.

(F) Reimbursement/Payment: Payment for the performance of Utility Work under a Work Order shall be in accordance with the Reimbursement Process in this Agreement. The City shall deal directly with The Commission when making or receiving payment(s) for the performance of Utility Work and/or Betterments, as described in this Agreement.

(G) Effective Obligation: The Commission shall provide reimbursement to the City for the costs of relocation of the City's facilities only when the City's Utilities are: (1) currently located on/in a real property interest (fee, easement), as evidenced by documentary proof of such interest provided by the City and approved by the Commission, or (2) if the City is currently located on Commission right of way and was located on such right of way prior to the Commission's ownership. Any Betterment credits pursuant to the Federal Regulation and any salvage value derived from the old Facility shall be deducted from the costs of relocations. The amount to be paid by the Commission shall not exceed the amount on which the federal government bases its reimbursement for said interstate system. The Commission shall have no financial obligation to pay for any Utility Work described in a Work Order unless the Work Order expressly obligates the Commission to pay for such task(s), and any such obligation shall not be effective until the Work Order has received approval of State officers as the law may provide.

(17) SCHEDULING:

(A) The City or the Contractor, whichever is applicable, shall complete any design and/or construction and/or inspection of the Utility Work within the schedule described in the Work Order executed for that Utility Work. The Commission will require the Contractor to consider special scheduling considerations of utilities, such as peak load periods (winter gas loads and summer electric loads). The parties agree to negotiate in good faith for the implementation of acceleration measures (e.g., imposing overtime work and importing contractors from outside of the local area) if necessary, in order to meet the Contractor's scheduling requirements.

(B) Where the City is performing the construction of the Utility Work, the City shall commence its construction after receiving an executed Work Order therefore and shall notify the Contractor prior to commencing such construction as agreed to in an approved Work Order.

(C) Where the Contractor performs the design for the Utility Work, the City shall review the design prepared by the Contractor no later than fourteen Days after its submission to the City, unless a different time period is expressly required in the Work Order executed for that Utility Work, and the City shall approve the design and notify the Commission and the Contractor thereof within that time if the design is consistent with the performance standards described herein. Where the City performs the design for the Utility Work, the Contractor shall review the design prepared by the City no later than fourteen Days after its submission to the Contractor, unless a different time period is expressly required in the Work Order executed for that Utility Work. The Contractor shall approve the design and notify the Commission and the City thereof within that time if the design is consistent with the performance standards described herein.

(D) The City shall have the right to reject any design work that does not meet the Technical Criteria/Performance Standards described in this paragraph. If the City rejects any design work, the City shall immediately notify the Commission and the Contractor, in writing, of its grounds for rejection and suggestions for correcting the problem, and the City shall re-review the revised design work no later than seven Days after its submission to the City, unless a different time period is expressly required in the Work Order executed for that Utility Work.

(18) DEADLINES AND DELAYS:

(A) Neither the Contractor nor the City shall be liable for any delay in or failure to perform any obligation contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by "Force Majeure."

(B) Where the City is the party responsible for the performance of the design and/or the construction of the Utility Work described in a Work Order, the City shall timely commence, diligently prosecute, and complete such design and/or construction, as applicable, on or before the deadlines established herein, in the Notice and Order attached to this Agreement as Exhibit "9", which is attached hereto and incorporated herein by reference, or in the applicable Work Order.

(C) The Commission, the City and Contractor's rights, if any, to damages under this Agreement shall be determined pursuant to Missouri law. A City or Contractor's failure to meet a deadline established herein or in the applicable Work Order shall be waived where the failure is due to Force Majeure.

(D) Where the Contractor is the party responsible for the performance of the design and/or the construction of the Utility Work described in a Work Order, the Contractor shall timely commence, diligently prosecute, and complete such design and/or construction, as applicable, on or before the deadlines established herein in the Notice and Order, or in the applicable Work Order.

(E) If any party fails to meet a deadline set forth in a Work Order, then any affected time deadlines for any other party's performance of the design, construction, and/or inspection of the Utility Work shall be revised accordingly.

(19) RESPONSIBILITY FOR COST:

(A) General: The Commission agrees to pay for Relocations for the City for this Project under the terms of this Agreement...

(B) Change in Contractor's Design: If the Contractor and the City have agreed to a physical relocation of the City's Facility(ies), and design and/or construction has commenced after which a change in the Contractor's design results in additional design or a second relocation of such Facility(ies), the Contractor and the City agree to coordinate with each other in changing the design or in relocating the Facility(ies). Payment for any such second design and/or relocation caused by the Contractor shall be the responsibility of the Contractor.

(C) Dispute Resolution: If there is a dispute concerning cost responsibility in a particular location, the parties shall attempt to resolve that dispute. If a good faith dispute continues after that attempt, the Commission may elect to proceed with the Utility Work at that location at the Commission's cost, subject to the Commission reserving all applicable legal and equitable rights to later pursue reimbursement, plus interests and costs, expenses and damages, from the City.

(D) Salvage:

1. Where the City is responsible to perform construction of the Utility Work under a Work Order for which the Commission bears the responsibility for cost, the City must give credit to the Commission in that Work Order for the salvage value, as explained in 23 CFR 645.117(h).

2. Where the Contractor is responsible to perform construction of the Utility Work under a Work Order, unless otherwise noted in that Work Order, materials from City's existing Facilities which are recovered by the Contractor while performing the construction of the Utility Work and which are not reused shall become the property and responsibility of the Contractor.

(E) Betterments: The City is responsible for the cost of any Betterments to a Facility, as set forth in a Work Order executed pursuant to this Agreement.

(20) REAL PROPERTY INTERESTS: If the City is requesting the Commission to reimburse it for the Utility Work, the City shall provide the Commission with copies of its executed R/W or easement documents for its existing real property interest, which documents shall accompany any Work Order executed pursuant to this Agreement for Utility Work involving such instruments. The City shall have the burden of proof to demonstrate that it actually owns such an existing compensable real property interest.

(21) PERFORMANCE OF THE UTILITY WORK: The Contractor and the City may split the responsibilities for the performance of the design and construction elements of the Utility Work at any particular UDS location, or one party may perform both elements by itself, as follows:

(A) Responsible Party: The Utility Tracking Report, initially indicates which party will be responsible for the performance of the design and/or the construction elements of the Utility Work at a particular UDS location(s). However, that responsibility may change by the time the Utility Work is to be performed, including due (in part) to changes in the design of the Project and/or to changes in the resources that may be available to the City. Therefore, the party responsible to perform the design and/or construction elements of the Utility Work at a particular location at the time a Work Order is executed for that Utility Work shall also be identified in that Work Order, which shall prevail over Exhibit "1" to the extent of any conflict.

(B) Time of Essence: Time is of the essence in the performance of Utility Work under this Agreement and the Work Orders issued hereunder.

(C) Design:

1. By the Contractor. The Contractor may perform the design of the Utility Work in conjunction with its performance of the design of the Project Work, if so authorized by the City by its execution of a Work Order. The Contractor shall complete the design of the Utility Work within the schedule set forth in the Work Order, and the design shall be subject to the approval of the City by execution of a Design Approval Letter (Exhibit "7(A)"). City approval shall not be unreasonably withheld; or

2. By the City. The City may perform the design of the Utility Work in accordance with the terms of this Agreement and an applicable Work Order. The City shall complete the design within the schedule set forth in the Work Order, and the design shall be subject to the approval of the Contractor by execution of a Design Approval Letter (Exhibit "7(B)"). Contractor approval shall not be unreasonably withheld.

(D) Construction:

1. By the Contractor. The Contractor may perform the construction of the Utility Work in conjunction with its performance of the construction of the Project Work, if so authorized by the City by its execution of a Work Order. The Contractor shall complete construction of the Utility Work within the schedule set forth in the Work Order, and construction shall be subject to the inspection and approval of the City by execution of a Construction Inspection Approval Letter (Exhibit "10(A)"). Any Utility Work performed by the Contractor shall be subject to a one year warranty beginning from execution of Exhibit "10(A)"; or

2. By the City. The City may perform the construction of the Utility Work in accordance with the terms of this Agreement and an applicable Work Order. If the City performs the construction, it shall complete that performance within the schedule set forth in the Work Order, and construction shall be subject to the approval of the Contractor by execution of a Construction Inspection Approval Letter (Exhibit "10(B)").

3. Traffic Control. The Contractor shall, at Contractor's cost, provide traffic control for any Utility Work, whether performed by the City or the Contractor that will be coordinated with the Project Work.

(E) Permits: The City shall obtain a no cost permit from the Commission at the time a Work Order is executed prior to adjustments or relocations from, within, or onto the Commission's right of way. The permit will be prepared by the Commission and shall be signed by an authorized City representative.

(F) Incidental Utility Work: The City agrees that the Contractor shall be solely responsible to perform any Incidental Utility Work, subject to the provisions of the Work Order.

(G) Prequalified Subcontractors/Subconsultants: If the Contractor performs the design and/or the construction of the Utility Work, the Contractor shall use for that purpose one or more of the subcontractors/subconsultants that are pre-qualified by the City to perform that design and/or the construction, as applicable, as described in the Prequalified Consultant and Contractor's List (Exhibit "11") (as may be updated). The City shall supply Exhibit 11 to the Commission and the Contractor within seven Days of execution of this Agreement, and the City shall update Exhibit 11 as needed and provide same to the Commission and the Contractor. The Contractor may use other subcontractors/subconsultants if Exhibit 11 is not provided by the

City. If the listed subcontractors/subconsultants are not reasonably available, the Contractor may use other subcontractors/subconsultants with the approval of the City.

(H) Changes to the Utility Work: The UIS's listed in the Utility Tracking Report describes the performance of the elements of the Utility Work needed at a particular location(s). However, that Utility Work, and/or the party responsible for the performance of that Utility Work, and/or the locations for that Utility Work, may change by the time the Utility Work is to be performed, including due (in part) to changes in the design of the Project and/or resources that may be available to the City. In that event, the Contractor and the City shall indicate any changes in the performance of the Utility Work at a particular location and/or the party responsible for that Utility Work in a Work Order.

(I) Abandonment, Removal and Protection in Place: As defined in the Agreement Definitions, Abandonment and Removal are the work necessary to take underground Utilities out of service. Protection in place of Utilities is included as Incidental Utility Work, which is the responsibility of the Contractor pursuant to this Agreement. Abandonment of Utilities is included as Incidental Utility Work whether or not the Utility Relocation Work is in the DB Contract. Removal is included as Incidental Utility Work performed by the Contractor pursuant to this Agreement.

(22) UTILITY OWNER TO PERFORM INSPECTION:

(A) The Contractor shall, at Contractor's cost, provide any necessary traffic control for any Utility Work inspections performed by the City .

(B) The City may perform inspections of construction of any Utility Work that is performed by the Contractor. The City's designated inspector shall coordinate with the Contractor in connection with any inspections.

(C) Such inspection shall be performed no later than seven Days after completion of construction pursuant to the Work Order, and the City shall approve that construction and notify the Contractor thereof in writing within that time if it is consistent with the Technical Criteria/Performance Standards described herein. The City shall sign and provide to the Contractor a Construction Inspection Approval Letter for the completed Utility Work after it determines that such Utility Work is acceptable. The Contractor shall provide the City a complete set of as-built drawings, subject to City approval, within 60 days of receipt of the Construction Inspection Approval Letter. The City shall have the right to reject any construction Utility Work that does not meet the Technical Criteria/Performance Standards described herein. If the City rejects any construction Utility Work, the City shall immediately notify the Contractor, in writing, of its grounds for rejection and suggestions for correcting the problem, and the City shall re-review the revised construction Utility Work no later than seven Days after its completion, unless a different time period is expressly required in the Work Order for that Utility Work.

(D) The City's inspection and approval of the Utility Work shall not be construed as a waiver by the City of any claim the City may have under Missouri law.

(E) The Contractor shall provide the City copies of all submittals, certifications, test results and product warranties for review and shall be a condition of construction inspection approval.

(23) REIMBURSEMENT PROCESS:

(A) Lump Sum Basis: The performance of Utility Work under each Work Order may be reimbursed on a lump sum payment basis, if the parties can agree on a lump sum amount and include that amount in the Work Order.

(B) Actual Cost Basis: Reimbursement for Utility Work may also be based on reasonable and necessary costs actually incurred in the performance of the Utility Work, subject to compliance with the cost eligibility and reimbursement standards contained in 23 CFR 645.117, and any other applicable regulations or procedures, less applicable credits for Betterment, salvage and/or retirement value. If a cost reimbursement basis is used, the party performing Utility Work (and its subcontractor(s)) shall develop and record the costs of the Utility Work in accordance with 23 CFR 645.117 and any other applicable regulations or procedures, and shall provide the other party with all information and reports required by State or federal statute or regulation for such Utility Work.

(C) Payments: The City shall deal directly with the Commission when making or receiving payment(s) for the performance of Utility Work, or making payments for Betterments, as described in this Agreement. Where reimbursement is based on actual costs and the Utility Work is performed by the City or the City's contractor, payments shall be made pursuant to

the Work Order.

(D) Estimate:

1. For each specific UDS location where the parties agree that reimbursement for the Utility Work will be based on reasonable and necessary costs actually incurred, the party that will perform the Utility Work at that location will prepare an itemized estimate, in accordance with its standard practice, of the Relocation Cost to be incurred by it for the Utility Work at such location.

2. Each such estimate shall be submitted to the other party for approval, together with the Preliminary Plans therefore, in accordance with the scheduling requirements described herein.

3. Upon the completion of that Utility Work, the performing party shall provide to the non-performing party a final notice of completion, and a final lump sum or itemized statement for the non-performing party's total actual costs incurred by the performing party for eligible items as indicated on the agreed estimate.

4. If the cost of the Utility Work increases to an amount in excess of that provided for in the applicable Work Order, the party performing the Utility Work shall give notice to the non-performing party and the Commission of the amount of increase of the actual costs of performing that Utility Work. The Contractor, the Commission and the City prior to incurring such costs shall approve any payments for increases in the cost estimates on an amended Work Order. The party performing the Utility Work shall attach to the amended Work Order an explanation for any increase in the estimated amount, together with the appropriate supporting documentation.

(E) Reimbursement:

1. For each specific UDS location for which one party bears responsibility for the cost and the other party performs the Utility Work, the party that performs the Utility Work shall invoice the non-performing party for the lump sum amount, or the eligible costs, (as applicable).

2. The City shall use the Utility Owner's Reimbursement Invoice Form contained in Exhibit "12", to submit all billings to the Commission. An authorized representative of the performing party shall sign each invoice. Payment of all invoices properly submitted hereunder shall be due within forty-five days after receipt by the non-performing party of such invoice and of the final itemized statement and notice of completion.

3. Provided, however, that payment for such Utility Work shall be contingent upon the non-performing party's final inspection of the performing party's work for such Utility Work, and all invoices shall be subject to post-audit adjustment which will occur within three years of submission of the final invoice and receipt of all backup documentation to support the time and materials for the Utility relocation.

4. For any performing party's invoice for the Utility Work (including any amounts previously billed) that exceeds the approved original cost estimate for said Utility Work, the performing party shall obtain an approval from the other party prior to incurring any additional costs.

(F) Billings: All billings for the lump sum amount (or the eligible costs) of the performance of the Utility Work must be submitted no later than one hundred twenty days after formal Construction Inspection Approval of the Utility Work.

(24) APPROVALS AND ACCEPTANCES: Any acceptance, approval, or any other like action (collectively "approval") required or permitted to be given by any party hereto pursuant to this Agreement:

(A) Must be in writing to be effective (unless deemed granted pursuant to subparagraph C. below); and

(B) Shall not be unreasonably withheld or delayed; and if approval is withheld, such withholding shall be in writing and shall state with specificity the reason for withholding such approval, and every effort shall be made to identify with as much detail as possible what changes are required for approval.

(C) Approvals, acceptances or any other like actions between the Contractor and the City shall be deemed granted if no response is provided to the party requesting an approval within the time period prescribed by this Agreement (or if no

time period is prescribed, then fourteen Days from receipt of a request for approval by the party from which an approval is requested or required) except as may be specifically provided in this Agreement or the Work Order. The requesting party shall send out all requests for approval to the other party in accordance with the "Representatives and Notice" Section herein.

(25) AUTHORIZED AGENTS AND NOTICES:

(A) Authorized Agents: For the purpose of this Agreement, the individuals identified below are hereby-designated authorized agents of the Commission and the City. Any party may from time to time designate in writing new or substitute representatives:

For the Commission:

#1
Name: Lesley Hoffarth
Title: Project Director
Address: 1590 Woodlake Drive
Chesterfield MO, 63017

Email: Lesley.Hoffarth@modot.mo.gov
Phone: 314-340-4392
Fax: 314-340-4172

#2
Name: Michael J. Castro
Title: Utilities Manager
Address: 1590 Woodlake Drive
Chesterfield MO 63017

Email: Michael.Castro@modot.mo.gov
Phone: 314-340-4360
Fax: 314-340-4172

#3
Name: Mermel V. Blanco
Title: Utility Coordinator
Address: 1590 Woodlake Drive
Chesterfield, MO 63017

Email: Mel.Blanco@modot.mo.gov
Phone: 314-340-4281
Fax: 314-340-4172

For the City :

#1
Name: Davis A. Visintainer
Title: Water Commissioner
Address: 4600 McRee
St. Louis, MO 63110-2240

Email: dvisintainer@stlwater.com
Phone: (314) 664-7899, ext. 412
Fax: (314) 664-6786

#2
Name: Thomas A. Rothermich
Title: Water Division Executive Engineer
Address: 4600 McRee
St. Louis, MO 63110-2240

E-mail: trothermich@stlwater.com
Phone: (314) 771-4880, ext. 127
Fax: (314) 664-4074

#3 Name: Mark Nankivil
Title: Engineering Manager
Address: 4600 McRee
St. Louis, MO 63110-2240

E-mail: mnankivil@stlwater.com
Phone: (314) 771 4880 ext. 123
Fax: (314) 664-4074

(B) Authority: With respect to the representatives noted above, such individuals shall have the authority to sign/approve any Work Orders, to inspect and reject services, approve invoices for payment, and to act otherwise for the Commission and for the City.

(C) Notices: All notices required to be given by the Commission, the Contractor, and the City hereunder may be e-mailed, faxed, or hand delivered, or given by certified or registered mail to the individuals at the addresses set forth above. A paper copy must promptly follow up any emailed notice. For faxed notices, the sender shall have the burden of confirmation of delivery.

(26) UTILITY OWNERSHIP, OPERATION AND MAINTENANCE:

(A) At all times during and upon completion of the construction and acceptance in writing of Utility Work, the City shall be the owner of the Utility Work.

(B) Operation and maintenance of such Facilities shall be the sole responsibility of the City. Specifically, the Contractor shall not operate any valves or fire hydrants without prior approval of the City.

(C) Access by the City for maintenance and servicing of the City's Facilities that are relocated, or overtaken in-place, within the Project right-of-way will be allowed only pursuant to a Commission Utility Permit to be issued to the City by the Commission. The City shall abide by all terms and conditions of all such Utility Permits. The Contractor shall not park equipment or store material over any City water valves or vaults so that access is maintained at all times.

(D) All terms and conditions in the Commission Utility Permits that have already been issued for City Facilities currently located in existing Project right-of-way will continue to apply unless superseded by a subsequent Commission Utility Permit issued for such Facilities. Where a City has Facilities located in existing Commission right-of-way that will be used for the Project, without a current Commission Permit Agreement with the Commission, the City shall promptly apply for a current Commission Utility Permit from the Commission. All such current and any new Commission Utility Permits are incorporated herein by this reference.

(27) BETTERMENT: Betterment work at any specific location may not be eligible to be done if: that work is not compatible with the Project Work or that work would interfere with the Project schedule or that work is not feasible to separate the Betterment from any related Utility Work being performed by the Contractor. The Commission shall make the original determination of whether proposed Betterment work is eligible to be done. If the City desires to include eligible Betterment work at any specific location where the Contractor is responsible to perform the Utility Work, the City shall negotiate the price (lump sum amount or estimated costs) for said Betterment work directly with the Contractor. The City shall provide a copy of the agreed-to lump sum amount or actual cost estimate for that Betterment to the Commission.

(A) All such Betterment work shall be at the City's sole cost. In the event the City authorizes the Contractor to perform the desired Betterment work, the City, the Commission, and the Contractor shall execute a Work Order describing the terms and conditions applicable to such work. Upon execution of said Work Order, the City shall deposit the total negotiated price (lump-sum amount or estimated costs) of said Betterment work with the Commission. The Commission will then add that Betterment work to the Project Contract with the Contractor, based on the terms and conditions described in the Work Order.

(B) Where a lump sum amount for the Betterment work is not agreed to, the Contractor will perform the Betterment work on a time and materials basis in accord with the provisions of the DB Contract, and the City shall pay the Commission the total cost actually incurred on that basis to perform the Betterment. Where the Contractor will perform the Betterment work on an estimated time and materials basis, and the actual costs for that work exceed the estimated amount, the City shall pay the Commission for any actual costs that exceed that amount. The Commission will refund any remaining funds to the City

if the actual costs for that work are less than the estimated amount deposited with the Commission by the City. Any such payment or refund shall be made no later than thirty Days after receipt of an invoice thereof, together with supporting documentation.

(C) If the Contractor's offered price (lump sum or estimated cost) for the City's desired Betterment work is not acceptable to the City, the City may reject that price and select a different contractor of its choice to perform the Betterment work. Provided, however, that any such performance by a different contractor must comply with the schedule of the Contractor's performance of the Project Work. The Commission, the City, and the Contractor shall execute a Work Order describing the terms and conditions applicable to such Betterment work.

(28) CONTINUITY OF SERVICE:

(A) The Contractor shall at all times take measures to ensure that all Utilities remain operational during all phases of construction to the greatest extent practicable. Necessary interruptions of service, including proposals for shutdowns and temporary diversions of affected Utilities shall be described in the Work Order, which is subject to the City's Approval. Where the Contractor is responsible for the performance of Utility Work, in order to maintain the service continuity of the City's Facilities to the extent practicable during that performance, the Contractor, at its cost, shall:

1. Keep the City fully informed of schedules, including coordinating with the City with regard to their design, construction, and inspection of Utility Work performed by the Contractor;

2. Keep the City fully informed of changes, which affect their Utility Facilities;

3. Keep the City involved in making the decisions that affect their facilities so the City is able to provide uninterrupted service to its customers, or be subject to the least interruption practicable; and

4. Comply with any additional, reasonable service continuity conditions described in the Work Order(s) executed for the Utility Work.

(B) All of the City's Facilities shall remain fully operational during all phases of Project construction, except as specifically allowed and approved by the City to be removed from operation.

(29) DAMAGE TO FACILITIES AND OTHER PROPERTY:

(A) The City shall require its contractors, subcontractors, employees, and agents to exercise due precaution and care to avoid causing damage to the Project in performing the Utility Work. The City shall be responsible for any damage caused to the property, facilities, structures, or persons of the Contractor or the Commission by its respective operations. Said operations include, without limitation, any earthwork, hauling, equipment placement, material placement, or the performance of the Utility Work.

(B) The Commission agrees to include in the DB Contract that the Contractor shall not start construction operations adjacent to Utility properties until arrangements, satisfactory to the Utility Owner, have been made by the Contractor for the protection of the Utility and continuation of service. Should the Contractor's equipment come in contact with or damage a Utility in any way, even though there may be no apparent evidence of breakage or harm, the Contractor shall promptly notify the proper authorities and cooperate with those authorities in determining damage and restoring interrupted services as may be needed. Where contact is made with a Utility, the Contractor shall suspend operations immediately and vacate the area until it has been determined by the Utility Owner that it is safe to resume operations.

(C) The Commission agrees to include in the DB Contract that the Contractor shall be responsible for any damage caused to the property, Facilities, structures, or persons of the City by its respective operations. Said operations include, without limitation, any earthwork, hauling, equipment placement, material placement, or the performance of the Utility Work. Each party shall immediately report to the injured party the occurrence of any such damage. Such damage shall be repaired or compensated at the expense of the Contractor to the reasonable satisfaction of the injured party.

(30) INDEMNIFICATION: To the extent allowed by law, the City shall indemnify the Commission for any act of the City. The City shall be responsible for injury or damages as a result of any services and/or goods rendered under the terms and conditions of this Agreement. In addition to the liability imposed upon the Cityon the account of personal injury, bodily injury, including death, or property damage, suffered as a result of the City performance under this Agreement, the City assumes the

obligation to save harmless the Commission, including its agents, employees and assigns, and to indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission, including legal fees. The City also agrees to hold harmless the Commission, including its agents, employees and assigns, from any wrongful or negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the City for any purpose under this Agreement, and to indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission.

(31) CLAIMS: Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.

(32) INSURANCE:

(A) General Condition: If the City performs any Utility Work under this Agreement, the City shall maintain (and require its contractors and subcontractors performing Utility Work hereunder to maintain):

1. Comprehensive General Liability (Bodily Injury and Property Damage) insurance with limits of liability of not less than two million five hundred thousand dollars per occurrence and aggregate, including the following coverages (or the equivalent in a policy form reasonably acceptable to the Commission):

(a) Contractual Liability to cover liability assumed under this Agreement, including liability for design performed by the City; and

(b) Personal Injury with the "employee" and "contractual" exclusions deleted; and

(c) Product and Completed Operations Liability Insurance.

2. Automobile liability insurance covering owned, non-owned and hired automobiles in an amount not less than two million five hundred thousand dollars, and

3. Worker's compensation insurance as required by law.

The City shall cause the Commission, its governing body, and their respective officers, employees, and authorized agents to be named as additional insureds on the above general liability insurance. Each Commercial General Liability and Commercial Auto Liability insurance policy shall also contain a separation of insureds condition. The City shall cause a certificate (or certificates) evidencing the insurance required hereunder to be delivered to the Commission prior to commencement of Utility Work by the City and by each other party required to provide such insurance, and shall cause such insurance to be maintained in full force and effect until all such Utility Work is completed. Each certificate shall provide that coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty days prior written notice to the Commission by certified mail, return receipt requested. If requested by the Commission from time to time, the City shall provide the Commission with verification by a properly qualified representative of the insurer that the City's insurance complies with this Paragraph, and shall cause all other parties required to provide insurance pursuant to this paragraph to do the same.

(B) Self Insurance by the Utility Owner The City shall have the right to comply with and satisfy any or all of its insurance obligations under this Section (including without limitation coverage for Utility Work performed by the City's contractors, subcontractors and consultants) in lieu of actually obtaining the applicable insurance policy(ies) by notifying the Commission of the City's election to be self-insured as to the applicable insurance coverage. If requested by the Commission at any time, the City shall provide the Commission with a certificate of such self-insurance in form reasonably acceptable to the Commission.

(33) NO LIENS: The City, its agents, and contractors, shall keep the relocated Facilities and the Project and the Project right-of-way free from any statutory or common law lien arising out of any Utility Work performed, materials furnished, or obligations incurred by the City, its agents, or contractors.

(34) NO OFFSETS: The Utility Work performed under each Work Order shall be treated as a separate job with separate billing. There shall be no offsets between amounts owed by one party to the other, whether for the same Work Order or for different Work Orders, except for the Betterment, salvage and/or retirement value credits described herein, for the particular Work Order.

(35) RETENTION OF RECORDS: All parties shall keep and maintain all books, papers, records, accounting records, files, reports and other material relating to the Utility Work it performs (or has performed) pursuant to this Agreement, including detailed records to support all bills submitted by each party, for a period of three years after the date of acceptance of the completed Utility Work. Any agency providing funding to the Commission (including their respective auditors) shall have access to and shall be entitled to audit all such records during normal business hours upon reasonable notice to the party maintaining such records. The City shall insert the above requirements into any contracts entered into for performance of Utility Work and shall also include in such contracts a clause requiring their contractors to include the above requirements in any subcontracts or purchase orders. The Commission and the City shall mutually agree upon any financial adjustments found necessary by such audit.

(36) THIRD PARTY BENEFICIARY: This Agreement is made for the sole benefit of the parties hereto and nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Commission and the City.

(37) WAIVER: A party's failure to enforce a provision of this Agreement does not waive the provision, or the party's right to subsequently enforce it.

(38) MERGER/AMENDMENTS: Once executed, this Agreement, along with the associated Work Orders, contains the entire Agreement of the parties with respect to the subject matter of this Agreement and supersedes all prior oral or written communications, understandings, and Agreements between the parties. Any amendment to this executed Agreement must be in writing and will not be effective until signed by the City and the Commission.

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

(40) 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 respecting its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

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

(42) 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.

(43) NON-LIABILITY OF COMMISSION PERSONNEL: Neither the commissioners, nor any other officer, official, employee, or agent of the Commission or Missouri Department of Transportation shall be personally responsible for any liability arising under or growing out of this Agreement.

(44) 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.

MoDOT DESIGN-BUILD PROJECT
The New I-64 Design-Build Project

MoDOT DESIGN-BUILD PROJECT

PRELIMINARY UTILITY INFORMATION SHEET

Utility Co. # 00 Conflict # 00

Original Conflict #(s) _____

Utility Owner: Utility Owner Name ☐ Public ☒ Private

Existing Condition

1. General Location PROPOSED Xing OF I-64 EAST SPOEDE/WEST OF SARAH
2. Utility Type: ☐ Electric ☐ Gas ☒ Communications ☐ Water ☐ Cable TV
   ☐ Other _____
3. Location by: ☐ Utility plat maps; Field located and surveyed: ☐ Yes ☐ No; Pothole ☐ Yes ☐ No

   If pothole, # _____

   Station: _____ to Station: _____
   Dist. from CL: _____ Rt./Lt. or To: _____
4. Utility size & materials: PROPOSED Utility Owner Facility
5. Encased: ☒ No ☐ Yes, if so size & material: _____

   This section completed by:
   MoDOT: _____ Utility Co: Utility Owner Other: Name Date: 1/1/05

Proposed Resolution (Utility Conflict Workshop)

1. Utility proposed to be: ☐ Left Alone ☐ Modified ☐ Removed ☐ Relocated ☐ Upgraded ☐ Abandoned
   Conflict with: _____
2. This utility may be modified/relocated: _____
3. Other proposed action: COORDINATE WITH DESIGN-BUILD DESIGN
4. Detailed plan sheet attached: ☐ Yes ☒ No

   This section completed by:
   MoDOT: Leible/Blanco Utility Co: Utility Owner Other: Name Date: 1/1/05

MUA Exhibit 1 Page 1 of 2

MoDOT Design-Build Project
The New I-64 Design-Build Project

Resolution Conditions (as determined by Utility Company)

1. Utility proposal to be: ☐ Left Alone ☐ Modified ☐ Removed ☐ Relocated ☐ Upgraded ☐ Abandoned

   Station: _____ to Station: _____
   Dist. from CL: _____ Rt./Lt. or To: _____

2. Utility in: ☐ MoDOT ROW ☐ Other public ROW ☐ Easement (attach copy) ☐ Not in ROW

3. Who is to do the design? ☐ Utility Company (UC) ☐ Design-Build Contractor (DBC)

4. Who is to do construction/relocation? ☐ Utility Company (UC) ☐ Design-Build Contractor (DBC)

5. UC to perform inspection? ☐ No ☐Yes, if so conditions: _____
   _____

6. Number of days required for prior notification by DBC for construction relocation by UC: ___ days

7. Number of days required to complete construction: ___ days; Design: ___ days

8. Any construction details unique to this location? ☐ No ☐Yes, Describe: _____
   _____
   _____

9. Utility can only be disconnected for: _____days/hours

10. Est. conceptual cost for: Design $_____ + Construction $_____ = $_____

11. Estimated cost for betterments (to be paid by the UC): $_____

12. Total cost of relocation: $_____

    This section completed by:
    MoDOT: _____ Utility Co: _____ Other: _____ Date: _____

FINAL DECISION: ☐ Left Alone ☐ Modified ☐ Removed ☐ Relocated ☐ Upgraded ☐ Abandoned

Explain: _____

This section completed by:
MoDOT: _____ Utility Co: _____ Other: _____ Date: _____

MUA Exhibit 1 Page 2 of 2

EXHIBIT 2
MUA DEFINITIONS
The Following Definitions Apply to Terms Used in the MUA

Abandonment	After a Utility Owner has decommissioned a Utility, the Work necessary to leave a Utility in place using proper Utility Owner and/or industry procedures (e.g., flushing, capping, filling with grout or sand) or other procedures Approved by MoDOT. Contractor is responsible to coordinate with the Utility Owner when it is necessary for the Utility Owner to be involved in the decommission of a Utility (including appurtenances).
Accept, or Acceptance	A formal conditional determination in writing that a particular matter or item appears to Conform to the requirements of the MUA.
Approve, or Approval	Formal conditional determination in writing by MoDOT that a particular matter or item is good or satisfactory for the Project. Such determination may be based on requirements beyond those set forth in the MUA and may reflect preferences of MoDOT.
Applicable Laws	All applicable federal, state and local laws, codes, ordinances, rules, regulations, judgments, decrees, directives, guidelines, policy requirements, judgments, decrees, directives, guidelines, policy requirements, orders and decrees of any Governmental Person having jurisdiction over the Project or Site, the practices involved in the Project or Site, any Work, or any Utility Work being performed by a Utility Owner.
Betterment	The upgrading (e.g., increase in capacity) of a utility being relocated that is not attributable to construction of the Project or is made solely for the benefit of and at the election of the utility owner (not including a technological improvement which is able to achieve such upgrade at costs equal to or less than the costs of a "like for like" replacement or relocation). The use of new materials or compliance with current standards in the performance of Utility Work is not considered a Betterment.
Contract, or DB Contract	The Design-Build Contract between MoDOT and the Contractor for the Design-Build Project.
Contractor	The Design-Build Contractor engaged by MoDOT under the Contract to perform Work, render services, and/or provide materials, equipment, or other property with respect to the design and construction of the Project.
Day(s)	Calendar Day(s)
Design-Build Project	The Project.
Facilities	Same definition as "Utility".
Final Acceptance	The acceptance of the Utility Work, as established by issuance of the Construction Inspection Approval Letter.
Final Design	The final design for the Utility Work, or any portion thereof, as developed by the Contractor or the Utility Owner.
Force Majeure	An event beyond the control of the party performing the work, not due to an act or omission of the party performing the work, its partners, joint venture members, subcontractors or subconsultants, at any tier, and their employees, agents and officers and all other persons for whom the party performing the work may be legally or contractually responsible, which materially and adversely affects the party's ability to meet its obligations under this MUA, to the extent that the event (or the effects of which event) could not have been avoided or prevented by due diligence and use of reasonable efforts by the party performing the work. Notwithstanding the foregoing, the term "Force Majeure" shall not include normal weather.

Governmental Person	Any federal, state, local or foreign government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity. The term includes the State and agencies and subdivisions thereof, other than MoDOT.
Incidental Utility Work	Abandonment, Protection of Existing Utilities and Utility Removal Work.
MoDOT	Missouri Department of Transportation.
MoDOT Utility Representative	The MoDOT Utility Manager for the Project, acting directly or through an authorized representative who is responsible for administrative supervision of Utility Work for the Project.
MUA	Master Utility Agreement - An agreement made between MoDOT and a Utility Owner which provides a general framework for addressing Utility conflicts associated with the Project, as the same may be amended from time to time.
Owner	Same as "Utility Owner."
Private Utility	A Utility that is owned by a Private Utility Owner.
Private Utility Owner	Any owner or operator of a Utility which is not a Public Utility Owner.
Project	The Project Work in the portions of Interstate 64, as defined in Book 1 of the design-build Contract.
Project Work or Work	All duties and services to be furnished and provided by Contractor pursuant to the design build contract, including the administrative, design, engineering, quality control, quality assurance, Utility Work, procurement, legal, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, materials, equipment, documentation and all other efforts necessary or appropriate to achieve final acceptance from MoDOT, except for those efforts which the design build contract or the MUA specify will be performed by MoDOT or other persons. In certain cases the term is also used to mean the products of the Project Work.
Protection of Existing Utilities	Any activity undertaken to avoid damaging a Utility which does not involve removing or relocating that Utility, including staking the location of a Utility, avoidance of a Utility's location by construction equipment, installing steel plating or concrete slabs, encasement in concrete, temporarily de-energizing power lines, and installing physical barriers. For example, temporarily lifting power lines without cutting them would be considered Protection of Existing Utilities; whereas temporarily moving power lines to another location after cutting them would be considered a temporary Utility Relocation.
Public Utility	A Utility that is owned by a Public Utility Owner.
Public Utility Owner	A municipality, county or other political subdivision of the State of Missouri.
Right of Way	The real property (which term is inclusive of all estates and interests in real property) which is necessary for ownership and operation of the Project. The term specifically excludes (1) the utility easements; and (2) any temporary easements or other real property interests which the Contractor deems necessary or advisable in connection with: (a) Construction of the Project; and/or (b) Relocation of Utilities The term "right of way" is sometimes used to indicate Project right of way and is sometimes

	used to indicate rights of way for other facilities.
R/W	Right of way.
Service Line	A Utility line, the function of which is to connect an individual service location (e.g., a single family residence or an industrial warehouse) to another Utility line which connects more than one such individual line to a larger system. The term "Service Line" also includes any Utility on public or private property that services structures located on such property.
Site	The parcels of Right of Way identified on the R/W Plans or on which the Project is to be constructed and installed as well as all other areas in the vicinity used by Contractor for construction Work.
State	The State of Missouri acting through its elected officials and their authorized representative, or the State of Missouri in the geographic sense, depending on the context.
Technical Criteria	The criteria described in the MUA that establishes the minimum acceptable standards of quality, materials, and performance for the Utility Work, and which will be used as a basis for reviews, and as a basis for Final Acceptance.
Utility	(1) A privately, publicly or cooperatively owned line, facility and/or system for producing, transmitting or distributing communications, power, cable television, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with the highway drainage, signal systems and other products that directly or indirectly serve the public, and/or; (2) a privately owned irrigation facility. The necessary appurtenances to each utility facility shall be considered part of such utility. The term "utility" is also sometimes used to refer to the owner or operator of any such line, facility and/or system. The term "utility" shall specifically exclude storm water facilities connected with drainage of the roadway.
Utility Design Sheet (UDS)	A form to be prepared by the Design-Build Contractor, which will document the existing conditions of a Utility and the final Relocation recommendation to mitigate potential conflict. This form will be signed by MoDOT, the Utility Owner, and the Design-Build Contractor and will be an attachment to the respective Work Order.
Utility Information Sheet (UIS)	A form, completed for each Utility, which documents the existing conditions of a Facility and a preliminary Utility Relocation recommendation to mitigate potential conflict. The information was obtained by MoDOT in cooperation with the Utility Owner. The form was signed by MoDOT and the Utility Owner.
Utility Owner	The owner or operator of any Utility (including both Public Utility Owners and Private Utility Owners).
Utility Permits	All appropriate approvals, exemptions, filings, licenses, permits, and registrations and any other Governmental Approvals required by or with any Governmental Person or Utility Owner necessary for any Utility Relocation.
Utility Relocation	Each relocation, (including provision of temporary services as necessary) of any and all Utilities that is necessary or advisable in order to accommodate or permit construction of the Project.
Utility Relocation Plans	The design plans for Relocation of a Utility impacted by the Project to be prepared by the Contractor or the Utility Owner.
Utility Removal Work	Work necessary to remove any Utilities (whether or not in use as of the date of Notice-to-Proceed) for which leaving the Utilities in-place is not feasible or not permitted, or which the Contractor otherwise proposes to be removed in order to accommodate the Project.

Utility Tracking Report	A MoDOT report summarizing Utility conflicts, as shown on the UISs, for all Utility Owners within the corridor.
Utility Work	The Work associated with Relocation of Utilities, including the design, construction, installation, manufacture, supply, testing and inspection, adjustments (including, but not limited to manholes and valves), and other services required by the MUA and/or by Work Orders issued thereunder, including all labor, materials, equipment, supplies, utilities, and subcontracted services provided or to be provided by the Contractor and/or the Utility Owner to fulfill obligations under the MUA and/or Work Orders issued thereunder.
Work Order	An ordering agreement (as the same may be amended from time to time) among MoDOT, Utility Owner, and the Contractor, providing detailed information and terms relating to the Utility Relocation of a particular utility, and authorizing that Utility Relocation, which is executed pursuant to a MU

EXHIBIT 3

The New I-64 Design-Build Project
UTILITY TRACKING REPORT

Utility Company						Conflict Resolution		In R/W by			Design By															Construction Start Dates		Construction Completion Dates				
Name	No.	Conflict No.	Utility Size & Type	General Location	Station Location	Proposed To Be	MoDOT Approval Date	Own Pro-perty	Ease-ment	Perm #	DBC	UC	Impact Notification Date	Initial Coordination Meeting Date	Private Design Scheduled Submittal Date	Private Design Received Date	WO Meeting Date	Design Approval Letter Due Date	Design Approval Letter (6) Date	Assigned UDS Number	Assigned WO Number	WO received by Utility Owner Date	Signed WO from UO - Due Date	Signed WO received from UO Date	Signed WO received by MoDOT	Signed WO from MoDOT - Due Date	Signed WO received from MoDOT	DBC	UC	Scheduled	Actual	Scheduled	Actual	Percent Complete	Construction Approval Letter (7) Date	Comments
Utility Owner	1																																			
Not Used	2																																			

EXHIBIT 4

WORK ORDER

MASTER UTILITY AGREEMENT ("MUA")

MUA No.:_____ UDS No.:_____

Work Order No.:_____ Date:_____
(to be filled in by MoDOT)

Work Order Revision No.:_____ Date:_____
(to be filled in by MoDOT)

Change Order No.(if applicable):_____

NAME OF "Utility Owner": _____

LOCATION/DESCRIPTION OF WORK

Location of the Utility Work Covered by this Work Order is Described in Attached UDS.
General Description of the Utility Work Covered by this Work Order:
_____
_____

ALLOCATION OF RESPONSIBILITY FOR UTILITY WORK

For Design: by Contractor: _____ ;

by Utility Owner: _____

For Construction: by Contractor: _____;

by Utility Owner : _____

Inspection: by Contractor: _____;

by: Utility Owner: _____;

COST RESPONSIBILITY

For Design: MoDOT Pays $ _____; Utility Owner Pays $ _____

For Construction: MoDOT Pays $_____ ; Utility Owner Pays $_____

For Inspection: MoDOT Pays $_____; Utility Owner Pays $_____

For Replacement Easements: MoDOT Pays $_____; Utility Owner Pays $_____

Lump Sum $_____; OR, Actual Costs Not To Exceed $_____

SCHEDULE (THIS WORK ORDER ONLY):	**SCHEDULE (THIS WORK ORDER ONLY):**
For Design:	For Construction:
Start Date:_____	Start Date:_____
Completion Date (CD):_____	Completion Date (CD):_____
Review: Within _____Days of CD	Inspection: Within _____Days of CD

COST ESTIMATE SUMMARY

The Contractor shall provide a summary of financial costs associated with all Utility Work performed by the Utility Owner and/or by the Contractor under this Work Order, whether that Utility Work is to be performed on a lump sum or an actual cost basis, in the format described below. Include appendices detailing the basis for the numbers entered in the financial summary.

Item	Description	Cost	Ref: Appendix
1.	Direct Labor	$_____	_____
2.	Inspection Cost	$_____	_____
3.	Material	$_____	_____
4.	Engineering	$_____	_____
5.	Equipment	$_____	_____
6.	Markup	$_____	_____
7.	Subtotal	$_____	_____
8.	Subcontractors	$_____	_____
9.	Markup	$_____	_____
10.	Replacement Easement	$_____	_____
11.	Total	$_____	_____

FOR MoDOT INTERNAL ACCOUNTING PURPOSES ONLY:

MUA Encumbrance: $ _____

MoDOT Costs incurred under: MUA $_____; and/or
DB Contract $_____

Total To Date: MUA $ _____; and/or DB Contract $ _____;

Remaining MUA Balance: $ _____

❑ If the box to the left is checked and initialed by MoDOT, this Work Order will also function as a Change Order pursuant to Book 1 of the Contract Documents. In that event certain Change Order provisions will be attached, as Attachment A. However, Attachment A shall be between MoDOT and the Contractor only, and the Utility Owner shall not be a party to or affected thereby.

❑ If the box to the left is checked and initialed by MoDOT, this Work Order will NOT function as a Change Order pursuant to Book 1 of the Contract Documents.

THIS WORK ORDER ("Work Order") is entered into by and among MoDOT, the Utility Owner, and the Contractor, to implement in part that certain Master Utility Agreement (MUA) identified as MoDOT Agreement No. _____, as the same may be amended from time to time. The information on the face page(s) to which this Work Order is attached is a part of this Work Order.

UTILITY WORK TO BE DONE

MUA. This Work Order is issued to authorize the Utility Work described herein. The MUA and all of the provisions thereof are incorporated into this Work Order by this reference. All attachments referenced in this Work Order are incorporated herein by such reference. All Utility Work shall be performed in accordance with the requirements of the MUA, but this Work Order shall prevail to the extent of any inconsistency between the provisions of this Work Order and the MUA.

Scope of Utility Work. The Utility Owner and the Contractor shall each perform the design and construction work specified as their respective responsibility on the face page of this Work Order.

Schedule. Where the Utility Owner or the Contractor is responsible to perform the design work described herein, the Utility Owner or the Contractor shall complete the design work described herein in accordance with the schedule specified on the face page of this Work Order. Where the Utility Owner or the Contractor is responsible to perform the construction work described herein, the Utility Owner or the Contractor shall commence the construction work described herein only after approval of the Final Design by the other party for such Utility Work as provided below. The Utility Owner or the Contractor shall complete such construction work in accordance with the schedule specified on the face page of this Work Order.

PERFORMANCE OF THE UTILITY WORK

Design. The design to be furnished, whether by the Utility Owner or by the Contractor, pursuant to this Work Order shall be substantially in accordance with the preliminary plan attached to this Work Order as Attachment ____, the specifications and standards attached to this Work Order as Attachment ____, and shall be consistent and compatible with the relevant Project Plans. All plans for the Utility Work are subject to review and approval by the Utility Owner and by the Contractor, in accordance with the time frames and procedures set forth in the MUA, as may be modified by the Work Order.

Construction. The construction to be performed pursuant to this Work Order, whether by the Utility Owner or by the Contractor, shall be performed substantially in accordance with the final approved design plans. Deviations from the final approved design plans may occur only in conformity with the MUA. Promptly upon 100% completion, and in no event later than seven days after 100% completion, either party performing construction shall obtain a "Construction Inspection Approval Letter" for the Utility Work from the other party.

LIABILITY FOR UTILITY WORK

In accordance with the MUA, MoDOT and the Utility Owner shall each be responsible for the Utility Relocation Costs specified on the face page of this Work Order (except for any Betterments as described below, which shall be at 100% Utility Owner's expense).

COST ESTIMATE

The party responsible for the performance of the design and/or the construction (as applicable) of the Utility Work authorized by this Work Order shall prepare a cost estimate for that Utility Work, whether that Utility Work is to be performed on a lump sum or an actual cost basis, in accordance with the MUA. Such estimates shall be attached and incorporated into this Work Order.

PRICE OF UTILITY WORK

Utility with Property Rights (MoDOT pays). [The price of the Utility Work (except for any betterments) was included in MoDOT's Design-Build Contractor's Proposal Price and is included in the DB Contract Price.] [or] [The parties have agreed to the following lump sum amount for the Utility Work: $_____. [or] If no lump sum, the parties have agreed that the actual cost for the Utility Work is estimated to be (but shall not exceed) $_____, based upon the attached cost estimate(s).

Municipal Utility with Property Rights (MoDOT pays). [The price of the Utility Work (except for any betterments) was included in MoDOT's Design-Build Contractor's Proposal Price and is included in the DB Contract Price.] [or] [The parties have agreed to the following lump sum amount for the Utility Work: $_____. [or] If no lump sum, the parties have agreed that the actual

cost for the Utility Work is estimated to be (but shall not exceed) $_____, based upon the attached cost estimate(s).

Utility without Land Rights (Utility Owner pays). [The parties have agreed to the following lump sum amount for the Utility Work: $_____;] [or] [If no lump sum, the parties have agreed that the actual cost for the Utility Work is estimated to be (but shall not exceed) $_____, based upon the attached cost estimate(s)].

The cost amount stated above is an estimate of the Utility Work. Authorized expenditures and reimbursements will be based on the terms of the MUA.

BILLING AND PAYMENT

MoDOT Responsibility for Payment. Billing and payment for Utility Work performed by MoDOT's Design-Build Contractor and inspected by the Utility Owner shall be in accordance with the Design-Build Contract. Billing and payment for Utility Work performed by the Utility Owner shall be in accordance with the MUA.

Utility Responsibility for Payment. [The price of the Utility Work (except for any betterments) was included in MoDOT's Design-Build Contractor's Proposal Price and is included in the DB Contract Price.] [or] [The parties have agreed to the following lump sum amount for the Utility Work: $_____. [or] If no lump sum, the parties have agreed that the actual cost for the Utility Work is estimated to be (but shall not exceed) $_____, based upon the attached cost estimate(s). Billing and payment for Utility Work performed by MoDOT's Design-Build Contractor, not including inspection by the Utility Owner, shall be in accordance with the MUA.

Billing and payment for any Betterment Work shall be in accordance with the MUA.

BETTERMENT, RETIREMENT VALUE, SALVAGE

[Note: Select (and complete, if necessary) the one appropriate provision, and delete the inapplicable provisions]:

1. The Utility Work includes Betterment to the Utility Owner's Facilities by reason of: _____ in the estimated amount of $_____; or

2. The Utility Work does not include any Betterment; or

3. MoDOT and the Utility Owner have not yet determined if the Utility Work includes any Betterment, or have not yet determined the amount attributable to Betterment. Upon such determination, MoDOT and the Utility Owner shall revise this Work Order as appropriate.

The Utility Owner shall credit MoDOT, for the actual Utility Relocation Costs of any Betterment, salvage value, and retirement value on the facilities as required pursuant to the MUA.

EFFECTIVE DATE

This Work Order shall be effective as of the "Date" filled in by MoDOT on the face page of this Work Order.

IN WITNESS WHEREOF, MoDOT, the Utility Owner, and the Contractor have executed this Work Order as of the "Date" set forth on the face page of this Work Order.

Utility Owner:

By: _____

Print Name: _____

Title: _____

Contractor:

By: _____

Print Name: _____

Title: _____

MoDOT:

By: _____

Print Name: _____

Title: _____

State Encumbrance Verification

N/A, funds encumbered under Master Utility Agreement

EXHIBIT 5

MoDOT DESIGN-BUILD PROJECT

Utility Co. #	Conflict #

UTILITY DESIGN SHEET

Utility Owner: _____ ☐ Public ☐ Private

SECTION TO BE COMPLETED PRIOR TO NEGOTIATION MEETING

Existing Condition

1. General Location _____
2. Utility type: ☐ electric ☐ gas ☐ communications ☐ water ☐ cable TV
   ☐ Other _____
3. Location by: ☐ Utility plat maps; Field located and surveyed: ☐Yes ☐ No; Pothole ☐ Yes ☐ No
   If pothole, #_____ from : ☐ MoDOT work or ☐ DBC work SUE contractor used: _____
   Station: _____ to Station: _____ Dist. from CL: _____ Rt. / Lt._____
4. Utility size & materials: _____
5. Encased: ☐ No ☐ Yes, if so size & material: _____
   This section completed by DBC Rep.: _____ Date: _____

SECTION TO BE COMPLETED AT NEGOTIATION MEETING

Proposed Resolution

1. DBC Recommends Utility be: ☐ left alone ☐ modified ☐ removed ☐ relocated ☐ upgraded ☐ abandoned
   Conflict with: _____
2. This utility may be modified/relocated to _____
   Station: _____ to Station: _____ Dist. from CL: _____ Rt./Lt._____
3. Utility in: ☐ MoDOT R/W ☐ other public R/W ☐ Easement (attach copy) ☐ not in R/W
4. Who is to do the design? ☐ Utility Company (UC) ☐ Design-Build Contractor (DBC)
5. Who is to do construction/relocation? ☐ Utility Company (UC) ☐ Design-Build Contractor (DBC)
6. UC to perform inspection? ☐No ☐Yes, if so conditions: _____
7. Number of days required for prior notification by DBC for construction relocation by UC: _____ days
8. Number of days required to complete Design: _____days; Construction: _____ days.
9. Any construction details unique to this location? ☐ No ☐ Yes, Describe: _____
10. Utility can only be disconnected for: _____days/hours.
11. Other proposed action: _____
12. Detailed plan sheet attached

This section completed by: MoDOT _____ ; UC _____; DBC _____ Date: _____

EXHIBIT 6

UTILITY NO-CONFLICT CLOSEOUT FORM

This Utility "No-Conflict" Closeout Form ("this Form") is to be executed by the Utility Owner and Contractor Representative. Execution of this Form by both parties indicates concurrence that no Relocation is required for the referenced utility tracking number. It is the understanding of both parties that future modifications to the Project may cause the referenced utility to become a conflict, but that is considered to be unlikely. Should this become a conflict in the future, then a Work Order will be processed following the standard procedures.

"Owner" Name:_____

UDS No:_____

Location:_____

Comments:_____

OWNER'S SIGNATURE

Signature: _____ Date: _____

CONTRACTOR'S SIGNATURE

Signature: _____ Date: _____

IF THIS FORM IS NOT SIGNED BY THE OWNER, the Owner shall state below its basis for not concurring with the No-Conflict designation:

_____
_____
_____
_____
_____

cc: MoDOT Utility Representative

EXHIBIT 7(A)

UTILITY OWNER'S DESIGN APPROVAL LETTER

THIS DESIGN APPROVAL LETTER ("this Letter") is to be executed by the Utility Owner. Execution of this Letter by the Utility Owner indicates the Utility Owner's approval of the Utility Design Work performed and completed by the Contractor. The Utility Design Work to be approved by the Utility Owner by its execution of this Letter is specifically described below.

Performance of that Utility Design Work by the Contractor implemented, in part, that certain MUA No. _____, dated _____, entered into by and among MoDOT and the Utility Owner, as the same may be amended from time to time. The information in table form below is a part of this Letter.

MUA No.:_____	**UDS No.:**_____
Work Order No.:_____	**Date:**_____
Work Order Revision No.:_____	**Date:**_____
Utility Owner's Name: _____	

UTILITY OWNER'S APPROVAL SIGNATURE

The signature below by the Utility Owner's representative authorized to approve the Utility Design Work under the Work Order, as described above, indicates that the Utility Design Work completed by the Contractor is thereby approved by the Utility Owner, and that such Utility Design Work was performed satisfactorily in accordance with all applicable MUA standards and Work Order requirements.

Signature:_____

Date:_____

Once the Utility Owner signs this Design Approval Letter, if the Utility Owner will be performing the Construction Utility Work, then the Contractor will issue a notice to proceed to the Utility Owner for that Construction Utility Work.

IF THIS LETTER IS NOT SIGNED BY THE UTITLITY OWNER, the Utility Owner shall state below its basis for not approving the Utility Design Work: _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

c: MoDOT
Contractor

EXHIBIT 7(B)

CONTRACTOR'S DESIGN APPROVAL LETTER

THIS DESIGN APPROVAL LETTER ("this Letter") is to be executed by the Contractor. Execution of this Letter by the Contractor indicates the Contractor's approval of the Utility Design Work performed and completed by the Utility Owner. The Utility Design Work to be approved by the Contractor by its execution of this Letter is specifically described below.

Performance of that Utility Design Work by the Utility Owner implemented, in part, that certain MUA No. _____, dated _____, entered into by and among MoDOT and the Utility Owner, as the same may be amended from time to time. The information in table form below is a part of this Letter.

MUA No.:_____	**UDS No.:**_____
Work Order No.:_____	**Date:**_____
Work Order Revision No.:_____	**Date:**_____
Utility Owner's Name: _____	

CONTRACTOR'S APPROVAL SIGNATURE

The signature below by the Contractor's representative authorized to approve the Utility Design Work under the Work Order, as described above, indicates that Utility Design Work completed by the Utility Owner is thereby approved by the Contractor as being compatible with the Project, and that such Utility Design Work was performed satisfactorily in accordance with all applicable MUA standards and Work Order requirements.

Contractor:_____

Signature:_____

Date:_____

Once the Contractor signs this Design Approval Letter, if the Utility Owner will be performing the Construction Utility Work, then the Contractor will issue a notice to proceed to the Utility Owner for that Construction Utility Work.

EXHIBIT 7(B)

CONTRACTOR'S DESIGN APPROVAL LETTER

THIS DESIGN APPROVAL LETTER ("this Letter") is to be executed by the Contractor. Execution of this Letter by the Contractor indicates the Contractor's approval of the Utility Design Work performed and completed by the Utility Owner. The Utility Design Work to be approved by the Contractor by its execution of this Letter is specifically described below.

Performance of that Utility Design Work by the Utility Owner implemented, in part, that certain MUA No. _____, dated _____, entered into by and among MoDOT and the Utility Owner, as the same may be amended from time to time. The information in table form below is a part of this Letter.

MUA No.:_____	**UDS No.:**_____
Work Order No.:_____	**Date:**_____
Work Order Revision No.:_____	**Date:**_____
Utility Owner's Name: _____	

CONTRACTOR'S APPROVAL SIGNATURE

The signature below by the Contractor's representative authorized to approve the Utility Design Work under the Work Order, as described above, indicates that Utility Design Work completed by the Utility Owner is thereby approved by the Contractor as being compatible with the Project, and that such Utility Design Work was performed satisfactorily in accordance with all applicable MUA standards and Work Order requirements.

Contractor:_____

Signature:_____

Date:_____

Once the Contractor signs this Design Approval Letter, if the Utility Owner will be performing the Construction Utility Work, then the Contractor will issue a notice to proceed to the Utility Owner for that Construction Utility Work.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
PERMIT APPLICATION

Date _____ District _____ _____ Excavation Permit No. _____
_____ _____ Utility Route _____ County _____
_____, MO_____ _____ Driveway_____ Town _____
Inspector _____ _____ _____ Pipe _____
Phone_____ Location Map Included Yes ✓ No ___
Area Sup. _____ Issued _____ Log Point _____
Phone _____ Expired_____

_____
(Name of Applicant/Contractor)

Requests permission to perform the following work on State Highway right of way along the _____ side.
_____(Feet or miles) from _____
(Kilometers)

Described as follows:

Signed _____ Signed _____

_____ _____
(Applicant's Contractor) (Applicant)

_____ _____
(Address) (Address)

_____ _____
(City State Zip-code) (City State Zip-code)
(Telephone Number) (Telephone Number)

Prior to issuance of a permit a deposit could be required. none ___✓___, bond _____, check _____
$_____ is required. Make check payable to: **Director of Revenue Credit Road Fund**.

Please refer to General Provisions on back side of this sheet before signing application.

MUA, Exhibit 8, Page 1 of 2

G E N E R A L P R O V I S I O N S

Section 1. The signing of this application binds the applicant/contractor to the terms of this application, the permit when issued and the approved plans. If signed by Applicant's contractor or that contractor's authorized representative, the contractor will be held jointly responsible for all of the requirements of this permit until it is released by the District Engineer.

Section 2. It is understood by the Applicant that the Missouri Highways and Transportation Commission does not assume any responsibility for the removal or clearance of snow, ice, or sleet, or the opening of windrows of such materials, upon any portion of any driveway or entrance along any state highway even if snow, ice or sleet is deposited or windrowed on said driveway or entrance by its authorized representatives engaged in normal winter maintenance operations.

Section 3. Highway plant materials, including trees and shrubs, will be protected by Applicant. Such materials and turf which are disturbed will be restored as directed by the District Engineer. Trees and shrubs will not be trimmed, cut, moved or sprayed without specific permission from the District Engineer.

Section 4. In the case of Interstate and other limited access roadways, Applicant agrees, if permission is granted, to install, maintain, and service said facilities without entering and leaving the through traffic roadways and interchange ramps except at points provided for that purpose and without parking any equipment or storing any materials upon the medians, through roadways and ramps or the shoulders thereof. A temporary support pole to facilitate an aerial crossing may be placed in the median provided it is stipulated on the face of this permit application and adequate flaggers or law enforcement officers are utilized to protect the traveling public. Support poles will not be permitted within 30 foot of the edge of the traveled way. They shall be removed within one week unless specifically permitted otherwise at weekly intervals by the District Engineer.

Section 5. Construction material and equipment may be on the right of way only during the period of actual construction providing it is not on the roadway shoulders, in the ditch or blocking sight distance.

Section 6. Applicant agrees that construction inspection will be provided by applicant to assure compliance with the permit.

Section 7. Applicant/contractor will provide traffic control in accordance with the Manual on Uniform Traffic Control Devices..

Section 8. Location of parallel utility facilities:

(a) Applicant will be expected to determine Commission's right of way location from commission's plans. Upon written request and adequate advance notice, the Commission will re-establish missing right of way markers for utility permits. This will be accomplished on a permit by permit basis and then only if Commission has adequate personnel available.

(b) Applicant will be responsible for staking between highway right of way markers as needed to assure accurate and uniform installation of the parallel facilities in the utility corridor.

Section 9. Applicant shall provide adequate preliminary engineering including planning, and coordination with all concerned parties to:

(a) Confirm their contractor knows the rules and limitations for installations on highway right of way.

(b) Provide preinstallation meetings to all parties on major installations. The established Missouri One-Call System will help identify other utilities located on the right of way.

(c) Include the name and telephone numbers of the design engineer and construction manager, as well as the dimension of the facility from the right of way line on the permit application.

Section 10. Applicant is to provide adequate protection and marking of the underground facilities as follows:

(a) Fiber optic cable crossings are to be encased in steel pipe or other approved encasement material in accordance with the utility policy from utility corridor to utility corridor. Variations due to encountering rock will be determined in the field by the District Engineer.

(b) Warning signs will be installed at the right of way lines at road crossings (all underground utilities).

(c) For parallel underground facilities, warning signs shall be installed and maintained at the right of way lines showing the offset location of the utility when the utility is permitted to locate beyond the normal six foot wide utility corridor.

Section 11. Applicant will construct the utility facility in such a manner that it may be accurately located both horizontally and vertically after installation. A detectable tape or trace wire will be installed with non-metallic buried facilities. Wherever feasible the metallic tracer line should be a part of the utility facility. Acceptable alternatives will be considered for approval.

Section 12. All voids resulting from boring casing or other facilities under the roadways or approaches will be filled to the satisfaction of the District Engineer. Method and materials must be approved by the District Engineer.

Section 13. Manhole covers will be installed as flush as possible with natural ground line so highway maintenance vehicles and equipment may operate over them. If necessary, soil is to be placed around the manhole to provide a smooth transition to the existing grade.

Section 14. Prior to beginning work, the applicant will request from MoDOT, a location of MoDOT owned utilities within the proposed work area.

Section 15. The applicant shall be responsible for the driveway surface maintenance beyond the outside edge of the shoulder, or ten feet from the edge of the pavement whichever is less, for any commercial entrance and any private driveway surface that has been upgraded under permit.

Section 16. Applicant will contact MoDOT 48 hrs prior to any lane closure. Lane closure dates may be rescheduled and/or lane closure times may be shifted to off-peak and/or nighttime hours to minimize traffic backups. Multiple tasks should be scheduled in a single work zone if possible.

(Date)

DESIGN
Utility Adjustments
Route _____, _____County
_____(location)_____
_____
Job No. _____

_____(addressee)_____
Company

_____(address)_____
_____
_____

(Name):

Reference is made to discussions with your company concerning the necessary relocation of utility facilities within State highway right-of-way on the subject project.

Section 227.240, RSMo 1959, provides for the service of a notice upon your company, including a plat indicating the area within which your utilities may be relocated. The statute also provides that this notice shall give a date of a hearing before the Missouri Highways and Transportation Commission at (location) prior to the order fixing a time for relocation of such utilities.

It is our understanding that your company recognizes its obligation to relocate its facilities located on State right of way at no cost to the Commission and that no benefit would result to either party from a formal hearing provided by the statute.

We would, therefore, request your signature on the attached "Waiver of Hearing" and the return of one copy to this office. As always,

our staff is available to assist you in the determination of a new location for your facilities. Very truly yours,

District Engineer

NOTE: Include two (2) copies of "Waiver of Hearing" and a self-addressed stamped envelope.

WAIVER OF HEARING

Route _____
_____(Location)_____
Job No. _____

Utility: _____(Name)_____
(Property Owner) _____

The undersigned agrees that their facilities, located on the State right of way of the subject project will be relocated without cost to the Missouri Highways and Transportation Commission and that a formal hearing as provided under Section 227.240 RSMo is hereby waived. The relocation will be effected under a Permit issued by the Commission's District Engineer. All work will be completed as soon as practicable so as not to interfere with or cause delay to the road contractor in the construction of the subject project.

_____
(Name)

_____
(Title)

_____
(Date)

BEFORE THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION OF THE STATE OF MISSOURI

In the Matter of
Utility Relocations
_____ County
Job No. _____

NOTICE OF HEARING

[Utility Owner, their address including zip code and start a new paragraph for each and every other property owner.]

_____, Assistant Chief Engineer, State Highways & Transportation Building, Jefferson City, Missouri 65101

_____, Design, State Highways and Transportation Building, Jefferson City, Missouri 65101

_____, Assistant Counsel, State Highways & Transportation Building, Jefferson City, Missouri 65101

_____, Hearing Examiner, State Highways and Transportation Building, Jefferson City, Missouri 65101

_____Court Reporters,
_____
(Address)

Please take notice that the Missouri Highways and Transportation Commission plans to improve Route _____between _____(describe limits of the project) _____. This highway construction project is designated as Job No.

Certain (water) facilities believed to be owned or maintained by you and now located within the limits of the existing right of way may have to be altered or relocated to provide for the construction, maintenance or public use of the highway. A copy of the Commission's plan sheet (Exhibit A) is attached and shows by words, figures and symbols the highway right of way, planned improvements and necessary utility adjustments.

The red color line shows the approximate location of existing (water) facilities believed to be owned or maintained by you while the words and lines highlighted in (color) indicate necessary utility adjustments. The work on the right of way is scheduled to begin on (date) and you should make arrangements to complete adjustments to your (water) facilities before that date.

You are further advised that the Commission has scheduled a utility relocation hearing under Section 227.240 RSMo for _(day) , _(date) , ___(time) , before two hearing examiners in the Hearing Room of the State Highways and Transportation Building, Jefferson City, Missouri. The purpose of the hearing is to determine whether the reconstruction of the highway as shown by the Commission's plans makes it necessary to relocate or adjust utility facilities within the right of way as proposed by the Commission's plans to prevent interference with the construction, maintenance or public use of the highway. You or your representative may appear at the hearing and be heard on this issue. However, you are advised that the allocation of utility alteration costs as between utility owners and this Commission, as a matter of public policy, has been committed to the sole discretion of the Missouri Highways and Transportation Commission by Section 227.240 RSMo. The subject of cost cannot be addressed at this hearing.

If you are disabled and require special services at the public hearing, please notify (name) by (date) at (telephonenumber) or (TDD number) so that arrangements for those services can be made. If you have any questions about the Commission's planned highway improvements, please contact the undersigned district engineer.

Dated this _____ day of _____, 19_____.

_____
District Engineer
Address _____
_____
Telephone Number _____

EXHIBIT 10(A)

UTILITY OWNER'S CONSTRUCTION INSPECTION APPROVAL LETTER

THIS CONSTRUCTION INSPECTION APPROVAL LETTER ("this Letter") is to be executed by the Utility Owner. Execution of this Letter by Utility Owner ("Utility Owner") indicates the Utility Owner's approval of the Utility Construction Work performed and completed by the Contractor. The Utility Construction Work to be approved by the Utility Owner by its execution of this Letter is specifically described below.

Performance of that Utility Construction Work by the Contractor implemented, in part, that certain MUA No. _____, dated _____, entered into by and among MoDOT and the Utility Owner, as the same may be amended from time to time. The information in table form below is a part of this Letter.

MUA No.: _____	**UDS No.:**_____
Work Order No.:_____	**Date:**_____
Work Order Revision No.:_____	**Date:**_____
Utility Owner's Name: Utility Owner	

UTILITY OWNER'S APPROVAL SIGNATURE

The signature below by the Utility Owner's representative authorizes to approve the Utility Construction Work under the Work Order, as described above, indicates that the Utility Construction Work completed by the Contractor is thereby approved by the Utility Owner, and that such Utility Construction Work was performed satisfactorily in accordance with all applicable MUA standards and Work Order requirements.

Utility Owner:_____

Signature:_____

Date:_____

IF THIS LETTER IS NOT SIGNED BY THE UTILITY OWNER, the Utility Owner shall state below its basis for not approving the Utility Construction Work:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

cc: MoDOT
Contractor

EXHIBIT 10(B)

CONTRACTOR'S CONSTRUCTION INSPECTION APPROVAL LETTER

THIS CONSTRUCTION INSPECTION APPROVAL LETTER ("this Letter") is to be executed by the Contractor. Execution of this Letter by the Contractor indicates the Contractor's approval of the Utility Construction Work performed and completed by the Utility Owner. The Utility Construction Work to be approved by the Contractor by its execution of this Letter is specifically described below.

Performance of that Utility Construction Work by the Utility Owner implemented, in part, that certain MUA No. _____, dated _____, entered into by and among MoDOT and the Utility Owner, as the same may be amended from time to time. The information in table form below is a part of this Letter.

MUA No.:_____	**UDS No.:**_____
Work Order No.:_____	**Date:**_____
Work Order Revision No.:_____	**Date:**_____
Utility Owner's Name: _____	

CONTRACTOR'S APPROVAL SIGNATURE

The signature below by the Contractor's representative authorized to approve the Utility Construction Work under the Work Order, as described above, indicates that the Utility Construction Work completed by the Utility Owner is thereby approved by the Contractor as being compatible with the Project, and that such Utility Construction Work was performed satisfactorily in accordance with all applicable MUA standards and Work Order requirements.

Contractor:_____

Signature:_____

Date:_____

IF THIS LETTER IS NOT SIGNED BY THE CONTRACTOR, the Contractor shall state below its basis for not approving the Utility Construction Work:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

c: MoDOT
Utility Owner

EXHIBIT 11

PRE-QUALIFIED CONTRACTORS AND CONSULTANT LIST

THIS PRE-QUALIFIED CONTRACTORS AND CONSULTANT LIST ("this List") is to be executed by the Utility Owner.

1. Execution of this List by Utility Owner ("Utility Owner") indicates that the Utility Owner has prequalified, or otherwise approved, the following contractors and consultants for the performance of the Utility Work described in that certain MUA No. _____, dated _____, 2004, entered into by and among MoDOT and the Utility Owner, as the same may be amended from time to time.

   Prequalified Contractors and Consultants:

   _____

   _____

   _____

   _____

2. Where the Contractor is responsible to perform the design and/or the construction of the Utility Work under the MUA/Work Order, the Contractor is authorized to use one or more of such contractors and consultants to perform that Work.
3. The Utility Owner shall update this List as needed and provide the updated List to the Contractor as soon as possible.

Utility Owner:

Name:_____

Signature:_____

Date:_____

EXHIBIT 12

UTILITY OWNER'S REIMBURSEMENT INVOICE FORM

Utility Owner Name: Utility Owner	Project No: Sub Account:
Utility Owner Address: Street City, State Zip	Project Location:
MUA Number and Date: _____	Work Order Number and Date:
Invoice Number and Date:	Estimated Percentage of Work Completed Under this Work Order: _____ %
Lump Sum: $	Actual Cost: Estimated cost not to exceed: $
Previously Billed: $	Previously Billed: $
This Invoice: $	This Invoice: $
Remaining: $	Remaining: $
Comments:	Comments:

I, the undersigned, certify that: 1) all bills that support this Invoice/Payment Request are attached; and 2) the Total Current Payment Request described above complies with all applicable MUA and Work Order terms:

_____	_____	_____
Signature	Title	Date

*** Fully executed Exhibit F must be attached to Final Billing for Design

*** Fully executed Exhibit I must be attached to Final Billing for Construction

CCO Form:	DE11	Route I-64
Approved:	04/93 (CEH)	Job Nos. J6I0978 and J6I1248
Revised: 09/05 (BDG)		City of St. Louis
Modified:	05/06 (BDG)	Municipal Agreement

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
MUNICIPAL AGREEMENT

THIS MUNICIAPAL AGREEMENT (this "Agreement") is entered into by the Missouri Highways and Transportation Commission (the "Commission") and The City of St. Louis, Missouri (the "City") (together the "Parties").

WITNESSETH:

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

(1) IMPROVEMENT DESIGNATION: The public improvement designated as Route I-64, St. Louis County and St. Louis City, Job Nos. J6I0978 and J6I1248 (the "Project") shall consist of improving and reconstructing portions of U.S. Interstate 64 ("I-64") lying within the limits of St. Louis County and the City of St. Louis.

(2) EXTENT OF AGREEMENT: This Agreement shall apply only to the portions of the Project lying within the City limits as they exist on the date this Agreement is executed.

(3) IMPROVEMENT WITHIN THE CITY: The improvement within the City is located along I-64 and the intersections of I-64 with the following streets within the boundary of the City: McCausland Avenue, Oakland Avenue, Tamm Avenue, Hampton Avenue, and Kingshighway Boulevard (the "City Project").

(4) LOCATION: The general location of the City Project is shown on an attached sketch marked Exhibit A and made a part of this Agreement. The design of the City Project shown in the Final Environmental Impact Statement (EIS) is a conceptual design only. The actual design of the City Project may vary and shall be shown on the detailed plans prepared by the Commission during the design phase of the Project. The Commission shall submit the detailed plans to the City's Board of Public Service for review. The City's Board of Public Service shall have the same time as the Commission has in the comment resolution process to review and comment as a part of the comment resolution process, prior to commencement of construction of any portion of the City Project. Any and all changes to the design of the City Project shall also be submitted to the City's Board of Public Service for review.

(5) PURPOSE: The purpose of this Agreement is to coordinate the Commission's activities on the City Project, and the Project as a whole, with the City. It is the intent of this Agreement that the Commission shall provide, without cost to the City, except as otherwise provided in this Agreement, a highway for traffic in the City, and the Commission shall so design and construct such highway to serve operating necessities and requirements of local and through traffic. Should the City request work in addition to the detailed plans prepared by the Commission, that work will need to be negotiated with the Commission's Contractor as a change order and be at the City's expense. The Commission is under no obligation to require its Contractor to perform this additional work if it negatively impacts the Contractor's schedule or delays the Commission's Project.

(6) RIGHT-OF-WAY USE:

(A) Following the completion of the City Project, the City grants the Commission the right to use the right-of-way of public roads, streets, and alleys as necessary for maintenance of I-64.

(B) The City grants the Commission the right to use the right-of-way of public roads, streets, and alleys as necessary for construction of the City Project, provided, however, that the City's Board of Public Service shall have the same time as the Commission has in the comment resolution process to review and comment on any such use prior to the Commission's use of such public roads, streets, and alleys.

(C) The City shall allow the Commission the use of designated truck routes for use in transporting construction materials and construction debris, and the Commission shall confine all such construction transport to such designated streets except as may be additionally allowed in subparagraph (D) below.

(D) The Commission shall not allow its Contractor to utilize any local road which is not designated as a truck route for construction vehicle traffic without first requiring the Contractor to work closely with the City's Board of Public Service in the design of a construction vehicle traffic management plan that minimizes impact on City roads and on the volume of construction vehicle traffic within the City. The Contractor shall be responsible to reach an agreement with the City's Board of Public Service before utilizing any local road which is not designated as a truck route for construction vehicle traffic. The City agrees that if the City's Board of Public Service approves such construction vehicle traffic management plan in advance of any portion of the construction of the City Project, the City shall permit the Commission to use local roads as detailed in such construction vehicle traffic management plan.

(7) CLOSE CITY STREETS: The City shall allow the Commission to temporarily close all streets or roads, or parts thereof, which may be necessary to permit the construction of the Project in accordance with the detailed plans, provided that the City's Board of Public Service has the same time as the Commission has in the comment resolution process to review and comment on such plans prior to the commencement of construction of any portion of the City Project. The City shall not be required to close any streets or roads if the City's Board of Public Service has not had the same time as the Commission has in the comment resolution process to review and comment on such closing. When the Commission deems it necessary to close any roads permanently during construction, the City shall be advised in time to make provisions for the diversion and rerouting of traffic and to have assured advance communication with the commuting public. Further, the Commission shall construct the City Project in a manner that does not require the concurrent closing of any two adjacent arterials that currently cross over I-64. At no time during the construction of the City Project shall Kingshighway Boulevard and McCausland/Skinker be simultaneously closed to through traffic.

(8) USE OF LOCAL ROADS FOR DETOURS:

(A) The Commission has not specified conceptual plans for handling interstate traffic during the construction of the Project as a whole and is allowing the Contractor flexibility in determining its preferred methods. The actual details of this traffic management will be determined during the Project. If the Contractor's plan includes detours designated by signage on local roads, the Contractor shall be responsible to reach an agreement with the City's Board of Public Service before designing a detour on the local road. Since time is of the essence for the entire Project, the City's Board of Public Service shall negotiate with the Commission's Contractor without delay so as not to interrupt the Contractor's work and impact the overall schedule of the Project. If agreement cannot be reached between the City's Board of Public Service and the Commission's Contractor, no local road shall be used for any detour. The Commission agrees to instruct its Contractor to work closely with the City's Board of Public Service in the design of a detour traffic management plan that minimizes impact on volume of traffic in that portion of the I-64 corridor within the City. The City agrees that if the City's Board of Public Service approves such traffic management plan in advance of any portion of the construction of the City Project, the City shall permit the Commission to use local roads as detailed in such detour traffic management plan.

(B) Prior to the approval by the City's Board of Public Service of any detour traffic management plan, the Commission representative, Contractor, and the City's Director of the Department of Streets shall review the condition of the local roads to be used for detour and construction vehicle traffic to determine the condition of said local roads. Upon the completion of the Project, if the City's Director of the Department of Streets, in his/her own sole discretion, has determined that the condition of local roads used for detour and construction vehicle traffic has deteriorated below their original condition, the Commission shall be responsible for any costs associated with repairing said local roads.

(9) CONSTRUCTION EQUIPMENT IN FOREST PARK: The Commission shall not allow its Contractor to move, store or stage construction equipment within the boundaries of Forest Park beyond the limits of any temporary access and use permit issued by the City's Board of Public Service.

(10) TURTLE PLAYGROUND: The Commission will reimburse the City for work to remove and relocate the snakehead sculpture adjacent to or on the Tamm Avenue bridge abutment. The parties agree that the cost of removal and relocation of the snakehead sculpture is Twenty Thousand dollars ($20,000.00). The Commission will remit a check to the City promptly upon of execution of this Agreement. The City will be responsible for removal of the snakehead located within the temporary access permit issued by the City's Board of Public Service, so the Commission can replace the Tamm Avenue bridge. After bridge construction is complete, the City will be responsible for replacing the snakehead. The snakehead may be replaced adjacent to or on the new bridge abutment at the discretion of the artist as long as it does not interfere with maintenance or safety issues. The Commission and the City will agree to a snakehead removal prior to April 16, 2007 so as to not disrupt the Project's Tamm Avenue construction schedule. The Commission will re-grade disturbed open space to provide less steep slopes than the present condition. The construction is not expected to affect the Turtle Playground walking paths. The Commission will replace the walking paths if physically damaged with substantially similar walking paths.

(11) COMMISSION RIGHT-OF-WAY: All improvements made within the state-owned right-of-way, except improvements to drainage facilities currently owned by the City, improvements to water facilities, and any other improvements or facilities currently owned by the City or relocated by the City within the right-of-way during the construction of the City Project, shall become the Commission's property, and, except as otherwise provided in this Agreement, all future alterations, modifications, or maintenance thereof, shall be the responsibility of the Commission. The Commission shall provide the City with easements for the maintenance of such improvements prior to the commencement of construction on any portion of the City Project that affects any such improvements.

(12) RIGHT-OF-WAY ACQUISITION:

(A) Upon approval of all agreements, plans and specifications by the Commission and the Federal Highway Administration ("FHWA"), the Commission shall file copies of the plans with the City Register and the Board of Public Service and proceed to acquire at its expense, at no cost or expense to the City, any necessary right-of-way required for the construction of the City Project.

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

(13) UTILITY RELOCATION: A Master Utility Agreement shall provide a process to coordinate the relocation of the City's facilities. A copy of the Master Utility Agreement is attached hereto as **Exhibit B**, and is incorporated herein by reference. The Master Utility Agreement is a part of this Agreement and the Parties shall comply with the terms of the Master Utility Agreement.

(14) LIGHTING: The Commission shall install, operate, and maintain continuous lighting along I-64 within the City and other lighting systems for the City Project covered by this Agreement in accordance with the Commission's policy on highway lighting in effect at the time of any such installation to the extent the Commission then deems warranted. No street lighting system shall be installed or maintained by or for the City for the City Project without approval of the Commission. The City shall, at its expense, provide electrical power for continuous lighting on I-64.

(15) TRAFFIC SIGNALS:

(A) Any installation of new or reconstructed traffic signals at the intersections of I-64 with McCausland Avenue, Hampton Avenue, Hampton Avenue with Oakland Avenue, Oakland Avenue with Ramp 5, and I-64 with Kingshighway Boulevard, along with all pavement markings, signs, and devices on the improvement, including those between the highway and intersecting streets shall be at the cost of the Commission. The Commission, at its expense, shall operate, maintain and provide electrical power for all of these signal installations, provided, however, that operation of all such signals shall be integrated into the City's traffic signal controller system so as to permit the efficient flow of traffic along such intersecting streets, as provided in subparagraphs (B), (C), (D), (E), (F) and (G) below.

(B) The Commission recognizes that City has existing arterial signal systems which intersect current Commission-maintained signals. The Commission also recognizes that at these locations, vehicle progression on City maintained routes is of primary importance. The Commission shall allow the City to program the Commission-maintained signals with written Commission approval. The City shall respond with the proposed controller programming within sixty (60) days after receipt of the Commission list of approved signals. Afterwards, any additional intersections or proposed changes to the programming of these Commission signals must be either approved or denied by each party in writing within five (5) working days of receipt of proposal. The Commission shall handle all Missouri Sunshine Law requests for these intersections.

(C) If the Commission determines that the signal program entered by the City either does not match the latest approved program submitted by the City, or the City installed program is causing excessive delay and/or safety problems to motorists not traveling on the City arterial, the Commission shall make the appropriate changes and notify the City within twenty four (24) hours. The Commission shall disconnect its signal from the City interconnection, and shall remain disconnected within the Commission signal cabinet until such time the City agrees in writing to abide by the Commission-approved timing.

(D) The Commission, at its expense, shall provide a communication link functionally equivalent to that of the adjacent signal(s) and compatible with the existing signal management system for the current City signal interconnect systems

on McCausland Avenue, Hampton Avenue and Kingshighway Boulevard.

(E) The Commission also reserves the right to make immediate programming changes to traffic controllers as emergency conditions may require, but shall attempt to notify City within one (1) hour of changes, and restore programming to original state once such emergency condition has passed. Any emergency changes desired by the City must first be communicated to the Commission for approval and programming.

(F) Where Commission signal equipment occurs within the limits of a City interconnect system, it is preferred that the City's interconnect system communicate with Commission owned and maintained signal equipment to provide optimum traffic flow. The Commission shall allow the City to place fiber optic equipment within utility corridors of Commission right of way for signal interconnection purposes as space is available in the utility corridor.

(G) Any fiber optic terminal equipment placed within Commission right-of-way by the City shall be in a cabinet or other enclosure separated from the Commission's signal and power cabinets. The Commission shall install and maintain a jumper connection from the Commission-owned signal to the City maintained splice cabinet at the request of the City. The City shall provide the Commission keys for each of these splice cabinets and Commission shall be allowed access at any time in order to maintain Commission fiber optic jumper cables and connections. The City shall provide the Commission plans for the City fiber optic cable which identify the individual strands and which strands are to be terminated in the splice cabinet. The City, at its expense, shall operate, maintain, and provide electrical power for the above described fiber optic terminal cabinet. The Commission shall maintain the communication function of all existing fiber optics during the construction of the Project.

(16) TRAFFIC CONTROL DEVICES: The installation, operation and maintenance of all signs and devices on the improvement, including those between the highway and intersecting streets shall be under the exclusive jurisdiction and at the cost of the Commission, provided, however, that such signs and devices shall be integrated with the City's system of traffic control in a manner that permits efficient movement of traffic along such intersecting streets. The City shall not install, operate, or maintain any traffic signals, signs or other traffic control devices on the highway or on streets and highways at any point where they intersect this highway without approval of the Commission.

(17) CONNECTIONS WITH CITY STREETS: In the event the City Project includes reconstruction of pavement and bridges of roadways maintained by the City, the Commission shall match the existing width and pavement type of the existing roadway and shall be at the cost of the Commission.

(18) NIGHT TIME CONSTRUCTION: In order to minimize the duration and extent of inconvenience to the public, the Commission shall encourage its Contractor to diligently pursue work on the City Project, using 24-hour-a-day operations. It is understood by and between the Parties that the Contractor shall not be restricted from working 24-hour operations by any City ordinance which may restrict night time work including, but not limited to construction noise, dust, silt, blasting, or lighting ordinances, provided, however, that the Contractor shall take the necessary steps to protect the public and privately owned property from damage caused by dust, silt and/or blasting. The Contractor shall notify the City and the Commission of the locations of night time construction work a minimum of two (2) weeks before the commencement of such work so that the City and the Commission can communicate with the commuting public and affected neighborhoods in advance of the commencement.

(19) DRAINAGE: The Commission shall construct drainage facilities along I-64 and may use any existing storm and surface water drainage facilities now in existence in the area. It is understood by and between the Parties that the storm and surface water drainage discharged from those drainage facilities which the Commission constructs within the limits of highway right-of-way leaving the Commissions right of way is within the jurisdiction of the St. Louis Metropolitan Sewer District. The Commission has made separate arrangements with such Sewer District for discharges into Sewer District facilities.

(20) PERMITS: The Commission shall secure any and all necessary approvals or permits from the Surface Transportation Board, the Public Service Commission of Missouri, or any other state or federal regulating authority required to permit the construction and maintenance of I-64.

(21) COMMENCEMENT OF WORK: The Commission shall construct the Project as a whole in accordance with the provisions contained in the final Request For Proposals ("RFP"), as approved by the Federal Highway Administration ("FHWA") (or as amended with the concurrence of the FHWA) at such time as federal and state funds are allocated in accordance with the approved financial plan. The obligation of the Commission toward the actual construction of the public improvement shall be dependent upon the issuance of the final RFP, and the evaluation, approval and award of a contract based upon a successful proposal submittal in accordance with the provisions contained in the final RFP.

(22) MAINTENANCE:

(A) Except as provided in this Agreement, upon completion of the City Project, the Commission shall maintain all portions of I-64 within the Commission owned right-of-way. Maintenance by the Commission shall not in any case include water supply lines, sanitary or storm sewers (except those storm sewers constructed by the Commission to drain the highway), City-owned utilities within the right-of-way or the removal of snow other than the machine or chemical removal from the traveled portion of the highway.

(B) The City agrees to maintain all surfaces of roadways, pavement markings and sidewalks of prolongation of city streets traversing under structures located within the right-of-way of the highway in a condition reasonably safe to the public and, to the extent allowed by law, shall indemnify and hold the Commission harmless from any claims arising from the maintenance of said sidewalks, except to the extent that such claim arises from a defect in the Commission's construction of such sidewalk. Should any Commission construction involving any such prolongation be found to be defective, the Commission shall be responsible for curing any such defect. The Commission shall be responsible for constructing sidewalks in accordance with all applicable federal laws, including the Americans with Disabilities Act.

(C) The City agrees to maintain all structures built solely for pedestrian use in a condition reasonably safe to the public and, to the extent allowed by law, shall indemnify and hold the Commission harmless from any claims arising from the maintenance of said structures, except to the extent that such claim arises from a defect in the Commission's construction of such facility. Should any Commission construction involving any such facility be found to be defective, the Commission shall be responsible for curing any such defect. The Commission shall be responsible for constructing sidewalks in accordance with all applicable federal laws, including the Americans with Disabilities Act.

(D) The City agrees to keep the surface of roadways and sidewalks of prolongations of city streets traversing over or under structures located within right-of-way of the highway in a reasonably clean and sanitary condition through the removal of waste, litter and refuse and reasonably clear of ice, snow, and water at its expense and in a condition reasonably safe to the public and, to the extent allowed by law, shall indemnify and hold the Commission harmless from any claims arising from the construction and maintenance of said sidewalks, except to the extent that such claim arises from a defect in the Commission's construction of such facility. Should any Commission construction involving any such facility be found to be defective, the Commission shall be responsible for curing any such defect. The Commission shall be responsible for constructing sidewalks in accordance with all applicable federal laws, including the Americans with Disabilities Act.

(E) The City shall inspect and maintain the sidewalks constructed for the City Project in a condition reasonably safe to the public and, to the extent allowed by law, shall indemnify and hold the Commission harmless from any claims arising from the construction and maintenance of said sidewalks, except to the extent that such claim arises from a defect in the Commission's construction of such facility. Should any Commission construction involving any such facility be found to be defective, the Commission shall be responsible for curing any such defect. The Commission shall be responsible for constructing sidewalks in accordance with all applicable federal laws, including the Americans with Disabilities Act. The Commission shall be responsible for maintaining any and all sidewalks on Commission's vehicular overpasses.

(23) POLICE POWERS: It is the intent of the Parties to this Agreement that the City shall retain its police powers with respect to the regulation of traffic upon the improvement during construction. However, the City shall enact, keep in force, and enforce only such ordinances relating to traffic movement and parking restrictions as may be approved by the Commission and as are not in conflict with any regulations for federal aid. The Commission shall not arbitrarily withhold approval of reasonable traffic regulations, signs, and markings which shall permit the movement of traffic in accordance with accepted traffic regulation practices.

(24) OUTDOOR ADVERTISING: No billboards or other advertising signs or devices or vending or sale of merchandise shall be permitted within the right-of-way limits of the City Project, except such billboards or advertising devices as are present at the time construction commences, and the City shall take whatever actions that are necessary to enforce this paragraph. The Commission shall have the right to acquire the interests of owners and operators of such existing billboards and/or advertising signs and to thereafter remove such billboards and signs, and the City agrees that it shall not permit any new billboards or advertising signs within the right-of-way limits of the City Project.

(25) INSURANCE AND INDEMNIFICATION:

(A) Insurance: The Commission shall require the Contractor to provide the City, thirty-days prior to the commencement of construction, an original certificate of insurance naming the City, its officers, agents and employees as an

additional insured on all insurance policies required by the Commission under Book 1, Paragraph 9, of the Request for Proposals or under any other Paragraph or requirement of the contract with the Contractor.

(B) Indemnification: The Commission shall require the Contractor to release, defend, indemnify and hold harmless the City, its officers, agents and employees from and against any and all claims, causes of action, suits, judgments, investigations, legal or administrative proceedings, penalties, fines, damages, losses, liabilities, costs and expenses, including any injury to or death of persons or damage to or loss of property (including damage to utility facilities), and including attorneys', accountants' and expert witness fees and costs, arising out of, relating to or resulting from:

1. The failure or alleged failure by any Contractor or subcontractor to comply with any applicable Environmental Laws or other Legal Requirements (including Legal Requirements regarding handling, generation, treatment, storage, transportation and disposal of Hazardous Substances) or Governmental Approvals in performing the Work.

2. The alleged negligent act or omission or willful misconduct of any Contractor or subcontractor.

3. Any and all stop notices and/or Liens filed in connection with the Work, including all expenses and attorneys', accountants' and expert witness fees and costs incurred in discharging any stop notice or Lien, provided that the Commission is not in default in payments owing to the Contractor with respect to such work.

4. Any spill or release or threatened spill or release of Hazardous Substances: (i) attributable to the negligence, willful misconduct by any Contractor or subcontractor; or (ii) that was brought onto the Site by any Contractor or subcontractor.

5. The claim or assertion by any contractor of inconvenience, disruption, delay or loss caused by interference by any Contractor or subcontractor with or hindering the progress or completion of work being performed by other contractors or failure of any Contractor or subcontractor to cooperate reasonably with other contractors.

(26) VIOLATIONS: In the event that the City fails, neglects, or refuses to enact, keep in force or enforce ordinances specified or enacts ordinances contrary to the provisions in this Agreement, or in any other manner fails, neglects or refuses to perform any of the obligations assumed by it under this Agreement, the Commission may, after serving written request upon the City for compliance and the City's failure to comply, withhold the expenditure of further funds for maintenance, improvement, construction, or reconstruction of the state highway system in the City. The Commission shall notify the City's Mayor and President of the Board of Public Service in writing, via certified mail, of any such violation, and the City shall have a period of ninety (90) days following notification by the Commission that the City has acted or failed to act in a manner that violates the provisions of this paragraph to cure any such violation, with reasonable extensions of such 90-day period, approval of which extensions shall not be unreasonably withheld by the Commission before the Commission withholds any such funds. If any such violation is cured by the City following notice by the Commission, regardless of the time taken by the City to effect such cure, the Commission shall release any funds that have been previously withheld.

(27) FEDERAL HIGHWAY ADMINISTRATION: This Agreement is entered into subject to approval by the Federal Highway Administration, and is further subject to the availability of federal and state funds for this construction.

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

(29) COMMISSION REPRESENTATIVE: The Commission's Project 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.

(30) CITY REPRESENTATIVE: The City's President of the Board of Public Service is designated as the City's representative for the purpose of administering the provisions of this Agreement. The City's representative may designate by written notice other persons having the authority to act on behalf of the City in furtherance of the performance of this Agreement.

(31) ASSIGNMENT: The City shall not assign, transfer or delegate any interest in this Agreement without the prior

written consent of the Commission.

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

(33) VENUE: Any action at law, suit in equity, or other judicial proceeding brought by the Commission to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of the City of St. Louis, Missouri. Any action at law, suit in equity, or other judicial proceeding brought by the City to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(34) SOLE BENEFICIARY: This Agreement is made for the sole benefit of the Parties hereto and nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Commission and the City.

(35) 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.

(36) 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.

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

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

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

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

_____
Project Director

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

THE CITY OF ST. LOUIS, MISSOURI

_____
President, Board of Public Service

_____
Mayor

_____
Comptroller

ATTEST:

_____
Register

Approved as to Form:

_____
City Counselor

Ordinance Number _____

Approved: May 21, 2007