

ORDINANCE NO. 4158

AN ORDINANCE OF THE CITY OF CLINTON APPROVING AN AGREEMENT BETWEEN THE CITY OF CLINTON (CITY) AND THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION (COMMISSION) TO ALLOW CITY TO WORK ON COMMISSION RIGHT-OF-WAY.

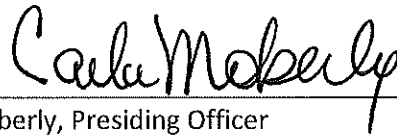
WHEREAS, the Commission owns and operates, as part of the State Highway System, MO 13 located in Henry County; and

WHEREAS, the City is desirous of performing certain tasks related to the installation and maintenance of sidewalk improvements;

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF CLINTON, MISSOURI AS FOLLOWS:

1. The Mayor is authorized to execute the Missouri Highways and Transportation Commission Sidewalk Improvements Agreement (attached).
2. All ordinances or parts of ordinances therefore enacted which are in conflict herewith are hereby repealed.
3. This ordinance shall be in full force and effect from and after the date of its passage and approval.

Read both times and passed this 6th day of August, 2024.



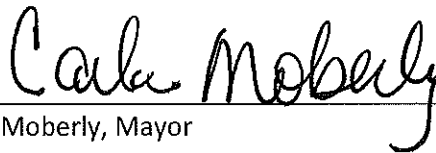
Carla Moberly, Presiding Officer

ATTEST:

Ayes 7: Gene Henry, Roger House, Cameron Jackson, Austin Jones, Gary Mount, Greg Shannon and Stacia Wilson
Nays 0
Absent 1: Shelley Nelson



Wendee Seaton, City Clerk



Carla Moberly, Mayor



CCO Form: DE65
Approved: 12/07 (BDG)
Revised: 03/24 (TLP)
Modified:

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
SIDEWALK IMPROVEMENTS AGREEMENT**

THIS AGREEMENT is made and entered into by and between the Missouri Highways and Transportation Commission (hereinafter, "Commission"), whose address is P.O. Box 270, 105 W. Capitol, Jefferson City, Missouri 65102, and the City of Clinton (hereinafter, "City"), whose address is 105 E. Ohio Street, Clinton, Missouri 64735.

WITNESSETH:

WHEREAS, the Commission owns and operates, as part of the State Highway System, MO 13 located in Henry County; and

WHEREAS, the City is desirous of performing certain tasks related to the installation and maintenance of sidewalk improvements.

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

(1) PROPOSAL: The City proposes and the Commission will allow the installation, including maintenance, of sidewalk improvements on Commission right-of-way as provided in this Agreement.

(2) LOCATION: The general location of the sidewalk improvements to be installed and maintained pursuant to this Agreement is along MO 13 from Hillcrest Drive to Gaines Drive, Henry County, Missouri, as shown on the attachment marked as Exhibit A, which is incorporated herein by reference.

(3) COSTS: All costs associated with the construction of the proposed sidewalk improvements, including, but not limited to, signing, traffic signals, and traffic control during construction, will be borne entirely by the City, with no cost incurred by the Commission.

(4) PLANS: The City shall have detailed plans prepared at no cost to the Commission, which are to be submitted to the Commission's District Engineer for the Commission's review and approval. The Commission's District Engineer, in his/her sole discretion, may require modifications to the plans prior to approving the plans.

(5) TRAFFIC CONTROL DEVICES: All pavement marking, signs, and traffic signals installed with the proposed improvements shall be in accordance with

the latest revision of the *Manual on Uniform Traffic Control Devices for Streets and Highways*.

(6) RELOCATION: The City shall secure the removal, relocation or adjustment of any public or private utilities located on private easements or public right-of way, if the construction of the herein contemplated improvements so required, without cost to the Commission.

(7) INSPECTION: The City will allow inspection of the construction and maintenance activities of the herein contemplated improvements by the Commission's District Engineer, or his authorized representative, at any time and shall take no attempts to prevent said inspection. Within thirty (30) days following notice by the City to the Commission that construction is complete, the Commission will inspect the work to determine that it is acceptable. The sidewalk improvements will not be placed in operation until the Commission authorizes.

(8) INDEMNIFICATION: To the extent allowed or imposed by law, the City shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the City's wrongful or negligent performance of its obligations under this Agreement.

(9) INSURANCE:

(A) The City is required or will require any contractor procured by the City to work under this Agreement:

(1) To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

(2) To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and the Missouri Department of Transportation and its employees, as additional insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities (\$600,000 per claimant and \$4,000,000 per occurrence) as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(B) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(10) OWNERSHIP AND MAINTENANCE: All improvements made pursuant to this Agreement within the state-owned right-of-way shall become the Commission's property. The City, at its sole cost and expense, is responsible for maintaining all sidewalks constructed or installed pursuant to this Agreement in fully operational, safe and aesthetically acceptable condition. All future alterations, modifications, or maintenance of the sidewalk improvements will be the responsibility of the Entity. Maintenance by the City will include, but is not limited to, crack repair, patching holes, removing litter, debris, trash, and leaves, and removal of snow and ice (through methods approved by the Commission). All sidewalks constructed pursuant to this Agreement shall be maintained in a condition safe for use of the sidewalks by the general public at all times. If the City fails to maintain the sidewalks in a safe condition, the Commission may cancel this Agreement and remove the sidewalks from Commission right of way or the Commission may maintain the sidewalks at the City's cost and expense.

(11) PERMITS: Before beginning work, the City shall secure from the Commission's District Engineer a permit for the proposed improvement. The City shall comply with any additional conditions placed on the permit by the Commission.

(12) BOND: The City shall secure sufficient bond, as determined by the Commission's District Engineer or his authorized representative, for the construction of the proposed improvement on Commission right-of-way.

(13) CONSTRUCTION OF IMPROVEMENTS: All construction of the proposed improvements shall be according to the latest editions of the Missouri Highways and Transportation Commission's *Standard Specifications for Highway Construction*, Standard Plans for Highway Construction, and the Missouri Department of Transportation's *Approved Products List for Traffic Signals and Highway Lighting*.

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

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

(16) AUDIT OF RECORDS: The City must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at all reasonable times at no charge to the Commission and/or its designees or representatives during the period of this Agreement and any extension thereof, and for three (3) years from the date of final payment made under this Agreement.

(17) CANCELLATION: The Commission may cancel this Agreement at any

time for a material breach of contractual obligations or for convenience by providing the City with written notice of cancellation. Should the Commission exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the City.

(18) 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.

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

(20) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(21) 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.

(22) 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.

(23) NO INTEREST: By constructing and maintaining the sidewalk improvements on Commission right of way, the City gains no interest in Commission right-of-way whatsoever. The Commission shall not be obligated to keep the constructed improvements in place if the Commission, in its sole discretion, determines removal or modification of the improvements is in the best interests of the state highway system. In the event the Commission decides to remove the improvements, the City shall not be entitled to a refund of the funds expended by the City pursuant to this Agreement.

(24) 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.

(25) VOLUNTARY NATURE OF AGREEMENT: Each party to this Agreement warrants and certifies that it enters into this transaction and executes this Agreement freely and voluntarily and without being in a state of duress or under threats or coercion.

(26) ENTIRE AGREEMENT: This Agreement represents the entire

understanding between the parties regarding this subject and supersedes all prior written or oral communications between the parties regarding this subject.

(27) DURATION: Unless otherwise terminated pursuant to (9) or (16), above, or through mutual agreement of the parties, this Agreement shall be in effect for a continuing duration upon execution of this Agreement.

[Remainder of Page Intentionally Left Blank]

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

Executed by the City on 2024-08-16 | 6:28 AM PDT

Executed by the Commission on 2024-08-27 | 12:56 PM CDT

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

CITY OF CLINTON

By DocuSigned by: Eric E. Schroeter
5F8CCEE9B29E499

By Signed by: Carla Moberly
66376ED9930140D...

Title Assistant Chief Engineer

Title Mayor

ATTEST:

ATTEST:

DocuSigned by: Brenda Hoban
A4886CB7068240D...

Signed by: Wendee Seaton
66376ED9930140D...

Secretary to the Commission


Title city clerk

Approved as to Form:

Approved as to Form:

DocuSigned by: Darrett Andlauer
F3EA9BFAB7F6407...
Commission Counsel

DocuSigned by: Doug Harris
803F402AC3BC454...

Title City Attorney 

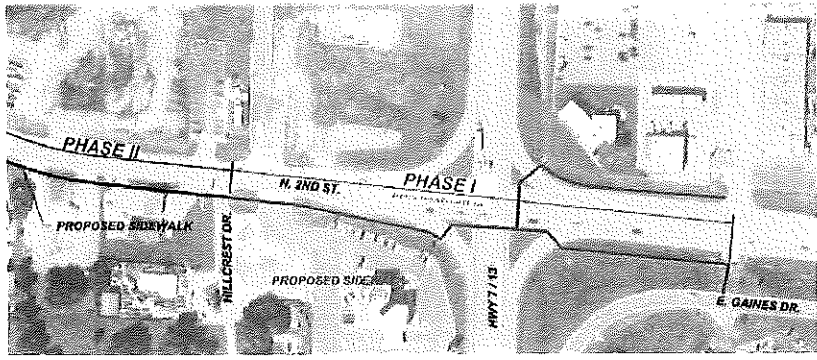
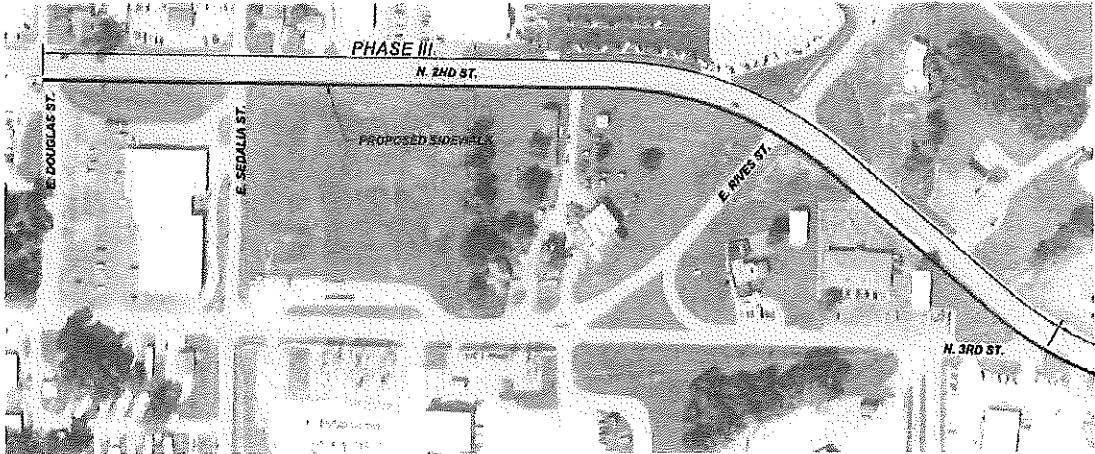
Ordinance Number: _____

Exhibit A

*Phase I

NOTES:

NO.	DESCRIPTION	DATE



LEGEND

Prepared by
CJWA
 CONSULTING ENGINEERS, P.C.
 1001 W. 11th Street
 Clinton, Missouri 64601
 Phone: 660.882.2222
 Fax: 660.882.2223
 www.cjwa.com

REGULATORY
 As of 10/1/2014

**2ND STREET SIDEWALK
 CITY OF CLINTON, MISSOURI
 CLINTON, MISSOURI**

NO.	DESCRIPTION	DATE

01
 Sheet 1 of 1