

ADAIR COUNTY COMMISSION MINUTES

MONDAY, MARCH 21, 2016

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(19) **INDEMNIFICATION:**

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

(B) The County will require any contractor procured by the County to work under this Agreement:

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

(2) To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and the Missouri Department of Transportation and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities (\$500,000 per claimant and \$3,000,000 per occurrence) as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

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

(20) **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 County and Commission.

(21) **COMMISSION REPRESENTATIVE:** The Commission's North Central District Engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(22) **COUNTY REPRESENTATIVE:** The County's Presiding Commissioner is designated as the County's representative for the purpose of administering the provisions

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of this Agreement. The County's representative may designate by written notice other persons having the authority to act on behalf of the County in furtherance of the performance of this Agreement.

(23) **NOTICES:** Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

(A) To the County:

The Honorable Gary Jones
Presiding Commissioner
106 W. Washington
Kirksville, Missouri 63501
Facsimile No.: (660) 665-8406

(B) To the Commission:

Mr. Daniel Niec, P.E.
District Engineer
Missouri Department of Transportation
902 North Missouri, PO Box 8
Mason, Missouri 63552
Facsimile No.: (660) 385-6621

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

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

(25) **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.

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

(27) **SOLE BENEFICIARY:** This Agreement is made for the sole benefit of the

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parties hereto and nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Commission and the County.

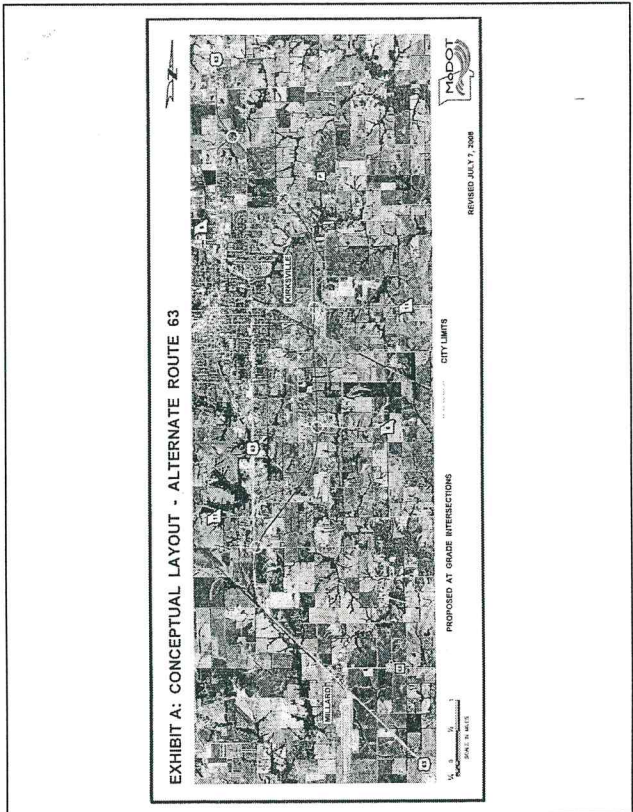
(28) **AUTHORITY TO EXECUTE:** The signers of this Agreement warrant that they are acting officially and properly on behalf of their respective institutions and have been duly authorized, directed and empowered to execute this Agreement.

(29) **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 County this 17 day of November, 2015.

Executed by the Commission this 17 day of November, 2015.

<p>MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION</p> <p>By: <u>[Signature]</u> Title: <u>Chief Financial Officer</u></p> <p>ATTEST: <u>[Signature]</u> Secretary to the Commission</p> <p>APPROVED AS TO FORM: <u>[Signature]</u> Commission Counsel</p>	<p>ADAIR COUNTY</p> <p>By: <u>[Signature]</u> Title: <u>Presiding Commissioner</u></p> <p>By: <u>[Signature]</u> Title: <u>County Commissioner</u></p> <p>By: _____ Title: _____</p> <p>ATTEST: By: <u>[Signature]</u> Title: <u>[Signature]</u></p> <p>APPROVED AS TO FORM: By: _____ Title: _____</p> <p style="text-align: center;">7</p>
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ATTEST: [Signature]
County Clerk

[Signature]
Presiding Commissioner