

AN ORDINANCE OF THE CITY OF WILDWOOD, MISSOURI, AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE A SUPPLEMENTAL AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR STATE FUNDING FOR THE DESIGN AND CONSTRUCTION OF INTERSECTION IMPROVEMENTS ON STATE ROUTE 100 AT POND ROAD AND AT STATE ROUTE T IN THE CITY.

WHEREAS, on June 3, 2022, the Missouri Highways and Transportation Commission (the “Commission”) and the City of Wildwood (the “City”) entered into a Cost Share Agreement (the “Original Agreement”) for the City to obtain state funds to design and construct intersection improvements at State Route 100 and State Route T and at State Route 100 and Pond Road in the City (the “Project”); and

WHEREAS, the Commission and the City desire to amend the terms and conditions of the Original Agreement to require that the Commission will administer the construction of the Project, which includes advertising, bidding, award, and construction inspection, and to transfer federal funding obtained by the City for the Project.

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

Section One. That the form, terms, and provisions of the Cost Share Agreement First Supplemental Agreement by and between the City of Wildwood, Missouri, and the Missouri Highways and Transportation Commission, attached hereto, marked as **Exhibit A**, and incorporated by reference herein (the “Agreement”), be and are hereby approved and the Mayor is hereby authorized, empowered and directed to further negotiate, execute, acknowledge, deliver and administer on behalf of the City such Agreement in substantially the form attached hereto. The City Clerk is hereby authorized and directed to attest to the Agreement and other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of the Agreement and this Ordinance.

Section Two. That the Mayor is hereby further authorized and directed on behalf of and in the name of the City to agree to do any and all other acts and things and to execute and deliver any and all other agreements, documents, instruments and certificates, all as may be necessary and appropriate to consummate the above mentioned Agreement, and to perform all of the terms, provisions and conditions of the Agreement. The execution by the Mayor of any agreement, document, instrument, check or certificate referred to in this Ordinance and the Agreement shall be conclusive evidence of the approval thereof and of all of the terms, provisions and conditions contained therein. Any and all acts which the Mayor may do or perform in conformance with the powers conferred upon them by this Ordinance are hereby expressly authorized, approved, ratified and confirmed.

Section Three. Savings. Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

Section Four. Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the City Council that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Section Five. This Ordinance shall be in full force and effect from and after its passage and approval.

This Bill was passed and approved this ____ day of _____, 2023, by the Council of the City of Wildwood, Missouri, after having been read by title or in full two times prior to its passage.

Presiding Officer

ATTEST:

City Clerk

James R. Bowlin, Mayor

ATTEST:

City Clerk

EXHIBIT A

CCO Form: FS08
Approved: 03/04 (BDG)
Revised: 03/17 (MWH)
Modified:

Route 100, St. Louis County
Project No. SL0091/STBG-5500(690)
City of Wildwood

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
COST SHARE AGREEMENT
FIRST SUPPLEMENTAL AGREEMENT**

THIS FIRST SUPPLEMENTAL AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the **City of Wildwood** (hereinafter, "Entity").

WITNESSETH:

WHEREAS, on June 3, 2022, the Commission and the Entity previously entered into a Cost Share Agreement (2022-01-67866) as to the public improvements for the construction of J-turns on Route 100 at Pond Road and Route 100 at Route T in the Entity of the City of Wildwood, (hereinafter, "Original Agreement"); and

WHEREAS, the Commission and the Entity now desire to revise the Original Agreement as provided in this First Supplemental Agreement.

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

(1) REVISION AND ADDITION: Paragraph (8) PLANS AND CONSTRUCTION including subparagraphs (8)(A) through (8)(H) of the Original Agreement are hereby removed and replaced with the following subparagraphs (8)(A) through (8)(H):

(8) PLANS AND CONSTRUCTION: With regard to project responsibilities under this Agreement, the parties agree to the following:

(A) The Entity shall be responsible for preliminary engineering, acquisition of right of way and relocation of utilities. The Commission shall be responsible for the letting of the project, construction, and construction inspection of the project.

(B) The Entity shall follow the Commission's Local Public Agency (LPA) process.

(C) The Entity shall provide preliminary engineering for the preparation of detailed right-of-way and construction plans and project specifications. The plans shall be prepared in accordance with and conform to the Commission's

requirements, standards, and specifications. Said plans shall not be changed in concept or scope without prior written approval of the Commission.

(D) The Entity shall acquire any additional necessary right of way required for the project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act (**Uniform Act**), as amended and any regulations promulgated in connection with the Act.

(E) The Commission will provide preliminary engineering review and right of way review.

(F) The Commission will be responsible for letting the work for the herein improvement, which includes advertising the project for bids and awarding the construction contract.

(G) The Entity shall secure all required federal, state, and local permits as required for design and construction of the improvements. Prior to entering onto the Commission right of way to perform any obligation under this Agreement, the Entity shall obtain any applicable permit from the Commission, unless the performance of such obligations under this Agreement would not ordinarily require a permit from the Commission.

(H) The Commission will be responsible for construction of the herein improvements, which includes administration of the construction contract and construction inspection of the project work.

(2) REVISION AND ADDITION: Paragraph (9) FINANCIAL RESPONSIBILITIES including subparagraphs (9)(A) through (9)(F) of the Original Agreement are hereby removed and replaced with the following subparagraphs 9(A) through (9)(F):

(A) The estimated total cost of the project is three million ten thousand dollars (\$3,010,000). The project cost will include preliminary engineering, preliminary engineering review, construction, and construction engineering. The project cost will not include right of way acquisition, right of way incidentals and utilities and will be one-hundred percent (100%) the responsibility of the Entity. The details of the estimated costs breakdown are listed below and in "Exhibit B", which is attached and made part hereof.

(B) The Entity shall be responsible for fifty percent (50%) of the total project cost. The current estimate of the Entity's responsibilities is one million five hundred five thousand dollars (\$1,505,000). The Entity shall receive credit for the preliminary engineering costs, estimated at three hundred twelve thousand dollars (\$312,000), upon receipt of documentation of actual costs incurred and paid from the Entity. The Entity shall remit a check in the amount of two hundred fifty-two thousand two

hundred dollars (\$252,200) to cover estimated construction and construction engineering no later than five (5) days prior to the Commission's advertisement of the project for bids. The check should be made payable to the *Missouri Highway and Transportation Commission – Local Fund*. If the Entity fails to make the required deposit, the Commission is under no obligation to continue with the project. As part of the Entity's responsibility for SL0091, the Entity agrees that the Commission will obligate up to a maximum of nine hundred forty thousand eight hundred dollars (\$940,800) of Surface Transportation Block Grant (STBG) funds allocated by East West Gateway Council of Governments (EWG) available in Federal Fiscal Year (FFY) 2025 for construction, construction inspection and construction overruns. The Entity shall be required to cover the twenty percent (20%) match to the STBG funds. If necessary, to match the letting year, the Entity shall request approval from EWG for the acceleration of the STBG funds.

(C) The Commission will pay for fifty percent (50%) of the total project cost not to exceed one million five hundred five thousand dollars (\$1,505,000). Of this amount, the Commission will provide one million two hundred seven thousand dollars (\$1,207,000) from the Commission's Cost Share program, of which one hundred fifty-three thousand five hundred dollars (\$153,500) will be available in State Fiscal Year 2024, and one million fifty-three thousand five hundred dollars (\$1,053,500) will be available in State Fiscal Year 2025. In addition, preliminary engineering review and construction engineering services will be provided by MoDOT personnel estimated to total two hundred ninety-eight thousand dollars (\$298,000).

(D) The Entity shall be responsible for the balance of the total project cost in excess of three million ten thousand dollars (\$3,010,000). Underruns will be based on a pro rata share.

(E) The Entity shall be responsible for adding this project to the East West Gateway Transportation Improvement Program (TIP) after the execution of this Agreement.

(F) The Commission will notify the Entity of any construction change order that causes an increase in the Actual Cost above the Estimated Total Cost in a reasonable time prior to any costs for such change order being incurred.

(3) REVISION: Exhibit B attached to the Original Agreement is hereby removed and replaced with the Exhibit B attached hereto.

(4) ADDITION: Paragraph (23) COMMINGLING OF FUNDS is hereby added and shall state as follows:

(23) COMMINGLING OF FUNDS: The Entity agrees that all funds deposited by the Entity, pursuant to this Agreement with the Commission, may be commingled by the Commission with other similar monies deposited from other sources. Any deposit may be invested at the discretion of the Commission in such investments allowed by its Investment Policy. All interest monies shall be payable to the *Local Fund*

and credited to the project. If the amount deposited plus any applicable credited interest with the Commission shall be less than the actual obligation of the Entity for this project, the Entity, upon written notification by the Commission, shall tender the necessary monies to the Commission to completely satisfy its obligation. Upon completion of the project, any excess funds or interest credited to the Entity shall be refunded to the Entity based on its pro rata share of the investment.

(5) ORIGINAL AGREEMENT: Except as otherwise modified, amended, or supplemented by this First Supplemental Agreement, the Original Agreement between the parties shall remain in full force and effect and shall extend and apply to this First Supplement Agreement as if fully written in this First Supplemental Agreement.

*Remainder of Page Intentionally Left Blank; Signatures and Execution Appear on
Following Page*

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

Executed by the Entity on _____(DATE).

Executed by the Commission on _____(DATE).

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

CITY OF WILDWOOD, MISSOURI

Title _____

By _____
Title _____

ATTEST:

ATTEST:

Secretary to the Commission

By _____
Title _____

Approved as to Form:

Approved as to Form:

Commission Counsel

Title: _____

Ordinance No _____

Exhibit B

Project Name: Route 100 J- Lanes

MoDOT Project Number: SL0091

Description: Construct J-turns on Route 100 at Pond Road and Route 100 at Route T

Total Eligible Project Cost Estimate: \$3,010,000

Local Entity: City of Wildwood

	Current Estimate	Cost Share Eligible
Preliminary Engineering	\$312,000	\$312,000
Preliminary Engineering Review (MoDOT)	\$5,000	\$5,000
Right of Way Acquisition	\$0	\$0
Right of Way Incidentals	\$0	\$0
Right of Way Review (MoDOT)	\$0	\$0
Utilities	\$0	\$0
Construction	\$2,400,000	\$2,400,000
Construction Engineering	\$293,000	\$293,000
Total	\$3,010,000	\$3,010,000

Project Responsibilities:

Preliminary Engineering	Entity
Right of Way Acquisition	Entity
Utility Coordination	Entity
Letting	MoDOT
Construction	MoDOT
Construction Engineering	MoDOT

Financial Responsibilities:

MoDOT Internal Budget	\$298,000	10%
Cost Share Funds	\$1,207,000	40%
Entity	\$564,200	19%
STBG funds	\$940,800	31%
Total:	\$3,010,000	100%

How are overruns and underruns handled? The Entity shall be responsible for all cost overruns. Underruns will be based on a pro rata share.