

BILL NO. 25-15

ORDINANCE NO. 25.15

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE A MAINTENANCE AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR A PORTION OF THE KEY LARGO CONNECTOR.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSAGE BEACH, AS FOLLOWS:

Section 1. That the Board of Aldermen of the City of Osage Beach has determined that it is in the best interest of the City to authorize the Mayor to execute an agreement with the Missouri Highways and Transportation Commission.

Section 2. That the Board of Aldermen agrees to the terms and conditions as set out in the attached Missouri Highways and Transportation Commission for portions of Key Largo Connector as set in the Agreement and hereby authorizes the Mayor to execute same on behalf of the City of Osage Beach.

Section 3. That this Ordinance shall be in full force and effect upon date of passage.

READ FIRST TIME: February 24, 2025

READ SECOND TIME: March 6, 2025

I hereby certify that the above Ordinance No. 25.15 was duly passed on March 6, 2025, by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes: 6 Nays: 0 Abstentions: 0 Absent: 0

This Ordinance is hereby transmitted to the Mayor for his signature.

March 6, 25
Date

Tara Berreth
Tara Berreth, City Clerk

Approved as to form:

Cole Bradbury
Cole Bradbury, City Attorney

I hereby APPROVE Ordinance No. 25.15.

March 6, 25
Date

Michael Harmison
Michael Harmison, Mayor

ATTEST:

Tara Berreth
Tara Berreth, City Clerk

CCO Form: MT02
Approved: 10/96 (DPP)
Revised: 03/24 (TLP)
Modified:

Agreement # 2025-01-86315

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
MAINTENANCE AGREEMENT
For Roads and Streets Not in the State Highway System**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Osage Beach (hereinafter, "Agency").

WITNESSETH:

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

(1) PURPOSE: The purpose of this Agreement is to designate maintenance responsibilities for a highway as authorized by Article IV, Section 30(b)1(3)(f) of the Missouri Constitution.

(2) LOCATION: The location of the highway which is the subject of this Agreement is as follows:

A portion of the intersection of West Osage Beach Parkway with the Key Largo Connector of Route 54 in the City of Osage Beach Missouri and as shown in Exhibit A.

(3) MAINTENANCE BY COMMISSION: The Commission will maintain the designated roadway(s) in the same manner and to the same extent that it maintains other Maintenance Agreement sections. Maintenance as contemplated by the Commission shall be restricted to the driving surface and traffic control devices (Paragraph 5). It does not include the maintenance, installation, removal or repair of water supply lines, sanitary and storm sewers, sidewalks, parking areas, parkways, trees or other ornamental vegetation, street lighting systems, pole lines, conduits, or other utilities. All work and/or costs for work for all excluded functions shall be the responsibility of the Agency or owner of the facility involved. Snow removal by the Commission will consist of plowing and/or the application of chemicals acceptable to the Commission to the driving surface only. The Agency shall be responsible for snow and/or ice removal from the parking areas and sidewalks.

(4) USE OF EXISTING RIGHT OF WAY: The Commission shall have full use of the existing right-of-way to such roads or streets for maintenance purposes, and the Agency agrees to retain such right-of-way for Commission use.

(5) TRAFFIC SIGNS, LIGHTS OR SIGNALS: The Commission will install and maintain such regulatory, warning and informational traffic signs, pavement markings, lights or signals as are prescribed by the policy of the Commission and in accordance with the Manual on Uniform Traffic Control Devices to the extent that the latter is approved by the Commission and the Federal Highway Administration.

(6) ORDINANCES AND REGULATIONS:

(A) The Agency agrees to enforce and keep enforce such ordinances or regulations as have been or may be approved by the Commission and thereafter duly enacted relating to the use of said highways by motor vehicles.

(B) The Agency will submit to the Commission for approval any ordinances, rules, regulations, or resolutions appertaining to the regulation of traffic, the parking of motor vehicles, location and character of loading zones, sale or distribution of merchandise on the highway right-of-way, or the location, form, or character of any traffic signs and will not enact or keep in force any ordinance not approved by the Commission.

(7) ENTRANCES, DRAINAGE AND UTILITIES: All requests for the installation, relocation or removal of any entrance or roadway drainage facility within the limits of the roadway right-of-way and all requests for the installation, relocation or removal of the facility of any public utility and public or private lines, poles, wires or conduit involving location on or excavation in, under or through the thruway surface, shoulders or highway drainage facility, shall be referred to the Commission's District Engineer for the issuance of a permit. All such work shall be in accordance with the standard policy and regulations of the Commission and shall proceed only after a permit for this particular installation, relocation or removal has been obtained from the District Office of the Commission.

(8) TERMINATION: Either party may terminate this Agreement after 30 days written notice to the other party.

(9) INDEMNIFICATION: To the extent allowed or imposed by law, the Agency 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 Agency's wrongful or negligent performance of its obligations under this Agreement.

(10) INSURANCE:

(A) The Agency is required or will require any contractor procured by the Agency 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.

(11) 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 Agency and the Commission.

(12) REPRESENTATIVES: The Commission's District Engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Agency's Mayor is designated as the Agency's representative for the purpose of administering the provisions of this Agreement.

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

(14) 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.

(15) CONTINUING DURATION: The term of this Agreement will be of a continuing duration until terminated pursuant to the terms of this Agreement or by mutual consent of the parties.

(16) 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 Agency.

(17) 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.

(18) 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.

(19) 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.

(20) 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.

[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 Agency on March 6, 2025 (DATE).

Executed by the Commission on _____ (DATE).

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

Title: _____

ATTEST:

Secretary to the Commission

APPROVED AS TO FORM:

Commission Counsel

CITY OF OSAGE BEACH

By [Signature]
Title: Mayor

Ordinance No. 25-15

ACKNOWLEDGMENT

STATE OF MISSOURI)

COUNTY OF CAMDEN)

On this 6th day of March, 2025, before me, the undersigned Notary Public, personally appeared Tara Berreth, to me known, who being by me duly sworn, did say that she is the City Clerk of the City of Osage Beach, Missouri, a municipal corporation, and that the seal affixed to the foregoing Ordinance is the municipal seal of the City of Osage Beach, and that said Ordinance was signed and sealed in behalf of said corporation by authority of its Board of Aldermen, and said Tara Berreth acknowledged said Ordinance to be the free act and deed of said municipality.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Osage Beach, Missouri, the day and year last written above.



Notary Public

Kegan Marie Powers

Printed

Name

Kegan Marie Powers

My commission expires: 01-26-2028