

Kansas Department of Transportation

Historic Bridge Relinquishment & Relocation Agreement

This Historic Bridge Relinquishment & Relocation Agreement (Relocation Agreement) is entered into by the Secretary of Transportation of the State of Kansas (“Secretary”) on behalf of the Kansas Department of Transportation (“KDOT”) and _____ (hereinafter, “RECIPIENT”). This Agreement shall become effective on the date signed by the Secretary or the Secretary’s designee.

WHEREAS, as part of a recent highway project (59-3 K-8238-01) the US-59 Bridge over the Missouri River between the City of Atchison in Atchison County, Kansas, and the City of Winthrop in Buchanan County, Missouri (also known as the Amelia Earhart Memorial Bridge), was found to be eligible for listing on the National Register of Historic Places; and

WHEREAS, the Federal Highway Administration (FHWA) determined that the preferred alternative for the proposed project, Alternative 4H Replacement, as described in the Final Environmental Impact Study, will have an adverse effect on historic properties, resulting in the demolition of the Amelia Earhart Memorial Bridge, an historic property eligible for inclusion in the National Register of Historic Places, and;

WHEREAS, the FHWA consulted with the Kansas State Historic Preservation Office (KSSHPO) and the Missouri State Historic Preservation Office (MOSHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act [16 U.S.C. 470(f)]; and

WHEREAS, FHWA, KDOT, the KSSHPO, the MOSHPO, and the Advisory Council on Historic Places agreed that the undertaking shall be implemented in accordance with certain stipulations in consideration of the effect this undertaking will have on the historic property and entered into a Memorandum of Agreement (MOA) regarding the Amelia Earhart Memorial Bridge; and.

WHEREAS, in one stipulation in the MOA, KDOT was given responsibility for compliance with the Historic Bridge Act [23 U.S.C. §144 (o)]; and

WHEREAS, under this stipulation KDOT must make the Amelia Earhart Memorial Bridge available for removal, either in its entirety or sections thereof, with the understanding that the Bridge will be reused at an offsite location; and

WHEREAS, KDOT has actively pursued finding a responsible party to move the Amelia Earhart Memorial Bridge or sections thereof to a new location and to assume responsibility for the Bridge by advertising the availability of the Amelia Earhart Memorial Bridge for removal and relocation in local and regional newspapers (*The Atchison Daily Globe*, *The Kansas City Kansan*, *The Kansas City Star*, *The Leavenworth Times*), in preservation publications (the Kansas Preservation Alliance *Preservation News*, the Missouri *Preservation Newsletter*, and the

National Trust for Historic Preservation's *Preservation and Preservation On Line*), and on the KDOT public website; and

WHEREAS, the availability of the Amelia Earhart Memorial Bridge also was made known directly to nearby city governments (Atchison, Leavenworth, Kansas City, Troy, and Wathena, Kansas, and Winthrop, Missouri) and county governments (Atchison, Doniphan, Brown, Jefferson, Johnson, Leavenworth, and Wyandotte in Kansas, and Buchanan and Platte in Missouri) governments and to state and federal agencies with land located near the Bridge (e.g., Atchison County State Lake and Lake Perry) but these entities were not interested in using the Bridge; and

WHEREAS, in the event that the Amelia Earhart Memorial Bridge, or a Section thereof, is reused at an offsite location, KDOT has made available a maximum amount of \$200,000.00 for removal and relocation costs for the section(s) being moved;

NOW THEREFOR, the Parties agree as follows:

I. The Dismantling and Relocation Plan and the Maintenance Plan (RECIPIENT'S Plans) that were included in the RECIPIENT'S Proposal are approved by KDOT and attached to and incorporated into this Relocation Agreement. KDOT's approval of the RECIPIENT'S Plans is intended to fulfill the Secretary's obligations under state and federal law for the Amelia Earhart Memorial Bridge. KDOT's approval is not intended to make KDOT liable to the RECIPIENT or third parties for the adequacy and accuracy of the RECIPIENT'S Plans.

II. KDOT will pay the RECIPIENT the actual costs incurred to remove and relocate the Amelia Earhart Memorial Bridge [or Sections thereof—define limits of removal], subject to a maximum sum of \$ [pro-rated demolition cost]. KDOT will pay this amount after the RECIPIENT submits invoices to KDOT for the removal and relocation costs the RECIPIENT incurred and KDOT has determined the removal and relocation was performed according to the RECIPIENT's Dismantling and Relocation Plan.

III. The RECIPIENT shall:

1. Dismantle, relocate, and then install the Bridge or Sections thereof in compliance with the RECIPIENT'S Dismantling and Relocation Plan. The relocation site shall meet the requirements set forth by the KSSHPO, including placing the bridge in a location where it is over a stream, creek, ditch, gully, or other low lying surface feature and in a location that is visible to the public.

2. Complete the dismantling, relocation, and installation within 30 calendar days. This 30-calendar day relocation time period will begin no later than 30 calendar days after the

RECIPIENT receives notice from KDOT that removal and relocation can begin. The Recipient should anticipate the 30-calendar day relocation period taking place between July and November 2011 unless weather conditions delay the new bridge opening.

3. Coordinate the removal and relocation with other Recipients (if any), with KDOT, with the Contractor constructing the new bridge (Construction Contractor), and with the US Coast Guard. The RECIPIENT shall contact the KDOT Area Construction Engineer (785-486-2142) who will involve the Construction Contractor and Coast Guard so that equipment operations, river movement, roadway movements, and traffic control are coordinated and comply with federal and state requirements.

4. Assume responsibility for the adequacy and accuracy of the RECIPIENT'S Dismantling and Relocation Plan and Maintenance Plan.

5. Assume responsibility for the RECIPIENT'S agents, independent contractors, subcontractors at any tier, suppliers at any tier, or any combination thereof in performing work under this Relocation Agreement. The RECIPIENT represents that the RECIPIENT and the RECIPIENT'S agents, independent contractors, subcontractors at any tier, and suppliers at any tier have the education, training, and experience necessary to carry out the RECIPIENT'S Dismantling and Relocation Plan and Maintenance Plan according to the terms of this Relocation Agreement. The liability and indemnification obligations in Article III.11, III.12, and III.13 extend to these persons and entities.

6. Assume the cost of removing the Bridge or Sections thereof from the highway project area except for those costs the Secretary pays under Article II of this Agreement.

7. Assume the cost of new site preparation.

8. Assume the costs of reassembly and installation.

9. Obtain any and all necessary permits for transporting the Bridge or Sections thereof to the new location and installing the Bridge or Sections thereof at the new location.

10. Obtain Commercial General Liability Insurance (CGL Policy) and Automobile Liability Insurance (Automobile Policy) that complies with this Article III.9. The CGL Policy shall apply specifically to the Dismantling and Relocation work and have minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage combined and \$2,000,000 aggregate for products and completed operations. The CGL Policy shall contain the following minimum coverages: Premises and Operations; XCU (explosion, collapse, and underground hazards); Products and Completed Operations; and Contractual Liability for the RECIPIENT'S indemnification obligations. The Automobile Policy shall have minimum limits of \$1,000,000 each occurrence for bodily injury and property damage combined and cover Owned, Hired, and Non-owned vehicles. Both the CGL Policy and Automobile Policy shall be obtained from insurers authorized to transact insurance business in

Kansas as an authorized insurer. Provide the Secretary a copy of the CGL Policy and Automobile Policy before beginning any work under this Relocation Agreement. Make sure the RECIPIENT'S agents, independent contractors, subcontractors at any tier, and suppliers at any tier obtain and maintain the same insurance. Failure to provide and maintain the required insurances is a breach of this Relocation Agreement.

11. Assume title to, financial responsibility for, and all legal liability to third parties for the Bridge or Sections thereof as of the date the RECIPIENT begins removing the Bridge or Sections thereof from the highway project area. Nothing in this Article III.11 prevents the RECIPIENT from being liable to the Secretary for a breach of this Relocation Agreement and associated damages even though title to the Bridge or Sections thereof has not passed under this Article III.11 at the time of breach.

12. Defend KDOT and hold KDOT harmless from personal injury claims, property damage claims, and associated expenses (including attorney's fees and defense costs) that are caused by the RECIPIENT'S breach of this Relocation Agreement or the RECIPIENT'S negligent acts or negligent omissions in carrying out this Relocation Agreement. If KDOT defends against a personal injury claim or property damage claim, indemnify KDOT for expenses incurred, amounts KDOT paid, or both to the extent caused by the RECIPIENT'S breach of this Relocation Agreement or the negligent acts or negligent omissions of the RECIPIENT.

13. Assume liability to KDOT and indemnify KDOT for contract damages and associated expenses (including attorney's fees and defense costs) that are caused by the RECIPIENT'S breach of this Relocation Agreement. These damages include without limitation monies KDOT pays to the Construction Contractor because of the RECIPIENT'S failure to begin work timely, failure to complete work timely, or other breach of this Relocation Agreement.

14. Maintain and repair the Bridge or Sections thereof and the features that give the Bridge or Sections thereof historic significance and integrity for a period of twenty-five (25) years, at the RECIPIENT'S costs, and according to the RECIPIENT'S Maintenance Plan.

15. Consult the KSSHPO before initiating any modifications or maintenance activities that could alter the Bridge's historic characteristics because the Bridge is eligible for listing on the National Register of Historic Places.

16. Store the Bridge or Sections thereof in a manner that will not cause excessive deterioration if the Bridge or Sections thereof are going to be relocated temporarily to a holding facility.

17. Allow KDOT and the KSSHPO and their employees, agents, and designees the right to inspect the Bridge or Sections thereof at all reasonable times to ascertain whether the conditions of this Relocation Agreement are being met.

IV. The Secretary's only obligation under this Relocation Agreement is to pay a portion of the RECIPIENT'S removal and relocation costs as set forth in Article II. The Secretary and KDOT assume no obligations for the manner in which the RECIPIENT removes the Bridge or Sections thereof, relocates the Bridge or Sections thereof, or maintains the Bridge or Sections thereof after relocation even though KDOT has approved the RECIPIENT'S Dismantling and Relocation Plan and the Maintenance Plan for the limited purpose stated in Article I.

V. This Relocation Agreement and all contracts entered into under the provisions of this Relocation Agreement shall be binding upon the Secretary and the RECIPIENT and their successors in office.

VI. This Relocation Agreement creates no third party beneficiary status or rights.

VII. In signing this Relocation Agreement, the Parties represent that the person signing has authority and capacity to bind the respective entity to this Agreement.

SECRETARY OF TRANSPORTATION

BY: _____

TITLE: _____

DATE

RECIPIENT

BY: _____

TITLE: _____

DATE