



**PLATTE COUNTY, MISSOURI  
2013-2023 TRANSPORTATION TAX  
KANSAS CITY COOPERATIVE AGREEMENT**

**160514**

This Cooperative Agreement for construction of transportation related improvements is made by and between the City of Kansas City, Missouri, a municipal corporation, a portion of which is located in Platte County, hereinafter referred to as "CITY," and Platte County, Missouri, hereinafter referred to as "COUNTY."

Recitals

WHEREAS, on April 2, 2013, the voters of Platte COUNTY approved a COUNTY-wide sales tax ("the Tax") for 10 years for the purpose of financing transportation-related projects, including but not limited to roads, bridges, drainage structures, and sidewalks;

WHEREAS, it is in the best interest of all of the citizens of COUNTY and of CITY to use a portion of the proceeds of the Tax to finance the construction of specific transportation-related improvements located in COUNTY and within the CITY limits of CITY as funding from the tax proceeds will allow; and

WHEREAS, COUNTY dedicates one-half (1/2) of the proceeds of the Tax to finance construction activities within the boundaries of municipalities, including construction activities in special road districts within municipal corporations in Platte County, Missouri; and

WHEREAS, bond payments for projects in areas outside the boundaries of municipal corporations shall not be subtracted from the gross sales tax revenue until after the CITY's share of the tax revenue has been determined, at which time such bond payment shall be subtracted exclusively from COUNTY's portion of the tax revenue; and

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WHEREAS, COUNTY shall dedicate to CITY 67.578 percent of the municipal share of the proceeds received by COUNTY from the tax, with said funds used to construct specific improvements located in COUNTY and within the city limits of CITY as funding from the tax proceeds will allow.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the PARTIES hereby mutually agree as follows:

**PART I: SPECIFIC TERMS AND CONDITIONS**

1. **Scope of Agreement** - The purpose of this Agreement is to provide for a cooperative effort between CITY and COUNTY for COUNTY's performance of the Project in accordance with the terms and conditions set forth herein.
2. **Definitions** - Unless otherwise specified in this Agreement, the following words have the meanings indicated herein, which are applicable to both the singular and plural thereof:
  - a. CONTRACTOR means COUNTY's contractor and all Subcontractors.
  - b. PROJECT means the design and construction program for the transportation improvement program described more specifically in Part III.B.2 of this agreement.
  - c. PAYMENT BOND, PERFORMANCE BOND and MAINTENANCE BOND mean the approved CITY forms of security executed by COUNTY's Contractors and their Sureties.

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- d. SURETY means the corporation, partnership or individual, duly licensed and authorized to do business in Missouri, bound with and for Contractor to guarantee and assume legal liability for payment of any and all obligations as provided in the CITY Charter and Section 107.170 R.S.Mo 2000, as amended, and to guarantee and assume legal liability for the faithful performance of this Agreement.
  - e. LICENSE TO USE RIGHT OF WAY means that license CITY hereby grants to COUNTY, its representatives, employees, engineers, consultants and contractors to use that portion of the public right-of-way in order to allow the performance of the Project(s) in accordance with the terms of this Agreement. The term of the license shall run concurrently with the term of this Agreement and shall expire at the time CITY accepts the Project(s) from COUNTY. The grant of a license by the CITY to COUNTY shall not constitute a conveyance of any interest in the public right-of-way.
  - f. UTILITIES means the set of common services provided by an organization, subject to governmental regulation and consumed by the public. This includes without limitation: electricity, natural gas, water, sewage, storm-water, fiber networks, telephone and cable television.
- 3. MANAGEMENT OF FUNDS.** COUNTY shall report to the CITY biannually the amount available of the City share of the Tax proceeds. Project funding may be provided:
- a. by the COUNTY at the time of construction contracting

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- b. be the CITY at the time of construction contracting, to be reimbursed by the COUNTY biannually as Tax proceeds become available
- c. partially by grant funds estimated and appropriated by the COUNTY
- d. partially be grant funds estimated and appropriated by the CITY, to be reimbursed by the COUNTY biannually as Tax proceeds become available
- e. any combination of the above

If grant funds are estimated and appropriated by CITY, COUNTY shall reimburse CITY any funds received from the granting agency within sixty (60) days of receiving them. County shall reimburse CITY the full estimated and appropriated amount within ninety (90) days of project completion regardless of the amount reimbursed by the granting agency.

## **PART II: GENERAL TERMS AND CONDITIONS**

### **1. General Indemnification**

A. For purposes of this Section 1 only, the following terms shall have the meanings listed:

- i. Claims mean all claims, damages, liability, losses, costs and expenses, including reasonable attorneys' fees.
- ii. COUNTY's *Agents* means COUNTY's officers, employees, agents or subcontractors.
- iii. CITY means CITY and its agents, officials, officers, employees and subcontractors.

B. Nothing in this section shall apply to indemnification for professional negligence

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that is specified in a separate provision of this Agreement.

- C. COUNTY's contracts with COUNTY's Contractors in connection with the Project shall require such Contractors to defend, indemnify, and hold harmless the CITY under the terms of this section. The obligations of COUNTY and its Contractors under this section with respect to indemnification for acts or omissions of CITY, its agencies, officials, officers, or employees shall be limited to the coverage and limits of insurance that COUNTY and its Contractor are required to procure and maintain under this Agreement.

**2. Indemnification for Professional Negligence**

If COUNTY hires any Design Professional in connection with the Project, then COUNTY's contracts with its Contractors shall cause such Contractors to indemnify and hold harmless the CITY and any of its agencies, officials, officers, or employees from and against all claims, damages, liability, losses, costs, and expenses, including reasonable attorneys' fees, but only to the extent caused by the negligent acts, efforts, or omissions of such Contractors, its employees, agents or others for whom such Contractors are legally liable, in the performance of professional services for the construction of the transportation-related Improvement under this Agreement. COUNTY and its Contractors are not obligated under this section to indemnify the CITY for the negligent acts of the CITY's agencies, officials, officers, or employees.

**3. Insurance**

- A. COUNTY's contractors shall procure and maintain in effect throughout the

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duration of this Agreement insurance coverage not less than the types and amounts specified below, and shall name the CITY as additional insured and shall ensure lower tier subcontractors do the same. An Owner's Controlled Insurance Program shall be acceptable to the CITY.

- i. Commercial General Liability Insurance: with limits of \$2,000,000 per occurrence and \$2,000,000 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:

- 1. Severability of Interests Coverage applying to Additional Insureds
- 2. Contractual Liability
- 3. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$2,000,000.
- 4. No Contractual Liability Limitation Endorsement
- 5. Additional Insured Endorsement, ISO form CG2010, current edition, or its equivalent.

- ii. Workers' Compensation Insurance: as required by statute, including:

- 1. Employers Liability with limits of:
  - i. Workers' Compensation – Statutory
- 2. Employers' Liability with limits of:
  - 1) \$100,000 - each Accident
  - 2) \$500,000 disease - policy limit
  - 3) \$100,000 disease - each employee

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- iii. Commercial Automobile Liability Insurance: with a limit of \$2,000,000 per occurrence, covering owned, hired, and non-owned automobiles. Coverage provided shall be on an "any auto" basis and written on an "occurrence" basis. This insurance will be written on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Agreement, by COUNTY or COUNTY's Contractors.
- iv. If applicable, Professional Liability Insurance with limits per claim and an annual aggregate of \$ 2,000,000

B. The policies listed above may not be canceled until after thirty (30) days written notice of cancellation to the CITY, ten (10) days in the event of nonpayment of premium. The Commercial General and Automobile Liability Insurance specified above shall provide that the CITY and its agencies, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insured's for the services performed under this Agreement. COUNTY or COUNTY's Contractor shall provide to the CITY prior to the performance of the Project a certificate of insurance showing all required endorsements and additional insured's. The certificate shall be on the CITY's furnished form or its equivalent.

C. All insurance coverage must be written by companies that have an A.M. Best's rating of "B+V" or better and are licensed or approved by the State of Missouri to do business in Missouri.

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D. In the event of COUNTY's failure or the failure of its Contractors to maintain the required insurance in effect, the CITY may order COUNTY and its Contractors to immediately stop work.

**4. Governing Law and Jurisdiction**

This Agreement shall be governed by the laws of the State of Missouri. The CITY and COUNTY, (PARTIES) to this Agreement, hereby irrevocably and unconditionally agree that any suit, action, or proceeding arising out of or related to this Agreement shall be brought only in the Circuit Court of Platte County, Missouri. To the fullest extent permissible by law, the PARTIES hereby consent to the personal jurisdiction, venue and form of such court and hereby irrevocably and unconditionally waive any claim or objection that it is not subject to the jurisdiction of such court, that the venue is improper, that the form is inconvenient or any similar objection, claim or argument.

**5. Compliance with Laws**

COUNTY and all its Contractors shall comply with all federal, state and local laws, ordinances and regulations applicable to the Project. All references to "Code" shall mean CITY's Code of Ordinances, including any amendments thereto or recodification thereof.

**6. Waiver**

No consent or waiver, express or implied, by any party to this Agreement or of any breach or default by any other party in the performance by such other party of



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its obligations under this Agreement shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of the same or any other obligations of such party hereunder. Failure on the part of any party to complain of any act or failure to act of any of the other PARTIES or to declare any of the other PARTIES in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights under this Agreement. COUNTY and the CITY reserve the right to waive any term, covenant, or condition of this Agreement; provided, however, such waiver shall be in writing and shall be deemed to constitute a waiver only as to the matter waived and the PARTIES reserve the right to exercise any and all of their rights and remedies under this Agreement irrespective of any waiver granted.

**7. Modification**

This Agreement shall not be amended, modified or canceled without the written consent of the PARTIES to this Agreement.

**8. Headings; Construction of Agreement**

The headings of each section of this Agreement are for reference only. Unless the context of this Agreement clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine or neuter, the same as if such words had been fully and properly written in that number or gender.

**9. Severability of Provisions**

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Except as specifically provided in this Agreement, all of the provisions of this Agreement shall be severable. In the event that any provision of this Agreement is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Agreement shall be valid unless the court finds that the valid provisions of this Agreement are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the PARTIES to this Agreement could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the PARTIES.

**10. Audit**

The CITY shall have the right to audit this Agreement and all books, documents and records relating thereto. COUNTY shall maintain all its books, documents and records relating to this Agreement during the contract period and for three (3) years after the date of final payment. The books, documents and records shall be made available to the CITY within ten (10) days after the written request is made. COUNTY shall require its Contractors to comply with this provision in connection with services performed on the Project.

**11. Assignment**

Neither CITY nor COUNTY shall sell, assign, transfer, or otherwise convey any of their rights under this Agreement without the prior and expressed written

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consent of the other party. Each party may, at its sole discretion, refuse to consent to any proposed sale, assignment, transfer, or other conveyance. Any attempted sale, assignment, transfer, or conveyance in violation of this paragraph shall be void and shall relieve the non-consenting party of any further liability under this Agreement, but shall not relieve the violating party of any liability. If a party consents in writing to a sale, assignment, transfer, or conveyance, unless specifically stated to the contrary in the consent, it shall not release or discharge the party receiving consent from any duty or responsibility set forth in the Agreement.

**12. Conflicts of Interest**

COUNTY and its Contractor shall certify that no officer or employee of CITY has, or will have, a direct or indirect financial or personal interest in this Agreement, and that no officer or employee of CITY, or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of COUNTY or its Contractor in this Agreement.

**13. No Partnership**

It is expressly understood that the PARTIES are not now, nor will they be, engaged in a joint venture, partnership or any other form of business relationship except as expressly set forth herein, and that no party shall be responsible for the conduct, warranties, guarantees, acts, errors, omissions, debts, obligations or undertaking of any kind or nature of the other in performance of this Agreement.

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**14. Bonds and Surety**

A. COUNTY's Contractors shall furnish a Payment Bond, Performance Bond and Maintenance Bond, to CITY on forms provided by CITY, executed by a Surety, in the amount of any contract and the total amount of all contracts entered into between COUNTY and its Contractor's, workers, and material suppliers, guaranteeing Contractor's faithful performance of each and every term of such contracts and all authorized changes thereto, including those terms under which COUNTY or its Contractor agrees to pay legally required wage rates including the prevailing hourly rate of wages in the locality, as determined by the Department of Labor and Industrial Relations or by final judicial determination, for each craft or type of workman required to perform under this Agreement; guaranteeing the payment of all obligations as provided in Section 107.170 R.S.Mo., 2000, as amended; and guaranteeing the services and work against faulty workmanship and faulty materials for the period of time as prescribed by the Performance and Maintenance Bond. Surety must:

1. Be approved by CITY's Finance Department;
2. Be qualified to issue bonds at amounts specified in the Department of the Treasury Circular 570;
3. Be licensed by the State of Missouri to do business in the State of Missouri; and
4. Retain an A.M. Best Rating of B+, class V for Bonds in excess of \$200,000.

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- B. The bonds shall remain in full force and effect during the term of the Agreement as set forth in Section of this Agreement.

**15. Prevailing Wage**

COUNTY and its Contractor shall comply in all respects with the Prevailing Wage Laws of the State of Missouri, Section 290.210 to 290.340, R.S.Mo., 2000, as amended, and any federal prevailing wage laws that apply to the work. COUNTY agrees that the CITY shall not be responsible for assisting COUNTY and its Contractor in providing any required documentation necessary to demonstrate compliance with the Prevailing Wage Laws.

**18. Binding Effect**

This Agreement shall be binding upon the PARTIES hereto and upon their assigns, transferees and successors in interest.

**19. Representations**

COUNTY and CITY certify that they have the power and authority to execute and deliver this Agreement, to use the funds as contemplated hereby and to perform this Agreement in accordance with its terms.

**20. Buy American Preference**

It is the policy of the CITY that any manufactured goods or commodities used or supplied in the performance of any CITY contract or any subcontract thereto shall

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be manufactured or produced in the United States whenever possible.

**Part III: OPERATING AGREEMENT BETWEEN CITY AND COUNTY**

**A. The CITY agrees to comply with the following:**

- 1. PROJECT LIAISON.** The CITY agrees to assign a special project liaison for each specific project. The Project Liaison will serve as the “point-of-contact” with regard to communications from the CITY to the COUNTY project management team. The duties of the liaison will include coordinating decisions and recommendations by other CITY staff for the design and construction phases of the projects. This position shall be assigned by and report to the CITY director of Public Works.
- 2. PLAN DEVELOPMENT, REVIEW, AND APPROVAL.** CITY shall obtain construction plans for each transportation-related improvement project it is obligated to construct. All plans shall conform to CITY standards for storm sewer, street and utility design, although both COUNTY staff and CITY staff reserve the right to issue variances to these standards as deemed necessary. Once the construction plans are complete, CITY shall submit the plans to the COUNTY Public Works Department for review and comment. Any COUNTY comments forwarded to CITY shall be addressed by the design consultant, and CITY shall then resubmit the construction plans to the COUNTY for its final approval.
- 3. RIGHT-OF-WAY.** The CITY agrees to acquire with CITY funds all right-of-way necessary to facilitate the construction of transportation-related improvement projects; COUNTY transportation tax proceeds will not be used.

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**4. UTILITY RELOCATION.** If any utility relocation is necessary to construct the transportation-related improvements projects, then such relocation shall be planned during the design development process, constructed during the construction process, and financed as described herein.

- a. COUNTY transportation tax proceeds will not be used for the relocation, repair, installation or other work required by the Improvements to CITY owned Utilities. The CITY will be responsible for these costs.
- b. COUNTY transportation tax proceeds may be used for the relocation, repair, installation or other work required by the Improvements to all other Utilities not owned by the CITY.

**5. CONSTRUCTION IMPROVEMENTS.** Subject to the appropriation of funds, the PARTIES shall construct the following specific improvements and such other projects as the PARTIES may designate, as funding may permit and as mutually agreed upon. Listed projects are in no particular order:

- a. Installation of street lighting along NW Barry Road, west of N. Potomac to N Chariton.
- b. N Northwood Road from N. Prairie View to 52nd Street;
- c. NW 72<sup>nd</sup> Street from Roanridge Road to Overland Drive;
- d. NW Waukomis Drive from I-29 to NW 68<sup>th</sup> St;
- e. Green Hills Road from Barry Road to NW Platte Brooke Drive.

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- 6. COUNTY CONSTRUCTION INSPECTION PROCESS.** During the construction process, COUNTY will contract a licensed third-party professional inspection contractor approved by both PARTIES who will perform and complete all project inspection work associated with the construction of the transportation-related Improvements. Inspection types and times will conform to CITY standards and MoDOT LPA standards, for project utilizing federal funds. All inspection reports will be provided to the COUNTY and made available to the CITY.
- 7. CITY FEES.** CITY shall assess no fees associated with design or construction permits, road closure fees, land disturbance fees or any utility fees or any other charges to COUNTY or any contractor employed by COUNTY pursuant to this Agreement. Contractors will be required to obtain all required permits from the CITY, at no cost to the contractor.
- 8. MAINTENANCE OF IMPROVEMENTS AND RIGHT-OF-WAY.** Upon CITY's final acceptance of a transportation-related improvement project, CITY shall be responsible for maintenance of all transportation-related improvements and of all right-of-way, including any right-of-way acquired specifically pursuant to the project, except those improvements and rights-of-way under the jurisdiction of the Missouri Department of Transportation.

**B. The COUNTY agrees to comply with the following:**

- 1. PROJECT LIAISON.** The COUNTY agrees to assign a special project liaison for each specific project. The Project Liaison will serve as the “point-of-contact” with regard to communications from the COUNTY to the CITY project management team. The duties



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of the liaison will include coordinating decisions and recommendations by other COUNTY staff for the design and construction phases of the projects. This position shall be assigned by and report to the COUNTY director of Public Works.

- 2. CONSTRUCTION IMPROVEMENTS.** The COUNTY shall construct the mutually agreed upon improvements listed in Part 3, Section A, Item 5 of this agreement or other projects as mutually agreed upon and made supplement in a separate Memorandum of Understanding.
- 3. CONSTRUCTION CONTRACT.** Upon completion of the construction plans, COUNTY shall solicit bids from construction contractors in accordance with the COUNTY bidding procedures required by Missouri Law, and Federal Law for projects which has Federal funding involved. After review of all bids, COUNTY shall award the construction contract to the lowest and best bidder, reserving the right to refuse any and all bids.
- 4. CONSTRUCTION RECORDS.** COUNTY agrees to furnish to CITY information consisting of reports and engineering plans concerning the Improvements constructed pursuant to this Agreement. COUNTY agrees to furnish to CITY, within ninety (90) days following completion of the work, one (1) full set of As-built drawings.
- 5. CONSTRUCTION IMPROVEMENTS.** Subject to the appropriation of funds, the PARTIES shall construct the following specific improvements and such other projects as the PARTIES may designate, as funding may permit and as mutually agreed upon. Listed projects are in no particular order:

- a. Installation of street lighting along NW Barry Road, west of N. Potomac to N

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Chariton.

- b. N Northwood Road from N. Prairie View to 52nd Street;
  - c. NW 72<sup>nd</sup> Street from Roanridge Road to Overland Drive;
  - d. NW Waukomis Drive from I-29 to NW 68<sup>th</sup> St;
  - e. Green Hills Road from Barry Road to NW Platte Brooke Drive.
- 3. MANAGEMENT OF FUNDS.** COUNTY shall manage project funds as follows:
- a. Individual project MOUs
  - b. CITY may make contributions to projects
  - c. COUNTY will “set-up” a separate holding account for CITY contributed funding.
  - d. COUNTY may reimburse CITY for work – (street lights on Barry)
  - e. Federal Transportation Funds have been recommended for some of the projects, and will continue to be pursued for the identified projects and such funds are for use in construction and are in addition to the COUNTY funds allocated to the projects.

**IN WITNESS WHEREOF**, the PARTIES hereto have duly executed this instrument the day and year first above written.

**[SIGNATURES BEGIN ON NEXT PAGE]**

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ATTEST TO:        KANSAS CITY, MISSOURI

By: \_\_\_\_\_

City Clerk

By: \_\_\_\_\_

Sherri McIntyre  
Director of Public Works

**Approved as to form:**

By: \_\_\_\_\_

Assistant City Attorney

State of Missouri        )  
                                      ) ss  
County of Jackson        )

**BE IT REMEMBERED**, that on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ before me, the undersigned, a notary public in and for the county and state aforesaid, came **Sherri McIntyre, Director of Public Works** of Kansas City, Missouri, a municipal corporation duly organized, incorporated and existing under and by virtue of the laws of the State of Missouri, and, \_\_\_\_\_, City Clerk, of Kansas City, Missouri, who are personally known to me to be the same persons who executed, as officials, the within instrument on behalf of said municipal corporation, and such persons duly acknowledge the execution of the same to be the act and deed of said municipal corporation.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal; the day and year last above written.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

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**ATTEST TO:        PLATTE COUNTY, MISSOURI**

By: \_\_\_\_\_  
County Clerk

By: \_\_\_\_\_  
Presiding Commissioner

**Approved as to form:**

By: \_\_\_\_\_  
County Counselor

State of Missouri        )  
                                      ) ss  
County of Platte        )

**BE IT REMEMBERED**, that on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
before me, the undersigned notary public in and for the county and state aforesaid, came, to me  
personally known, who being by me duly sworn did say that he is the **Presiding  
Commissioner of Platte County, a Missouri**, and that the seal affixed to the foregoing  
instrument is the corporate seal of said corporation and that said instrument was signed and  
sealed on behalf of said corporation by authority of its board of directors and acknowledged said  
instrument to be the free act and deed of said corporation.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal; the  
day and year last above written.

\_\_\_\_\_  
Notary Public

My commission expires

\_\_\_\_\_