

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE appropriating \$187,000.00 from the undesignated fund balance of the 2012 Special Road and Bridge Fund in acceptance of funds received from the Missouri Highways and Transportation Commission and Union Pacific Railroad Company and authorizing payment to certain property owners, in the aggregate amount of \$157,040.00, for right-of-way and loss of access.

ORDINANCE NO. 4467, October 22, 2012

INTRODUCED BY Bob Spence, County Legislator

WHEREAS, by Ordinance 4379, dated January 3, 2012, the Legislature did authorize the vacation of a portion of Old Lexington Road due to the proposed closing of an at-grade crossing by the Union Pacific Railroad to reduce hazardous railroad crossings; and,

WHEREAS, by Resolution 17842, dated March 5, 2012, the Legislature did authorize the County Executive to execute a Supplemental Agreement with the Missouri Highways and Transportation Commission (MHTC) and the Union Pacific Railroad Company for the purpose of permanently closing the at-grade railroad crossing located on a portion of Old Lexington Road; and,

WHEREAS, as part of the Supplemental Agreement, MHTC and Union Pacific agreed to remit to the County the amount of \$93,500.00 each, for an aggregate total in the amount of \$187,000.00; and

WHEREAS, these funds will be used to compensate property owners for right-of-way

and loss of access and to reimburse the County for the costs necessary to close the road and build a cul-de-sac with appropriate signage; and,

WHEREAS, the Acting Director of Public Works has made offers to and negotiated for the acquisition of tracts from the following properties:

<u>OWNER</u>	<u>PRICE</u>
Methodist Church of America, Buckner	\$37,040.00
Mershon Land Holdings	\$120,000.00

and,

WHEREAS, the Acting Director of Public Works recommends payment to these property owners in an aggregate amount of \$157,040.00 for the necessary right-of-ways and loss of access; and,

WHEREAS, an appropriation is necessary to place the funds received from MHTC and Union Pacific in the appropriate spending accounts; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, Missouri, that the following appropriation from the fund balance of the 2012 Special Road and Bridge Fund be and hereby is made:

<u>DEPARTMENT/DIVISION</u>	<u>CHARACTER/DESCRIPTION</u>	<u>FROM</u>	<u>TO</u>
Special Road and Bridge Fund			
004-9999	45686 - Increase Revenues	\$93,500	
004-9999	45778 – Increase Revenues	\$93,500	
004-2810	Undesignated Fund Balance		\$187,000
004-2810	Undesignated Fund Balance	\$187,000	
Special Road and Bridge Fund Special Projects			
004-1507	58040 – Roads and Highways		\$162,397
Special Road and Bridge Fund Road and Bridge Maintenance			
004-1506	57440 - Rock		\$ 24,603

BE IT FURTHER ORDAINED by the County Legislature of Jackson County, Missouri, that the Director of Finance and Purchasing be and hereby is directed to issue checks to the property owners listed above, in the amounts indicated, for a total amount of \$157,040.00, in consideration for right-of-way conveyances and compensation for loss of access to the property, pursuant to the specific direction of the County Counselor.

Effective Date: This ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:

[Signature]
Senior Deputy County Counselor

[Signature]
County Counselor

I hereby certify that the attached Ordinance, Ordinance No. 4467 introduced on October 22, 2012, was duly passed on October 22, 2012 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 9
Abstaining 0

Nays 0
Absent 0

This Ordinance is hereby transmitted to the County Executive for his signature.

10.22.12
Date

[Signature]
Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance No. 4467.

10/23/2012
Date

[Signature]
Michael D. Sanders, County Executive


Funds sufficient for this appropriation are available from the source indicated below.

ACCOUNT NUMBER: 004 2810
ACCOUNT TITLE: Special Road and Bridge Fund
Undesignated Fund Balance
NOT TO EXCEED: \$187,000.00

There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.

ACCOUNT NUMBER: 004 1507 58040
ACCOUNT TITLE: Special Road and Bridge Fund
Roads & Highways
NOT TO EXCEED: \$157,040.00

October 18, 2012
Date


Director of Finance and Purchasing

REQUEST FOR LEGISLATIVE ACTION

Completed by County Counselor's Office:

~~Res~~/Ord No.: 4467
 Sponsor(s): Bob Spence
 Date: Oct. 22, 2012

SUBJECT	<p>Action Requested <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance</p> <p>Project/Title: <u>Appropriate MoDot and RR Payments for the Closure of Old Lexington RR Crossing USDOT #442 296W, and issue payments to property owners for loss of access.</u></p>										
BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i>	<table border="1" data-bbox="337 558 1214 898"> <tr> <td>Amount authorized by this legislation this fiscal year:</td> <td>\$187,000.00</td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td>\$0.00</td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td>\$187,000.00</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td>\$0.00</td> </tr> <tr> <td>Source of funding (name of fund) and account code number; FROM / TO</td> <td>TO ACCT 004-1507-58040 \$162,397.00 004-1506-57440 \$24,603.00</td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> <p>OTHER FINANCIAL INFORMATION:</p> <p><input type="checkbox"/> No budget impact (no fiscal note required) <input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: Estimated Use: \$</p> <p>Prior Year Budget (if applicable): Prior Year Actual Amount Spent (if applicable):</p>	Amount authorized by this legislation this fiscal year:	\$187,000.00	Amount previously authorized this fiscal year:	\$0.00	Total amount authorized after this legislative action:	\$187,000.00	Amount budgeted for this item * (including transfers):	\$0.00	Source of funding (name of fund) and account code number; FROM / TO	TO ACCT 004-1507-58040 \$162,397.00 004-1506-57440 \$24,603.00
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PRIOR LEGISLATION	<p>Prior ordinances and (date): Ord. 4379, 1-3-12 R 17842 , 3-12-12</p> <p>Prior resolutions and (date):</p>										
CONTACT INFORMATION	<p>RLA drafted by (name, title, & phone): Earl Newill, Deputy Director PW, 881-4538, 401-6401 cell</p>										
REQUEST SUMMARY	<p>Union Pacific Railroad and MoDOT have proposed closing the crossing of Old Lexington Road, just east of Odonnell road, as a part of their program to reduce hazardous railroad crossings. The Public Works Department is in agreement with the closing, and has completed the process of vacating the appropriate section of Old Lexington Road. See Ordinance No. 4379. An agreement to close the crossing has been approved by Resolution 17842, and executed by all parties.</p> <p>In the agreement, MoDot and the UP RR have agreed to remit to the County the amount of \$93,500 each, for a total of \$187,000. These funds are to be used to pay property owners for loss of access, and the costs to build a cul-de-sac at the east end of the road closure.</p> <p>These funds have been received and forwarded to the Finance Department.</p> <p>We hereby request that the \$187,000.00 be appropriated to the following accounts: 004-1507-58040 \$162,397.00 004-1506-7440 \$24,603.00</p>										

	We further request the Manager of Finance be authorized to issue checks to the property owners in the amounts below: Methodist Church \$37,040.00 RR and Modot settlement plus right of way for turn-around. Mershon Land Holdings \$120,000.00 RR and Modot settlement	
CLEARANCE	<input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input type="checkbox"/> Business License Verified (Purchasing & Department) <input type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)	
ATTACHMENTS	Exh 1 and 2, Accepted Offer Letter for Right of Way, Sketch of Taking, Cost Summary, Map of RR crossing,	
REVIEW	Department Director: <i>Earl Newill</i>	Date: 10/10/2012
	Finance (Budget Approval): <i>If applicable</i> <i>Aleboran S Ball</i>	Date: 10/17/12
	Division Manager: <i>[Signature]</i>	Date: 10/17/12
	County Counselor's Office:	Date:

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in _____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:
004-2810	Special Road and Bridge Undesignated Fund Balance	\$187,000.00

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.

REVISED 7-8-2011



JACKSON COUNTY PUBLIC WORKS DEPARTMENT

ADMINISTRATIVE OFFICES
303 W. Walnut
Independence, MO 64050
(816) 881-4530
(816) 881-4448 Fax

ENVIRONMENTAL HEALTH
308 W. Kansas
Independence, MO 64050
(816) 881-4530
(816) 881-1650 Fax

ROAD MAINTENANCE DIVISION
34900 E. Old U.S. 40 Hwy
P.O. Box 160
Grain Valley, MO 64029
(816) 847-7050
(816) 847-7051 Fax

OFFER OF COMPENSATION

Old Lexington Road Cul de Sac
Jackson County Tax Parcel No. 19-100-01-10-00-0-00-000

METHODIST CHURCH AME OF BUCKNER
P. O. BOX 318
Buckner, MO 64016

Board of Trustees:

As you know, Jackson County is vacating a portion of Old Lexington Road from O'Donnell Road East to near the East edge of your property. This project is a part of the railroad crossing closure designed to improve public safety. It will be necessary to acquire a small portion of your property to construct a cul de sac for emergency vehicle turn around. The proposed taking of property is described in the attached tract drawing and a conveyance document that will be submitted to you for your signature.

Below is the tabulation of compensation, as determined by a payment estimate of the rights taken from your property.

Table with 2 columns: Description and Amount. Row 1: Approx. 6,000 sq. ft. Right of Way @ \$0.34 per sq. ft. = \$ 2,040.00. Row 2: Approximate TOTAL \$ 2,040.00

All offers are subject to final approval by the Jackson County Legislature.
Exact dollar amount will be determined by a legal description taken from a new Certificate of Survey.

Respectfully yours,

D. Fred Hawley, RW/NAC
Realty Specialist

ACCEPTED BY PROPERTY OWNER REJECTED BY PROPERTY OWNER
(Acceptance of the offer is an agreement to sign conveyance documents; the below signed are authorized signors.)

METHODIST CHURCH, AME OF BUCKNER

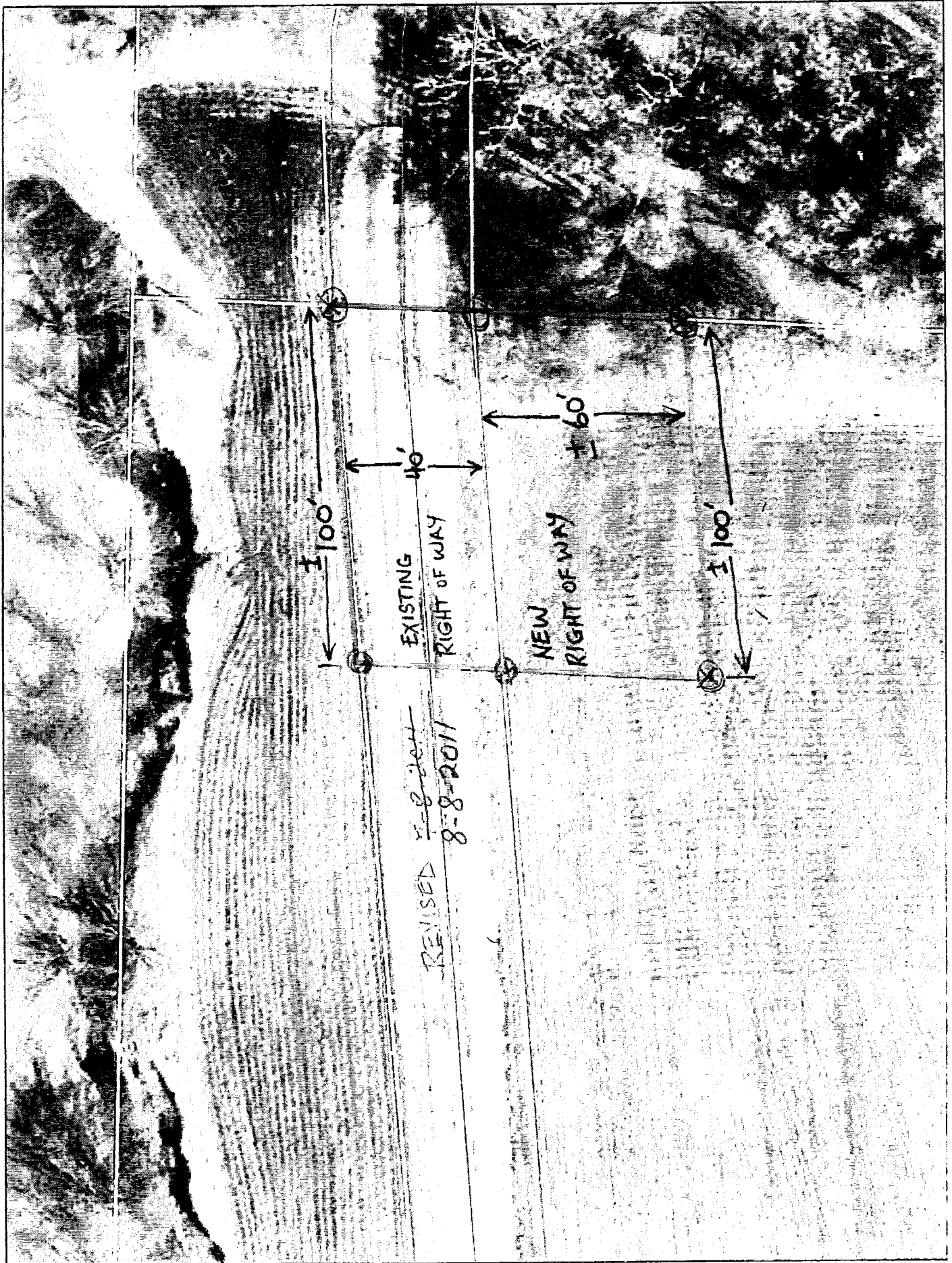
By:

Patrick Farmer, Trustee

8-21-11
Date

Chris Holmberg, Trustee

8-21-2011
Date



SUMMARY OF ESTIMATED COSTS FOR OLD LEXINGTON ROAD RR CROSSING

ITEM	DESCRIPTION OF ITEM	COST	COMMENTS
SURVEY AND OTHER EXPENSES	SURVEY, RECORDING FEE, ETC	\$ 5,300.00	
CONSTRUCTION	PW MAINT. DIVISION TO CLOSE ROAD AND BUILD CUL DE SAC	\$ 24,603.00	PW MAINT. COST ESTIMATE
RIGHT OF WAY	PURCHASE OF RW FOR CUL DE SAC	\$ 2,040.00	METHODIST CHURCH
PAYMENT TO MERSHON	DAMAGES FOR ROAD CLOSURE	\$ 120,000.00	RR & MODOT AGREED SETTLEMENT
PAYMENT TO METHODIST CHURCH	DAMAGES FOR ROAD CLOSURE	\$ 35,000.00	RR & MODOT AGREED SETTLEMENT
	TOTAL ESTIMATED COSTS	<u>\$186,943.00</u>	
	TOTAL REQUESTED PER AGREEMENT	\$187,000.00	

PREPARED BY EARL NEWILL
10/4/2012

EXHIBIT 1

CCO Form
Approved:
Revised:
Modified: 08/11 (DW)

Old Lexington Road, Jackson County
Near Buckner
USDOT # 442 296W

**WAIVER OF LANDOWNERS' HEARING RIGHTS
CONCERNING ADMINISTRATIVE ORDER GRANTING APPROVAL FOR
PROPOSED ABOLISHMENT OF HIGHWAY/RAIL GRADE CROSSING**

THIS WAIVER is made on behalf of MERSHON LAND HOLDINGS, LLC, a Missouri limited liability company (hereinafter, "Landowners").

WITNESSETH:

WHEREAS, the Missouri Highways and Transportation Commission (hereinafter, "MHTC"), the County of Jackson, Missouri (hereinafter, the "County"), and the Union Pacific Railroad Company (hereinafter, the "Railroad"), have mutually proposed a project to abolish and close an existing public highway-rail grade crossing to public roadway traffic near Buckner, Missouri, where Old Lexington Road, a public road located in and maintained by the County, crosses the Railroad's tracks at approximately Mile Post 263.72 upon the Railroad's River Subdivision (hereinafter referred to as the "Old Lexington Crossing"), which is identified by USDOT # 442 296W; and

WHEREAS, the proposed project will authorize and require the Railroad's removal of all grade crossing warning devices and the existing crossing surfaces from the Railroad's track at the Old Lexington Crossing; the Railroad's obliteration of the existing public roadway approaches on both sides of the Old Lexington Crossing between the ends of the ties and the boundaries of the Railroad's right of way; the Railroad's restoration of the ditch lines along the track; the County's construction of a vehicle turn-around area (cul-de-sac) within Old Lexington Road on the east side of the Old Lexington Crossing, and the County's installation of appropriate warning signs along the roadway approaches to the Old Lexington Crossing; and

WHEREAS, the Landowners appear to have an interest in these proposed safety improvements that may be different from that of the general public, because of which the Landowners may have the right to a hearing before the Administrative Hearing Commission (hereinafter, "AHC") under sections 389.610 and 622.240 of the Missouri Revised Statutes, concerning whether an Administrative Order should grant regulatory approval to abolish and close the Old Lexington Crossing to public roadway traffic in the manner described above; and

WHEREAS, after MHTC or AHC has issued an Administrative Order approving the proposed abolishment of the Old Lexington Crossing in the manner described above, the County intends to accept cash incentive payments from MHTC and from the Railroad, out of which the County will promptly pay the sum of One Hundred Twenty Thousand Dollars (\$ 120,000.00) to the Landowners in consideration of the Landowners' execution of this hearing waiver and any other valuable consideration that may otherwise be agreed by and between the County and the Landowners; and

WHEREAS, the Landowners hereby represent and intend that MHTC, AHC, the County and the Railroad, or any of them, may detrimentally rely upon this hearing waiver, either by entering into one or more written agreements for the purpose of implementing the abolishment and closure of the Old Lexington Crossing to public roadway traffic in the manner described above, or by issuing, consenting to, and/or waiving the issuance of one or more Administrative Orders approving and authorizing the abolishment and closure of the Old Lexington Crossing in the manner described above, or both; and

WHEREAS, the Landowners understand and intend that if MHTC, AHC, the County, and the Railroad, or any of them, act in reliance upon this hearing waiver then that may legally bar and prevent the Landowners thereafter from revoking this waiver; and

WHEREAS, this document is intended to facilitate the regulatory approval of the abolishment and closure of the Old Lexington Crossing in substantially the manner described above; however, except as expressly stated herein, the Landowners do not intend this document to waive, affect or limit any other rights or claims that the Landowners may possess, or any other duties or obligations that may be owed to the Landowners by MHTC, AHC, the County, the Railroad, or any of them;

NOW, THEREFORE, in consideration of the foregoing representations, the Landowners freely and voluntarily consent that MHTC or AHC, or both, may issue one or more Administrative Orders approving and authorizing the abolishment and closure to roadway traffic of the Old Lexington Crossing (USDOT # 442 296W) in the manner described above, and the Landowners hereby waive any and all rights to notice and an opportunity for hearing relating to the issuance of any of these Administrative Orders.

Executed by Landowners on this 20 day of January, 20

MERSHON LAND HOLDINGS, LLC

By J. Bruce Mershon

Print Name J. Bruce Mershon

Title Manager

Address 10015 Windsor Dr.

City, State, Zip Lees Summit, MO 64086

Daytime Telephone 816-289-3765

ATTEST:

By _____

Print Name _____

Title _____

APPROVED AS TO FORM:

By _____

Print Name _____

Title _____

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ACKNOWLEDGEMENT BY LIMITED LIABILITY COMPANY

STATE OF KANSAS
COUNTY OF ABERDEEN SS

On this 20 day of January, 2014, before me personally appeared T. Bruce Mershon personally known or reasonably identified to me, who being by me duly sworn, did say that he/she is a Manager or a Member of MERSHON LAND HOLDINGS, LLC, with authority to bind that limited liability company; that the attached foregoing instrument was signed and sealed on behalf of that limited liability company by authority of its Members; that he/she acknowledged the instrument to be the free act and deed of that limited liability company; and that it was executed for the consideration described therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the county and state aforesaid on the day and year written above.

Jodi L. Mitchell
Notary Public
Commission Number: 1056727
My Commission Expires: 12.09.2014

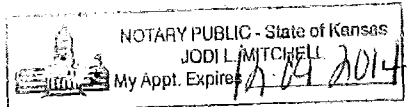


EXHIBIT 2

CCO Form
Approved:
Revised:
Modified: 08/11 (DW)

Old Lexington Road, Jackson County
Near Buckner
USDOT # 442 296W

**WAIVER OF LANDOWNERS' HEARING RIGHTS
CONCERNING ADMINISTRATIVE ORDER GRANTING APPROVAL FOR
PROPOSED ABOLISHMENT OF HIGHWAY/RAIL GRADE CROSSING**

THIS WAIVER is made on behalf of METHODIST CHURCH OF AM BUCKNER, a charitable corporation or association organized within the State of Missouri (hereinafter, "Landowners").

WITNESSETH:

WHEREAS, the Missouri Highways and Transportation Commission (hereinafter, "MHTC"), the County of Jackson, Missouri (hereinafter, the "County"), and the Union Pacific Railroad Company (hereinafter, the "Railroad"), have mutually proposed a project to abolish and close an existing public highway-rail grade crossing to public roadway traffic near Buckner, Missouri, where Old Lexington Road, a public road located in and maintained by the County, crosses the Railroad's tracks at approximately Mile Post 263.72 upon the Railroad's River Subdivision (hereinafter referred to as the "Old Lexington Crossing"), which is identified by USDOT # 442 296W; and

WHEREAS, the proposed project will authorize and require the Railroad's removal of all grade crossing warning devices and the existing crossing surfaces from the Railroad's track at the Old Lexington Crossing; the Railroad's obliteration of the existing public roadway approaches on both sides of the Old Lexington Crossing between the ends of the ties and the boundaries of the Railroad's right of way; the Railroad's restoration of the ditch lines along the track; the County's construction of a vehicle turn-around area (cul-de-sac) within Old Lexington Road on the east side of the Old Lexington Crossing, and the County's installation of appropriate warning signs along the roadway approaches to the Old Lexington Crossing; and

WHEREAS, the Landowners appear to have an interest in these proposed safety improvements that may be different from that of the general public, because of which the Landowners may have the right to a hearing before the Administrative Hearing Commission (hereinafter, "AHC") under sections 389.610 and 622.240 of the Missouri Revised Statutes, concerning whether an Administrative Order should grant regulatory approval to abolish and close the Old Lexington Crossing to public roadway traffic in the manner described above; and

WHEREAS, after MHTC or AHC has issued an Administrative Order approving the proposed abolishment of the Old Lexington Crossing in the manner described above, the County intends to accept cash incentive payments from MHTC and from the Railroad, out of which the County will promptly pay the sum of Thirty-Five Thousand Dollars (\$ 35,000.00) to the Landowners in consideration of the Landowners' execution of this hearing waiver and any other valuable consideration that may otherwise be

agreed by and between the County and the Landowners; and

WHEREAS, the Landowners hereby represent and intend that MHTC, AHC, the County and the Railroad, or any of them, may detrimentally rely upon this hearing waiver, either by entering into one or more written agreements for the purpose of implementing the abolishment and closure of the Old Lexington Crossing to public roadway traffic in the manner described above, or by issuing, consenting to, and/or waiving the issuance of one or more Administrative Orders approving and authorizing the abolishment and closure of the Old Lexington Crossing in the manner described above, or both; and

WHEREAS, the Landowners understand and intend that if MHTC, AHC, the County, and the Railroad, or any of them, act in reliance upon this hearing waiver then that may legally bar and prevent the Landowners thereafter from revoking this waiver; and

WHEREAS, this document is intended to facilitate the regulatory approval of the abolishment and closure of the Old Lexington Crossing in substantially the manner described above; however, except as expressly stated herein, the Landowners do not intend this document to waive, affect or limit any other rights or claims that the Landowners may possess, or any other duties or obligations that may be owed to the Landowners by MHTC, AHC, the County, the Railroad, or any of them;

NOW, THEREFORE, in consideration of the foregoing representations, the Landowners freely and voluntarily consent that MHTC or AHC, or both, may issue one or more Administrative Orders approving and authorizing the abolishment and closure to roadway traffic of the Old Lexington Crossing (USDOT # 442 296W) in the manner described above, and the Landowners hereby waive any and all rights to notice and an opportunity for hearing relating to the issuance of any of these Administrative Orders.

Executed by Landowners on this 15 day of Feb, 2012.

METHODIST CHURCH OF AM
BUCKNER

By Douglas Patrick F.
Print Name Douglas Patrick F.
Title Trustee
Address 109 S. HUDSON
City, State, Zip BUCKNER, MO 64016
Daytime Telephone 816-674-6152

ATTEST:

By Chris Holmberg
Print Name Chris Holmberg
Title Trustee

APPROVED AS TO FORM:

By _____
Print Name _____
Title _____

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ACKNOWLEDGEMENT

STATE OF MISSOURI)
)
COUNTY OF JACKSON)

ss

2012

On this 15TH day of FEBRUARY, ~~2011~~, before me personally appeared ~~Douglas Patrick Farmer~~ and Chris Holmberg who being by me duly sworn, did say that he/she is the TRUSTESS of METHODIST CHURCH OF AM BUCKNER; that the attached foregoing instrument was signed and sealed on behalf of that organization by authority of its membership; that he/she acknowledged the instrument to be the free act and deed of that organization; and that it was executed for the consideration described therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the county and state aforesaid on the day and year written above.

Lisa R. Nellis

Notary Public

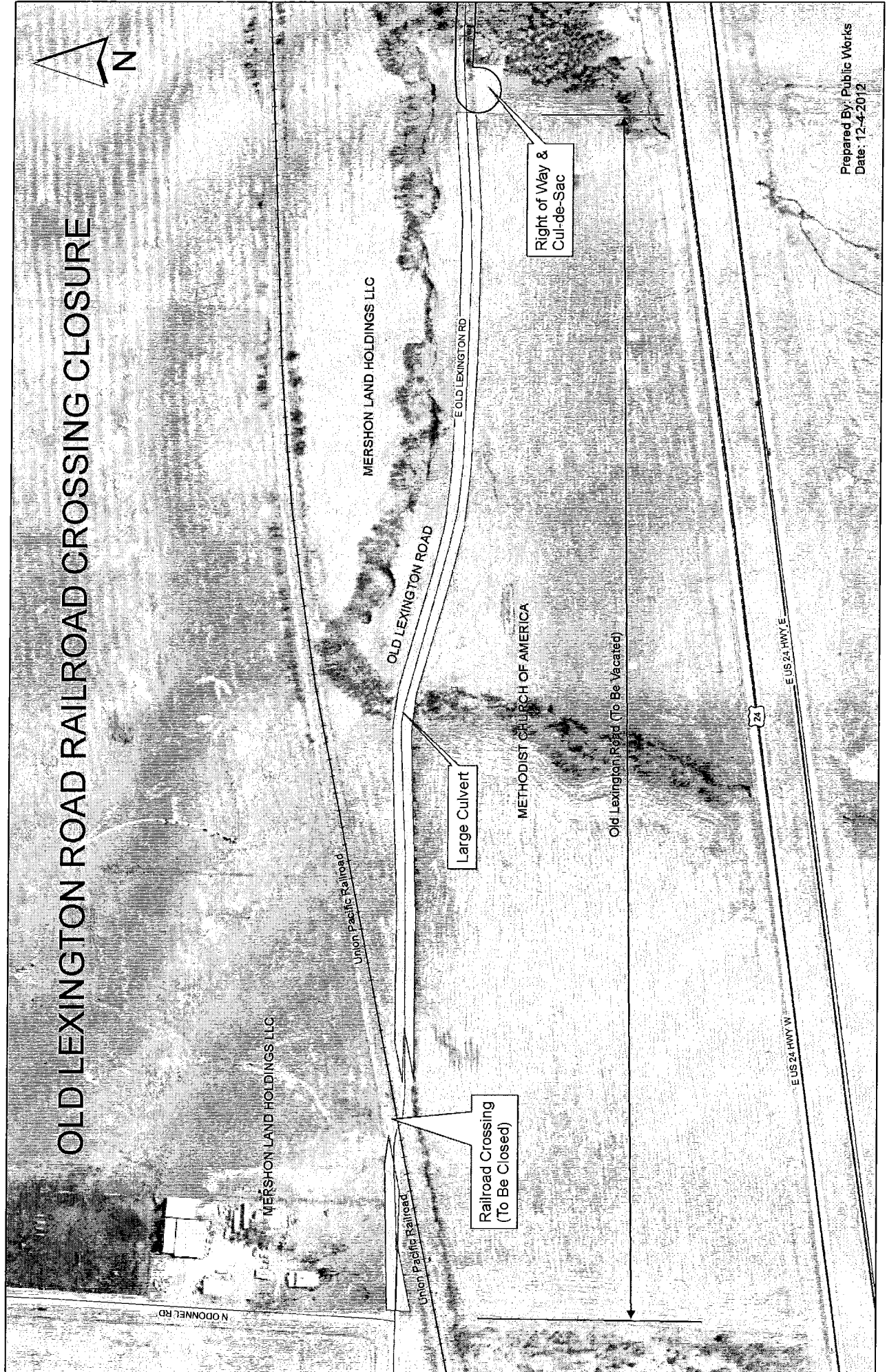
Commission Number: 11421478

My Commission Expires: 07/19/2015



LISA R. NELLIS
My Commission Expires
July 19, 2015
Jackson County
Commission #11421478

OLD LEXINGTON ROAD RAILROAD CROSSING CLOSURE



Prepared By: Public Works
Date: 12-4-2012