

## **AGREEMENT FOR ENGINEERING AND TECHNICAL SERVICES**

This Agreement for Engineering and Technical Services (Agreement) is entered into between **Calvin E. Reed, P.E., Acting Secretary of Transportation** for the State of Kansas (Secretary), acting through the Kansas Department of Transportation (KDOT), and the consulting firm of **Garver, LLC**, (Consultant) with the address of 8535 E 21<sup>st</sup> Street North, Suite 130, Wichita, Kansas 67206. The parties to this Agreement may be referred to collectively as the “Parties”.

### **1.0 PURPOSE OF AND AUTHORITY FOR THE AGREEMENT**

1.1 KSA 68-407 authorizes the Secretary to enter into all contracts “incident to the construction, improvement, reconstruction, and maintenance of the state highway system.” KSA 68-407 and KSA 75-5801 *et seq.* authorize the Secretary to take the steps necessary to secure engineering and technical services.

1.2 The Secretary has a project under development designated Project No. KA-6499-01 for Development of K-254 Corridor Management Plan, as more fully described in Special Attachment No. 4 attached hereto (Services). The Secretary’s engineering and technical forces will be unable to perform all of the Services within the desired completion date. The best alternative is to use a qualified firm to perform the Services needed through this Agreement.

1.3 The Consultant represents that persons performing Services, including its employees and the employees of its subconsultants, if any, have the education, training, and experience necessary to perform the Services this Agreement requires in an accurate and timely manner. The Consultant has a valid Certificate of Authorization from, and individual employees performing professional technical services are licensed by, the Kansas Board of Technical Professions as required by Kansas law. The Consultant represents that all personnel utilized in performance of Services have appropriate qualifications and certifications to perform Services.

### **2.0 DEFINITIONS**

2.1 Agreement. This Agreement for Engineering and Technical Services includes Articles 1.0-7.0 herein, as well as exhibits and attachments listed in Article 7.3.2., documents this Agreement incorporates by reference, Work Orders completed and executed by the Parties, amendments thereof by CMS Change Orders and future supplemental agreements and other amendments in writing agreed to and signed by duly authorized representatives of the Parties.

2.2 Consultant. The engineering firm hereinabove identified as a Party to this Agreement.

2.3 Documents. Written, printed papers and electronic files.

2.4 Exploratory Work Documents. Documents developed by KDOT, local governments, or the Consultant to determine characteristics relevant to the Project including, but not limited to, subsurface conditions, engineering requirements, or both. These may include geotechnical foundation investigation reports; soils reports; geology reports; hydraulic investigations; hydrological investigations; bridge

reports; earth work computations; boring logs; surveys; rock investigations; soils investigations; environmental investigations; building investigations; bridge investigations; and other geological, geotechnical, or design information for the Project.

2.5 FHWA. The Federal Highway Administration.

2.6 KDOT. The Kansas Department of Transportation and its authorized employees.

2.7 Manuals. The current version of the KDOT Bridge Design Manual, Design Manual, Construction Manual, Form Manual, CMS Procedures Manual, the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by the Secretary, American Association of State Highway and Transportation Officials (AASHTO) A Policy on Geometric Design of Highways & Streets, Bureau of Transportation Safety and Technology's Traffic Engineering Guidelines, AASHTO LRFD Bridge Design Specifications and the AASHTO LRFD Bridge Construction Specification, and all other current relevant documents that KDOT has adopted and FHWA has approved for design, engineering and associated technical Services for the particular highway and/or structures or other systems contemplated by this Agreement.

2.8 Notice to Proceed. A written notice from KDOT Division of Engineering and Design—Contract Section authorizing the Consultant to begin performance of Services.

2.9 Plans. Unless noted as “preliminary,” any Consultant-prepared and Secretary approved plan profiles, typical cross sections, and other detail sheets showing the location, character, dimensions, and details of a Contractor’s work on a Project, whether in electronic or hard copy (paper) form.

2.10 Project. The highway improvement Project for which Consultant is performing Services.

2.11 Project Special Provisions. Documents that modify the Standard Specifications for a particular Construction Project.

2.12 Reports. Formal documents that detail or summarize information analyzed, generated or gathered for the Project. Any document or information which is or should be produced by the exercise or practice of a technical profession, as defined in KSA 74-7001 *et seq.* is considered a Report. Exploratory Work Documents are considered Reports.

2.13 Services. The engineering and associated technical services needed or required for the Consultant’s performance of this Agreement. Such Services are defined throughout the Agreement and with greater detail in Special Attachment No. 4, Scope of Services, and any supplemental agreements or amendments executed for changes in Services.

2.14 Standard Specifications. The Kansas Department of Transportation *Standard Specifications for State Road and Bridge Construction* (current edition).

### **3.0 SECRETARY’S GENERAL RESPONSIBILITIES**

3.1 For Services for which the Secretary engages the Consultant under this Agreement, the Secretary will do the following:

3.1.1 Issue a written Notice to Proceed to the Consultant;

3.1.2 Furnish to the Consultant any supporting Exploratory Work Documents in the Secretary's possession as described in Exhibit A attached hereto;

3.1.3 Furnish or make available all Manuals requested by the Consultant, if unavailable online; and

3.1.4 Pay the Consultant according to Article 6.0.

3.2 The Secretary has the authority to review, approve, reject, eliminate, or modify some or all of the Services. When reviewing the Services, issuing approvals/rejections, or taking any other action, the Secretary, KDOT and the Secretary's representatives are not undertaking the Consultant's responsibility for its Services. When reviewing the Services, issuing approvals/rejections, or taking any other action, the Secretary and the Secretary's representatives make no representations, no express warranties, and no implied warranties to any persons or entities regarding the Services.

3.3 As this Agreement is non-exclusive, the Secretary may contract directly with other consultants to perform some or all of the Services. The Secretary may also contract directly with subconsultants that the Consultant has retained to perform Services under this Agreement.

#### **4.0 THE CONSULTANT'S GENERAL RESPONSIBILITIES**

4.1 For all Services performed by the Consultant under this Agreement, the Consultant shall be responsible for the following obligations.

4.1.1 Perform or furnish Services in accordance with the Project schedule as described in Special Attachments No. 4 and furnish all labor, materials, equipment, supplies, transportation, and incidentals necessary to perform the Services. The Consultant represents that it is adequately staffed and suitably equipped to perform the Services in a timely manner and in conformance with this Agreement.

4.1.2 Prepare and furnish to the Secretary any preliminary, revised and final Reports, Plans, technical data and other deliverables referenced in Special Attachment No. 4, Scope of Services, attached hereto.

4.1.3 Prepare and furnish to the Secretary electronic data files in a format compatible with KDOT software. If applicable, organize the electronic data files according to the KDOT Graphic Standards Manual.

4.1.4 Documentation and Deliverables.

- A. Except to the extent otherwise specified in Special Attachment No. 4, Reports and other technical data prepared by the Consultant shall be submitted in hardcopy paper form and electronic form as follows: (i) in their native format; and (b) in the portable document format (.pdf). The Consultant shall confirm that the native formats intended for use by the Consultant are identical or compatible with those used by KDOT. Any data not identical or compatible shall be converted by the Consultant prior to delivery to KDOT.
- B. Plans, if any, shall be submitted as follows: (i) in portable document format (.pdf) files; (ii) in the MicroStation format (.dgn) files; (iii) in one (1) printed 22" X 36" hardcopy paper plan set of the Plan sheets printed in ink in the form and detail that KDOT Bureau of Road Design requires, bearing the signature and seal of responsible professionals, as required below in paragraph 6 of this Article IV.A.; and (iv) title sheets for Plans shall contain standard 22" x 36" plan sheets in ink on a permanent media

such Mylar in the format and detail KDOT Bureau of Road Design requires. All electronic Plan files shall conform to the organization and other requirements set forth in the KDOT Graphic Standards Manual.

4.1.5 Signing and Sealing. In accordance with applicable law, for performance of Services arising out of or related to this Agreement, the Consultant shall require: (a) the licensed professional engineer(s) responsible for preparing the Plans, or revisions thereof, to sign and seal such Plans; (b) the individual holding a license in a technical profession (whether professional engineer, surveyor, geologist, architect, landscape architect or otherwise) who is responsible in their professional capacity for preparing any Reports (or revisions thereof) to sign and seal such Reports; and (c) the licensed professional surveyor(s) responsible for conducting land surveying activities as defined in KSA 74-7003(t) to sign and seal any real property descriptions, right of way descriptions, maps, plats, and other field records, or revisions thereof, that document survey results.

4.1.6 Provide traffic control signing on or along any street or highway where the Consultant has crews working. The size, shape, color, and placement of all signs, as well as other worker safety measures, such as high visibility clothing, shall comply with the latest version, as adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD).

4.2 The Consultant shall perform its Services according to relevant Manuals for design criteria and standards that KDOT has adopted and FHWA has approved for the particular highway and/or structures included in the study. The Consultant also may be required to perform some or all Services according to AASHTO design criteria/standards if the Secretary requires these standards in addition to KDOT's criteria/standards.

4.3 The Consultant shall have sole responsibility for the adequacy and accuracy of final Plans, Reports, technical data and all other Services. The Secretary's performance under this Agreement is intended to fulfill the Secretary's obligation to take those steps necessary to plan, construct, improve, reconstruct, and maintain the state highway system and is not intended to fulfill the Consultant's obligations under this Agreement.

## **5.0 PROSECUTION AND PROGRESS**

### **5.1 GENERAL**

5.1.1 The Secretary assumes no obligation to pay for Services the Consultant performs prior to the issuance of a Notice to Proceed for such Services.

5.1.2 The Consultant shall perform component Services in accordance with the schedule shown in Special Attachment No. 4, attached hereto. The Consultant also shall keep informed of changes to KDOT's milestone dates for right-of-way acquisition, utility relocations, and the Construction Contract letting.

5.1.3 At monthly intervals, the Consultant shall report actual progress to the KDOT Division of Engineering and Design – Contract Section on the "Payment Request & Progress Report" form.

5.1.4 If the Secretary or a third party performs in a manner that increases the Consultant's time for performance, then the Consultant shall notify the KDOT Project Manager and KDOT Division of Engineering and Design – Contract Section of such delay. If the delay was not caused by the Consultant,

then the Secretary will either pay the Consultant to accelerate the Services to overcome the delay or grant an extension of time for the delay. The Secretary has sole discretion to give a time extension rather than pay acceleration costs.

5.1.5 The Consultant recognizes that its actions or inactions may adversely impact or affect KDOT as well as other third parties, including but not limited to other consultants in plan development, any contractor on a construction project, public utilities, private utilities, public landowners, private landowners, or others. The Consultant shall do, or require to be done, all things reasonably necessary to: (a) avoid or mitigate unavoidable delays, costs, losses or damages which may arise out of, be caused by or attributed to the Consultant's actions or inactions in performance of Services under this Agreement and (b) effectively coordinate with KDOT and third parties so as to enable KDOT to implement the Project in a timely and cost-effective manner.

5.1.6 The Secretary, the Consultant, or both may request conferences to discuss the Consultant's Services or other relevant Project issues. The Parties will hold these conferences in the KDOT Headquarters Office in Topeka, Kansas unless otherwise agreed.

## **5.2 CONTRACT PERFORMANCE**

5.2.1 At the Secretary's request, the Consultant shall make revisions to final Reports and technical data.

5.2.2 Except as provided in Article 5.2.3, the Secretary will pay the Consultant for additional services the Consultant provides as follows:

- A. An amount that the Secretary and the Consultant agree upon and memorialize in writing as an amendment signed by the duly authorized representative of each Party; or
- B. The reasonable value of the additional services if the Parties cannot agree upon the costs for the additional services.

5.2.3 The Secretary will not pay the Consultant for any costs the Consultant incurred because of the Consultant's negligent acts, errors, or omissions or because of the Consultant's failure to comply with its obligations under this Agreement.

## **5.3 DISPUTED MATTERS**

Disputed matters arising under this Agreement will be reviewed utilizing procedures outlined in KDOT's Consultant Standard of Care Policy. This Consultant Standard of Care Policy is the version in effect at the time the disputed matter arises and is incorporated by reference into this Agreement. The current version of the Consultant Standard of Care Policy is attached hereto as Special Attachment No. 6. With regard to written notice referred to in Article II.B.1 of the Consultant Standard of Care Policy set forth in Special Attachment No. 6, KDOT will endeavor to specify whether the Problem as defined therein is based upon the Consultant's alleged negligence, or the Consultant's alleged failure to comply with its obligations under this Agreement, or both, it being understood and agreed that as additional information becomes available for review and analysis, the characterization of such Problem may thereafter change.

## **5.4 TERMINATION OF AGREEMENT**

5.4.1 The Secretary may terminate this Agreement, in whole or in part, upon ten (10) days advance written notice delivered to the Consultant.

- A. If the Secretary terminates this Agreement in whole or in part, for the Secretary's own convenience, then the Secretary will pay the Consultant the Consultant's actual direct costs incurred before the termination date and the Consultant's fixed fee as Article 6.0 provides.
- B. If the Secretary terminates this Agreement, in whole or in part, because of the Consultant's failure to comply with its obligations or because of the Consultant's negligent acts, errors, or omissions, then the Secretary will pay the Consultant the reasonable value of Services performed before the termination date. In evaluating the reasonable value of Services performed, KDOT may adjust the fixed fee to reflect the percentage of Services the Consultant has completed.

5.4.2 The Consultant may terminate this Agreement upon ten (10) days advance written notice delivered to KDOT. The Consultant will send the notice to KDOT Division of Engineering and Design – Contract Section and the KDOT Project Manager.

5.4.3 The Secretary or the Consultant may or may not claim the other Party breached the contract when exercising their right to terminate this Agreement. Termination, in any case, does not prevent the Secretary from recovering damages for the Consultant's failure to comply with its obligations under this Agreement or for the Consultant's negligent acts, errors, or omissions (see *e.g.*, Article 7.6) or prevent the Consultant from seeking payment for additional services under Article 5.2.2.

5.4.4 Regardless of which Party terminates this Agreement, the Secretary may require the Consultant to complete some of the remaining Services. The Consultant's obligations to perform Services shall not end until such Services are completed.

5.4.5 The Secretary is not obligated to terminate this Agreement as a condition precedent to contracting with "other consultants" as described and permitted in Article 3.3. The Consultant shall have no breach of contract claim, interference with contract claim, or other claim if the Secretary contracts with "other consultants" as described and permitted in Article 3.3.

## **6.0 PAYMENT**

### **6.1 GENERAL**

6.1.1 The Secretary will compensate the Consultant for Services on the basis of the Consultant's actual cost plus a fixed fee of \$41,373.47 as detailed in Special Attachment No. 4, Scope of Services, subject to the upper limit of compensation of \$889,195.96 and any disallowed costs.

Subject to the upper limit of compensation (Article 6.1.5) and disallowed costs (Article 6.1.8), the Secretary will pay the Consultant

- A. Actual, direct costs incurred in performing the Services such as employee labor (including fringe benefits and overtime (Article 6.1.2)), contract labor, approved subcontractor/subconsultant costs, equipment costs, transportation costs, in-state or approved out-of-state lodging costs, and meal expenses associated with overnight travel (Special Attachment No. 4A);

- B. Associated overhead (Article 6.1.3); and
- C. The fixed fee identified for the Services.

6.1.2 The Consultant shall furnish to the KDOT Division of Engineering and Design – Contract Section, for the Secretary’s approval, a written request to incur overtime charges before incurring those charges. The Secretary shall not compensate for overtime if the Consultant failed to furnish this notice and obtain the Secretary’s prior approval. If approved, then the Secretary may pay straight-time overtime or premium overtime at 1.5 times the approved hourly rate for the employee performing the overtime.

6.1.3 The Consultant shall submit its current indirect (overhead) cost rate as soon as possible but in no event later than six (6) months after the Consultant’s fiscal year ends. The Consultant’s indirect (overhead) cost rate is established pursuant to 23 CFR 172.11(b)(1). The Secretary may audit the Consultant’s overhead rate yearly. The Secretary may require the Consultant to provide certified financial statements or other documents substantiating the Consultant’s overhead rates. If the overhead rate increases or decreases, the Secretary may adjust previous payments to reflect the actual overhead rate for that fiscal year.

6.1.4 Subject to the upper limit of compensation (Article 6.1.1 and 6.1.5), the Secretary will pay for additional services according to Article 6.2.

6.1.5 The Parties may adjust the upper limit of compensation through a CMS Change Order or Supplemental Agreement or other amendment. The Consultant shall notify the KDOT Division of Engineering and Design – Contract Section before the Consultant’s Services exceed the upper limit of compensation so the Parties may consider an adjustment. The Secretary has no obligation to pay costs that exceed the upper limit of compensation unless and until any adjustment thereof is agreed in writing between the Parties.

6.1.6 To initiate payment for Services, the Consultant shall complete and submit to the KDOT Division of Engineering and Design – Contract Section an itemized billing on KDOT’s Payment Request Form or other document the Division approves. The Consultant shall not submit a billing more frequently than once a month or for less than \$500.00. For each billing cycle the Consultant shall:

- A. Submit a progress schedule that includes a statement of the percentage of the Services completed and the actual costs incurred;
- B. Submit payroll documentation identifying all tasks and employees who worked on such tasks for the Project during that billing period, all hours each of these employees worked, the rate of pay for each of these employees, and all monies paid to each of these employees;
- C. Show the indirect (overhead) cost rate applied;
- D. Itemize the other actual direct costs incurred by Consultant in the performance of Services (Special Attachment No. 4A) and provide adequate supporting documentation therefor; and
- E. Calculate and claim a proportional amount of fixed fee, unless billing is final.

In cases where the Consultant submits billings which include costs incurred by a subconsultant, the same requirements of subparagraphs A. through E. above shall apply.

6.1.7 The Secretary will pay for the Services within 30 days after receiving, reviewing, and generally approving the Consultant’s itemized billing and accompanying documentation that Article 6.1.6 and Special Attachment No. 4A requires. This approval does not prevent the Secretary from adjusting a

previous payment(s) for disallowed costs (Article 6.1.8) discovered after the Secretary has made that payment.

6.1.8 The Consultant shall incur and invoice its costs in conformity with generally accepted accounting principles and the cost principles established in the Federal-Aid Policy Guide and the Code of Federal Regulations, Title 48, Chapter 1, Subchapter E, Part 31 (48 CFR Section 31.000 *et seq.*). The Secretary will not pay for disallowed costs. Disallowed costs include costs the Secretary determines are unreasonable, not actually incurred, caused by the Consultant's failure to comply with its obligations under this Agreement, caused by the Consultant's negligent acts, errors, or omissions, or otherwise unallowable. The Consultant shall reimburse the Secretary if the Secretary previously paid any disallowed costs.

6.1.9 For Services performed, accumulated partial payments shall not exceed ninety-five percent (95%) of the upper limit of compensation.

6.1.10 The Consultant shall submit its final invoice for final payment no later than one hundred eighty (180) days from completion of Services. The Consultant shall clearly designate and label such invoice as "final" so as to enable KDOT to proceed to close out the Project in accordance with its own internal procedures.

6.1.11 The Secretary will make final payment within ninety (90) days after the Secretary or the Secretary's representative completes a final audit of the Services performed. (See Article 7.2).

## **6.2 CHANGE IN SERVICES**

6.2.1 The KDOT Division of Engineering and Design – Contract Section may change the Consultant's Services by increasing, decreasing, or otherwise modifying the Services this Agreement requires.

6.2.2 The Consultant may request payment for increased or modified Services as "extra Services." If the Secretary determines the "extra Services" are reasonable and necessary, then the Secretary may authorize payment for actual labor, associated overhead, and other direct expenses for these "extra Services" and increase the upper limit of compensation if necessary to compensate for the "extra Services." Alternatively, the Secretary may authorize payment of unit prices or lump sum amounts to compensate for the "extra Services." However, the Secretary will only increase the Consultant's fixed fee if the Consultant demonstrates that the "extra Services" substantially increase the original amount of Services. Such increases may include increasing the Project scope, or changing the duration of Services, among others.

6.2.3 If the KDOT Division of Engineering and Design – Contract Section decreases the Services or decreases the expected duration of Services, then the Consultant shall have no claim for additional compensation. The Secretary may decrease the Consultant's fixed fee if the Secretary demonstrates that the decreased Services substantially decrease the original amount of Services. Such decreases may include decreasing the Project scope, decreasing Project termini, or changing the duration of Services, among others.

6.2.4 The KDOT Division of Engineering and Design – Contract Section will prepare a CMS Change Order or Supplemental Agreement setting forth the agreed-upon change, if any, in compensation.

## **7.0 ADDITIONAL PROVISIONS**



## **7.1 OWNERSHIP OF DOCUMENTS**

7.1.1 Upon completion or termination of the Services, the Consultant shall furnish to the KDOT Bureau of Road Design all original Documents KDOT provided to the Consultant.

7.1.2 Upon completion or termination of all Services for which the Secretary retains the Consultant, the Consultant shall furnish to the KDOT Bureau of Road Design all original Documents the Consultant compiled and prepared in performing its Services. Without limitation, these Documents include all Reports, Plans, drawings, CADD files, specifications, work flows, procedures, and other Consultant-generated or Consultant-developed documents pertaining to the Project.

- A. Any Plans, procedures, specifications, engineering calculations, information, Reports or any other work products developed by the Consultant as deliverables to KDOT as part of the Services performed and paid for under this Agreement shall become the property of KDOT, but the Consultant shall have the right to retain copies thereof for its own internal recordkeeping and for the purposes of performing Services for the Project.
- B. With regard to software and systems used in the performance of Services but which are (1) neither developed under this Agreement nor originally obtained from or through KDOT and (2) expressly designated in this Agreement as proprietary to Consultant, its subconsultants or third parties, Consultant (or such designated subconsultant or third party, as the case may be) retains ownership rights to such proprietary software or systems and Consultant shall grant to or obtain for KDOT a non-exclusive, royalty-free license for KDOT to use such software and systems for the Project and the construction and maintenance of, as well as future improvements to, the Project.
- C. Upon completion or termination of the Services and at the Secretary's request, the Consultant shall furnish to the KDOT Bureau of Road Design copies of all correspondence, memoranda, instructions, receipts, invoices, e-mails, and any other Documents pertaining to the Project. These Documents are KDOT's property.

7.1.3 Any or all Services performed under this Agreement may result in the Consultant using Documents (such as reports, surveys, schedules, lists, or data) the Secretary's authorized representatives prepared, compiled, or collected that are use restricted pursuant to 23 U.S.C. § 409. Such Documents are watermarked "Use Restricted 23 U.S.C. § 409," providing the Secretary with an evidentiary privilege that only counsel for KDOT may assert in litigation against KDOT. The Consultant shall use these watermarked Documents only to perform Services on the Project. The Consultant shall not remove or otherwise damage the 23 U.S.C. § 409 watermark. The requirements of this paragraph shall be included by Consultant in its subconsultant agreements, if any, for performance of any Services.

## **7.2 ACCESS TO RECORDS; AUDITS**

7.2.1 The Consultant shall keep all Project Documents arising out of or relating to performance of Services for a five-year retention period beginning with the Consultant's final payment date. The final payment date is the voucher date on the Secretary's last payment to the Consultant under this Agreement. This final payment occurs after the Consultant submits its request for final payment and KDOT has completed the final audit. The Consultant shall make all Documents available at the Consultant's principal office.

7.2.2 The Secretary, FHWA and their authorized representatives may inspect and review all Documents pertaining to the Consultant's Services during Consultant's performance and the five-year retention period.

7.2.3 The Consultant shall maintain all cost documentation according to generally accepted accounting principles and the cost principles contained in Code of Federal Regulations, Title 48, Chapter 1, Subchapter E, Part 31 (48 CFR Section 31.000 *et seq.*).

7.2.4 Within 3 years after the Consultant has submitted its invoice for final payment for Services, the Secretary or the Secretary's authorized representatives may perform a final audit of the Consultant's Project costs. The audit will be conducted according to generally accepted governmental auditing standards and in compliance with cost principles contained in Code of Federal Regulations, Title 48, Chapter 1, Subchapter E, Part 31 (48 CFR Section 31.000 *et seq.*) Without limitation, the auditors may determine whether costs incurred were actual and necessary, reasonable, allowable, and in compliance with regulations and whether the compensation did not exceed the upper limit of compensation. The auditors may review all subconsultant records and costs as well. The Consultant shall reimburse the Secretary for overpayments.

7.2.5 The Consultant shall include the provisions of this Article 7.2 in all subconsultant agreements.

### **7.3 AGREEMENT ITEMS**

7.3.1 This Agreement includes the items referenced in Article 2.1.

7.3.2 Exhibits, Attachments and Order of Precedence. The Exhibits and Attachments identified below are essential parts of and incorporated into this Agreement.

A. If there is a conflict among or between the various terms set forth or referenced in the documents comprising the Agreement, then the order of precedence shall be: (1) Special Attachment 1A; (2) Articles 1.0 through 7.0 of the Agreement; and (3) Exhibits and other Attachments. If either Party discovers a conflict or inconsistency among or between the various provisions comprising this Agreement (including provisions in documents referenced or incorporated by reference into this Agreement), then such Party shall notify the other Party and the Parties shall thereafter cooperate with each other to resolve the conflict or inconsistency in an equitable manner in conformance with the purpose and intent of this Agreement.

B. The Exhibits and Attachments are:

Exhibit A, Items Furnished by the Secretary (to be completed by the Secretary's representatives)

Exhibit B, Work Order Form

Special Attachment No. 1, US DOT Standard Title VI Assurances

Special Attachment No. 1A, Contractual Provisions Attachment (DA 146a)

Special Attachment No. 2, Certification Regarding Lobbying

(to be completed and signed by the Consultant)

Special Attachment No. 3, Verification as to History and Current Status Regarding Eligibility

(to be completed and signed by the Consultant)

Special Attachment No. 3A, Contractual Services with Current Legislator or Legislator's Firm

(to be completed and signed by the Consultant)

Special Attachment No. 4, Scope of Services

Special Attachment No. 4A, Consultant Reimbursement for Actual Direct Costs (Travel, etc.)  
Special Attachment No. 5, Electronic Data Interchange Agreement  
Special Attachment No. 6, KDOT Consultant Standard of Care Policy, signed 1/31/14  
Special Attachment No. 7, Certification (for Final Indirect (Overhead) Cost Rate)  
Special Attachment No. 8, Tax Clearance Certificate  
(to be obtained and submitted by Consultant and subconsultants)  
Special Attachment No. 9, Not used  
Special Attachment No. 10, Policy Regarding Sexual Harassment  
(to be completed and signed by Consultant)  
Special Attachment No. 11, Certification – Boycott of Israel Prohibited  
(to be completed and signed by Consultant)

7.3.3 No Party may alter or amend this Agreement except by a supplemental agreement evidencing written agreement between duly authorized representatives of the Parties for such alteration or amendment.

#### **7.4 LEGAL RELATIONS**

7.4.1 The Consultant shall observe and comply with all applicable federal, state, and local laws, ordinances and regulations.

7.4.2 This Agreement binds the Parties and the Parties' successors and permitted assigns. The Consultant shall not assign this Agreement without the prior written approval of the Secretary.

7.4.3 This Agreement creates no third party beneficiaries.

7.4.4 Kansas law governs this Agreement.

7.4.5 Subcontracts and Assignments.

- A. The Consultant shall not assign this Agreement, in whole or in part, without the prior written consent of the Secretary. The Consultant may subcontract portions of the Services to duly qualified subconsultants; provided, however, any such subcontract shall not relieve, and shall not be construed to relieve, the Consultant from any obligation to perform or furnish all Services in accordance with the requirements of this Agreement.
- B. The Consultant shall, in its contract with any subconsultant, require each such subconsultant to comply with applicable provisions of this Agreement.

#### **7.5 WORKERS' COMPENSATION AND OTHER EMPLOYEES PROVISIONS**

The Consultant shall pay unemployment insurance, workers' compensation, social security taxes, and other taxes or payroll deductions State and Federal law require for the Consultant's employees who are performing Services under this Agreement.

#### **7.6 ERRORS AND OMISSIONS; INDEMNIFICATION; INSURANCE**

7.6.1 The Consultant shall promptly correct, without additional compensation, the Consultant's failure to perform its obligations under this Agreement. If the Services affect a third party, then the Consultant shall perform corrections in a manner that minimizes delay to the third party and other damages.

7.6.2 The Consultant shall pay for or reimburse the Secretary for damages and costs the Secretary has incurred or will incur, because the Consultant failed to comply with its obligations under this Agreement. These damages include personal injury to KDOT employees, damage to KDOT property, and economic loss whether the economic loss arises in contract, tort, or equity. Economic loss encompasses direct and consequential damages Kansas law permits the Secretary to recover, including monies the Secretary pays or owes to construction contractors, monies the Secretary pays or owes to consulting firms, delay damages, or other damages arising from the Consultant's failure to comply with its obligations. This Agreement does not authorize third parties to seek recovery as third party beneficiaries of this Agreement or in any other capacity.

7.6.3 The Consultant shall pay for or reimburse the Secretary for damages and costs the Secretary has incurred or will incur, because of the Consultant's negligent acts, errors, or omissions arising out of or in connection with Consultant's performance of this Agreement. These damages include personal injury to KDOT employees, damage to KDOT property, and economic loss whether the economic loss arises in contract, tort, or equity. Economic loss encompasses direct and consequential damages Kansas law permits the Secretary to recover, including monies the Secretary pays or owes to construction contractors, monies the Secretary pays or owes to consulting firms, delay damages, or other damages arising from the Consultant's negligent acts, errors, or omissions. This Agreement does not authorize third parties to seek recovery as third party beneficiaries of this Agreement or in any other capacity.

7.6.4 The Consultant shall hold the Secretary and the Secretary's authorized representatives harmless from and indemnify these persons for all claims, suits, damages (whether property damages, personal injury damages, or economic damages), and costs (reasonable attorney's fees and defense costs) resulting from the Consultant's failure to comply with its obligations under this Agreement, resulting from the Consultant's negligent acts, errors, or omissions in performing its Services, or all of the above. The Consultant shall have no obligation to hold the Secretary or the Secretary's authorized representatives harmless from and indemnify these persons for the Secretary's or the Secretary's representatives' own negligence.

7.6.5 For the life of this Agreement, the Consultant shall maintain professional liability insurance to cover the Consultant's performance of Services. If it becomes apparent that the coverage maintained is inadequate, then the Secretary reserves the right to require the Consultant to increase the scope of coverage, the amount of coverage, or both, to the extent commercially reasonable and available. The Consultant shall require subconsultants and other Consultant-retained personnel or agents to carry professional liability insurance as well if such insurance is available.

7.6.6 Nothing in Article 7.6 shall be construed to mean the Consultant is waiving any rights or defenses the Consultant has under Kansas law or waiving any rights or obligations the Consultant has under the KDOT Consultant Standard of Care Policy, Special Attachment No. 6 to this Agreement. Notwithstanding any other provision of this Agreement, the Secretary reserves any and all rights under law or equity available to the Secretary, KDOT and the State of Kansas.

## 7.7 CONFLICT OF INTEREST

7.7.1 The Consultant warrants that the Consultant and the Consultant's employees have no interest and will not acquire any interest, directly or indirectly, which conflicts with the performance of Services under this Agreement. Conflict of interest includes, but is not limited to, any interest which might: (a) impair or compromise the exercise of truthful, objective or impartial independent professional judgment; (b) influence or interfere with the proper performance of duties for the sole benefit and in the best interest of the Secretary and KDOT; (c) otherwise bias or affect advice given or the quality of Services rendered; or (d) any other interest considered a conflict under applicable state or federal law, rule or regulation. In the event Consultant or any of its employees becomes aware of an actual or apparent conflict of interest (whether such conflict of interest involves the Consultant, an employee of the Consultant or a subconsultant, or any other party), then the Consultant shall notify KDOT immediately.

7.7.2 On any Project for which the Consultant is engaged to perform Services by the Secretary, the Consultant shall perform no design, engineering or associated technical services for an entity other than KDOT.

7.7.3 The Consultant shall not hire persons in KDOT's employment to provide Services under this Agreement without the Secretary's prior written permission.

## 7.8. EFFECTIVE DATE; REPRESENTATION OF AUTHORITY

7.8.1 This Agreement shall become effective on the date when both Parties have signed the Agreement. It is intended that the Consultant shall sign first, and the Secretary (or the Secretary's designated representative) shall sign last; therefore the effective date of the Agreement shall be the latter date.

7.8.2 In signing this Agreement, the Parties and the individual person signing on behalf of such Party represent that the person signing is duly authorized, having the authority and capacity to execute and legally bind the respective entity to this Agreement.

Now therefore, the Parties hereto cause their duly authorized representatives to enter into this Agreement.

Consultant  
Garver, LLC

By: Nicci Tiner 3-3-23  
(Signature) (Date)

Name: Nicci Tiner  
(printed)

Title: Vice President

Calvin E. Reed, P.E.  
Acting Secretary of Transportation  
Kansas Department of Transportation

By: Greg Schieber  
(Signature) (Date)

Greg Schieber, P.E.  
Interim Deputy Secretary  
and State Transportation Engineer

Approved by KDOT Legal  
HAH 3/10/23

**Exhibit A****ITEMS FURNISHED BY THE SECRETARY**

As may be necessary and applicable to the preparation of Reports, Plans and drawings for this Project, the Secretary agrees to furnish to the Consultant the following items and information in the general vicinity of the Project, already on record in the Secretary's files:

ITEM	REMARKS
1. Field Survey Information	No
2. Subsurface & Geologic Data	No
3. Surfacing Recommendations	No
4. Preliminary Studies	Yes, if available
5. Traffic Data/Projection	Yes (no additional traffic counts will be taken)
6. Accident Data	Yes
7. Standard Specifications	Available Online
8. Bureau of Design, Design Manual	Available Online
9. Existing Plans of Adjacent projects	Yes, if available
10. Standard Drawings: Prints of Reproducible sheets	Available Online.
11. Railroad Strip Maps	Yes, if Needed
12. Aerial Photos	Yes, if available
13. Air & Noise reports	Yes, if available
14. Permits necessary for Design Approval	No Data for CORPS Section 404, Division of Water Resources, and KDHE NPDES Permits are furnished by the Consultant.
15. Footing and Foundation Design for Lighting and Permanent Sign Structures	No
16. Standard Reinforced Concrete Box Culvert designs	No
17. Right of Way Descriptions, Easements & Acquisitions	No

# WORK ESTIMATE FORM

CMS No. \_\_\_\_\_

## Exhibit B

Rev. 8/16

**KDOT Project No.** KA-6499-01

**Firm Name:** Garver

**Project Location:** The K-254 study corridor begins a ½ mile east of Hydraulic Avenue and ends at the west ramps of K-196.

**SCOPE OF SERVICES:** The purpose of this K-254 Corridor Study is to develop the future unifying vision of the K 254 corridor, from Wichita to El Dorado. This vision must recognize opportunities and constraints that will impact potential improvements along the corridor.

<u>Direct Salary</u>	<u>Hourly</u>	<u>Estimated</u>	
<u>Position Classification</u>	<u>Rate</u>	<u>Hours</u>	<u>Total Cost</u>
Principal	\$102.20	56	\$5,723.20
Project Manager	\$73.45	422	\$30,995.90
Deputy Project Manager	\$68.92	360	\$24,811.20
Senior Design Engineer	\$53.39	352	\$18,793.28
Jr. Design Engineer	\$48.50	832	\$40,352.00
Jr. Design Engineer	\$32.50	292	\$9,490.00
Jr. Design Engineer	\$38.78	224	\$8,686.72
Technician	\$27.55	90	\$2,479.50
Administrative Assistant	\$42.01	20	\$840.20

Overhead Rate 191.01 %

Subtotal \$142,172.00

Overhead \$271,562.74

<u>Direct Expense</u>	<u>A</u>	<u>unit</u>	<u>B</u>	<u>A*B</u>
Printing		l.s.		\$0.00
Mileage	4,500.0	mi.	\$0.59	\$2,632.50
Tolls	16.0	ea.	\$7.50	\$120.00
Hotel	28.0	day	\$154.50	\$4,326.00
Meals	37.0	day	\$64.00	\$2,368.00
Market Analysis (DS)	1.0	ea.	\$34,800.39	\$34,800.39
Traffic Counts (TTG)	1.0	ea.	\$18,900.00	\$18,900.00
PEC	1.0	ea.	\$301,284.23	\$301,284.23
Vireo	1.0	ea.	\$69,656.63	\$69,656.63
Direct Expenses				\$434,087.75

Subtotal \$413,734.74

Fixed Fee \$41,373.47

Subtotal \$455,108.21

Direct Expense \$434,087.75

Upper Limit \$889,195.96

Consultant Name Garver, LLC

Nica B. 1-30-23  
Project Manager (Date)

Secretary of Transportation

KDOT D. J. Smith 1/31/23  
Project Manager (Date)

# WORK ESTIMATE FORM

CMS No. \_\_\_\_\_

## Exhibit B

Rev. 8/16

**KDOT Project No.** KA-6499-01

**Firm Name:** PEC

**Project Location:** The K-254 study corridor begins a ½ mile east of Hydraulic Avenue and ends at the west ramps of K-196.

**SCOPE OF SERVICES:** The purpose of this K-254 Corridor Study is to develop the future unifying vision of the K 254 corridor, from Wichita to El Dorado. This vision must recognize opportunities and constraints that will impact potential improvements along the corridor. PEC will be providing project management, community engagement, corridor evaluation, conceptual design and assisting with developing the corridor management plan.

<u>Direct Salary</u>	Hourly	Estimated	
<u>Position Classification</u>	<u>Rate</u>	<u>Hours</u>	<u>Total Cost</u>
Principal Engineer	\$78.00	50	\$3,900.00
Project Manager	\$72.00	92	\$6,624.00
Sr Project Engineer	\$66.00	126	\$8,316.00
Project Engineer	\$54.00	519	\$28,026.00
Design Engineer	\$46.00	703	\$32,338.00
Design Technician	\$42.00	473	\$19,866.00
			\$0.00
			\$0.00
			\$0.00

Overhead Rate 176.38 %

Subtotal \$99,070.00

Overhead \$174,739.67 6

<u>Direct Expense</u>	<u>A</u>	<u>unit</u>	<u>B</u>	<u>A*B</u>
Printing		l.s.		\$0.00
Mileage	160.0	mi.	\$0.59	\$93.60
Tolls		ea.		\$0.00
Hotel		day		\$0.00
Meals		day		\$0.00
Sub-Consultants		ea.		\$0.00
Traffic Counts		ea.		\$0.00
Direct Expenses				<u>\$93.60</u>

Subtotal \$273,809.67 6

Fixed Fee \$27,380.97

Subtotal \$301,190.63

Direct Expense \$93.60

Upper Limit \$301,284.23

Consultant Name Professional Engineering Consultants, P.A.

Secretary of Transportation

Kristin Zimmerman 2/20/2023  
Project Manager (Date)

KDOT \_\_\_\_\_  
Project Manager (Date)



**WORK ESTIMATE FORM**

CMS No. \_\_\_\_\_

**Exhibit B**

Rev. 8/16

**KDOT Project No.** KA-6499-01**Firm Name:** Vireo**Project Location:** The K-254 study corridor begins a ½ mile east of Hydraulic Avenue and ends at the west ramps of K-196.**SCOPE OF SERVICES:** The purpose of this K-254 Corridor Study is to develop the future unifying vision of the K 254 corridor, from Wichita to El Dorado. This vision must recognize opportunities and constraints that will impact potential improvements along the corridor. Vireo will be providing community services coordination for this corridor study.

<u>Direct Salary</u>	<u>Hourly</u>	<u>Estimated</u>	
<u>Position Classification</u>	<u>Rate</u>	<u>Hours</u>	<u>Total Cost</u>
Project Manager	\$37.98	375	\$14,242.50
Sr. Designer	\$22.12	255	\$5,640.60
Sr Project Engineer	\$66.00		\$0.00
Project Engineer	\$54.00		\$0.00
Design Engineer	\$46.00		\$0.00
Design Technician	\$42.00		\$0.00
			\$0.00
			\$0.00
			\$0.00

Overhead Rate 162.83 %Subtotal \$19,883.10Overhead \$32,375.65

<u>Direct Expense</u>	<u>A</u>	<u>unit</u>	<u>B</u>	<u>A*B</u>
Printing	8,000.0	l.s.	\$0.25	\$2,000.00
Mileage	-	mi.	\$0.59	\$0.00
Vehicle Rental	8.0	ea.	\$200.00	\$1,600.00
Hotel	16.0	day	\$154.50	\$2,472.00
Meals	16.0	day	\$64.00	\$1,024.00
Online Engagement	1.0	ea.	\$5,076.00	\$5,076.00
Traffic Counts		ea.		\$0.00
Direct Expenses				<u>\$12,172.00</u>

Subtotal \$52,258.75Fixed Fee \$5,225.88Subtotal \$57,484.63Direct Expense \$12,172.00Upper Limit \$69,656.63

Consultant Name



Triveece Penelton 2/17/2023

Project Manager (Date)

Secretary of Transportation

KDOT

Project Manager

(Date)

**U.S. DOT Standard Title VI Assurances and Non-Discrimination Provisions**

[Reference: US DOT Order 1050.2A; 23 CFR 172.9(c)(1)(vi)]

During performance of this Agreement, Consultant, for itself, its assigns and successors in interest, agrees as follows:

- 1. Compliance with Regulations.** The Consultant will comply with the acts and regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
- 2. Non-Discrimination.** The Consultant, with regard to Services performed by it during the performance of this Agreement, will not discriminate on the grounds of race, color or national origin in the selection and retention of subconsultants, including procurements of materials and leases of equipment, if any. The Consultant will not participate directly or indirectly in the discrimination prohibited by the acts and regulations, including those set forth on page 2 of 2 of this Special Attachment No. 1 and including employment practices when the Agreement covers any activity, project or program set forth in Appendix B of 49 CFR Part 21.
- 3. Solicitations for Subconsultants, including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the Consultant for services to be performed under a subcontract, each potential subconsultant will be notified by the Consultant of the Consultant's obligations under this Agreement and the acts and regulations relative to non-discrimination on the grounds of race, color or national origin.
- 4. Information and Reports.** The Consultant will provide all information and reports required by the acts, regulations and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Kansas Department of Transportation (KDOT) or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such Acts, Regulations. Where any information required of a consultant or subconsultant is in the exclusive possession of another who fails or refuses to furnish the information, the Consultant will so certify to KDOT or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5. Sanctions for Noncompliance.** In the event of Consultant's noncompliance with the non-discrimination provisions of this Agreement, KDOT may impose such contract sanctions as it may determine to be appropriate including, but not limited to: (a) withholding payments to Consultant under the Agreement until the Consultant complies; and/or (b) cancelling, terminating or suspending the Agreement, in whole or in part.
- 6. Incorporation of Provisions.** The Consultant will include the provisions of this Special Attachment No. 1 in every subconsultant agreement, unless exempt by the acts, regulations and directives issues pursuant to thereto. The Consultant will take action with respect to any subconsultant as KDOT may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Consultant becomes involved in, or is threatened with litigation by a subconsultant because of such direction, the Consultant may request KDOT to enter into any litigation to protect the interests of KDOT. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

**CONTRACTUAL PROVISIONS ATTACHMENT**

**Important:** This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the Agreement and made a part thereof, effective the date of the Agreement.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges-hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.  
  
Contractor agrees to comply with all applicable state and federal anti-discrimination laws.  
  
The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

**Certification Regarding Lobbying**

[Reference: 23 CFR 172.9(c)(2), 49 CFR Part 20]

The Consultant certifies, to best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
3. The Consultant shall require that the language of this certification be included in the award document for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement. Any person who fails to comply with 31 USC 1352 and related regulations may be subject to civil penalty not less than \$10,000 and not more than \$100,000 for each such failure.

Consultant: Garver  
(Firm Name)

By: Nicci Tiner  
(Signature of Duly Authorized Representative of Consultant)

Name: Nicci Tiner  
(Printed)

Title: Vice President

Date: 3-3-23

**VERIFICATION AS TO HISTORY and CURRENT STATUS REGARDING  
ELIGIBILITY, SUSPENSION, DEBARMENT, INDICTMENTS, CONVICTIONS or CIVIL JUDGMENTS**  
[FHW Form 1273]

I, Nicci Tiner  
(printed name of President, Chief Executive Officer, senior manager or duly authorized representative of the firm named below)

being duly sworn and under penalty of perjury, hereby verify and affirm, except as specifically noted and written in "Exceptions" below, that

Garver

(printed name of firm)

and any person associated with such above-referenced firm in the capacity of owner, partner, director, executive, officer, manager, project manager, project director, auditor, or any other substantially similar position, including any position involving the administration of Federal or State funds:

- do not have a proposed debarment currently pending;
- are not now, and have not within the last three years, under suspension or debarment, voluntary exclusion or determination of ineligibility by any Federal or State agency;
- have not, within the last three years, had one or more agreements with a public entity (Federal, State or local) terminated for cause or for default; and
- have not, within the last three years, been charged, indicted, convicted, or had a civil judgment rendered against them by a court of competent jurisdiction for any fraud, criminal offense, embezzlement, theft, forgery, bribery, falsification or destruction of records, or for making false statement or receiving stolen property or violation of anti-trust law(s).

Exceptions: \_\_\_\_\_  
(for any exceptions noted, explanatory documentation to be attached)

The undersigned states that the foregoing is true and accurate and furthermore understands and agrees that such verification is a material representation of fact(s) upon which any party is entitled to rely.

Nicci Tiner      3-3-23  
(Signature)      (Date)

Nicci Tiner  
(Printed Name)

Title: Vice President



Subscribed and sworn to before me, a Notary Public in and for the County of Pulaski, State of Arkansas, this 3rd day of March, 2023.  
(month)      (year)

Betty S. McPherson  
NOTARY PUBLIC

My Commission expires: 12-22-2030

**CONTRACTUAL SERVICES WITH LEGISLATOR or LEGISLATOR'S FIRM  
REQUIRED CONTRACT CERTIFICATION**

[KSA 46-239 and KSA 46-233]

Kansas law, KSA 46-239(c), requires the Kansas Department of Transportation (KDOT) to report all contracts entered into with any legislator or any member of a firm of which a legislator is a member, under which the legislator or member of the firm is to perform services for KDOT for compensation. The undersigned hereby certifies the following:

\_\_\_\_\_ **YES**, this Agreement is with a legislator or a firm in which a legislator is a member. That legislator is:

Name: \_\_\_\_\_

Tel: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**OR**

\_\_\_\_\_ **NO**, this Agreement is not being entered into with a legislator or a firm in which a legislator is a member.

The undersigned understands that this certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for the making or entering into this Agreement.

Consultant: Garver  
(Firm Name)

By: Nicei Tiner  
(Signature of Duly Authorized Representative of Consultant)

Name: Nicei Tiner  
(Printed)

Title: Vice President

Date: 3-3-23

KDOT Project No. 254-08 KA-6499-01



## **EXHIBIT A (SCOPE OF SERVICES)**

The purpose of this K-254 Corridor Study is to develop the future unifying vision of the K-254 corridor, from Wichita to El Dorado. This vision must recognize opportunities and constraints that will impact potential improvements along the corridor. The study corridor begins a ½ mile east of Hydraulic Avenue and ends at the west ramps of K-196. The study area extends approximately one mile north and south of K-254.

Key goals and objectives of this study include the following:

- Define existing conditions along the corridor
- Carryout comprehensive community engagement plan
- Complete a market analysis along the study corridor to define the corridor's market position in the region
- Develop 2035 and 2050 use planning scenarios along the corridor
- Identify future safety and operation needs along the K-254 corridor
- Conduct an environmental evaluation of the corridor
- Develop conceptual improvements to the K-254 corridor that provide a safe and efficient transportation system to accommodate existing, interim, and future traffic volumes
- Prioritize recommended improvements and develop estimates of probable costs for each improvement
- Create strategies for implementing recommended improvements

Generally, the Scope of Services includes the following professional services to:

- Project Administration
- Community Engagement
- Data Collection
- Corridor Evaluation
- Conceptual Design

### **1. PROJECT ADMINISTRATION**

- 1.1. The Garver Team will attend and participate in a study kick-off meeting with the client to review the Scope of Work and project schedule.
- 1.2. The Garver Team will provide study oversight and management, including regular progress reports, invoicing, and internal coordination with the project study team.

### **2. COMMUNITY ENGAGEMENT**

- 2.1. General: The Garver Team will designate a community engagement team to manage and coordinate community engagement activities during the study. The consultant's community engagement team will consist of two dedicated teams – one for public engagement and one for stakeholder engagement. The teams will coordinate overall project phasing, messaging, and communications.





## 2.2. Community engagement will:

- Develop and carryout a Community Engagement Plan that covers the following topics:
  - Goals, target audience, corridor visioning, project branding/messaging (logo, motto, key messages), engagement phases and purposes, schedules, roles and responsibilities of consultant team and client partners Communications departments
- Focus on four (4) major engagement phases
  - Issues and opportunities
  - Potential improvements
  - Preferred alternative and recommendations
  - Final plan
- Develop content for a project web page and video series to support the planning process

## 2.3. Public Engagement (part of the Community Engagement Plan) will include the following:

- Manage contact list
- Gathering comments through:
  - Public Meetings (4) held the same day as Steering Committee Meetings
    - Issues and opportunities
    - Potential improvements
    - Preferred alternative and recommendations
    - Final plan
  - Pop-up Meetings (up to 8) to correspond with public meetings
  - Online commenting via a digital engagement platform that can host surveys and/or (if preferred) virtual meetings
- Create collateral materials branded for the project
  - Display boards for public meetings
  - Slideshows for public meetings (as needed)
  - StoryMap at the end of the project to communicate the process and preferred alternative
- Develop broadcasting Tools
  - Content (copy) for a project web page to be hosted on ksdot.org
  - Sample social media content
  - Email marketing
  - Media coordination, e.g. press releases (4)
- Summarize input into major themes to inform each of the four phases
  - Utilize the digital engagement platform (publicinput.com) to help manage and summarize public engagement activities, e.g. tracking sentiment, deploying opinion surveys / online commenting opportunities, etc.
- Conduct project management and coordination

## 2.4. Stakeholder Engagement (part of the Community Engagement Plan) will include the following:

- Develop and carryout a Stakeholder Engagement plan that covers the following topics:



- Identify stakeholder group
- Identify steering committee made up of key decision makers from stakeholder group along the corridor
- Determine roles and responsibilities, engagement approach, schedule and phasing, materials, communication tools
- Initial list of stakeholders (approx. 50)
  - K-254 Corridor Development Association
  - Local Governments Along the Corridor: Park City, Kechi, Bel Aire, Benton, Towanda, El Dorado, Wichita, Sedgwick County, Butler County
  - City Water and Utilities: Bel Aire and Kechi
  - Area School Districts/Schools: USD 375 (Circle School District), USD 259 (Wichita School District), Sunrise Christian Academy, Resurrection Catholic School
  - First Responders: Kansas Highway Patrol, Butler Co Sheriff, Sedgwick County Sheriff, City Police Depts
  - Fire and EMS: Sedgwick County EMS, Butler County EMS, Sedgwick County Emergency Management, Butler County Emergency Management
  - Area Airports: Wichita Airport Authority – Colonel James Jabara Airport, Stearman Field, Wichita Gliderport
  - KTA
  - WAMPO
  - Colleges: Butler Community College, WSU Tech
  - Economic Development: Greater Wichita Partnership, El Dorado Inc., Kansas Department of Commerce
  - Major Businesses: Barton Solvents, BG Products, Sunflower Commerce Park, Koch Industries, FedEx, Amazon
  - Union Pacific Railroad
  - Rural Water Districts: Sedgwick County RWD 1, Sedgwick County RWD 2, Butler Co RWD 5
  - Whitewater River Watershed District No. 22
  - Agricultural Associations
  - Townships
- Build and maintain a contacts database
- Conduct steering committee meetings during each major phase (4) of the Plan
  - Assumption: Committee consists of key decision makers along the corridor
- Host stakeholder meetings during each major phase (4) of the Plan
- Offer follow up one-on-one or small group meetings with individual or grouped stakeholders during the first two phases of the plan (Approximately 15 meetings)
- Develop communication materials to share during steering committee and stakeholder meetings
  - Information Sheets (4) to correspond with each of the four phases
  - Slideshows (4) to correspond with each of the four phases
- Summarize input into major themes to inform each of the four phases

#### 2.5. Deliverables:

- Community Engagement Plan including description of each engagement activity
- Collateral materials listed above



- Project web page content
- Videos (3), with 3D visualizations

### **3. DATA COLLECTION**

3.1. General: The Garver Team will conduct a thorough investigation of existing conditions along the corridor, including a half-mile study area north and south of the K-254 corridor. The study will examine in detail the existing land use and transportation conditions within the study area.

#### **3.2. Mapping**

- Digital aerial photography and GIS mapping from Sedgwick and Butler Counties will be used to prepare exhibits for this project.
- This mapping will cover at least a half-mile north and south of K-254.

#### **3.3. Roadway and Intersection Characteristics**

- Obtain existing roadway and intersection plans to use to field verify lane widths, shoulder widths, sidewalk widths and locations, auxiliary lane configurations, traffic controls, crossroad culverts and other drainage facilities, bridge structures, and lighting
- Locate and inventory other existing access along K-254

#### **3.4. Right-of-way and Ownership**

- Determine existing right-of-way widths, property line locations, and ownership information from County GIS records along the K-254 frontage and one-quarter mile from K-254 along intersecting roadways

#### **3.5. Land Use and Transportation Plans**

- Collect land use plans for communities along the corridor. These plans will include but are not limited to all applicable comprehensive plans, future land use plans, area plans, corridor plans, annexations plans, major development proposals and any studies that will impact the corridor that may be outside the corridor limits.
- Collect existing land uses along the corridor. Existing land uses will be recorded in broad categories such as residential, commercial, industrial, parks/open space, agricultural/vacant, and major institutional
- Collect and summarize existing Transportation Plans for the state, corridor, area, or region, including the KDOT Long Range Transportation Plan, KDOT Freight Plan, KDOT Rail Plan, KDOT Active Transportation Plan, KDOT Access Management Policy, and WAMPO Metropolitan Transportation Plan
- Collect any existing and planned bicycle routes and existing and planned transit routes

#### **3.6. Development Plans**

- Collect developer plan information from the local communities for recent and proposed developments within one mile north and south of K-254. This information will be used to inform the market analysis and land use planning.



### 3.7. Traffic Counts

- Collect daily and AM and PM peak hour traffic counts from local jurisdictions and KDOT
- Conduct daily and AM and PM turning movement counts (cars and trucks) at up to 10 key locations along the K-254 corridor. Newly collected counts will be supplemented with data from previous study
  - Rock Road
  - Webb Road
  - Greenwich Road
  - Andover Road/Butler Road
  - Main Street
  - Adams Road
  - River Valley Road
  - Hunter Road
  - Ohio Street Road
- Collect historic traffic count and class data from KDOT
- Obtain existing and future travel demand models from KDOT and WAMPO
- Supplement turning movement counts with O-D and trucking information available through other national traffic data providers including Replica

### 3.8. Traffic Crash Data

- Collect traffic crash data from KDOT along the K-254 study corridor for the most current 5-year period available
- Acquire state-wide crash rates for similar facilities

### 3.9. Existing Utility Data

- Collect record information for existing utilities along the corridor including pipelines, telephone, fiber optic, water, electric, storm and sanitary sewer from respective utility service providers

### 3.10. Environmental Constraints

- Collect information on stream ways, flood plains, designated wetlands, endangered species habitats, archeological historical features, and other environmental constraints which would affect development of improvement along the corridor These constraints will be recorded within one mile from K-254.

### 3.11. Socio-Economic Data

- Compile existing socio-economic data including environmental justice areas, and other key socio-demographic datasets

### 3.12. Deliverable:

- Summary of existing roadway and intersection characteristics
- Existing right of way map
- Existing land use map (2D and 3D visualization)
- Existing traffic count map
- Heatmap of crash data
- Existing utility map



- Environmental constraints map
- Existing socio-economic community profiles

#### **4. CORRIDOR EVALUATION**

4.1. General: The Garver Team will complete an evaluation of existing and future conditions along the corridor. The corridor evaluations will include a market analysis, land use planning, transportation planning and analysis, safety analysis and an environmental evaluation.

##### **4.2. Market Analysis**

- Prepare an analysis of market segments within the K-254 area (primary, secondary, regional market areas). The analysis includes an examination of the following:
  - demographic and economic data collection
  - consumer and market segmentation analysis
  - corridor marketability analysis, which will include a SWOT analysis, identification of development/redevelopment opportunities, and soft site/interchange analysis
  - Opportunities and constraints created by the existing transportation/infrastructure network will be considered.
  - Overview of existing supply of real estate products (residential, commercial, office, and industrial) in the corridor and market areas
  - Identify competitive districts/clusters, including rental rates, absorption trends, and capacity for additional development to help understand the scale and timing of possibilities in the K-254 area
- Quantify short and medium-term market potential for residential, commercial, office, and industrial development within the study area and its subareas, including building square footage, achievable rents, target markets, and land needs

##### **4.3. Land Use Planning**

- Develop candidate economic development “identities” for the corridor with the Steering Committee
- Identify opportunities and constraints for development along the corridor based on development potential (flood plains, existing zoning, transportation network, utilities, right of way, etc)
- Based on results of Market Analysis, existing land uses, compiled land use plans, known development, and community engagement input, create two future land use scenarios (2035 and 2050 in 2D and 3D visualizations) for the corridor (within a half-mile of either side of corridor). Include residential, commercial, industrial, and office densities. Assess trade-offs and impacts of each scenario to present to Steering Committee.
- Detail land use planning regulatory mechanisms (amendments to Comprehensive Plans, zoning overlay, amendments to subdivision regulations, etc.) for area land use planning entities to implement the Corridor Plan



#### 4.4. Transportation Planning and Analysis

- Develop exhibits of existing daily, AM and PM peak hour volumes for major arterial segments and intersection within the study area. The existing data will come from various sources including existing intersection counts, KDOT traffic count maps, and information from Replica and RITIS.
- Evaluate existing K-254 route segments using Highway Capacity software and intersection levels of service using the most current version of Synchro software to identify existing study corridor deficiencies during AM and PM peak hours
- Forecast 2035 and 2050 future traffic volumes based on background traffic growth and anticipated development for 2035 and 2050 land use scenarios. Historic traffic growth trends and information from WAMPO's travel demand model will also be used to develop future traffic volumes
- Develop travel demand models for each future land use scenario, including trip generation, trip distribution and trip assignment. Models will include traffic analysis zones (TAZ), influence areas and external stations.
- Develop exhibits for 2035 and 2050 No Build daily, AM and PM peak hour segment and intersection volumes within the study area
- Develop exhibit for 2035 and 2050 Build daily, AM and PM peak hour segment and intersection volumes within the study area
- Evaluate No Build K-254 route segments and intersections for 2035 and 2050 land use scenarios to identify future deficiencies during AM and PM peak hours
- Evaluate recommended improvement alternatives for route segments and intersections along the K-254 corridor for 2035 and 2050 land use scenarios including grade-separated interchanges and intersection improvements and/or closures during AM and PM peak hours
- Identify various immediate, midterm and ultimate improvement recommendations along the K-254 corridor based on traffic volume triggers

#### 4.5. Safety Analysis

- Review previous safety study and associated improvement recommendations
- Map most recent 5-years period of crash data for the corridor to identify locations with reoccurring events
- Evaluate crash data for correctable patterns and relate crashes to access locations and densities
- Review safety feedback from community engagement activities and evaluate potential safety improvement needs
- Using provided data, develop corridor specific crash rate and compare to state-wide average rate for similar facilities
- Use Crash Modification Factors from the Highway Safety Manual to quantify the impacts of various immediate, midterm and ultimate improvement recommendations

#### 4.6. Environmental Evaluation

- Review environmental constraints to document environmentally sensitive areas that could affect the construction of the project. The environmental constraints evaluation will include a desktop review of available resources, known occurrence



records, and regulatory databases. The following resources will be documented and provided on environmental constraints mapping:

- Traffic noise – A noise screening evaluation will be completed that will utilize existing and projected traffic and alignments based on up to 3 conceptual layouts for the ultimate corridor. The screening will identify potential traffic-related noise impacts.
- Hazardous materials – Known sites and those field confirmed will be discussed and located on exhibits.
- Farmland impacts – Estimated prime farmland impacts will be determined based on available NRCS data.
- Water resources – Water resources such as public water supply wells, wellhead protection areas, wetlands, streams, and other potentially affected aquatic features will be delineated by desktop review and field confirmed to the extent possible.
- Biological resources – Preferred habitat for current federally listed threatened and endangered species will be identified on report exhibits and discussed in the report. Preferred habitat for state listed species will also be identified.
- Floodplains – Floodplains will be delineated based on available FEMA maps or other sources on exhibits and discussed in the report.
- Cultural and historical properties – Previously documented sites will be identified and included in the report exhibits. Adjacent structures 45 years of age and older will be identified by review of historic imagery and topographic information for potential later evaluation.
- Public lands – Public lands will be identified on exhibits and discussed in the report.
- Complete a limited sight investigation to field confirm the presence/absence of specific desktop-identified sensitive environmental features. The field confirmation effort will be completed from public right of ways.

#### 4.7. Deliverable

- White paper summarizing key findings of market analysis
- Market analysis graphics to support presentations, engagement, and deliverables
- Three future land use scenarios (2D and 3D visualizations)
- Recommended land use planning regulatory mechanisms
- Exhibit of existing traffic volumes
- Exhibit of future No Build traffic volumes
- Exhibit of future Build traffic volumes for the ultimate corridor improvements
- Traffic report summarizing existing, future No Build and future Build traffic operations
- Map of crash locations
- Environmental constraints report of findings and recommendations
- Table of environmental databases reviewed, exhibits, photographs, and other documentation





## 5. CONCEPTUAL DESIGN

5.1. General: The Garver Team will develop conceptual geometric and bridge alternative design plans for each of the immediate, midterm and ultimate improvements. This will include corridor-wide elements such as a frontage/backage road network along with up to two alternative concepts at individual locations.

Conceptual designs will be developed based on the following considerations: current and future traffic volumes, safety, impacts to utilities, environmental constraints, signage, drainage impacts, rights of way, maintenance of traffic, constructability, and overall feasibility

### 5.2. Conceptual Alternatives

- One (1) Corridor-wide conceptual alternative for a frontage/backage road network
- Up to two (2) conceptual alternatives for access to/from K-254 and the local arterial road network at the following locations: Hillside Avenue, Oliver Street, Woodlawn Boulevard, Rock Road, Webb Road, Greenwich Road, 127th Street, 143rd Street, 159th Street, Butler Road, Main Street, Meadowlark Road, Indianola Road, Tawakoni Road, Adams Road, River Valley Road, Ohio Street Road, and Hunter Road.
- Up to two (2) conceptual alternative typical sections for major arterials within study area
- Bridge Evaluation
  - Type, Size and Location to be evaluated for up to two (2) conceptual alternatives at up to ten (10) grade separations along the corridor for interchange and non-interchange locations
- Evaluate improvement impacts to existing utilities, environmental constraints, drainage, and right of way along the K-254 corridor.

### 5.3. Evaluation Matrix

- An evaluation matrix will be developed with feedback from KDOT Planning to provide alternative scoring most closely aligned to KDOT's Local Consult scoring criteria. This evaluation matrix will be utilized twice; once after initial conceptual alternatives have been created to eliminate low scoring projects and again after further development and public involvement to determine final priorities of the ultimate corridor improvements.

### 5.4. Project Prioritization for Recommended Ultimate Corridor Improvements

- Priorities will be determined using the evaluation matrix developed in Section 5.3. Individual priority projects will include a corridor-wide frontage/backage road network and the ultimate intersection/interchange improvements along the corridor.
- Develop immediate, midterm, and ultimate improvement recommendations at up to ten (10) intersections along the K-254 corridor based on 'triggers' including traffic volumes, available funding, and safety. These "trigger" improvements may include parts of a larger KDOT project, projects that satisfy warrants for traffic signals or turn lanes, and projects that improve capacity and other measures of effectiveness.

### 5.5. Conceptual Signage and Wayfinding Enhancements

- Evaluate KDOT criteria for signing along study corridor





- Develop conceptual signage based on ultimate corridor improvements

#### 5.6. Deliverables

- Conceptual Alternative exhibits for Community Engagement including bridge and other structural aspects along the corridor
- Evaluation matrix with scoring from initial conceptual alternatives and scoring to determine priorities
- Ultimate typical sections for K-254 and intersecting arterials
- Plan plates for recommended ultimate corridor improvement projects
- Estimates for Probable costs

### 6. CORRIDOR MANAGEMENT PLAN

6.1. General: The Garver Team will develop a Corridor Management Plan that summarizes the project approach throughout the life of the project, includes graphics of immediate, midterm and ultimate improvements along with estimates of probable costs, and outlines an implementation plan.

#### 6.2. Summary of Project Approach with Exhibits

- Executive Summary
- Introduction
  - Corridor Management Plan Needs and Purpose Statement
  - Project Description
  - Project Partners
- Community Engagement
  - Public Engagement Outcomes
  - Stakeholder Engagement Outcomes including Steering Committee input
- Market Analysis
  - Existing Economy within the Region
  - Key Economic Indicators
  - Project Market Demand Analysis
- Land Use Planning
  - Existing Land Use
  - Future Land Use for Low, Moderate, and High Scenarios
- Transportation Planning and Analysis
  - Summary of Existing Transportation Plans
  - Existing Daily and Peak Hour Traffic Volumes) AM/PM/Daily
  - Future Daily and Peak Hour Traffic Volumes (2035 and 2050) for No Build and Build scenarios
  - Existing Segment and Intersection Levels of Services for AM/PM peak hours
  - Future No Build Segment and Intersection Levels of Services (2035 and 2050) for AM/PM peak hours
  - Future Build Segment and Intersection Levels of Services (2035 and 2050) for AM/PM peak hours
- Safety Analysis
  - Statewide Crash Rate
  - Existing K-254 Crash Rate



- Future No Build K-254 Crash Rate
  - Future Build K-254 Crash Rate
- Environmental Evaluation
  - Constraints
  - Potential Impacts

#### 6.3. Recommended Ultimate Corridor Improvements

- Plan plates for recommended improvements, including cost estimates
- List of improvement projects by priority
- Summary of prioritization process

#### 6.4. Implementation

- Implementation Toolbox
- Corridor Preservation Strategies
- Access Management Strategies
- Funding/Financing Strategies
- Safety Corridor Strategies including Non-infrastructure Strategies

### 7. ADDITIONAL SERVICES

- 7.1. The following items are not included under this agreement but will be considered as additional services to be added under Amendment if requested by the Owner.
- Survey along the K-254 corridor
  - Gap analysis of existing city/county regulations
  - Develop Interlocal agreements
  - Grant writing
  - Garver Capital Improvement Plan (CIP) tool
  - Hydrology and Hydraulic Evaluation

### 8. SCHEDULE

- 8.1. The Garver Team shall begin work under this Agreement within ten business (10) days of execution of this Agreement and shall complete the work in accordance with the schedule below:



Project Milestones	Completion Date
Notice to Proceed	January 31, 2023
Data Collection	March 31, 2023
Community Engagement #1	Week of April 17, 2023
Corridor Evaluation	July 28, 2023
Community Engagement #2	Week of August 14, 2023
Conceptual Improvement Alternative Development	September 15, 2023
Community Engagement #3	Week of December 4, 2023
Recommended Improvement Development and Cost Estimate	January 19, 2024
Final Recommendation and Corridor Management Plan	March 29, 2024
Community Engagement #4	Week of April 15, 2024
Implementation Strategy Development	May 3, 2024

**CONSULTANT REIMBURSEMENT FOR ACTUAL DIRECT COSTS**See Payment Article

- A. **General Principles of Reimbursement.** Actual direct costs of performing Services are compensable, provided such costs are “allowable” under 48 CFR subpart 31.2 and meet all the following requirements. The costs must be:
- Reasonable
  - Allocable and
  - In accordance with accepted accounting principles and practices appropriate to the circumstances.
- B. **Travel Costs\*.** [Note: A daily itemized cost recap per individual per day of travel shall be submitted with each invoice.] These costs must be submitted at the same time as the labor costs. With respect to travel costs, the following requirements apply.
- 1) Hotel and other lodging.
    - a. The lodging must be a temporary location/residency. If employees move to this location and have no other residency or rent out their previous residency, it will be considered that they moved and that employee will not be on expenses.
    - b. The maximum per-night cost of any hotel or lodging shall not exceed the current rate of \$91.00 per night (2017 rate), unless extenuating circumstances justify an increase to a higher maximum amount not to exceed \$137.00 per night. Requests for over \$91.00 per night must be submitted with justification and approved by the KDOT’s Area Construction Engineer/Manager prior to incurring the expense. Maximum amounts cited above shall exclude taxes.
    - c. Out-of-State Lodging: no costs for out-of-state lodging will be reimbursed unless advance written approval of KDOT’s Area Construction Engineer/Manager is obtained prior to incurring the cost.
  - 2) Meal per diem rate. *Per diem* rates for meals will be reimbursed only for those calendar days of travel requiring one or more overnight stays in a hotel or other lodging. The meal *per diem* rate applies for each day requiring an overnight stay.
    - a. The current *per diem* rate for meals is a maximum amount of \$51.00 per day (2017 rate); provided, however, if the hotel accommodation provides breakfast as part of the room or other lodging rate, then the maximum amount is reduced by \$8.00 to \$43.00, unless some extenuating circumstance exists to disregard the reduction. Consultant shall furnish justification of any extenuating circumstance along with the invoice.
    - b. Billing or invoicing for meal *per diem* must be submitted with the lodging receipt(s).
  - 3) Mileage and other related vehicle costs.
    - a. Per-mile rate. Mileage will be reimbursed in accordance with the then-current standard rate established by the IRS for authorized business travel using the most direct route (2017 Rate is \$0.535). Mileage recap per day must be maintained and submitted by Consultant with the invoice. The lesser of the distance from the employee’s residency or work office will be used for mileage to the project; this mileage must be submitted with the 1<sup>st</sup> invoice per employee.
    - b. Other direct actual costs: Invoices for charges in connection with tolls, parking, etc. must be substantiated by receipts for such costs. Requests for vehicle rental charges must be submitted with justification and approved by the KDOT’s Area Construction Engineer/Manager prior to the expense.
- C. **Other Direct Costs.** Actual rates for direct costs incurred by Consultant and invoiced to KDOT which are not substantiated by a third party receipt but billed as a unit, hourly, daily or other rate (such as costs of or hourly “use” charges for equipment, CAD, GPS, LIDAR or similar items), shall be calculated in accordance with the AASHTO Uniform Audit & Accounting Guide. With regard to other supplies or equipment, only those which are (a) required by KDOT for project-specific use and (b) totally consumed (i.e. paint, lathe, etc.) or used solely in performance of Services may be billed as a direct cost. For example, cell phones and safety equipment such as hard hats, glasses and vests are not reimbursable direct costs.

*\*Travel costs (lodging, meals and mileage) may be adjusted annually by KDOT per federal or state guidelines.*

**Electronic Data Interchange**  
Kansas Department of Transportation

The Secretary and the Consultant desire to process engineering services payments and supplemental agreements to existing engineering services agreements through electronic data interchange (EDI) to receive the benefits of faster payment and processing and to eliminate duplication of effort and time. In consideration of the premises and covenants herein contained, the Parties hereto agree as follows.

1. The Consultant agrees to use an EDI provider approved by the Secretary, to send and receive data files between the Secretary and the Consultant.
2. The Consultant agrees to use the Kansas Department of Transportation's Construction Management System (CMS) as the standard for EDI transactions. The Consultant agrees to use the CMS Manual for Design Consultants in processing pay vouchers and change orders. The Consultant acknowledges that supplemental agreements will be submitted as a change order in CMS. The Consultant agrees to use the Secretary's project number and CMS contract number on all EDI transactions and correspondence.
3. The Consultant agrees to have accepted the EDI pay voucher when the Secretary has issued a finalized CMS pay voucher.
4. The Consultant agrees that the acceptance period for a change order is as follows: The acceptance period will be the period of seven (7) working days after the finalized change order has been transmitted to the Consultant in order for the Consultant to review the change order. If the Consultant detects any errors or omissions during this period, the Consultant will make it known to the Secretary the same. At the end of the acceptance period, the Consultant is deemed to have accepted the change order. Problems with the CMS change order detected after the end of the acceptance period will be resolved by the Secretary.
5. The Consultant agrees that progress reports are to be submitted electronically on a monthly basis. The Consultant agrees that the progress reports will be transmitted monthly, no later than the 24th of each month, the date established by the Secretary.
6. The Consultant agrees to maintain all data, proposals and all documents needed for pay vouchers and change orders for a period of five (5) years after completion of this Agreement. The Consultant will make available for audit, as requested by the Secretary, any such information, whether in an electronic format or on paper.
7. The Consultant confirms that all requests for payment will be for actual work performed based on actual cost.

**KANSAS DEPARTMENT OF TRANSPORTATION**  
**CONSULTANT STANDARD OF CARE POLICY**

**I. DEFINITIONS**

- A. Construction Contract. A written agreement between the Secretary and a Construction Contractor, requiring the Contractor to construct or reconstruct a Construction Project for which the Consultant is performing Services.
- B. Construction Contractor. The individual, partnership, corporation, joint venture, or other legal entity performing a Construction Contract for the Secretary.
- C. Consultant. The Consultant firm, its employees, subconsultants, and any other Consultant-retained agents that will be performing services for the Secretary.
- D. KDOT. The Kansas Department of Transportation.
- E. Negligence. Those acts, errors, or omissions in the Consultant's services that fail to meet the degree of care, skill, and diligence ordinarily exercised by members of the same profession in the same locality under similar circumstances.
- F. Problem. The Consultant's negligence, the Consultant's alleged negligence, or the Consultant's failure to comply with its obligations under an agreement with the Secretary.
- G. Secretary. The Secretary of Transportation of the State of Kansas.
- H. State Transportation Engineer. The KDOT Deputy Secretary of Engineering & State Transportation Engineer of the State of Kansas.
- I. Chief of Design. The KDOT Director of the Division of Engineering and Design, or his or her designee.
- J. Solution. Corrective action(s) to overcome a Problem, including without limitation: 1) the Consultant revising reports, technical data, special provisions, plans, or a combination thereof; 2) the Secretary hiring a third party to make revisions to final reports, technical data, special provisions, plans, or a combination thereof; 3) the Secretary using the Construction Contractor or retaining a third party to repair, remove, or remove and replace work performed on the Construction Contract.

## **II. KDOT'S AND CONSULTANT'S OBLIGATIONS UPON ENCOUNTERING A PROBLEM**

A. If a Problem presents an immediate danger to persons or property, the KDOT personnel shall take those steps necessary to fulfill the Secretary's obligations for public safety.

1. The KDOT personnel shall notify the Consultant and furnish information to the Consultant as provided in Section II.B; however, the Consultant may not be given time to investigate the Problem or assist in determining the Solution.
2. If the Chief of Design determines the Solution without the Consultant's input and the Consultant disagrees with the Solution, cost, or both, the Consultant may appeal to the State Transportation Engineer the Chief of Design's decision of the Solution, costs, or both. The Consultant shall file this appeal within 15 calendar days after the Chief of Design furnishes the Consultant a written decision on the Solution, cost, or both. The State Transportation Engineer will hold a formal, administrative hearing as provided in Section III below.

B. If KDOT personnel believe that a Problem may cause or has caused KDOT to incur economic or other damages and does not present an immediate danger to persons or property, the KDOT personnel will:

1. Notify verbally both the Consultant and the Chief of Design of the Problem upon discovering the Problem. Follow the verbal notice with written notice that identifies the Problem and the nature of the potential economic and other damages that may result from the Problem. Furnish a monetary estimate of the potential damages if possible.
2. Furnish to the Consultant and Chief of Design all relevant information KDOT personnel have on the Problem as soon as the information is obtained; and
3. Give the Consultant, in the written notice, a designated time to investigate the Problem and assist in determining the best Solution. KDOT will determine this time based on the nature of the Problem, the severity of the Problem, the Consultant's ability to respond, and the traveling public's needs, among other things. The Consultant's responsibility to mitigate damages is not restricted or controlled by the designated response time.

C. The Consultant and the Chief of Design will attempt to agree upon a Solution except when an immediate danger situation prevents such an attempt. The Consultant and the Chief of Design will attempt to agree upon the costs necessary to implement the Solution. The Chief of the Bureau of Design may hold an informal meeting to discuss potential Solutions, costs, or both.

1. If the Consultant does not offer a Solution(s) within the time KDOT designates in Section II.B or within a different time the parties have agreed upon and KDOT needs to minimize delay to third parties and minimize other damages (personal injury, property, or economic damages), the Chief of Design may determine the Solution without the Consultant's input. The Consultant waives the right to challenge the Solution the Chief of Design selects when the Consultant has

failed to offer its input timely although the Consultant does not waive the right to challenge the amount of the damages incurred.

2. If the Consultant offers a Solution(s) within a reasonable time and the Consultant and Chief of Design agree upon that Solution, their agreement will bind the Consultant and Secretary.

KDOT's agreement to the Solution is not an undertaking of the Consultant's responsibility for the Solution.

3. If the Consultant and Chief of Design are unable to agree upon a Solution, the cost of the Solution, or both, the Consultant may appeal to the State Transportation Engineer the Chief of Design's decision of the Solution, cost, or both. The Consultant shall file this appeal within 15 calendar days after the Chief of Design furnishes the Consultant a written decision on the Solution, cost, or both. The State Transportation Engineer will hold a formal, administrative hearing as provided in Section III below.

D. KDOT will endeavor to comply with Section II.B; however, KDOT field personnel may authorize the Construction Contractor or a third party to repair, remove, or remove and replace work performed on the Construction Contract without complying with Section II.B. KDOT's failure to give the Consultant notice, time to investigate the Problem, the opportunity to assist in determining the Solution, or a combination thereof is not a breach of contract or breach of good faith and fair dealing. KDOT's failure to give the Consultant notice, time to investigate the Problem, the opportunity to assist in determining the Solution, or a combination thereof does not excuse the Consultant's obligation to design the Solution and pay for the economic damages or other damages KDOT incurs because of the Problem. Yet, nothing in Section II prevents the Consultant from asserting that the Solution is arbitrary or the damages are excessive.

E. Nothing in this Section II prevents the Secretary from requiring the Consultant to design a particular Solution. If KDOT orders a particular Solution and the Solution is unsuccessful through no fault of the Consultant, the Secretary will bear the costs incurred in developing and implementing the unsuccessful Solution.

### **III. FINAL ADMINISTRATIVE HEARING AND APPEAL RIGHTS**

A. For Problems the Chief of Design and Consultant were unable to resolve under Section II of this Policy, the State Transportation Engineer will hold a formal, final administrative hearing or will appoint another hearing officer or a hearing panel to hold a formal, final administrative hearing.

1. The State Transportation Engineer has sole discretion to conduct the final administrative hearing or appoint another hearing officer or a panel for this purpose. Any hearing officer may be a KDOT employee or a non-KDOT employee. Any panel may consist of KDOT employees, non-KDOT employees, or a combination thereof.



2. If the Consultant requests a non-KDOT hearing officer or panel and the State Transportation Engineer grants this request, both parties will share equally the expense of the outside hearing officer or panel.

B. Time Period for Filing Appeals; Waiver. The Consultant shall file its appeal within 15 calendar days after the Chief of Design furnishes the Consultant a written decision on the Solution, cost, or both. Alternatively, the Consultant may obtain the Chief of Design's approval to file the appeal outside the 15-calendar day period. If the Consultant fails to file the appeal within the required 15 calendar days or fails to obtain a time extension, the Consultant waives the right to appeal the claim and accepts the Chief of Design's decision.

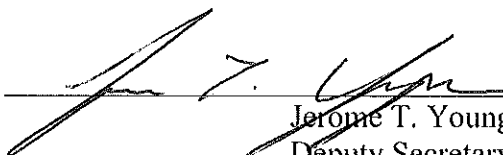
C. Hearing Procedure. The final administrative hearing will take the following form unless the Consultant and Secretary agree otherwise in writing.

- Before the hearing, the Consultant shall submit a written statement identifying the issues in dispute (questions of law and questions of fact);
- A court reporting service will record the hearing. A party may request a written transcript of the proceeding at that party's expense;
- All witnesses will testify under oath;
- A party may have Legal Counsel present. Counsel has the right to examine all witnesses;
- Formal rules of evidence do not apply. While hearsay is admissible generally, the hearing officer may require further substantiation or authentication of hearsay evidence;
- Legal Counsel may present a party's arguments; however, these arguments are not evidence. Thus, for the hearing officer to consider these arguments, Counsel's arguments must be supported by witness testimony, documentation provided to the hearing officer, or both; and
- The agency record will consist of the hearing transcript, all documentation submitted to the hearing officer or panel at the hearing, and all documentation the hearing officer or panel and State Transportation Engineer considered in reaching a decision.

D. Final Agency Decision. The State Transportation Engineer will issue a final agency decision whether the State Transportation Engineer conducts the hearing or appoints a hearing officer or panel to conduct the final administrative hearing. If a hearing officer or a panel conducted the final administrative hearing, the State Transportation Engineer will issue the Agency's final decision after:

- reviewing the hearing officer's or panel's decision with the agency record; and
- concurring in the decision or modifying the decision as the State Transportation Engineer deems best.

E. The State Transportation Engineer's decision under this Consultant Standard of Care Policy represents KDOT final agency action under the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions (KJRA) K.S.A. 77-601 et seq.

  
 \_\_\_\_\_  
 Jerome T. Younger, P.E.  
 Deputy Secretary for Engineering and  
 State Transportation Engineer

11/31/14  
 DATE

## Certificate of Final Indirect Costs\*

This is to certify that I have reviewed this proposal to establish the final indirect cost rate and to the best of my knowledge and belief:

1. All costs included in the proposal dated 04/12/2022 to establish final indirect cost rate of 191.01% for the period of 01/01/2021 to 12/31/2021  
(insert indirect (overhead) cost rate) (insert start & end date of applicable fiscal year of Firm)

are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) of title 48, Code of Federal Regulations (CFR), Part 31; and

2. This proposal does not include any costs which are expressly unallowable under applicable Federal cost principles of the Federal Acquisition Regulations (FAR) title 48, Code of Federal Regulations (CFR), Part 31.

Firm: GARVER

\*\*By: Beverly M. Roberson  
Signature

Name: BEVERLY M. ROBERSON  
Printed Name of Certifying Official

Title: PRINCIPLE ACCOUNTING OFFICER

Email: BMROBERSON@GARVERUSA.COM

Date: July 6, 2022

**\*Note:** the term "Indirect Cost Rate" may also be referred to elsewhere as the "overhead rate", "overhead multiplier" or the "indirect (overhead) cost rate" or similar alternative expressions.

**\*\*Federal regulation 23 CFR 172.11(c)(3)(ii) requires that the certifying official to be an individual executive or financial officer of the firm's organization at a level no lower than Vice President or Chief Financial Officer, or equivalent, who has the authority to represent the financial information utilized to establish the indirect cost rate submitted to KDOT.**

---

For KDOT to complete:

Firm Name: \_\_\_\_\_

Indirect (Overhead) Cost Rate: \_\_\_\_\_

Time Period (Firm's Fiscal Year) Covered by the Indirect (Overhead) Cost Rate: \_\_\_\_\_

## Certificate of Final Indirect Costs\*

This is to certify that I have reviewed this proposal to establish the final indirect cost rate and to the best of my knowledge and belief:

1. All costs included in the proposal dated August 31, 2022 to establish final indirect cost rate of 176.38 for the period of October 1, 2020 to September 30, 2021  
 (insert indirect (overhead) cost rate) (insert start & end date of applicable fiscal year of Firm)  
 are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) of title 48, Code of Federal Regulations (CFR), Part 31; and
2. This proposal does not include any costs which are expressly unallowable under applicable Federal cost principles of the Federal Acquisition Regulations (FAR) title 48, Code of Federal Regulations (CFR), Part 31.

Firm: Professional Engineering Consultants, P.A.

\*\*By: Lindsay M. Fuoss  
 Signature

Name: Lindsay Fuoss  
 Printed Name of Certifying Official

Title: Controller

Email: Lindsay.Fuoss@pec1.com

Date: 9-21-2022

**\*Note:** the term "Indirect Cost Rate" may also be referred to elsewhere as the "overhead rate", "overhead multiplier" or the "indirect (overhead) cost rate" or similar alternative expressions.

**\*\*Federal regulation 23 CFR 172.11(c)(3)(ii) requires that the certifying official to be an individual executive or financial officer of the firm's organization at a level no lower than Vice President or Chief Financial Officer, or equivalent, who has the authority to represent the financial information utilized to establish the indirect cost rate submitted to KDOT.**

---

For KDOT to complete:

Firm Name: \_\_\_\_\_

Indirect (Overhead) Cost Rate: \_\_\_\_\_

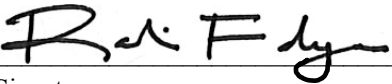
Time Period (Firm's Fiscal Year) Covered by the Indirect (Overhead) Cost Rate: \_\_\_\_\_

## Certificate of Final Indirect Costs\*

This is to certify that I have reviewed this proposal to establish the final indirect cost rate and to the best of my knowledge and belief:

1. All costs included in the proposal dated 11/8/2022 to establish final indirect cost rate of 162.84% for the period of 1/1/2022 to 12/31/2022  
 (insert indirect (overhead) cost rate) (insert start & end date of applicable fiscal year of Firm)  
 are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) of title 48, Code of Federal Regulations (CFR), Part 31; and
2. This proposal does not include any costs which are expressly unallowable under applicable Federal cost principles of the Federal Acquisition Regulations (FAR) title 48, Code of Federal Regulations (CFR), Part 31.

Firm: Vireo, LLC

\*\*By:   
 Signature

Name: Robin Fordyce  
 Printed Name of Certifying Official

Title: Owner

Email: robin@bevireo.com

Date: 1/17/2023

**\*Note:** the term “Indirect Cost Rate” may also be referred to elsewhere as the “overhead rate”, “overhead multiplier” or the “indirect (overhead) cost rate” or similar alternative expressions.

**\*\*Federal regulation 23 CFR 172.11(c)(3)(ii) requires that the certifying official to be an individual executive or financial officer of the firm’s organization at a level no lower than Vice President or Chief Financial Officer, or equivalent, who has the authority to represent the financial information utilized to establish the indirect cost rate submitted to KDOT.**

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For KDOT to complete:

Firm Name: \_\_\_\_\_

Indirect (Overhead) Cost Rate: \_\_\_\_\_

Time Period (Firm’s Fiscal Year) Covered by the Indirect (Overhead) Cost Rate: \_\_\_\_\_



Laura Kelly, Governor  
Mark A. Burghart, Secretary  
[www.ksrevenue.org](http://www.ksrevenue.org)

# CERTIFICATE OF TAX CLEARANCE

Garver, LLC  
DBA as Garver, LLC

ISSUE DATE  
03/14/2023

TRANSACTION ID  
TJH7-ETSE-F635

CONFIRMATION NUMBER  
C6MS-H3HJ-BCYJ

**TAX CLEARANCE VALID THROUGH 06/12/2023**

*Verification of this certificate can be obtained on our website, [www.ksrevenue.org](http://www.ksrevenue.org),  
or by calling the Kansas Department of Revenue at 785-296-3199*



Laura Kelly, Governor  
Mark A. Burghart, Secretary  
[www.ksrevenue.org](http://www.ksrevenue.org)

# CERTIFICATE OF TAX CLEARANCE

Professional Engineering Consultants, P.  
DBA as Professional Engineering Consultants, P.

ISSUE DATE  
02/09/2023

TRANSACTION ID  
TSTB-KDAT-84X5

CONFIRMATION NUMBER  
C77N-TF7R-G6B6

**TAX CLEARANCE VALID THROUGH 05/10/2023**

*Verification of this certificate can be obtained on our website, [www.ksrevenue.org](http://www.ksrevenue.org),  
or by calling the Kansas Department of Revenue at 785-296-3199*



Laura Kelly, Governor  
Mark A. Burghart, Secretary  
[www.ksrevenue.org](http://www.ksrevenue.org)

# CERTIFICATE OF TAX CLEARANCE

Vireo LLC  
DBA as Vireo

ISSUE DATE  
01/27/2023

TRANSACTION ID  
TXMA-PSBX-ESB2

CONFIRMATION NUMBER  
CR6G-3ASA-XMT3

**TAX CLEARANCE VALID THROUGH 04/27/2023**

*Verification of this certificate can be obtained on our website, [www.ksrevenue.org](http://www.ksrevenue.org),  
or by calling the Kansas Department of Revenue at 785-296-3199*

## **Policy Regarding Sexual Harassment**

**WHEREAS**, sexual harassment and retaliation for sexual harassment claims are unacceptable forms of discrimination that must not be tolerated in the workplace; and

**WHEREAS**, state and federal employment discrimination laws prohibit sexual harassment and retaliation in the workplace; and

**WHEREAS**, officers and employees of the State of Kansas are entitled to working conditions that are free from sexual harassment, discrimination, and retaliation; and

**WHEREAS**, the Governor and all officers and employees of the State of Kansas should seek to foster a culture that does not tolerate sexual harassment, retaliation, and unlawful discrimination.

**NOW THEREFORE**, pursuant to the authority vested in me as Governor of the State of Kansas, I hereby order as follows:

1. All Executive Branch department and agency heads shall have available, and shall regularly review and update at least every three years or more frequently as necessary, their sexual harassment, discrimination, and retaliation policies. Such policies shall include components for confidentiality and anonymous reporting, applicability to intern positions, and training policies.
2. All Executive Branch department and agency heads shall ensure that their employees, interns, and contractors have been notified of the state's policy against sexual harassment, discrimination, or retaliation, and shall further ensure that such persons are aware of the procedures for submitting a complaint of sexual harassment, discrimination, or retaliation, including an anonymous complaint.
3. Executive Branch departments and agencies shall annually require training seminars regarding the policy against sexual harassment, discrimination, or retaliation. All employees shall complete their initial training session pursuant to this order by the end of the current fiscal year.
4. Within ninety (90) days of this order, all Executive Branch employees, interns, and contractors under the jurisdiction of the Office of the Governor shall be provided a written copy of the policy against sexual harassment, discrimination, and retaliation, and they shall execute a document agreeing and acknowledging that they are aware of and will comply with the policy against sexual harassment, discrimination, and retaliation.
5. Matters involving any elected official, department or agency head, or any appointee of the Governor may be investigated by independent legal counsel.
6. The Office of the Governor will require annual mandatory training seminars for all staff, employees, and interns in the office regarding the policy against sexual harassment, discrimination, and retaliation, and shall maintain a record of attendance.



7. Allegations of sexual harassment, discrimination, or retaliation within the Office of the Governor will be investigated promptly, and violations of law or policy shall constitute grounds for disciplinary action, including dismissal.
8. This Order is intended to supplement existing laws and regulations concerning sexual harassment and discrimination, and shall not be interpreted to in any way diminish such laws and regulations. The Order provides conduct requirements for covered persons, and is not intended to create any new right or benefit enforceable against the State of Kansas.
9. Persons seeking to report violations of this Order, or guidance regarding the application or interpretation of this Order, may contact the Office of the Governor regarding such matters.

**Agreement to Comply with the Policy Against Sexual Harassment, Discrimination, and Retaliation.**

I hereby acknowledge that I have received a copy of the State of Kansas Policy Against Sexual Harassment, Discrimination, and Retaliation established by Executive Order 18-04 and agree to comply with the provisions of this policy.

Carver  
Contractor Name (Type or Print)

By: Nicci Tiner  
Signature

Nicci Tiner  
Printed Name

Vice President  
Title

3-3-23  
Date

**REQUIRED CONTRACT PROVISION  
CERTIFICATION -- BOYCOTT OF ISRAEL PROHIBITED**

In accordance with K.S.A. 75-3740f, the State of Kansas shall not enter into a contract with any Company to acquire or dispose of goods or services, including without limitation supplies, information technology or construction, with an aggregate price of more than \$100,000 unless such Company submits a written certification that such Company is not currently engaged in a boycott of goods or services from Israel that constitutes an integral part of business conducted or sought to be conducted with the State. 50 U.S.C. § 4607 prohibits any United States person engaged in interstate or foreign commerce from boycotting or taking actions that further or support "any boycott fostered or imposed by a foreign country against a country which is friendly to the United States", with limited exceptions.

Following award of the contract to the Consultant, the Consultant shall certify that the Consultant is not currently engaged in a boycott of goods or services from Israel. KDOT shall provide a copy of the Contractor Required Contract Provision 07-01-17-R01 (Certification) along with the contract. Sign and return to KDOT the Certification and the contract. The Secretary will not sign the contract until the Consultant has provided the Certification.

If the Consultant fails to submit the required Certification, the Secretary will cancel the award of contract to that Contractor and either re-award the contract to the next most highly ranked consultant.

As a Consultant entering into a contract with the Secretary of Transportation, as the principal contracting party for the State of Kansas or as the agent for a disclosed Local Public Authority, it is hereby certified that the Consultant listed below is not currently engaged in a boycott of Israel as set forth in K.S.A. 75-3740e and 75-3740f.

Nicci Tiner  
Signature of Consultant Representative

3.3.23  
Date

Nicci Tiner Vice President  
Printed Name and Title of Person Signing

Garver  
Consultant Name

254-08 KA-6499-01  
Project No.