

1 PROJECT NO. 87 N-0806-01
2 CRP-N080(601)
3 WAMPO TIP #BP-23-02
4 CONSTRUCTION OF MULTI-USE PATH ON EAST 53RD STREET
5 CITY OF BEL AIRE, KANSAS
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9 **A G R E E M E N T**

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11 This Agreement is between the **Secretary of Transportation**, Kansas Department of
12 Transportation (KDOT) (the “Secretary”) and the **City of Bel Aire** (“Project Sponsor”), **collectively**, the
13 “Parties.”
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15 **RECITALS:**

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17 A. The Wichita Area Metropolitan Planning Organization (WAMPO) has been designated by the
18 state of Kansas as the Metropolitan Planning Organization (MPO) for the Wichita metropolitan
19 region.
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21 B. The Project Sponsor has submitted a Project to the MPO and the MPO has approved Project
22 Sponsor’s Project for receipt of Carbon Reduction Program (CRP) federal funds.
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24 C. 23 U.S.C. 175 of the Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also
25 known as the “Bipartisan Infrastructure Law”), established CRP to reduce transportation
26 emissions through the development of state carbon reduction projects designed to reduce
27 transportation emissions. The Federal Highway Administration (FHWA) administers CRP and
28 funded by the Highway Trust Fund (HTF). The FHWA allocates funds to the states.
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30 D. The Secretary is authorized by the current Federal-Aid Transportation Act to set aside certain
31 portions of Federal funding allocated under the current Federal-Aid Transportation Act for Carbon
32 Reduction Program (CRP) projects.
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34 E. The Project Sponsor agrees to sponsor the Project, as further described in this Agreement.
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36 F. The Secretary and the Project Sponsor are empowered by the laws of Kansas to enter into
37 agreements for CRP funding for the development of such projects, and the Secretary is authorized
38 to administer funds for such projects.

39 **NOW THEREFORE**, in consideration of these premises and the mutual covenants set forth
40 herein, the Parties agree to the following terms and provisions.

ARTICLE I

DEFINITIONS: The following terms as used in this Agreement have the designated meanings:

1. **“Agreement”** means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.
2. **“Construction”** means the work done on the Project after Letting, consisting of building, altering, repairing, improving or demolishing any structure, building or pavement; any drainage, dredging, excavation, grading or similar work upon real property.
3. **“Construction Contingency Items”** mean unforeseeable elements of cost within the defined project scope identified after the Construction phase commences.
4. **“Construction Engineering” or “CE”** means inspection services, material testing, engineering consultation and other reengineering activities required during Construction of the Project.
5. **“CRP”** means the Carbon Reduction Program authorized under 23 U.S.C. § 175, funds to be used for activities for the reduction of transportation emissions and other eligible projects.
6. **“Design Plans”** means design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies necessary for the Project under this Agreement.
7. **“Effective Date”** means the date this Agreement is signed by the Secretary or the Secretary’s designee.
8. **“Encroachment”** means any building, structure, farming, vehicle parking, storage or other object or thing, including but not limited to signs, posters, billboards, roadside stands, fences, or other private installations, not authorized to be located within the Right of Way which may or may not require removal during Construction pursuant to the Design Plans.
9. **“Federal Government”** means the United States of America and any executive department or agency thereof.
10. **“FHWA”** means the Federal Highway Administration, a federal agency of the United States.
11. **Fiscal Year 2025” or “FFY 2025”** means the twelve-month period used by the United States Federal Government for financial reporting and budgeting beginning on October 1, 2024, and ending on September 30, 2025.
12. **“KDOT”** means the Kansas Department of Transportation, an agency of the state of Kansas, with its principal place of business located at 700 SW Harrison Street, Topeka, KS 66603-3745.
13. **“Letting” or “Let”** means the process of receiving bids prior to any award of a Construction contract for any portion of the Project.

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14. **“Non-Participating Costs”** means the costs of any items or services which the Secretary, acting on the Secretary’s own behalf and on behalf of the FHWA, reasonably determines are not Participating Costs.
 15. **“Participating Costs”** means expenditures for items or services which are an integral part of highway, bridge and road construction projects, as reasonably determined by the Secretary.
 16. **“Parties”** means the Secretary of Transportation and KDOT, individually and collectively, and the Sponsor.
 17. **“Project”** means **Project No. 87 N-0806-01; Construct 10 feet wide multi-use path on E 53rd Street from N Oliver Street to N Woodlawn Boulevard in Bel Aire, Kansas**, and is the subject of this Agreement.
 18. **“Project Sponsor”** means the City of Bel Aire, Kansas, with its place of business at 7651 E Central Park Avenue, Bel Aire, KS 67226.
 19. **“Responsible Bidder”** means one who makes an offer to construct the Project in response to a request for bid with the technical capability, financial capacity, human resources, equipment, and performance record required to perform the contractual services.
 20. **“Right of Way”** means the real property and interests therein necessary for Construction of the Project, including fee simple title, dedications, permanent and temporary easements, and access rights, as shown on the Design Plans.
 21. **“Secretary”** means the Secretary of Transportation of the State of Kansas, and the Secretary’s successors and assigns, and KDOT, individually and collectively.
 22. **“Urbanized Area”** means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an “urbanized area” by the U.S. Secretary of Commerce.
 23. **“Utilities” or “Utility”** means all privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, and other similar commodities, including non-transportation fire and police communication systems which directly or indirectly serve the public.
 24. **“Wichita Area Metropolitan Planning Organization” or “WAMPO”** means the Wichita area Metropolitan Planning Organization, with its place of business at 271 W 3rd Street N, Wichita, KS 67202.

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ARTICLE II

FUNDING:

Funding. The table below reflects the funding commitments of each Party. The Total Actual Costs of Construction include Construction Contingency Items. The Parties agree estimated costs and contributions are to be used for encumbrance purposes and may be subject to change. The Project Sponsor agrees to notify KDOT promptly in writing if costs increase by 10% or greater over the estimate.

Party	Funding Source	Responsibility
Secretary	Federal Funds	80% of Participating Costs of Construction and Construction Engineering (CE) in Fiscal Year 2025 up to a maximum of \$292,242
Project Sponsor	Local Match	20% of Participating Costs of Construction and CE until the Secretary's funding limit is reached 100% of Participating Costs of Construction and CE after the Secretary's funding limit is reached 100% of Costs of Preliminary Engineering, Right of Way, Utility adjustments, and Non-Participating Costs

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ARTICLE III

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SECRETARY RESPONSIBILITIES:

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1. **Technical Information on Right of Way Acquisition.** The Secretary will provide technical information upon request to help the Project Sponsor acquire Right of Way in accordance with the laws and with procedures established by KDOT's Bureau of Right of Way and the Office of Chief Counsel and as required by FHWA directives such that the Project Sponsor may obtain participation of federal funds in the cost of the Project.

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2. **Letting and Administration by KDOT.** The Secretary will Let the contract for the Project and shall award the contract to the lowest Responsible Bidder upon concurrence in the award by the Project Sponsor. The Secretary further agrees, as agent for the Project Sponsor, to administer the Construction of the Project in accordance with the final Design Plans, as required by FHWA, to negotiate with and report to the FHWA and administer the payments due the Contractor or the Consultant, including the portion of the cost borne by the Project Sponsor.

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3. **Indemnification by Contractors.** The Secretary will require the Contractor to indemnify, hold harmless, and save the Secretary and the Project Sponsor from personal injury and property damage claims arising out of the act or omission of the Contractor, the Contractor's agent, subcontractors, or suppliers. If the Secretary or the Project Sponsor defends a third party's claim, the

Contractor shall indemnify the Secretary and the Project Sponsor for damages paid to the third party and all related expenses either the Secretary or the Project Sponsor or both incur in defending the claim.

4. **Final Billing.** After receipt of FHWA acknowledgement of final voucher claim, the Secretary's Chief of Fiscal Services will, in a timely manner, prepare a complete and final billing of all Project costs for which the Project Sponsor is responsible and shall then transmit the complete and final billing to the Project Sponsor.

ARTICLE IV

PROJECT SPONSOR RESPONSIBILITIES:

1. **Secretary Authorization.** The Project shall be undertaken on behalf of the Project Sponsor by the Secretary acting in all things as its agent, and the Project Sponsor hereby constitutes and appoints the Secretary as its agent. All things done by the Secretary in connection with the Project are authorized, adopted, ratified, and confirmed by the Project Sponsor to the same extent and with the same effect as though done directly by the Project Sponsor acting in its own individual capacity. The Secretary is authorized by the Project Sponsor to take such steps as are deemed by the Secretary to be necessary or advisable for the purpose of securing the benefits of the current Federal-Aid Transportation Act for this Project.

2. **Legal Authority.** By signature on this Agreement, the signatory certifies that the signatory has legal and actual authority as representative and agent for the Project Sponsor to enter into this Agreement on its behalf. The Project Sponsor agrees to take any administrative and/or legal steps as may be required to give full effect to the terms of this Agreement.

3. **Conformity with State and Federal Requirements.** The Project Sponsor shall be responsible to design the Project or contract to have the Project designed in conformity with the state and federal design criteria appropriate for the Project in accordance with the current American Institute of Architects (AIA) standards, the Secretary of the Interior's Standards for the Treatment of Historic Properties, the American Society of Landscape Architects guidelines, KDOT's Design Engineering Requirements, the current Local Projects LPA Project Development Manual, Bureau of Local Project's (BLP's) project memorandums, memos, the KDOT Design Manual, Geotechnical Bridge Foundation Investigation Guidelines, Bureau of Road Design's road memorandums, the latest version, as adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD), the current version of the Bureau of Traffic Engineering's Traffic Engineering Guidelines, and the current version of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions, and any necessary Project Special Provisions, and with the rules and regulations of the FHWA pertaining to the Project. The Project Sponsor will be responsible for construction of any traffic signal and/or sidewalk improvements that are necessary to comply with Public Right-of-Way Accessibility Guidelines (PROWAG), regardless of whether such improvements are deemed non-eligible/non-participating bid items by the Secretary for reimbursement purposes.

4. **Design and Specifications.** The Project Sponsor shall be responsible to make or contract to have made Design Plans for the Project.

198 5. **Submission of Design Plans to Secretary.** Upon their completion, the Project Sponsor
199 shall have the Design Plans submitted to the Secretary by a licensed professional engineer, a licensed
200 professional architect, and/or licensed landscape architect, as applicable, attesting to the conformity of
201 the Design Plans with the items in Article IV, paragraph 3 above. The Design Plans must be signed and
202 sealed by the licensed professional engineer, licensed professional architect, and/or licensed landscape
203 architect, as applicable, responsible for preparation of the Design Plans. In addition, geological
204 investigations or studies must be signed and sealed by either a licensed geologist or licensed professional
205 engineer, who is responsible for the preparation of the geological investigations or studies. All technical
206 professionals involved in the Project are required to meet the applicable licensing and/or certification
207 requirements as stated in K.S.A. § 74-7001, *et seq.*
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209 6. **Consultant Contract Language.** The Project Sponsor shall include language requiring
210 conformity with Article IV, paragraph 3 above, in all contracts between the Project Sponsor and any
211 Consultant with whom the Project Sponsor has contracted to perform services for the Project. In addition,
212 any contract between the Project Sponsor and any Consultant retained by them to perform any of the
213 services described or referenced in this paragraph for the Project covered by this Agreement must contain
214 language requiring conformity with Article IV, paragraph 3 above. In addition, any contract between the
215 Project Sponsor and any Consultant with whom the Project Sponsor has contracted to prepare and certify
216 Design Plans for the Project covered by this Agreement must also contain the following provisions:
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- 218 (a) **Completion of Design.** Language requiring completion of all plan
219 development stages no later than the current Project schedule's due dates
220 as issued by KDOT, exclusive of delays beyond the Consultant's control.
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- 222 (b) **Progress Reports.** Language requiring the Consultant to submit to the
223 Project Sponsor (and to the Secretary upon request) progress reports at
224 monthly or at mutually agreed intervals in conformity with the official
225 Project schedule.
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- 227 (c) **Third-Party Beneficiary.** Language making the Secretary a third-party
228 beneficiary in the agreement between the Project Sponsor and the
229 Consultant. Such language shall read:

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231 "Because of the Secretary of Transportation of the State of Kansas'
232 (Secretary's) obligation to administer state funds, federal funds, or both,
233 the Secretary shall be a third-party beneficiary to this agreement between
234 the Project Sponsor and the Consultant. This third-party beneficiary status
235 is for the limited purpose of seeking payment or reimbursement for
236 damages and costs the Secretary or the Project Sponsor or both incurred
237 or will incur because the Consultant failed to comply with its contract
238 obligations under this Agreement or because of the Consultant's negligent
239 acts, errors, or omissions. Nothing in this provision precludes the Project
240 Sponsor from seeking recovery or settling any dispute with the Consultant
241 as long as such settlement does not restrict the Secretary's right to payment
242 or reimbursement."

243 7. **Responsibility for Adequacy of Design.** The Project Sponsor shall be responsible for
244 and require any Consultant retained by it to be responsible for the adequacy and accuracy of the Design
245 Plans for the Project. Any review of these items performed by the Secretary or the Secretary's
246 representatives is not intended to and shall not be construed to be an undertaking of the Project Sponsor's
247 and its Consultant's duty to provide adequate and accurate Design Plans for the Project. Reviews by the
248 Secretary are not done for the benefit of the Consultant, the construction Contractor, the Project Sponsor,
249 any other political subdivision, or the traveling public. The Secretary makes no representation, express
250 or implied warranty to any person or entity concerning the adequacy or accuracy of the Design Plans for
251 the Project, or any other work performed by the Consultant or the Project Sponsor.

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253 8. **Design Exception Indemnification.** Any design exception to the current version of the
254 American Association of State Highway and Transportation Officials (AASHTO) Design Standards
255 shall be in accordance with 23 C.F.R. § 625. For any design exception, the Project Sponsor agrees to the
256 extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act
257 (K.S.A. § 75-6101, *et seq.*) to defend, indemnify, hold harmless, and save the Secretary and the
258 Secretary's authorized representatives from any and all costs, liabilities, expenses, suits, judgments,
259 damages to persons or property or claims of any nature whatsoever arising out of or in connection with
260 the design exceptions for this Agreement by the Project Sponsor, the Project Sponsor's employees, or
261 subcontractors.

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263 9. **Authorization of Signatory.** The Project Sponsor shall authorize a duly appointed
264 representative to sign for the Project Sponsor any or all routine reports as may be required or requested
265 by the Secretary in the completion of the Project.

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267 10. **Right of Way.** The Project Sponsor agrees to the following with regard to Right of Way:

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269 (a) **Right of Way Acquisition.** The Project Sponsor will, in its own name, as provided
270 by law, acquire by purchase, dedication or condemnation all the Right of Way shown on the final
271 Design Plans in accordance with the schedule established by KDOT. The Project Sponsor agrees
272 the necessary Right of Way shall be acquired in compliance with the Uniform Relocation
273 Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface
274 Transportation and Uniform Relocation Assistance Act of 1987, and administrative regulations
275 contained in 49 C.F.R. Part 24, entitled Uniform Relocation Assistance and Real Property
276 Acquisition for Federal and Federally Assisted Programs. The Project Sponsor shall certify to
277 the Secretary, on forms provided by the KDOT's Bureau of Local Projects, such Right of Way
278 has been acquired. The Project Sponsor further agrees it will have recorded in the Office of the
279 Register of Deeds all Right of Way, deeds, dedications, permanent easements, and temporary
280 easements.

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282 (b) **Right of Way Documentation.** The Project Sponsor will provide all legal
283 descriptions required for Right of Way acquisition work. Right of Way descriptions must be
284 signed and sealed by a licensed land surveyor responsible for the preparation of the Right of Way
285 descriptions. The Project Sponsor further agrees to acquire Right of Way in accordance with the
286 laws and with procedures established by KDOT's Bureau of Right of Way and the Office of
287 Chief Counsel and as required by FHWA directives for the participation of federal funds in the
288 cost of the Project. The Project Sponsor agrees copies of all documents, including

289 recommendations and coordination for appeals, bills, contracts, journal entries, case files, or
290 documentation requested by the Office of Chief Counsel will be delivered within the time limits
291 set by the Secretary.
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293 (c) Relocation Assistance. The Project Sponsor will contact the Secretary if there will
294 be any displaced person on the Project prior to making the offer for the property. The Parties
295 mutually agree the Project Sponsor will undertake the relocation for eligible persons as defined
296 in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as
297 amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and as
298 provided in 49 C.F.R. Part 24, entitled Uniform Relocation Assistance and Real Property
299 Acquisition for Federal and Federally Assisted Programs, and in general accordance with K.S.A.
300 §§ 58-3501 to 58-3507, inclusive, and Kansas Administrative Regulations 36-16-1, *et seq.* The
301 Secretary will provide information, guidance, and oversight to the Project Sponsor for any
302 relocations required by the Project.
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304 (d) Non-Highway Use of Right of Way. Except as otherwise provided, all Right of
305 Way provided for the Project shall be used solely for public street purposes. Any disposal of or
306 change in the use of Right of Way or in access after Construction of the Project will require prior
307 written approval by the Secretary.
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309 (e) Use of Right of Way. The Secretary shall have the right to utilize any land owned
310 or controlled by the Project Sponsor, lying inside or outside the limits of the Project Sponsor as
311 shown on the final Design Plans, for the purpose of constructing the Project.
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313 11. **Removal of Encroachments**. The Project Sponsor shall initiate and proceed with
314 diligence to remove or require the removal of all Encroachments either on or above the limits of the
315 Right of Way within its jurisdiction as shown on the final Design Plans for this Project. It is further
316 agreed all such Encroachments will be removed before the Project is advertised for Letting; except the
317 Secretary may permit the Project to be advertised for Letting before such Encroachment is fully removed
318 if the Secretary determines the Project Sponsor and the owner of the Encroachment have fully provided
319 for the physical removal of the Encroachment and such removal will be accomplished within a time
320 sufficiently short to present no hindrance or delay to the Construction of the Project.
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322 12. **Future Encroachments**. Except as provided by state and federal laws, the Project
323 Sponsor agrees it will not in the future permit Encroachments upon the Right of Way of the Project, and
324 specifically will require any gas and fuel dispensing pumps erected, moved, or installed along the Project
325 be placed a distance from the Right of Way line no less than the distance permitted by the National Fire
326 Code.
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328 13. **Utilities**. The Project Sponsor agrees to the following with regard to Utilities:

329 (a) Utility Relocation. The Project Sponsor will move or adjust, or cause to be moved
330 or adjusted, and will be responsible for such removal or adjustment of all existing Utilities
331 necessary to construct the Project in accordance with the final Design Plans. New or existing
332 Utilities to be installed, moved, or adjusted will be located or relocated in accordance with the

333 current version of the KDOT Utility Accommodation Policy (UAP), as amended or
334 supplemented.

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336 (b) Status of Utilities. The Project Sponsor shall furnish the Secretary a list
337 identifying existing and known Utilities affected, together with locations and proposed
338 adjustments of the same and designate a representative to be responsible for coordinating the
339 necessary removal or adjustment of Utilities.

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341 (c) Time of Relocation. The Project Sponsor will expeditiously take such steps as are
342 necessary to facilitate the early adjustment of any Utilities, initiate the removal or adjustment of
343 the Utilities, and proceed with reasonable diligence to prosecute this work to completion. The
344 Project Sponsor shall certify to the Secretary on forms supplied by the Secretary that all Utilities
345 required to be moved prior to Construction have either been moved or a date provided by the
346 Project Sponsor as to when, prior to the scheduled Letting and Construction, Utilities will be
347 moved. The Project Sponsor shall move or adjust or cause to be moved or adjusted all necessary
348 Utilities within the time specified in the Project Sponsor's certified form except those necessary
349 to be moved or adjusted during Construction and those which would disturb the existing street
350 surface. The Project Sponsor will initiate and proceed to complete adjusting the remaining
351 Utilities not required to be moved during Construction so as not to delay the Contractor in
352 Construction of the Project.

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354 (d) Permitting of Private Utilities. The Project Sponsor shall certify to the Secretary
355 all privately owned Utilities occupying public Right of Way required for the Construction of the
356 Project are permitted at the location by franchise, ordinance, agreement or permit and the
357 instrument shall include a statement as to which party will bear the cost of future adjustments or
358 relocations required as a result of street or highway improvements.

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360 (e) Indemnification. To the extent permitted by law and the Kansas Tort Claims Act
361 (K.S.A. § 75-6101, *et seq.*), the Project Sponsor will indemnify, hold harmless, and save the
362 Secretary and the Contractor for damages incurred by the Secretary and Contractor because
363 identified Utilities have not been moved or adjusted timely or accurately.

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365 (f) Cost of Relocation. Except as provided by state and federal laws, the expense of
366 the removal or adjustment of the Utilities located on public Right of Way shall be borne by the
367 owners. The expense of the removal or adjustment of privately owned Utilities located on private
368 Right of Way or easements shall be borne by the Project Sponsor except as provided by state and
369 federal laws.

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371 14. Hazardous Waste. The Project Sponsor agrees to the following with regard to Hazardous
372 Waste:

373 (a) Removal of Hazardous Waste. The Project Sponsor shall locate and be responsible
374 for remediation and cleanup of any Hazardous Waste discovered within the Project Limits. The
375 Project Sponsor shall take appropriate action to cleanup and remediate any identified Hazardous
376 Waste prior to Letting. The Project Sponsor will also investigate all Hazardous Waste discovered
377 during Construction and shall take appropriate action to cleanup and remediate

378 Hazardous Waste. The standards to establish cleanup and remediation of Hazardous Waste
379 include, but are not limited to, federal programs administered by the Environmental Protection
380 Agency, State of Kansas environmental laws and regulations, and City and County standards
381 where the Hazardous Waste is located.
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383 (b) Responsibility for Hazardous Waste Remediation Costs. The Project Sponsor
384 shall be responsible for all damages, fines or penalties, expenses, fees, claims, and costs incurred
385 from remediation and cleanup of any Hazardous Waste within the Project Limits which is
386 discovered prior to Letting or during Construction.
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388 (c) Hazardous Waste Indemnification. The Project Sponsor shall hold harmless,
389 defend, and indemnify the Secretary, the Secretary's agents and employees from all claims,
390 including contract claims and associated expenses, and from all fines, penalties, fees or costs
391 imposed under state or federal laws arising out of or related to any act of omission by the Project
392 Sponsor in undertaking cleanup or remediation for any Hazardous Waste.
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394 (d) No Waiver. By signing this Agreement the Project Sponsor has not repudiated,
395 abandoned, surrendered, waived or forfeited its right to bring any action, seek indemnification or
396 seek any other form of recovery or remedy against any third party responsible for any Hazardous
397 Waste on any Right of Way within the Project Limits. The Project Sponsor reserves the right to
398 bring any action against any third party for any Hazardous Waste on any Right of Way within
399 the Project Limits.
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401 15. Inspections. The Project Sponsor is responsible to provide Construction Engineering for
402 the Project in accordance with the rules and guidelines developed for the current KDOT approved
403 construction engineering program and in accordance with the current edition of the KDOT Standard
404 Specifications for State Road and Bridge Construction with Special Provisions and any necessary Project
405 Special Provisions. The detailed inspection is to be performed by the Project Sponsor or the Consultant.
406 The Secretary does not undertake for the benefit of the Project Sponsor, the Contractor, the Consultant
407 or any third party the duty to perform the day-to-day detailed inspection of the Project, or to catch the
408 Contractor's errors, omissions, or deviations from the final Design Plans. The Project Sponsor will
409 require at a minimum all personnel performing Construction Engineering to comply with the high
410 visibility requirements of the MUTCD, Chapter 6E.02, High-Visibility Safety Apparel. The agreement
411 for inspection services must contain this requirement as a minimum. The Project Sponsor may require
412 additional clothing requirements for adequate visibility of personnel.
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414 16. Traffic Control. The Project Sponsor agrees to the following with regard to traffic
415 control for the Project:

416 (a) Temporary Traffic Control. The Project Sponsor shall provide a temporary traffic
417 control plan within the Design Plans, which includes the Project Sponsor plan for handling multi-
418 modal traffic during Construction, including detour routes and road closings, if necessary, and
419 installation of alternate or temporary pedestrian accessible paths to pedestrian facilities in the
420 public Right of Way within the Project Limits. The Project Sponsor's temporary traffic control
421 plan must be in conformity with the latest version of the Manual on Uniform Traffic Control
422 Devices (MUTCD), as adopted by the Secretary, and be in compliance with the American

423 Disabilities Act of 1990 (ADA) and its implementing regulations at 28 C.F.R. Part 35, and
424 FHWA rules, regulations, and guidance pertaining to the same. The Secretary or the Secretary's
425 authorized representative may act as the Project Sponsor's agent with full authority to determine
426 the dates when any road closings will commence and terminate. The Secretary or the Secretary's
427 authorized representative shall notify the Project Sponsor of the determinations made pursuant
428 to this section.

430 (b) Permanent Traffic Control. The location, form, and character of informational,
431 regulatory, and warning signs, of traffic signals and of curb and pavement or other markings
432 installed or placed by any public authority, or other agency as authorized by K.S.A. § 8-2005,
433 must conform to the latest version of the MUTCD as adopted by the Secretary.

435 (c) Parking Control. If applicable, the Project Sponsor will control parking of vehicles
436 on the city streets throughout the length of the Project covered by this Agreement. On-street
437 parking will be permitted until such time as parking interferes with the orderly flow of traffic
438 along the street.

440 (d) Traffic Movements. The arterial characteristics inherent in the Project require
441 uniformity in information and regulations to the end that traffic may be safely and expeditiously
442 served. The Project Sponsor shall adopt and enforce rules and regulations governing traffic
443 movements as may be deemed necessary or desirable by the Secretary and the FHWA.

445 17. Access Control. The Project Sponsor will maintain the control of access rights and
446 prohibit the construction or use of any entrances or access points along the Project within the City other
447 than those shown on the final Design Plans unless prior approval is obtained from the Secretary.

449 18. Maintenance. When the Project is completed and final acceptance is issued, the Project
450 Sponsor will, at its own cost and expense, maintain the Project and will make ample provision each year
451 for such maintenance. If notified by the State Transportation Engineer of any unsatisfactory maintenance
452 condition, the Project Sponsor will begin the necessary repairs within thirty (30) days and will prosecute
453 the work continuously until it is satisfactorily completed.

455 19. Remittance of Estimated Share. The Project Sponsor shall deposit with the Secretary
456 its estimated share of the total Project expenses based upon estimated approved contract quantities. The
457 Project Sponsor will remit its estimated share by the date indicated on the resolution form Authorization
458 to Award Contract, Commitment of City/County Funds received by the Project Sponsor from the
459 Secretary. The date indicated for the Project Sponsor to deposit its estimated share of the total Project
460 expenses is fifty (50) days after the Letting date.

462 20. Payment of Final Billing. If any payment is due to the Secretary, such payment shall be
463 made within thirty (30) days after receipt of a complete and final billing from the Secretary's Chief of
464 Fiscal Services.

465 21. Accounting. Upon request by the Secretary and in order to enable the Secretary to report
466 all costs of the Project to the legislature, the Project Sponsor shall provide the Secretary an accounting
467 of all actual Non-Participating Costs which are paid directly by the Project Sponsor to any party outside

of the Secretary and all costs incurred by the Project Sponsor not to be reimbursed by the Secretary for Preliminary Engineering, Right of Way, Utility adjustments, Construction, and Construction Engineering work phases, or any other major expense associated with the Project.

22. **Project Costs Prior to FHWA Approval.** The Project Sponsor agrees to be responsible for one hundred percent (100%) of any Project costs incurred by the Project Sponsor for the Project prior to the funding for the Project being authorized, obligated, and approved by the FHWA.

23. **Compliance with Laws.** The Project Sponsor shall comply with all local, state, and Federal laws and regulations relating to the performance of this Agreement. Furthermore, the Project Sponsor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause KDOT to be in violation of the FTA terms and conditions.

24. **Restricted Funding Source.** The Project Sponsor acknowledges and understands Secretary's share of the Project's total, actual, and eligible costs will be funded through federal aid. The Secretary does not assume any liability in connection with the Project. The Project Sponsor shall reimburse the Secretary for any funds approved for this Project and expended by the Secretary for which the Secretary is not reimbursed by the Federal Government.

25. **Cancellation by Project Sponsor.** If the Project Sponsor cancels the Project, it will reimburse the Secretary for any costs incurred by the Secretary prior to the cancellation of the Project. The Project Sponsor agrees to reimburse the Secretary within thirty (30) days after receipt by the Project Sponsor of the Secretary's statement of cost incurred by the Secretary prior to the cancellation of the Project.

ARTICLE V

GENERAL FEDERAL REQUIREMENTS:

1. **Anti-Lobbying.** If the total value of this agreement exceeds \$100,000.00, a **Certification for Federal Aid Contracts and Accompanying Disclosure of Lobbying Activities Attachment** will be attached and made a part of this Agreement. Such certification must state the recipient of the federal grant will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. 2 C.F.R. § Pt. 200, App. II.

2. **FHWA Approval.** This Agreement is subject to the approval of the Federal Highway Administration (FHWA).

3. **Debarment & Suspension.** If the total value of this Agreement exceeds \$25,000.00, this Agreement is a covered transaction for purposes of 2 C.F.R. Parts 180 and 1200. Therefore, the LPA is required to verify that neither it nor its principals or agents is presently debarred, suspended, proposed for debarment, declared ineligible, disqualified, or voluntarily excluded from participation in this

510 transaction by any federal department or agency. A **Certification as to Current History Regarding**
511 **Debarment, Eligibility, Indictments, Convictions, or Civil Judgments Attachment** will be attached
512 to and made a part of this Agreement. 2 C.F.R. § 200.213.
513

514 4. **Davis-Bacon Act Requirements.** As provided at 23 U.S.C. 133(i), all projects funded
515 with STBG funding, notwithstanding any other provision of law, shall be treated as located on a
516 Federal-aid highway. Accordingly, 23 U.S.C 113 applies, and Davis-Bacon wage rates must be paid. In
517 general, Davis-Bacon requires that all laborers and mechanics employed by the applicant,
518 subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair
519 work on an award or project in excess of \$2000 funded directly by or assisted in whole or in part by
520 funds made available under STBG shall be paid wages at rates not less than those prevailing on similar
521 projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of
522 chapter 31 of title 40, United States Code commonly referred to as the “Davis-Bacon Act” (DBA). For
523 additional guidance on how to comply with DBA provisions and clauses, see
524 <https://www.dol.gov/agencies/whd/government-contracts/construction> and
525 <https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>. See
526 also <https://www.fhwa.dot.gov/construction/cqit/dbacon.cfm>.
527

528 5. **System for Award Management.** The Project Sponsor has registered with the System
529 for Award Management (<http://www.sam.gov>), which provides a Unique Entity Identifier (SAM). The
530 Project Sponsor shall maintain such registration at all times during which it has active federal awards.
531

532 6. **Buy America Compliance.** The Parties agree to comply with the Buy America
533 requirements of 23 CFR § 635.410, as applicable, when purchasing items using Federal funds under this
534 Agreement. Buy America requires the Parties to purchase only steel and iron produced in the United
535 States, unless a waiver has been granted by FHWA or the product is subject to a general waiver. Costs
536 for applicable materials which are not certified either compliant or under waiver will not be reimbursed.
537 Buy America requirements apply to all contractors/subcontractors and should be incorporated through
538 appropriate contract provisions as needed.
539

540 7. **Prohibition on Certain Technologies.** All Parties agree that they will comply with 2
541 CFR § 200.216 and 2 CFR § 200.471 regulations. Such regulations provide that recipients and sub-
542 recipients of federal funds are prohibited from obligating or expending loan or grant funds to 1) procure
543 or obtain; 2) extend or renew a contract to procure or obtain, or; 3) or enter into a contract to procure or
544 obtain telecommunication or video surveillance equipment, services, or systems produced by: Huawei
545 Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); and Hytera
546 Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua
547 Technology Company (or any subsidiary or affiliate of such entities). Any expenditures for such
548 telecommunication or video surveillance equipment, services or systems are unallowable costs and will
549 not be reimbursed.
550

551 8. **Audit.** All local governmental units, state agencies or instrumentalities, non-profit
552 Organizations, institutions of higher education and Indian Tribal governments shall comply with
553 Federal-Aid Transportation Act and the requirements of 2 C.F.R. Part 200, “Uniform Administrative
554 Requirements, Cost Principles, and Audit Requirements for Federal Awards” (commonly known as the
555 “Supercircular”). Further, the Project Sponsor agrees to the following provisions:

556
557 (a) Audit. It is the policy of the Secretary to make any final payments to the Project
558 Sponsor for services related to the Project in a timely manner. The Audit Standards set forth in 2
559 C.F.R. Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit
560 Requirements for Federal Awards,” and specifically the requirements in Subpart F, 2 C.F.R. §
561 200.500, *et seq.* require either a single or program specific audit be performed by an independent
562 certified public accountant in accordance with these standards. All information audited and audit
563 standards and procedures shall comply with 2 C.F.R. § 200.500, *et seq.*
564

565 (b) Audit Report. The Secretary may pay any final amount due for the authorized
566 work performed based upon the Project Sponsor’s most recent Single or Program Specific Audit
567 Report “(Audit Report)” available and a desk review of the claim by the Contract Audit Section
568 of KDOT’s Bureau of Fiscal Services. The Project Sponsor, by executing this Agreement,
569 acknowledges the final payment is subject to all single or program specific audits which cover
570 the time period of the expenses being claimed for reimbursement. The Parties agree once the
571 Audit Report becomes available for the reimbursement period (normally should occur within a
572 period of 1-2 years), the Secretary will review the Audit Report for items which are declared as
573 not eligible for reimbursement. The Project Sponsor agrees to refund payment made by the
574 Secretary to the Project Sponsor for items subsequently found to be not eligible for
575 reimbursement by audit.
576

577 (c) Agency Audit. The Secretary and/or the FHWA may request, in their sole
578 discretion, to conduct an audit of the Project. Upon the request of the Secretary and/or the FHWA
579 for an audit, the Project Sponsor will participate and cooperate in the audit and shall make its
580 records and books available to representatives of the requesting agency for a period of five (5)
581 years after date of final payment under this Agreement. If the audit reveals payments have been
582 made with federal funds by the Project Sponsor for items considered Non-Participating Costs,
583 the Project Sponsor shall promptly reimburse the Secretary for such items upon notification by
584 the Secretary.
585

586 ARTICLE VI

587 GENERAL PROVISIONS:

- 588
- 589 1. Incorporation of Design Plans. The final Design Plans for the Project are by this
590 reference made a part of this Agreement.
591
 - 592 2. Amendments. Any change in this Agreement, whether by modification and/or
593 supplementation must be accomplished by a formal contract amendment or supplement signed and
594 approved by the duly authorized representatives of the Project Sponsor and the Secretary.
595
 - 596 3. Civil Rights Act. The **Civil Rights Attachment** pertaining to the implementation of the
597 Civil Rights Act of 1964, is attached and made a part of this Agreement.

598 4. **Contractual Provisions.** The provisions found in the current version of the **Contractual**
599 **Provisions Attachment (Form DA-146a)**, which is attached, are hereby incorporated into and made a
600 part of this Agreement.
601

602 5. **Headings.** All headings in this Agreement have been included for convenience of
603 reference only and are not to be deemed to control or affect the meaning or construction or the provisions
604 herein.
605

606 6. **Termination.** If, in the judgment of the Secretary, sufficient funds are not appropriated
607 to continue the function performed in this Agreement and for the payment of the charges hereunder, the
608 Secretary may terminate this Agreement at the end of its current fiscal year. The Secretary will participate
609 in all costs approved by the Secretary incurred prior to the termination of the Agreement.
610

611 7. **Binding Agreement.** This Agreement and all contracts entered into under the provisions
612 of this Agreement shall be binding upon the Secretary and the Project Sponsor and their successors in
613 office.
614

615 8. **No Third-Party Beneficiaries.** No third-party beneficiaries are intended to be created by
616 this Agreement and nothing in this Agreement authorizes third parties to maintain a suit for damages
617 pursuant to the terms or provisions of this Agreement.
618

619 9. **Counterparts.** This Agreement may be executed in several counterparts, each of which
620 shall be an original and all of which shall constitute but one and the same agreement.
621

622 10. **Severability.** If any provision of this Agreement, or any attachment hereto, is held
623 invalid, the invalidity does not affect other provisions which can be given effect without the invalid
624 provision, and to this end the provisions of this Agreement are severable.
625

626 ***The signature page immediately follows this paragraph.***

627
628 **IN WITNESS WHEREOF** the Parties have caused this Agreement to be signed by their duly
629 authorized officers as of the Effective Date.
630

631
632 Signed by the Mayor on this 1st day of July, 2025.
633

634
635 PROJECT SPONSOR:
636 CITY OF BEL AIRE, KANSAS
637

638
639
640
641 _____
642 JIM BENAGE, MAYOR
643

644
645 ATTEST:

646 APPROVED AS TO FORM ONLY:
647

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649
650 _____
651 MELISSA KREHBIEL, CITY CLERK
652

653 _____
654 MARIA SCHROCK, CITY ATTORNEY
655

656 _____
657 DATE

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657 DATE

(SEAL)

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INDEX OF ATTACHMENTS

674

Certification for Federal Aid Contracts and Accompanying Disclosure of Lobbying Activities

675

Certification as to Current History Regarding Debarment, Eligibility, Indictments, Convictions, or Civil Judgments

676

677

Certification Against Contingent Fees

678

Certificate of Compliance with K.S.A. § 46-239(c)

679

Policy Regarding Sexual Harassment

680

Certification of Company Not Currently Engaged in a Boycott of Goods or Services from Israel

681

Civil Rights Act

682

Contractual Provisions Attachment (DA-146a)

683

684

*Note – If left unchecked, then inapplicable.

Kansas Department of Transportation
Secretary of Transportation

By: _____

Greg M. Schieber, P.E. (Date)

Deputy Secretary and

State Transportation Engineer

Approved as to form:

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689 **Federal Funds Lobbying Certification Attachment**
690 **Required Contract Provision**

Definitions

1. **Designated Entity:** An officer or employee of any agency, a Member of Congress or any state legislature, an officer or employee of Congress or any state legislature, or an employee of a Member of Congress or any state legislature
2. **Federal Grant:** An award of financial assistance by the Federal government (Federal Aid Highway Program is considered a grant program)
3. **Influencing (or attempt):** Making, with the intent to influence, any communication to or appearance before any designated entity in connection with the making of any Federal grant
4. **Person:** An individual, corporation, company, association, authority, firm, partnership, society, state or local government
5. **Recipient:** All contractors, subcontractors or subgrantees, at any tier, of the recipient of fund received in connection with a Federal grant.

Explanation

As of December 23, 1989, Title 31 U.S.C. (new) Section 1352 limits the use of appropriated Federal funds to influence Federal contracting. Under this new section no appropriated funds may be used by the recipient of a Federal grant to pay any person to influence or attempt to influence a designated entity in connection with the naming of a Federal grant or the extension, renewal, amendment or modification of any grant. These restrictions apply to grants in excess of \$100,000.00. Submission of this Certification is required for participation in this Project by Federal Law. For each failure to file, a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 may be imposed.

Note: If funds other than appropriated Federal funds have or will be paid to influence or attempt to influence a designated entity it must be reported. If required, the reporting shall be made on KDOT Form No. 401, "Disclosure of Lobbying Activities", in accordance with its instructions. KDOT Form No. 401 is available through the Bureau of Design.

THE ABOVE DEFINITIONS, EXPLANATION AND NOTE ARE ADOPTED AND INCORPORATED BY REFERENCE IN THIS CERTIFICATION FOR ALL PURPOSES THE SAME AS IF SET OUT IN FULL IN IT.

The maker of this Certification states that it has been signed on the maker's behalf or, if on behalf of some other person, that the maker is vested with legal right and authority to bind and obligate the other person in the making of this Certification submitted in regard to this Agreement.

The maker certifies that: No Federal appropriated funds have been paid or will be paid by or on behalf of the maker, to any person, for influencing or attempting to influence any designated person in connection with the awarding of any Federal grant or the extension, continuation, renewal, amendment or modification of any Federal grant.

In the event that the maker subcontracts work in this Agreement, the maker will provide to and require the signing of this Certification by the subcontractor, and shall keep and maintain the original signed form as part of the contract with the subcontractor.

The maker understands that this Certification is a material representation of fact upon which reliance was placed as part of this transaction.

(Date)

By:

730 CERTIFICATION BY PARTICIPANTS AS TO CURRENT HISTORY
731 REGARDING DEBARMENT, ELIGIBILITY, INDICTMENTS, CONVICTIONS, OR
732 CIVIL JUDGMENTS
733

734
735 By signing this certificate, the Participant certifies that neither it nor its principals (owner, partner, director,
736 officer, principal investigator, project director, manager, auditor, or any other position involving the
737 administration of federal funds) is:

- 738
- 739 (1) not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility
740 by any federal agency;
 - 741 (2) has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal
742 agency within the past three years;
 - 743 (3) does not have a proposed debarment pending;
 - 744 (4) and has not been indicted, convicted, or had a civil judgment rendered against (it) by a court of
745 competent jurisdiction in any manner involving fraud or official misconduct within the past three
746 years.

747
748 List any exceptions here: _____
749
750

751 Exceptions will not necessarily result in denial of award, but will be considered in determining bidder or
752 respondent responsibility. For any exceptions noted, indicate below to whom it applies, initiating agency,
753 and dates of action.
754

755
756 Providing false information may result in criminal prosecution or administrative sanctions.

757 Participant/Firm's Name: _____

758 Address: _____

759 City/State/Zip: _____

760 Authorized Company Official's Name and Title: _____
761 (Typed or Printed)

762 Signature of Authorized Representative: _____
763
764
765
766
767
768 (Date)

769 **KANSAS DEPARTMENT OF TRANSPORTATION**
770 **CIVIL RIGHTS ACT ATTACHMENT**

771 **PREAMBLE**

772 The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI of the Civil Rights Act
773 of 1964 (78 Stat. 252, 42 U.S.C. § 2000d to 2000d-4) and other nondiscrimination requirements and the Regulations, hereby
774 notifies all contracting parties that it will affirmatively ensure that this contract will be implemented without discrimination
775 on the grounds of race, color, national origin, sex, age, disability, income-level or Limited English Proficiency (LEP).

776 **CLARIFICATION**
777

778 The term "Contractor" is understood to include the Contractor, the Contractor's assignees and successors in interest,
779 consultants, and all other parties to contracts or agreements with the Secretary of Transportation, Kansas Department of
780 Transportation. This Attachment shall govern should this Attachment conflict with provisions of the Document to which it is
781 attached.
782

783 **ASSURANCE APPENDIX A**
784

785 During the performance of this contract, the Contractor, for itself, its assignees and successors in interest, agrees as follows:

- 786 1. **Compliance with Regulations:** The Contractor will comply with the Acts and the Regulations relative to
787 nondiscrimination in its Federally-assisted programs of the U.S. Department of Transportation, the Federal
788 Highway Administration (FHWA), the Federal Transit Administration (FTA) or the Federal Aviation
789 Administration (FAA) as they may be amended from time to time which are herein incorporated by reference
790 and made a part of this contract.
791
- 792 2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not
793 discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors,
794 including procurements of materials and leases of equipment. The Contractor will not participate directly or
795 indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when
796 the contract covers any activity, project or program set forth in Appendix B of 49 CFR Part 21.
- 797 3. **Solicitations for Subcontractors, Including Procurements of Material and Equipment:** In all solicitations,
798 either by competitive bidding or negotiation made by the Contractor for work to be performed under a
799 subcontract, including procurements of materials, or leases of equipment, each potential subcontractor will be
800 notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations
801 relative to nondiscrimination on the grounds of race, color, or national origin.
802
- 803 4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the
804 Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other
805 sources of information, and its facilities as may be determined by the Recipient or the FHWA, FTA, or FAA to
806 be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information
807 required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information,
808 the Contractor will so certify to the Recipient or, the FHWA, FTA, or FAA as appropriate, and shall set forth
809 what efforts it has made to obtain the information.
810
- 811 5. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination
812 provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA, FTA, or FAA
813 may determine to be appropriate, including, but not limited to:
- 814 a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
815 b. cancelling, terminating or suspending a contract, in whole or in part.

- 816 6. **Incorporation of Provisions:** The Contractor will include the provisions of the paragraphs one (1) through six
817 (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the
818 Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any
819 subcontract or procurement as the Recipient or the FHWA, FTA, or FAA may direct as a means of enforcing
820 such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or
821 is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request
822 the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may
823 request the United States to enter into the litigation to protect the interests of the United States.

824
825 **ASSURANCE APPENDIX E**

826 During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest agrees to comply
827 with the following nondiscrimination statutes and authorities; including but not limited to:

- 828 • Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the
829 basis of race, color, national origin); and 49 CFR Part 21;
 - 830 • The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601),
831 (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-
832 aid programs and projects);
 - 833 • The Federal Aid Highway Act of 1973 (23 U.S.C. § 324 et. seq.), (prohibits discrimination on the basis of sex);
 - 834 • Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et. seq.) as amended, (prohibits discrimination on
835 the basis of disability); and 49 CFR Part 27;
 - 836 • The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et. seq.), prohibits discrimination on the basis
837 of age);
 - 838 • Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits
839 discrimination based on race, creed, color, national origin, or sex);
 - 840 • The Civil Rights Restoration Act of 1987 (PL No. 100-259), (Broadened the scope, coverage and applicability of
841 Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation
842 Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or
843 activities of the Federal-aid recipients, sub-recipients and Contractors, whether such programs or activities are
844 Federally funded or not);
 - 845 • Titles II and III of the Americans with Disabilities Act, (prohibit discrimination on the basis of disability in the
846 operation of public entities, public and private transportation systems, places of public accommodation, and certain
847 testing entities), (42 U.S.C. §§12131-12189as implemented by Department of Transportation regulations at 49
848 C.F.R. parts 37 and 38);
 - 849 • The Federal Aviation Administration’s nondiscrimination statute (49 U.S.C. § 47123), (prohibits discrimination on
850 the basis of race, color, national origin, and sex);
 - 851 • Title IX of the Education Amendments of 1972, as amended (prohibits you from discriminating because of sex in
852 education programs or activities), (20 U.S.C. § 1681).
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CONTRACTUAL PROVISIONS ATTACHMENT

873 Important: This form contains mandatory contract provisions and must be attached to or incorporated
874 in all copies of any contractual agreement. If it is attached to the non-State Agency
875 Contracting Party's standard contract form, that form must be altered to contain the
876 following provision:

877 The provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 05-
878 25), which is attached hereto, are hereby incorporated in this Contract and made a
879 part thereof.

880
881 The Parties agree that the following provisions are hereby incorporated into the
882 Contract to which it is attached and made a part thereof, said contract being the
883 _____ day of _____, 20_____.

- 884 1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every
885 provision in this attachment shall prevail and control over the terms of any other conflicting
886 provision in any other document relating to and a part of the Contract in which this attachment is
887 incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are
888 nullified.
889
- 890 2. **Kansas Law and Venue:** This Contract shall be subject to, governed by, and construed according
891 to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with
892 this Contract shall reside only in courts located in the State of Kansas.
893
- 894 3. **Termination Due to Lack of Funding Appropriation or Funding Source:** If, in the judgment of
895 the Director of Accounts and Reports, Department of Administration, sufficient funds are not
896 appropriated or no longer exist to continue the function performed in this Contract and for the
897 payment of the charges hereunder due to the loss of the funding source, the Contracting State
898 Agency may terminate this Contract immediately or at the end of its current fiscal year. The
899 Contracting State Agency agrees to give written notice of termination to the non-State Agency
900 Contracting Party at least thirty (30) days prior to the end of its current fiscal year and shall give
901 such notice for a greater period prior to the end of such fiscal year as may be provided in this
902 Contract, except that such notice shall not be required prior to ninety (90) days before the end of
903 such fiscal year. The non-State Agency Contracting Party shall have the right, at the end of such
904 fiscal year, to take possession of any equipment provided to the Contracting State Agency under
905 the contract. The Contracting State Agency will pay to the non-State Agency Contracting Party all
906 regular contractual payments incurred prior to the period of notification or through the end of the
907 fiscal year as determined by period of notification given by the Contracting State Agency, plus
908 contractual charges incidental to the return of any such equipment. Upon termination of the
909 Contract by the Contracting State Agency, title to any such equipment shall revert to the non-State
910 Agency Contracting Party at the end of the Contracting State Agency's current fiscal year. The
911 termination of the Contract pursuant to this paragraph shall not cause any penalty to be charged
912 to the Parties.
913
- 914 4. **Disclaimer of Liability:** No provision of this contract will be given effect that attempts to require
915 the Contracting State Agency to defend, hold harmless, or indemnify any non-State Agency
916 Contracting Party or third party for any acts or omissions. The liability of the Contracting State
917 Agency is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*).

- 918 5. **Anti-Discrimination Clause**: The non-State Agency Contracting Party agrees: (a) to comply with
919 the Kansas Act Against Discrimination (K.S.A. 44-1001, *et seq.*) and the Kansas Age
920 Discrimination in Employment Act (K.S.A. 44-1111, *et seq.*) and the applicable provisions of the
921 Americans With Disabilities Act (42 U.S.C. 12101, *et seq.*) (ADA), and Kansas Executive Order
922 No. 19-02, and to not discriminate against any person because of race, color, gender, sexual
923 orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran
924 status, disability status, marital or family status, genetic information, or political affiliation that is
925 unrelated to the person's ability to reasonably perform the duties of a particular job or position; (b)
926 to include in all solicitations or advertisements for employees, the phrase "equal opportunity
927 employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-
928 1116; (d) to include those provisions in every subcontract or purchase order so that they are
929 binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting
930 requirements of (c) above or if the non-State Agency Contracting Party is found guilty of any
931 violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a
932 breach of contract and the Contract may be cancelled, terminated or suspended, in whole or in
933 part, by the Contracting State Agency or the Kansas Department of Administration; (f) the non-
934 State Agency Contracting Party agrees to comply with all applicable state and federal anti-
935 discrimination laws and regulations; (g) the non-State Agency Contracting Party agrees all hiring
936 must be on the basis of individual merit and qualifications, and discrimination or harassment of
937 persons for the reasons stated above is prohibited; and (h) if it is determined that the non-State
938 Agency Contracting Party has violated the provisions of any portion of this paragraph, such
939 violation shall constitute a breach of contract and the Contract may be canceled, terminated, or
940 suspended, in whole or in part, by the Contracting State Agency or the Kansas Department of
941 Administration.
- 942
- 943 6. **Acceptance of Contract**: This Contract shall not be considered accepted, approved, or otherwise
944 effective until the statutorily required approvals and certifications have been given.
- 945
- 946 7. **Arbitration, Damages, Warranties**: Notwithstanding any language to the contrary, no
947 interpretation of this Contract shall find that the Contracting State Agency has agreed to binding
948 arbitration, or the payment of damages or penalties. Further, the Contracting State Agency does
949 not agree to pay attorney fees, costs, or late payment charges beyond those available under the
950 Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts
951 to exclude, modify, disclaim or otherwise attempt to limit any damages available to the Contracting
952 State Agency at law, including but not limited to the implied warranties of merchantability and
953 fitness for a particular purpose.
- 954
- 955 8. **Representative's Authority to Contract**: By signing this contract, the representative of the non-
956 State Agency Contracting Party thereby represents that such person is duly authorized by the non-
957 State Agency Contracting Party to execute this Contract on behalf of the non-State Agency
958 Contracting Party and that the non-State Agency Contracting Party agrees to be bound by the
959 provisions thereof.
- 960
- 961 9. **Responsibility for Taxes**: The Contracting State Agency shall not be responsible for, nor indemnify
962 a contractor for, any federal, state, or local taxes which may be imposed or levied upon the subject
matter of this Contract.
- 963
- 964 10. **Insurance**: The Contracting State Agency shall not be required to purchase any insurance against
965 loss or damage to property or any other subject matter relating to this Contract, nor shall this
966 Contract require them to establish a "self-insurance" fund to protect against any such loss or
967 damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*), the
968 non-State Agency Contracting Party shall bear the risk of any loss or damage to any property in
which the non-State Agency Contracting Party holds title.

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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 Contracting State Agency 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.
 14. **Restricted Funding Source:** The non-State Agency Contracting Party acknowledges and understands the Contracting State Agency's share of the Contract's total, actual, and eligible costs may be funded through the receipt of or reimbursement through federal funds. The Contracting State Agency does not assume any liability in connection with the Contract's total, actual, and eligible costs which may be paid through the receipt of or reimbursement through federal funds. The non-State Agency Contracting Party shall reimburse the Contracting State Agency for any funds approved for this Contract and expended by the Contracting State Agency for which the Contracting State Agency is not reimbursed by the Federal Government or for which such funds are determined by the Federal Government to no longer be available to be used by the Contracting State Agency for said Contract.