

PROJECT NO. 87 N-0678-01
STP-N067(801)
ROAD IMPROVEMENTS
CITY OF BEL AIRE, KANSAS

S U P P L E M E N T A L A G R E E M E N T N o . 2

This Agreement, made and entered into effective the date signed by the Secretary or designee, is by and between the **Secretary of Transportation**, Kansas Department of Transportation (KDOT) (the “Secretary”) and the **City of Bel Aire, Kansas** (“City”), collectively, the “Parties.”

RECITALS:

- A. The Parties entered into an Agreement (Agreement No. 120-18) dated November 1, 2018, for roadway reconstruction (the “Original Agreement”).
- B. In December 2020, the Parties mutually desired to supplement the Original Agreement by Supplemental Agreement No. 1 (SA1) to reflect an increase in the maximum federal funds allowed for the Project and make other necessary contract revisions.
- C. The Parties now mutually desire to supplement the Original Agreement to reflect an increase in the maximum federal funds allowed for the Project and to add provisions applicable to an installment schedule.
- D. The Parties therefore mutually desire to supplement the Original Agreement by this Agreement (SA2) to restate the necessary contract revisions desired in SA1 and to increase the maximum federal funds available for the Project.

NOW, THEREFORE, the Parties agree as follows:

1. On page 4 of the Original Agreement, Article III, paragraph 3, be replaced in its entirety to read as follows:

3. **Conformity with State and Federal Requirements.** The City 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 version of KDOT’s Local Projects LPA Project Development Manual or an equivalent City manual that the City certifies meets the provisions of the KDOT 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 Transportation Safety and Technology'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.

2. On page 6 of the Original Agreement, Article III, paragraph 9(b), be replaced in its entirety to read as follows:

(b) **Right of Way Documentation.** The City will provide all legal descriptions required for Right of Way acquisition work. Right of Way descriptions must be signed and sealed by a licensed land surveyor responsible for the preparation of the Right of Way descriptions. The City further agrees to 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 for the participation of federal funds in the cost of the Project.

3. On page 6 of the Original Agreement, Article III, paragraph 9(c), be replaced in its entirety to read as follows:

(c) **Relocation Assistance.** The City will contact the Secretary if there will be any displaced person on the Project prior to making the offer for the property. The Parties mutually agree the City will undertake the relocation of eligible persons as defined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and as provided in 49 C.F.R. Part 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, and in general accordance with K.S.A. 58-3501 to 58-3507, inclusive, and Kansas Administrative Regulations 36-16-1, *et seq.* The Secretary will provide information, guidance, and oversight to the City for any relocations required by the Project.

4. On pages 8 - 9 of the Original Agreement, Article III, paragraph 14, be replaced in its entirety to read as follows:

14. **Inspections.** The City is responsible to provide Construction Engineering for the Project in accordance with the rules and guidelines developed for the current KDOT approved construction engineering program and in accordance with the current edition of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions and any necessary Project Special Provisions. The detailed inspection is to be performed by the City or the Consultant. The Secretary does not undertake for the benefit of the City, the Contractor, the Consultant or any third party the duty to perform the day-to-day detailed inspection of the Project, or to catch the Contractor's errors, omissions, or deviations from the final Design Plans. The City will require at a minimum all personnel performing Construction Engineering to comply with the high visibility requirements of the MUTCD, Chapter 6E.02, High-Visibility Safety Apparel. The agreement for inspection services must contain this

requirement as a minimum. The City may require additional clothing requirements for adequate visibility of personnel.

5. On page 9 of the Original Agreement, Article III, paragraph 15(b), be replaced in its entirety to read as follows:

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

6. On page 10 of the Original Agreement, Article III, paragraph 21, be replaced in its entirety to read as follows:

21. **Payment of Final Billing.** If any payment not related to the Woodlawn reconstruction change order as stated in Article V, paragraph 2, is due to the Secretary, such payment shall be made within thirty (30) days after receipt of a complete and final billing from the Secretary's Chief of Fiscal Services.

7. On page 10 of the Original Agreement, Article III, paragraph 22, be replaced in its entirety to read as follows:

22. **Accounting.** Upon request by the Secretary and in order to enable the Secretary to report all costs of the Project to the legislature, the City shall provide the Secretary an accounting of all actual Non-Participating Costs which are paid directly by the City to any party outside of the Secretary and all costs incurred by the City for Preliminary Engineering, Right of Way, Utility adjustments, Construction, and Construction Engineering work phases, or any other major expense associated with the Project.

8. On page 10 of the Original Agreement, Article IV, paragraph 3, be replaced in its entirety to read as follows:

3. **Contractual Provisions.** The Provisions found in Contractual Provisions Attachment (DA-146a), which is attached hereto, are hereby incorporated in this contract and made a part hereof.

9. On page 11 of the Original Agreement, under Article IV, new paragraph 7, be added to read as follows:

7. **Prohibited Use of Certain Technologies.** All Parties agree to comply with 2 CFR 200.216 and 2 CFR 200.471 regulations. Such regulations provide that recipients and sub-recipients of federal funds are prohibited from obligating or expending loan or grant funds, if any, to 1) procure or obtain; 2) extend or renew a contract to procure or obtain, or; 3) or enter into a contract to procure or obtain telecommunication or video surveillance equipment,

services, or systems produced by: Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); and Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). Any expenditures for such telecommunication or video surveillance equipment, services or systems are unallowable costs and will not be reimbursed.

10. On page 11 of the Original Agreement, under Article IV, new paragraph 8, be added to read as follows:

8. **Severability.** If any provision of this Agreement is held invalid, the invalidity does not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this Agreement are severable.

11. On page 11 of the Original Agreement, under Article IV, new paragraph 9, be added to read as follows:

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

12. On page 11 of the Original Agreement, new Article V, be added to read as follows:

ARTICLE V

FUNDING:

1. **Funding.** The table below, excluding costs related to the Woodlawn reconstruction change order as stated in Article V, paragraph 2, reflects the estimated funding commitments of each Party. The Total Actual Costs of Construction include Construction Contingency Items.

The total estimated project cost is \$7,212,741.00.

Party	Responsibility	Total Projected Contribution (\$)
Secretary	FFY 2020 HIF funds: 80% of Actual Costs of Construction; Total Contribution to Actual Costs of Construction from this funding source not to exceed \$550,000.00	550,000.00
	FFY 2020 STP funds: 80% of Actual Costs of	5,029,150.00

	Construction and Construction Engineering (CE); Total Contribution to Actual Costs of Construction and CE from this funding source not to exceed \$5,029,150.00	
City	<p>20% of Actual Costs of Construction until Secretary's funding limit from FFY 2020 HIF funds is reached</p> <p>20% of Actual Costs of Construction and CE until Secretary's funding limit from FFY 2020 STP funds is reached</p> <p>100% of Total Actual Costs of Construction and CE after Secretary's funding limit from FFY 2020 HIF funds and FFY 2020 STP funds are reached</p> <p>100% of Costs of *Preliminary Engineering (PE), Right of Way, and Utility Adjustments</p> <p>100% of Non-Participating Costs</p> <p>*Any PE costs incurred by KDOT will be the responsibility of KDOT</p>	
Total Estimated Project Cost		7,212,741.00

2. **Woodlawn Reconstruction Change Order.** The Secretary will pay for the City's estimated cost of the change order and the additional inspection costs in the amount of \$7,794,784.57 with state funds and in return the City shall reimburse the Secretary annually over a 10-year period beginning March 15th following receipt of the final statement of cost. The annual payment received on or before March 15th each year shall be in an amount greater than or equal to 1/10th of the amount due on the final statement of cost.
13. **Counterparts.** This Supplemental Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

THIS SUPPLEMENTAL AGREEMENT shall not be construed to alter, modify, or void the terms, provisions or conditions of the Original Agreement, incorporated herein by reference, except as herein specifically provided.

Agreement No. 1156-25
Supplemental No. 2 to
Agreement No. 120-18
Project No. 87 N-0678-01
Bureau of Local Projects

IN WITNESS WHEREOF, the Parties have caused this Supplemental Agreement to be signed by their duly authorized officers.

ATTEST:

CITY OF BEL AIRE, KANSAS

CITY CLERK (Date)

MAYOR

(SEAL)

Agreement No. 1156-25
Supplemental No. 2 to
Agreement No. 120-18
Project No. 87 N-0678-01
Bureau of Local Projects

Kansas Department of Transportation
Secretary of Transportation

By: _____
Greg M. Schieber, P.E. (Date)
Deputy Secretary and
State Transportation Engineer