

5.0 COMMITMENTS

The following chapter includes a list of commitments and permits necessary for the design and construction of the Preferred Alternative.

5.1 Proposed Project Commitments

Table 5-1 summarizes the project and regulatory commitments that will be implemented by KDOT or the Contractor. It is planned that some phases of the project will be delivered using a Design-Build delivery method; in those instances, KDOT will be the lead agency ensuring all project and regulatory commitments are met by the selected Design-Build team.

Table 5-1: Proposed Project Commitments

Commitment Code	Commitment	Responsible Parties
C-1	Commitments are not subject to change without written approval from FHWA.	ALL
C-2	Acquire all properties needed for the Preferred Alternative in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 as amended (Uniform Act; 42 USC 4601), and other policies as appropriate.	KDOT
C-3	KDOT performed the Section 4(f) coordination for impacts to parks, bicycle and pedestrian routes, and trails. If modifications are made to the proposed construction limits for the Preferred Alternative that result in additional impacts to Section 4(f) resources, coordination with the City of Overland Park, and FHWA will be required to clear the additional impacts. The official detour routes will be coordinated in tandem with the Overland Park Parks and Recreation Department and the Design-Build contractor as the project progresses.	KDOT
C-4	Bicycle and Pedestrian Routes impacted by the Preferred Alternative will be replaced in-kind during project construction.	KDOT
C-5	Trails and multi-use paths impacted by the Preferred Alternative will be replaced in-kind during project construction	KDOT
C-6	The existing sidewalk on the north side of College Boulevard will be upgraded to a hike/bike trail and a new hike/bike trail will be added on the south side of College Boulevard.	KDOT

Commitment Code	Commitment	Responsible Parties
C-7	A new hike/bike trail will be constructed along the north side of 139 th Street and a new sidewalk along the south side of 139 th Street.	KDOT
C-8	The existing sidewalk along the south side of 151 st Street will be upgraded to a hike/bike trail.	KDOT
C-9	A new hike/bike trail will be constructed along the south side of 167 th Street.	KDOT
C-10	Construction phasing will be implemented in a manner to ensure that emergency response vehicles have access throughout the corridor during construction.	KDOT
C-11	Access to properties impacted by construction activities will be maintained by phased construction, temporary access roads, or other appropriate means.	KDOT
C-12	If modifications are made to the proposed construction limits for the Preferred Alternative, additional reviews and coordination with SHPO will be necessary for historical and archaeological clearance. Should an excavation operation encounter remains of a prehistoric site or artifacts of historical and/or archaeological significance, all construction activities shall be temporarily discontinued and SHPO shall be contacted.	KDOT
C-13	If changes to the acres of farmland soils for right-of-way are modified, a revised form will be submitted to the NRCS for clearance.	KDOT
C-14	Obtain the USACE Section 404 permit prior to construction activities that impact streams or wetlands under USACE jurisdiction.	KDOT
C-15	If any changes to wetland or stream impacts occur, the Section 404 permit application will be revised and resubmitted to USACE for clearance.	KDOT
C-16	Purchase wetland mitigation bank or in-lieu fee credits to mitigate for the wetland and stream impacts of the Preferred Alternative prior to construction.	KDOT
C-17	Submit a Notice of Intent (NOI) to obtain a NPDES permit prior to construction. Develop a SWPPP, implement and monitor BMPs, and update the SWPPP as necessary during project construction.	KDOT
C-18	Follow BMPs to reduce impact to groundwater during construction and follow recommendations set forth in the total maximum daily loads for the Indian Creek and Blue River and their tributaries.	KDOT
C-19	Obtain the Section 401 Water Quality Certification construction activities that impact streams or wetlands under USACE jurisdiction.	KDOT

Commitment Code	Commitment	Responsible Parties
C-20	Follow all conditions of the 401 Water Quality Certification. If there are any changes to the wetland or stream impacts after the Water Quality Certification is received, coordinate with the KDHE to ensure the revised impacts still meet the water quality certification requirements.	KDOT
C-21	Obtain the DWR General or Stream Obstruction Permit prior to construction. If there are any changes to the stream impacts after the permit is received, coordinate with the DWR to revise the initial permit.	KDOT
C-22	Obtain the DWR Floodplain Fills Permit prior to construction. If there are any changes to the floodplain impacts after the permit is received, coordinate with the DWR to revise the initial permit.	KDOT
C-23	Obtain floodplain permit from the City of Overland Park prior to project construction.	KDOT
C-24	If changes to the alignment of the Preferred Alternative occur causing it to go outside of the defined NEPA study area boundary, coordinate with the USFWS to obtain clearance for additional area.	KDOT
C-25	Coordination with the USFWS will be performed every 90 days during construction to ensure that listed species presence/absence information for the proposed project is current.	KDOT
C-26	Noise abatement will be coordinated during the design phase of the project. If substantial changes in the horizontal and vertical alignment of the Preferred Alternative occur, noise abatement measures will be reviewed. A final noise report will be prepared, if required by FHWA.	KDOT
C-27	If painted surfaces on the Antioch Road crossings over U.S. 69 (Bridge # 0122 and Bridge #0284) are impacted during project construction, lead remediation (worker and environmental protection) will be performed in accordance with KDOT specifications and provisions and BMPs.	KDOT

Commitment Code	Commitment	Responsible Parties
C-28	<p>If impacts to the landfill on 167th Street occur the following conditions are in place from KDHE.</p> <ol style="list-style-type: none"> 1. The two impacted monitoring wells will be relocated prior to the start of construction to a suitable location outside the Project Area of Maximum Disturbance. The new locations of the monitoring wells will be coordinated by APAC and their engineer with KDHE. 2. KDOT will purchase ROW and establish Access Easements according to relevant protocol. These will not adversely impact Waste Limits or operations of the facility. 3. No waste, soil cover, or other landfill infrastructure, beyond what has been explicitly concurred on in this letter, will be disturbed during construction. Any disturbances beyond what has been agreed upon must be coordinated with KDHE. 4. APAC and KDOT will coordinate with KDHE to preserve the existing restrictive covenant on the permit property. 5. APAC will submit a request to transfer portions of their permitted property before any change in ownership of the currently permitted property occurs. This request shall include: <ol style="list-style-type: none"> a. A survey identifying the property remaining under permit 487 after transfer. b. A description of the prospective owner of the transferred property. c. A broad description of any anticipated use of transferred property, including alterations to the land and the construction of permanent structures. d. A description of facility operations that may be affected by the transfer of property, if any, including closure and post-closure activities. e. An application for non-significant permit modification. 	KDOT
C-29	<p>Any previously unknown hazardous waste sites that are found during project construction will be handled in accordance with federal and state laws and regulations. If regulated solid or hazardous wastes are found during construction activities, work will cease at the suspect site and contact with KDHE will be initiated to discuss options for remediation.</p>	KDOT
C-30	<p>Emissions from construction equipment will be controlled in accordance with emission standards prescribed under state and federal regulations.</p>	KDOT
C-31	<p>Temporary storage facilities for petroleum products, other fuels, and chemicals will be located and protected to prevent accidental spills from entering the streams within the project vicinity. Petroleum products will be stored outside of the floodplain.</p>	KDOT

Commitment Code	Commitment	Responsible Parties
C-32	All borrow and waste sites will be identified and all environmental clearances, approvals, and permits for use of all borrow and/or waste sites will be obtained prior to initiating construction.	Contractor
C-33	Coordinate with all utility providers for utilities that will need to be relocated to accommodate construction or for which plans will need to be developed to maintain continuous service during construction.	KDOT
C-34	Formation of an equity advisory group to provide input on potential strategies for mitigating the economic impacts of tolling on environmental justice (EJ) populations. Additionally, form this group to better understand what types of toll equity programs, transit, rideshare, or other project enhancements would provide meaningful benefits to EJ populations that rely upon U.S. 69 for their access to jobs or other opportunities.	KDOT
C-35	If during the design or construction phase the project limits extend outside of the limits cleared as part of the Environmental Assessment, coordination with FHWA and applicable resource agencies will be necessary to revise the environmental clearance approvals for the project.	KDOT
C-36	Obtain a Land Disturbance Permit from the City of Overland Park prior to construction for clearing, demolition, area grading, or utility construction for sites larger than one acre, when no other building permit is required.	KDOT
C-37	Obtain any other permits as required by the City of Overland Park.	KDOT
C-38	Coordinate with the Federal Aviation Administration (FAA) for airspace considerations under 14 CFR Part 77 prior to the beginning of construction.	KDOT

5.2 Permits Required for Construction

The following permits and approvals will be required for construction of the Preferred Alternative.

5.2.1 Section 404 (USACE) and Section 401 (DWR) of the Clean Water Act

Section 404 of the CWA prohibits the discharge of dredged or fill material into “waters of the U.S.” unless exempted or authorized by the USACE. Fill materials placed below the ordinary high-water mark (OHWM) of waters of the U.S. may require a Section 404 permit. The Section 401 Water Quality Certification (WQC) is processed jointly with the Section 404 permit application. Specific conditions of the Section 401 WQC also become conditions of the Section 404 permit. KDOT will obtain the initial Section 404 Permit and Section 401 WQC. During the design phase,

wetland and stream impacts will be coordinated with the USACE and permits updated as necessary.

5.2.2 NPDES Permit - Section 402 of the Clean Water Act

The NPDES permit (Section 402 of the CWA), administered by KDHE, requires that owners or operators of any project or combination of projects who engage in construction activities which disturb one or more acres must have authorization to discharge stormwater runoff. In Kansas, that authorization is obtained under the construction stormwater general permit S-MCST-1703-1. The primary requirement of the general permit is for the permittee to develop and implement a SWPPP. When the soil disturbing activity is completed and final stabilization of the site is achieved, the permittee must notify KDHE to terminate the authorization to discharge.

5.2.3 General Permit or Stream Obstruction Permit

A general Permit or Stream Obstruction Permit may be used for bridge or culvert replacement or pipeline or buried cable crossings. A General Permit Worksheet should be completed to determine if the project qualifies for a general permit. If a General Permit is not applicable, the project may require a Stream Obstruction Permit. A Stream Obstruction Permit from the DWR is required for the construction, modification, or repair of a stream obstruction, such as a bridge, culvert, low-water crossing, boat ramp, pipeline crossing, etc., in a designated stream except for stream obstruction projects (other than dams) that are more than 300 feet from other property lines, not located in an incorporated area, and on a stream with less than five square miles of drainage area; or if a project is limited to a land area measuring less than 25 feet along the stream length, obstructs less than 5 percent of the channel cross section, and is floodplain fill outside the channel that does not exceed 1 foot in depth.

5.2.4 Floodplain Fills Permit

A Floodplain Fills permit from the DWR is required for any project that places fill within the floodplain of a designated stream or Federal Emergency Management Agency (FEMA)-designated floodplain. If fill is placed in a regulated floodway, a No-Rise Certification will be required to demonstrate that the project will not result in an increase in height of the base flood elevation.

5.2.5 City of Overland Park Floodplain Development Permit

A Floodplain Development Permit from the City of Overland Park is required for any work within the FEMA-designated floodplain. This is a supplemental permit that is processed as part of an existing construction permit.

5.2.6 City of Overland Park Land Disturbance Permit

A Land Disturbance Permit from the City of Overland Park is required for clearing, demolition, area grading, and utility construction for sites larger than one acre, when no other building permit is required.

5.2.7 Other Construction Permits

There may be additional construction permits required from the City of Overland Park. KDOT will be responsible for obtaining any construction permits from the City of Overland Park and complying with the permit conditions.