

**U.S. DEPARTMENT OF TRANSPORTATION**  
**GRANT AGREEMENT UNDER THE**  
**FISCAL YEAR 2019 BUILD TRANSPORTATION GRANTS PROGRAM**

This agreement is between the United States Department of Transportation (the “**USDOT**”), the Kansas Department of Transportation (the “**Recipient**”), and the City of Olathe, KS (the “**First-Tier Subrecipient**”).

This agreement reflects the selection of the First-Tier Subrecipient to receive a BUILD Grant for the Interstate 35 & 119<sup>th</sup> Street Interchange Reconfiguration Project.

The parties want the First-Tier Subrecipient to carry out the project with the Recipient’s assistance and oversight.

The parties therefore agree to the following:

**Article 1**  
**GENERAL TERMS AND CONDITIONS**

**1.1 General Terms and Conditions.**

- (a) In this agreement, “**General Terms and Conditions**” means the content of the document titled “General Terms and Conditions Under The Fiscal Year 2019 BUILD Transportation Grants Program: FHWA Projects,” dated December 17, 2019, which is available at <http://go.usa.gov/xpuYy>. Articles 8 – 24 are in the General Terms and Conditions. The General Terms and Conditions are part of this agreement.
- (b) The Recipient states that it has knowledge of the General Terms and Conditions.
- (c) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient’s non-compliance with the General Terms and Conditions may result in remedial action, terminating of the BUILD Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to the USDOT the BUILD Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.

## **Article 2**

### **APPLICATION, PROJECT, AND AWARD**

**2.1 Application.** The application for funding was dated July 12, 2019, and titled “Interstate 35 & 119<sup>th</sup> Street Interchange Reconfiguration Project.” It contained Standard Form 424 and all information and attachments submitted with that form through Grants.gov.

**2.2 Project.** In this agreement, the “**Project**” means the project proposed in the application identified in section 2.1 as modified by the negotiated provisions of this agreement, including article 3 and attachments A-E.

**2.3 Federal Award and Federal Obligation.**

The USDOT hereby awards a BUILD Grant to the Recipient in the amount of \$10,000,000 and obligates that amount for the budget period.

**2.4 Award Dates.**

Budget Period End Date:	December 31, 2022
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Period of Performance End Date:	December 31, 2022
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Estimated Closeout Date:	December 31, 2023
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**2.5 Urban or Rural Designation.** The USDOT hereby designates this to be an award to a project in an urban area.

**2.6 Federal Award Identification Number.** The Federal Award Identification Number will be generated when the FHWA Division authorizes the project in FMIS. The Recipient acknowledges that it has access to FMIS and can retrieve the FAIN from FMIS

## **Article 3**

### **SUMMARY PROJECT INFORMATION**

**3.1 Summary of Project’s Statement of Work.** (See Attachment A for additional details).

The Project will construct a diverging-diamond interchange, make intersection improvements adjacent to the interchange, add travel lanes on 119<sup>th</sup> Street, and add additional turn lanes on I-35 exit ramps.

### 3.2 Project's Estimated Schedule.

Milestone	Schedule Date
Actual NEPA Completion Date	May 7, 2019
Planned Plan, Specification, & Estimate (PS&E) Approval Date:	July 1, 2020
Planned Construction Start Date:	November 1, 2020
Planned Construction Substantial Completion and Open to Traffic Date:	May 17, 2022

### 3.3 Project's Estimated Budget. (See Attachment B for additional details).

Eligible Project Costs	
BUILD Grant Amount:	\$10,000,000
State Funds <sup>1</sup> :	\$5,000,000
Local Funds <sup>2</sup> :	\$4,650,000
Total Eligible Project Cost:	\$19,650,000
<sup>1</sup> State Transportation Improvement Plan (STIP)	
<sup>2</sup> General Obligation Bonds	

## Article 4 CRITICAL MILESTONE DEADLINES

### 4.1 Critical Milestone Deadlines.

Milestone	Deadline Date
Railroad coordination agreement with Burlington Northern Santa Fe Railroad (BNSF)	July 15, 2020
Begin Construction	January 1, 2021
USDOT receives first reimbursement request	February 11, 2021

<b>Milestone</b>	<b>Deadline Date</b>
Construction substantially completed and project opens to traffic	May 17, 2022

## Article 5 PARTY INFORMATION

### 5.1 Recipient's Unique Entity Identifier.

Recipient's Unique Entity Identifier:  
DUNS No. of Kansas Department of Transportation: 126298996

### 5.2 Recipient Contact(s).

Hugh Bogle, PE  
Local Road Engineer  
Kansas Department of Transportation  
507 North Maple Street  
Garnett, KS 66032  
785.207.8052  
[Hugh.Bogle@ks.gov](mailto:Hugh.Bogle@ks.gov)

Therese Vink, PE  
Sr. Project Manager  
City of Olathe, KS  
1385 S Robinson Drive  
Olathe, KS 66061  
913-971-9032  
[tmersmann@olatheks.org](mailto:tmersmann@olatheks.org)

### 5.3 Recipient Key Personnel.

Hugh Bogle, PE  
Local Road Engineer  
Kansas Department of Transportation  
507 North Maple Street  
Garnett, KS 66032  
785.207.8052  
[Hugh.Bogle@ks.gov](mailto:Hugh.Bogle@ks.gov)

Therese Vink, PE  
Sr. Project Manager  
City of Olathe, KS  
1385 S Robinson Drive

Olathe, KS 66061  
913-971-9032  
tmersmann@olatheks.org

**5.4 USDOT Project Contact(s).**

Ed Thornton, P.E.  
Programs and Processes Coordinator  
FHWA Kansas Division Office  
6111 SW 29<sup>th</sup> Street, Suite 100  
Topeka, KS 66614  
785.273.2646  
[Edward.thornton@dot.gov](mailto:Edward.thornton@dot.gov)

**Article 6  
USDOT ADMINISTRATIVE INFORMATION**

**6.1 Payment System.**

USDOT Payment System: FMIS

**6.2 Office for Subaward and Contract Authorization.**

USDOT Office for Subaward and Contract Authorization: FHWA Kansas Division

**Article 7  
SPECIAL GRANT TERMS**

**7.1 Subaward to First-Tier Subrecipient.**

- (a) The Recipient hereby awards a subaward to the First-Tier Subrecipient for the purpose described in section 8.1.
- (b) The Recipient and the First-Tier Subrecipient may enter into a separate agreement, to which the USDOT is not a party, assigning responsibilities, including administrative and oversight responsibilities, among the Recipient and the First-Tier Subrecipient.
- (c) For the purpose of 2 C.F.R. parts 200 and 1201, the Recipient is a pass-through entity.

**7.2 First-Tier Subrecipient Statements and Responsibilities.**

- (a) The First-Tier Subrecipient affirms all statements and acknowledgments that are attributed to the Recipient under sections 10.1 and 10.2.

- (b) The First-Tier Subrecipient assumes the Recipient's reporting obligations under articles 14 and 15.

**7.3 State Oversight Responsibilities.** For the purpose of 23 U.S.C. 106(g), the Recipient shall act as if funds under this award are Federal funds under title 23, United States Code.

**7.4 Railroad Agreement.** As a condition of this Project, the Recipient will have a written standard railroad coordination agreement with Burlington Northern Santa Fe Railroad (BNSF) for work and operation within the BNSF right-of-way no later than July 15, 2020.

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## **ATTACHMENT A STATEMENT OF WORK**

The Project will construct a diverging-diamond interchange, make intersection improvements adjacent to the interchange, add travel lanes on 119<sup>th</sup> Street, and additional turn lanes on I-35 exit ramps.

### **Major Project Activities**

- Construct a Diverging Diamond Interchange
- Provide three through lanes in each direction along 119th Street from Renner Road to Strang Line Road
- Modify the 119th Street bridges over I-35 and widen the bridges over the BNSF Railway;
- Add lanes and lengthen the left and right turn lanes of the I-35 exit ramps per traffic analysis;
- Construct a westbound right turn lane and southbound right turn lane at the 119th Street and Renner Road intersection; and
- Implement minor reconfigurations on 119th Street from Renner Road to Strang Line Road.
- Construction Engineering and Inspection

## ATTACHMENT B ESTIMATED PROJECT BUDGET

### 1. Supplementary Fund Source Table(s)

The following tables supplement the budget information in section 3.3.

<b>Non-BUILD Previously Incurred Costs</b>	
Local Funds:	\$5,750,000
Total:	\$5,750,000

<b>Eligible Costs</b>	
BUILD Funds:	\$10,000,000
State Funds:	\$5,000,000
Local Funds:	\$4,650,000
Total:	\$19,650,000

### 2. Cost Classification Table

<b>Cost Classification</b>	<b>Total Costs</b>	<b>Non-BUILD Previously Incurred Costs</b>	<b>Eligible Costs</b>
Administrative and legal expenses	\$150,000	\$150,000	
Land, structures, rights-of-way, appraisals, etc.	\$4,600,000	\$4,600,000	
Relocation expenses and payments	\$400,000	\$400,000	
Architectural and engineering fees	\$600,000	\$600,000	
Construction Engineering/Project inspection fees/Administration during Construction	\$900,000		<b>\$900,000</b>
Construction	\$18,275,000		<b>\$18,275,000</b>
Contingency	\$475,000		<b>\$475,000</b>
<b>Project Total</b>	<b>\$25,400,000</b>	<b>\$5,750,000</b>	<b>\$19,650,000</b>



## ATTACHMENT C PERFORMANCE MEASUREMENT TABLE

**Study Area:** 119<sup>th</sup> Street between Renner Boulevard and Strang Line Road.

**Pre-project Measurement Date:** Oct. 1, 2020

**Pre-project Report Date:** Jan. 2, 2021

**Project Outcomes Report Date:** May 17, 2026

**Table 1: Performance Measurement Table**

Measure	Description and Category of Measure	Measurement Period	Reporting Period
Auto Crash Rates by Type/Severity	<p style="text-align: center;">Safety</p> <p>Crash rates will be measured and reported as crashes per 100 million VMT and identified by the following severity categories: fatal, injury, and property-damage-only (PDO) crashes</p>	<p>Baseline Measurement:</p> <p>Annual average, accurate as of the Pre-project Measurement Date</p> <p>Post-construction Performance Measures:</p> <p>Accurate as of May 17, 2022</p> <p>May 17, 2023</p> <p>May 17, 2024</p>	<p>Baseline Measurement:</p> <p>Pre-project Report Date</p> <p>Post-construction Performance Measures:</p> <p>For a period of 3 years, beginning Report Due:</p> <p>July 1, 2023</p> <p>July 1, 2024</p> <p>July 1, 2025</p>
Travel Time Savings	<p>Economic Competitiveness</p> <p>Travel time savings for traffic measured during peak and off-peak periods as defined by the project study area.</p>	<p>Baseline Measurement:</p> <p>Annual average, accurate as of the Pre-project Measurement Date</p>	<p>Baseline Measurement:</p> <p>Pre-project Report Date</p> <p>Post-construction Performance Measures:</p> <p>For a period of 3 years, beginning</p>

Measure	Description and Category of Measure	Measurement Period	Reporting Period
		Post-construction Performance Measures: Accurate as of May 17, 2022 May 17, 2023 May 17, 2024	Report Due: July 1, 2023 July 1, 2024 July 1, 2025

## ATTACHMENT D MATERIAL CHANGES FROM APPLICATION

**Scope:** No changes

**Schedule:** No changes

**Budget:** The budget presented in the grant application included costs that have been incurred since the time of application, which are non-participating costs for the BUILD grant project. These costs have reduced the total eligible project cost from \$25,400,000 to \$19,650,000.

### ELIGIBLE COSTS:

- The amount of Construction Engineering and Inspection has decreased from \$1,115,000 in the application to \$900,000 in the agreement.
- The construction costs listed in the application are \$18,750,000. This has been broken down in the Costs Classification table in Attachment B to \$18,275,000 in construction costs and \$475,000 in contingency.

The table below provides a summary comparison of the Project budget.

Fund Source	Application		Current Budget <sup>1</sup>	
	\$	%	\$	%
Total Project Cost	<b>25,400,000</b>	<b>100</b>	<b>25,400,000</b>	
Non-BUILD Previously Incurred Cost	5,750,000	23	5,750,000	N/A
Federal Funds	\$0		0	
Non-Federal Funds	5,750,000	23	5,750,000	N/A
Total Eligible Project Cost	<b>19,650,000</b>	<b>77</b>	<b>19,650,000</b>	<b>100</b>
BUILD Funds	10,000,000	39	10,000,000	51
Other Federal Funds				
Non-Federal Funds	9,650,000	38	9,650,000	49

<sup>1</sup>Represented in 3.3 and Appendix B.

**ATTACHMENT E**  
**APPROVED PRE-AWARD COSTS**

**None.** The USDOT has not approved under this award any costs incurred under an advanced construction authorization (23 U.S.C. 115), any costs incurred prior to authorization (23 C.F.R. 1.9(b)), or any pre-award costs under 2 C.F.R. 200.458. Because unapproved costs incurred before the date of this agreement are not allowable costs under this award, the USDOT will neither reimburse those costs under this award nor consider them as a non-Federal cost sharing contribution to this award. Costs incurred before the date of this agreement are allowable costs under this award only if approved in writing by USDOT before being included the project costs and documented in this Attachment E. See section 19.2(b).

## RECIPIENT SIGNATURE PAGE

The Recipient, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

Kansas Department of Transportation

\_\_\_\_\_  
Date

By:

\_\_\_\_\_  
Signature of Recipient's Authorized Representative

Julie L. Lorenz

\_\_\_\_\_  
Name

Secretary of Transportation

\_\_\_\_\_  
Title

**FIRST-TIER SUBRECIPIENT SIGNATURE PAGE**

The First-Tier Subrecipient, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

City of Olathe, Kansas

\_\_\_\_\_  
Date

By:

\_\_\_\_\_  
Signature of First-Tier Subrecipient's Authorized Representative

Michael Copeland

\_\_\_\_\_  
Name

Mayor

\_\_\_\_\_  
Title

## USDOT SIGNATURE PAGE

The USDOT, intending to be legally bound, is signing this agreement on the date stated opposite that party's signature.

### UNITED STATES DEPARTMENT OF TRANSPORTATION

_____	By: _____
Date	Signature of Recipient's Authorized Representative
	Richard Backlund
	_____
	Name
	Division Administrator
	_____
	Title