

**AGREEMENT**

This Agreement is between the **Secretary of Transportation**, Kansas Department of Transportation (KDOT) (the “Secretary”) and the **City of Lawrence, Kansas** (“City”), collectively the “Parties.”

**RECITALS:**

- A. The Secretary intends to re-route State Highway K-10 on a different alignment, which will result in removal of the state highway route designation from a portion of the existing K-10 from US-59 (Iowa Street) East, to 385 feet East of the centerline of the intersection of 23<sup>rd</sup> Street and East Hills Road, within the City limits (the “Route”), as further described in this Agreement.
- B. Upon the highway route designation removal, the Route will no longer be a City Connecting Link and consequently, the City will no longer be eligible for receipt of state highway funds for maintenance of the Route under K.S.A. 68-416.
- C. In consideration of the City’s acceptance and assumption of all financial, operational, and maintenance responsibilities for the Route, the Secretary is willing to provide certain financial assistance to mitigate the fiscal impact to the City, as further specified in this Agreement.

**NOW, THEREFORE**, the Parties agree as follows:

**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. **“City”** means the City of Lawrence, Kansas, with its principal place of business located at 6 E 6th Street, Lawrence, KS 66044.
- 3. **“City Connecting Link”** has the same meaning as set forth in K.S.A. 68-406(b) for “city connecting link.”
- 4. **“Effective Date”** means the date this Agreement is signed by the Secretary or the Secretary’s designee.
- 5. **“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.

6. **“KDOT Fiber Facilities”** means fiber optic cable, conduit, ducts, splices, handholes that are co-located with CenturyLink fiber and conduit facilities and related equipment and improvements thereto, located along the Route as indicated in Exhibit B.
7. **“Local Route Condition”** means the condition of the route (roads and bridges) needed to maintain local traffic, as determined by the City.
8. **“Parties”** means the Secretary of Transportation and KDOT, individually and collectively, and the City.
9. **“Right of Way”** means the real property and interests therein, including fee simple title, dedications, permanent and temporary easements held by the Secretary for the Route.
10. **“Route”** means the relocated and newly construction 31<sup>st</sup> street constructed as part of KDOT project K-8392-04 and the certain portion of existing State Highway K-10, consisting of approximately 4.014 miles within the City limits, to be removed from the State Highway System, as shown in Exhibit “A”, which is attached and incorporated into this Agreement for all purposes.
11. **“Secretary”** means the Secretary of Transportation of the state of Kansas, and his or her successors and assigns.

## ARTICLE II

### PARTY RESPONSIBILITIES:

1. **Payment of Costs.** In consideration of the City’s acceptance and assumption of all financial, operational, and maintenance responsibilities for the Route, the Secretary agrees to provide financial assistance for the transportation-related City projects listed below, as follows:

- a. To reimburse the City up to a maximum of \$4,000,000.00 toward the City’s actual costs for the reconstruction of 23<sup>rd</sup> Street, from US-59 (Iowa Street) East to 385 feet east of the centerline of the intersection of 23<sup>rd</sup> Street and East Hills Road (KDOT Project No. KA-4473-01);
- b. To reimburse the City up to a maximum of \$700,000.00 toward the City’s actual costs for drainage improvements at 23<sup>rd</sup> Street and Ousdahl Road (KDOT Project No. KA-4473-02);
- c. To reimburse the City up to a maximum of \$300,000.00 toward the City’s actual costs for the resurfacing of 23<sup>rd</sup> Street from US-59 (Iowa Street) to Ousdahl Road (KDOT Project No. KA-4473-03); and

- d. To reimburse the City up to a maximum of \$500,000.00 toward the City's actual costs for the construction of a two way left turn lane on 23<sup>rd</sup> Street from Louisiana Street to Massachusetts Street.

2. **Reimbursement Payments.** Subject to the terms of Article II, paragraph 1(a), the Secretary will make partial payments to the City for amounts not less than \$1,000.00 and no more frequently than monthly. Such payments will be made after receipt of proper billing and approval by a licensed professional engineer employed by the City that the referenced project is being constructed within substantial compliance of the design plans for that project.

3. **Route Removal.** The Secretary executed a formal resolution to remove or withdraw the Route from the State Highway System, to include removal of the City Connecting Link designation for the Route. The resolution is deemed incorporated into and made a part of this Agreement by reference.

4. **Route Responsibilities.** The City agrees to accept and assume all financial, operational, and maintenance responsibilities for the Route upon signature of this agreement.

5. **Bridge Responsibilities.** The City agrees to accept and assume all financial, operational, inspection and maintenance responsibilities for the bridges listed below and located on the Route. Such responsibilities include all applicable FHWA and KDOT inspection requirements.

- a. 23-167 – Louisiana St over Naismith Creek
- b. 23-185 – Michigan over drainage

6. **City Connecting Link.** The Parties have in the past entered into an agreement covering routine maintenance of City Connecting Links, and it is the Parties' intent that the agreement for routine maintenance will remain in full force and effect until the Route is removed from the State Highway System. Upon removal of the Route from the State Highway System, the Secretary and City shall enter into a new City Connecting Link agreement for the remaining lane miles on the other routes designated as City Connecting Links in the City.

7. **Route Conditions.** The City agrees to be responsible for any repair action that may be required to have the Route meet current Local Route Conditions.

8. **Assumption of Liability.** From and after the date and time designated by the Secretary in the Secretary's written notice to the City per Article II, paragraph 4, the City will assume all responsibility for the Route.

9. **General Indemnification.** To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act, the City shall defend, indemnify, hold harmless, and save the Secretary and the Secretary's authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the provisions or performance of this Agreement by the City, the City's agents, employees, or

subcontractors. The City shall not be required to defend, indemnify, hold harmless, and save the Secretary for negligent acts or omissions of the Secretary or the Secretary's authorized representatives or employees.

10. **Deed Recordation.** Within one year of the Route removal, KDOT's Bureau of Right of Way will record a quitclaim deed in favor of the City at the County Register of Deeds Office transferring ownership to the City of any associated Right of Way, which is owned or controlled by the Secretary. **EXCEPT:** The Secretary will retain and reserve certain access and access rights to KDOT Fiber Facilities within the Right of Way, as shown in Exhibit "B". A copy of the executed deed will be forwarded to the KDOT District Engineer.

11. **Fiber Access and Maintenance.** The Secretary will maintain access to KDOT Fiber Facilities within the Right of Way and along the Route, as shown in Exhibit "B" for the purpose of maintenance and improvements such as installation of fiber optic cable. The Secretary will be allowed access and will coordinate access with the City as needed. If the City determines improvements to the Route are required that will result in relocation of the KDOT Fiber Facilities, the City will be responsible for all costs associated with the relocation of KDOT conduit and fiber that is co-located with CenturyLink fiber and conduit facilities. In the event of relocation, the City will coordinate with KDOT to determine the new location and give KDOT equivalent access to the KDOT Fiber Facilities.

### ARTICLE III

#### GENERAL PROVISIONS:

1. **Civil Rights Act.** The "Special Attachment No. 1," pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.

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

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

4. **Binding Agreement.** This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon Secretary and City and their successors in office.

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

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

ATTEST:

CITY OF LAWRENCE, KANSAS

\_\_\_\_\_  
CITY CLERK (Date)  
Sherri Riedemann  
(SEAL)

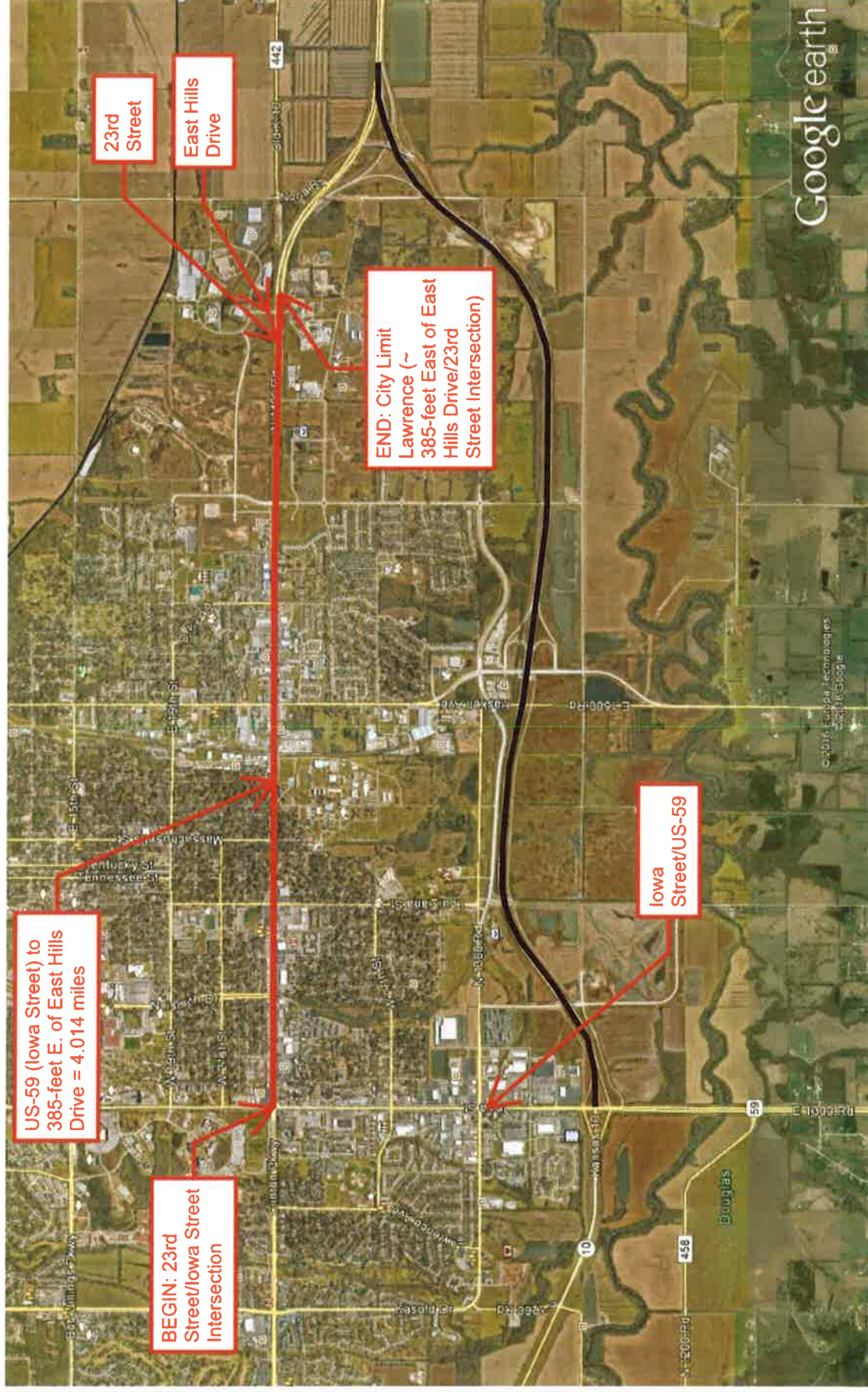
\_\_\_\_\_  
MAYOR  
Leslie Soden

Kansas Department of Transportation  
Secretary of Transportation

By: \_\_\_\_\_  
Catherine M. Patrick, P.E. (Date)  
State Transportation Engineer



# EXHIBIT A





## EXHIBIT B - KDOT ACCESS POINTS FOR FIBER



Google earth

miles 1  
km 2



### LEGEND

- Point of Access to KDOT Conduit and Fiber
- Point of Access to KDOT Conduit