

RESOLUTION NO. 101215-2

A RESOLUTION APPROVING SUPPLEMENTAL AGREEMENT NO. 1 TO AN AGREEMENT FOR PRELIMINARY ENGINEERING SERVICES WITH KAW VALLEY ENGINEERING, INC., DATED MARCH 5, 2015

WHEREAS, the City Commission, with the adoption of Resolution No. 081015-1, approved an Agreement with the Kansas Department of Transportation for the purposes of resurfacing a portion of Buckeye Avenue as an approved KLINK Resurfacing Project ("Project");

WHEREAS, the City Commission desires to enter into Supplemental Agreement No. 1 with Kaw Valley Engineering, Inc. ("Consultant") for the purposes of providing additional services to the original scope of services for the aforementioned Project;

WHEREAS, such Supplemental Agreement No. 1 will supplement the engineering services provided by Consultant in preparation of the Project dated March 5, 2015, and attached hereto as **Exhibit A**.

WHEREAS, such additional services will generally include construction engineering and inspections, and more specifically be described in the Supplemental Agreement No. 1 as attached hereto as **Exhibit B**.

NOW, THEREFORE BE IT RESOLVED, by the City Commission of the City of Abilene, as follows:

SECTION ONE. Agreement. That Supplemental Agreement No. 1 with Consultant is hereby adopted as attached hereto as **Exhibit B**.

SECTION TWO. Implementation. The Mayor is hereby authorized to execute the aforementioned Agreement, and the City Manager shall be authorized to enforce the provisions as provided therein and in applicable resolutions, ordinances, and laws.

SECTION THREE. Effective Date. That the effects of this Resolution shall be in full force after its approval by the City Commission.

PASSED AND APPROVED by the Governing Body of the City of Abilene, Kansas this 12th day of October, 2015.



ATTEST:

Penny Soukup, CMC
Penny Soukup, CMC
City Clerk

CITY OF ABILENE, KANSAS

By: *Dennis P. Weishaar*
Dennis P. Weishaar, Mayor

EXHIBIT A

Agreement for Preliminary Engineering Services

Kaw Valley Engineering, Inc.

March 5, 2015

Agreement for Preliminary Engineering Services
2015 Buckeye KLINK Project – NE 15th Street to NE 21st Street
City of Abilene, Kansas

This "Agreement", made this 5th, day of March, 2015, by and between the City of Abilene (hereinafter "City"), and Kaw Valley Engineering, Inc. (hereinafter "Consultant"), for the performance of professional surveying and engineering services to complete the surveying, design and bidding assistance for proposed milling and asphalt overlay improvements on the 2015 Buckeye KLINK Project (hereinafter "Project");

WITNESSETH that for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed that the Consultant shall provide the following services to the City as set forth below;

SCOPE OF SERVICES – PHASE I

Upon execution of this Agreement, the Consultant shall provide the following outlined services:

1. **Design Surveying, R/W Determination & Block Corners** – The Consultant shall perform field surveys consisting of establishment of horizontal and vertical control, recovery or establishment of section corners and ¼-section corners bounding the Project, establishment of Project centerline control and benchmarks, digital photograph array of the entire Project site, research of deeds and easements affecting the Project, and land surveying as necessary to determine right-of-way and easement lines, complete topographic survey of the Project site to the back of sidewalk including utility locations, cross-sections of the existing roadway, curb and gutter, sidewalk, drive entrances, alley and side street intersection returns, signage and drainage structures. Upon determination of the existing right-of-way, the Consultant will set monuments at the block corners and other useful locations as desired by the City. The Consultant shall also provide AutoCAD drafting of field survey data for use in plan production for the Project. All surveying shall be done in the coordinate system used by the Dickinson County GIS Department and all AutoCAD files shall be provided to the Dickinson County GIS Department upon completion of the As-Built Plans.
2. **Coordination with KDOT & Utilities** – The Consultant shall initiate correspondence with all encountered utilities having potential conflicts or affected facilities in order to coordinate any incorporated improvements, utility adjustments and/or relocations necessary to accommodate KDOT requirements and completion of the work in advance of the Project's scheduled bid letting. The Consultant shall distribute plans to all affected utilities and maintain close contact with those having facilities impacted by the Project such that all parties are aware of the scope of improvements, traffic control plan, construction sequencing activities, and anticipated schedule.
3. **Office Check Plans & Estimate** – The Consultant shall develop Office Check Plans and Estimate of Probable Construction Cost per KDOT requirements for submittal to KDOT and the City for Office Check reviews. Office Check plans shall contain all plan drawings, construction sequencing, traffic control, summary of quantities and standard detail sheets to constitute a full set of construction plans. The Consultant shall make any plan revisions requested as a result of said Office Check reviews by the City and KDOT.
4. **Final Plans, Contract Documents & Estimate** – The Consultant shall develop Final Plans, Contract Documents and Engineer's Estimate per KDOT requirements for submittal to KDOT.

and the City. Upon making any revisions requested, the Consultant shall compile a final signed and sealed bid package for advertisement and distribution to interested contractors.

5. **Bidding Assistance, Contract Administration & KDOT Reimbursement** – The Consultant shall assist the City with all elements of the competitive bidding process and supply contract administration duties during the course of awarding, constructing and finalizing the Project, including completion of the final reimbursement paperwork per KDOT requirements.
6. **As-Built Plans** - The Consultant shall also furnish the City with As-Built Plans upon completion of all construction activities which clearly depicts any alterations made in the field from the Final Plans as bid.

SCOPE OF SERVICES – PHASE II

If so desired by the City, the Consultant may be asked to provide additional services such as materials testing and construction inspection for the Project. If so, the Consultant shall submit a detailed Scope of Services with Fee Schedule for such activities as Phase II of the Preliminary Engineering for this Project to be approved and authorized by the City prior to initiation of such additional services.

COMPENSATION

The City shall compensate the Consultant for satisfactory completion of the Scope of Services for Phase I of the Preliminary Engineering on this Project in accordance with the "Fee Schedule-Phase I Preliminary Engineering Services" included with this Agreement. For the purposes of this Agreement, the maximum not to exceed amount due to the Consultant upon successful completion of the Scope of Services for Phase I of the Preliminary Engineering on this Project shall be \$15,898.00.

The basis for incremental payments shall be per the hours and reimbursable expenses incurred for the term being invoiced with standard rates and reimbursable expenses applied as set forth in said "Fee Schedule". The Consultant shall not be awarded payments totaling more than 90% of the contract maximum for Phase I of the Preliminary Engineering Services on this Project prior to submittal of the *Final Plans, Contract Documents & Estimate* to the City. The Consultant shall invoice the City for completed services and encountered reimbursable expenses on a monthly basis. An invoice shall be submitted by the Consultant at the end of each month to the City with the amount of said invoice being due upon receipt by the City and considered past due if not paid within thirty days of the invoice date.

In the event that services are requested by the City which are considered by both parties to be above and beyond these original Scope of Services for Phase I of the Preliminary Engineering for this Project, those additional services shall be compensated in accordance with a proposal for supplemental services as submitted by the Consultant at the request of the City and as approved by the City.

TIME FOR COMPLETION

The Consultant shall begin work on the date of execution of this Agreement and shall have all work completed, up to and including, the submittal of *Final Plans, Contract Documents & Estimate* as outlined in the Scope of Services for Phase I of the Preliminary Engineering on this Project within ninety (90) calendar days of the date of execution of this Agreement. The work is scheduled to progress in the manner and sequence as set forth in the Scope of Services for Phase I of the Preliminary Engineering on this Project. Services to be provided under this Agreement do not allow for delays due to abnormal weather, inefficient or non-responsive review by the City and/or review agencies, or unforeseen circumstances not under the direct control of the Consultant.

DISPUTE RESOLUTION

All claims, disputes, and other matters of controversy between City and Consultant arising out of, or in any way related to, this Agreement or the services performed by Consultant will be submitted to non-binding mediation as a condition precedent to litigation. If a dispute arises from matters related to the services provided under this Agreement and that dispute requires litigation, then the claim shall be brought and tried in a judicial jurisdiction in the State of Kansas.

TERMINATION BY CAUSE

This Agreement may be terminated by the City upon ten (10) days written notice in the event of substantial failure to perform in accordance with the terms set herein. If this Agreement is so terminated, the Consultant shall be paid for any approved final product delivered through the effective date of termination per the compensation arrangement set forth in this Agreement.

CONTRACT PROVISIONS

A. Records and Audits

The Consultant shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Agreement, and such records as may be deemed necessary by the City to assure the property accounting for all project funds, both Federal and non-Federal shares. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Agreement, unless permission to destroy them is granted by the City. It is understood that all pertinent records shall be accessible to the Kansas Department of Transportation and the Federal Highway Administration.

B. Consultant Compliance with Local, State, and Federal Laws

1. Title VI of the Civil Rights Act of 1964, as amended, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
2. Section 109 of the Housing and Community Development Act of 1974, as amended, and the regulations issued pursuant thereto (24 CFR Section 570.601) No person in the United States shall, on the grounds of race, color, national origin, sex, age or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal Funds.
3. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 83-112) as amended and implementing regulations when published for effect. No otherwise qualified individual shall, solely by reasons of his or her disability, be excluded from participation in (including employment), denied program benefits of or be subjected to discrimination under any program or activity receiving Federal funds.
4. Age Discrimination Act of 1975, as amended, (Pub. L. 94-135), and implementing regulations when published or effect. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits or, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

5. Fair Housing Amendments Act of 1988, which prohibits discrimination in housing on the basis of race, color, national origin, religion, sex, disability or familial status (including children under the age of 18 living with parents or legal custodians, pregnant women and people securing custody of children under 18).
6. Executive Order 11063, as amended by Executive Order 12259 and implementing regulations as 24 CFR Part 107. No person shall, on the basis of race, color, religion, or national origin, be discriminated against in housing (and related facilities) provided with Federal assistance or lending practices with respect to residential property when such practices are connected with loans issued or guaranteed by the Federal Government.
7. Kansas Act Against Discrimination of 1992. It is declared to be the policy of the State of Kansas to eliminate and prevent the practice or policy of discrimination against individuals in employment relations, in relation to free and public accommodations or in housing by reason of race, religion, color, sex, physical disability, national origin or ancestry.
8. Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Provides that to the greatest extent feasible, opportunities for training and employment shall be given to lower-income persons residing within the project area and the non-metropolitan county in which the project is located and that contracts in connection with the project, be awarded to eligible business concerns located or owned in substantial part, by residents of the project area.
9. Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations issued at 41 CFR Chapter 60. A contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin.
10. Section 912 of the Cranston-Gonzales National Affordable Housing Act of 1990, as amended Section 109(a) of the HCD Act to prohibit discrimination on the basis of religion.
11. Section 503 of the Rehabilitation Act of 1973, as amended, provides for the nondiscrimination in contractor employment.
12. The Consultant will also concede to provide access to project records and will agree to maintain said records for a period of at least three (3) years beyond project completion and shall also follow copyright regulations where appropriate.
13. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, sex, color, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
14. The Consultant will, in all solicitation or advertisements for employees placed by or on behalf of the Consultant; state all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.

C. Interest of Members of the City

No members of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement; and the Consultant shall take appropriate steps to insure compliance.

D. Interest of the Consultant and Employees

The Consultant covenants that it presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services thereunder. The Consultant further covenants that in the performance of the Agreement, no person having any such interest shall be employed.

IN WITNESS WHEREOF, the City and the Consultant have executed this Agreement as of the date first above written.

Consultant:
KAW VALLEY ENGINEERING, INC.

By: 
Chad McCullough, P.E.

Title: Project Manager

Date: 3/5/15

City:
CITY OF ABILENE

By: 
David Dillner

Title: City Manager

Date: 3/5/15

FEE SCHEDULE - Phase I Preliminary Engineering Services
2015 Buckeye KLINK Project - NE 15th Street to NE 21st Street
City of Abilene, Kansas

1. Design Survey, R/W Determination & Block Corners

Hourly Compensation:	<u>Employee Classification</u>	<u>Hours</u>	<u>Standard Rate</u>	<u>Extension</u>
	Project Manager	4	\$115.00	\$460.00
	Registered Land Surveyor	8	105.00	840.00
	2-Person Survey Crew	32	140.00	4,480.00
	Senior Design Technician	16	75.00	<u>1,200.00</u>
				\$6,980.00

Direct Expenses:

Copying / Printing (Old Plans & Property Research) -			=	\$20.00
Survey Vehicle Mileage -	300	miles @	\$0.56	=
				<u>\$168.00</u>
				\$188.00

2. Coordination with KDOT & Utilities

Hourly Compensation:	Project Manager	8	\$115.00	\$920.00
	Senior Design Technician	4	75.00	<u>300.00</u>
				\$1,220.00

3. Office Check Plans & Estimate

Hourly Compensation:	Project Manager	12	\$115.00	\$1,380.00
	Senior Design Technician	8	75.00	<u>600.00</u>
				\$1,980.00

4. Final Plans, Contract Documents & Estimate

Hourly Compensation:	Project Manager	12	\$115.00	\$1,380.00
	Manager of Field Services	2	90.00	180.00
	Senior Design Technician	8	75.00	600.00
	Administrative Assistant II	8	34.00	<u>272.00</u>
				\$2,432.00

5. Bidding Assistance, Contract Administration & KDOT Reimbursement

Hourly Compensation:	Project Manager	16	\$115.00	\$1,840.00
	Manager of Field Services	2	90.00	180.00
	Senior Design Technician	2	75.00	150.00
	Administrative Assistant II	12	34.00	<u>408.00</u>
				\$2,578.00

Direct Expenses:

Copying / Printing (4 Original Contract Books) -				<u>40.00</u>
				\$40.00

6. As-Built Plans for City Records

Hourly Compensation:	Manager of Field Services	2	90.00	\$180.00
	Senior Design Technician	4	75.00	<u>300.00</u>
				\$480.00

Total for Hourly Compensation	=	\$15,670.00
Total for Direct Expenses	=	\$228.00

Total for Phase I Preliminary Engineering Services	=	\$15,898.00
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EXHIBIT B

Supplemental Agreement No. 1

to the

Agreement for Preliminary Engineering Services

Kaw Valley Engineering, Inc.

October 12, 2015

Supplemental Agreement #1
to the
Agreement for Preliminary Engineering Services
2015 Buckeye KLINK Project
City of Abilene, Kansas

This "Supplemental Agreement #1", made this 13th, day of October, 2015, by and between the City of Abilene (hereinafter "City"), and Kaw Valley Engineering, Inc. (hereinafter "Consultant"), for the performance of additional services related to construction inspection and materials testing activities for the 2015 Buckeye KLINK Project (hereinafter "Project");

The following are additional services as requested by the City to supplement the original **SCOPE OF SERVICES – PHASE I** and are proposed to be made a part of the Agreement for Preliminary Engineering Services:

SCOPE OF SERVICES – PHASE II

Upon execution of a contract for construction, the Consultant shall provide the following outlined services:

1. **Property Owner Notifications & Utility Coordination** - The Consultant shall provide a KDOT prequalified Construction Inspector who shall perform door-to-door notification to all adjacent and affected residences and businesses on the day prior to traffic control setups at each phase of construction. The Consultant shall also conduct prior notification and coordination with all affected utilities and railroads regarding schedule for construction activities and flagger/traffic control requirements.
2. **Daily Construction Observation & Contract Reports** - The Consultant shall provide a KDOT prequalified Construction Inspector to perform daily field inspection of construction activities, complete project coordination and daily inspection reports and enforce conformance to the contract documents and specifications. The provided Construction Inspector shall also be available to the public for providing guidance and answering questions while on-site during contracted construction activities.
3. **Materials Testing & Certification** - The Consultant shall provide a KDOT-certified Asphalt QA/QC Technician to perform materials testing of plant mix bituminous materials at the project site, at the source asphalt plant and at supplying quarries, as well as determining approval of certifications for all ingredient materials, for conformance to the contract documents and specifications.
4. **Contract Final Observation & Documentation** - The Consultant shall perform final project observation, punchlist preparation, pay request review and contract administration/documentation as per the contract documents for conformance to the contract documents and specifications and Project close-out.

COMPENSATION

The City shall compensate the Consultant for satisfactory completion of the Scope of Services for Phase II of the Preliminary Engineering on this Project in accordance with the "Fee Schedule - Phase II Inspection & Testing Services" included with this Supplemental Agreement #1. For the purposes of this Supplemental Agreement #1, the maximum not to exceed amount due to the Consultant upon successful completion of the Scope of Services for Phase II of the Preliminary Engineering on this Project shall be \$14,750.00. The basis for incremental payments shall be per the hours and reimbursable expenses incurred for the term being invoiced with standard rates and reimbursable expenses applied as set forth in said "Fee Schedule - Phase II Inspection & Testing Services". An invoice shall be submitted by the Consultant at the end of each month to the City with the amount of said invoice being due upon receipt by the City and considered past due if not paid within thirty (30) days of the invoice date.

In the event that services are requested by the City which are considered by both parties to be above and beyond these Scope of Services for Phase II of the Preliminary Engineering for this Project, those additional services shall be compensated in accordance with a proposal for supplemental services as submitted by the Consultant at the request of the City and as approved by the City.

IN WITNESS WHEREOF, the City and the Consultant have executed this Supplemental Agreement #1 as of the date first above written.

Consultant:

KAW VALLEY ENGINEERING, INC.

By: 

Chad D. McCullough, P.E.

Title: Project Manager

Date: _____

City:

CITY OF ABILENE

By: 

David Dillner

Title: City Manager

Date: 10/14/15

FEE SCHEDULE - Phase II Inspection & Testing Services

2015 Buckeye KLINK Project
City of Abilene, Kansas

1. Property Owner Notifications & Utility Coordination -

<u>Employee Classification</u>	<u>Salary</u>	<u>Hours</u>	<u>Extension</u>
Senior Engineering Technician	\$70.00	8	<u>560.00</u>
			\$560.00

2. Daily Construction Observation & Contract Reports -

<u>Employee Classification</u>	<u>Salary</u>	<u>Hours</u>	<u>Extension</u>
Project Manager	\$115.00	4	\$460.00
Senior Engineering Technician	\$70.00	120	<u>8,400.00</u>
			\$8,860.00

3. Materials Testing & Certification -

<u>Employee Classification</u>	<u>Salary</u>	<u>Hours</u>	<u>Extension</u>
Supervisor of Field Services	\$90.00	8	\$720.00
Senior Engineering Technician	\$70.00	20	1,400.00
Materials Technician II	\$65.00	10	650.00
Administrative Assistant II	\$34.00	4	<u>136.00</u>
			\$2,906.00

4. Contract Final Observation & Close-Out Documentation -

<u>Employee Classification</u>	<u>Salary</u>	<u>Hours</u>	<u>Extension</u>
Project Manager	\$115.00	8	\$920.00
Supervisor of Field Services	\$90.00	4	360.00
Senior Engineering Technician	\$70.00	8	560.00
Administrative Assistant II	\$34.00	4	<u>136.00</u>
			\$1,976.00

Direct Expenses:

Inspection Truck Mileage -	800	miles @	\$0.56	=	<u>\$448.00</u>
					\$448.00

Total for Phase II Inspection & Testing = \$14,750.00