

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 Project Commitments

Table 5-1 summarizes the project and regulatory commitments that will be implemented by KDOT or the Contractor.

Table 5-1: Project Commitments

Commitment Code	Commitment	Responsible Parties
C-1	Commitments are not subject to change without written approval from FHWA.	ALL
C-2	A traffic management plan will be developed and implemented by the Contractor during the construction phase of the project.	Contractor
C-3	Access to properties impacted by construction activities will be maintained by phased construction, temporary access roads, or other appropriate means.	KDOT
C-4	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-5	As part of the property acquisition process, KDOT will coordinate with affected property owners and/or tenants to provide information on federal and state acquisition and relocation assistance policies.	KDOT
C-6	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 agency with resource jurisdiction, and FHWA will be required to clear the additional impacts. This commitment will be updated once Section 4(f) coordination is completed.	KDOT
C-7	Bicycle and pedestrian routes impacted by the Preferred Alternative will be replaced in-kind during project construction.	KDOT
C-8	Trails and multi-use paths impacted by the Preferred Alternative will be replaced in-kind during project construction.	KDOT

Commitment Code	Commitment	Responsible Parties
C-9	The length of temporary closure of the Gary L. Haller Trail will be minimized through project scheduling. To minimize the impact of construction on trail users, a temporary structure with safety lighting will be provided to allow use of the trail during construction, except during certain overhead construction activities, such as girder placement. A detour will be provided to minimize the impacts associated with the temporary closure of the trail. The trail closures will be coordinated with JCPRD and the public will be notified. Trail closure signs, with a detour map, will be placed along the Gary L. Haller Trail at the connection to the Prairie Star Parkway Trail, at the north end of the detour, at the Ridgeview Road Trail access parking lot, and at the south end of the detour near the soccer complex.	KDOT, JCPRD
C-10	The impacts to the Kill Creek Streamway Trail will be minimized and limited to temporary trail closures. The trail will be closed only during the replacement of the bridges that carry K-10 over Kill Creek and will be minimized through project scheduling. To minimize the impact of construction on trail users, a temporary structure with safety lighting will be provided to allow use of the trail during construction. The temporary structure will allow the trail to remain open as much as possible during project construction, except during certain overhead construction activities, such as girder placement. The trail closures will be coordinated with JCPRD, will occur overnight, and will be short-term in nature. Prior to any necessary trail closures, the public will be notified and trail closure signs will be posted on the north and south sides of K-10.	KDOT, JCPRD
C-11	Construction phasing will be implemented in a manner to ensure that emergency response vehicles have access throughout the corridor during construction.	KDOT
C-12	A Phase II archaeological survey will be conducted, prior to construction, for potentially impacted sites once construction limits and ROW are determined during final design.	KDOT
C-13	If changes are made to the Preferred Alternative after Section 106 clearance has been obtained, KDOT will perform additional coordination with SHPO to obtain Section 106 clearance for any modifications.	KDOT
C-14	Prior to construction, KDOT will prepare an FCIR form and submit it to the NRCS to determine the extent of impacts to prime and other important farmland and obtain clearance from the NRCS for farmland impacts.	KDOT
C-15	A delineation of wetlands, streams, and ponds within the construction limits of the Preferred Alternative will be performed to determine impacts to WOTUS.	KDOT

Commitment Code	Commitment	Responsible Parties
C-16	Obtain the USACE Section 404 permit prior to construction. If changes to the Preferred Alternative are made after the USACE Section 404 permit is obtained, the Section 404 permit application will be revised and resubmitted to USACE for clearance.	KDOT
C-17	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-18	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-19	KDOT will submit an NOI to obtain a NPDES permit prior to construction. The Contractor will develop a SWPPP, implement and monitor BMPs, and update the SWPPP as necessary during project construction.	KDOT, Contractor
C-20	Obtain a Land Disturbance Permit from the cities of De Soto, Lenexa, and Olathe prior to construction for clearing, demolition, area grading, or utility construction for sites larger than one acre.	Contractor
C-21	Follow BMPs to reduce impact to groundwater during construction and follow recommendations set forth in the total maximum daily loads for Kill Creek, Hanson Creek, Camp Creek, Cedar Creek, and Mill Creek.	Contractor
C-22	Obtain the Section 401 Water Quality Certification construction activities that impact streams or wetlands under USACE jurisdiction.	KDOT
C-23	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, Contractor
C-24	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-25	Obtain floodplain development permits from the cities of De Soto, Lenexa, and Olathe prior to project construction.	KDOT
C-26	If the FEMA floodway is modified or there is an increase in the FEMA water surface, a CLOMR and LOMR will be obtained from FEMA.	KDOT
C-27	Inspect each bridge, prior to beginning any bridge construction, to ensure there are no active nests. If active nests are present, coordinate with KDOT prior to beginning construction.	Contractor

Commitment Code	Commitment	Responsible Parties
C-28	Unless otherwise specified by the USFWS, perform a bat habitat survey within the construction limits of the Preferred Alternative and do not clear trees during the active season for the NLEB and Tricolored Bat (April 1 st to November 15 th).	KDOT
C-29	A survey for Mead's Milkweed will be conducted within the construction limits of the Preferred Alternative prior to the start of construction.	KDOT
C-30	Herbaceous areas disturbed during project construction that need to be replanted will be reseeded with a native seed mix containing milkweed species.	KDOT
C-31	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 threatened and endangered species clearance for additional area.	KDOT
C-32	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-33	Emissions from construction equipment will be controlled in accordance with emission standards prescribed under state and federal regulations.	Contractor
C-34	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-35	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.	Contractor
C-36	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.	Contractor
C-37	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-38	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

Commitment Code	Commitment	Responsible Parties
C-39	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-40	Obtain any other permits as required by Lexington Township and the cities of De Soto, Lenexa, and Olathe.	Contractor

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 WOTUS 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. The Contractor will be responsible for preparing the SWPPP and obtaining the NPDES permit. 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 five percent of the channel cross section, and is floodplain fill outside the channel that does not exceed one 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 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 De Soto Floodplain Development Permit

A Floodplain Development Permit from the City of De Soto 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 Lenexa Floodplain Development Permit

A Floodplain Development Permit from the City of Lenexa 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.

5.2.7 City of Olathe Floodplain Development Permit

A Floodplain Development Permit from the City of Olathe 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.

5.2.8 City of De Soto Land Disturbance Permit

A Land Disturbance Permit from the City of De Soto is required for clearing, demolition, area grading, and utility construction for sites larger than one acre.

5.2.9 City of Lenexa Land Disturbance Permit

A Land Disturbance Permit from the City of Lenexa is required for clearing, demolition, area grading, and utility construction for sites larger than one acre.

5.2.10 City of Olathe Land Disturbance Permit

A Land Disturbance Permit from the City of Olathe is required for clearing, demolition, area grading, and utility construction for sites larger than one acre.

5.2.11 Other Construction Permits

There may be additional construction permits required from Lexington Township and the cities of De Soto, Lenexa, Olathe, and Overland Park. KDOT will be responsible for obtaining any construction permits from Lexington Township and the cities of De Soto, Lenexa, Olathe, and Overland Park and complying with the permit conditions.