

AGREEMENT
Aviation Pathway Funding and Construction

THIS AGREEMENT is made and entered into this _____ day of _____, 2016, by and between Sedgwick County, Kansas, hereinafter referred to as "County" and the City of Derby, Kansas, hereinafter referred to as "Derby".

WITNESSETH:

WHEREAS, County and Derby are authorized to enter into an agreement pursuant to K.S.A. 12-2908, as amended; and

WHEREAS, the parties desire to make certain bicycle and pedestrian improvements along Oliver St., 47th St. South, Clifton St. and Englewood St.; and

WHEREAS, Derby and County desire to utilize federal Transportation Enhancement funds to construct said improvements that lie within the corporate limits of Derby and unincorporated areas of County; and

WHEREAS, Derby desires that County serve as the local project sponsor for the project to construct said improvements;

NOW, THEREFORE, for and in consideration of the parties' mutual promises and covenants, it is agreed as follows:

1. The purpose of this Agreement is to provide for the construction, financing and maintenance of a multi-purpose pathway beginning at the north end of Derby's path at Commerce St. and Buckner St., extending north along Oliver St. to 47th St. South, extending west along 47th St. South to Clifton St., extending north along Clifton St. and Englewood St. to terminate at the City of Wichita's path at MacArthur Rd. and including an extension along Clifton St. from 47th St. South to the crosswalk on Clifton St. serving the Oaklawn School. A portion of the project is inside of the corporate limits of Derby.
2. County will prepare plans for the project, acquire right of way, coordinate any utility relocations and obtain required approvals from the Kansas Department of Transportation (KDOT). County shall serve as the local project sponsor in all matters relating to federal funding for the project. County shall have final authority and shall be responsible for all legal and engineering matters concerning the completion of the Improvements.
3. Derby and County agree that the project shall be completed in phases based on availability of federal funding.
4. Costs of each phase of the project shall be paid as follows based on actual costs: The project has been approved by the Wichita Area Metropolitan Planning Organization (WAMPO) for federal Transportation Enhancement funding at a rate of 80% of eligible project costs which include the cost of construction and construction engineering. Derby

and County shall share equally the remaining 20% of eligible project costs as well as any project costs that are deemed ineligible by KDOT.

5. Upon receipt of a notice of award and estimate of local share from KDOT, County will bill Derby for its share of local match. Derby will remit payment within 30 days of receipt of a bill from County. After County receives notice from KDOT that the project is closed out, County will either bill Derby for additional funds owed or refund excess funds paid to County. The estimated funding breakdown is shown in Exhibit A. The funding breakdown is subject to change based on changes to phasing or differences between estimated and actual project costs.
6. Upon completion of construction, Derby agrees to maintain any portions of the multi-use pathway that lie within the corporate limits of Derby. County will maintain any portions of the pathway that lie in the unincorporated area. County reserves the right to assign portions of the pathway in the unincorporated area to other local jurisdictions, such as a township or improvement district, as it deems appropriate.
7. County shall notify Derby when construction of any portion of the project in the corporate limits has been completed at which time Derby shall accept the improvements and shall thereafter assume all liability for maintenance and repair. The agreement for Derby maintenance and repair of the improvements shall survive the termination of this Agreement.
8. The duration of this Agreement is until the project has been closed out by KDOT and final payments or refunds have been made.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

JIM HOWELL,
Chairman, Fifth District

ATTEST:

KELLY B. ARNOLD,
County Clerk

THE CITY OF DERBY, KANSAS

Randy White
Mayor

ATTEST:

Karen Friend
City Clerk

Approved As To Form

Justin M. Waggoner,
Assistant County Counselor

EXHIBIT A

PROJECT FUNDING BREAKDOWN

Aviation Pathway Phase 1 (Oliver from Commerce to 47th St. South)

| <u>FFY</u> | <u>Project Funding</u> | <u>Total</u> | <u>Federal</u> | <u>Derby</u> | <u>County</u> |
|------------|--------------------------|-----------------------|---------------------|---------------------|---------------------|
| 2015 | Aviation Pathway Phase 1 | <u>\$1,080,000.00</u> | <u>\$836,000.00</u> | <u>\$122,000.00</u> | <u>\$122,000.00</u> |
| | Total | <u>\$1,080,000.00</u> | <u>\$836,000.00</u> | <u>\$122,000.00</u> | <u>\$122,000.00</u> |

Aviation Pathway Phase 2 (47th St. South, Clifton and Englewood)

| <u>FFY</u> | <u>Project Funding</u> | <u>Total</u> | <u>Federal</u> | <u>Derby</u> | <u>County</u> |
|------------|---|-----------------------|-----------------------|---------------------|---------------------|
| 2017 | Aviation Pathway Phase 2, Reimbursement 1 | <u>\$768,803.00</u> | <u>\$413,803.00</u> | <u>\$177,500.00</u> | <u>\$177,500.00</u> |
| 2018 | Aviation Pathway Phase 2, Reimbursement 2 | <u>\$686,197.00</u> | <u>\$686,197.00</u> | <u>\$0.00</u> | <u>\$0.00</u> |
| | Total | <u>\$1,455,000.00</u> | <u>\$1,100,000.00</u> | <u>\$177,500.00</u> | <u>\$177,500.00</u> |

| | <u>Total</u> | <u>Federal</u> | <u>Derby</u> | <u>County</u> |
|--------------------------------|-----------------------|-----------------------|---------------------|---------------------|
| Overall Project Funding Totals | <u>\$2,535,000.00</u> | <u>\$1,936,000.00</u> | <u>\$299,500.00</u> | <u>\$299,500.00</u> |

Note: Funding reflects projects as approved in the WAMPO TIP Amendment 5 adopted (1/12/2016)