

CITY COMMISSION MEETING

June 2, 2021 at 1:30 PM

CITY COMMISSION / MUNICIPAL COURT ROOM
518 MECHANIC, EMPORIA, KS

Agenda

Meeting Items

1. Members Present:
2. Consent Agenda
3. Public Comment
 - A. Proclamation Designating the Month of June 2021 as Zoo Month in Emporia.
4. Consider Approval of Ordinance for Big on the Block Event Beer Garden.
5. Consider Approval of Request for Utility Easement from Everyg and USD#253.
6. Consider Approval of Ordinance Amending the City Code Section 28-18, 28-20, 28-21, and 28-22 Pertaining to Municipal Water Works.
7. Consider Approval of Ordinance Amending City Code Sections 25-93 and 25-94 Pertaining to Bicycles and Electric-Assisted Scooters.
8. Consider Approval of Ordinance Amending City Code Section 25-21 to Adopt Section 135.1 of the 45th Edition of the Standard Traffic Ordinances for Kansas Cities.
9. Consider Approval of Ordinance Amending City Code Section 25-21 to Adopt Section 135.1 of the 45th Edition of the Standard Traffic Ordinances for Kansas Cities.
10. Consider Approval of Ordinance Authorizing the City to Issue Industrial Revenue Bonds to National Plaza & Lofts, LLC & Preston Plaza & Lofts LLC.
11. Report from City Manager on Activities
12. City Commission Reports and Comments



**If you need accommodations due to a disability to participate in this event, meeting, or activity, or alternative format of written materials contact City of Emporia Jeff Lynch, ADA Coordinator at least 48hours before the event at 620-343-4285 or jlynch@emporia-kansas.gov*

AGENDA ITEM SUMMARY

MEETING DATE: June 2, 2021

ITEM NUMBER: Consent Agenda

SUBJECT:

Consent agenda:

The items listed on the Consent Agenda are considered by the Governing Body to be routine business items. Approval of the items may be made by a single motion, second and majority vote with no separate discussion of any item listed. Should a member of the Governing Body desire to discuss any item, at his/her request, it will be removed from the Consent Agenda and considered separately.

- a. Consider minutes of the Adjourned Commission Meeting held on May 26, 2021.
- b. Consider ratification of Payroll Ordinance for the period ending on May 21, 2021.
- c. Consider Set Bid Time and Date for the KDOT CCLIP Surface Preservation, FY 2022, Project No. 56 U-2389-01, City Project PV2101. K-99 Highway (Commercial St.) from BNSF Railroad to 12th Ave. and US-50 Highway (6th Ave.) from Neosho St. to Mechanic St.
- d. Consider Change Order No. 2 for the 30th Avenue Construction Project (PV2006).

RECOMMENDATION:

- a. Approve Minutes.
- b. Approve Payroll.
- c. Approve Time and Date.
- d. Approve Change Order.

BACKGROUND SUMMARY:

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: June 2, 2021

ITEM NUMBER: 2c

SUBJECT: Set 2:00pm, Tuesday, July 13, 2021, as the time and date to receive bids for the KDOT CCLIP Surface Preservation, FY 2022, Project No. 56 U-2389-01, City Project PV2101. K-99 Highway (Commercial St.) from BNSF Railroad to 12th Ave. and US-50 Highway (6th Ave.) from Neosho St. to Mechanic St.

RECOMMENDATION: Set bid date and time (subject to KDOT authorization).

BACKGROUND SUMMARY:

The City entered into agreement 50-21 with KDOT Bureau of Local Projects on March 15, 2021 for this project. That agreement states that KDOT will fund 90% of Total Actual Costs of Construction and Construction Engineering (CE) not to exceed \$300,000. The city will be responsible for 10% of Total Actual Costs of Construction and Construction Engineering (CE) until the Secretary's funding limit is reached, 100% of Total Actual Costs of Construction and Construction Engineering (CE) after the Secretary's funding limit is reached, 100% of the Cost of Preliminary Engineering, Right of Way, and Utility Adjustments, and 100% of No-Participating Costs.

The city portion of the KDOT CCLIP Surface Preservation, FY 2022, Project No. 56 U-2389-01, City Project PV2101. K-99 Highway (Commercial St.) from BNSF Railroad to 12th Ave. and US-50 Highway (6th Ave.) from Neosho St. to Mechanic St. is funded by the multi-year fund.

Attached is the Invitation to Bid.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

INVITATION TO BID

Sealed bids for the **CCLIP Resurfacing Project No. PV2101 K-99 Highway (Commercial St.) from BNSF Railroad to 12th Ave. US-50 Highway (6th Ave.) from Neosho St. to Mechanic St.** will be received at the office of the City Clerk located upstairs at 104 E. 5th Avenue, City of Emporia, Kansas, up to 2:00 p.m. on **July 13, 2021** and then publicly opened in the **City Engineering Conference Room located at 522 Mechanic Street.** A pre-bid conference will be held at 2:00 p.m. on **July 6, 2021** at the same location.

The work consists of approximately:

ITEM	QUANTITY	UNIT
Mobilization	1	LS
Milling and Grinding (1.5" Avg. Depth)	43,131	SY
HMA (Commercial Grade) (Class A) (1.5" Avg. Depth)	3904	TONS
Utility Adjustment (Manhole Riser)	3	EA
Utility Adjustment (Valve Box Riser) (Valve Box) (Water)	15	EA
Utility Adjustment (Concrete) (Valve Box) (Water)	8	EA
Pavement Marking (Thermoplastic) (White) (4")	6716	LF
Pavement Marking (Thermoplastic) (White) (6")	2604	LF
Pavement Marking (Thermoplastic) (Yellow) (4")	5490	LF
Pavement Marking (Thermoplastic) (Yellow) (4") (Double)	4442	LF
Pavement Marking (Thermoplastic) (Yellow) (12") (Diagonal)	607	LF
Pavement Marking (Intersection Grade) (White) (24")	1848	LF
Pavement Marking Symbol (Int. Grade) (White) (Left Turn) (Arrow)	70	EA
Pavement Marking Symbol (Int. Grade) (White) (Right Turn) (Arrow)	1	EA
Pavement Marking Symbol (Int. Grade) (White) (Straight) (Arrow)	1	EA
Pavement Marking Symbol (Int. Grade) (White) (Railroad)	1	EA
Pavement Marking Symbol (Int. Grade) (ADA Chair)	21	EA
Pavement Marking Removal	1400	LF
Traffic Signal (Loop Replacement) (Set Price)	1	EA
Traffic Control	1	LS
Flagger (Set Price)	1	HR
Maintenance Bond	1	LS

Plans and bid documents are on file at the office of the City Engineer, 522 Mechanic Street, P. O. Box 928, Emporia, KS 66801 (620-343-4260) and copies may be obtained. The cost for plans and bid documents is thirty dollars (\$30), which is nonrefundable. If the Contractor prefers plans and bid documents sent by UPS there is an additional required fee of five dollars (\$5). Also, the Contractor may request an electronic copy of plans and bid documents for a flat rate fee of twenty dollars (\$20). The City of Emporia 2014 Master Set of Specifications (for all projects) is available upon request for a cost of \$20 for a hard copy. A contractor either shall have a current set of City Master Specs or have a signed contractor's acknowledgement on file with the City Engineer's Office that they have read and shall abide by the current Master Set of Specifications on the City Web page in order to bid City of Emporia projects.

Each bid shall be accompanied by a certified check, a cashier's check, or an approved bidder's bond in an amount of not less than five percent (5%) of the total amount of the bid. Any bid bond must be with a surety and guaranty company authorized to do business in the State of Kansas and acceptable to the City as Surety.

The Bidder to whom the Contract is awarded will be required to furnish statutory bond in the amount of one hundred per cent (100%) of the Contract; the bond to be acceptable to the City of Emporia, Kansas, and conform to the requirements of the Contract documents.

The City of Emporia, Kansas, reserves the right to reject any or all bids and to waive defects in bids. No bids will be withdrawn for a period of thirty (30) days after the time set for opening of bids.

Any contract awarded under this Invitation to Bid is expected to be funded in part by the Kansas Department of Transportation (KDOT). The KDOT will not be a part of this Notice or any resulting contract. Compliance items required by KDOT are contained in the Contract Documents.

By the submittal of a bid, each bidder acknowledges that he understands and agrees to be bound by all KDOT compliance items contained in the Contract Documents or referenced therein, which shall be applicable throughout the performance of the Work under any contract

If you need accommodations due to a disability to participate in this event, meeting, or activity, or alternative format of written materials. contact Jeff Lynch, City of Emporia ADA Coordinator at least 48 hours before the event at 620-343-4291 or e-mail jlynch@emporia-kansas.gov.

THE CITY OF EMPORIA, KANSAS

Kerry Sull
City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: June 2, 2021

ITEM NUMBER: 2d

SUBJECT: Consider Change Order No. 2 for the 30th Avenue Construction Project (PV2006).

RECOMMENDATION: Approve Change Order No. 2 for the 30th Avenue Construction Project (PV2006) that increases the total amount of the contract by \$ 7,281.00 and 3 working days.

BACKGROUND SUMMARY:

Attached are the change order quantities for the 30th Avenue Construction Project (PV2006). The awarded contract amount was \$819,586.89 (60 workdays). With approved Change Order No. 1 in the amount of \$22,811.34 (12 workdays) and Change Order No. 2 in the amount of \$7,281.00 (3 workdays), the contract will increase to \$849,679.23 (75 working days).

Attached is Change Order No. 2 and supporting documentation.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

30TH AVENUE CONSTRUCTION PROJECT (NO. PV2006)
EXPLANATION FOR CHANGE ORDER 2

During construction of the 30TH AVENUE CONSTRUCTION PROJECT PV2006, changes and adjustment of quantities were made with additional changes added to the project. This change order results in an increase of the contract in the amount of \$7,281.00.

Quantities Deleted:

Quantities Added:

1. Type P Manhole – (See Attachment)

This work was added to the project as 1.00 Lump Sum for Adding a Type P Manhole. Due to the existing Raw Waterline location conflicting with proposed storm sewer elevation, the grade of storm sewer was adjusted which required a manhole to be set at grade change. Amount added to contract \$6,725.00.

2. Extra Concrete Throat Width– (See Attachment)

This work was added to the project as 2 Each for Extra Concrete Throat Width. Adjustments were made in the field to 2 Storm Sewer Curb Inlet Boxes . Due to the location of existing Fiber Optic Cable, the inlets were setback which will require a wider concrete throat to be poured. These types of Inlets are standard and will not affect curb drainage. Amount added to contract \$556.00.

3. Working Days –

Due to the addition of Type P Manhole, the contractor is requesting 3 additional Working Days be added to the contract.

**CHANGE IN PLANS NO. 2
ON CONTRACT WITH APAC-KANSAS, SHEARS DIVISION FOR THE
CONSTRUCTION OF 30TH AVENUE CONSTRUCTION PROJECT NO. PV2006**

Date: May 20, 2021

This change in plans, made in accordance with the provisions of Paragraph 9, GS-4, General Conditions under the above Contract, provides for a change in the contract total due to estimated quantities being different than the actual quantities used in the construction of the 30th Avenue Construction Project No. PV2006

<u>QUANTITY</u>	<u>UNIT</u>	<u>ITEM & UNIT PRICE IN WORDS</u>	<u>UNIT PRICE IN FIGURES</u>	<u>TOTAL AMOUNT</u>
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QUANTITIES DELETED:

Total Deleted: \$0.00

<u>QUANTITY</u>	<u>UNIT</u>	<u>ITEM & UNIT PRICE IN WORDS</u>	<u>UNIT PRICE IN FIGURES</u>	<u>TOTAL AMOUNT</u>
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QUANTITIES ADDED:

1.00	L.S.	Type P Manhole @ Six Thousand Seven Hundred Twenty-five Dollars and Zero Cents (Unit Price in Words)	\$6,725.00	\$6,725.00
2.00	Ea.	Extra Concrete Throat Width @ Five Hundred Fifty-six Dollars and Zero Cents (Unit Price in Words)	\$278.00	\$556.00
3.00	Ea.	Working Days		

Total Added: \$7,281.00

TOTAL ADDED TO PROJECT
\$7,281.00

CONTRACTOR: APAC-KANSAS, SHEARS DIVISION
BY: 

Date: _____

APPROVED BY: THE CITY OF EMPORIA, KS

BY: _____
MAYOR

Attest: _____
CITY CLERK

CHANGE ORDER
For
Change in Plans and Construction

Contract No. PV2006 Change Order No. 2
Description Emporia 30th Ave. Construction Project.
Contractor: APAC-Kansas, Shears Division Address: 302 Peyton Street, Emporia, KS

EXPLANATION OF CHANGES:

16" Raw Waterline was found to be in conflict with the storm sewer line. To Solve the issue the pipe was relocated and an additional Type P Manhole was added.

ALSO: 2 each Storm Sewer inlet boxes had to be moved back off the curb between 18"-24", so a wider concrete throat is needed.

3 additional working days is requested.

Contract Revisions

Add or Deduct	Unit Price No.	Item of Work	Contract Qty.	Revised Qty.	Units	Unit Price	Amount (+/-)
Add	580	Extra Type P Manhole	0	1.00	LSU	\$6,725.00	\$ 6,725.00
Add	590	Extra Conc. Throat Width	0	2	each	\$ 278.00	\$ 556.00

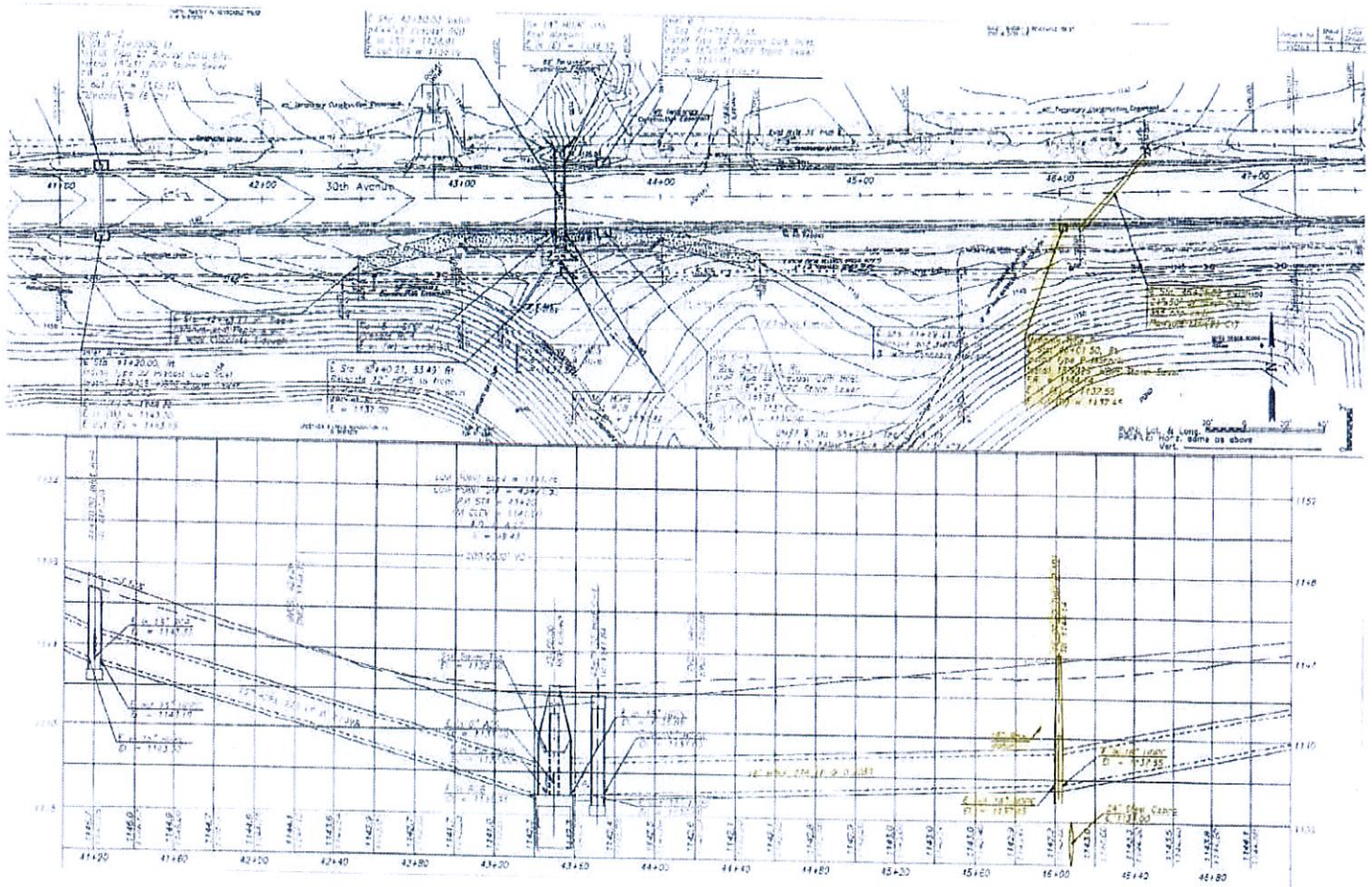
This is to affirm that I/we have inspected this change in plans and construction and hereby agree to the quantities, unit prices, and amount shown above.

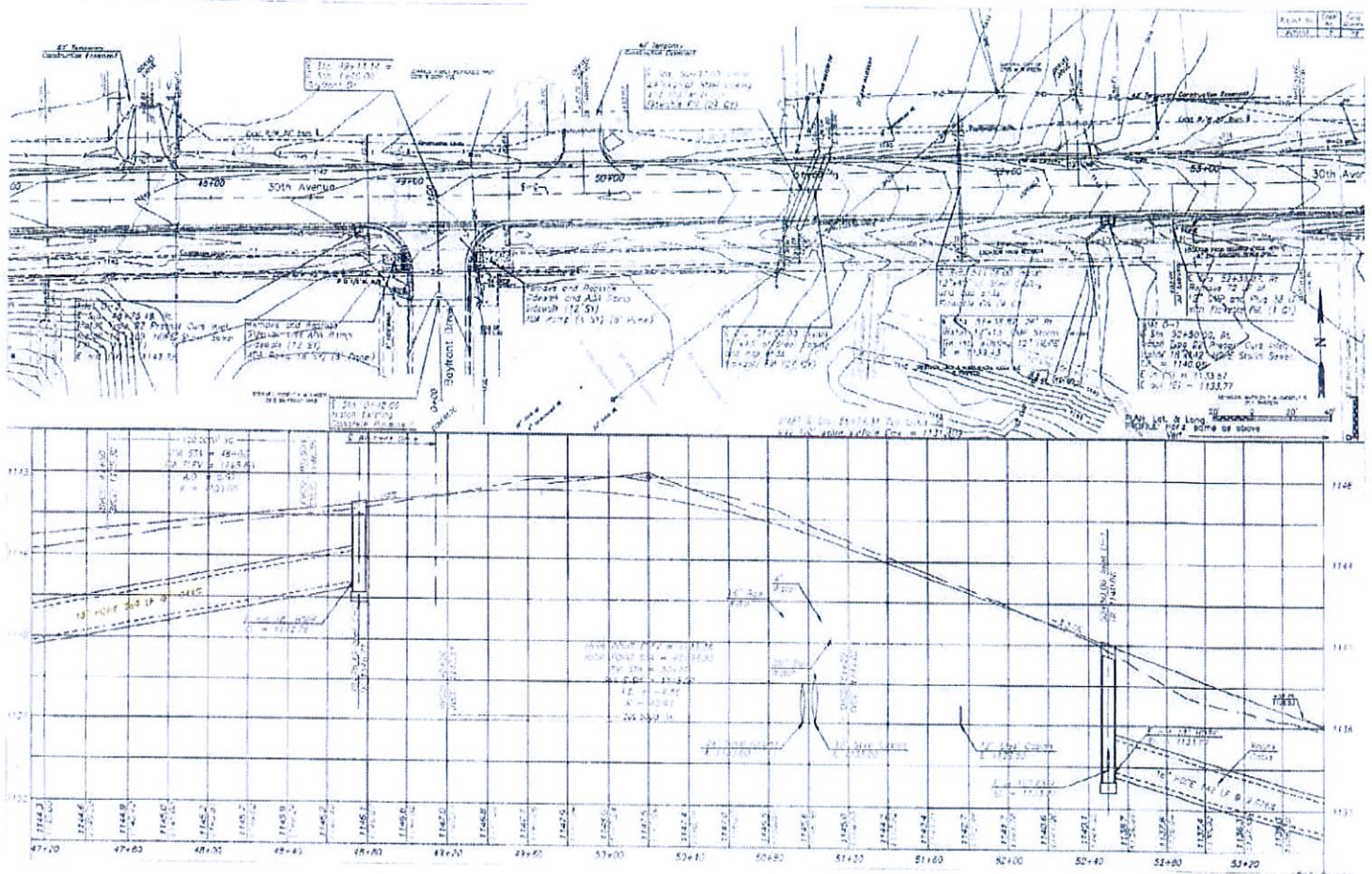
TOTAL - INCREASE \$ 7,281.00

Contractor: APAC-Kansas, Shears Division
Signed By Cody Williams
Date 5/20/2021

Recommended:
Engineer _____
Signed By _____
Date _____

APPROVED:
Owner _____
Signed By _____
Date _____





AGENDA ITEM SUMMARY

MEETING DATE: June 2, 2021

ITEM NUMBER: 3

SUBJECT: Public Comment

RECOMMENDATION:

BACKGROUND SUMMARY:

- Proclamation Designating the Month of June 2021 as “Zoo Month” in Emporia, Kansas.
To accept-Lisa Keith, Director of David Traylor Zoo.

Citizen Appearance Procedures

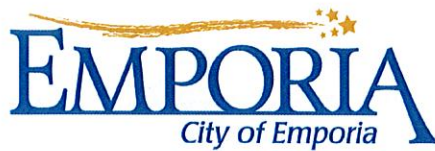
Presentations by individuals during “Citizen Appearance” portion of the Commission agenda shall be limited two minutes each. No personal attacks, comments or opinions shall be expressed or made against or about any member of the Commission, Mayor, City Employee, individual group or corporation.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____



PROCLAMATION

WHEREAS, Zoological Parks and Aquariums of North America serve the needs of both humans and wildlife by bringing them together in a unique setting; and

WHEREAS, they help build awareness, understanding, concern and a sense of stewardship for wildlife and the environment; and

WHEREAS, they provide a vital link to global conservation efforts; and

WHEREAS, their commitment to education fosters and enriches the appreciation of wildlife in over 20 million school children each year; and

WHEREAS, they actively conduct scientific studies to better care for and preserve the diverse wildlife of the earth; and

WHEREAS, they provide important cultural, recreational, and educational experiences for over 175 million people each year.

THEREFORE, BE IT KNOWN; that I, Robert F. Gilligan, Mayor of the City of Emporia, Kansas, do hereby designate the month of June 2021 as

"ZOO MONTH"

and urge all citizens to visit the David Traylor Zoo of Emporia to experience firsthand the wonders of nature and our environment offered by the Zoo.

Done this 2nd day of June 2021

ATTEST:

Robert F. Gilligan, Mayor

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: June 2, 2021

ITEM NUMBER: 4

SUBJECT: Consider Approval of Ordinance for Big on the Block Event Beer Garden.

RECOMMENDATION: Approve Ordinance for Big on the Block Event Beer Garden.

BACKGROUND SUMMARY:

Town Royal and Big Brothers Big Sisters request a temporary exemption from the prohibition of the sale and consumption of alcoholic beverages for the Big on the Block event to be held on June 26, 2021. The requested exemption is for Fourth Avenue between Merchant Street and Commercial Street and the parking lot south of Town Royal, 405 Commercial Street, from 4:00 p.m. and 1:00 a.m. on that date.

The proposed ordinance includes requirements that all alcoholic beverages remain within City fencing with the final location to be approved by the Chief of Police, that no one under the age of 21 may possess or consume alcohol, and that Town Royal must meet all city and state licensing requirements for alcohol sales.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

ORDINANCE NO. _____

AN ORDINANCE EXEMPTING FOURTH AVENUE BETWEEN MERCHANT STREET AND COMMERCIAL STREET AND THE PARKING LOT SOUTH OF 405 COMMERCIAL STREET IN THE CITY OF EMPORIA, KANSAS, FROM THE PROHIBITION ON THE CONSUMPTION OF ALCOHOLIC BEVERAGES.

WHEREAS, Town Royal and Big Brothers Big Sisters request an exemption from the prohibition of sale and consumption of cereal malt beverages (CMB) and/or alcoholic liquor on Fourth Avenue between Merchant Street and Commercial Street and the parking lot south of Town Royal, 405 Commercial Street, Emporia, Kansas, in connection with the operation of a temporary beer garden for the Big on the Block event on June 26, 2021;

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS:

SECTION 1. Pursuant to K.S.A. 2011 SUPP. 41-719(d), as amended, and City Code Sec. 14-102 governing beer gardens; the Governing Body exempts Fourth Avenue between Merchant Street and Commercial Street and the parking lot south of 405 Commercial Street from the prohibition on the sale and consumption of cereal malt beverage (CMB) and alcoholic liquor when it is being consumed in conjunction with the Big on the Block event between 4:00 p.m. and 1:00 a.m. on June 26, 2021, as authorized by the City Manager and subject to any other laws or ordinances regulating the possession, sale and/or consumption of CMB and alcoholic liquor.

SECTION 2. Sale and consumption shall be allowed within an area delineated by City of Emporia fencing in a manner approved by the Chief of Police or designee which clearly distinguishes the area where alcoholic beverages are permitted. No one under the age of 21 shall possess or consume alcoholic beverages and event sponsors shall be held strictly accountable for any violations. No alcoholic beverages shall be consumed in vehicles while on the street at any special event.

SECTION 3. No person shall remove any alcoholic liquor or CMB from inside the boundaries of the special event as delineated by signs, posted map or other means which reasonably identify the boundaries of the special event.

SECTION 4. Licensees must meet all the requirements for licensing for sale of alcoholic beverages by the city and the state.

SECTION 5. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this 2nd day of June 2021.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: June 2, 2021

ITEM NUMBER: 5

SUBJECT: Consider accepting a new permanent utility easement between the City of Emporia and Unified School District 253 mostly along Rindom Road to serve Riverside Elementary and Early Childhood Development Center. The Utility Easement was presented to the City for approval upon request from Evergy and USD#253.

RECOMMENDATION: City staff recommends the City Commission accept the new utility easement from USD #253.

BACKGROUND SUMMARY:

The permanent utility easement will allow construction and maintenance of utilities along this portion of Rindom Road that would serve Riverside Schools

Attached is a copy of the notarized permanent utility easement and exhibit.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

GENERAL UTILITY EASEMENT

This indenture made the 17th day of May, 2021, between **Unified School District 253**, hereinafter called First Party and the **City of Emporia, Kansas**, a municipal corporation organized and existing under the laws of the State of Kansas, hereinafter called Second Party.

WITNESSETH, That the said First Parties in consideration of One Dollar (\$1.00) and other valuable considerations, receipt of which is hereby acknowledged, do by these presents grant unto the Second Party, its successors and assigns, a permanent General Utility easement, subject to the terms and conditions hereinafter set forth over, across, and under the following described real property in Lyon County, Kansas, for the purpose of permitting the Second Party to construct, install, maintain, repair, use and operate a public utility and related facilities, to wit:

A TRACT IN THE S½NE¼SE¼ OF SECTION 16, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M, CITY OF EMPORIA, LYON COUNTY, KANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID S½NE¼SE¼; THENCE S.00°31'35"E. (BASIS OF BEARINGS) ON THE EAST LINE OF SAID S½NE¼SE¼ FOR 60.00 FEET TO THE SOUTH LINE OF RINDOM ROAD; THENCE S.89°12'59"W. PARALLEL WITH THE NORTH LINE OF SAID S½NE¼SE¼ FOR A DISTANCE OF 30.00 FEET TO THE WEST RIGHT OF WAY LINE OF WEST STREET; THENCE CONTINUING S.89°12'59"W. ON THE SOUTH LINE OF RINDOM ROAD FOR A DISTANCE OF 134.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S.89°12'59"W. ON THE SOUTH LINE OF RINDOM ROAD FOR A DISTANCE OF 491.70 FEET TO THE EAST RIGHT OF WAY LINE OF SOUTH WALNUT STREET; THENCE S.00°33'18"E. ON SAID EAST RIGHT OF WAY LINE FOR A DISTANCE OF 158.00 FEET TO THE SOUTH LINE OF RINDOM ROAD; THENCE S.89°12'59"W. ON SAID SOUTH RIGHT OF WAY LINE FOR A DISTANCE OF 362.80 FEET TO THE NORTHWEST CORNER OF A PREVIOUSLY DESCRIBED TRACT RECORDED AS DOCUMENT #2020-01702 IN THE LYON COUNTY REGISTER OF DEEDS OFFICE; THENCE S.00°33'18"E. ON THE WEST LINE OF SAID PREVIOUSLY DESCRIBED TRACT FOR A DISTANCE OF 175.50 FEET; THENCE N.89°12'59"E. ON THE SOUTH LINE OF SAID TRACT FOR A DISTANCE OF 15.00 FEET; THENCE N.00°33'18"W. FOR A DISTANCE OF 160.5 FEET THENCE N.89°12'59"E. PARALLEL WITH THE SOUTH LINE OF SAID RINDOM ROAD FOR 362.80 FEET; THENCE N.00°33'18"W. PARALLEL WITH THE EAST LINE OF SOUTH WALNUT STREET FOR A DISTANCE OF 158.00 FEET TO A POINT 15.00 FEET SOUTH OF THE SOUTH LINE OF RINDOM ROAD; THENCE N.89°12'59"E. PARALLEL WITH THE SOUTH LINE OF RINDOM ROAD FOR A DISTANCE OF 407.89 FEET; THENCE S.61°53'52"E. FOR A DISTANCE OF 78.66 FEET; THENCE N.00°47'01"W. FOR A DISTANCE OF 53.00 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 18909 SQUARE FEET (0.434 ACRES).

(See Exhibit "A")

The duration of the easement herein granted shall be perpetual, unless the Second Party agrees to terminate or abandon its use of the same for the stated purpose. The utility easement shall specifically include, the right and privilege of the Second Party, its agents, employees, contractors, and assigns, of ingress and egress

over the lands of the First Party to access utilities and to traverse the easement with vehicles and equipment, and to make such improvements and excavations thereon and thereunder as may be reasonably necessary to construct, install, maintain, repair, replace, operate, or use the public utility. Second Party shall save and hold the First Party harmless from any and all liability for personal injury and property damage resulting from said utility, or any related facilities or activities conducted or located within said easement, except liability for personal injuries or property damage caused solely by the negligence or wrongdoing of the First Party. Second Party, its contractors and assigns shall take all reasonable steps to restore and revegetate any ground areas disturbed by the utility construction or related activities in the permanent easement herein granted. The parties acknowledge and agree that the First Party, its heirs, successors or assigns, shall be entitled at all times to travel over the easements, and to conduct any and all activities which they may desire to conduct provided the same does not unreasonably interfere with the Second Party's use of said easement for the construction, installation, maintenance, repair, operation or use of the above-specified utility.

IN WITNESS WHEREOF, The First Party has executed this instrument the day and year first above written.



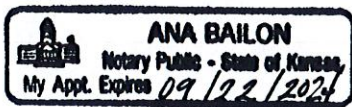
Dr. Allison Anderson Harder:
USD 253 Superintendent

ACKNOWLEDGMENT

State of Kansas)
) ss:
County of Lyon)

BE IT REMEMBERED, That on this 17 day of May, A.D., 2021, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Allison Anderson Harder, who is/are personally known to me to be the same person(s) who executed the above instrument of writing and such person(s) duly acknowledge(s) the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.




Notary Public

My Commission Expires: 09/22/2024

EXHIBIT A

SHEET 1 OF 2

EASEMENT DESCRIPTION:

A TRACT IN THE S½NE¼SE¼ OF SECTION 16, TOWNSHIP 19 SOUTH, RANGE 11 EAST OF THE 6TH P.M, CITY OF EMPORIA, LYON COUNTY, KANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID S½NE¼SE¼;
THENCE S.00°31'35"E. (BASIS OF BEARINGS) ON THE EAST LINE OF SAID S½NE¼SE¼ FOR 60.00 FEET TO THE SOUTH LINE OF RINDOM ROAD;
THENCE S.89°12'59"W. PARALLEL WITH THE NORTH LINE OF SAID S½NE¼SE¼ FOR A DISTANCE OF 30.00 FEET TO THE WEST RIGHT OF WAY LINE OF WEST STREET;
THENCE CONTINUING S.89°12'59"W. ON THE SOUTH LINE OF RINDOM ROAD FOR A DISTANCE OF 134.00 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUING S.89°12'59"W. ON THE SOUTH LINE OF RINDOM ROAD FOR A DISTANCE OF 491.70 FEET TO THE EAST RIGHT OF WAY LINE OF SOUTH WALNUT STREET;
THENCE S.00°33'18"E. ON SAID EAST RIGHT OF WAY LINE FOR A DISTANCE OF 158.00 FEET TO THE SOUTH LINE OF RINDOM ROAD;
THENCE S.89°12'59"W. ON SAID SOUTH RIGHT OF WAY LINE FOR A DISTANCE OF 362.80 FEET TO THE NORTHWEST CORNER OF A PREVIOUSLY DESCRIBED TRACT RECORDED AS DOCUMENT #2020-01702 IN THE LYON COUNTY REGISTER OF DEEDS OFFICE;
THENCE S.00°33'18"E. ON THE WEST LINE OF SAID PREVIOUSLY DESCRIBED TRACT FOR A DISTANCE OF 175.50 FEET;
THENCE N.89°12'59"E. ON THE SOUTH LINE OF SAID TRACT FOR A DISTANCE OF 15.00 FEET;
THENCE N.00°33'18"W. FOR A DISTANCE OF 160.5 FEET
THENCE N.89°12'59"E. PARALLEL WITH THE SOUTH LINE OF SAID RINDOM ROAD FOR 362.80 FEET;
THENCE N.00°33'18"W. PARALLEL WITH THE EAST LINE OF SOUTH WALNUT STREET FOR A DISTANCE OF 158.00 FEET TO A POINT 15.00 FEET SOUTH OF THE SOUTH LINE OF RINDOM ROAD;
THENCE N.89°12'59"E. PARALLEL WITH THE SOUTH LINE OF RINDOM ROAD FOR A DISTANCE OF 407.89 FEET;
THENCE S.61°53'52"E. FOR A DISTANCE OF 78.66 FEET;
THENCE N.00°47'01"W. FOR A DISTANCE OF 53.00 FEET TO THE POINT OF BEGINNING.
SAID TRACT CONTAINS 18909 SQUARE FEET (0.434 ACRES).

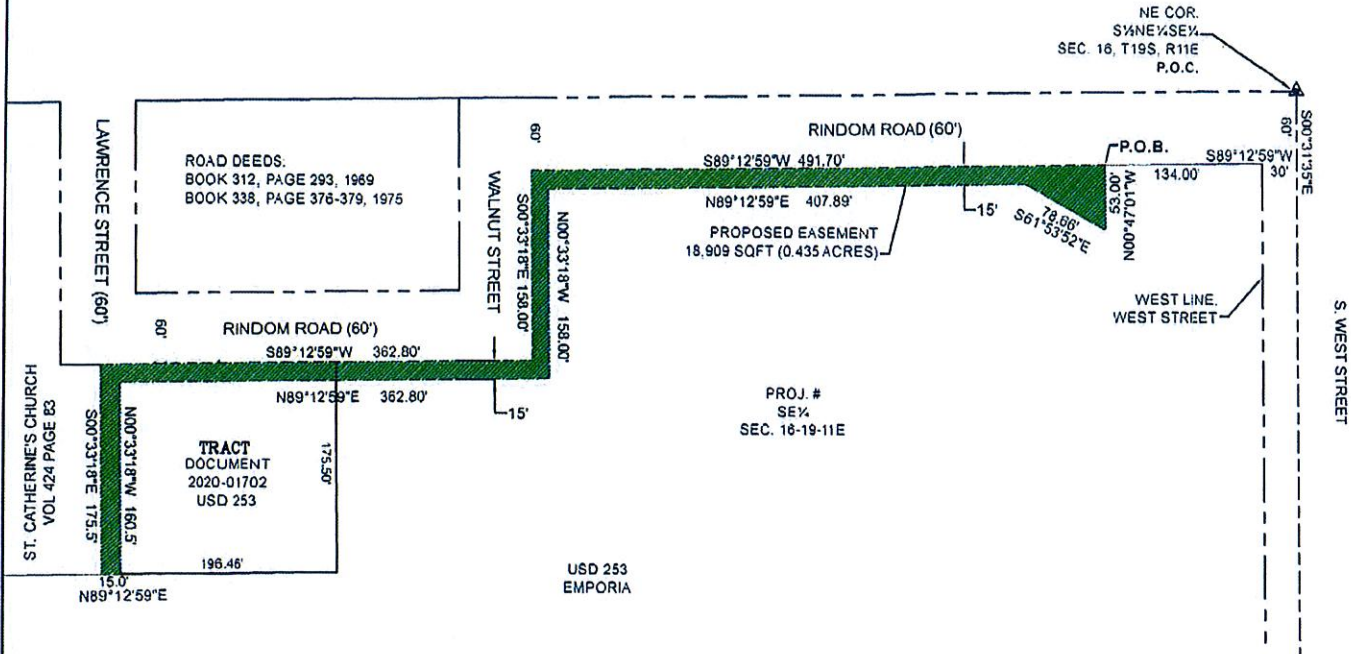


GeoTech, Inc. 115 W. 5th AVE., EMPORIA, KS 66801 (620) 342-7491 FAX: (620) 342-6722	GRANTOR: USD 253		
	COUNTY	TRACT NO.	PROJ. NO.: 21024-02/USD 253
	LYON		DATE: 5/12/2021 1 OF 2

EXHIBIT A

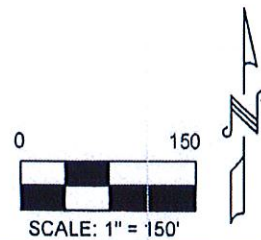
SHEET 2 OF 2

THIS SKETCH HAS BEEN PREPARED FOR EASEMENT EXHIBIT PURPOSES ONLY
AND DOES NOT CONSTITUTE A BOUNDARY SURVEY. DISTANCES AND
BEARINGS ON NAD83 KANSAS SOUTH ZONE STATE PLANE DATUM.



SECTION LINE
ROAD R/W LINE
PROPERTY LINE
EASEMENT LINE
EASEMENT ON PRIVATE PROPERTY
EASEMENT ON PUBLIC R/W

△ SECTION CORNER
P.O.C. POINT OF COMMENCEMENT
P.O.B. POINT OF BEGINNING
R/W RIGHT OF WAY



GeoTech, Inc.
115 W. 5th AVE., EMPORIA, KS 66801
(820) 342-7491 FAX: (820) 342-8722

GRANTOR: USD 253

COUNTY

LYON

TRACT NO.

PROJ. NO.: 21024-02/USD 253

DATE: 5/12/2021
2 OF 2

AGENDA ITEM SUMMARY

MEETING DATE: June 2, 2021

ITEM NUMBER: 6

SUBJECT: Consider Approval of Ordinance Amending the City Code Section 28-18, 28-20, 28-21, and 28-22 Pertaining to Municipal Water Works.

RECOMMENDATION: Approve Ordinance.

BACKGROUND SUMMARY:

The City of Emporia's water and sewer tap fees have remained unchanged for the last 12 years. Due to significant increases in the cost of materials staff have updated the current cost to perform a tap. After recent discussions with the City Commission staff have drafted a new ordinance to reflect the new tap fees. The water ordinance has been expanded to clarify the requirements to apply for water service, increased water tap fees, service line requirements and meter information.

Attached is a copy of the new ordinance for your review.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO MUNICIPAL WATER WORKS; AMENDING SECTION 28-18, 28-20, 28-21, AND 28-22 OF THE CODE OF THE CITY OF EMPORIA, KANSAS.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas;

Section 1. That Section 28-18 of the Code of the City of Emporia, Kansas, is hereby amended to read as follows:

“Sec. 28-18. Application For Water Service:

Any person making proper application and complying with such requirements shall be supplied with water by the city provided his property adjoins a water main or distributing line. All applications for water must be made to the city clerk by the owner or agent of the property to be supplied.

Applicants for property which does not adjoin a water main or distributing line will be responsible for the actual cost of water main or distributing line extension to the property. Actual costs incurred by the city for labor and materials for such line extensions shall be assessed to the property owner.

All approved applicants for new service or upgrade of an existing water service will be responsible for the costs of any street, curb, gutter, and sidewalk cuts and repair resulting from or necessary for water connection to a property. Actual costs incurred by the city for labor and materials for such pavement cuts and repairs shall be assessed to the property owner.

Applicant property outside the city limits must adjoin a water main or distributing line to be considered. Approval is not guaranteed. Additional fees may be assessed for establishment of new service outside of city limits. Annexation of property into the City of Emporia may be required.

(1962 Code, § 23-103; Ord. 21-_____, § 1, 6-2-2021)”

Section 2. That Section 28-20 of the Code of the City of Emporia, Kansas, is hereby amended to read as follows:

“Sec. 28-20. Taps:

All residential, commercial, and industrial water service connection installations for new structures and existing structures requiring a new service installation shall be installed by the City of Emporia Public Works Department.

(1) Service tap fees will be charged as follows:

Meter Size	Tap Size	Tap Cost
5/8"	1"	550.00
3/4"	1"	575.00
1"	1"	1,200.00
1 1/4"	2"	1,200.00
1 1/2"	2"	1,200.00
2"	2"	1,639.00
3"	3"	2,852.00
4"	4"	3,934.00
6"	6"	6,714.00
8"	8"	9,400.00
10"	10"	11,280.00
12"	12"	13,160.00

(2) The city shall require from the property owner a 48-hour notification to schedule the main tap installation

(1962 Code, § 23-104; Ord. 21-____, § 2, 6-2-2021)”

Section 3. That Section 28-21 of the Code of the City of Emporia, Kansas, is hereby amended to read as follows:

“Sec. 28-21. Service Lines:

(a) *Generally:* All consumers shall keep their own water fixtures, service pipes and curb cocks in good repair and protected from frost at their own risk and expense, and shall prevent all unnecessary waste of water, keeping all fixtures closed when not in use. It is expressly stipulated that no claim shall be made against the city because of any break in the service or any damage arising from cutting off water to repair mains, make connections, or for any other purpose that becomes necessary; the right is hereby reserved to cut off water at any time without notice when necessity compels.

(b) *City Maintenance:* The city shall maintain the water service line from the main to the meter, except when the meter is located on private property, then the city shall maintain the service line from the main to the property line.

(c) *New Services*: New water service line installation and enlargements or relocations of water service lines shall be at the expense of the customer. The property owner shall be responsible for extending the service line from the meter to the building. This service line shall be installed according to the most recently adopted International Plumbing Code. The water utility shall install the corporation cock, service pipe, and curb cock at the closest point from the main to the property requesting service. Fees for services provided will be assessed on the basis of actual cost for labor and materials. A service line shall not be extended beyond one hundred feet (100') without the approval of the governing body.

(d) *Service Replacement*: When an existing service line from the main to the meter or property line, whichever comes first, reaches a point when repair is not feasible, the city shall replace the line at the expense of the water utility.

(e) *Rules And Regulations*: The city manager, with the approval of the governing body, shall from time to time adopt and promulgate rules and regulations necessary for the operation of the utility consistent with this code. (1962 Code § 23-106; Ord. 88-10, § 1, 3-16-1988; Ord. 21-_____, § 3, 6-2-2021)”

Section 4. That Section 28-22 of the Code of the City of Emporia, Kansas, is hereby amended to read as follows:

“Sec. 28-22. Meters:

(a) All water sold by the city shall be measured by meter. The city will provide the corporation, tapping saddle, meter set-up, and metering device. The property owner will be responsible for installation. All items provided by the city shall remain the property of the city. The city reserves the right to repair or replace such meters as deemed appropriate by the water department. Any meter larger than 3” requires a concrete vault per the city engineering specs. The meters shall be located adjacent to the curb cock where practicable and otherwise at such point as the superintendent of waterworks shall direct. The property owner’s contractor shall leave a gap in the service line of proper size to accommodate the meter and connections furnished by the city and shall leave sufficient room about the meter for the installation of a meter box, where the meter is placed outside of the buildings.

(b) Any premises equipped or built to be occupied after January 1, 2021 as a duplex, apartment house or by other multiple dwelling units, or occupied in conjunction with a commercial building or other building which receives water service from a single meter shall pay a monthly service charge for one dwelling unit based on the size of meter installed plus an additional service charge for each additional unit at a rate equivalent to the 5/8 inch meter rate in Sec. 28-41, as amended from time to time. Hotels, motels and residential halls may receive service through a single meter and shall pay a single service charge.

(c) Separate water meters may be installed at the option of the city upon the request of the owner for each apartment or other domestic service unit.

(d) No person shall injure, molest or in any way interfere with any water meter, meter box or cover or anything appertaining thereto, and no persons shall deposit dirt, stone or rubbish of any nature in any meter or meter box or service box. The occupant of any building or premises where a meter is located shall keep the meter free from all obstructions so that it is at all times conveniently accessible for reading, inspecting or repairing. Subject to constitutional limitations, the water superintendent or persons authorized by him may enter, at any reasonable hour, premises supplied with water in order to inspect or repair meters, pipes or fixtures, or to investigate the use of water.

(e) Where a meter is located inside any building or in such other place or manner that the city cannot use customary methods for its protection against freezing or other injury, the owner of the property in which such meter is placed shall be responsible for its protection and any damages sustained by such meter shall be chargeable to the property served in the same manner as prescribed for repairs to service lines.

(f) Whether a meter is located in a building, an approved meter box or housing in the parking or sidewalk or elsewhere, the consumer or owner of the property in which such meter is placed shall be responsible for its protection and preservation, and any damage sustained by such meter shall be charged to the consumer or owner of the property served and the same shall be collectible in the same manner as monthly water bills.

(g) In case any meter fails to register for any cause, the amount charged for water during such period shall be estimated by the superintendent of waterworks or utility billing processor, such estimate to be based on the average amount registered during like preceding period.

(h) If any meter is found to vary in excess of two percent (2%) from one hundred percent (100%) accuracy, the reading of the meter shall be corrected according to the percentage of inaccuracy found, but no correction shall extend beyond the date of the last regular monthly reading. A meter with this level of inaccuracy shall also be immediately repaired or replaced with an accurate meter. The water utility shall test any meter on request; and, if any meter tested is inaccurate in excess of two percent (2%), the unit will be corrected; and, if any meter tested is found to vary less than two percent (2%), the meter shall be replaced and a fee not to exceed the actual cost to the city for shipping and testing shall be made on the next water bill. (1962 Code § 23-107; Ord. 88-10, § 2, 3-16-1988; Ord. 07-19, § 1, 8-1-2007; Ord. 20-27, § 3, 9-16-2020; Ord. 21-____, § 3, 6-2-2021)”

Section 5. That Sections 28-18, 28-20, 28-21, and 28-22 of the Code of the City of Emporia, Kansas as they existed prior to the adoption of this ordinance are hereby repealed.

Section 6. This ordinance shall take effect July 1, 2021 and upon its publication in the official City newspaper.

Section 7. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Emporia, KS as an amendment thereto and shall be appropriately numbered to conform to the uniform numbering system of the Code.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas, this
2nd day of June 2021.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: June 2, 2021

ITEM NUMBER: 7

SUBJECT: Consider Ordinance Amending City Code Sections 25-93 and 25-94 Pertaining to Bicycles and Electric-Assisted Scooters.

RECOMMENDATION: Approve Ordinance.

BACKGROUND SUMMARY:

The ordinance proposal amends City Code to allow bicycles, electric-assisted scooters, skateboards, and similar wheeled devices to operate and park on sidewalks in the central business district. Wheeled devices may already operate on sidewalks in other sections of town. Operating any wheeled device in a reckless manner, or without due care for the safety of others, or to otherwise endanger or interfere with pedestrian traffic while riding a wheeled device on the sidewalks will remain unlawful.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

ORDINANCE NO 21-__

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO BICYCLES; AMENDING SECTION 25-93 AND 25-94 OF THE CODE OF THE CITY OF EMPORIA, KANSAS.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas;

Section 1. That Section 25-93 of the Code of the City of Emporia, Kansas, is hereby amended to read as follows:

“Sec. 25-93. Parking:

(a) Bicycles and electric-assisted scooters shall not be parked on public streets in such a manner as to interfere with the normal operation of motor vehicles.

(b) Bicycles may be parked in approved racks upon the public streets or sidewalks, but only after said racks and their location are approved by the chief of police. Any person who places or permits a bicycle rack upon any street or sidewalk without first securing the approval of the chief of police shall be in violation of this article. The chief of police may designate such public areas in which bicycles can be parked. (1962 Code §§ 21-504, 21-505; Ord. 21-__ §1, 5-26-21)”

Section 2. That Section 25-94 of the Code of the City of Emporia, Kansas, is hereby amended to read as follows:

“Sec. 25-94. Riding On Sidewalks; Skateboards:

(a) It is unlawful within the city for any person to coast, ride, or otherwise move upon a skateboard, scooter, bicycle, electric-assisted scooter, or other similar wheeled device in a reckless manner on any public sidewalk within the city, or without exercising due care for the safety of others using the sidewalks, or to otherwise endanger or interfere with pedestrian traffic.

(b) It is unlawful within the city for any person upon a skateboard, scooter, electric-assisted scooter or other similar wheeled device:

(1) To go upon any interstate, state, or federal highway in the city except while crossing a street on a crosswalk, and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians.

(2) To go upon any other parking lot or property within the city when such property is clearly and visibly marked by a sign or signs indicating that skateboard, scooter or other similar wheeled device use is prohibited therein. Such signs shall have lettering of at least one and one-half inches (1 1/2") high and one-half inch (1/2") wide. When such signs are present upon privately owned property, the police department shall be authorized thereby to enforce the provisions of this section.

(c) Violation of any of the provisions of this section is punishable by a fine of up to one hundred dollars (\$100.00) and up to forty (40) hours of community service.

(d) In addition to any other penalty imposed, any skateboard, scooter or other similar wheeled device may be seized by the police department in connection with said violation and may be released to the owner upon the payment of a twenty five dollar (\$25.00) impoundment fee. (1962 Code § 21-506; Ord. 89-4, § 1, 2-1-1989; Ord. 94-54, § 1, 12-21-1994; Ord. 01-39, § 1, 10-17-2001; Ord. 21-____ §2, 5-26-21)”

Section 3. That Sections 25-93 and 25-94 of the Code of the City of Emporia, Kansas as they existed prior to the adoption of this ordinance are hereby repealed.

Section 4. This ordinance shall take effect upon its publication in the official City newspaper.

Section 5. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Emporia, KS as an amendment thereto and shall be appropriately numbered to conform to the uniform numbering system of the Code.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas, this 2nd day of June 2021.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: June 2, 2021

ITEM NUMBER: 8

SUBJECT: Consider Ordinance Amending City Code Section 25-21 to Adopt Section 135.1 of 45th Edition of the Standard Traffic Ordinances for Kansas Cities.

RECOMMENDATION: Approve Ordinance.

BACKGROUND SUMMARY:

The League of Kansas Municipalities publishes the Standard Traffic Ordinances for Kansas Cities incorporating the most recent legislative changes which affect city ordinances. The City adopted the 45th Edition in 2019 and deleted Section 135.1 pertaining to traffic law application for electric-assisted scooters. The proposed ordinance amends City Code Sec. 25-21 to include the electric-assisted scooter provisions. All other city amendments to the 45th Edition of the Standard Traffic Ordinances remain the same.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

ORDINANCE NO. 21-____

AN ORDINANCE ADOPTING THE STANDARD TRAFFIC ORDINANCE AND AMENDMENTS THERETO, AMENDING SECTION 25-21 OF THE CODE OF THE CITY OF EMPORIA, KANSAS, AND REPEALING SAID SECTION AS IT EXISTED PRIOR TO THE ADOPTION OF THIS ORDINANCE.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. That Section 25-21 of the Code of the City of Emporia, Kansas, is hereby amended to read as follows:

“Section 25-21. Adopted; Amendments and Deletions:

(a) *Adopted:* There is hereby incorporated by reference, for the purpose of regulating traffic within the corporate limits of the City, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities", 47th Edition, 2019, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three (3) copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Section 25-21 of the Code of the City of Emporia, Kansas", with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change, and to which shall be attached a copy of this Ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all administrative departments of the City charged with enforcement of the Ordinance shall be supplied, at the cost of the City, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

(b) *Amendments and Deletions:* The Standard Traffic Ordinance for Kansas Cities, 47th Edition, 2019, is hereby amended in the following respects:

(1) Section 2 shall be amended by the addition of subparagraph (c) as follows:

“(c) Articles 7, 8, 9, 10, 11, 13 and 14 of The Standard Traffic Ordinance for Kansas Cities, 46st Edition, 2018, shall be applied to private drives, private parking areas and private streets within the corporate limits of the City of Emporia, Kansas, only if requested in writing by the owner of the property and authorized by the Governing Body with appropriate signage stating, ‘THE TRAFFIC ORDINANCES OF THE CITY OF EMPORIA, KANSAS, AS AMENDED, ARE ENFORCED UPON THIS PROPERTY PURSUANT TO CITY CODE SEC. 25-21’.”

(2) Sections 30.4 and 105 are hereby deleted.

(3) Section 85(b)(1) is amended to read as follows:

"(1) In front of or within five (5) feet of a public or private driveway."

- (4) Section 85(c) is amended by adding new subparagraph (3) to read as follows:

"(3) At any place where the curb has been painted yellow."

- (5) Section 88 is amended by adding new subparagraph (c) to read as follows:

"(c) Advertising or promoting the sale of merchandise, wares or goods, the selection of any public official, or any public or private event."

- (6) Section 126 is hereby deleted.

- (7) Section 103 is amended to read as follows:

"No person, except an authorized emergency vehicle operated by Emporia Fire Department, shall operate any motor vehicle on the streets, alleys, or roadways of the City while wearing headphones which in any way interfere with hearing of traffic noise or warning devices or signals."

- (8) Section 114.2 is amended by adding the following subparagraph:

"(d) Micro utility trucks may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city. No micro utility truck shall be operated on any public highway, street, road or alley unless such vehicle shall comply with the equipment requirements under the provisions of article 17, chapter 8 of the Kansas Statutes Annotated. Every person operating a micro utility truck on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law. A violation of this section shall be deemed an ordinance traffic infraction. No person shall operate a micro utility truck on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver's license. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2019 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect."

- (9) Section 114.4 is amended by adding the following subparagraph:

“(d) A golf cart may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city. Every person operating a golf cart on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law. A violation of this section shall be deemed an ordinance traffic infraction. No person shall operate a golf cart on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver’s license. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2019 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.”

- (10) Section 114.5 is amended by adding the following subparagraph:

“(e) Work-site utility vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city. No work-site utility vehicle shall be operated on any public highway, street, road or alley unless such vehicle shall comply with the equipment requirements under the provisions of article 17, chapter 8 of the Kansas Statutes Annotated. Every person operating a work-site utility vehicle on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law. A violation of this section shall be deemed an ordinance traffic infraction. No person shall operate a work-site utility vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person has a valid driver’s license. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2019 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.”

Section 2. PENALTY FOR SCHEDULED FINES.

- (a) It is unlawful for any person to violate any of the provisions of this ordinance.
- (b) The judge of the Municipal Court shall in the manner prescribed by K.S.A. 12-4305 and Article 20 of the Standard Traffic Ordinance for Kansas Cities establish a schedule of fines for violation of any section of this ordinance classified as an ordinance traffic infraction. Such fines shall be imposed upon a voluntary entry of appearance and upon a plea of guilty or no contest to a complaint alleging such violation and payment of the fine and any court costs.

Section 3. That Section 25-21 of the Code of the City of Emporia, Kansas as it existed prior to the adoption of this ordinance is hereby repealed.

Section 4. This ordinance shall take effect upon its publication in the official City newspaper.

Section 5. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Emporia, KS as an addition or amendment thereto and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas,
this 2nd day of June 2021.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: June 2, 2021

ITEM NUMBER: 9

SUBJECT: Consider an Ordinance authorizing the City of Emporia, Kansas to Issue its (I) Taxable Industrial Revenue Bonds, Series A, 2021 (Citizens National Plaza & Lofts, LLC), in the aggregate principal amount of \$2,200,000, (II) Subordinated Taxable Industrial Revenue Bonds, Series B, 2021 (Citizens National Plaza & Lofts, LLC) in the aggregate principle amount of \$1,716,352.50, (III) Taxable Industrial Bonds, Series C, 2021 (Citizens National Plaza & Lofts, LLC) in the aggregate principal amount of \$2,100,000, (IV) Subordinated Taxable Industrial Revenue Bonds, Series D, 2021 (Preston Plaza & Lofts, LLC) in the aggregate principal amount of \$956,374.58 for the purposes of financing a commercial and residential building known as the Citizens National Plaza & Lofts and a commercial residential building known as the Preston Plaza & Lofts and (3) paying certain cost of issuance; authorizing execution of a trust indenture between the City and Security Bank of Kansas City, Kansas City, Kansas as trustee; authorizing execution of additional bond documents relating to the issuance, payment and purchase of the 2021 Bonds.

RECOMMENDATION: Approve the Ordinance.

BACKGROUND SUMMARY:

The City of Emporia previously authorized Resolution No. 3617, as amended by Resolution No. 3465, evidencing its intent to issue bonds for the purpose of equipping and existing 5-story building at 529 Commercial (the former Citizens National Bank Buildings) to be redeveloped as a mixed used building with twenty residential units plus one to three (1-3) commercial suites, to be known as Citizens National Plaza & Lofts at an estimated cost of \$3,916,352.50 and a new 3-story mixed use building with 22 residential units and one to three commercial suites to be known as Preston Plaza and Lofts, located at 528 Merchant Street at an estimated of \$3,056,374.58 to be known the Preston Plaza Project. The projects are completed, and the financing pieces will be merged into the Industrial Revenue Bond issue. The city will not be liable for any repayment of the industrial revenue bonds under any circumstances.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

ORDINANCE NO. 21-__

OF THE

CITY OF EMPORIA, KANSAS

AUTHORIZING THE ISSUANCE OF

\$2,200,000

CITY OF EMPORIA, KANSAS
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES A, 2021
(CITIZENS NATIONAL PLAZA & LOFTS, LLC)

\$1,716,352.50

CITY OF EMPORIA, KANSAS
SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS
SERIES B, 2021
(CITIZENS NATIONAL PLAZA & LOFTS LLC)

\$2,100,000

CITY OF EMPORIA, KANSAS
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES C, 2021
(PRESTON PLAZA & LOFTS, LLC)

\$956,374.58

CITY OF EMPORIA, KANSAS
SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS
SERIES D, 2021
(PRESTON PLAZA & LOFTS, LLC)

(Published in the *Emporia Gazette*, June 8, 2021)

ORDINANCE NO. 21-__

AN ORDINANCE AUTHORIZING THE CITY OF EMPORIA, KANSAS TO ISSUE ITS (I) TAXABLE INDUSTRIAL REVENUE BONDS, SERIES A, 2021 (CITIZENS NATIONAL PLAZA & LOFTS, LLC), IN THE AGGREGATE PRINCIPAL AMOUNT OF \$2,200,000, (II) SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS, SERIES B, 2021 (CITIZENS NATIONAL PLAZA & LOFTS, LLC) IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,716,352.50, (III) TAXABLE INDUSTRIAL REVENUE BONDS, SERIES C, 2021 (CITIZENS NATIONAL PLAZA & LOFTS, LLC), IN THE AGGREGATE PRINCIPAL AMOUNT OF \$2,100,000, (IV) SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS, SERIES D, 2021 (PRESTON PLAZA & LOFTS, LLC) IN THE AGGREGATE PRINCIPAL AMOUNT OF \$956,374.58 FOR THE PURPOSES OF FINANCING A COMMERCIAL AND RESIDENTIAL BUILDING KNOWN AS THE CITIZENS NATIONAL PLAZA & LOFTS AND A COMMERCIAL AND RESIDENTIAL BUILDING KNOWN AS THE PRESTON PLAZA & LOFTS AND (3) PAYING CERTAIN COSTS OF ISSUANCE; AUTHORIZING EXECUTION OF A TRUST INDENTURE BETWEEN THE CITY AND SECURITY BANK OF KANSAS CITY, KANSAS CITY, KANSAS, AS TRUSTEE; AUTHORIZING EXECUTION OF ADDITIONAL BOND DOCUMENTS RELATING TO ISSUANCE, PAYMENT AND PURCHASE OF THE 2021 BONDS.

WHEREAS, the City of Emporia, Kansas (the “Issuer”) is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), to issue revenue bonds to pay the cost of certain facilities, as such term is defined in the Act, for the purposes set forth in the Act, and to lease and otherwise dispose of such facilities to any person, firm or corporation; and

WHEREAS, the Issuer has previously adopted its Resolution No. 3617, as amended by Resolution No. 3645, evidencing its preliminary intent to issue Bonds in one or more series in an aggregate principal amount estimated to be \$6,972,727.08 for the purpose of equipping (1) an existing 5 – story building at 529 Commercial Street (the former Citizens National Bank building) to be redeveloped as a mixed use building with twenty (20) residential units plus one to three (1-3) commercial suites, to be known as Citizens National Plaza & Lofts, and at an estimated cost of \$3,916,352.50 (the “Citizens National Project”), and (2) a new 3-story mixed use building with twenty-two (22) residential units and one to three (1-3) commercial suites to be known as Preston Plaza & Lofts, located at 528 Merchant Street and at an estimated cost of \$3,056,374.58 (the “Preston Plaza Project”) and (ii) paying certain costs of issuing the Bonds; and

WHEREAS, the Issuer has found and here confirms that that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue Taxable Industrial Revenue Bonds, Series A, 2021 (Citizens National Plaza & Lofts, LLC), in the aggregate principal amount of \$2,200,000 (the “Series A, 2021 Bonds”) and Subordinated Taxable Industrial Revenue Bonds, Series B, 2021 (Citizens National Plaza & Lofts, LLC) in the aggregate principal amount of 1,716,352.50 (the “Series B, 2021 Bonds”)

for the purpose of paying (i) the costs of the Citizens National Project and (ii) paying certain costs of issuance associated with the Series A, 2021 Bonds and Series B, 2021 Bonds; and

WHEREAS, the Issuer has found and here confirms that that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue Taxable Industrial Revenue Bonds, Series C, 2021 (Preston Plaza & Lofts, LLC), in the aggregate principal amount of \$2,100,000 (the "Series C, 2021 Bonds") and Subordinated Taxable Industrial Revenue Bonds, Series D, 2021 (Preston Plaza & Lofts, LLC) in the aggregate principal amount of \$956,374.58 (the "Series D, 2021 Bonds") for the purpose of paying (i) the costs of the Preston Plaza Project and (ii) paying certain costs of issuance associated with the Series C, 2021 Bonds and Series D, 2021 Bonds; and

WHEREAS, the Series A, 2021 Bonds, the Series B, 2021 Bonds, the Series C, 2021 Bonds, and the Series D, 2021 Bonds (collectively, the "2021 Bonds") and the interest thereon shall not constitute an indebtedness of the Issuer, within the meaning of any constitutional provision or statutory limitation, shall not constitute nor give rise to a pecuniary liability by the Issuer, nor shall any of the 2021 Bonds or the interest thereon be a charge against the general credit or taxing powers of the Issuer. The 2021 Bonds are not general obligations of the Issuer and are payable solely and only from certain fees, rentals, revenues and other amounts derived by the Issuer pursuant to the Lease (hereinafter defined) and, under certain circumstances, from the proceeds of the 2021 Bonds and insurance and condemnation awards; and

WHEREAS, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance, execution and delivery of the 2021 Bonds (i) to execute and deliver a Trust Indenture, dated as of the closing date of the Bonds (the "Indenture"), by and between the Issuer and Security Bank of Kansas City, Kansas City, Kansas, as Trustee (the "Trustee"), for the purpose of issuing and securing the 2021 Bonds, as provided therein; (ii) execute and deliver a Lease Agreement, dated as of closing date of the Bonds (the "Citizens National Lease"), by and between the Issuer, as Landlord, and Citizens National Plaza & Lofts, LLC, as Tenant (the "Citizens National Tenant") for the purpose of leasing the Citizens National Project to the Citizens National Tenant in consideration for payments of Basic Rent, Additional Rent and other charges provided for therein; and to execute such other documents and agreements in connection with the issuance of the Series A, 2021 Bonds and Series B, 2021 Bonds, as herein provided; (iii) execute and deliver a Lease Agreement, dated as of closing date of the Bonds (the "Preston Plaza Lease"), by and between the Issuer, as Landlord, and Preston Plaza & Lofts, LLC, as Tenant (the "Preston Plaza Tenant") for the purpose of leasing the Preston Plaza Project to the Preston Plaza Tenant in consideration for payments of Basic Rent, Additional Rent and other charges provided for therein; and to execute such other documents and agreements in connection with the issuance of the Series C, 2021 Bonds and Series D, 2021 Bonds, as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS AS FOLLOWS:

Section 1. Definition of Terms. All terms and phrases used but not defined in this Ordinance shall have the respective meanings given them in the Indenture, Citizens National Lease and the Preston Plaza Lease each as defined above and as authorized and defined by this Ordinance.

Section 2. Authorization to Cause the Project to be Purchased, Acquired, Constructed, Equipped and Installed. The governing body of the Issuer declares the Citizens National Project and Preston Plaza Project (each as defined above and collectively known as the “Project”) will promote the welfare of the City of Emporia, Kansas, and the Issuer is authorized to provide for payment of the Costs of the Project in accordance with the provisions of the Indenture, all as provided in this Ordinance and in the Indenture and Citizens National Lease and the Preston Plaza Lease (collectively, the “Lease”) herein authorized.

Section 3. Authorization of and Security for the 2021 Bonds. The following revenue bonds of the City are authorized and directed to be issued: (i) City of Emporia, Kansas, Taxable Industrial Revenue Bonds, Series A, 2021 (Citizens National Plaza & Lofts, LLC), in the aggregate principal amount of \$2,200,000 (the “Series A, 2021 Bonds”), and (ii) City of Emporia, Kansas Subordinated Taxable Industrial Revenue Bonds, Series B, 2021 (Citizens National Plaza & Lofts, LLC)” in the aggregate principal amount of \$956,374.58 (the “Series B, 2021 Bonds”). The Series A, 2021 Bonds and the Series B, 2021 Bonds are issued for the purpose of paying (i) the costs of the Citizens National Project and (ii) certain costs of issuance associated with the Series A, 2021 Bonds and Series B, 2021 Bonds.

The following revenue bonds of the City are authorized and directed to be issued: (i) City of Emporia, Kansas, Taxable Industrial Revenue Bonds, Series C, 2021 (Preston Plaza & Lofts, LLC), in the aggregate principal amount of \$2,100,000 (the “Series C, 2021 Bonds”), and (ii) City of Emporia, Kansas Subordinated Taxable Industrial Revenue Bonds, Series D, 2021 (Preston Plaza & Lofts, LLC)” in the aggregate principal amount of \$1,716,352.50 (the “Series D, 2021 Bonds”). The Series C, 2021 Bonds and the Series D, 2021 Bonds are issued for the purpose of paying (i) the costs of the Preston Plaza Project and (ii) certain costs of issuance associated with the Series C, 2021 Bonds and Series D, 2021 Bonds.

The 2021 Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity, and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Indenture. The Series B, 2021 Bonds and Series D, 2021 Bonds shall be subordinate in lien, priority and payment to the Series A, 2021 Bonds and Series C, 2021 Bonds. The 2021 Bonds and any Additional Bonds thereafter authorized by the Issuer and the Trustee in their sole and absolute discretion (herein the “Bonds”) may be on a parity with, and equal in priority to, one another and with any Additional Bonds which may be issued on a like parity within the meaning and pursuant to the terms and provision of the Indenture herein defined. The 2021 Bonds shall be special limited obligations of the Issuer payable solely from the revenues derived by the Issuer pursuant to the Lease, or otherwise in connection with the Project. The 2021 Bonds shall not be general obligations of or constitute a pledge of the faith and credit of the Issuer within the meaning of any constitutional or statutory provision and shall not be payable in any manner from tax revenues.

Section 4. Authorization of Indenture. The Issuer is authorized to enter into the Indenture under which the Issuer shall pledge and assign to the Trustee, for the benefit of the holders of the 2021 Bonds, the Trust Estate created thereby, all upon the terms and conditions set forth in the Indenture.

Section 5. Lease of Project. The Issuer is authorized to enter into the Citizens National Lease and the Preston Plaza Lease (together, the “Lease”), under which the Issuer will cause (i) the

Citizens National Project to be acquired and leased the Citizens National Project to Citizens National Plaza & Lots, LLC, (ii) and the Preston Plaza Project to be acquired and leased to Preston Plaza & Lots, LLC, pursuant to and in accordance with the terms and provisions of the Lease.

Section 6. Approval of the Form of Guaranty Agreement. The form of Guaranty Agreements, dated as of closing date of the Bonds (the “Guaranty Agreements”), pursuant to which the Citizens National Tenant guarantees to the Trustee, for the benefit of the Owners of the Series A, 2021 Bonds and the Preston Plaza Tenant guarantees to the Trustee, for the benefit of the Owners of the Series C, 2021 Bonds, the full and prompt payment of the principal of, redemption premium, if any, and interest on the Series A, 2021 Bonds and Series C, 2021 Bonds, is approved.

Section 7. Approval of the Form of Individual Guaranty Agreements. The form of Individual Guaranty Agreement dated as of closing date of the Bonds, pursuant to which Cory M. Haag, Individually and as Trustee of the Cory M. Haag Revocable Trust Dated March 5, 2013, as amended, and Harold J. Haag, Individually and as Trustee for Harold J. Haag Revocable Trust Dated March 11, 2014, as amended, jointly and severally, as Individual Guarantors, guarantee to the Trustee, for the benefit of the owners of the Series A, 2021 Bonds, the full and prompt payment of the principal of, redemption premium, if any, and interest on the Series A, 2021 Bonds as provided in the Individual Guaranty Agreement, is approved.

The form of Individual Guaranty Agreement dated as of closing date of the Bonds, pursuant to which Cory M. Haag, Individually and as Trustee of the Cory M. Haag Revocable Trust Dated March 5, 2013, as amended, as Individual Guarantor, guarantees to the Trustee, for the benefit of the owners of the Series C, 2021 Bonds, the full and prompt payment of the principal of, redemption premium, if any, and interest on the Series C, 2021 Bonds as provided in the Individual Guaranty Agreement, is approved.

Section 8. Authorization of Bond Placement Agreements. The Series A, 2021 Bonds shall be sold and delivered pursuant to and in accordance with the terms and provisions of a Bond Placement Agreement, dated as of closing date of the Bonds (the “Series A Bond Placement Agreement”), by and between the Issuer, the Citizens National Tenant, and Chisolm Trail State Bank, as the Purchaser of the Series A, 2021 Bonds.

The Series B, 2021 Bonds shall be sold and delivered pursuant to and in accordance with the terms and provisions of a Bond Placement Agreement, dated as of closing date of the Bonds (the “Series B Bond Placement Agreement”), by and between the Issuer, the Citizens National Tenant and Citizens National Plaza & Lots, LLC, as the Purchaser of the Series B, 2021 Bonds.

The Series C, 2021 Bonds shall be sold and delivered pursuant to and in accordance with the terms and provisions of a Bond Placement Agreement, dated as of closing date of the Bonds (the “Series C Bond Placement Agreement”), by and between the Issuer, the Preston Plaza Tenant, and Chisolm Trail State Bank, as the Purchaser of the Series C, 2021 Bonds.

The Series D, 2021 Bonds shall be sold and delivered pursuant to and in accordance with the terms and provisions of a Bond Placement Agreement, dated as of closing date of the Bonds (the “Series D Bond Placement Agreement”), by and between the Issuer, the Preston Plaza Tenant and Preston Plaza & Lots, LLC, as the Purchaser of the Series D, 2021 Bonds.

The Series A Bond Placement Agreement, Series B Bond Placement Agreement, Series C Bond Placement Agreement, and the Series D Bond Placement Agreement are referred to collectively as the “Bond Placement Agreements”.

Section 9. Execution of Series 2021 Bonds and Related Agreements and Documents. The Mayor or acting Mayor of the governing body of the Issuer is authorized and directed to execute the 2021 Bonds and deliver same to the Trustee for authentication for and on behalf of and as the act and deed of the Issuer in the manner provided in the Indenture. The Mayor or Acting Mayor is authorized and directed to execute and deliver the Indenture, the Lease and the Bond Placement Agreements for and on behalf of and as the act and deed of the Issuer in substantially the forms as they are presented today with such minor corrections or amendments thereto as the Mayor or Acting Mayor shall approve (after consultation and upon direction of Bond Counsel), which approval shall be evidenced by his or her execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance. The City Clerk or any Deputy or Acting City Clerk of the Issuer are authorized and directed to attest the execution of the 2021 Bonds, the Indenture, the Lease and the Bond Placement Agreements and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 10. Pledge of the Project. The Issuer pledges the Project to the payment of the Series A, 2021 Bonds and the Series B, 2021 Bonds, the Series C, 2021 Bonds and the Series D, 2021 Bonds, in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the 2021 Bonds and any Additional Bonds issued under the Indenture are deemed to have been paid within the meaning of the Indenture.

Section 11. Further Authority. The Issuer shall, and the officers, agents and employees of the Issuer are authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the 2021 Bonds, the Indenture, the Lease, and the Bond Placement Agreements, all as necessary to carry out and give effect to the transaction described here and in such documents.

Section 12. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the Issuer and publication once in the official newspaper of the Issuer.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas on June 2, 2021.

CITY OF EMPORIA, KANSAS

[seal]

By _____
Robert F. Gilligan, Mayor

ATTEST:

By _____
Kerry Sull, City Clerk

EXCERPT OF MINUTES

The governing body of the City of Emporia, Kansas met in regular session, at the usual meeting place in said City on June 2, 2021 at 1:30 p.m., with the Mayor Robert F. Gilligan presiding, and the following members of the governing body present:

The following members were absent:

Among other business, there came on for consideration and discussion the following:

AN ORDINANCE AUTHORIZING THE CITY OF EMPORIA, KANSAS TO ISSUE ITS (I) TAXABLE INDUSTRIAL REVENUE BONDS, SERIES A, 2021 (CITIZENS NATIONAL PLAZA & LOFTS, LLC), IN THE AGGREGATE PRINCIPAL AMOUNT OF \$2,200,000, (II) SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS, SERIES B, 2021 (CITIZENS NATIONAL PLAZA & LOFTS, LLC) IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,716,352.50, (III) TAXABLE INDUSTRIAL REVENUE BONDS, SERIES C, 2021 (CITIZENS NATIONAL PLAZA & LOFTS, LLC), IN THE AGGREGATE PRINCIPAL AMOUNT OF \$2,100,000, (IV) SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS, SERIES D, 2021 (PRESTON PLAZA & LOFTS, LLC) IN THE AGGREGATE PRINCIPAL AMOUNT OF \$956,374.58 FOR THE PURPOSES OF FINANCING A COMMERCIAL AND RESIDENTIAL BUILDING KNOWN AS THE CITIZENS NATIONAL PLAZA & LOFTS AND A RESIDENTIAL BUILDING KNOWN AS THE PRESTON PLAZA & LOFTS AND (3) PAYING CERTAIN COSTS OF ISSUANCE; AUTHORIZING EXECUTION OF A TRUST INDENTURE BETWEEN THE CITY AND SECURITY BANK OF KANSAS CITY, KANSAS CITY, KANSAS, AS TRUSTEE; AUTHORIZING EXECUTION OF ADDITIONAL BOND DOCUMENTS RELATING TO ISSUANCE, PAYMENT AND PURCHASE OF THE 2021 BONDS.

After discussion, upon motion by _____, seconded by _____, the Ordinance was passed by a majority of the members of the governing body.

A majority of the members having voted in favor of the passage of the Ordinance, it was designated Ordinance No. 21-__.

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I certify that the foregoing is a true and correct Excerpt of Minutes of the June 2, 2021 meeting of the governing body of the City of Emporia, Kansas.

[seal]

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: June 2, 2021

ITEM NUMBER: 10

SUBJECT: Report from the City Manager on City Activities

RECOMMENDATION: This is a verbal report that announces upcoming events, recognizes employees for outstanding contributions and provides the public with information that may be of general interest.

BACKGROUND SUMMARY: This is an opportunity to present information to the public that may not be reported in other news accounts or City activities or to highlight accomplishments of the organization.

At the time this Agenda was prepared, the following items were in the works:

Tentative Agenda for June 9th Study Session at 10:00 a.m.

- Discuss Revenue Neutral Rate & Budget Overview.
- Fire, EMS, Codes & Police CIP.
- Administrative, Civic, Library CIP.
- Park, Golf, Zoo CIP.
- Wage Scale Discussion.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: June 2, 2021

ITEM NUMBER: 11

SUBJECT: City Commissioners Reports and Comments

RECOMMENDATION:

BACKGROUND SUMMARY:

This is a time for the City Commissioners to make comments and reports to the Public.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: April 7, 2021

ITEM NUMBER: 12

SUBJECT: Consider Ordinance Amending City Code Sec. 4-108 Pertaining to Business Regulations for Drinking Establishment, Private Club, and Caterers.

RECOMMENDATION: Approve Ordinance.

BACKGROUND SUMMARY:

City Code Sec. 4-108 currently prohibits drinking establishments from serving, mixing, or allowing consumption of alcohol between the hours of 2:00 a.m. and 9:00 a.m. This ordinance proposal modifies that prohibition to the hours of 2:00 a.m. and 6:00 a.m. The proposed ordinance authorizes drinking establishments to begin serving, mixing, and allowing consumption of alcohol three hours earlier and will bring City Code into conformity with K.S.A. 41-2614 and 41-2615.

This ordinance proposal also includes language clarifying requirements for hotel mini-bars and regulations relating to underage possession and consumption of alcohol on licensed premises.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS, PERTAINING TO DRINKING ESTABLISHMENTS, PRIVATE CLUBS, AND CATERERS AND AMENDING CITY CODE SECTION 4-108; BUSINESS REGULATIONS.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas;

Section 1. Section 21-23 of the Code of the City of Emporia, Kansas, is hereby amended as follows:

Sec. 4-108. Business regulations.

(a) The city license issued hereunder shall allow the licensee to operate only at the premises specified in such license in accordance with the provisions of this article, the laws of the state, and the rules and regulations adopted by the director of alcoholic beverage control of the department of revenue.

(b) No drinking establishment or private club licensed hereunder shall allow the serving, mixing, or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 6:00 a.m. on any day.

(c) No caterer licensed hereunder shall allow the serving, mixing, or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any day at an event catered by such caterer.

(d) A hotel of which the entire premises are licensed as a drinking establishment or as a drinking establishment caterer may allow at any time the serving, mixing and consumption of alcoholic liquor and cereal malt beverage from a minibar in a guest room by guests registered to stay in such room, and guests of guests registered to stay in such room.

(e) Possession or consumption by minor prohibited.

(1) No licensee or permit holder, or any owner, officer or employee thereof, shall knowingly or unknowingly permit the possession or consumption of alcoholic liquor or cereal malt beverage by a minor on premises where alcoholic beverages are sold by such licensee or permit holder, except that a licensee's or permit holder's employee who is not less than 18 years of age may serve alcoholic liquor or cereal malt beverage under the on-premises supervision of the licensee or permit holder, or an employee who is 21 years of age or older.

(2) Violation of subsection (e) is a misdemeanor punishable by a fine of not less than \$100 and not more than \$250 or imprisonment not exceeding 30 days, or both.

(3) It shall be a defense to a prosecution under this section if:

(A) The defendant permitted the minor to possess or consume the alcoholic liquor or cereal malt beverage with reasonable cause to believe that the minor was 21 or more years of age; and

(B) to possess or consume the alcoholic liquor or cereal malt beverage, the minor exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document that reasonably appears to contain a photograph of the minor and purporting to establish that such minor was 21 or more years of age.

(Ord. No. 88-11, § 4, 5-4-88; Ord. No. 21-____, § 1, 4-7-21)

Section 2. That Sections 4-108 of the Code of the City of Emporia, Kansas as it existed prior to the adoption of this ordinance is hereby repealed, and the newly adopted Section 4-108 shall be included and incorporated in the Code of Ordinances of the City of Emporia, Kansas as an amendment thereto.

Section 3. This ordinance shall take effect after its publication in the official City newspaper.

PASSED AND APPROVED this 7th day of April 2021

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

ADJOURNED

COMMISSION MEETING

9:30 A.M.

MAY 26, 2021

The Governing Body of the City of Emporia, Kansas, met in Adjourned Session, Wednesday, May 26, 2021 in the City Commission Meeting Room with Mayor Gilligan presiding and Commissioners Brinkman, Geitz, Giefer and Smith present. Also present were City Manager McAnarney, Assistant City Manager Massey, City Clerk Sull and City Attorney Montgomery.

Consent Agenda

It was moved by Giefer, seconded by Commissioner Brinkman that the Consent Agenda listed below be ratified as a whole:

- a. Consider minutes of the Meeting held on May 19, 2021.

The vote follows: Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

CITY COMMISSION

**(Request for Funding Support - Sponsor)
(Halfway To Everywhere 2021 Music Festival)**

City Manager McAnarney stated this item has been discussed at a previous study session. Hank Osterhouse, Executive Director Kansas Free for Arts, has requested financial support in the amount of \$10,000.00 from the City of Emporia. He stated the funds will be utilized to sponsor a stage at the Halfway To Everywhere 2021 Music Festival that will be held in downtown Emporia later in the year. He stated the funds will be paid from the Transient Guest Tax Fund.

Commissioner Smith made a motion to approve the request for \$10,000.00 for the Halfway to Everywhere 2021 Music Festival payable from the Transient Guest Tax Fund. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Geitz, aye; and Mayor Gilligan, aye. Commissioner Brinkman abstained.

ECONOMIC DEVELOPMENT

**(Consider Authorizing Emporia Enterprises to sell Building)
(3601 W. 6th Avenue)**

City Manager McAnarney stated on December 16, 2020 the City Commission approved a Memorandum of Understanding with Emporia Enterprises for the purchase of the Dynamic Distribution building located at 3601 W. 6th Avenue. As part of the agreement, the City of Emporia needs to authorize the sale of the building if the purchase is less than \$650,000.00. He stated Emporia Enterprises has received an offer in the amount of \$575,000.00 and it is recommended to authorize Emporia Enterprises to sell the building.

Kent Heermann, President of the Regional Development Association (RDA), was recognized and addressed the Governing Body. He stated the Board of Directors accepted conditional on the City Commission approving the purchase contract. He stated the business who signed the lease with the buyer required the owner to sign a non-disclosure agreement. The business will be new to Emporia and will reveal its identity after the closing on the property.

Commissioner Geitz made a motion authorizing Emporia Enterprises to sell the Dynamic Distribution building located at 3601 W. 6th Avenue in the amount of \$575,000.00. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Geitz, aye; Commissioner Brinkman, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

EXECUTIVE SESSION

Commissioner Brinkman made a motion to adjourn into Executive Session to discuss proprietary information of businesses within the City limits of Emporia and to invite Special Projects Manager Jim Witt, from 9:40 a.m. to 9:50 a.m., in the City Commission Meeting Room. Commissioner Geitz seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

Upon reconvening the meeting in Adjourned Session at 9:50 a.m., this same date, in the City Commission Meeting Room, Mayor Gilligan stated they

had discussed proprietary information of businesses within the City limits of Emporia and no action was taken.

EXECUTIVE SESSION

Commissioner Geitz made a motion to adjourn into Executive Session to discuss non-elected personnel from 9:50 a.m. to 10:05 a.m., in the City Commission Meeting Room. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Geitz, aye; Commissioner Brinkman, aye; Commissioner Giefer, aye; Commissioner Smith, aye; and Mayor Gilligan, aye.

Upon reconvening the meeting in Adjourned Session at 10:05 a.m., this same date, in the City Commission Meeting Room, Mayor Gilligan stated they had discussed non-elected personnel and no action was taken.

Commissioner Smith then made a motion to adjourn. Commissioner Giefer seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Gilligan aye.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk