



**CITY COMMISSION
WEDNESDAY, AUGUST 26, 2026 AT 12:00 PM
CITY COMMISSION CHAMBER**

ORDER OF BUSINESS

CALL MEETING TO ORDER

Mayor Becky Smith

MEMBERS PRESENT

Vice-Mayor Tammi Ogle
Commissioner Monica Duncan
Commissioner Erren Harter
Commissioner Kurt Steinkuhler

NEW BUSINESS

1) **Resolution No. 3799 Submitting An Ordinance Prohibiting High Impact Data Centers To The Electors At The November 3, 2026 General Election**

Presented by: Christina Montgomery, City Attorney

Recommended Action: Adopt Resolution No. 3799 Submitting An Ordinance Prohibiting High Impact Data Centers To The Electors At The November 3, 2026 General Election

2) **Resolution No. 3800 Submitting An Ordinance Prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems To The Electors At The November 3, 2026 General Election**

Presented by: Christina Montgomery, City Attorney

Recommended Action: Adopt Resolution No. 3800 Submitting An Ordinance Prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems To The Electors At The November 3, 2026 General Election

3) **Authorization to Retain Outside Legal Counsel**

Presented by: Trey Cocking, City Manager, Christina Montgomery, City Attorney

Recommended Action: Authorize City Manager, in consultation with the City Attorney, to retain outside legal counsel and take all actions reasonably necessary to protect the City's legal interests in the matters described in this report, including initiating, defending, or appealing legal proceedings, subject to budgeted and appropriated funds

GOVERNING BODY COMMENTS

Mayor Becky Smith
Vice-Mayor Tammi Ogle
Commissioner Monica Duncan
Commissioner Erren Harter
Commissioner Kurt Steinkuhler

ADJOURNMENT



Commission Action Report

Resolution No. 3799

Submitting An Ordinance Prohibiting High Impact Data Centers
To The Electors At The November 3, 2026, General Election

Title: Resolution No. 3799 Submitting An Ordinance Prohibiting High Impact Data Centers To The Electors At The November 3, 2026, General Election

Agenda Date: August 26, 2026

Presented By: Christina Montgomery, City Attorney

Background:

On July 14, 2026, an initiative petition proposing an ordinance prohibiting the installation and operation of High Impact Data Centers within the City of Emporia was filed with the City Clerk. On July 21, 2026, the Lyon County Election Officer certified that the petition contained a sufficient number of signatures under K.S.A. 12-3013.

The City subsequently filed a declaratory judgment action in Lyon County District Court seeking a determination as to whether the proposed ordinance is legislative and therefore a proper subject for initiative under K.S.A. 12-3013. On August 20, 2026, the District Court ordered the City to submit the proposed ordinance to the electors at the November 3, 2026, General Election. The Court further ordered that, if approved by the voters, the ordinance may not be published or enacted until the Court determines whether it is barred by K.S.A. 12-3013(a)(1), or until further order of the Court.

Discussion:

The proposed Resolution submits the initiative ordinance to the electors in compliance with the Court's order and authorizes the City Clerk to certify and transmit the ballot question and related documents to the Lyon County Election Officer by the September 1, 2026, deadline.

Adoption of the Resolution does not waive or alter the City's position in the pending declaratory judgment action. The Resolution expressly preserves the City's legal positions, objections, and appellate rights.

Recommended action:

Adopt Resolution No. 3799 Submitting An Ordinance Prohibiting High Impact Data Centers To The Electors At The November 3, 2026, General Election

Attachments:

Resolution No. 3799 Submitting An Ordinance Prohibiting High Impact Data Centers To The Electors At The November 3, 2026, General Election

RESOLUTION NO. 3799

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS, SUBMITTING A PROPOSED ORDINANCE PROHIBITING HIGH IMPACT DATA CENTERS TO THE ELECTORS AT THE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 2026

WHEREAS, pursuant to K.S.A. § 12-3013, the electors of the City of Emporia, Kansas, have the power to propose legislative ordinances and to adopt or reject the same at the polls; and

WHEREAS, a petition for a proposed ordinance prohibiting High Impact Data Centers in the City of Emporia, Kansas, was filed with the City Clerk on July 14, 2026; and

WHEREAS, on July 21, 2026, the Lyon County Election Officer certified that the petition contains a sufficient number of signatures of electors of the City of Emporia, Kansas, as required by K.S.A. § 12-3013; and

WHEREAS, K.S.A. § 12-3013 requires the governing body, upon receipt of a sufficient petition, to either pass the proposed legislative ordinance without alteration within twenty (20) days or submit the same without alteration to a vote of the electors at the next general or primary state election occurring not less than sixty (60) days after the date the petition is filed; and

WHEREAS, a declaratory judgment action is currently pending in the District Court of Lyon County, Kansas, styled LY-2026-CV-000119, concerning the legal validity of the proposed initiative ordinance Prohibiting High Impact Data Centers; and

WHEREAS, on August 20, 2026, the Lyon County District Court entered an order requiring the City of Emporia to submit the initiative ordinance prohibiting high impact data centers to the electors of the City at the November 2026 general election; and

WHEREAS, the Lyon County District Court further ordered that publication, implementation, enforcement, and any legal effect of the proposed ordinance are stayed pending final judgment or further order of the Court, regardless of the election outcome; and

WHEREAS, the City of Emporia adopts this resolution in strict compliance with the interim order of the Lyon County District Court, while expressly preserving its position in the pending litigation that the proposed ordinance is administrative, rather than legislative, and is not a proper subject for the initiative and referendum process under Kansas law; and

WHEREAS, a true and correct copy of the proposed ordinance prohibiting high impact data centers is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, the governing body must certify the ballot question to the County Election Officer of Lyon County, Kansas, not later than September 1, 2026 to be submitted to a vote at the General Election to be held on November 3, 2026;

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

Article 1 — Submission to Electors

- I. **Submission of Proposed Ordinance.** The proposed ordinance attached hereto as Exhibit A, being the ordinance proposed by petition pursuant to K.S.A. § 12-3013, shall be submitted without alteration to a vote of the qualified electors of the City of Emporia, Kansas, at the General Election to be held on November 3, 2026, in compliance with the order of the Lyon County District Court entered on August 20, 2026.
- II. **Ballot Question.** The ballot question to be submitted to the electors shall be in substantially the form set forth in Exhibit B attached hereto and incorporated herein by reference, and shall read as follows:

Ballot Question 2:

"Shall the following ordinance be adopted?

An Ordinance of the City of Emporia, Kansas Prohibiting the Installation and Operation of High Impact Data Centers"

- III. **Ballot Question Format.** The ballot question shall include the following instruction to voters: "Vote Yes to adopt the ordinance. Vote No to reject the ordinance." The ballot question shall be presented in the form and manner required by applicable election laws of the State of Kansas.

Article 2 — Certification and Transmittal

- I. **Certification to County Election Officer.** The City Clerk is hereby authorized and directed to certify and transmit to the Lyon County Election Officer the ballot question set forth in Exhibit B, together with a certified copy of this Resolution and the proposed ordinance (Exhibit A), not later than September 1, 2026.
- II. **Form of Certification.** The certification and transmittal to the Lyon County Election Officer shall be in substantially the form set forth in Exhibit C attached hereto and incorporated herein by reference.
- III. **Publication of Notice.** The City Clerk is hereby authorized and directed to cause publication of notice of the ballot question in substantially the form attached hereto as Exhibit D. Such notice shall be published once each week for two (2) consecutive weeks in the official city newspaper, with the first publication occurring not less than twenty-one (21) days prior to the date of the special question election, and the last publication being not more than ninety (90) days prior to the date of the Election.

Article 3 — Effect of Election Results and Compliance with Court Order

- I. **Conditional Effect Upon Approval.** If a majority of the electors voting on the proposed ordinance vote in favor thereof, the ordinance shall not be published or enacted unless and until the Lyon County District Court determines that the ordinance is valid under K.S.A. § 12-3013(a)(1), or until further order of the Court. Upon such judicial determination authorizing publication and enactment, the ordinance shall take effect and be in force in accordance with the terms of the Court's order and upon publication as described by K.S.A. § 12-3007, as applicable.
- II. **Rejection Upon Disapproval.** If a majority of the electors voting on the proposed ordinance vote against the same, the proposed ordinance shall be rejected and shall not take effect.
- III. **Canvass and Certification.** The City Clerk shall obtain from the Lyon County Election Officer a certified copy of the canvass of votes cast on the ballot question and shall file the same with the official records of the City of Emporia, Kansas. The City Clerk shall provide notice of the election results to the Lyon County District Court and to all parties in the pending declaratory judgment action within ten (10) days following certification of the election results.
- IV. **Preservation of Legal Positions.** Nothing in this Resolution shall be construed as a waiver or abandonment of any legal position, defense, objection, or argument asserted or available to the City of Emporia, Kansas, in the pending declaratory judgment action or in any appeal or further review arising from that action. The City expressly reserves all rights to argue that the proposed ordinance is administrative in nature and barred by K.S.A. § 12-3013(a)(1), and that any adverse ruling may be challenged on appeal.

Article 4 — General Provisions

- I. **Effective Date of Resolution.** This Resolution shall take effect and be in full force immediately upon its passage and approval.
- II. **Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.
- III. **Recordation.** The City Clerk shall cause a copy of this Resolution, together with all exhibits attached hereto and a certified copy of the Lyon County District Court's order(s) referenced herein, to be filed and maintained in the official records of the City of Emporia, Kansas.

ADOPTED by the Governing Body of the City of Emporia, Kansas, this 26th day of August 2026.

CITY OF EMPORIA, KANSAS

Becky Smith, Mayor

ATTEST:

Kerry Sull, City Clerk

EXHIBIT A

ORDINANCE NO. ____ _

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PROHIBITING THE INSTALLATION AND OPERATION OF HIGH IMPACT DATA CENTERS TO PROTECT HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF EMPORIA, KANSAS.

WHEREAS, High Impact Data Centers are rapidly evolving land use that has only recently begun to be proposed in jurisdictions across the United States, and the suitability and impact of such facilities on the City of Emporia, Kansas is unstudied and is likely to generate many negative environmental and health impacts, including industrial-scale disruption to existing land uses, current residents, and the environment;

WHEREAS, emerging forms of High Impact Data Center development involve significant electrical and water consumption, causing higher demand leading to additional strain on regional infrastructure that has not been adequately evaluated or addressed;

WHEREAS, High Impact Data Centers generate significant noise and heat, which will also strain municipal services and negatively impact the quality of life of residents of the City of Emporia, Kansas.

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

SECTION 1. The purpose of this Ordinance is to protect the public health, safety, and welfare of the residents of the City of Emporia, Kansas, by prohibiting the installation and operation of High Impact Data Centers.

SECTION 2. For the purposes of this Ordinance, the following terms shall have the meanings indicated:

- A. "High Impact Data Center" means a principal use consisting of one or more buildings, structures, or facilities whose primary purpose is the housing, operation, and maintenance of computer servers, data storage devices, networking equipment, and associated infrastructure (including but not limited to cooling systems, backup power generators, substations, and high-capacity electrical and water systems) for the bulk processing, storage, or transmission of electronic data, that requires a peak electrical load exceeding ten (10) megawatts, or a daily water draw exceeding one hundred thousand (100,000) gallons. This term includes server farms, colocation facilities, AI training facilities, cryptocurrency mining operations, and similar high-density computing facilities, provided however, that High Impact Data Center does not include accessory data processing equipment that is incidental and subordinate to the primary use of a building (e.g., ordinary office servers, school computer labs, or manufacturing process controls).

SECTION 3. No person, firm, corporation, or other entity shall construct, install, operate, maintain, or cause to be constructed, installed, operated, or maintained, any High Impact Data Center in the jurisdictional boundaries City of Emporia, Kansas.

SECTION 4. The prohibition set forth in this Ordinance shall apply to all zoning districts and all land uses within the City of Emporia, Kansas, including but not limited to, residential, commercial, industrial, institutional, and public facility zones as defined in the applicable zoning ordinances and resolutions, as currently in effect and as may hereafter be amended from time to time.

SECTION 5. Any violation of Section 3 or Section 4 of this Ordinance shall be subject to the civil and criminal penalties as set forth in Article 15 of the City of Emporia Zoning Regulations.

SECTION 6. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. Similarly, if any exemption, variance, or procedural provision is found invalid, it is the express intent that the core prohibitions shall remain in effect to the maximum extent permitted by law.

SECTION 7. Where the requirements of this Ordinance impose a different restriction or requirement than imposed by other City of Emporia Ordinances, or other applicable rules or regulations, the requirements of this Ordinance shall prevail.

SECTION 8. This Ordinance shall take effect and be in force either upon publication as described by K.S.A. § 12-3007, or upon approval by the electors pursuant to K.S.A. § 12-3013, as applicable.

CITY OF EMPORIA, KANSAS

[SEAL]

Becky Smith, Mayor

ATTEST:

Kerry Sull, City Clerk

APPROVED AS TO FORM:

Christina Montgomery, City Attorney

FORM OF BALLOT QUESTION

CITY OF EMPORIA, KANSAS

GENERAL ELECTION — NOVEMBER 3, 2026

Ballot Question 2:

An Ordinance of the City of Emporia, Kansas Prohibiting the Installation and Operation of High Impact Data Centers

Explanatory Statement: This ordinance would **prohibit** the construction, installation, operation, and maintenance of **High Impact Data Centers** within the City of Emporia, Kansas. A "High Impact Data Center" is defined as a facility whose primary purpose is the housing, operation, and maintenance of computer servers and related infrastructure that requires a peak electrical load exceeding ten (10) megawatts or a daily water draw exceeding one hundred thousand (100,000) gallons. This term includes server farms, colocation facilities, AI training facilities, cryptocurrency mining operations, and similar high-density computing facilities. The prohibition would apply to all zoning districts within the City. Violations would be subject to civil and criminal penalties under the City of Emporia Zoning Regulations.

To vote in favor of any question submitted on this ballot, press the word **"Yes"** on the voting machine or completely darken the oval to the left of the word **"Yes"** on the paper ballot. Vote Yes to adopt the ordinance.

To vote against it, press the word **"No"** on the voting machine or completely darken the oval to the left of the word **"No"** on the paper ballot. Vote No to reject the ordinance.

Shall the following ordinance be adopted?

****An Ordinance of the City of Emporia, Kansas Prohibiting the Installation and Operation of High Impact Data Centers****

Vote **Yes** to **adopt** the ordinance.

Vote **No** to **reject** the ordinance.

☐ **YES**

☐ **NO**

EXHIBIT C

CERTIFICATION AND TRANSMITTAL TO COUNTY ELECTION OFFICER

Date:

Lyon County Election Officer
Lyon County Clerk
430 Commercial Street
Emporia, Kansas 66801

**Re: Certification of Ballot Question 2 for General Election — November 3, 2026
City of Emporia, Kansas Proposed Ordinance Prohibiting High Impact Data
Centers**

Dear Ms. Jones:

Pursuant to K.S.A. § 25-105, K.S.A. § 12-3013, and the order of the Lyon County District Court entered on August 20, 2026 in Case No. LY-2026-CV-000119 , I, Kerry Sull, City Clerk of the City of Emporia, Kansas, hereby certify and transmit to your office the following ballot question to be submitted to the qualified electors of the City of Emporia, Kansas, at the General Election to be held on November 3, 2026:

Ballot Question 2:

"Shall the following ordinance be adopted?

An Ordinance of the City of Emporia, Kansas Prohibiting the Installation and Operation of High Impact Data Centers"

This ballot question was authorized by Resolution No.3799, duly adopted by the Governing Body of the City of Emporia, Kansas, on August 26, 2026. The ballot question arises from an initiative petition filed with the City Clerk on July 14, 2026 pursuant to K.S.A. § 12-3013. The Lyon County Election Officer has examined and certified that the petition contains a sufficient number of valid signatures of qualified electors of the City of Emporia, Kansas.

The submission of this ballot question to the November 2026 general election is mandated by the order of the Lyon County District Court entered on LY-2026-CV-000119. The Court has further ordered that, in the event the proposed ordinance is approved by the electors, the ordinance shall not be published or enacted until the Court determines whether the ordinance is barred by K.S.A. § 12-3013(a)(1), or until further order of the Court.

Enclosed herewith, please find the following documents:

1. A certified copy of Resolution No. 3799;
2. A certified copy of the proposed ordinance (Exhibit A to the Resolution);
3. The form of ballot question (Exhibit B to the Resolution); and
4. A certified copy of the Lyon County District Court order(s) referenced herein.

The ballot question shall appear on the ballot for all registered voters residing within the corporate boundaries of the City of Emporia, Lyon County, Kansas. Please prepare and place this question on the official ballot in accordance with the requirements of Kansas election law.

If you have any questions or require additional information, please contact me at 620-343-4243 or ksull@emporiaks.gov.

Respectfully submitted,

Kerry Sull, City Clerk
City of Emporia, Kansas

CERTIFICATE OF CLERK

STATE OF KANSAS
COUNTY OF LYON

I, Kerry Sull, City Clerk of the City of Emporia, Kansas, do hereby certify:

1. That the attached Resolution No. 3799 was duly adopted by the Governing Body of the City of Emporia, Kansas, at a meeting held on August 26, 2026, and remains in full force and effect.
2. That the attached documents are true, correct, and complete copies of the originals on file in my office.
3. That this certification is made pursuant to K.S.A. § 25-105, K.S.A. § 12-3013, and the order of the Lyon County District Court for the purpose of submitting the ballot question to the electors of the City of Emporia at the General Election to be held on November 3, 2026.

WITNESS my hand and the seal of the City of Emporia, Kansas, this 26th day of August 2026.

Kerry Sull, City Clerk
City of Emporia, Kansas

EXHIBIT D

NOTICE OF BALLOT QUESTION

CITY OF EMPORIA, KANSAS

GENERAL ELECTION — NOVEMBER 3, 2026

NOTICE IS HEREBY GIVEN that at the General Election to be held on November 3, 2026, the qualified electors of the City of Emporia, Lyon County, Kansas, will vote on the following ballot question:

Ballot Question 2:

An Ordinance of the City of Emporia, Kansas Prohibiting the Installation and Operation of High Impact Data Centers

Explanatory Statement: This ordinance would **prohibit** the construction, installation, operation, and maintenance of **High Impact Data Centers** within the City of Emporia, Kansas. A "High Impact Data Center" is defined as a facility whose primary purpose is the housing, operation, and maintenance of computer servers and related infrastructure that requires a peak electrical load exceeding ten (10) megawatts or a daily water draw exceeding one hundred thousand (100,000) gallons. This term includes server farms, colocation facilities, AI training facilities, cryptocurrency mining operations, and similar high-density computing facilities. The prohibition would apply to all zoning districts within the City. Violations would be subject to civil and criminal penalties under the City of Emporia Zoning Regulations.

To vote in favor of any question submitted on this ballot, press the word **"Yes"** on the voting machine or completely darken the oval to the left of the word **"Yes"** on the paper ballot. Vote Yes to adopt the ordinance.

To vote against it, press the word **"No"** on the voting machine or completely darken the oval to the left of the word **"No"** on the paper ballot. Vote No to reject the ordinance.

Shall the following ordinance be adopted?

****An Ordinance of the City of Emporia, Kansas Prohibiting the Installation and Operation of High Impact Data Centers****

Vote **Yes** to **adopt** the ordinance.

Vote **No** to **reject** the ordinance.

- ☐ YES
☐ NO

IMPORTANT NOTICE REGARDING PENDING LITIGATION:

A declaratory judgment action is currently pending in the District Court of Lyon County, Kansas, concerning the legal validity of the proposed ordinance. The Lyon County District Court has ordered that if the ordinance is approved by the electors, it shall not be published or enacted until the Court determines whether the ordinance is barred by K.S.A. § 12-3013(a)(1), or until further order of the Court. Accordingly, approval by the voters will not result in immediate enactment of the ordinance.

A complete copy of the proposed ordinance is on file in the office of the City Clerk, City of Emporia, 104 E 5th Avenue, Emporia, Kansas 66801, and is available for public inspection during regular business hours.

POLLING LOCATIONS:

The polls will open at 7:00 A.M. and will close at 7:00 P.M., on November 3, 2026, the election day. The voting places in the City and the area each voting place will serve will be as follows:

<u>Voters Residing In Precinct</u>	<u>Will Vote</u>	<u>At Location</u>
PRECINCT 1	Kansas National Guard Armory	1809 Merchant St.
PRECINCT 2	Kansas National Guard Armory	1809 Merchant St.
PRECINCT 3	WLW Civic Auditorium	111 E 6th Ave.
PRECINCT 4	WLW Civic Auditorium	111 E 6th Ave.
PRECINCT 4A	WLW Civic Auditorium	111 E 6th Ave.
PRECINCT 4B	WLW Civic Auditorium	111 E 6th Ave.
PRECINCT 4C	WLW Civic Auditorium	111 E 6th Ave.
PRECINCT 5	Emporia Rec Center	313 W. 4th St.
PRECINCT 6	Emporia Rec Center	313 W. 4th St.
PRECINCT 7	Kansas National Guard Armory	1809 Merchant St.
PRECINCT 8	Kansas National Guard Armory	1809 Merchant St.
PRECINCT 9	Emporia Senior Center	603 E. 12th Ave.
PRECINCT 10	Emporia Senior Center	603 E. 12th Ave.
PRECINCT 11	Twelfth Avenue Baptist Church	2023 W. 12th Ave
PRECINCT 12	Twelfth Avenue Baptist Church	2023 W. 12th Ave
PRECINCT 13	Twelfth Avenue Baptist Church	2023 W. 12th Ave
PRECINCT 14	Twelfth Avenue Baptist Church	2023 W. 12th Ave
PRECINCT 15	Emporia Presbyterian Church West Campus	1702 W. 15th Ave.
PRECINCT 16	Emporia Presbyterian Church West Campus	1702 W. 15th Ave.
PRECINCT 17	Emporia Presbyterian Church West Campus	1702 W. 15th Ave.

PRECINCT 18 Emporia Presbyterian Church West Campus 1702 W. 15th Ave.
PRECINCT 19 Church of Jesus Christ of Latter-Day Saints 2313 Graphic Arts Rd
PRECINCT 20 Church of Jesus Christ of Latter-Day Saints 2313 Graphic Arts Rd

The election will be conducted by the officers and/or persons provided by law for holding elections, and the method of voting will be by ballot. Registered voters are eligible to vote by advance voting ballot upon application to the County Clerk of Lyon County, Kansas, set forth below pursuant to K.S.A. 25-1117 et seq.

ELECTION INFORMATION:

The election officer conducting the election will be the County Election Officer of Lyon County, Kansas, whose address is: 430 Commercial, Emporia, Kansas 66801.

DATED this 26th day of August 2026.

Kerry Sull, City Clerk
City of Emporia, Kansas



Commission Action Report

Resolution No. 3800 Submitting An Ordinance
Prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems
To The Electors At The November 3, 2026, General Election

Title: Resolution No. 3800 Submitting An Ordinance Prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems To The Electors At The November 3, 2026, General Election

Agenda Date: August 26, 2026

Presented By: Christina Montgomery, City Attorney

Background:

On July 14, 2026, an initiative petition proposing an ordinance prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems (BESS) within the City of Emporia was filed with the City Clerk. On August 13, 2026, the Lyon County Election Officer certified that the petition contained a sufficient number of signatures under K.S.A. 12-3013.

A declaratory judgment action is currently pending in Lyon County District Court concerning the legal validity of the substantially similar initiative process involving the proposed High Impact Data Center ordinance. The City has asked the court to determine whether proposed initiative ordinances are administrative, rather than legislative, and therefore are not proper subjects for initiative under K.S.A. 12-3013(a)(1).

The proposed Resolution submits the BESS initiative ordinance to the electors at the November 3, 2026 General Election and authorizes the City Clerk to certify and transmit the ballot question and related documents to the Lyon County Election Officer by the September 1, 2026, deadline.

Submission of the BESS ordinance to the electors does not constitute a waiver or concession regarding its legal validity. The City reserves its right to seek leave to amend the pending declaratory judgment action to include the BESS initiative petition, or to pursue other appropriate judicial relief concerning the legality, validity, enforceability, publication, enactment, implementation, or legal effect of the proposed ordinance.

Recommended action:

Adopt Resolution No. 3800 Submitting An Ordinance Prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems To The Electors At The November 3, 2026, General Election

Attachments:

Resolution No. 3800 Submitting An Ordinance Prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems To The Electors At The November 3, 2026, General Election

RESOLUTION NO. 3800

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS, SUBMITTING A PROPOSED ORDINANCE PROHIBITING TIER 2 AND TIER 3 BATTERY ENERGY STORAGE SYSTEMS TO THE ELECTORS AT THE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 2026

WHEREAS, pursuant to K.S.A. § 12-3013, the electors of the City of Emporia, Kansas, have the power to propose legislative ordinances and to adopt or reject the same at the polls; and

WHEREAS, a petition for a proposed ordinance prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems in the City of Emporia, Kansas, was filed with the City Clerk on July 14, 2026; and

WHEREAS, on August 13, 2026, the Lyon County Election Officer certified that the petition contains a sufficient number of signatures of electors of the City of Emporia, Kansas, as required by K.S.A. § 12-3013; and

WHEREAS, K.S.A. § 12-3013 requires the governing body, upon receipt of a sufficient petition, to either pass the proposed legislative ordinance without alteration within twenty (20) days or submit the same without alteration to a vote of the electors at the next general or primary state election occurring not less than sixty (60) days after the date the petition is filed; and

WHEREAS, a declaratory judgment action is currently pending in the District Court of Lyon County, Kansas, styled LY-2026-CV-000119, concerning the legal validity of a proposed initiative ordinance prohibiting the installation and operation of high impact data centers; and

WHEREAS, the proposed initiative ordinance prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems presents similar legal issues concerning the applicability of K.S.A. 12-3013(a)(1); and

WHEREAS, by submitting the proposed initiative ordinance prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems to the electors, the City does not waive, concede, or otherwise abandon any position concerning the legality or validity of the proposed ordinance; and

WHEREAS, the City expressly reserves the right to seek leave to amend the pending declaratory judgment action to include the proposed initiative ordinance prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems, or to pursue such other judicial or legal action as may be appropriate; and

WHEREAS, a true and correct copy of the proposed ordinance prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, a true and correct copy of the proposed ordinance prohibiting Tier 2 and Tier 3 Battery Energy Storage Systems is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, the governing body must certify the ballot question to the County Election Officer of Lyon County, Kansas, not later than September 1, 2026 to be submitted to a vote at the General Election to be held on November 3, 2026;

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

Article 1 — Submission to Electors

- I. **Submission of Proposed Ordinance.** The proposed ordinance attached hereto as Exhibit A, being the ordinance proposed by petition pursuant to K.S.A. § 12-3013, shall be submitted without alteration to a vote of the qualified electors of the City of Emporia, Kansas, at the General Election to be held on November 3, 2026, consistent with the guidance of the Lyon County District Court in the pending declaratory judgment action relating to an initiative ordinance prohibiting the installation and operation of high impact data centers.
- II. **Ballot Question.** The ballot question to be submitted to the electors shall be in substantially the form set forth in Exhibit B attached hereto and incorporated herein by reference, and shall read as follows:

Ballot Question 3:

"Shall the following ordinance be adopted?

An Ordinance of the City of Emporia, Kansas Prohibiting the Installation and Operation of Tier 2 and Tier 3 Battery Energy Storage Systems"

- III. **Ballot Question Format.** The ballot question shall include the following instruction to voters: "Vote Yes to adopt the ordinance. Vote No to reject the ordinance." The ballot question shall be presented in the form and manner required by applicable election laws of the State of Kansas.

Article 2 — Certification and Transmittal

- I. **Certification to County Election Officer.** The City Clerk is hereby authorized and directed to certify and transmit to the Lyon County Election Officer the ballot question set forth in Exhibit B, together with a certified copy of this Resolution and the proposed ordinance (Exhibit A), not later than September 1, 2026.
- II. **Form of Certification.** The certification and transmittal to the Lyon County Election Officer shall be in substantially the form set forth in Exhibit C attached hereto and incorporated herein by reference.
- III. **Publication of Notice.** The City Clerk is hereby authorized and directed to cause publication of notice of the ballot question in substantially the form attached hereto as Exhibit D. Such notice shall be published once each week for two (2) consecutive weeks in the official city newspaper, with the first publication occurring not less than twenty-one (21) days prior to the date of the special question election,

and the last publication being not more than ninety (90) days prior to the date of the Election.

Article 3 — Effect of Election Results and Compliance with Court Order

- I. **Approval of Ballot Question.** If a majority of the electors voting on the proposed ordinance vote in favor thereof at the general election, the proposed ordinance shall be deemed approved by the electors, and the appropriate City officers are authorized and directed to take such actions as are required by law in connection with the election results.
- II. **Rejection of Ballot Question.** If a majority of the electors voting on the proposed ordinance vote against the same at the general election, the proposed ordinance shall be deemed rejected by the electors and shall not take effect.
- III. **Canvass and Certification.** The City Clerk shall obtain from the Lyon County Election Officer a certified copy of the canvass of votes cast on the ballot question and shall file the same with the official records of the City of Emporia, Kansas. The City Clerk and other appropriate City officers are authorized and directed to take such further actions as may be necessary or appropriate to document the results of the election in the records of the City.
- IV. **Preservation of Legal Positions and Judicial Remedies.** Nothing in this Resolution, including the submission of the proposed ordinance to the electors at the general election, shall be construed as a waiver, admission, concession, abandonment, limitation, or impairment of any right, claim, defense, objection, argument, legal position, remedy, or procedural protection asserted by or available to the City of Emporia, Kansas. The City expressly reserves the right, after adoption of this Resolution and whether before or after the election, to commence a declaratory judgment action or other appropriate judicial proceeding challenging or seeking a determination concerning the legality, validity, enforceability, publication, enactment, implementation, or legal effect of the proposed ordinance. The City further reserves all rights to assert any and all defenses, objections, and arguments in any such action or proceeding, including the position that the proposed ordinance is administrative in nature and is not subject to initiative under K.S.A. § 12-3013(a)(1), and to seek, oppose, or obtain any stay, injunction, order, appeal, reconsideration, modification, or further review arising from or relating to the proposed ordinance, the election, or any judicial determination concerning the same.

Article 4 — General Provisions

- I. **Effective Date of Resolution.** This Resolution shall take effect and be in full force immediately upon its passage and approval.
- II. **Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

- III. Recordation.** The City Clerk shall cause a copy of this Resolution, together with all exhibits attached hereto and a certified copy of the Lyon County District Court's order(s) referenced herein, to be filed and maintained in the official records of the City of Emporia, Kansas.

ADOPTED by the Governing Body of the City of Emporia, Kansas, this 26th day of August 2026.

CITY OF EMPORIA, KANSAS

Becky Smith, Mayor

ATTEST:

Kerry Sull, City Clerk

EXHIBIT A

ORDINANCE NO. _ _

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PROHIBITING THE INSTALLATION AND OPERATION OF TIER 2 AND TIER 3 BATTERY ENERGY STORAGE SYSTEMS TO PROTECT HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF EMPORIA, KANSAS.

WHEREAS, Battery Energy Storage Systems ("BESS") are being deployed with increasing frequency in connection with renewable energy generation facilities, grid stability projects, and commercial and industrial applications;

WHEREAS, documented BESS accidents have resulted in explosions, prolonged fires, toxic gas emissions, and injuries to emergency response personnel; and

WHEREAS, Tier 2 and Tier 3 BESS present significant fire, explosion, and thermal runaway risks that endanger the City of Emporia, Kansas, particularly first responders, properties near BESS, and other residents of the City of Emporia, Kansas.

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

SECTION 1. The purpose of this Ordinance is to protect the public health, safety, and welfare of the residents of the City of Emporia, Kansas, by prohibiting the installation and operation of Tier 2 and Tier 3 Battery Energy Storage Systems ("BESS").

SECTION 2. For the purposes of this Ordinance, the following terms shall have the meanings indicated:

A. "Battery Energy Storage System" or "BESS" means: An engineered facility (inclusive of all ancillary facilities required to interconnect and operate the facility) that is capable of charging batteries from an electrical transmission system, storing the electrical energy, and discharging the electrical energy to later reenergize the same system and does not include a powerplant or other manner of generating electricity for distribution and storage. BESS may also include one or more devices, when assembled together, are capable of storing energy to supply electrical energy at a future time, provided however, that BESS does not include a stand alone twelve-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1, Tier 2, or Tier 3 battery energy storage system as follows:

- (i) Tier 1 battery energy storage systems have an aggregate energy capacity less than or equal to 80 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology. All Tier 1 battery energy storage systems located on residential properties shall comply with all applicable codes (building, fire, property, etc.) as they may currently be in effect or hereafter amended in the City of Emporia.

- (ii) Tier 2 battery energy storage systems have an aggregate energy capacity between 81 and 600 kWh or are comprised of more than one energy storage system technology in a room or enclosed area.
- (iii) Tier 3 battery energy storage systems have an aggregate energy capacity greater than 600 kWh and, if in a room or enclosed area, consist of only one energy storage system technology. An engineered facility (means one or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A BESS includes all equipment required for the system to operate, including but not limited to batteries, battery chargers, battery management systems, controls, power conditioning systems, inverters, associated electrical equipment, fire suppression systems, and thermal management systems.

SECTION 3. No person, firm, corporation, or other entity shall construct, install, operate, maintain, or cause to be constructed, installed, operated, or maintained, any Tier 2 or Tier 3 BESS in the jurisdictional boundaries City of Emporia, Kansas.

SECTION 4. Multiple Tier 1 BESS shall not be installed or operated in a configuration or proximity that would function to effectively create a Tier 2 or Tier 3 BESS. The following factors shall be considered in determining whether multiple Tier 1 BESS constitute an effective Tier 2 or Tier 3 BESS:

- (i) Whether the total aggregate capacity exceeds the thresholds defined in Section 2;
- (ii) Whether systems that are located within 50 feet of each other on the same parcel or on adjacent parcels under common ownership or control;
- (iii) Whether systems share electrical components, fire suppression systems, or control systems;
- (iv) Whether systems are designed to function as an integrated unit; or
- (v) Whether systems are managed through a common energy management system or controller.

SECTION 5. The prohibition set forth in this Ordinance shall apply to all zoning districts and all land uses within the City of Emporia, Kansas, including but not limited to, residential, commercial, industrial, institutional, and public facility zones as defined in the applicable zoning ordinances and resolutions, as currently in effect and as may hereafter be amended from time to time.

SECTION 6. Any violation of Section 3 of this Ordinance shall be subject to the civil and criminal penalties as set forth in Article 15 of the City of Emporia Zoning Regulations.

SECTION 7. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. Similarly, if any exemption, variance, or procedural provision is found invalid, it is the express intent that the core prohibitions shall remain in effect to the maximum extent permitted by law.

SECTION 8. Where the requirements of this Ordinance impose a different restriction or requirement than imposed by other City of Emporia Ordinances, or other applicable rules or regulations, the requirements of this Ordinance shall prevail.

SECTION 9. This Ordinance shall take effect and be in force either upon publication as described by K.S.A. § 12-3007, or upon approval by the electors pursuant to K.S.A. § 12-3013, as applicable.

CITY OF EMPORIA, KANSAS

[SEAL]

Becky Smith, Mayor

ATTEST:

Kerry Sull, City Clerk

APPROVED AS TO FORM:

Christina Montgomery, City Attorney

EXHIBIT B

FORM OF BALLOT QUESTION

CITY OF EMPORIA, KANSAS

GENERAL ELECTION — NOVEMBER 3, 2026

Ballot Question 3:

An Ordinance of the City of Emporia, Kansas Prohibiting the Installation and Operation of Type 2 and Type 3 Battery Energy Storage Systems

Explanatory Statement: This ordinance would **prohibit** the construction, installation, operation, and maintenance of **Tier 2 and Tier 3 Battery Energy Storage Systems ("BESS")** within the City of Emporia, Kansas. A Tier 2 BESS is a battery energy storage system with an aggregate energy capacity between 81 and 600 kWh, and a Tier 3 BESS is a battery energy storage system with an aggregate energy capacity greater than 600 kWh. The prohibition would apply to all zoning districts within the City. Violations would be subject to civil and criminal penalties under Article 15 of the City of Emporia Zoning Regulations.

To vote in favor of any question submitted on this ballot, press the word **"Yes"** on the voting machine or completely darken the oval to the left of the word **"Yes"** on the paper ballot. Vote Yes to adopt the ordinance.

To vote against it, press the word **"No"** on the voting machine or completely darken the oval to the left of the word **"No"** on the paper ballot. Vote No to reject the ordinance.

Shall the following ordinance be adopted?

****An Ordinance of the City of Emporia, Kansas Prohibiting the Installation and Operation of Type 2 and Type 3 Battery Energy Storage Systems****

Vote **Yes** to **adopt** the ordinance.

Vote **No** to **reject** the ordinance.

☐ **YES**

☐ **NO**

EXHIBIT C

CERTIFICATION AND TRANSMITTAL TO COUNTY ELECTION OFFICER

Date:

Lyon County Election Officer
Lyon County Clerk
430 Commercial Street
Emporia, Kansas 66801

**Re: Certification of Ballot Question 3 for General Election — November 3, 2026
City of Emporia, Kansas Proposed Ordinance Prohibiting Type 2 and Type 3
Battery Energy Storage Systems**

Dear Ms. Jones:

Pursuant to K.S.A. § 25-105, K.S.A. § 12-3013, and the order of the Lyon County District Court entered on August 20, 2026 in Case No. LY-2026-CV-000119, I, Kerry Sull, City Clerk of the City of Emporia, Kansas, hereby certify and transmit to your office the following ballot question to be submitted to the qualified electors of the City of Emporia, Kansas, at the General Election to be held on November 3, 2026:

Ballot Question 3:

"Shall the following ordinance be adopted?

An Ordinance of the City of Emporia, Kansas Prohibiting the Installation and Operation of Tier 2 and Tier 3 Battery Energy Storage Systems"

This ballot question was authorized by Resolution No. 3800, duly adopted by the Governing Body of the City of Emporia, Kansas, on August 26, 2026. The ballot question arises from a an initiative petition filed with the City Clerk on July 14, 2026 pursuant to K.S.A. § 12-3013.

Enclosed herewith, please find the following documents:

1. A certified copy of Resolution No. 3800;
2. A certified copy of the proposed ordinance (Exhibit A to the Resolution); and
3. The form of ballot question (Exhibit B to the Resolution).

The ballot question shall appear on the ballot for all registered voters residing within the corporate boundaries of the City of Emporia, Lyon County, Kansas. Please

prepare and place this question on the official ballot in accordance with the requirements of Kansas election law.

If you have any questions or require additional information, please contact me at 620-343-4243 or ksull@emporiaks.gov.

Respectfully submitted,

Kerry Sull, City Clerk
City of Emporia, Kansas

CERTIFICATE OF CLERK

STATE OF KANSAS
COUNTY OF LYON

I, Kerry Sull, City Clerk of the City of Emporia, Kansas, do hereby certify:

1. That the attached Resolution No. 3800 was duly adopted by the Governing Body of the City of Emporia, Kansas, at a meeting held on August 26, 2026, and remains in full force and effect.
2. That the attached documents are true, correct, and complete copies of the originals on file in my office.
3. That this certification is made pursuant to K.S.A. § 25-105, K.S.A. § 12-3013 for the purpose of submitting the ballot question to the electors of the City of Emporia at the General Election to be held on November 3, 2026.

WITNESS my hand and the seal of the City of Emporia, Kansas, this 26th day of August 2026.

Kerry Sull, City Clerk
City of Emporia, Kansas

EXHIBIT D

NOTICE OF BALLOT QUESTION

CITY OF EMPORIA, KANSAS

GENERAL ELECTION — NOVEMBER 3, 2026

NOTICE IS HEREBY GIVEN that at the General Election to be held on November 3, 2026, the qualified electors of the City of Emporia, Lyon County, Kansas, will vote on the following ballot question:

Ballot Question 3:

An Ordinance Prohibiting Type 2 And Type 3 Battery Energy Storage Systems

Explanatory Statement: This ordinance would **prohibit** the construction, installation, operation, and maintenance of **Tier 2 and Tier 3 Battery Energy Storage Systems ("BESS")** within the City of Emporia, Kansas. A Tier 2 BESS is a battery energy storage system with an aggregate energy capacity between 81 and 600 kWh, and a Tier 3 BESS is a battery energy storage system with an aggregate energy capacity greater than 600 kWh. The prohibition would apply to all zoning districts within the City. Violations would be subject to civil and criminal penalties under Article 15 of the City of Emporia Zoning Regulations.

To vote in favor of any question submitted on this ballot, press the word **"Yes"** on the voting machine or completely darken the oval to the left of the word **"Yes"** on the paper ballot. Vote Yes to adopt the ordinance.

To vote against it, press the word **"No"** on the voting machine or completely darken the oval to the left of the word **"No"** on the paper ballot. Vote No to reject the ordinance.

Shall the following ordinance be adopted?

****An Ordinance of the City of Emporia, Kansas Prohibiting the Installation and Operation of Type 2 and Type 3 Battery Energy Storage Systems****

Vote **Yes** to **adopt** the ordinance.

Vote **No** to **reject** the ordinance.

☐ **YES**

☐ **NO**

POLLING LOCATIONS:

The polls will open at 7:00 A.M. and will close at 7:00 P.M., on November 3, 2026, the election day. The voting places in the City and the area each voting place will serve will be as follows:

<u>Voters Residing In Precinct</u>	<u>Will Vote</u>	<u>At Location</u>
PRECINCT 1	Kansas National Guard Armory	1809 Merchant St.
PRECINCT 2	Kansas National Guard Armory	1809 Merchant St.
PRECINCT 3	WLW Civic Auditorium	111 E 6th Ave.
PRECINCT 4	WLW Civic Auditorium	111 E 6th Ave.
PRECINCT 4A	WLW Civic Auditorium	111 E 6th Ave.
PRECINCT 4B	WLW Civic Auditorium	111 E 6th Ave.
PRECINCT 4C	WLW Civic Auditorium	111 E 6th Ave.
PRECINCT 5	Emporia Rec Center	313 W. 4th St.
PRECINCT 6	Emporia Rec Center	313 W. 4th St.
PRECINCT 7	Kansas National Guard Armory	1809 Merchant St.
PRECINCT 8	Kansas National Guard Armory	1809 Merchant St.
PRECINCT 9	Emporia Senior Center	603 E. 12th Ave.
PRECINCT 10	Emporia Senior Center	603 E. 12th Ave.
PRECINCT 11	Twelfth Avenue Baptist Church	2023 W. 12th Ave
PRECINCT 12	Twelfth Avenue Baptist Church	2023 W. 12th Ave
PRECINCT 13	Twelfth Avenue Baptist Church	2023 W. 12th Ave
PRECINCT 14	Twelfth Avenue Baptist Church	2023 W. 12th Ave
PRECINCT 15	Emporia Presbyterian Church West Campus	1702 W. 15th Ave.
PRECINCT 16	Emporia Presbyterian Church West Campus	1702 W. 15th Ave.
PRECINCT 17	Emporia Presbyterian Church West Campus	1702 W. 15th Ave.
PRECINCT 18	Emporia Presbyterian Church West Campus	1702 W. 15th Ave.
PRECINCT 19	Church of Jesus Christ of Latter-Day Saints	2313 Graphic Arts Rd
PRECINCT 20	Church of Jesus Christ of Latter-Day Saints	2313 Graphic Arts Rd

The election will be conducted by the officers and/or persons provided by law for holding elections, and the method of voting will be by ballot. Registered voters are eligible to vote by advance voting ballot upon application to the County Clerk of Lyon County, Kansas, set forth below pursuant to K.S.A. 25-1117 et seq.

ELECTION INFORMATION:

The election officer conducting the election will be the County Election Officer of Lyon County, Kansas, whose address is: 430 Commercial, Emporia, Kansas 66801.

DATED this 26th day of August 2026.

Kerry Sull, City Clerk
City of Emporia, Kansas



Commission Action Report

Authorization to Retain Outside Legal Counsel

Title: Authorization to Retain Outside Legal Counsel

Agenda Date: August 26, 2026

Presented By: Trey Cocking, City Manager and Christina Montgomery, City Attorney

Background:

The City is evaluating matters associated with proposed digital campus development, along with other municipal matters that may require specialized legal assistance. These matters can involve complex or evolving legal questions concerning land use, infrastructure and utility agreements, regulatory requirements, economic development tools, development negotiations, municipal governance and statutory procedures, elections, public records, and potential claims or litigation.

Access to outside counsel with relevant expertise may be necessary to protect the City's interests, ensure compliance with applicable law, and support informed decision-making by City officials.

Discussion:

Staff requests authorization for the City Manager, in consultation with the City Attorney, to retain outside legal counsel as reasonably necessary for specialized municipal legal matters, including matters associated with proposed digital campus development, City projects and agreements, ordinances, statutory and governmental processes, and related administrative or judicial proceedings.

This authorization would allow the City Manager to negotiate, execute, amend, and administer written engagement agreements and related legal services on the City's behalf.

Staff further requests authorization for the City Manager, in consultation with the City Attorney, to take legal or procedural action reasonably necessary to protect the City's interests when applicable deadlines, emergency circumstances, or the risk of material prejudice make prior Governing Body consideration impracticable. Such authority would include initiating, prosecuting, defending, intervening in, or appealing judicial or administrative proceedings; filing notices of appeal, pleadings, motions, and other necessary documents; seeking temporary, injunctive, or other emergency relief; and directing retained counsel in connection with those actions.

The Governing Body will be informed of any material action taken under this authority as soon as reasonably practicable, consistent with applicable law, attorney-client privilege, and the protection of the City's legal interests. Any subsequent authorization or ratification required by law will be presented to the Governing Body. This authority does not authorize the settlement of litigation or claims when Governing Body approval is otherwise required.

Authorization of these services and actions does not constitute approval of any proposed development, development agreement, incentive, utility arrangement, ordinance, election action, litigation settlement, or other matter requiring separate Governing Body consideration or action.



Commission Action Report

Authorization to Retain Outside Legal Counsel

Financial Considerations:

Total legal costs will depend on the nature, duration, and complexity of the services required. Expenditures will be paid from lawfully appropriated and available funds within the City's adopted budget and will remain subject to applicable financial controls, accounting procedures, and reporting requirements.

Recommended Action:

Authorize the City Manager, in consultation with the City Attorney, to retain outside legal counsel and take all actions reasonably necessary to protect the City's legal interests in the matters described in this report, including initiating, defending, or appealing legal proceedings, subject to budgeted and appropriated funds.