



**MEETING OF THE CITY COMMISSION - AGENDA
WEDNESDAY, NOVEMBER 16, 2022 AT 10:30 AM
CITY COMMISSION CHAMBER**

ORDER OF BUSINESS

CALL MEETING TO ORDER Mayor Becky Smith

MEMBERS PRESENT

Vice Mayor Danny Giefer
Commissioner Susan Brinkman
Commissioner Erren Harter
Commissioner Jaime Sauder

PROCLAMATIONS

PUBLIC FORUM

The public is invited to make comments at this time. Please limit comments to two (2) minutes each. Hate speech, profanity, and defamation are not allowed. Please state your name and address prior to making comments.

NEW BUSINESS

1) Public Hearing on the Intent to Issue Industrial Revenue Bonds for Fairview Hotels LLC.

Presented by: Jim Witt, Special Projects Manager

Recommended Action: Conduct Public Hearing on the Intent to Issue Industrial Revenue Bonds for Fairview Hotels LLC.

2) Resolution No. 3683 regarding the Intent to Issue Industrial Revenue Bonds for Fairview Hotels LLC.

Presented by: Jim Witt, Special Projects Manager, and Dominic Eck, Gilmore & Bell

Recommended Action: Approve Resolution No. 3683 regarding the Intent to Issue Industrial Revenue Bonds for Fairview Hotels LLC.

3) Ordinance No. 22-49 Prohibiting Camping on Public Property.

Presented by: Christina Montgomery, City Attourney

Recommended Action: Approve Ordinance No. 22-49 Prohibiting Camping on Public Property.

4) Assignment and Assumption Agreement with EFOZ and Mitchell-Markowitz Construction.

Presented by: Christina Montgomery, City Attourney

Recommended Action: Approve Assignment and Assumption Agreement with EFOZ and Mitchell-Markowitz Construction.

COMMUNICATIONS

Presented by Trey Cocking, City Manager.

- 1) Financials and Permits

CONSENT AGENDA

Presented by Trey Cocking, City Manager.

- 1) City Commission Meeting Minutes for November 2, 2022.
- 2) Ratification and Approval of the Payroll Ordinances for the period ending November 4, 2022.
- 3) Change Order No. 1 for Raw Water Intake Site Improvements.
- 4) Approve the Kansas Housing Resources Corporation Emergency Solutions Grant on behalf of SOS.
- 5) KDOT 6th Avenue & Prairie Street Intersection Improvements Supplemental Agreement No. 1, 50-56 KA-5412-01 Project No. PV1909.
- 6) Set Bid Date and Time of December 20, 2022, at 2:00 p.m. for Highland Street Improvements.

INFORMATIONAL ITEMS

Presented by Trey Cocking, City Manager.

- 1) Informational Items

GOVERNING BODY COMMENTS

Mayor Becky Smith

Vice Mayor Danny Giefer

Commissioner Erren Harter

Commissioner Susan Brinkman

Commissioner Jamie Sauder

ADJOURNMENT



Commission Action Report

Title: Conduct Public Hearing on the Intent to Issue Industrial Revenue Bonds (IRBs) for Fairview Hotels, LLC.

Proposed Agenda Date: November 16, 2022

Presented By: Jim Witt, Special Projects Manager

BACKGROUND:

This is the first step in the issuance of IRBs for the construction of a Fairfield Inn and Conference Center on the site of the former Montana Mike's /Cracker Barrel site, 3010 Eaglecrest Drive. The public hearing is a requirement of Kansas Statutes 12-1740, et seq.

DISCUSSION:

The City has authority to issue IRBs is limited by the Kansas Statutes cited above. Besides traditional industrial projects, eligible uses include multifamily development and hotels and motels with or without conference centers. The IRBs were part of a package of incentives derived to accommodate the construction of a hotel /conference center.

FINANCIAL CONSIDERATIONS:

The developer is responsible for all legal and administrative fees associated with the issuance of the IRBs.

OTHER CONSIDERATIONS:

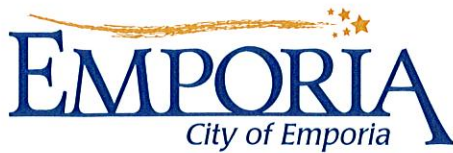
Gilmore and Bell bond attorneys will be representing the city in this process. Dominic Eck from the firm will be in attendance o answer any questions.

RECOMMENDED ACTION:

Conduct Public Hearing on the Intent to Issue Industrial Revenue Bonds (IRBs) for Fairview Hotels LLC.

ATTACHMENTS:

Public Hearing Notice as published.
Notices to other Taxing Entities



November 3, 2022

Board of Education
Unified School District No. 253
1700 W. 7th Street
P.O. Box 1008
Emporia, Kansas 66801

County Clerk
Board of County Commissioners
Lyon County Courthouse
430 Commercial Street
Emporia, Kansas 66801

Re: Not to Exceed \$13,000,000
City of Emporia, Kansas
Taxable Industrial Revenue Bonds
(Fairview Hotels LLC Project)

We have enclosed for your information a Notice of the Public Hearing and Issuance of Industrial Revenue Bonds proposed by the City of Emporia, Kansas pursuant to K.S.A. 12-1749c and K.S.A. 12-1749d, as amended.



Very truly yours,

CITY OF EMPORIA, KANSAS

A handwritten signature in blue ink that reads "Kerry Sull".

Kerry Sull, Clerk

Enclosure

(Published in the *Emporia Gazette*, November 8, 2022)

**NOTICE OF PUBLIC HEARING
AND OF
ISSUANCE OF TAXABLE INDUSTRIAL REVENUE BONDS**

Public notice is hereby given that the City Commission of the City of Emporia, Kansas (the “Issuer”), will conduct a public hearing on November 16, 2022 at 10:30 a.m., or as soon thereafter as may be heard at the Municipal Court Room/City Commission Room, 518 Mechanic Street, Emporia, Kansas 66801 in regard to the issuance by the Issuer of its Taxable Industrial Revenue Bonds (Fairview Hotels LLC Project), in a principal amount not to exceed \$13,000,000 (the “Bonds”) and in regard to an exemption from ad valorem taxation of property constructed or purchased with the proceeds of such Bonds. The Bonds are proposed to be issued by the Issuer under authority of K.S.A. 12-1740 *et seq.*, as amended, to pay the costs of the acquisition, construction and equipping of a commercial facility to be located at 3010 Eaglecrest Drive, Emporia, Kansas. The Issuer further intends to lease the facility to Fairview Hotels LLC, a Kansas limited liability company (the “Tenant”). The governing body of the Issuer will not pass an ordinance authorizing the issuance of such revenue bonds until the public hearing has been concluded.

Notice is further given, in accordance with K.S.A. 12-1744e, that the Issuer intends to issue the Bonds and lease the facility to the Tenant as set out above.

A copy of this Notice, together with a copy of the inducement resolution of the Issuer to be considered for adoption on November 16, 2022, indicating the intent of the governing body of the Issuer to issue such Bonds and a report analyzing the costs and benefits of such property tax exemption are on file in the office of the Clerk, or will be as soon as completed, and available for public inspection during normal business hours.

All persons having an interest in this matter will be given an opportunity to be heard at the time and place above specified.

Dated: November 8, 2022

CITY OF EMPORIA, KANSAS

Kerry Sull, Clerk



OFFICIAL AD PROOF

This is the proof of your ad scheduled to run in **The Emporia Gazette** on the dates indicated below.
If changes are needed, please contact us prior to deadline at **(620) 342-4800**.

Notice ID: 4wtLfQzA206YFKwilnw9 | **Proof Updated: Nov. 02, 2022 at 02:45pm CDT**
Notice Name: Notice of Public Hearing/Fairview Hotel

See Proof on Next Page

**This is not an invoice. Below is an estimated price, and it is
subject to change. You will receive an invoice with the final
price upon invoice creation by the publisher.**

FILER

Kerry Sull
ksull@emporia-kansas.gov

FILING FOR

The Emporia Gazette

Columns Wide: 1

Ad Class: Legals

11/08/2022: Custom Notice 51.70

Subtotal	\$51.70
Tax %	0.00
Processing Fee	\$5.17
Total	\$56.87

**NOTICE OF PUBLIC HEARING
AND OF ISSUANCE OF TAXABLE INDUSTRI-
AL REVENUE BONDS**

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Notice is further given, in accordance with K.S.A. 12-1744e, that the Issuer intends to issue the Bonds and lease the facility to the Tenant as set out above.

A copy of this Notice, together with a copy of the inducement resolution of the Issuer to be considered for adoption on November 16, 2022, indicating the intent of the governing body of the Issuer to issue such Bonds and a report analyzing the costs and benefits of such property tax exemption are on file in the office of the Clerk, or will be as soon as completed, and available for public inspection during normal business hours.

All persons having an interest in this matter will be given an opportunity to be heard at the time and place above specified.

Dated: November 8, 2022
CITY OF EMPORIA, KANSAS
Kerry Sull, Clerk



Commission Action Report

Title: Resolution No. 3683 regarding the Intent to Issue Industrial Revenue Bonds(IRBs) for Fairview Hotels LLC.

Proposed Agenda Date: November 16, 2022

Presented By: Jim Witt, Special Projects Manager, and Dominic Eck, Gilmore & Bell

BACKGROUND:

The adoption of the Resolution is the first step in the eventual issuance of industrial revenue bonds in the amount of \$13,000,000 for the construction of a Fairfield Inn and Conference Center on the site of the old Montana Mike's/Cracker Barrel. The official address of the property is 3010 Eaglecrest Drive, Emporia.

DISCUSSION:

The bond-financed property will be eligible for sales tax exemption and property tax exemption for a term of ten years, subject to fulfillment of the conditions of the City's public incentives policy. The City is not liable for the principal or interest on the bonds under Kansas Statutes. See further information below.

FINANCIAL CONSIDERATIONS:

The Bonds, together with the interest thereon, are not general obligations of the City but are special obligations payable solely from the lease payments under the Lease, and the Bond Fund and other monies held by the Trustee, as provided in the Indenture. **Neither the credit nor the taxing power of the State of Kansas or of any political subdivision of such State is pledged to the payment of the principal of the Bonds and premium if any, and interest thereon or other costs incident thereto.**

RECOMMENDED ACTION:

Adopt Resolution No. 3683 regarding the Intent to Issue Industrial Revenue Bonds(IRBs)for Fairview Hotels LLC.

ATTACHMENTS:

Resolution No. 3683

RESOLUTION NO. 3683

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS DETERMINING THE ADVISABILITY OF ISSUING TAXABLE INDUSTRIAL REVENUE BONDS FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A COMMERCIAL FACILITY TO BE LOCATED IN THE CITY; AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS

WHEREAS, the City of Emporia, Kansas (the "Issuer") desires to promote, stimulate and develop the general economic welfare and prosperity of the Issuer, and thereby to further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas; and

WHEREAS, pursuant to the provisions of the Kansas Economic Development Revenue Bond Act, as amended and codified in K.S.A. 12-1740 *et seq.* (the "Act"), the Issuer is authorized to issue revenue bonds for such purposes, and it is hereby found and determined to be advisable and in the interest and for the welfare of the Issuer and its inhabitants that revenue bonds of the Issuer in a principal amount not to exceed \$13,000,000 be authorized and issued, in one or more series, to provide funds to pay the costs of the acquisition, construction and equipping of a commercial facility (the "Project") to be located in the Issuer and to be leased by the Issuer to Fairview Hotels LLC, a Kansas limited liability company, or another legal entity to be formed by the principals of Fairview Hotels LLC (the "Tenant").

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

Section 1. Public Purpose. The governing body of the Issuer hereby finds and determines that the Project will promote, stimulate and develop the general economic welfare and prosperity of the Issuer, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas.

Section 2. Authorization to Acquire Project; Intent to Issue Bonds. The Issuer is hereby authorized to proceed with the acquisition, construction and equipping of the Project and to issue its revenue bonds, in one or more series, in a principal amount not to exceed \$13,000,000 (the "Bonds") to pay the costs thereof, subject to satisfaction of the conditions of issuance set forth herein.

Section 3. Conditions to Issuance of Bonds. The issuance of the Bonds is subject to: (a) the passage of an ordinance authorizing the issuance of the Bonds; (b) the successful negotiation of a Trust Indenture, Site Lease, Project Lease, Bond Purchase Agreement or other legal documents necessary to accomplish the issuance of the Bonds, the terms of which shall be in compliance with the Act and mutually satisfactory to the Issuer and the Tenant; (c) the successful negotiation and sale of the Bonds to a purchaser or purchasers yet to be determined (the "Purchaser"), which sale shall be the responsibility of the Tenant and not the Issuer; (d) the receipt of the approving legal opinion of Gilmore & Bell, P.C. ("Bond Counsel") in form acceptable to the Issuer, the Tenant and the Purchaser; (e) the obtaining of all necessary governmental approvals to the issuance of the Bonds; (f) the commitment to and payment by the Tenant or Purchaser of all expenses relating to the issuance of the Bonds, including, but not limited to: (i) expenses of the Issuer and the Issuer Attorney; (ii) any underwriting or placement fees and expenses; (iii) all legal fees and expenses of Bond Counsel; and (iv) all recording and filing fees, including fees of the Kansas Board of Tax Appeals;

and (g) the satisfactory negotiation of an agreement with the Tenant relating to the payment or exemption of all or a portion of property taxes assessed against the Project after issuance of the Bonds.

Section 4. Property Tax Exemption; Payments in Lieu of Taxes. The Issuer hereby determines that pursuant to the provisions of K.S.A. 79-201a *Twenty-Fourth*, the Project, to the extent purchased or constructed with the proceeds of the Bonds, should be exempt from payment of ad valorem property taxes for ten years commencing with the year following the year in which the Bonds are issued, provided proper application is made therefor; provided no exemption may be granted from the ad valorem property tax levied: (a) by a school district pursuant to the provisions of K.S.A. 72-53,113, and amendments thereto; and (b) for the uses restricted pursuant to the provisions of K.S.A. 79-201a, *Second* and *Twenty-Fourth*. In making such determination the governing body of the Issuer has conducted the public hearing and reviewed the analysis of costs and benefits of such exemption required by K.S.A. 12-1749d. The Tenant is responsible for preparing such application and providing the same to the Issuer for its review and submission to the State Board of Tax Appeals. The Issuer reserves the right to negotiate a payment in lieu of taxes so exempted, to be made by the Tenant.

Section 5. Sales Tax Exemption. The Governing Body hereby determines that pursuant to the provisions of K.S.A. 79-3601 *et seq.* (the "Sales Tax Act"), particularly 79-3606(b) and (d) and other applicable laws, sales of tangible personal property or services purchased in connection with construction of the Project and financed with proceeds of the Bonds are entitled to exemption from the tax imposed by the Sales Tax Act; provided proper application is made therefore. In the event that the Bonds are not issued for any reason, the Tenant will not be entitled to a sales tax exemption under the terms of the Sales Tax Act and will remit to the State Department of Revenue all sales taxes that were not paid due to reliance on the sales tax exemption certificate granted hereunder.

Section 6. Reliance by Tenant; Limited Liability of Issuer. It is contemplated that in order to expedite acquisition of the Project and realization of the benefits to be derived thereby, the Tenant may incur temporary indebtedness or expend its own funds to pay costs of the Project prior to the issuance of the Bonds. Proceeds of Bonds may be used to reimburse the Tenant for such expenditures made not more than 60 days prior to the date this Resolution is adopted. The Bonds herein authorized and all interest thereon shall be paid solely from the revenues to be received by the Issuer from the Project and not from any other fund or source. The Issuer shall not be obligated on such Bonds in any way, except as herein set out. In the event that the Bonds are not issued, the Issuer shall have no liability to the Tenant.

Section 7. Further Action. The Clerk is hereby authorized to deliver an executed copy of this Resolution to the Tenant. The Mayor, Clerk and other officials and employees of the Issuer, including the Issuer's counsel and Bond Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Resolution, including, but not limited to: (a) cooperate with the Tenant in filing an application for a sales tax exemption certificate with the Kansas Department of Revenue with respect to Bond-financed property; and (b) execution on behalf of the Issuer of the information statement regarding the proposed issuance of the Bonds to be filed with the State Board of Tax Appeals pursuant to the Act.

Section 8. Effective Date. This resolution shall become effective upon adoption by the Governing Body.

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ADOPTED by the governing body of the City of Emporia, Kansas on November 16, 2022.

[SEAL]

Mayor

Attest:

Clerk

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of the Resolution of the Issuer adopted by the governing body on November 16, 2022, as the same appears of record in my office.

DATED: November 16, 2022.

Clerk

Commission Action Report

Title: Ordinance No. 22-49 Prohibiting Camping on Public Property

Proposed Agenda Date: November 16, 2022

Presented By: Christina Montgomery, City Attorney

BACKGROUND:

City staff has requested regulation of camping on public property. The unauthorized use of public areas for camping purposes can constitute a public health and safety hazard which adversely impacts commercial areas and neighborhoods.

DISCUSSION:

The proposed ordinance will create a new City Code section prohibiting camping on public property without a permit. This includes streets, sidewalks, alleys, parks, parking lots, easements, or any other property owned or managed by a governmental agency. The ordinance also delegates authority to the City Manager to establish a program for the issuance of temporary permits to allow camping on public property.

FINANCIAL CONSIDERATIONS:

N/A

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

Approve Ordinance Prohibiting Camping on Public Property

ATTACHMENTS:

Ordinance

ORDINANCE NO. 22-49

AN ORDINANCE AMENDING CHAPTER 17 OF THE CODE OF THE CITY OF EMPORIA, KANSAS, BY CREATING ARTICLE VI UNLAWFUL CAMPING INCLUDING SECTIONS 17-69 THROUGH 17-72 PERTAINING TO THE PROHIBITION OF CAMPING ON PUBLIC PROPERTY WITHOUT A PERMIT.

WHEREAS, the City of Emporia has an important governmental interest in ensuring the streets and public areas within the city are readily accessible and available to residents and the public at large; and

WHEREAS, the use of those areas for camping purposes interferes with the rights of others to use the areas for which they were intended; and

WHEREAS, the use of these areas for camping purposes can constitute a public health and safety hazard which adversely impacts commercial areas and neighborhoods; and

WHEREAS, the purpose of this chapter is to maintain streets, parks, and other public property and areas within the City of Emporia in a clean, sanitary, and accessible condition and to adequately protect the health, safety, and public welfare of the community, while recognizing that, subject to reasonable conditions, camping and camping activities can be beneficial to the cultural and educational climate in the city; and

WHEREAS, it is not the intent of the City of Emporia to punish any citizen based solely upon such citizen's status, but to enact an ordinance ensuring ready and equal access to public property by the community while preserving the health, safety, and welfare of all citizens.

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

SECTION 1. Section 17-69 of the Code of the City of Emporia, Kansas is hereby created to read as follows:

“Unlawful Camping. It is unlawful and a public nuisance for any person or persons to camp in or upon any public property or public right-of-way, unless such person or persons have been granted a temporary permit allowing such activity as set forth in Section 17-71.”

SECTION 2. Section 17-70 of the Code of the City of Emporia, Kansas is hereby created to read as follows:

“Definitions. As used in this Chapter:

- (a) “To camp” means to set up, or to remain in or at a campsite for the purpose of remaining overnight, or of establishing or maintaining a temporary place to live.
- (b) “Campsite” means any place where any camp paraphernalia is placed, established, set up, used, or maintained, or personal property is kept or stored.
- (c) “Camp paraphernalia” includes but is not limited to tents, tarpaulins, cots, beds, sleeping bags, hammocks, cooking equipment, stoves, lanterns, tents, huts, lean-tos, shacks, trailer campers, vehicles, or any part thereof, or any other sleeping matter, or any other shelter or structure.
- (d) “Public property” means any publicly owned property, including but not limited to streets, sidewalks, alleys, parks, parking lots, easements, improved or unimproved land, or any property owned or managed by the City or other governmental agency.
- (e) “Public right-of-way” means the entire width of the area from property line to property line, including all area intended, designed, or used for vehicles or pedestrian traffic and the area between the roadway and the abutting private property line.”

SECTION 3. Section 17-71 of the Code of the City of Emporia, Kansas is hereby created to read as follows:

“Temporary Camping Permits. The City Manager, or the Manager’s designee, may issue a temporary permit to allow camping on public property. The City Manager or the Manager’s designee shall establish criteria for the application for, and review and approval of such temporary camping and storage permits; and is further empowered to ascertain that the operation or maintenance of any temporary camp or campsite will in no way jeopardize public health, safety, or welfare. For this purpose, the City Manager or the Manager’s designee is also empowered to implement additional rules and regulations as necessary pertaining to all aspects of temporary camping permits including the revocation of such permits.”

SECTION 4. Section 17-72 of the Code of the City of Emporia, Kansas is hereby created to read as follows:

“Violations – penalty. Any person who is convicted of a violation of any of the provisions of this chapter shall be deemed guilty of a class C misdemeanor. In addition to the penalties set forth herein, the City Manager or Manager’s designee may abate a public nuisance created by unlawful camping or otherwise remove personal property unlawfully placed or left upon public property or public right-of-way.”

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

SECTION 6. Effective Date. This ordinance shall take effect upon its publication in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas,
this 16th day of November 2022.

Becky Smith, Mayor

ATTEST:

Kerry Sull, City Clerk

Commission Action Report

Title: Assignment and Assumption Agreement with EFOZ and Mitchell-Markowitz Construction

Proposed Agenda Date: November 16, 2022

Presented By: Christina Montgomery, City Attorney

BACKGROUND:

Emporia Friends of the Zoo (EFOZ) entered into a construction contract with Mitchell-Markowitz Construction for renovation of and addition to the Zoo Education Center located at 75 Soden Road on May 16, 2022. At that time, EFOZ owned the Zoo Education Center. In August of 2022, EFOZ transferred ownership of the Zoo Education Center to the City of Emporia.

DISCUSSION:

The proposed Assignment and Assumption Agreement assigns EFOZ's rights and responsibilities under the Construction Contract to the City of Emporia. The Agreement requires EFOZ to donate funds to the City sufficient to fully fund all project costs for the Zoo Education Center renovation and addition, including any costs incurred under supplemental agreements or work change orders. EFOZ and Mitchell-Markowitz construction agree with the terms of the Assignment and Assumption Agreement.

FINANCIAL CONSIDERATIONS:

EFOZ will provide the funds for the Zoo Education Center renovation project.

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

Approve Assignment and Assumption Agreement with EFOZ and Mitchell-Markowitz Construction

ATTACHMENTS:

Assignment and Assumption Agreement
Construction Contract

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (“Assignment Agreement”) is dated as of the 16th day of November, 2022 and is made by and between Emporia Friends of the Zoo (“EFOZ”), and Mitchell Markowitz Construction (“Contractor”), and The City of Emporia, Kansas (“City”).

RECITALS

- A. EFOZ and Contractor entered into a Construction Contract on May 16, 2022 (“Construction Contract”) for renovation of and addition to the David Traylor Zoo Education Center located at 75 Soden Road, Emporia, Kansas (“Property”) for an estimated total project cost of \$2,892,520.00 “Project Costs”.
- B. At the time the Construction Contract was executed, EFOZ owned the Property. In August of 2022, ownership of the Property transferred to City.
- C. The Parties intend and agree that EFOZ shall assign its rights and responsibilities under the Construction Contract to City, current owner of the Property. City agrees to accept and assume all of the unsatisfied rights, duties, and obligations of EFOZ with respect to the Construction Agreement.
- D. EFOZ agrees to donate funds to City sufficient to pay all expenses and financial obligations under the Construction Contract.

NOW, THEREFORE, for and in consideration of the promises and the covenants entered herein, EFOZ, Contractor and City agree as follows:

- 1. Recitals Incorporated. The above Recitals are hereby incorporated into this Assignment in full and form an integral part hereof.
- 2. Assignment by EFOZ. EFOZ hereby assigns to the City all of EFOZ’s rights, duties, interests, and obligations under the Construction Contract.
- 3. Assumption by City. City hereby accepts such assignment from EFOZ and expressly covenants to EFOZ and Contractor that it assumes and agrees to perform those duties, interests, and obligations assigned to it pursuant to Section 2 above and as specifically called out in the Construction Contract.
- 4. Contractor’s Consent and Release; Surviving Obligations. Upon the execution of this Assignment Agreement by all parties, the assignment and assumption provided for in Sections 2 and 3 above shall be deemed to have been approved and consented to by the Contractor, and EFOZ shall be deemed to have been released from rights, duties, interest, and obligations under the Construction Contract except as specifically set for the surviving obligations described below:
 - a. EFOZ shall donate funds to City sufficient to fully fund all Project Costs including any costs incurred under supplemental agreements or work change orders.
 - b. Within ten (10) days of execution of this Assignment Agreement, EFOZ shall demonstrate proof of funds sufficient to pay estimated Project Costs.

- c. EFOZ shall make quarterly donations to City of funds sufficient to pay any Project Costs already incurred and projected expenses for the next quarter. Should quarterly expenses exceed the amount donated, City may make additional requests for funds by written request which EFOZ agrees to pay within five days of receipt of such request.
 - d. The Parties agree that City may request all remaining funds for outstanding Project Costs at any time by written request which EFOZ agrees to pay within fifteen days of receipt of such request.
5. Non-Discrimination. Contractor and any subcontractors agree that the Contractor and subcontractor shall not discriminate against any person in the performance of work under the Construction Contract because of race, religion, color, sex, gender identification, sexual orientation, national origin, ancestry, age, familial status, disability, or any other characteristic protected by law.
6. Governing Law. This Assignment Agreement shall be governed by the laws of the State of Kansas.
7. Counterparts. This Assignment Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

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

City of Emporia, Kansas

By: _____
Becky Smith, Mayor

ATTEST:

Kerry Sull, City Clerk

Emporia Friends of the Zoo

By: _____
Name:

STATE OF _____)
) ss.
COUNTY OF _____)

Signed before me on this _____ day of _____, 2022 by _____
_____.

Notary Public

My appointment expires: _____

Mitchell Markowitz Construction

By: _____
Name: _____

STATE OF _____)
) ss.
COUNTY OF _____)

Signed before me on this _____ day of _____, 2022 by _____
_____.

Notary Public

My appointment expires: _____

MITCHELL-MARKOWITZ CONSTRUCTION

CONSTRUCTION CONTRACT

This agreement made and entered into this 16 day of May, 2022, by and between Emporia Friends of the Zoo,¹ hereinafter referred to as "OWNER", and MITCHELL-MARKOWITZ CONSTRUCTION, a Kansas Corporation, of the City of Emporia, County of Lyon, State of Kansas, hereinafter referred to as "CONTRACTOR", a duly licensed contractor in the City of Emporia, Kansas, as follows:

1. DESCRIPTION OF WORK. "CONTRACTOR" shall perform the following described work, in accordance with the contract plans and specifications, herein called contract documents, at the rock job location having a street address of 75 Sodens Road, in the County of Lyon, State of Kansas, more particularly described as follows:

David Traylor Zoo Education Center.

2. CONTRACT PRICE. "OWNER" agrees to pay "CONTRACTOR" for the work described \$2,892,520.00. Payment of this amount is subject to additions or deductions in accordance with the provisions of this contract and of the other documents to which this contract is subject.

Payment on the total contract price is to be made in installments as follows:

monthly payments based upon percentage completion per schedule of values

3. PROGRESS PAYMENTS. "OWNER" shall make progress payments on account of the contract price to "CONTRACTOR" as above described, on the basis of applications for payments submitted to "OWNER" detailing all materials and labor expended in the construction of the improvements in accordance with the contract documents below listed and the specifications set out therein and upon inspection by the "OWNER", their agent, representative or assign.

Progress payments may be recalled if:

- A. Work is found defective and not remedied;
- B. "CONTRACTOR" does not make prompt and proper payments to sub-contractor;
- C. "CONTRACTOR" does not make prompt and proper payments for labor, materials, or equipment furnished him;
- D. Another contractor is damaged by an act for which "CONTRACTOR" is responsible;
- E. Claims or liens are filed on the job; or
- F. In the opinion of "OWNER", "CONTRACTOR"'s work is not progressing satisfactorily.

4. FINAL PAYMENT. "OWNER" shall make final payment to "CONTRACTOR" within 15 working days after the final bill is submitted, if the contract be at that time fully performed, and subject to the condition that final payment shall not be due until "CONTRACTOR" has delivered to "OWNER" a complete release of all liens arising out of the contract herein, or receipts in full covering all labor, materials, and equipment for which a lien could be filed, or in the alternative a bond satisfactory to "OWNER" indemnifying him against such liens.

"OWNER" by making payment waives all claims except those arising out of:

- A. Faulty work appearing after substantial completion has been granted;
- B. Work that does not comply with the contract documents;
- C. Outstanding claims of liens; or
- D. Failure of "CONTRACTOR" to comply with any special guarantees required by the contract documents.

"CONTRACTOR", by accepting final payment, waives all claims except those which he has previously made in writing, and which remain unsettled at the time of acceptance.

5. STARTING AND COMPLETION DATES. Construction of this contract shall begin on the 14 day of October, 2022, and be completed by the 01 day of July, 2023.

MITCHELL-MARKOWITZ CONSTRUCTION

CONSTRUCTION CONTRACT

6. CONTRACT DOCUMENTS. The contract documents on which the agreement between "OWNER" and "CONTRACTOR" is based, which contain the plans and specifications in accordance with which the work is to be done, and which provide for the method of payment of the contract price are as follows:

- A. This agreement, with supplementary agreements and conditions, if any attached hereto;
- B. The plans and specifications of the improvement upon the above described real property, with addenda attached thereto, issued before execution of this agreement, and any amendments hereafter to be made;
- C. Written interpretations of the contract, documents and directives to be made from time to time by "OWNER"; and
- D. Work change orders issued, if any, or to be issued, if any.

The contract documents together form the contract for the work herein described. The parties intend that the documents include provisions for all labor, materials, equipment, supplies, and other items necessary for the execution and completion of the work, and all terms and conditions of payment. The documents also include all work and procedures not expressly indicated therein necessary for proper execution of this project.

The contract documents are to be separately executed in duplicate by the "OWNER" and "CONTRACTOR". All contract documents not so signed shall be incorporated by reference in this contract. "CONTRACTOR", by executing the documents, represents that he has inspected and is familiar with the work site and the local conditions under which the work is being performed. If by inadvertence any of the documents are not signed, "OWNER" shall identify them.

7. DESIGNATION OF DUTIES, RESPONSIBILITIES AND AUTHORITY OF "OWNER".

- A. "OWNER" shall give all instructions to "CONTRACTOR", shall furnish all necessary surveys for the work, and shall secure and pay for easements for permanent structures or permanent changes in existing structures or facilities of the work site, or which are necessary for its proper completion.
- B. "OWNER" shall be given free access to the work site at all times during its preparation and progress.
- C. "OWNER" reserves the right to let other contracts in connection with the project. "CONTRACTOR" shall cooperate with all other contractors to the effect that their work shall not be impeded by his construction, and shall give them access to the work site necessary to perform their contract.

8. "CONTRACTOR"'s DUTIES AND RIGHTS IN CONNECTION WITH THE PROJECT HEREIN ARE AS FOLLOWS:

- A. **Responsibility for and Supervision of Construction.** "CONTRACTOR" shall be solely responsible for all construction under this contract, including the techniques, sequences, procedures, and means, and for coordination of all work. He shall supervise and direct the work to the best of his ability, and give it all attention necessary for such proper supervision and direction.
- B. **Discipline and Employment.** "CONTRACTOR" shall maintain at all times strict discipline among his employees, and he agrees not to employ for work on the project any person unfit or without sufficient skill to perform the job for which he was employed.
- C. **Furnishing of Labor, Materials, etc.** "CONTRACTOR" shall provide and pay for all labor, materials, and equipment, including tools, construction equipment, and machinery, utilities, including water, transportation, and all other facilities and services necessary for the proper completion of work on the project in accordance with the contract documents.
- D. **Payment of Taxes; Procurement of Licenses and Permits.** "CONTRACTOR" shall pay all taxes required by law in connection with work on the project in accordance with this contract including sales, use, and similar taxes, and shall secure all licenses and permits necessary for proper completion of the work, paying the fees therefore.
- E. **Compliance with Construction Laws and Regulations.** "CONTRACTOR" shall comply with all laws and ordinances, and the rules, regulations, or orders of all public authorities relating to the performance of the work herein. If any of the contract documents are at variance therewith, he shall notify "OWNER" promptly on discovery of such variance.

MITCHELL-MARKOWITZ CONSTRUCTION

CONSTRUCTION CONTRACT

- F. Responsibility for Negligence of Employees and Subcontractors.** "CONTRACTOR" assumes full responsibility for acts, negligence, or omissions of all his employees on the project, for those of his subcontractors and their employees, and for those of all other persons doing work under a contract with him.
- G. Warranty of Fitness of Equipment and Materials.** "CONTRACTOR" represents and warrants to "OWNER" that all equipment and materials used in the work, and made a part of the structures thereon, or placed permanently in connection therewith, will be new unless otherwise specified in the contract documents, of good quality, free of defects, and in conformity with the contract documents. It is understood between the parties hereto that all equipment and materials not so in conformity are defective.
- H. Furnishing of Samples and Shop Drawings.** "CONTRACTOR" agrees to furnish to "OWNER" at his direction all samples and shop drawings for his consideration and approval as to conformance with the specifications of the contract documents and his concepts of design called for therein.
- I. Clean-up.** "CONTRACTOR" agrees to keep the work premises and adjoining ways free of waste material and rubbish caused by his work or that of his subcontractors. He further agrees to remove all such waste material and rubbish on termination of the project, together with all his tools, equipment, machinery, and surplus materials. He agrees, on terminating his work at the site, to conduct general clean-up operations, including the cleaning of all glass surfaces, paved streets and walks, steps, and interior floors and walls.
- J. Indemnity and Hold Harmless Agreement.** "CONTRACTOR" agrees to indemnify and hold harmless "OWNER", and agents and employees, from and against all claims, damages, losses, and expenses, including reasonable attorneys' fees in case it shall be necessary to file an action, arising out of performance of the work herein, which is (1) for bodily injury, illness, or death, or for property damage, including loss of use, and (2) caused in whole or in part by "CONTRACTOR"'s negligent act or omission, or that of a subcontractor, or that of anyone employed by them or for whose acts "CONTRACTOR" or subcontractor may be liable.
- K. Safety Precautions and Programs.** "CONTRACTOR" has the duty of providing for and overseeing all safety orders, precautions, and programs necessary to the reasonable safety of the work. In this connection, he shall take reasonable precautions for the safety of all work employees and other persons whom the work might affect, all work and materials incorporated in the project, and all property and improvements on the construction site and adjacent thereto, complying with all applicable laws, ordinances, rules, regulations and orders.

9. TIME OF ESSENCE; EXTENSION OF TIME. All times stated herein or in the contract documents are of the essence thereof. The contract times may be extended by a change order from "OWNER" for such reasonable time as he may determine, when in his opinion "CONTRACTOR" is delayed in work progress by changes ordered, labor disputes, fire, prolonged transportation delays, injuries, inclement weather, or other causes beyond his control or which justify the delay.

10. SUBCONTRACTORS. "CONTRACTOR" agrees to furnish to "OWNER", prior to the execution of this contract, a list of names of subcontractors to whom he proposes to award the principal portions of the work to be subcontracted by him. A subcontractor, for the purposes of this contract, shall be a person with whom "CONTRACTOR" has a direct contract for work at the project site. "CONTRACTOR" agrees not to employ a subcontractor to whose employment "OWNER" reasonable objects, nor shall he be required to hire a subcontractor to whose employment he reasonably objects. All contracts between "CONTRACTOR" and subcontractors shall conform to the provisions of the contract documents, and shall incorporate in them the relevant provisions of this contract.

11. INSURANCE.

- A. "CONTRACTOR"'s Liability Insurance.** "CONTRACTOR" agrees to keep in force at his own expense during the entire period of construction on the project such liability insurance as will protect him from claims, under worker's compensation and other employee benefit laws, for bodily injury and death, and for property damage that may arise out of work under this contract, whether directly or indirectly by "CONTRACTOR", or directly or indirectly by a subcontractor. The minimum liability limits of such insurance shall not be less than the limits specified in the contract documents or by law for that type of damage claim. Such insurance shall include contractual liability insurance applicable to "CONTRACTOR"'s obligations under this contract. Proof of such insurance shall be filed by "CONTRACTOR" with "OWNER" within a reasonable time after execution of this contract.

MITCHELL-MARKOWITZ CONSTRUCTION

CONSTRUCTION CONTRACT

- B. **"OWNER"'s Liability Insurance.** "OWNER" agrees to maintain in force his own liability insurance during the construction on this project, and reserves the right to purchase such additional insurance as in his opinion is necessary to protect him against claims arising out of the "CONTRACTOR"'s operation, without diminishing "CONTRACTOR"'s obligation to carry the insurance specified herein on his part to be carried.
- C. **Property Damage Insurance on Work Site.** "CONTRACTOR" agrees to maintain at his expense during construction of the project property damage insurance on the work at the site to its full value, including interests of "OWNER", "CONTRACTOR", and subcontractors, against fire, vandalism, and other perils ordinarily included in extended coverage. Losses under such insurance will be adjusted with and made payable to "OWNER" as trustee for the parties insured as their interests appear. "OWNER" shall file a copy of all such policies with "CONTRACTOR" within a reasonable time after construction begins herein.
- D. **Waiver of Work Site Property Damage Claims to Extent of Insurance Coverage.** "OWNER" and "CONTRACTOR" hereby waive all claims against each other for fire damage or damages from other perils covered by insurance provided in paragraph (C.) of this section. "CONTRACTOR" agrees to obtain waivers of such claims by all subcontractors.

12. CORRECTING WORK. When it appears to "CONTRACTOR" during the course of construction that any work does not conform to the provisions of the contract documents, he shall make necessary corrections so that such work will so conform, and in addition will correct any defects caused by faulty materials, equipment, or workmanship in work supervised by him or by a subcontractor, appearing within six months from the date of substantial completion and final payment as here and above described, or within such longer period as may be prescribed by law or as may be provided for by applicable special guaranties in the contract documents.

13. WORK CHANGES. "OWNER" reserves the right to order work changes in the nature of additions, deletions, or modifications, without invalidating the contract, and agrees to make corresponding adjustments in the contract price and time for completion. All changes will be authorized by a written change order signed by "OWNER" or by his agent. The change order will include conforming changes in the contract and completion time. Work shall be changed, and the contract price and completion time shall be modified only as set out in the written change order. Any adjustment in the contract price resulting in a credit or a charge to "OWNER" shall be determined by mutual agreement of the parties, or by arbitration, before starting the work involved in the change.

14. TERMINATION.

- A. **"CONTRACTOR"'s Termination.** "CONTRACTOR" may, on 5 days written notice to "OWNER", terminate this contract before the completion date hereof when for a period of 5 days after a progress payment is due, through no fault of "CONTRACTOR", "OWNER" fails to make a progress payment. On such termination, "CONTRACTOR" may recover from "OWNER" payment for all work completed and for any loss sustained by him for materials, equipment, tools, or machinery to the extent of actual loss thereon plus loss of a reasonable profit, provided he can prove such loss and damages.
- B. **"OWNER"'s Termination.** "OWNER" may, on 5 days notice to "CONTRACTOR", terminate this contract before the completion date hereof, and without prejudice to any other remedy he may have, when "CONTRACTOR" defaults in performance of any provisions of the contract documents. On such termination, "OWNER" may take possession of the work site and all materials, and finish the work in whatever way he deems expedient. If the unpaid balance on the contract price at the time of such termination exceeds the expense of finishing the work, "OWNER" will pay such excess to "CONTRACTOR". If the expense of finishing the work exceeds the unpaid balance at the time of termination, "CONTRACTOR" agrees to pay the difference to "OWNER". On such default by "CONTRACTOR", "OWNER" may elect not to terminate the contract, and in such event he may make good the deficiency of which the default consists, and deduct the costs from the progress payment then or to become due to "CONTRACTOR".

MITCHELL-MARKOWITZ CONSTRUCTION

CONSTRUCTION CONTRACT

IN WITNESS WHEREOF, the parties have executed this agreement in the City of Emporia, County of Lyon, State of Kansas, the day and year first above written.

May 16, 2022
Emmie Huth President
Emporia Friends of the Zoo
"OWNER"
Ed Markowitz Vice President
MITCHELL-MARKOWITZ CONSTRUCTION
"CONTRACTOR"



Commission Action Report

Title: Financials & Building Permits

Proposed Agenda Date: November 16, 2022

Presented By: Trey Cocking, City Manager

BACKGROUND:

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

The following is general information for the month of October 2022 for the community:

1) Monthly Local Retail Sales Tax Receipts Update

	2021	2022	
	\$420,454.53	\$422,658.81	Increase of \$2,204.28 for the month, and
YTD	\$ 4,483,679.47	\$ 5,013,564.19	Overall increase of 11.82% from year 2021

2) City Share from County Tax

	2021	2022	
	\$216,738.30	\$222,718.48	Increase of \$5,980.18 for the month, and
YTD	\$2,280,456.62	\$ 2,560,620.40	Overall increase of 12.29% from year 2021

3) **Building Permits issued from 10/1/2022 to 10/31/2022 for new construction, remodeling/repairs and demolition.**

Total number of building permits issued through Code Services:	101
Total of valuations associated with those building permits:	\$ 2,881,157.00
Total number of dollars collected for Building Permit Fees:	\$ 17,374.76

Construct - single family dwellings	0
Demo - single family dwellings	0

Flint Hills Mall CID for October 2022	\$ 12,216.67
Year to Date Total	\$ 188,352.70

DISCUSSION:

N/A

FINANCIAL CONSIDERATIONS:

N/A

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

N/A

ATTACHMENTS:

N/A

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, November 2, 2022, with Mayor Smith presiding and Commissioners Brinkman, Giefer, Harter and Sauder present. Also present were City Manager Cocking, City Clerk Sull and City Attorney Montgomery.

**CITY COMMISSION
(Public Comment)**

This is the time for the public to make comments.

The public is invited to make comments at this time. Please limit comments to two (2) minutes each. Hate speech, profanity, and defamation are not allowed. Please state your name and address prior to making comments.

Casey Woods, Executive Director of Emporia Main Street, was in attendance to accept a proclamation declaring November 26, 2022 as "Small Business Saturday" in Emporia. He stated Emporia celebrates local small businesses and the contributions they make to our economy and community. Locally owned businesses of Emporia contribute to our unique and vibrant community character. He stated for every \$100 spent at a small local retail, \$68 will return to the community through taxes, payroll and donations to locals schools and charities. Along with American Express, Main Street America, Kansas Main Street and Emporia Main Street in supporting America's locally owned Small Businesses. He urged the residents of the Emporia area to join the rest of America and do a portion of their holiday shopping to locally owned businesses.

Mayor Smith then presented the proclamation.

**SOLID WASTE DIVISION
(Sanitation Department)
(Equipment Purchase - Automated Side Loader Body and Chassis)**

Dean Grant, Public Works Director, was recognized and addressed the Governing Body. He stated the Solid Waste Collections currently has a 2013 truck with a Mack Chassis and a New Way Automated Body that has 56,816 miles and 12,236 hours on it. Staff would like to purchase

a new Crane Carrier chassis with a Labrie, Automizer Side Loader Refuse Body from Key Equipment through a Sourcewell cooperative purchasing contract. He stated sanitation collections has the current fleet on a 10-year rotation to get the best return on the investment in the trucks. He stated the cost for the new chassis and body is \$354,439.00 to be paid for from the Solid Waste Fund. The budgeted amount was \$360,000.00. The estimated delivery for the new truck is late 2023. He stated staff is recommending approval of the purchase of a new automated solid waste truck from Key Equipment, in the amount of \$354,439.00.

Commissioner Brinkman made a motion to approve the purchase of a new automated solid waste truck from Key Equipment in the amount of \$354,439.00. Commissioner Harter seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Harter, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; and Mayor Smith, aye.

ENGINEERING
(Kansas Department of Transportation)
(KDOT CCLIP FY2024 Surface Preservation Project)
(US-50 Hwy from Graphic Arts Road to Prairie Street)

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated the City of Emporia applied for the mill and overlay project on US-50 from Graphic Arts Road to Prairie Street and was awarded by KDOT on October 12, 2022. The mill and overlay project will provide the maintenance and repair for this portion of US-50. KDOT has allocated \$400,000.00 for construction and construction engineering. The City will be responsible for all preliminary engineering, right of way, utility costs, 10% of approved costs up to \$400,000.00 and all other costs over that amount. He stated staff is recommending accepting the KDOT CCLIP SP award for the mill and overlay on US-50 from Graphic Arts Road to Prairie Street.

Commissioner Giefer made a motion to accept KDOT CCLIP SP award for the mill and overlay on US-50 from Graphic Arts Road to Prairie Street Project. Commissioner Harter seconded the motion. The vote

follows: Commissioner Giefer, aye; Commissioner Harter, aye; Commissioner Brinkman, aye; Commissioner Sauder, aye; and Mayor Smith, aye.

**CITY COMMISSION
(Creation of the CID District)
(Emporia Land Development, LLC)
(Public Hearing)**

City Attorney Montgomery was recognized and addressed the Governing Body. She stated K.S.A. 12-6a26 through K.S.A. 12-6a36, authorizes the governing body of any municipality to adopt an ordinance establishing a community improvement district (CID) after receipt of a proper petition and holding a public hearing. The petition has been received and this is the next step. Emporia Land Development, LLC has requested an additional 1% in addition to the 1% approved in June of 2016 and in place today. If enacted the entire site will be subject to a 2% additional sales tax. In addition to the Hobby Lobby Store there are three new retail stores that will be opening soon. The hearing is the next step as provided for in Kansas statutes necessary to enact the additional 1%. She stated there are no impacts on city finances, but we do have a 2% administrative fee to cover internal costs related to the administration and distribution of the additional tax. He stated staff is recommending approval of the resolution.

Mayor Smith then declared the public hearing opened.

As no one in attendance wished to address the governing body Mayor Smith then declared the public hearing closed.

**CITY COMMISSION
(Creation of the CID District)
(Emporia Land Development, LLC)
(Ordinance Number 22-47)**

AN ORDINANCE CREATING THE EMPORIA LAND DEVELOPMENT, LLC COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF EMPORIA, KANSAS AND AUTHORIZING THE LEVY OF A COMMUNITY IMPROVEMENT DISTRICT RETAILERS' SALES TAX TO BE COLLECTED WITHIN THE DISTRICT, to which the City Clerk assigned Ordinance Number 22-47, was presented to the Governing Body for their consideration.

City Attorney Montgomery was recognized and addressed the Governing Body. She stated all actions taken to establish the additional 1% sales tax have been in accordance with K.S.A. 12-6a26 et seq. The implementation of the tax, if approved, will be effective April 1, 2023, in accordance with Kansas Statutes and policies of the Kansas Department of Revenue. She stated the City Finance Department will administer and distribute the sales tax receipts to the owners in accordance with City policies after receiving the monthly allocation from the Kansas Department of Revenue. The City does deduct a 2% administrative fee from the allocation received before disbursement.

Commissioner Harter made a motion to approve Ordinance Number 22-47, an ordinance implementing an additional 1% community improvement district sales tax for Emporia Land Development, LLC. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Harter, Commissioner Brinkman, aye; Commissioner Giefer, aye; Commissioner Sauder, aye; and Mayor Smith, aye.

**CITY COMMISSION
(Pertaining to Animals)
(Ordinance Number 22-48)**

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO ANIMALS; AMENDING SECTION 6-5 ANIMAL OR FOWL PENS AND 6-10 KEEPING DOMESTIC ANIMALS (FARM AND NONFARM) OF THE CODE OF THE CITY OF EMPORIA, to which the City Clerk assigned Ordinance Number 22-48, was presented to the Governing Body for their consideration.

City Attorney Montgomery was recognized and addressed the Governing Body. She stated the City of Emporia has not allowed keeping chickens outside of agricultural zoned areas within City limits since 2012. Citizens have expressed interest in keeping chickens in residential districts. This proposed ordinance would amend City Code Secs. 6-5 Animal or Fowl Pens and 6-10 Keeping Domestic Animals (Farm and Nonfarm). The proposed changes would authorize the keeping of up to four (4) chickens in residential districts with a domestic farm animal permit. The proposed permit process includes a \$50.00 per year application fee, mandatory annual inspections, and requirements for

chicken enclosure size, location, and maintenance standards. She stated roosters will not be permitted. All other existing animal code provisions pertaining to chickens will remain in place including prohibitions against animals running at large and nuisance animals. She stated this ordinance will take effect on January 1, 2023.

Following further discussion, Commissioner Giefer made a motion to approve Ordinance Number 22-48 pertaining to animals. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Harter, aye; Mayor Smith, aye; and Commissioner Sauder, nay.

ENGINEERING
(License Agreement at 714 Commercial Street)
(700 Block, LLC)

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated 700 Block, LLC is interested in installing balconies at 714 Commercial Street as part of the building renovations. The balcony installation is in conjunction with the rural Housing Incentive District building improvements for upper-level apartments. The balconies will encroach upon the city owned lot at 712 Commercial Street and this license agreement will allow for construction and maintenance. He stated staff is recommending the license agreement with 700 Block, LLC.

Following further discussion, Commissioner Harter made a motion to approve the licensing agreement with 700 Block, LLC for property located at 714 Commercial Street. Commissioner Giefer seconded the motion. The vote follows: Commissioner Harter aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; and Mayor Smith, aye. Commissioner Sauder abstained from the vote.

Consent Agenda

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

- a. Approve minutes of the Regular Meeting held on October 19, 2022.
- b. Ratification and approval of Payroll Ordinances for the period ending on October 21, 2022
- c. Approve Supplemental Agreement No. 2 with H.W. Lochner in the amount of \$34,440.00.
- d. Approve License Agreement for Coffman Construction at 301 Peyton Street.

The vote follows: Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Giefer, aye; Commissioner Harter, aye; and Mayor Smith, aye.

CITY COMMISSION (City Manager's Report)

This is a verbal report that announces upcoming events, recognizes employees for outstanding contribution and provides the public information that may be of a general interest. The following information was presented at the meeting:

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

Tentative Agenda for November 16, 2022, 10:30 a.m.

- Ordinance Bond Authorization Flint Hills Crossing Improvements, Water, Sewer and Street.

Study Session:

CITY COMMISSION (Public Comment)

This is the time for Mayor and City Commissioners to make comments and reports to the public. No comments were made at this time.

EXECUTIVE SESSION

Commissioner Sauder made a motion to adjourn into Executive Session for consultation with the City Attorney regarding a privileged attorney-client matter and invite Kevin Hanlin, Director of Public Lands and Facilities and Lisa Keith, Zoo Director, from 11:30 a.m. to 11:45 a.m., in the City Commission Meeting Room. Commissioner Giefer seconded the motion. The vote follows: Commissioner Sauder, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Harter, aye; and Mayor Smith, aye.

Upon reconvening the meeting in Regular Session at 11:45 a.m., this same date, in the City Commission Meeting Room, Mayor Smith stated they had consultation with the City Attorney regarding a privileged attorney-client matter and no action was taken.

Mayor Smith made a motion to recess the meeting to 12:00 p.m., in City Conference Room 1AB. Commissioner Giefer seconded the motion. The vote follows: Mayor Smith, aye; Commissioner Giefer, aye; Commissioner Brinkman, aye; Commissioner Harter, aye; and Mayor Smith, aye.

The following items were discussed at Study Session:

1. Discuss Time Change of City Commission Meeting on November 16, 2022.
2. Presentation of CodeRED Mass Notification System.
3. Discuss Purchasing Policy.

STUDY SESSION:

Discuss Time Change of City Commission Meeting on November 16, 2022.

City Manager Cocking stated City Commissioners and staff are scheduled to attend the National League of Cities meeting to begin on November 16, 2022. The upcoming Commission meeting time on November 16, 2022 would need to be rescheduled accommodate the National League of Cities conference.

Commissioner Sauder made a motion to change the time of the City Commission Regular Meeting on November 16, 2022, to 10:30 a.m.

Commissioner Harter seconded the motion. The vote follows:
Commissioner Sauder, aye; Commissioner Harter, aye; Commissioner
Brinkman, aye; Commissioner Giefer, aye; and Mayor Smith, aye.

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

Becky Smith, Mayor

ATTEST:

Kerry Sull, City Clerk



Commission Action Report

Title: Change Order No. 1 Raw Water Intake Site Improvement.

Proposed Agenda Date: November 16, 2022

Presented By: Dean Grant, Director of Public Works

BACKGROUND:

Staff is requesting the approval of Change Order #1 on the Raw Water Intake Site Improvement project. Due to the complexity of the project, the need to change the design on improvements to underwater structures, not having good plans for the over 100-year-old dam structure, and some constructability issues, we are requesting 57 working days be added to the contract. This change order also reflects a reduction of the original contract price from \$1,426,841.00 to \$1,331,901.00, totaling \$94,940.00. The project costs are reimbursable by FEMA.

DISCUSSION:

Staff is requesting the approval of Change Order #1 for the Raw Water Intake Site Improvement project.

FINANCIAL CONSIDERATIONS:

Reduction of \$94,940.00 in contract costs.

OTHER CONSIDERATIONS:

Addition of 57 working days to the 90 days in the original contract

RECOMMENDED ACTION:

Approve Change Order No. 1 for the Raw Water Intake Site Improvement project.

ATTACHMENTS:

Change Order No. 1 Raw Water Intake Site Improvement project.

CHANGE ORDER NO. 1

Owner:	City of Emporia, KS	FEMA Project No.:	159736
Engineer:	BG Consultants, Inc.	Engineer's Project No.:	20-1358E
Contractor:	Smoky Hill, LLC	Contractor's Project No.:	
Project:	Raw Water Intake Site Improvements		
Contract Name:	Raw Water Intake Site Improvements		
Date Issued:	11/04/2022	Effective Date of Change Order:	11/04/2022

The Contract is modified as follows upon execution of this Change Order: Price decrease of \$94,940.00 and Time increase of 57 working days.

Description: The contractor requested, and Owner and Engineer approved, change of approach to intake structure and channel clearing in order to reduce the use of temporary shoring and bypass pumping for a cost reduction of \$96,900. Owner and Engineer requested fabrication and installation of a screen over opening in the face of the intake tower for \$2,445. Unused bid items resulted in a reduction of \$3,110 and utilization of Concrete Seal Course added \$2,625.

Due to difficult conditions encountered during the installation of sheet piling, which were not fully known at the time of design and bidding, sheet piling had to be re-designed and numerous efforts had to be undertaken in an effort to seal the cofferdam against the varied and irregular faces of the existing dam structure. 57 additional working days were requested and approved for addition to the contract.

Attachments: None

Change in Contract Price		Change in Contract Times	
Original Contract Price:		Original Contract Times:	
\$ 1,426,841.00		Substantial Completion:	80 days
		Ready for final payment:	90 days
[Increase] [Decrease] from previously approved Change Orders:		[Increase] [Decrease] from previously approved Change Orders:	
\$ N/A		Substantial Completion:	N/A
		Ready for final payment:	N/A
Contract Price prior to this Change Order:		Contract Times prior to this Change Order:	
\$ 1,426,841.00		Substantial Completion:	80 days
		Ready for final payment:	90 days
[Decrease] this Change Order:		[Increase] [Decrease] this Change Order:	
\$ 94,940.00		Substantial Completion:	57 days
		Ready for final payment:	57 days
Contract Price incorporating this Change Order:		Contract Times with all approved Change Orders:	
\$ 1,331,901.00		Substantial Completion:	137 days
		Ready for final payment:	147 days

Recommended by Engineer

By:

Title: Project Engineer

Date: 11/04/2022

Authorized by Owner

Date:

Accepted by Contractor

By:

Title: President, Smoky Hill, LLC

Date: November 4, 2022

By:

Title:



Commission Action Report

Title: Approve the Kansas Housing Resources Corporation Emergency Solutions Grant on behalf of SOS.

Proposed Agenda Date: November 16, 2022

Presented By: Jeff Lynch, Community Development Coordinator

BACKGROUND:

Two local non-profit agencies, SOS, Inc. and Bloom House Youth Services, Inc., provide assistance to our local homeless population and have applied for this funding to assist them in their efforts. This funding would provide emergency shelter, food, and needed essential services such as case management, life skills training, counseling, and assistance in obtaining housing for their homeless participants.

DISCUSSION:

The City has administered this type of grant for many years, which provides financial assistance to our local homeless service agencies. The City fulfills the role of a pass-thru grant recipient and qualifies for some administrative funding to offset the costs of staff and materials. The funding source is HUD and allocated by the Kansas Housing Resources Corporation.

FINANCIAL CONSIDERATIONS:

The grant request was approved for SOS in the amount of \$30,000, with administrative funding for the City in the amount of \$811.

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

Approve Kansas Housing Resources Corporation for Emergency Solutions Grant on behalf of SOS.

ATTACHMENTS:

Notice of Grant Award



November 2, 2022

Jeff Lynch
City of Emporia
104 E. 5th Ave
Emporia, KS 66801

Sub Recipient – City of Emporia
Sub Awardee – SoS, Inc

Kansas Housing Resources Corporation (KHRC) (Recipient) is pleased to announce your 2022 Emergency Solutions Grant (ESG) award. These funds have been conditionally awarded. Please advise your Sub-Awardee of this award.

Activity	2022 ESG	2022 Total Award
	SoS, Inc	
Street Outreach	0.00	0.00
Emergency Shelter	\$30,000.00	\$30,000.00
Homeless Prevention	0.00	0.00
Rapid Re-Housing	0.00	0.00
HMIS	0.00	0.00
Administration	\$811.00	\$811.00
Total Award		\$30,811.00

The 2022 ESG grant period will be for twelve (12) months, July 01, 2022, through June 30, 2023.

If you have questions or need more information, please feel free to contact me. Thank you for your support of the ESG in Kansas.

Doug Wallace
Program Manager, Emergency Shelter Grant
(785) 217-2019
Kansas Housing Resources Corporation
611 S. Kansas Ave. Suite 300
Topeka, KS 66603
dwallace@kshousingcorp.org

FFY2022
ESG - CDFA# 14.231
NOTIFICATION OF
GRANT AWARD

State of Kansas
Kansas Housing Resources Corporation

2022 Department of Housing and Urban Development Grant Award Date - 10/28/2022

Amount of funds obligated: \$1,662,075

UEI# - S249YBY1KLE8 FEIN# - 71-0950729 – Not R&D

Indirect cost rate NA

Sub Recipient Name		Sub Recipient Address	
City of Emporia		104 E. 5th Ave Emporia, KS 66801	
Sub Recipient Federal Tax ID#	Sub Recipient Grant Number	Sub Recipient Grant Period	Sub Recipient Grant Sub Award
48-6026579	ESG - FFY2022	From: 07/01/2022 To: 06/30/2023	\$ 30,811.00

EMERGENCY SOLUTIONS FUNDS

PROJECT BUDGET

Street Outreach	\$ 0.00
Emergency Shelter	\$ 30,000.00
Homeless Prevention	\$ 0.00
Rapid Re-Housing	\$ 0.00
HMIS	\$ 0.00
Local Government Administration	\$ 811.00
TOTAL GRANT AWARD	\$ 30,811.00
LOCAL MATCHING FUNDS	\$ 30,000.00
TOTAL PROJECT COST	\$ 60,811.00

We, the undersigned, approve this grant sub award and the provisions set forth in the Grant Award Conditions and Emergency Solutions Grant Program statutes, rules, regulations, terms and conditions.

Authorized State Official

Authorized Grantee Official

Signature

Date

Signature

Date

Ryan Vincent, Executive Director

Printed Name

Title

Printed Name

Title



Commission Action Report

Title: KDOT CCLIP 6th Avenue & Prairie Street Intersection Improvements
Supplemental Agreement No. 1, 50-56 KA-5412-01 Project No. PV1909.

Proposed Agenda Date: November 16, 2022

Presented By: Jim Ubert, City Engineer

BACKGROUND:

The City of Emporia entered into an agreement with the Kansas Department of Transportation on August 3, 2020, for intersection improvements at 6th Ave and Prairie Street. The original project budget was \$666,666.00. This supplemental agreement will increase the project budget to \$920,518.00 with KDOT still funding 90% and City of Emporia paying the remaining 10% of the project.

DISCUSSION:

The KDOT Community Connecting Link Improvement Project (CCLIP) intersection geometric improvements will improve roadway and traffic signal functioning at 6th Ave and Prairie Street.

FINANCIAL CONSIDERATIONS:

With this agreement, the project will see and an increase in funding from the 90%/10% (KDOT/City respectively) shared costs up to the \$666,666.00 budget and 50%/50% (KDOT/City) for costs over that to increasing the project budget to \$920,518 (90% KDOT/10% City).

OTHER CONSIDERATIONS:

RECOMMENDED ACTION:

Accept and sign Supplemental Agreement No. 1 for KDOT CCLIP 6th Avenue and Prairie Street Improvements, KDOT Project No. 50-56 KA-5412-01, Project No. PV1909.

ATTACHMENTS:

Supplemental Agreement No. 1

PROJECT NO. 50-56 KA-5412-01
ACNHP-A541(201)
INTERSECTION IMPROVEMENT
CITY OF EMPORIA, KANSAS

S U P P L E M E N T A L A G R E E M E N T N o . 1

This Supplemental Agreement, effective the date signed by the Secretary or the Secretary's designee, is by and between the **Secretary of Transportation**, Kansas Department of Transportation (KDOT) (the "Secretary") and the **City of Emporia, Kansas** ("City"), collectively, the "Parties."

RECITALS

- A. The Parties entered into an Agreement dated August 3, 2020, for an intersection improvement Project in the City ("Original Agreement").
- B. The Parties mutually desire to supplement the Original Agreement to reflect an increase in the amount of federal and state funding available for the Project and make other contract revisions as necessary.

NOW, THEREFORE, the Parties agree as follows:

1. On page 3 of the Original Agreement, Article II, paragraph 4: Payment of Costs, is replaced in its entirety to read as follows:

4. **Payment of Costs.** The Secretary agrees to be responsible for ninety percent (90%) of the Participating Costs of Preliminary Engineering, Right of Way, Construction (including all Construction Contingency Items), and Construction Engineering, not to exceed eight hundred twenty-eight thousand four hundred sixty-six dollars (\$828,466.00). The Secretary shall not be responsible for costs of Utility adjustments or Non-Participating Costs.

2. On page 4 of the Original Agreement, Article III, paragraph 5: Submission of Design Plans to Secretary, is replaced in its entirety to read as follows:

5. **Submission of Design Plans to Secretary.** Upon their completion, the City shall have the Design Plans submitted to the Secretary by a licensed professional engineer attesting to the conformity of the Design Plans with the items in Article III, paragraph 3 above. The Design Plans must be signed and sealed by the licensed professional engineer responsible for preparation of the Design Plans. In addition, geological investigations or studies must be signed and sealed by either a licensed geologist or licensed professional engineer. All technical professionals involved in the Project are required to meet the applicable licensing and/or certification requirements as stated in K.S.A. § 74-7001, *et seq.*

3. On page 5 of the Original Agreement, Article III, paragraph 9(c): Relocation Assistance is replaced in its entirety to read as follows:

(c) **Relocation Assistance.** The City will contact the Secretary if there will be any displaced person on the Project prior to making the offer for the property. The Parties mutually agree the

City will undertake the relocation of eligible persons as defined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and as provided in 49 C.F.R. Part 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, and in general accordance with K.S.A. §§ 58-3501 to 58-3507, inclusive, and Kansas Administrative Regulations 36-16-1, *et seq.* The Secretary will provide information, guidance, and oversight to the City for any relocations required by the Project.

4. On page 10 of the Original Agreement, Article III, paragraph 17: Financial Obligation is replaced in its entirety to read as follows:

17. **Financial Obligation.** The City will be responsible for ten percent (10%) of the Participating Costs of Preliminary Engineering, Right of Way, Construction (including the costs of all Construction Contingency Items), and Construction Engineering, up to nine hundred twenty thousand five hundred eighteen dollars (\$920,518.00). In addition, the City is responsible for one hundred percent (100%) of the costs of Preliminary Engineering, Right of Way, Construction (including the costs of all Construction Contingency Items), and Construction Engineering that exceed \$920,518.00. Further, the City agrees to be responsible for one hundred percent (100%) of the costs of Utility adjustments and Non-Participating Costs.

5. On page 10, Article IV new paragraphs 8-11 are added to read as follows:

8. **Debarment & Suspension.** If the value of this Agreement exceeds twenty-five thousand dollars (\$25,000.00), it is a covered transaction for purposes of 2 C.F.R. Parts 180 and/or 1200. By signature on this Agreement, the City verifies that neither it, nor its agents or employees, are presently debarred, suspended, proposed for debarment, declared ineligible, disqualified, or voluntarily excluded from participation in this transaction by any federal department or agency as reflected in the System for Award Management (SAM). Exec.Orders No. 12549 and 12689; 2 C.F.R. § 200.213.

9. **Buy America Compliance.** The Parties agree to comply with the Buy America requirements of 23 C.F.R. § 635.410, as applicable, when purchasing items using Federal funds under this Agreement. Buy America requires the Parties to purchase only steel and iron produced in the United States unless a waiver has been granted by FHWA or the product is subject to a general waiver. Costs for applicable materials which are not certified either compliant or under waiver will not be reimbursed. Buy America requirements apply to all contractors/subcontractors and should be incorporated through appropriate contract provisions as needed.

10. **Prohibition on Certain Technologies.** All Parties agree that they will comply with 2 C.F.R. §§ 200.216 and 200.471 regulations. Such regulations provide that recipients and sub-recipients of federal funds are prohibited from obligating or expending loan or grant funds to 1) procure or obtain; 2) extend or renew a contract to procure or obtain, or; 3) or enter into a contract to procure or obtain telecommunication or video surveillance equipment, services, or systems produced by: Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); and Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of

such entities). Any expenditures for such telecommunication or video surveillance equipment, services or systems are unallowable costs and will not be reimbursed.

11. **Audit Requirements.** All local governmental units, state agencies or instrumentalities, non-profit Organizations, institutions of higher education and Indian Tribal governments shall comply with Federal-Aid Transportation Act and the requirements of 2 C.F.R. Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (commonly known as the “Supercircular”). The Audit Standards set forth in 2 C.F.R. Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” and specifically the requirements in Subpart F, 2 C.F.R. § 200.500, *et seq.* require either a single or program specific audit be performed by an independent certified public accountant in accordance with these standards. All information audited and audit standards and procedures shall comply with 2 C.F.R. § 200.500, *et seq.*

- (a) **Agency Audit.** The Secretary and/or the FHWA may request, in their sole discretion, to conduct an audit of the Project. Upon the request of the Secretary and/or the FHWA for an audit, the City will participate and cooperate in the audit and shall make its records and books available to representatives of the requesting agency for a period of five (5) years after date of final payment under this Agreement. If the audit reveals payments have been made with federal funds by the City for items considered ineligible or Non-Participating Costs, the City shall promptly reimburse the Secretary for such items upon notification by the Secretary.

12. **Counterparts.** This Supplemental Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one in the same Agreement.

THIS SUPPLEMENTAL AGREEMENT shall not be construed to alter, modify, or void the terms, provisions, or conditions of the Original Agreement, which is incorporated into this Supplemental Agreement by reference, except as herein specifically provided.

IN WITNESS WHEREOF, the Parties have caused this Supplemental Agreement to be signed by their duly authorized officers.

ATTEST:

THE CITY OF EMPORIA, KANSAS

CITY CLERK (Date)

MAYOR (Date)

(SEAL)

Kansas Department of Transportation
Secretary of Transportation

By: _____
Burt Morey, P.E. (Date)
Deputy Secretary and
State Transportation Engineer

Approved as to form:



Commission Action Report

Title: Set Bid Date and Time of December 20, 2022, at 2:00 p.m. for Highland Street Improvements.

Proposed Agenda Date: November 16, 2022

Presented By: Jim Ubert, City Engineer

BACKGROUND:

Emporia State University made an investment in the Schallenkamp Hall dormitory along Highland Street at 13th Ave. The City applied for and received funding for utility and street/drainage improvements along Highland Street (12th Avenue to 16th Avenue). The Highland Street improvements are consistent with ESU's Master Plan improvements along Highland Street. These improvements will include street paving, sanitary sewer, stormsewer, and watermain.

DISCUSSION:

N/A

FINANCIAL CONSIDERATIONS:

The Kansas Department of Commerce Community Development Block Grant will fund up to \$750,000 of the estimated \$1,500,00 project.

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

Approve Set Bid Date and Time of December 20, 2022 at 2:00 p.m. for Highland Street Improvements.

ATTACHMENTS:

Invitation to Bid

**Advertisement for Bids
City of Emporia, Kansas
Highland Street CDBG Improvements (12th Ave. to 16th Ave.)**

General Notice

City of Emporia, Kansas (Owner) is requesting Bids for the construction of the following Project:

**Highland Street CDBG Improvements (12th Ave. to 16th Ave.)
City of Emporia Project No. PV2104
BG Project #22-1213E / CDBG Project #22-PF-006**

Sealed Bids for the construction of the Project will be received at the **Emporia City Clerk's Office** located on the second floor at **104 E. 5th Avenue, Emporia, KS 66801**, until **Tuesday December 20, 2022 at 2:00 pm**, local time. At that time the Bids received will be publicly opened and read in City Conference Room 1AB. Bids received after this time will be returned unopened. A non-mandatory pre-bid meeting shall be held at 2:00 pm, Tuesday, December 13, 2022 at the same location.

The Project includes the following Work: **Construction of Street, Waterline, Storm Sewer and Sanitary Sewer Improvements on Highland Street (12th to 16th) in Emporia, Lyon County, KS.** The Project consists of a Base Bid amount of work on Highland Street and Add Alternate work on 14th Avenue including, but is not limited to the following approximate major quantities of work:

Base Bid Item Description	Quantity	Units
Pavement Removal	6,013	Sq. Yds.
Aggregate Base (AB-3)(6")	7,136	Sq. Yds.
HMA – Commercial Grade (Class A)	2,459	Tons
Concrete Curb and Gutter	3,041	Lin. Ft.
Concrete Pavement (6", 7" and 8")	948	Sq. Yds.
Sidewalk Construction and Sidewalk Ramps	355	Sq. Yds.
Type 22 Curb Inlets	7	Each
Storm Sewer (12")(RCP)	264	Lin. Ft.
8" Sanitary Sewer (PVC)(In Place)	275	Lin. Ft.
Manholes for Sanitary Sewer	3	Each
10" Waterline (PVC C-900)(In Place)	464	Lin. Ft.

Bids will be received for a single prime Contract. Bids shall be on a lump sum and unit price basis, with additive alternate bid items as indicated in the Bid Form. Bid security shall be furnished in accordance with the Instructions to Bidders.

The Issuing Office for the Bidding Documents is: Drexel Technologies, 10840 West 86th Street, Lenexa, KS 66214, 913-371-4430. Prospective Bidders may examine the Bidding Documents at the following locations:

1. **BG Consultants, Inc.** www.bgcons.com
2. **Drexel Technologies** www.drexeltech.com

Bidding Documents may be viewed and ordered online by registering with the Issuing Office at www.drexeltech.com. Following registration, complete sets of Bidding Documents may be downloaded from the Issuing Office's website as "zipped" portable document format (PDF) files. The cost of printed Bidding

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Modified to include RD edits from RUS Bulletin 1780-26 (6/16/2020).

Documents from the Issuing Office will depend on the number and size of the Drawings and Project Manual, applicable taxes, and shipping method selected by the prospective Bidder. Cost of Bidding Documents and shipping is non-refundable. Contract Documents will be shipped only if the requesting party assumes responsibility for all related shipping charges. Non-refundable corporate, certified, or cashier's checks shall be made payable to Drexel Technologies. The date that the Bidding Documents are transmitted by the Issuing Office will be considered the Bidder's date of receipt of the Bidding Documents. Partial sets of the Bidding Documents will not be available from the Issuing Office. Additional assistance is available at distribution@drexeltech.com.

The contractor and their subcontractors on this project will be required to comply with the federal Davis-Bacon Act; Copeland "Anti-Kickback" Act; and the Contract Work Hours and Safety Standards Act. Wage rates paid for construction work shall be at least equal to the prevailing wage rates as determined by the Secretary of the U. S. Department of Labor. The Labor Standards and Wage Rates Determination are included in the Contract Documents.

All persons awarded and/or entering into contracts with the Owner shall be subject to and required to comply with applicable county, state and federal provisions pertaining to nondiscrimination, labor standards, equal employment opportunity and affirmative action on public contracts. The project is being partially funded by Small Cities Community Development Block Grant Program managed by the Kansas Department of Commerce. Attention of bidders is particularly called to the requirements as to conditions of employment to be observed and Federal prevailing wage rates to be paid under the contract, Section 3 of the 1968 Housing Act, Segregated Facility, Section 109 of the 1984 Housing and Community Development Act, the Civil Rights Act of 1964 and Executive Order 11246. Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Disadvantaged Business Enterprises (DBE) are encouraged to submit bids for this work.

Instructions to Bidders: For all further requirements regarding bid submittal, qualifications, procedures, and contract award, refer to the Instructions to Bidders that are included in the Bidding Documents.

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 2018 Master Set of Specifications on the City Web page in order to bid City of Emporia projects.

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@emporiaks.gov.

THE CITY OF EMPORIA, KANSAS
Kerry Sull
City Clerk



Commission Action Report

Title: Informational Items

Proposed Agenda Date: November 16, 2022

Presented By: Trey Cocking, City Manager

BACKGROUND:

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

DISCUSSION:

At the time this Agenda was prepared, the following items were in the works for the tentative Agendas of the December 7, 2022 meetings.

Commission Meeting:

- Approve RFQ for Elevated Tank Maintenance.

Study Session:

FINANCIAL CONSIDERATIONS:

N/A

OTHER CONSIDERATIONS:

N/A

RECOMMENDED ACTION:

N/A

ATTACHMENTS:

N/A