

CITY COMMISSION MEETING

December 16, 2020 at 7:00 PM

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

Agenda

Meeting Items

1. Members Present:
2. Mayor and City Commission Reports and Comments
3. Consent Agenda
4. Public Comment
5. Consider Appointment of City Appointee to Emporia Enterprises
6. Consider the Reappointment of a board member to the Joint Metropolitan Planning Commission/Board of Zoning Appeals
7. Consider Appointment of members to the Emporia Human Relations Commission
8. Public Hearing and Ordinance to Amend 2020 Budget
9. Consider CID Letter of Recommendation from RDA for Potential Commercial Establishment
10. Consider the Approval for the Purchase of Playground Equipment for Freemont Park
11. Consider the Approval for the Purchase of Playground Equipment for East Side Park
12. Consider the Authorization of Improvements for the Veteran's Memorial Park
13. Consider Approval of Memorandum of Understanding with Dynamic Distribution
14. Consider Approval of Memorandum of Understanding with Everygy
15. Consider Ordinance Amending City Code Sec. 16-266 Pertaining to Face Masks
16. **Consider Approval for the Purchase of Airport Runway Edge Lighting, Guidance Signs and Primary Wind Cone Replacement Design**
17. Report from City Manager on City Activities
18. Executive Session



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

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 2

SUBJECT: Mayor and City Commissioners Reports and Comments

RECOMMENDATION:

BACKGROUND SUMMARY

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 November for the community:

1) Monthly Local Retail Sales Tax Receipts Update

	2019	2020	Decrease of \$39,210.40 for the month, and Overall increase of 0.58% from year 2019
	\$436,960.97	\$397,750.57	
YTD	\$ 4,547,454.89	\$ 4,578,844.15	

2) City Share from County Tax

	2019	2020	Decrease of \$26,404.43 for the month, and Overall increase of 2.96% from year 2019
	\$225,954.64	\$199,550.21	
YTD	\$ 2,259,863.69	\$ 2,326,864.78	

3) Building Permits issued from 11/1/2020 to 11/30/2020 for new construction, remodeling / repairs and demolition.

Total number of building permits issued through Code Services:	73
Total of valuations associated with those building permits:	\$ 1,150,773.00
Total number of dollars collected for Building Permit Fees:	\$ 9,608.38
Construct - single family dwellings	1
Demo - single family dwellings	0

Flint Hills Mall CID for November	\$ 20,620.39
Year to Date Total	\$ 198,928.11

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 3

SUBJECT:

Consent agenda:

The items listed on the Consent Agenda are considered by the Governing Body to be routine business items.

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

- a. Consider minutes of the Meeting held on December 2, 2020.
- b. Consider ratification of Payroll Ordinance for the period ending on December 4, 2020.
- c. Consider the Approval of November Budget.
- d. Consider Change Order No. 2 for the Industrial Park III Resurfacing & Drainage Improvement Project No. PV2004, KDOT Proj. No. 56 KA-5730-01 (South Ave., Logan Ave., and Weaver St.).

RECOMMENDATION:

- a. Approve Minutes
- b. Approve Payroll
- c. Approve Budget
- d. Approve Change Order

BACKGROUND SUMMARY:

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 3d

SUBJECT: Consider Change Order No. 2 for the Industrial Park III Resurfacing & Drainage Improvement Project No. PV2004, KDOT Proj. No. 56 KA-5730-01 (South Ave., Logan Ave., and Weaver St.).

RECOMMENDATION: Approve Change Order No. 2 for the Industrial Park III Resurfacing & Drainage Improvement Project No. PV2004, KDOT Proj. No. 56 KA-5730-01 (South Ave., Logan Ave., and Weaver St.) for an additional amount of \$13,582.52.

BACKGROUND SUMMARY:

This project is funded from a \$700,000.00 KDOT Economic Development Grant and Federal Fund Exchange money. The first change order increased the project contract amount from \$585,516.23 to \$728,221.11. This Change Order for \$13,582.52 would increase the final contract dollar amount to \$741,803.63

Attached is the Change Order No. 2 and line item explanations.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

CHANGE ORDER NO. 2
ON CONTRACT WITH APAC-KANSAS, INC., SHEARS DIVISION FOR THE CONSTRUCTION OF
INDUSTRIAL PARK III RESURFACING & DRNG IMPROVEMENTS, KDOT PROJ. NO. 56 KA5730-01, CITY PROJ. NO. PV 2004
(SOUTH AVE., LOGAN AVE., & WEAVER ST.)

Date: December 2, 2020

This change in plans, made in accordance with the provisions of Paragraph 9, GS-4, General Conditions under the above Contract, provides for a change in the contract total due to estimated quantities being different than the actual quantities used in the construction of the **INDUSTRIAL PARK III RESURFACING & DRAINAGE IMPROVEMENTS PROJECT NO. PV2004**

<u>QUANTITY</u>	<u>UNIT</u>	<u>ITEM & UNIT PRICE IN WORDS</u>	<u>IN FIGURES</u>	<u>AMOUNT</u>
QUANTITIES ADDED:				
41.4	S.Y.	Concrete Pavement (6") (AE) (Remove & Replace) @ Eighty-nine dollars (Unit Price in Words)	\$89.00	\$3,684.60
20.5	L.F.	Curb & Gutter (2'-6" Combined) (AE) (Remove & Replace) @ Forty-five dollars and sixteen cents (Unit Price in Words)	\$45.16	\$925.78
25.6	S.Y.	Pavement Removal @ Fourteen dollars and ninety-six cents (Unit Price in Words)	\$14.96	\$382.98
25.6	S.Y.	Combined Material (AB-3) (6" Compacted) @ Ten dollars and thirty-five cents (Unit Price in Words)	\$10.35	\$264.96
179.5	TON	HMA (Commercial Grade) (Class A) @ Seventy-seven dollars and eighty-five cents (Unit Price in Words)	\$77.85	\$13,974.08
1	Ea.	Utility Adjustment (Concrete) (Manhole) (Sewer) @ Eight hundred eighty-five dollars and eighty-four cents (Unit Price in Words)	\$885.84	\$885.84
304	L.F.	Pavement Marking (Thermoplastic) (Yellow) (4") (Double) @ Zero dollars and sixty-five cents (Unit Price in Words)	\$0.65	\$197.60
688	L.F.	Pavement Marking (Thermoplastic) (Yellow) (4" Broken) @ Zero dollars and sixty-five cents (Unit Price in Words)	\$0.65	\$447.20
TOTAL ADDED TO PROJECT:				\$20,763.03

QUANTITIES DELETED:

QUANTITY UNIT

3.8	S.Y.	Concrete Sidewalk (4" Plain) (AE) (Remove & Replace) @ Seventy-three dollars and twelve cents (Unit Price in Words)	\$73.12	\$277.86
10	C.Y.	Flowable Fill (Low Strength) @ One hundred fifty-seven dollars and ten cents (Unit Price in Words)	\$157.10	\$1,571.00
25.6	S.Y.	Asphalt Milling (2" Avg. Depth) @ Five hundred seventy-three dollars and seventy-one cents (Unit Price in Words)	\$10.51	\$269.06
4.5	TON	HMA (2" Overlay) (Commercial Grade) (Class A) @ Eighty dollars and ninety-nine cents (Unit Price in Words)	\$80.99	\$364.46
15.0	TON	HMA (12") (Commercial Grade) (Class A) @ Eighty-two dollars and seventy-two cents (Unit Price in Words)	\$82.72	\$1,240.80
2	Ea.	Utility Adjustment (Concrete) (Valve Box) (Water) @ Five hundred seventy-three dollars and seventy-one cents (Unit Price in Words)	\$573.71	\$1,147.42
3	Ea.	Utility Adjustment (Valve Box Riser) (Valve Box) (Water) @ Seventy-nine dollars and thirty-three cents (Unit Price in Words)	\$79.33	\$237.99
1	Ea.	Utility Adjustment (Manhole Riser) (Manhole) (Sewer) @ One hundred ninety-two dollars and twenty-three cents (Unit Price in Words)	\$192.23	\$192.23
16	L.F.	Pavement Marking (Intersection Grade) (White) (24") (Type II Crosswalk) @ Twelve dollars and ninety cents (Unit Price in Words)	\$12.90	\$206.40
50	L.F.	Temporary Slope Barrier (Silt Fence) @ Five dollars and eighty-three cents (Unit Price in Words)	\$5.83	\$291.50
10	Ea.	Inlet Sediment Barrier @ One hundred thirty-eight dollars and eighteen cents (Unit Price in Words)	\$138.18	\$1,381.80

TOTAL DELETED FROM PROJECT:

- \$7,180.51

TOTAL CHANGE ORDER ADDED TO PROJECT:

\$13,582.52

CONTRACTOR: APAC-KANSAS, INC., SHEARS DIVISION

BY: [Signature]
OWNER or AUTHORIZED REPRESENTATIVE

APPROVED BY: THE CITY OF EMPORIA, KS

BY: _____
MAYOR

Date: _____

Attest: _____
CITY CLERK

**INDUSTRIAL PARK III RESURFACING & DRAINAGE IMPROVEMENTS
PROJECT (NO. PV2004)
(South Ave., Logan Ave., and Weaver St.)**

CHANGE ORDER EXPLANATION

During construction of the Industrial Park III Resurfacing & Drainage Improvements Project (PV2004) (South Ave., Logan Ave., and Weaver St.), changes and adjustment of quantities were made which resulted in an increase of the contract in the amount of \$13,582.52.

Quantities Added:

1. Concrete Pavement (6") (AE) (Remove & Replace) –
This change represents an addition of 41.40 S.Y. This item was added due to field conditions requiring the removal and replacement of existing driveways.
2. Curb & Gutter (2'-6" Combined) (AE) (Remove & Replace) –
This change represents an overrun of 20.5 L.F. This item was increased due to field conditions requiring additional curb & gutter work for proper drainage.
3. Pavement Removal –
This change represents an overrun of 25.6 S.Y. This item increased due to field conditions requiring additional pavement removal near the intersection of Weaver St. and E. Hwy 50.
4. Combined Material (AB-3) (6" Compacted) –
This change represents an overrun of 25.6 S.Y. This item increased due to additional pavement removal requiring additional base material near the intersection of Weaver St. and E. Hwy 50.
5. HMA (Commercial Grade) (Class A) –
This change represents an overrun of 179.5 TON. This item increased due to field measurements being more than plan quantity. Additional quantity was mostly measured along South Avenue where the majority of resurfacing work took place.
6. Utility Adjustments (Concrete) (Manhole) (Sewer) –
This change represents an overrun of 1.00 EA. This item increased due to the additional replacement of an unmarked monument box on Logan Avenue that was damaged during milling.
7. Pavement Marking (Thermoplastic) (Yellow) (4") (Double) –
This change represents an overrun of 304 L.F. This item increased to reflect the actual length of pavement marking used near the intersection of Logan Avenue and Warren Way.

8. Pavement Marking (Thermoplastic) (Yellow) (4" Broken) –
This change represents an overrun of 688 L.F. This item increased due to the additional work on Logan Avenue from Weaver St. to Road M-5.

Quantities Deleted:

1. Concrete Sidewalk (4" Plain) (AE) (Remove & Replace) –
This change represents an underrun of 3.8 S.Y. This item decreased due to changes made during a preconstruction field inspection. It was decided that portions of sidewalk originally planned to be removed and replaced did not meet requirements to be replaced.
2. Flowable Fill (Low Strength) –
This change represents an underrun of 10 C.Y. This item decreased due to field conditions not requiring the originally planned amount of flowable fill around the new 24" RCP Storm Sewer near the intersection of Weaver St. and E. Hwy 50.
3. Asphalt Milling (2" Avg. Depth) –
This change represents an underrun of 25.6 S.Y. This item decreased due to field conditions requiring additional pavement removal instead of asphalt milling near the intersection of Weaver St. and E. Hwy 50.
4. HMA (2" Overlay) (Commercial Grade) (Class A) –
This change represents an underrun of 4.5 TON. This item decreased due to field conditions requiring full depth (12") HMA instead of the planned 2" surface lift near the intersection of Weaver St. and E. Hwy 50.
5. HMA (12") (Commercial Grade) (Class A) –
This change represents an underrun of 15 TON. This item decreased due to the expected contingency in the original plans for the additional work on Weaver Street near E. Hwy 50.
6. Utility Adjustment (Concrete) (Valve Box) (Water) –
This change represents an underrun of 2.00 EA. This item decreased due to adjustments made in the field which made the planned utility adjustments unnecessary.
7. Utility Adjustment (Valve Riser Box) (Valve Box) (Water) –
This change represents an underrun of 3.00 EA. This item decreased due to adjustments made in the field which made the planned utility adjustments unnecessary.

8. **Utility Adjustment (Manhole Riser) (Manhole) (Sewer) –**
This change represents an underrun of 1.00 EA. This item decreased due to adjustments made in the field which made the planned utility adjustments unnecessary.
9. **Pavement Marking (Intersection Grade) (White) (24") (Type II Crosswalk) –**
This change represents an underrun of 16 L.F. This item decreased due to field adjustments that were made which resulted with fewer lines than originally planned.
10. **Temporary Slope Barrier (Silt Fence) –**
This change represents an underrun of 50 L.F. This item decreased due to the contractor not using a temporary slope barrier during construction.
11. **Inlet Sediment Barrier –**
This change represents an underrun of 10 EA. This item decreased due to the contractor not using inlet sediment barriers during construction.

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 4

SUBJECT: Public Comment

RECOMMENDATION:

BACKGROUND SUMMARY:

Citizen Appearance Procedures

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

ACTION RECORD

Action: _____

Motion: _____ Second: _____

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

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 5

SUBJECT: Consider Appointment of City Appointee to Emporia Enterprises.

RECOMMENDATION: Appoint Member

BACKGROUND SUMMARY:

Emporia Enterprises allows the City of Emporia, and more specifically, the City Commission to have two appointees on their board. One of those appointments has expired. David Evans is the current City appointee and has served two three-year terms and is no longer eligible for reappointment.

Two applications have been submitted and those applicants have been through the interview process. Staff request you appoint one applicant as City Appointee to Emporia Enterprises.

Applications Attached

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

APPLICATION FOR ADVISORY BOARD MEMBERSHIP



DATE: 11/16/2020

NAME:	Tyler	T.	Curtis
	First Name	MI	Last Name
ADDRESS:	2714 Crestview Drive Ct.		
	Street		
	Emporia	KS	66801
	City	State	ZIP

Email: ktylercurtis@gmail.com

PHONE: 6204124013

PLACE OF EMPLOYMENT: Emporia State University

HOW LONG HAVE YOU BEEN A RESIDENT OF EMPORIA? 10 years

ADVISORY BOARD(S) YOU ARE INTERESTED IN:
EMPORIA ENTERPRISES

**BRIEFLY DESCRIBE WHY YOU WOULD LIKE TO PARTICIPATE ON
THE**

ADVISORY BOARD(S) MENTIONED ABOVE:

I have an interest in economic development and a desire to ensure that we have a vibrant local economy. Having worked professionally in governmental relations and grant writing as well as serving as a volunteer and/or working with Main Street, Chamber, RDA, and Ignite Emporia, I can add value to a group of citizens who are working to find ways to leverage land and land acquisition to grow business. I've worked closely on grant projects between the community and ESU and have an overall understanding of how we can work together to create opportunities for both entrepreneurial development and in recruiting new businesses to the community. I would be honored to serve in this capacity to assist Emporia Enterprises with these these strategic discussions and plans. Thank you for your consideration.

OTHER ACTIVITIES AND INTERESTS:

I would also be interested in RDA.

In Lieu of Signature, Click Here

APPLICATION FOR ADVISORY BOARD MEMBERSHIP



DATE: 11/10/2020

NAME:	Bradley	A	Cochennet
	First Name	MI	Last Name

ADDRESS:	612 West 12th Ave		
	Street		
	Emporia	KS	66801
	City	State	ZIP

Email: bcochennet@gmail.com

PHONE: 970-403-6623

PLACE OF EMPLOYMENT: I am retired but work at Gufler Mansion LLC

HOW LONG HAVE YOU BEEN A RESIDENT OF EMPORIA? 22+5 Years

ADVISORY BOARD(S) YOU ARE INTERESTED IN:
EMPORIA ENTERPRISES

**BRIEFLY DESCRIBE WHY YOU WOULD LIKE TO PARTICIPATE ON
THE**

ADVISORY BOARD(S) MENTIONED ABOVE:

I grew up in Emporia and moved back 5 years ago.. I am interested in using my previous experiences over the past 40 years to work with the strategies to help Emporia grow and develop. Over my career, I have had experience in community economic development serving two terms as chairman of the La Plata county economic development board. As the COO of a regional medical center I led the strategic planning for a \$120 million green site development for a new medical center located in Durango CO. Durning my last 10 years of my career, I served as the CEO of the a medical center in Pagosa Springs CO and led the development of a \$12 million dollar expansion. I feel my 40 years of experiences could help Emporia take positive steps towards growth and thus am seeking a board seat.

OTHER ACTIVITIES AND INTERESTS:

My return to Emporia was due to my mother's Alheizmers diagnosis and her need for healthcare oversite. In addition, many of my activities have involved helping the Gufler Mansion LLC complete a renovation and open a business that is now a viable community asset. My duties are strategic and operational with the mansion. Other interests are growing plants, landscaping reading and grand-parenting.

In Lieu of Signature, Click Here

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 6

SUBJECT: Consider the Re-appointment of a Board Member to the Joint Metropolitan Planning Commission/Board of Zoning Appeals.

RECOMMENDATION: Re- appoint Applicant to the Joint Metropolitan Planning Commission/Board of Zoning Appeals.

BACKGROUND SUMMARY:

The Joint Metropolitan Planning Commission/Board of Zoning Appeals has 3 openings. Two representatives from the City Commission reviewed the current application of Chip Garrett. Member Garrett serves as the Vice Chair of the Planning Commission and brings great insight and direction to the Board. Staff would like to see his re-appointment to the Joint Metropolitan Planning Commission/Board of Zoning Appeals.

Attached is the application for your review and consideration.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

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

APPLICATION FOR ADVISORY BOARD MEMBERSHIP



DATE: 11/15/2020

NAME: Chip - Garrett
First Name MI Last Name

ADDRESS: 1522 Highland St
Street
Emporia KS 66801
City State ZIP

Email: arklawyer@hotmail.com

PHONE: 9187045256

PLACE OF EMPLOYMENT: Self employed

HOW LONG HAVE YOU BEEN A RESIDENT OF EMPORIA? 5 years

ADVISORY BOARD(S) YOU ARE INTERESTED IN:
EMPORIA-LYON COUNTY METROPOLITAN AREA PLANNING
COMMISSION

**BRIEFLY DESCRIBE WHY YOU WOULD LIKE TO PARTICIPATE ON
THE**

ADVISORY BOARD(S) MENTIONED ABOVE:

Re-applying for second terms on BZA and PC.

OTHER ACTIVITIES AND INTERESTS:

Member of the Board of Directors of SOS, Inc., and member of SOS Campaign
Leadership Committee for current capital campaign.

In Lieu of Signature, Click Here

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 7

SUBJECT: Consider Appointment of Members to the Emporia Human Relations Commission.

RECOMMENDATION: Appoint Members to the Emporia Human Relations Commission.

BACKGROUND SUMMARY:

The Emporia Human Relations Commission currently has three (3) vacancies on their board. Applications have been submitted and those applicants have been through the interview process.

Staff request City Commission consider appointment of members to the Emporia Human Relations Commission.

Applications are attached

ACTION RECORD

Action: _____

Motion: _____ Second: _____

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

APPLICATION FOR ADVISORY BOARD MEMBERSHIP



DATE: 11/09/2020

NAME:	Roxanne	D	Van Gundy
	First Name	MI	Last Name

ADDRESS:	413 E 8th Street		
	Street		
	Emporia	KS	66801
	City	State	ZIP

Email: rvangundy@lcecc.org

PHONE: 6203434226

PLACE OF EMPLOYMENT: Lyon County Emergency Communications Center

HOW LONG HAVE YOU BEEN A RESIDENT OF EMPORIA? 15 years

ADVISORY BOARD(S) YOU ARE INTERESTED IN:
HUMAN RELATIONS COMMISSION

BRIEFLY DESCRIBE WHY YOU WOULD LIKE TO PARTICIPATE ON THE

ADVISORY BOARD(S) MENTIONED ABOVE:

I feel like I represent a diverse perspective being of indigenous decent. My family came to settle in Oklahoma after being moved from North Carolina during the Trail of Tears. I was raised by a single mother in a poor family and I worked very hard to be successful. I did not have any help. Having some hard times in my life has led me to approach things with empathy and concern for others.

OTHER ACTIVITIES AND INTERESTS:

I enjoy photography and reading.

In Lieu of Signature, Click Here

APPLICATION FOR ADVISORY BOARD MEMBERSHIP



DATE: 11/09/2020

NAME: Ray D Mattas
First Name MI Last Name

ADDRESS: 518 Mechanic
Street
Emporia KS 66801
City State ZIP

Email: rmattas@emporia-kansas.gov

PHONE: 6203414353

PLACE OF EMPLOYMENT: Emporia Police Department

HOW LONG HAVE YOU BEEN A RESIDENT OF EMPORIA? 27 years

ADVISORY BOARD(S) YOU ARE INTERESTED IN:
HUMAN RELATIONS COMMISSION

**BRIEFLY DESCRIBE WHY YOU WOULD LIKE TO PARTICIPATE ON
THE**

ADVISORY BOARD(S) MENTIONED ABOVE:

Fair treatment of others

OTHER ACTIVITIES AND INTERESTS:

I enjoy Golfing, Reading and Church

In Lieu of Signature, Click Here

APPLICATION FOR ADVISORY BOARD MEMBERSHIP

DATE: 10/20/2020

NAME:	Jay	A	Vehige
	First Name	MI	Last Name

ADDRESS:	1319 Lawrence St		
	Street		
	Emporia	KS	66801
	City	State	ZIP

Email: jayavehige@gmail.com

PHONE: 6203669176

PLACE OF EMPLOYMENT: Justice Initiative Youth Council

HOW LONG HAVE YOU BEEN A RESIDENT OF EMPORIA? 28 years

ADVISORY BOARD(S) YOU ARE INTERESTED IN:
HUMAN RELATIONS COMMISSION

BRIEFLY DESCRIBE WHY YOU WOULD LIKE TO PARTICIPATE ON THE

ADVISORY BOARD(S) MENTIONED ABOVE:

I have spent the last decade committed to assessing and addressing the issues our community faces and would like to continue to build upon that legacy on the a Human Relations Commission. I am a founding member of the Emporia Community Action group and the State Director for the Justice Initiative Youth Council.

OTHER ACTIVITIES AND INTERESTS:

Volunteer work, nature conservancy projects, community outreach, youth mentorship, and the list goes on!

In Lieu of Signature, Click Here

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 8

SUBJECT: Consider Public Hearing and Ordinance to Amend 2020 Budget.

RECOMMENDATION: Hold public hearing and approve ordinance increasing budget authority.

BACKGROUND SUMMARY:

Four funds will exceed the 2020 adopted budget.

Bond & Interest – increase budget authority to \$6,819,064 due to bond money \$4,419,611 being posted to B&I and then transferred to the appropriate project. Also paying \$1,000,000 of the water and sewer bond payments.

Library – increase budget authority to \$972,823 due to property tax, delinquent tax and motor vehicle collections coming in higher than budgeted.

Water - increase budget authority to \$8,529,913 due to bond money and reimbursement from the State Water loan deposited into the fund and then transferred to the project fund.

Wastewater – increase budget authority to \$7,090,667 due to reimbursement from the State wastewater loan deposited into the fund and then transferred to the project fund.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE 2020 BUDGET.

WHEREAS, the City of Emporia published a Notice of Public Hearing to receive public input on the Amendment to the 2020 Budget on December 1, 2020 in the Emporia Gazette; and

WHEREAS, a public hearing was held on December 16, 2020 after 7:00 p.m., at the City Commission Meeting Room, Municipal Court, Emporia, KS for the purpose of obtaining public input on the budget.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY:

Section 1. The City Commission of the City of Emporia, Kansas held a public hearing to receive public comments on the Amendment to the 2020 municipal budget on December 16, 2020 which hearing was publicized in the local media as to the date, time and place.

Section 2. After careful deliberation, the City Commission has approved the proposed budget amendments: Library, Bond & Interest, Water and Wastewater funds.

Section 3. Interested persons can address questions or comments concerning the 2020 budget to the City Manager's Office, 104 E 5th Avenue, 2nd Floor, Emporia, Kansas 66801.

Section 4. 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 December 2020.

Danny Giefer, Mayor

ATTEST:

Kerry Sull, City Clerk

2020

**Notice of Budget Hearing for Amending the
2020 Budget**

The governing body of

City of Emporia

will meet on the day of December 16, 2020 at 7:00 p.m. at Civic Building, City Commission Meeting Room for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds.

Detailed budget information is available at City Manager's Office
and will be available at this hearing.

Summary of Amendments

Fund	2020 Adopted Budget			2020 Proposed Amended Expenditures
	Actual Tax Rate	Amount of Tax that was Levied	Expenditures	
Bond & Interest	10.300	1,761,455	2,721,599	6,819,064
Library	4.995	854,306	928,543	972,823
Water Works			7,783,659	8,529,913
Waste Water			6,651,067	7,090,667
			0	0
			0	0

Janet Harrouff

Official Title: City Treasurer

Page No.

2020

**Amended
Certificate
For Calendar Year 2020**

To the Clerk of Lyon, State of Kansas
We, the undersigned, duly elected, qualified, and acting officers of
City of Emporia
certify that: (1) the hearing mentioned in the attached publication was
held; (2) after the Budget Hearing this Budget was duly approved and
adopted as the maximum expenditure for the various funds for the year.

			2020 Amended Budget		
			Amount of 2019 Tax that was Levied	Adopted 2020 Expenditures	Proposed Amended 2020 Expenditures
Table of Contents:		Page No.			
Fund	<u>K.S.A.</u>				
Bond & Interest	10-113	1	1,761,455	2,721,599	6,819,064
Library	12-1220	2	854,306	928,543	972,823
Water Works		3		7,783,659	8,529,913
Waste Water		4		6,651,067	7,090,667
Totals		xxxxxxx	2,615,761	18,084,868	23,412,467
Summary of Amendments		0			

Attested date: _____

County Clerk

Assisted by: _____

Address: _____

Email: _____

Governing Body

CPA Summary

Bond & Interest Fund

	2020 Adopted Budget	2020 Amended Budget
Beginning Cash Balance	\$559,650	\$749,433
REVENUE		
Ad Valorem Property Tax	\$1,710,150	\$1,710,150
Back Tax Collection	\$40,000	\$44,842
Special Assessments	\$109,972	\$113,561
Motor Vehicle Tax	\$192,007	\$241,233
Ad Valorem Tax Reduction	-\$20,000	-\$20,000
Interest on Investment	\$30,000	\$14,000
Recreation Center - Pool renovation	\$0	\$0
Recreation Center - Office/Locker Remodel	\$0	\$0
Recreation Center - Ball Diamond Improvern	\$50,400	\$50,400
Recreation Center - Fitness Room	\$49,420	\$49,420
Industrial Land Payment - Ind Sales Tax	\$0	\$0
Sale of Bonds		\$4,055,000
Gas Line Payment - Ind Sales Tax	\$0	\$0
Hanger Payment - General Fund	\$0	\$0
Miscellaneous	\$0	\$364,611
Transfer of Funds from Project Accounts	\$0	\$0
TOTAL RECEIPTS	\$2,161,949	\$6,623,218
EXPENDITURES		
Principal	\$895,000	\$1,945,515
Interest Coupons	\$153,938	\$153,938
Transfer of funds		\$4,419,611
Misc projects	\$1,672,661	\$300,000
TOTAL EXPENDITURES	\$2,721,599	\$6,819,063
Ending Cash Balance	\$0	\$553,587

Library Fund

	2020 Original Budget	2020 Amended Budget
Beginning Cash Balance	\$0	\$0
REVENUE		
Ad Valorem Property Tax	\$829,423	\$829,423
Back Tax Collection	\$15,000	\$22,000
Motor Vehicle Tax	\$92,783	\$130,000
Recreational Vehicle Tax	\$837	\$900
AdValorem Tax Reduction	(\$9,500)	(\$9,500)
General Fund Contribution	\$0	
TOTAL RECEIPTS	\$928,543	\$972,823
EXPENDITURES		
Insurance Refund	\$0	
Misc Projects	\$0	
Appropriation	\$928,543	\$972,823
TOTAL EXPENDITURES	\$928,543	\$972,823
Ending Cash Balance	\$0	\$0

Water Fund

	2020 Adopted Budget	2020 Amended Budget
BEGINNING CASH	727,886	2,036,235
REVENUE		
Sale of Water	6,481,673	6,481,673
Service Charge	110,000	110,000
Penalties	80,000	80,000
Sale of Salvage	0	0
Reimbursed Expense	750	2,800
Interest on Investment	30,000	30,000
Sale of Bonds	0	0
Trf from Industrial Fund	350,000	850,000
Trf from Project fund		0
Non Operating Revenue	0	0
Miscellaneous	3,350	3,350
TOTAL RECEIPTS	7,055,773	7,557,823
EXPENDITURES		
Personnel Services	867,154	842,698
Vacancy	(24,456)	0
Maintenance & Repair	653,000	653,000
Commodities	746,673	746,673
Other Charges	196,333	196,333
Capital Outlay	545,000	545,000
Debt Payment	1,828,874	1,828,874
Stock	5,000	5,000
Transfer to Project Account	761,338	1,507,592
Utilities	496,350	496,350
Communications	38,725	38,725
Travel & Training	14,950	14,950
Contractual Services	587,250	587,250
Administrative Fee 16%, 17%	1,067,468	1,067,468
Change in Liabilities	0	0
TOTAL EXPENDITURES	7,783,659	8,529,913
NET CHANGE IN CASH	(727,886)	(972,090)
ENDING CASH BALANCE	0	1,064,145
Principal Bond Payments	(1,395,000)	(1,395,000)
Depreciation	1,170,760	1,400,000
Capitalized Assets	(545,000)	(572,645)
Liabilities		
ADJUSTMENTS	(769,240)	(567,645)
Base for reserve calculation	7,238,659	6,477,321
20% reserve amount	1,447,732	1,295,464
Amount over 20% reserve	(1,447,732)	(231,319)
Percent	0.00%	16.43%

Sewer Fund

	2020 Adopted Budget	2020 Amended Budget
BEGINNING CASH	1,346,752	2,058,231
REVENUE		
Sales/Charges	5,185,375	5,185,375
Extra Strength Surcharge	76,940	76,940
Interest on Investment	40,000	40,000
New System taps	0	1,000
Loss on sales of assets		
Trf to projects	0	500,000
Sale of Bonds		0
Miscellaneous	2,000	52,177
TOTAL RECEIPTS	<u>5,304,315</u>	<u>5,855,492</u>
EXPENDITURES		
Personnel Services	873,439	850,692
Vacancy	(22,747)	0
Maintenance & Repair	293,000	293,000
Commodities	115,500	200,000
Other Charges	156,600	156,600
Capital Outlay	370,000	370,000
Debt Payment	2,761,990	2,761,990
Transfer to Project fund	647,235	1,002,335
Utilities	505,500	505,500
Communications	28,350	28,350
Travel & Training	6,600	6,600
Contractual Services	305,600	305,600
Administrative Fee 16%, 17%	610,000	610,000
Change in Liabilities	0	0
TOTAL EXPENDITURES	<u>6,651,067</u>	<u>7,090,667</u>
NET CHANGE IN CASH	(1,346,752)	(1,235,175)
ENDING CASH BALANCE	0	823,056
Depreciation	1,820,300	1,960,000
Principal Bond Payments	(2,058,017)	(2,058,017)
Capitalized Assets	(370,000)	(122,588)
Change in Liabilities	0	
ADJUSTMENTS	<u>(607,717)</u>	<u>(220,605)</u>
Base for reserve calculation	6,281,067	5,718,332
20% Cash Reserve amount	1,256,213	1,143,666
Amount over 20% Cash Reserve	(1,256,213)	(320,610)
Percentage	0.00%	14.39%

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 9

SUBJECT: Consider CID Letter of Recommendation from RDA for Potential Commercial Establishment.

RECOMMENDATION: Approve Letter & Authorize Commission to Move forward on CID Recommendations from RDA for Potential Commercial Establishment.

BACKGROUND SUMMARY:

City staff will review the CID recommendation for a potential new commercial establishment on the west side of our community. Staff will also review the timeline for finalizing the CID process and review public hearing dates required under state statute.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____



December 11, 2020

Emporia City Commission
104 East 5th Street
Emporia, KS 66801

Re: CSJD, LLC and the Bailey Group owners of the Flint Hills Crossings – Community Improvement District Application

Dear Emporia City Commission:

On November 14, 2020, Husch Blackwell, LLP submitted, on behalf of Flint Hills Crossing owners, a Community Improvement District (CID) application with the application fee to the City of Emporia was submitted.

The City Review Committee, which consists of the City Manager, Assistant City Manager, City Attorney, City's Bond Counsel, City's Financial Advisor, RDA President and Chamber of Commerce President/CEO, reviewed the application for completeness and conducted a conference call on November 30, 2020. The City Review Committee determined the application to be complete.

The project is a 72 acre tract located northwest of I-35/Highway 50 off ramp and Graphic Arts Road. The project will be in two phases with Phase I being on a 9.9 acre tract and Phase II on a 62.1 acre tract to be developed in the future.

The Phase 1 will construct a 9,545 sq. ft. building. The preliminary project budget cost including building and parking cost is \$6,870,773. The private costs are \$4,999,134.24. The applicant is requesting the City share in the street construction cost of \$935,819 and to be reimburse from the additional CID 1% sales tax. The maximum term of the CID is twenty-two years with the payback estimated to be completed in year 20.

The CID/TIF committee asked the applicant to revise the proposal by deleting the personal property tax calculations, and documentation be provided by the business occupying the building in Phase 1. Both items were provided and completed. In addition the application mentioned that the third-party market feasibility study was is process. That study has been completed and has

been submitted to the City. Finally, the committee needs more documentation of the pay as you go financing prior to finalizing a CID agreement between the applicant and the City of Emporia.

As per the requirements of Resolution 3254, which establishes the policies and procedures for Community Improvement District financed projects, the City Review Committee recommends the application be submitted to the Regional Development Association of East Central Kansas (RDA) Board of Directors for their review and action.

At the December 11, 2020 RDA Board meeting, the RDA Board of Directors approved and recommended Flint Hills Crossing CID application be submitted to the Emporia City Commission next study session for their review and action. If you have any questions please feel free to contact me at your convenience.

Best regards,

A handwritten signature in black ink, appearing to read "Kent Heermann". The signature is fluid and cursive, with the first name "Kent" being more prominent than the last name "Heermann".

Kent Heermann, CECD
RDA President

Schedule Flint Hills Crossing CID

Estimated Dates subject to RDA letter of review being received and Commission authorization to move forward on 12-16-20.

1. Receive Report from Development Initiatives and CID Petition by landowners 12-23-20.
2. Staff and Commission Review of Study 12-24 thru 1-3-21.
3. Commission accepts study or calls for further analysis 1-6-21.
4. CID Petition is accepted by the City Commission and Resolution setting dates set for Public Hearing passed on 1-6-21 for hearing date on 2-3-21. *
5. Publish Public Hearing Notices on 1-19-21 and 1-26-21.
6. Send certified letter of intent to landowners by 1-20-21
7. City Commission conducts hearing on 2-3-21.
8. City Commission considers passing ordinance creating CID and specifics of the district as required by statute on 2-3-21.
9. Publish Ordinance 2-9-21.
10. Consider Development Agreement as prepared by Mary Carson and Husch Blackwell 2-3-21 or 2-17-21.
11. Record Ordinance with Lyon County Register of Deeds.
12. All parties cooperate in filing required documents with State Director of Taxation by 3-1-21.
13. We rest.
 - The official newspaper publishes on Tuesday and Saturday only leading to a 2 week delay in the process.

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 10

SUBJECT: Consider the purchase of playground equipment from ATHCO, utilizing the Greenbush Cooperative, for Fremont Park in the amount of \$99,845.00.

RECOMMENDATION: Authorize the approval of playground equipment from ATHCO, utilizing the Greenbush Cooperative, for Fremont Park in the amount of \$99,845.00.

BACKGROUND SUMMARY:

The City Commission has reviewed multiple projects in recent weeks that will improve the Emporia Park System. This particular improvement will replace existing playground equipment with modern poured in place surfacing. This project will be paid entirely from proceeds from the recent drawdown from the Lake Kahola Fund at the Emporia Community Foundation.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

\$99,845



slr
landscape
structures

Freemont Park

1147200-01-01 • 08.19.2020

AATHCO
Your Premier Athletic & Recreation Source

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Quote

ATHCO, LLC
13500 W. 108th St.
Lenexa, KS 66215
P: 800-255-1102 F: 913-469-8134
athco@athcollc.com

Prepared by: **Matt Cline**

TO: Mark McAnarney
City Manager
Emporia, KS



Date: 12/4/2020
All prices subject to acceptance within 30 days

To accept this quote, sign here and return

Payment Terms Net 30 days

Description	QTY	UNIT PRICE	TOTAL
Landscape Structures PlayBoosters Design #1147200-1-1 for Ages 5-12 with: Logo Climber 56", Shockwave Climber 72", Wood Plank Ladder w/ Permalene Handholds 72", Chimes Panel Above Deck, Slant Entrance Panel, Slant Window Panel Above Deck, Table Panel, Zoo Panel Above Deck, Hex Shingle Roof, Alpine Slide 72", Double Whirl Slide 56", (2) Pod Climber 10", and Welcome Sign	1	\$ 105,100.00	\$ 105,100.00
Chill Spinner	1	\$ -	\$ -
Single Post Swing Frame with (2) Belt Seat, Toddler Swing Add-on Beam with (1) Full Bucket Seat & ProGuard Chains	1	\$ -	\$ -
1,990 sf PIP Rubber, 3.5" Thickness for 96" Max. Fall Height, 50% Color/Black Top Coat with Aromatic Binder	1	\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -

NOTES: Installation includes equipment listed above, PIP surfacing, new 12" wide concrete border, 4" thick concrete base for PIP, trash haul off, and site restoration to rough grade. Existing equipment, sand surfacing, and border to be removed by others. Assumes site is level at grade - corrective fill is not included.

SUBTOTAL	\$ 105,100.00
INSTALLATION	Included
FREIGHT	Included
SALES TAX - N/A	\$ -
GREENBUSH CONTRACT	
ESC-PLAYGROUND-REC2021	\$ (5,255.00)
Quote Total	\$ 99,845.00

Owner responsible for relocating any utilities at footing locations

Owner responsible for poured-in-place security during cure time. ATHCO not liable for damage incurred after installation.

Assumes no rock at footing locations. Additional charges for labor and equipment rental will be incurred for removal of rock above or below grade.

Proposals with labor (installation/repairs) are subject to sales tax unless a "Project Tax Exemption Certificate" is provided when placing the order

All conditions in this proposal are to be accepted into any subcontract issued by a General Contractor

For orders over \$1,000, add 3% to the Quote Total if paying by credit card

Thank you!

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 11

SUBJECT: Consider the purchase of a playground swing and additional poured in place surfacing for East Side Park from ATHCO, utilizing the Greenbush Cooperative, in an amount not to exceed \$35,000.00.

RECOMMENDATION: Authorize the purchase of a playground swing and additional poured in place surfacing for East Side Park from ATHCO, utilizing the Greenbush Cooperative, in an amount not to exceed \$35,000.00.

BACKGROUND SUMMARY:

The City has previously installed new playground equipment and poured-in-place surfacing in East Side Park. The proposed project will purchase a larger swing set and install additional poured-in-place surfacing. We have approximately \$18,000.00 remaining in this project fund for playground improvements at East Side Park. This portion of the project will be paid entirely from proceeds from the recent drawdown from the Lake Kahola Fund at the Emporia Community Foundation. Attached is a rendering of the proposed project.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

E 9TH AVE

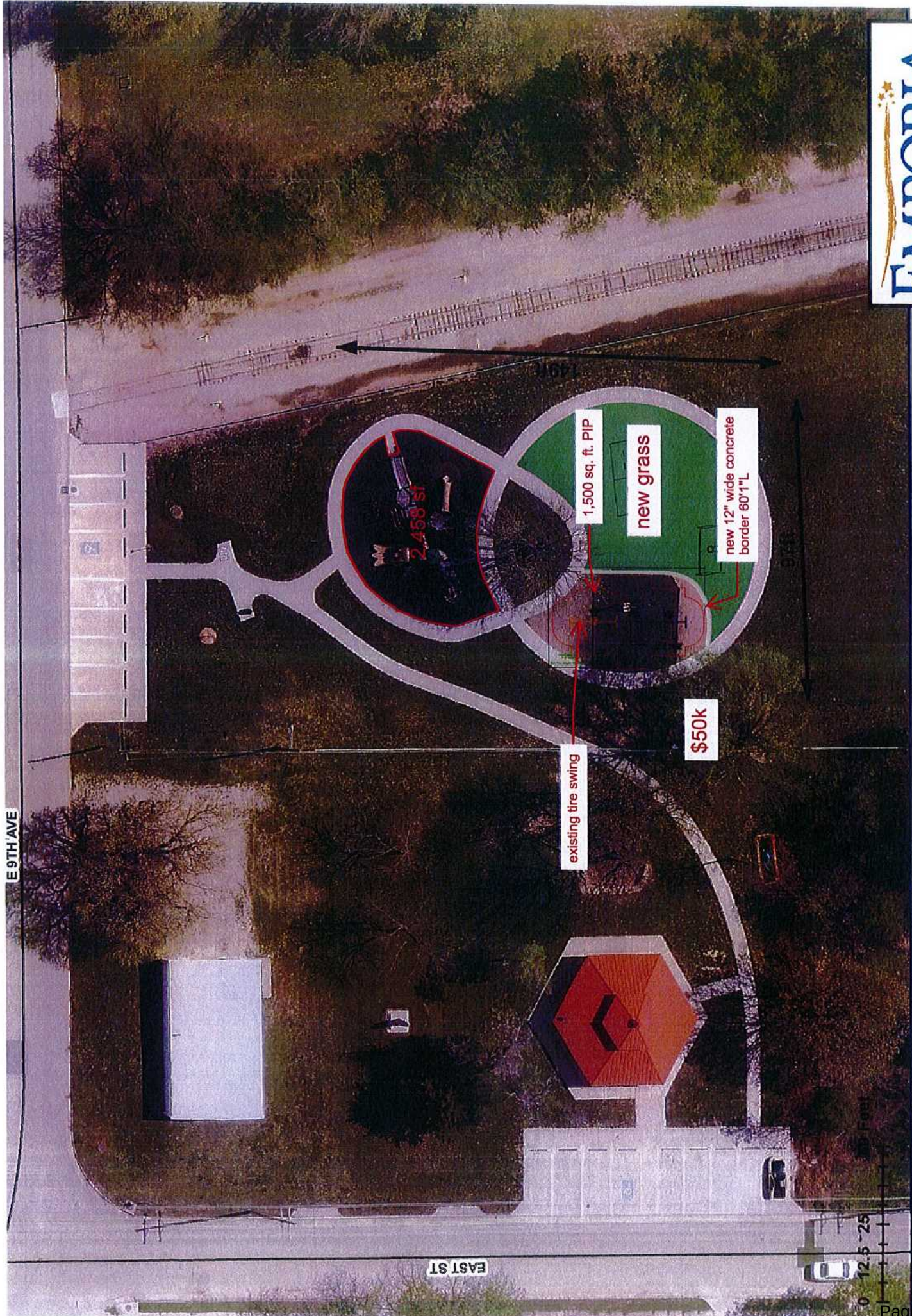
EAST ST

0 12.5 - 25 Feet



Last Updated: 7/10/2017
Dimensions are approximate
2012 Aerial Imagery

East Side Park



existing tire swing

1,500 sq. ft. PIP

new grass

new 12" wide concrete border 60'1"L

\$50k

Quote



ATHCO, LLC
13500 W. 108th St.
Lenexa, KS 66215
P: 800-255-1102 F: 913-469-8134
athco@athcollc.com

Date: 11/23/2020
All prices subject to acceptance within 30 days

Prepared by: Matt Cline

To accept this quote, sign here and return

TO: Mark McAnarney
City Manager
Emporia, KS

Payment Terms Net 30 days

Description - Landscape Structures	QTY	UNIT PRICE	TOTAL
#221294A Landscape Structures Tire Swing 5" Arch Add ToFro Bay DB Only	2		\$ 52,605.00
#174018E Belt Seat ProGuard Chains for 7' Beam Height (Arch Tire Swing Additional To/Fro Bay)	2	\$ -	\$ -
#176038I Full Bucket Seat ProGuard Chains for 7' Beam Height (Arch Tire Swing Additional To/Fro Bay)	1	\$ -	\$ -
#177351E Molded Bucket Seat (5-12 yrs) w/Harness ProGuard Chains for 7' Beam Height (Arch Tire Swing Additional To/Fro Bay)	1	\$ -	\$ -
1500 Sq. Ft. Surface America PIP Rubber for 7' Fall Height, 50% Black/Color Top Coat with Standard Aromatic Binder	1	\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -
		\$ -	\$ -

NOTES: Installation includes removal and re-installation of existing arch tire swing, and installing (2) new swing bays with (2) belt seats, full bucket seat, molded seat w/ harness, 12" concrete perimeter border, 4" concrete base, and PIP rubber. Demo of existing swings and removal of rubber mulch/pea gravel by others.

SUBTOTAL	\$ 52,605.00
INSTALLATION	Included
FREIGHT	Included
SALES TAX - N/A	\$ -
GREENBUSH CONTRACT	
ESC-PLAYGROUND-REC2021	\$ (2,630.00)
Quote Total	\$ 49,975.00

Owner responsible for relocating any utilities at footing locations

Owner responsible for poured-in-place security during cure time. ATHCO not liable for damage incurred after installation.

Assumes no rock at footing locations. Additional charges for labor and equipment rental will be incurred for removal of rock above or below grade.

Proposals with labor (installation/repairs) are subject to sales tax unless a "Project Tax Exemption Certificate" is provided when placing the order

All conditions in this proposal are to be accepted into any subcontract issued by a General Contractor

For orders over \$1,000, add 3% to the Quote Total if paying by credit card

Thank you!

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 12

SUBJECT: Consider the authorization of project funds for the next phase of the Veteran's Memorial Park project in an amount not to exceed \$135,000.00.

RECOMMENDATION: Authorize the next phase of the Veteran's Memorial project in an amount not to exceed \$135,000.00.

BACKGROUND SUMMARY:

The City has previously worked with the Veterans Group on multiple improvements to the Veteran's Memorial in Soden's Grove. This phase will involve the construction of a loop of concrete sidewalk, landscaping and the placement of additional monuments. At the present time, there are several monuments that are finished and need to be installed. The Veteran's Group has agreed to raise up to \$60,000.00 as a match for this project. The city portion of the project will be paid entirely from proceeds from the recent drawdown from the Lake Kahola Fund at the Emporia Community Foundation. Attached is a rendering of the location the proposed project.

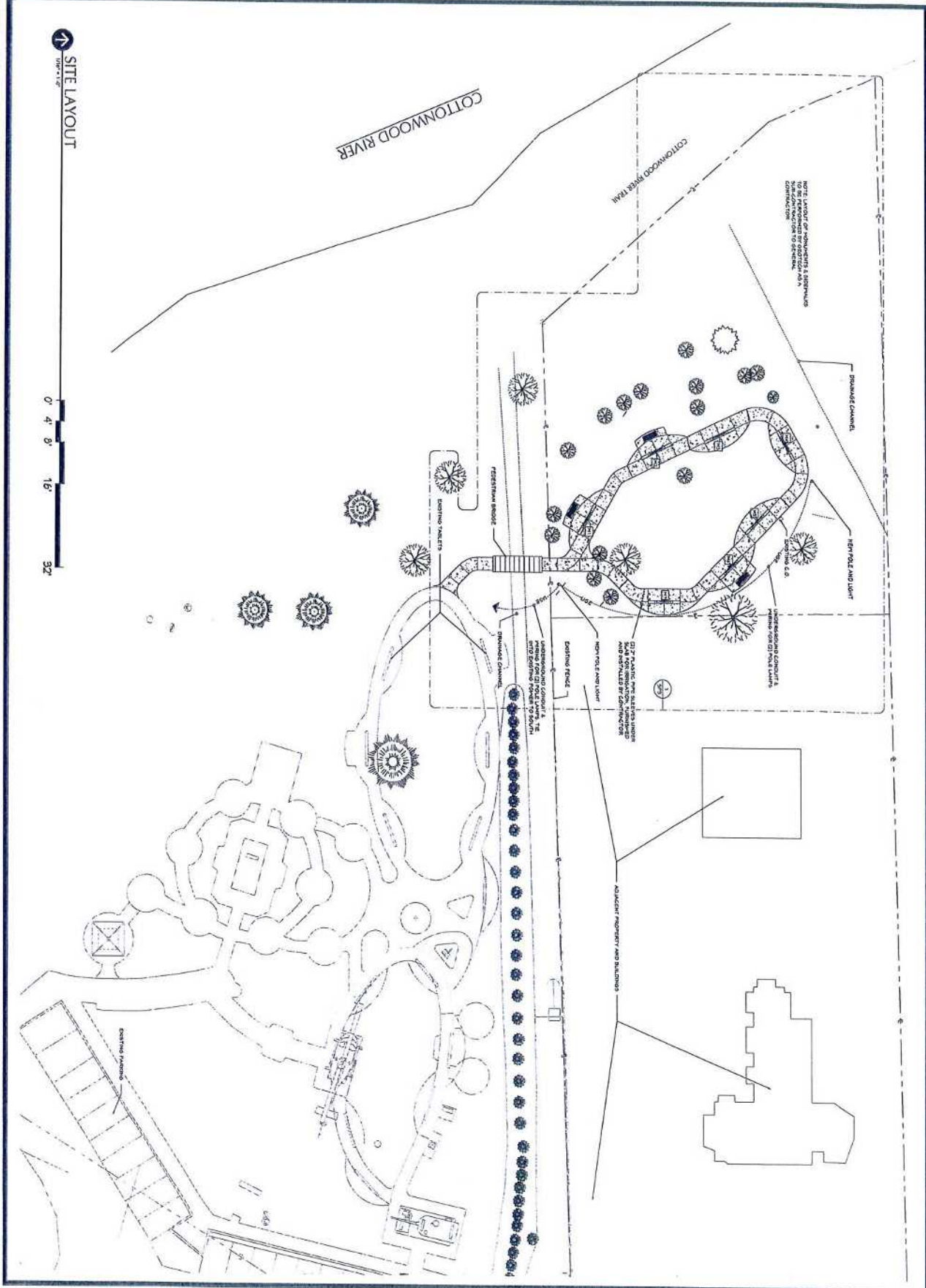
ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____



↑
N
SITE LAYOUT
1/8\"/>

0' 4' 8' 16' 32'

Job #	1923
Date	JAN 2020
Drawn	JAN 2020
Checked	JAN 2020
Design	OPEN
SP1	3

SITE LAYOUT - PHASE 2

VETERAN'S MEMORIAL
SODENS GROVE
931 S. COMMERCIAL ST.

EMPORIA

KANSAS

EMIG and HAUFF ASSOCIATES
Architects

Post Office Box 1724
Emporia, Kansas 66801

Phone: 620-343-9180
Fax: 620-343-9193

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 13

SUBJECT: Memorandum of Understanding with Emporia Enterprises and Dynamic Distribution.

RECOMMENDATION: Approve Memorandum of Understanding and Authorize Mayor to Sign.

BACKGROUND SUMMARY:

Dynamic Distributions wishes to acquire the Detroit Remen facility at 840 Overlander Street and renovate it for uses as a distribution center. The larger facility will enable expanded output and increased need for additional employees. Emporia Enterprises intends to purchase Dynamic Distribution's current facility located at 3601 W 6th Ave. for \$650,000 and has requested that the City provide funding for the purchase. Enterprises will manage the property, market it for sale, and provide yearly updates to the City Commission. Net proceeds from the sale of the property will be remitted back to the City.

This Memorandum of Understanding details the agreement between the parties.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

MEMORANDUM OF UNDERSTANDING

This agreement between the City of Emporia, Kansas (hereinafter referred to as City), ESB Financial, Trustee of the Emporia Enterprises Inc. Revocable Trust (hereinafter referred to as Enterprises), and Dynamic Distribution Co., a Kansas corporation (hereinafter referred to as Dynamic Distribution), delineates the agreement of the parties regarding the properties located at 3601 W. 6th Ave., Emporia, Kansas; and 840 Overlander St., Emporia, Kansas.

WHEREAS, Dynamic Distribution desires to expand their distribution capabilities in the City of Emporia by acquiring the Detroit Reman facility, an 81,515 sq. ft. facility located at 840 Overlander Road. The larger facility will enable expanded output and increased need for additional employees; and

WHEREAS, Enterprises and City desire to support this endeavor and promote economic development and growth within the City of Emporia.

NOW THEREFORE, the Parties agree as follows:

1. Dynamic Distributions currently owns a distribution facility located at 3601 W. 6th Ave. Dynamic Distribution intends to purchase the property located at 840 Overlander St. and renovate it over a period of 5 to 6 months for use as a distribution center. At the end of the renovation period, Dynamic Distribution intends to move all distribution to the new facility at 840 Overlander St. and discontinue use of the facility at 3601 W. 6th Ave.
2. Enterprises intends to purchase Dynamic Distribution's facility located at 3601 W. 6th Ave. for \$650,000. City will provide funding for the purchase of the property through utilization of temporary notes. Enterprises will purchase and manage the property.
3. Enterprises will immediately list the property for sale after purchase. Enterprises will also lease the building at 3601 W. 6th Ave. to Dynamic Distributions for a period of five months while renovations are being completed at 840 Overlander St. The lease is expected to end on or before May 16, 2021.
4. Enterprises will aggressively market the property at 3601 W 6th Ave. for sale and will make every effort to sell the property in an efficient and timely manner. The parties anticipate and intend that the property will be sold in less than four (4) years' time. Enterprises will provide an update on marketing and sale progress at each annual meeting with the Emporia City Commission, until the property is sold.

5. If Enterprises desires to enter into a real estate sale agreement to sell the property at 3601 W 6th Ave. for a sale price of less than \$650,000, such agreement must be approved by the Emporia City Commission prior to execution.
6. After the property at 3601 W 6th Ave. is sold to a new party, the net proceeds shall be returned to City. Net proceeds shall include sale price plus any rental income earned for the property minus reasonable closing costs, maintenance and holding costs incurred by Enterprises. Enterprises shall keep a detailed account of all maintenance and holdings costs incurred and paid by Enterprises including property tax, insurance, utilities, mowing, reasonable repairs, and security, so long as such expenses were not already paid or reimbursed by a renter or lessee. Enterprises shall make every effort to keep such expenses low. The net proceeds along with an accounting of all such costs shall be submitted to City within 45 days of sale of the property.

IN WITNESS WHEREOF the parties hereto have set their hands this 16th day of December 2020.

Danny Giefer
Mayor, City of Emporia

Trustee, Emporia Enterprises Inc. Revocable Trust

Jeremy Rusco
Dynamic Distributions Co.

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 14

SUBJECT: Consider Approval of Memorandum of Understanding with Everyg.

RECOMMENDATION: Approve Memorandum of Understanding and Authorize Mayor to Sign.

BACKGROUND SUMMARY:

Everyg has purchased the property at 600 Road 180 and intends to build a service center at that location. Under this Memorandum of Understanding, City will extend sanitary sewer and pave Road 180 in the area directly adjoining Everyg property. A portion of paving costs may be paid for by a KDOT Access Management Program Grant. Everyg will reimburse the City up to \$360,000 of the City's cost of paving and sanitary sewer extension. Everyg will also provide a letter voluntarily annexing this property as well as the property located at 800 Road 190. Everyg expects to complete the facility by the end of 2022 with an in-service date during the first quarter of 2023.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

MEMORANDUM OF UNDERSTANDING

This agreement (MOU) between the City of Emporia, Kansas (hereinafter referred to as "City") and Evergy Kansas Central, Inc. (hereinafter referred to as "Evergy") delineates the agreement of the parties regarding future improvements at property owned by Evergy at 600 Rd 180, Emporia, KS 66801 in Lyon County, Kansas

1. Evergy has purchased land at the above described location for the construction of a Service Center. In order to operate a facility at that location, street paving and sanitary sewer extension will be required.
2. Evergy shall provide a letter voluntarily annexing the property within thirty (30) days of commitment and approval of project funding by the City Commission for the paving and sewer projects identified within this MOU. The land must be annexed by the city prior to commencement of City paving or sewer projects.
3. City will extend sanitary sewer lines to Evergy property and pave Road 180 in the area directly adjoining Evergy property. City will apply for a KDOT Access Management Program Grant which may pay for a portion of the paving cost. Evergy shall reimburse the City up to \$360,000 of the direct costs invoiced to the City by outside parties for the paving and/or sanitary sewer extension within 60 days of completion. Evergy shall have the right to inspect and review all records related to billing of the reimbursement amount. Costs may be billed to Evergy by the City as they occur throughout the life of project with all payments no later than the 60 days aforementioned. The City shall be responsible for coordinating and supervising the entire sewer and paving project.
4. Evergy will execute documentation within one hundred twenty (120) days of receipt granting utility easements to the City as agreed upon by both parties:
5. Evergy will complete construction of the facility by the end of 2022 with an in-service date during the first quarter of 2023. The project may be delayed by mutual agreement of the parties.
6. As part of this agreement, Evergy also agrees to provide a letter voluntarily annexing the Evergy property located at 800 Rd 190 within the timeframe set forth in item #2. All historic and existing permitting shall remain in full effect and no additional permitting requirements shall be imposed upon the property due to the annexation.

7. The City shall be responsible for coordinating and completing the annexation process of any properties identified in this agreement.
8. This agreement is contingent on successful completion of the following
 - a. Annexation of the property into the City,
 - b. Approval of KDOT Access Management Program Grant and/or approval of project funding by the City,

IN WITNESS WHEREOF the parties hereto have set their hands this 16th day of December 2020.

Danny Giefer, Mayor
City of Emporia

Name/Title: _____
Evergy, Inc.

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 15

SUBJECT: Consider Ordinance Amending City Code Sec. 16-266 Pertaining to Face Masks.

RECOMMENDATION: Approve Ordinance

BACKGROUND SUMMARY:

City Code Sec. 16-266 requiring individuals to wear face masks or other face coverings in certain circumstances is scheduled to expire December 22, 2020 at 11:59 p.m. This ordinance proposal extends the expiration date to January 26, 2021 at 11:59 p.m. All other mask or face covering requirements pursuant to Sec. 16-266 would remain the same.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

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

ORDINANCE NO. 20-_____

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS REQUIRING INDIVIDUALS TO WEAR MASKS OR OTHER FACE COVERINGS IN CERTAIN CIRCUMSTANCES AND AMENDING CITY CODE SECTION 16-266

WHEREAS, the governing body of the City of Emporia prioritizes the protection of the health, safety, welfare and economic well-being of residents and visitors of the City of Emporia; and

WHEREAS, the spread of COVID-19 in the City of Emporia has resulted in illness, quarantines, school closures, and temporary closure of business resulting in lost wages and financial hardship; and

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 15,271,571 cases of illness and more than 288,762 deaths as a result of the illness across the United States; and

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020; and

WHEREAS, a State of Disaster emergency was proclaimed for the State of Kansas on March 12, 2020; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-10 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, as of this date, in Kansas there have been 179,803 reported positive cases of COVID-19 spread including 1,941 deaths; and

WHEREAS, after a steady trend of decreasing metrics, recent weeks have seen the numbers of COVID-19 cases, hospitalizations, and deaths spike in Kansas and across the nation; and

WHEREAS, this trend of increased COVID-19 spread is a danger to the health and safety of residents and visitors to the City of Emporia, and also presents a serious threat to reopening and reviving the City's economy; and

WHEREAS, wearing a mask in public is the easiest and most effective way to protect each other and keep our businesses open and our economy running; and

WHEREAS, the City of Emporia must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while also

simultaneously safely, strategically, and incrementally reopening business and facilitating economic recovery and revitalization; and

WHEREAS, the City of Emporia approved Ordinance 20-24 on August 5th, 2020 requiring individuals to wear masks or other face coverings in certain circumstances, and

WHEREAS, for the aforementioned and other reasons, the governing body of the City of Emporia is acting pursuant to its constitutional home rule authority to provide for the health, safety, welfare, and economic well-being of residents and visitors of the City of Emporia by amending Section 16-266 of the Code of Ordinances of the City of Emporia, Kansas and extending the requirement that masks or other face coverings be worn as described in the ordinance until January 26, 2021.

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

Section 1. That Section 16-266 of the Code of Ordinances of the City of Emporia, Kansas, is hereby amended to read as follows:

“Sec. 16-266 Mask or other Face Coverings in Certain Circumstances.

(a) Mask or other face coverings; definitions. The following words or phrases when used in this article shall have the following meanings:

- (1) "Mask or other face covering" means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face. A mask or other face covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a mask or other face covering has two or more layers. A mask or other face covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels.
- (2) "Public space" means any indoor or outdoor space or area that is open to the public; this does not include private residential property or private offices or workspaces that are not open to customers or public visitors."

(b) Mask or other face coverings; when required; exemptions.

- (1) All persons in the city shall cover their mouths and noses with masks or other face coverings when they are in the following situations:
 - (A) While inside, or in line to enter, any indoor public space;
 - (B) Obtaining services from the healthcare sector in settings, including but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank, unless directed otherwise by an employee thereof or a health care provider;

- (C) Waiting for or riding on public transportation or while in a taxi, private car service, or ride-sharing vehicle; or,
 - (D) While outdoors in public spaces and unable to maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.
- (2) All businesses, organizations and non-profit associations in the City of Emporia must require all employees, customers, visitors, members, or members of the public to wear a mask or other face covering as follows:
- (A) Employees, when working in any space visited by customers or members of the public, regardless of whether anyone from the public is present at the time;
 - (B) Employees, when working in any space where food is prepared or packaged for sale or distribution to others;
 - (C) Employees, when working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;
 - (D) Customers, members, visitors, or members of the public, when in a facility managed by the business or organization;
 - (E) Employees, when in any room or enclosed area where other people (except for individuals who reside together) are present and are unable to maintain a 6-foot distance except for infrequent or incidental moments of closer proximity.
- (3) The following individuals are exempt from wearing masks or other face coverings in the situations described in subsections (b)(1) and (b)(2):
- (A) Persons age five years or under—children age two years and under in particular should not wear a face covering because of the risk of suffocation;
 - (B) Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering—this includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
 - (C) Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication;
 - (D) Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines;

- (E) Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
 - (F) Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a 6- foot distance between individuals (not including individuals who reside together or are seated together) with only infrequent or incidental moments of closer proximity;
 - (G) Athletes who are engaged in an organized sports activity that allows athletes to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity;
 - (H) Persons who are engaged in an activity that a professional or recreational association, regulatory entity, medical association, or other public-health-oriented entity has determined cannot be safely conducted while wearing a mask or other face covering;
 - (I) Persons engaged in an activity or event held or managed by the Kansas Legislature;
 - (J) Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary; and,
 - (K) Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.
- (4) It shall be an affirmative defense to any prosecution under subsection (a) or (b) that the person in violation is an individual listed under subsection (c)."

(c) Mask or other face coverings; penalties; enforcement.

- (1) Any person, business or organization violating the provisions of this Section of the Code of the City of Emporia shall be guilty of an infraction. The person or persons responsible for any business or organization that does not comply with subsection(b)(2) includes a sole proprietor, or any officer, partner, member, manager, director, or other supervisor for the business or organization, who may be held jointly and severally responsible for such violation with respect to any enforcement of the violation.
- (2) A violation of this section shall be punished by a fine of twenty five (\$25.00) dollars upon a first conviction, by a fine of fifty (\$50.00) dollars upon a second conviction, and by fine of one hundred dollars (\$100.00) dollars upon a third or subsequent conviction, plus court costs.

(d) Mask or other face coverings; effective term. The provisions of Section 16-266 through Section 16-268 of the city code shall be in effect until 11:59 p.m. on January 26, 2021."

Section 2. That the provisions of this ordinance as amended shall be included and incorporated in the code of the City of Emporia, Kansas.

Section 3. Effective Date. This ordinance shall take effect upon publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas, this 16th of December, 2020.

Danny Giefer, Mayor

ATTEST:

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 16

SUBJECT: Airport Runway Edge Lighting, Guidance Signs and Primary Wind Cone Replacement Design.

RECOMMENDATION: Staff recommends the approval of the contract to design the Airport Runway Edge Lighting, Guidance Signs and Primary Wind Cone Replacement Design with HW Lochner for \$90,000.00.

BACKGROUND SUMMARY

The airport has a runway edge lighting project in on the list of capital improvement projects for 2021. Staff would like to move forward with design for this project with HW Lochner. The design for this project will include the replacement of the runway lighting, runway guidance signs, wind cone and PAPI lights. The runway lighting, guidance signs and wind cone will all be a part of the base bid of this project, and their design will be reimbursed, 90%, with the airport AIP grant from the FAA this coming year. The base bid design costs are \$81,500.00 (\$8,150.00 city costs). The estimated construction cost for this project is \$460,000.00. The PAPI lights will be a bid alternate and will have to be paid for 100% by the city, however, we will be reimbursed 90% with the AIP grant from the FAA in 2022 or 2023 (FAA fiscal year starts October 1st). The alternate design costs are \$8,500.00. The estimated cost for this project is \$275,000.00.

Attachments: Record of Negotiations
Design Agreement
Selection of Consultants Airport Improvement Program Sponsor Certification

ACTION RECORD

Action: _____

Motion: _____ **Second:** _____

Abstained: _____ **Vote:** _____

GEITZ _____ **GIEFER** _____ **GILLIGAN** _____ **SMITH** _____ **BRINKMAN** _____

RECORD OF NEGOTIATIONS AND FEE ANALYSIS FOR ENGINEERING DESIGN SERVICES

December 16, 2020

Mr. Todd Rastorfer, PE
Federal Aviation Administration
Airports Division, ACE-600, Room 364
901 Locust
Kansas City, MO 64106-2325

RE: Emporia Municipal Airport (EMP)
Base Bid - Replace Runway 1-19 Edge Lighting System, Guidance Signs, and Wind Cone
Add Alternate - Replace Runway 1-19 PAPIs
FAA AIP 3-20-0020-015-2021 (Future)

- a. After completing the consultant selection process in October 2020 and informing Lochner of their selection, Lochner was advised to proceed with preparing an Engineering Agreement for the Runway 1-19 edge lighting and guidance signs replacement project for the Emporia Municipal Airport.
- b. A teleconference was conducted on October 26, 2020 between Lochner, the FAA, and the City of Emporia to discuss the details of the project and proposed scope of services. During the meeting, it was decided to add the replacement of the wind cone and Runway 1-19 PAPIs to the scope of improvements. Minutes of the teleconference were distributed to all parties and updated ACIP Data Sheets submitted by the City to the FAA to reflect the changes to the project scope.
- c. On November 3, 2020, the City confirmed that the replacement of the Runway 1-19 PAPIs would be included in the project as an add alternate since the FAA had indicated during the predesign teleconference that a multi-year grant would be necessary in order to fund all of the proposed improvements.
- d. The City received a draft copy of the proposed Agreement from Lochner for scope and fees for Design Services for the subject project on November 20, 2020. The fee proposal was broken down as follows:

BASIC SERVICES =	\$62,700
SPECIAL SERVICES =	<u>\$27,300</u>
TOTAL =	\$90,000

<i>Base Bid Item Amount =</i>	<i>\$81,500</i>
<i>Add Alternate Item Amount =</i>	<i>\$ 8,500</i>

- e. City staff reviewed the scope and fee proposal provided by Lochner and evaluated the estimated hours for each respective task. It was determined that the proposed fees were fair and reasonable based on the scope of services provided in the Agreement. Therefore, the City approved and signed the Agreement for Services with Lochner for the subject project.
- f. The executed Engineering Agreement has been submitted to the FAA Project Manager for concurrence in contract acceptance.
- g. Negotiations were conducted in good faith to ensure the proposed fees are fair and reasonable. The procedures outlined in AC 150/5100-14 have been followed.

Danny Giefer
Mayor, City of Emporia, KS

Date



U.S. Department
of Transportation
**Federal Aviation
Administration**

FAA Form 5100-134, Selection of Consultants – Airport Improvement Program Sponsor Certification

Paperwork Reduction Act Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120-0569. Public reporting for this collection of information is estimated to be approximately 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are required under 49 U.S.C. Section 47105 to retain a benefit and to meet the reporting requirements of 2 CFR 200. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

Selection of Consultants

Airport Improvement Program Sponsor Certification

Sponsor: City of Emporia, Kansas

Airport: Emporia Municipal Airport (EMP)

Project Number: 3-20-0020-015-2021

Description of Work: Base Bid - Replace Runway 1-19 Edge Lighting System, Signs, and Wind Cone
Add Alternate - Replace Runway 1-19 PAPIs

Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements for selection of consultant services within federal grant programs are described in 2 CFR §§ 200.317-200.326. Sponsors may use other qualifications-based procedures provided they are equivalent to standards of Title 40 chapter 11 and FAA Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.

Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. Sponsor acknowledges their responsibility for the settlement of all contractual and administrative issues arising out of their procurement actions (2 CFR § 200.318(k)).
☒ Yes ☐ No ☐ N/A
2. Sponsor procurement actions ensure or will ensure full and open competition that does not unduly limit competition (2 CFR § 200.319).
☒ Yes ☐ No ☐ N/A
3. Sponsor has excluded or will exclude any entity that develops or drafts specifications, requirements, or statements of work associated with the development of a request-for-qualifications (RFQ) from competing for the advertised services (2 CFR § 200.319).
☒ Yes ☐ No ☐ N/A

4. The advertisement describes or will describe specific project statements-of-work that provide clear detail of required services without unduly restricting competition (2 CFR § 200.319).
- ☒ Yes ☐ No ☐ N/A
5. Sponsor has publicized or will publicize a RFQ that:
- a. Solicits an adequate number of qualified sources (2 CFR § 200.320(d)); and
- b. Identifies all evaluation criteria and relative importance (2 CFR § 200.320(d)).
- ☒ Yes ☐ No ☐ N/A
6. Sponsor has based or will base selection on qualifications, experience, and disadvantaged business enterprise participation with price not being a selection factor (2 CFR § 200.320(d)).
- ☒ Yes ☐ No ☐ N/A
7. Sponsor has verified or will verify that agreements exceeding \$25,000 are not awarded to individuals or firms suspended, debarred or otherwise excluded from participating in federally assisted projects (2 CFR § 180.300).
- ☒ Yes ☐ No ☐ N/A
8. A/E services covering multiple projects: Sponsor has agreed to or will agree to:
- a. Refrain from initiating work covered by this procurement beyond five years from the date of selection (AC 150/5100-14); and
- b. Retain the right to conduct new procurement actions for projects identified or not identified in the RFQ (AC 150/5100-14).
- ☒ Yes ☐ No ☐ N/A
9. Sponsor has negotiated or will negotiate a fair and reasonable fee with the firm they select as most qualified for the services identified in the RFQ (2 CFR § 200.323).
- ☒ Yes ☐ No ☐ N/A
10. The Sponsor's contract identifies or will identify costs associated with ineligible work separately from costs associated with eligible work (2 CFR § 200.302).
- ☒ Yes ☐ No ☐ N/A
11. Sponsor has prepared or will prepare a record of negotiations detailing the history of the procurement action, rationale for contract type and basis for contract fees (2 CFR § 200.318(i)).
- ☒ Yes ☐ No ☐ N/A
12. Sponsor has incorporated or will incorporate mandatory contract provisions in the consultant contract for AIP-assisted work (49 U.S.C. Chapter 471 and 2 CFR part 200 Appendix II)
- ☒ Yes ☐ No ☐ N/A

13. For contracts that apply a time-and-material payment provision (also known as hourly rates, specific rates of compensation, and labor rates), the Sponsor has established or will establish:

- a. Justification that there is no other suitable contract method for the services (2 CFR §200.318(j));
- b. A ceiling price that the consultant exceeds at their risk (2 CFR §200.318(j)); and
- c. A high degree of oversight that assures consultant is performing work in an efficient manner with effective cost controls in place 2 CFR §200.318(j)).

☐ Yes ☐ No ☒ N/A

14. Sponsor is not using or will not use the prohibited cost-plus-percentage-of-cost (CPPC) contract method. (2 CFR § 200.323(d)).

☒ Yes ☐ No ☐ N/A

Attach documentation clarifying any above item marked with "no" response.

Sponsor's Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Executed on this day of , .

Name of Sponsor: City of Emporia, KS

Name of Sponsor's Authorized Official:

Title of Sponsor's Authorized Official:

Signature of Sponsor's Authorized Official: _____

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

CONSULTANT AGREEMENT (the "Agreement")

Owner: City of Emporia, Kansas

Client: City of Emporia, Kansas

Consultant: **H.W. Lochner, Inc. ("Lochner")**

Date:

Project: Base Bid
Replace Runway 1-19 Edge Lighting System and Guidance Signs
Replace Primary Wind Cone
Add Alternate
Replace Runway 1-19 Precision Approach Path Indicator (PAPI) Systems

Lochner and the Client (collectively, the "Parties" and individually, a "Party") agree as follows:

1. **Agreement.** This Agreement is a contract between Lochner and the Client for Lochner to perform engineering design services on the Project.

2. **Lochner.** Lochner shall be the general administrator for the services listed in the Agreement which Lochner is contracting to provide for the Project, and Lochner shall facilitate the exchange of information between or among Lochner and the Client, Lochner and other consultants retained by the Client, and Lochner and other consultants that Lochner may have retained for the Project. All communications between Lochner and the Owner shall be through the Client unless the Client authorizes otherwise.

Lochner represents that it is a properly licensed engineering firm and is registered to practice its profession and to conduct business in the State of Kansas.

3. **Lochner's Scope of Services.** Lochner shall perform the services set forth in Article I of Attachment A hereto (the "Scope of Services, Time Schedule, and Compensation"). The standard of care applicable to Lochner's Scope of Services shall be the degree of skill and care normally employed by professionals engaged to perform services similar to the Services required herein at the same time and in the same geographic area as the performance of Services hereunder and on projects similar in size and scope to the Project (the "Standard of Care"). In the event a standard of care is prescribed by statute, such statutory formulation shall be the Standard of Care.

Lochner shall strive to cooperate with and to coordinate its Scope of Services with the activities of all other parties to the Project, including other consultants retained by the Client or the Owner.

4. **Schedule.** Lochner shall perform its Services within a timeframe mutually agreed to by Lochner and the Client as defined in Article II of Attachment A.

5. **Lochner's Additional Services.** If the Client requests Lochner to perform Services that Lochner believes to be in addition to the Scope of Services ("Additional Services"), and for which Lochner believes it is entitled to additional time or additional compensation, Lochner shall submit a Claim in accordance with Section 15 hereof.

6. **Compensation for Lochner's Scope of Services.** Subject to paragraph 8, the Client shall compensate Lochner for Lochner's Scope of Services as defined in Article III of Attachment A.

7. **Payment for Lochner's Additional Services.** Subject to Paragraph 8, the Client shall compensate Lochner for Additional Services in accordance with a negotiated fee mutually agreeable to Lochner and the Client.

8. **General Payment Provisions.** For Lochner's Scope of Services and Lochner's Additional Services, Lochner shall send invoices to the Client at monthly intervals. Payment will be made to Lochner for invoiced Services not more than 30 days following submittal of invoice to the Client.

9. **Correction of Lochner's Work.** Lochner shall correct any Services that fail to conform to the Standard of Care set forth in Paragraph 4 of this Agreement at Lochner's own expense.

10. **Termination by Lochner.** Lochner may terminate this Agreement upon written notice if the Client breaches any term of this Agreement. The Client may terminate this Agreement upon seven (7) days written notice without cause for the Client's own convenience. If this Agreement is terminated by Lochner for the Client's breach, the Client shall be liable to Lochner for all costs and expenses that Lochner incurred prior to the termination as a result of the Client's breach. If this Agreement is terminated by the Client for its convenience, Client shall be liable to Lochner for all costs and expenses that Lochner incurred prior to the termination.

11. **Insurance.** Lochner agrees to purchase and maintain the following policies of insurance under the terms and conditions set forth below:

1. Professional Liability Insurance retroactive to the date of commencement of Lochner's services in relation to the Project with a per claim and aggregate limit in the amount of the greater of \$1.0mm. This policy shall be maintained in effect for a period of 1 year after completion of all Lochner's Scope of Services hereunder.

2. Commercial General Liability ("CGL") Insurance in the amount of \$1.0mm per occurrence, \$1.0mm aggregate limit, and \$1.0mm products and completed operations aggregate limit. In addition to the coverage provided by the Commercial General Liability Insurance, if not already included in such coverage, such insurance shall also provide coverage for personal injury, bodily injury, property damage, products-completed operations (for a minimum of 1 year after completion of work) and broad form contractual liability.

3. Comprehensive Automobile Liability ("Auto") Insurance in the amount of \$1.0mm per occurrence, and \$1.0mm aggregate limit. In addition to the coverage provided by the Comprehensive Automobile Liability Insurance, if not already included in such coverage, such insurance shall also provide coverage for personal injury, bodily injury and property damage arising out of owned, hired, leased and non-owned vehicles, automobiles, trucks and trailers.

4. Workmen's Compensation Insurance in the amount of the statutory maximum, if there is one, and if there is no statutory maximum, in the amount of \$1.0mm and Employer's Liability Insurance of at least \$1.0mm.

5. Umbrella Excess Liability Insurance in the minimum amount of \$1.0mm each occurrence, and \$1.0mm aggregate limit. The Umbrella Excess Liability Insurance shall be written on an umbrella excess basis over, and shall follow form to, the Commercial General Liability Insurance policy, the Comprehensive Automobile Liability Insurance policy, and the Employer's Liability Insurance policy. The Umbrella Excess Liability Insurance policy shall be endorsed to provide defense coverage obligations.

6. Lochner must include coverage for its subcontractors in its policies or obtain from its subcontractors equivalent insurance as required of Lochner hereunder. The provisions of Paragraph 11 of this Agreement shall apply equally to Lochner's subcontractors as they do to Lochner.

All insurance policies must be endorsed to provide that the insurance company will give the Client at least thirty (30) days written notice of cancellation or material change prior to such cancellation or modification.

Prior to commencement of Lochner's Scope of Services hereunder, Lochner shall provide the Client with certificates of insurance evidencing the requirements set forth herein.

12. Indemnification by Lochner. Lochner agrees to indemnify the Client and its officers, directors, members, managers, and employees and assigns (the "Indemnitees") from and against liability, claims, damages, losses and expenses (including, but not limited to, reasonable attorneys' fees, expert witness costs, other litigation costs, judgments, settlements and economic losses to the extent caused by negligent performance of any Services or duties under this Agreement by Lochner, its subcontractors, or sub-subcontractors, provided, however, that in the event of a Loss arising out of damages to persons or property, the foregoing obligation (1) shall not require Lochner to indemnify any Indemnitee for Losses other than to the extent caused by the act, omission or default of Lochner, its contractors, subcontractors, or sub-subcontractors, where such is prohibited by law, and (2) shall not require Lochner to indemnify any Indemnitee for Losses caused in whole or in part by any act, omission, or default of the Indemnitee. If the obligation to indemnify set forth in this Section is broader than that allowed by applicable law, this Section should be interpreted as providing the broadest indemnification obligation permitted and should be limited only to the extent necessary to comply with that law.

Lochner shall reimburse the Client for its reasonable attorneys' fees, expert witness costs and other litigation costs to enforce this Section 12. Section 12 shall survive the termination or full performance of this Agreement by either or both Lochner and/or the Client. Section 12 is to be read separately and independently of Section 11 and the additional insured obligations therein contained.

13. Waiver of Immunity. In claims against any person or entity indemnified under Section 15 by an employee of Lochner, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable (a "Claimant"), the indemnification obligation under Section 15 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Claimant's employer under workers' compensation acts, disability benefit acts or other employee benefit acts.

14. Ownership of Documents. If the Agreement requires that any of the Client's documents, drawings, plans, specifications or other work product are, or shall become, the property of another person, Lochner shall, at the Client's request, assign all rights of ownership of any like document prepared by Lochner to the same person.

15. Claims. Lochner shall make any claim for additional time or additional money or otherwise, regardless of the reason therefore (the "Claim") within ten days of Lochner's knowledge of the circumstances giving rise to the Claim. Lochner shall continue diligent, timely and proper performance of its Services despite any pending Claim, and the fact that a Claim is pending shall not be grounds for Lochner to suspend or cease performance of its Services.

Claims arising under this Agreement shall be decided in the state or federal courts located in Kansas.

16. Confidentiality. Lochner acknowledges, that as part of the Lochner's relationship with the Client, it will have access to information that is not publicly available ("Confidential Information"). Lochner agrees that it will maintain strict confidentiality with respect to such Confidential Information and

will not, directly or indirectly, disseminate it or use it for any purpose unrelated to Lochner's obligations under this Agreement. Lochner shall not, without the prior written consent of the Client, make any public statement, announcement or release concerning the Project or the Confidential Information to trade publications, the press, or any other individual, corporation, partnership, or entity except as may be necessary to comply with the requirements of any applicable law, governmental order or regulation. In the event Lochner believes it is required to disclose any Confidential Information in order to comply with any applicable law, governmental order or regulation, Lochner shall promptly notify the Client of same with sufficient time to allow the Client to object or otherwise take actions to prevent the disclosure of such Confidential Information.

17. Quality Control/Quality Assurance. Lochner shall perform Quality Control/Quality Assurance (QC/QA) commensurate with the Standard of Care throughout the provision of all Services by Lochner pursuant to the terms of this Agreement.

18. Miscellaneous Provisions.

1. Assignment. Lochner shall not assign this Agreement or the benefits arising therefrom without the prior written consent of the Client.

2. Integration. This Agreement represents the entire and integrated Agreement between Lochner and Consultant and supersedes all prior negotiations, representations or agreements, either written or oral.

3. Third Parties. There are no third party beneficiaries to this Agreement other than as expressly indicated in Paragraph 11 (Insurance) and Paragraph 12 (Indemnity).

4. Mutually Negotiated. The Parties acknowledge that the terms and conditions of this Agreement have been the subject of mutual negotiation, and that this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

5. Survival. Notwithstanding anything herein to the contrary, the provisions of this Agreement providing for limitation of or protection against liabilities between the Parties, shall survive termination of the Agreement and/or completion of the Scope of Services hereunder.

6. Limitation of Liability. Lochner's liability for any claim or breach of Standard of Care shall be limited to the amount of its Compensation as defined in paragraph 6.

7. Mutual Waiver of Consequential Damages. In no event shall either Party, their members, managers, affiliates, officers, directors, employees, agents, or shareholders be liable to the other Party for any incidental or consequential damages, direct or indirect, including, but not limited to, lost revenue, lost profits, financing costs, overhead, penalties, fines, liquidated damages and lost opportunities, whether incurred by a Party or by third parties to that Party may be liable, whether sounding in breach of contract, warranty, tort (including negligence), strict or statutory liability or otherwise, arising from or relating Sub consultant's services under this Agreement.

8. Notices. Unless otherwise provided herein, all notices, requests, consents, approvals, demands and other communications to be given hereunder shall be in writing and shall be deemed given upon (a) the date of delivery when hand delivered to the respective Parties as set forth below, or (b) actual receipt as evidenced by proof of delivery by a national courier service or the United States Postal Service, addressed to the respective Parties at the following addresses:

9. Electronically Produced Documents. Electronically produced documents will be submitted in data files compatible with AutoCAD Release 2020. Lochner makes no warranty as to

the compatibility of the data files beyond the above specified hardware and release or version of the stated software.

Because data stored on electronic media can deteriorate undetected or be modified without Lochner's knowledge, the electronic data files submitted to the Sponsor or other Agencies will have an acceptance period of thirty (30) days. If during that period the Sponsor or other Agencies find any errors or omissions in the files, Lochner will correct the errors or omissions as a part of the basic Agreement. Lochner will not be responsible for maintaining copies of the submitted electronic data files after the acceptance period.

10. Engineer's Opinion of Probable Project Cost and Construction Cost. Since Lochner has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s) methods of determining prices, or over competitive bidding or market conditions, Lochner's opinions of probable Project Cost and Construction Cost provided for herein are to be made on the basis of Lochner's experience and qualifications and represent its best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but Lochner cannot and does not guarantee that proposals, bids or actual Project or Construction Cost will not vary from opinions of probable cost prepared by Lochner. However, Lochner represents that it will use reasonable engineering care and judgment commonly exercised by an engineer in the same or similar circumstances in making and transmitting such cost estimates to the Client.

11. Force Majeure. Any delay or failure of Lochner in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God, war, riot, strike, fire, storm, flood, windstorm, discovery or uncovering of hazardous or toxic materials or causes beyond the reasonable control of Lochner, provided that prompt written notice of such delay or suspension be given by Lochner to the Client. Upon receipt of said notice, if necessary, the time for performing shall be extended for a period of time reasonably necessary to overcome the effect of such delays and Lochner shall be reimbursed for the cost of such delays.

12. Client's Responsibilities.

- 1) Arrange for access to and make all provisions for Lochner to enter upon public and private property as required for it to perform his/her services.
- 2) Assist in approvals and permits from all governmental entities having jurisdiction over the project and such approvals and consents from others as may be necessary for completion of the project.
- 3) Designate in writing a person to act as Client representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, and interpret and define Sponsor policies and decisions.
- 4) Give prompt written notice to Lochner whenever Client observes or knows of any development that affects the scope or timing of Lochner's services.
- 5) Pay publishing cost for advertisements of notices, public hearings, request for bids, and other similar items. The Sponsor shall pay for all permits and licenses that may be required by local, state or federal authorities; and shall secure the necessary land, easements and rights-of-way required for the project.
- 6) Available information relating to environmental conditions at the property, including any permits, clearances, investigations, and remediation required

for federal, state, and local agencies identified by environmental consultants
for the Sponsor in currently available reports.

13. Mandatory Federal Contract Provisions. (Reference Attachment B)

Notice to Lochner:

Matthew J. Jacobs, PE
Vice President, Aviation
H. W. Lochner, Inc.
16105 W. 113th Street, Suite 107
Lenexa, KS 66219

Notice to Client:

Dean Grant
Director of Public Works
1220 Hatcher
Emporia, KS 66801

H.W. LOCHNER, INC.

CITY OF EMPORIA, KANSAS

By: Matthew J. Jacobs

By: _____

Title: Vice President, Aviation

Title: _____

Date: 12/1/2020

Date: _____

ARTICLE I SCOPE OF SERVICES

WHEREAS, the Owner has agreed to employ the Consultant to provide the engineering services required for performing topographical surveys and geotechnical investigations, and for preparing engineer's design report, designs, construction plans, contract documents/technical specifications, tabulation of construction quantities, engineer's opinion of probable construction cost and project budget. The Consultant shall also assist the Owner with bidding and administrative services including updating the Owner's Disadvantage Business Enterprise (DBE) Program. The Owner may enter into a separate agreement for the additional services for providing construction administration and construction observation services for the proposed Project upon completion of the Design Phase services.

All services will be performed in accordance with good engineering practice and applicable published design criteria of the FAA, primarily FAA Advisory Circulars and Central Region Guidance publications.

- AC 150/5340-30J *"Design and Installation Details for Airport Visual Aids"*
- AC 150/5345-10H *"Specification for Constant Current Regulators and Regulator Monitors"*
- Advisory Circular 150/5370-2G *"Operational Safety on Airports During Construction"*
- Advisory Circular 150/5370-10H *"Standard Specifications for Construction of Airports"*
- AIP Guide 900, *"Project Design Development Projects"*
- AIP Guide 1000, *"Construction Phase"*

The following is a detailed description of the specific engineering services that are a duty of this Agreement.

A. BASIC SERVICES

1. Preliminary Phase

- a. Coordinate with the Owner and FAA regarding Project scope, schedule, and budget and conduct predesign teleconference.
- b. Update ACIP Data Sheets for proposed improvements and assist Sponsor with submittal to FAA.
- c. Conduct site visit to assess condition of existing electrical vault and equipment.
- d. Prepare Sponsor Certification for Selection of Consultants for Owner review and submittal to the FAA.
- e. Prepare topographical survey and geotechnical investigation services Scopes of Services and subconsultant Agreements.
- f. Prepare DBE Program update Scope of Services Vendor Agreement.

2. Design Phase – Engineer's Design Report and CSPP Report

- a. Prepare Preliminary Engineer's Design Report: The Design Report will include a narrative regarding the proposed construction project, construction safety and phasing, proposed runway edge lighting, proposed guidance signs, proposed wind cone, proposed PAPIs, engineer's opinion of probable construction cost, Project budget and identification of deviation from FAA design criteria.

- b. Prepare Construction Safety and Phasing Plan (CSPP) Report: The CSPP Report will be prepared in accordance with the guidelines included in Chapter 2, "*Construction Safety and Phasing Plans*" and Chapter 3, "*Guidelines for Writing a CSPP*" of Advisory Circular (AC) 150/5370-2G. The CSPP document will also include the Phasing Plans prepared for the Project that are applicable to all phases of construction.
 - c. Submit CSPP Report and Preliminary Engineer's Design Report, including engineer's opinion of probable construction cost and Project budget, to the Owner and FAA for review and comment. PDF copies will be submitted electronically with hard copies provided upon request. (This submittal shall be considered the 30% complete project submittal.)
 - d. Finalize Engineer's Design Report and CSPP Report with consideration of preliminary review comments and submit Final Engineer's Design Report and CSPP Report to the Owner and FAA for final approval and authorization to advertise. PDF copies will be submitted electronically with hard copies provided upon request. Final Engineer's Design Report and CSPP Report will be submitted with final Construction Plans and Contract Documents/Technical Specifications.
3. Design Phase – Plans and Specifications
- a. Prepare Construction Plans and Contract Documents/Technical Specifications for the Project. Those items and respective quantities associated with the Add Alternate portion of the project will be identified separately.
 - 1) Prepare Construction Plans for the Project. The Construction Plans will generally include the following:
 - Title Sheet
 - General Layout and Summary of Quantities
 - Construction Phasing Plan
 - Construction Safety Plan and Details
 - Boring Log
 - Demolition Plan
 - Existing Lighting and NAVAID Photos
 - Runway Edge Lighting Plan
 - Electrical and Guidance Sign Details
 - Wind Cone Details
 - PAPI Details
 - Electrical Equipment and Controls Plan
 - Electrical Equipment Distribution Schematic
 - 2) Prepare Contract Documents/Technical Specifications that are in accordance with FAA criteria and satisfy project specific needs. The specifications shall be developed using FAA Advisory Circular 150/5370-10H.
 - 3) Submit preliminary (90% completion) Construction Plans, Contract Documents/Technical Specifications, updated engineer's opinion of probable construction cost, and Project budget to the

Owner and FAA for review and comment. PDF copies will be submitted electronically with hard copies provided upon request.

- 4) Finalize Engineer's Design Report, Construction Plans, and Contract Documents/Technical Specifications with consideration of preliminary review comments.
- 5) Submit Final Construction Plans and Contract Documents/Technical Specifications along with Final Engineer's Design and CSPP Reports to the Owner and the FAA for final approval and authorization to advertise. PDF copies will be submitted electronically with hard copies provided upon request.

4. Bidding Phase

- a. Assist the Owner with advertisement for bids. The Consultant shall prepare the advertisement and send the "Notice to Bidders" to prospective Contractors. (The Owner shall place the advertisement in the appropriate media.)
- b. Print and distribute Construction Plans and Contract Documents/Technical Specifications to plan holding houses and prospective Bidders.
- c. Answer questions, clarify points, and issue addenda as necessary pertaining to the Construction Plans and Contract Documents/Technical Specifications during the Bidding Phase.
- d. The Consultant will coordinate a virtual prebid conference for this Project.
- e. The Consultant will assist the Sponsor with one (1) receipt of bids.
- f. Tabulate and analyze bid results, prepare Project budget, review Contractor's qualifications and DBE subcontractor's list provided by the Contractor, and make recommendation of contract award.

B. SPECIAL SERVICES

1. Administrative Assistance

- a. Prepare and submit FAA Form 7460 for project limits identified in the CSPP.
- b. Prepare and submit FAA Form 7460 for proposed primary wind cone location.
- c. Assist the Owner in preparation of FAA Grant Application for federal funding for submittal to the FAA Airports Division.
- d. Assist the Owner in preparation of required Sponsor Certifications for submittal to the FAA Airports Division.
- e. Assist the Owner in preparation of Invoice Summary forms as required for requests for reimbursement and SF Forms 271 and 425.
- f. Assist the Owner in preparation of Quarterly Performance Reports for submittal to the FAA Airports Division on a quarterly basis for the duration of the Project.

2. Field Survey – Engineering Design

- a. Perform field surveys as required. The survey area as depicted on the attached Exhibit A will consist of the following:
 - 1) Coordinate access to the project site with the Engineer and the Airport.
 - 2) Establish horizontal control points as shown on attached exhibit for use during the survey and construction. The horizontal control points shall be established on NAD 83 or better control.
 - 3) Establish vertical control at the site based upon U.S.G.S. NAVD 88 datum if an existing benchmark is not already located there.
 - 4) Obtain pavement and ground elevations and topography within the depicted survey limits. Survey will contain elevations at runway ends, runway centerline, and edges of pavement and also include ground shots within the area of the existing wind cone and precision approach path indicator (PAPI) systems. Survey will include location and elevation/approximate depth of existing utilities and other existing features and shall include:
 - (1) Spot elevations
 - a. Earth – to nearest 0.10 ft.
 - i. Elevations at 50' intervals longitudinally within the limits of the existing wind cone and PAPI locations.
 - ii. Elevations at features and grade changes maximum 25' transverse.
 - b. Pavement – to nearest 0.01 ft.
 - i. Elevations at pavement edges adjacent to existing edge lights, guidance signs, and navigational aids within the depicted survey limits and at 100' intervals for runway centerline shots as shown.
 - ii. Elevations at pavement fillet edges and apron edge as shown.
 - iii. Elevations at location of existing runway holding position markings.
 - (2) Visual and Underground Utilities within the Survey Limits – water, gas, electric, telephone, etc.
 - a. Type, size, approximate depth, and location
 - b. Manholes, handholes, meter pits, catch basins, inlets
 - i. Size and location
 - ii. Top and invert elevations
 - (3) Culverts – size, length, material, invert elevations
 - (4) Airport Features within the Survey Limits – lights, guidance signs, ducts, handholes, junction boxes, wind cone, segmented circle markers, PAPIs, runway end identifier lights (REILs), etc.

b. Perform PAPI siting OCS check (*Add Alternate Item*)

- 1) Set up in the field and perform an Obstacle Clearance Surface (OCS) check for the proposed Runway 1-19 Precision Approach Path Indicator (PAPI) locations based on design values to assure no obstructions penetrate this surface for the designed glide path angle.
- 2) The OCS extends 10° left and right of the runway centerline.
- 3) The OCS will be checked for penetrations based on the pre-determined angle. If an obstruction is noted, the height of the instrument shall be adjusted 0°15' and the OCS checked again for penetrations. If an obstruction is still noted, the Consultant shall note what angle is required in order to clear the obstruction.

3. Geotechnical Investigation

- a. Request and coordinate all utility locate services prior to drilling operations.
- b. Locate and drill a total of 10 rock probes to a depth of 36 inches along the runway edge (five probes per side) at a distance of 15 feet from the edge of pavement. Locations to be equally spaced.
- c. Complete one (1) soil boring within the vicinity of the proposed wind cone location to a depth of 10 feet.
- d. Perform geotechnical investigation and laboratory tests required for project design.
- e. Prepare a site specific written geotechnical report providing a discussion of the field and laboratory procedures and results, observations related to materials encountered during rock probe drilling and soil boring operations, and results of laboratory tests and recommendations related to water table elevation level, allowable end bearing pressure, and L-pile data for each layer of subsurface material.

4. Update Disadvantaged Business Enterprise (DBE) Program

- a. Prepare DBE Program and Goal Update for FFY 2019 – 2021 per guidelines acceptable by the Civil Rights Division of the FAA.
- b. Develop a schedule for development of the DBE Program Update for delivery to the Civil Rights Division of the FAA.
- c. Provide the Owner with one (1) copy of the completed DBE Program Update. An electronic copy will be submitted to the Civil Rights Division of the FAA, as this is their preferred method of receipt.
- d. Provide a sample copy of required legal announcements to the Owner.
- e. Provide assistance to aid the Owner in understanding their responsibilities in the administration of the DBE Program.

C. CONSTRUCTION SERVICES

1. The Scope of Services required for construction administration, construction observation, and materials acceptance testing for the Project may be added by separate Agreement.

ARTICLE II TIME SCHEDULE

The Consultant agrees to proceed with the services immediately upon receipt of a written Notice to Proceed (NTP) by the Owner, and to employ such personnel as required to complete the Scope of Services in accordance with the following time schedule:

SCHEDULED PERFORMANCE IN CALENDAR DAYS

A. BASIC SERVICES

1. Preliminary Phase..... As Required
2. Design Phase – Engineer’s Design Report and CSPP Report
 - c. Submit Preliminary Engineer’s Design Report and CSPP Report 60 Calendar Days After
Receipt of NTP
 - d. Submit Final Engineer’s Design Report and CSPP Report..... 30 Calendar Days After
Receipt of Review Comments for Item A.3.a.3)
3. Design Phase – Plans and Specifications
 - a.3) Submit Preliminary Plans and Specifications 30 Calendar Days After
Receipt of Review Comments for Item A.2.c.
 - a.5) Submit Final Plans and Specifications 30 Calendar Days After
Receipt of Review Comments for Item A.3.a.3)
4. Bidding Phase As Required

B. SPECIAL SERVICES

1. Administrative Assistance..... As Required
2. Field Survey – Engineering Design
 - a. Topographic Survey 30 Calendar Days After
Receipt of Notice to Proceed
 - b. PAPI Siting OCS Check..... 14 Calendar Days After
Receipt of Review Comments for Item A.2.c.
3. Geotechnical Investigation 45 Calendar Days After
Receipt of Notice to Proceed
4. Update DBE Program..... 60 Calendar Days After
Receipt of Notice to Proceed

C. CONSTRUCTION SERVICES

1. Construction Services..... May be Added by Separate Agreement

The schedule presented above does not include review time by the Owner, FAA or other interested agencies.

ARTICLE III COMPENSATION

The Owner agrees to compensate the Consultant for performing engineering services as described herein on the following basis:

COMPENSATION SCHEDULE

A. BASIC SERVICES

1. Preliminary Phase..... \$5,900.00 Lump Sum
2. Design Phase – Engineer’s Design Report and CSPP Report
 - Base Bid Item* \$15,600.00 Lump Sum
 - Add Alternate Item* \$1,000.00 Lump Sum
3. Design Phase – Plans and Specifications
 - Base Bid Item* \$27,300.00 Lump Sum
 - Add Alternate Item* \$6,300.00 Lump Sum
4. Bidding Phase..... \$6,600.00 Lump Sum
- Subtotal Basic Services \$62,700.00 Lump Sum

B. SPECIAL SERVICES

1. Administrative Assistance \$5,000.00 Lump Sum
2. Field Survey – Engineering Design
 - a. Topographic Survey (*Base Bid Item*) \$5,400.00 Lump Sum
 - b. PAPI Siting OCS Check (*Add Alternate Item*) \$1,200.00 Lump Sum
3. Geotechnical Investigation \$4,200.00 Lump Sum
4. Update DBE Program..... \$11,500.00 Lump Sum
- Subtotal Special Services \$27,300.00 Lump Sum
- Total Basic and Special Services** **\$90,000.00 Lump Sum**

(*Base Bid Item Amount = \$81,500.00*)
(*Add Alternate Item Amount = \$8,500.00*)

C. CONSTRUCTION SERVICES

1. Construction Services.....May be Added by Separate Agreement

The Consultant shall not proceed with the services described herein until written authorization in the form of a Notice to Proceed is received from the Owner.

For Item A. Basic Services, and Item B. Special Services, partial payment shall be made to the Consultant for those portions of the services completed. The Consultant shall submit to the Owner a monthly statement showing an estimate of completion, and the portion of compensation requested for each element and phase of the services. The request for partial payments will not be in excess of the value of the services completed at the time the statement is rendered.

Progress payments shall be made to the Consultant within thirty (30) calendar days of receipt of proper billing statement.







DERIVATION OF CONSULTANT PROJECT COSTS

BASE BID

REPLACE RUNWAY 1-19 EDGE LIGHTING SYSTEM AND GUIDANCE SIGNS

REPLACE PRIMARY WIND CONE

ADD ALTERNATE

REPLACE RUNWAY 1-19 PRECISION APPROACH PATH INDICATOR (PAPI) SYSTEMS

FAA PROJECT NO. AIP 3-20-0020-015-2021

EMPORIA MUNICIPAL AIRPORT (EMP)

EMPORIA, KANSAS

BASIC AND SPECIAL SERVICES

December 1, 2020

1. DIRECT SALARY COSTS:

<u>TITLE</u>	<u>HOURS</u>	<u>RATE/HOUR</u>	<u>COST (\$)</u>
Principal	2	\$65.00	\$ 130.00
Project Manager	46	\$60.00	\$ 2,760.00
Design Engineer II	82	\$45.00	\$ 3,690.00
Design Engineer I	220	\$38.00	\$ 8,360.00
Senior Electrical Engineer	62	\$52.00	\$ 3,224.00
Structural Engineer	12	\$45.00	\$ 540.00
Technician	115	\$30.00	\$ 3,450.00
Administrative Asst.	64	\$25.00	\$ 1,600.00
Total Direct Salary Costs			= \$ 23,754.00

2. LABOR AND GENERAL ADMINISTRATIVE OVERHEAD

Percentage of Direct Salary Costs @ 155.11% = \$ 36,844.83

3. SUBTOTAL:

Items 1 and 2 = \$ 60,598.83

4. PROFIT:

15% of Item 3 Subtotal = \$ 9,089.82

Subtotal of Items 3 and 4 \$ 69,688.65

5. OUT-OF-POCKET EXPENSES:

a. Mileage	400 miles @ \$0.575/mile =	\$ 230.00
b. Meals	0 @ \$55.00/day =	-
c. Motel	0 days @ \$96.00/day =	-
d. Mailing & Misc. Expenses	=	\$ 411.35
Total Out-of-Pocket Expenses =		\$ 641.35

6. SUBCONTRACT COST:

a. Geotech, Inc. (Topo. Survey)	\$ 5,020.00
b. Kaw Valley Engineering (Geotechnical Investigation)	\$ 3,650.00
c. DBE Plans & Goals Preparation Services (DBE Program Update)	\$ 11,000.00

7. TOTAL FEE:

Items 4, 5 and 6 \$ 90,000.00

Base Bid Amount =	\$ 81,500.00
Add Alternate Amount =	\$ 8,500.00

ENGINEERING BASIC AND SPECIAL SERVICES - COST BREAKDOWN

BASE BID
REPLACE RUNWAY 1-19 EDGE LIGHTING SYSTEM AND GUIDANCE SIGNS
REPLACE PRIMARY WIND CONE

ADD ALTERNATE
REPLACE RUNWAY 1-19 PRECISION APPROACH PATH INDICATOR (PAPI) SYSTEMS

EMPORIA MUNICIPAL AIRPORT (EMP)
EMPORIA, KANSAS

December 1, 2020

Classification:	Principal	Project Manager	Design Engineer II	Design Engineer I	Senior Elec. Engineer	Struct. Engineer	Technician	Admin. Assistant	Other Costs
Hourly Rate:	\$190.69	\$176.03	\$132.02	\$111.48	\$152.56	\$132.02	\$88.01	\$73.34	
A. BASIC SERVICES									
1. Preliminary Phase:									
Labor Subtotal =	1	11	15	3	0	0	6	11	(1.2)
Expense Subtotal =	\$190.69	\$1,936.28	\$1,980.29	\$334.45	\$0.00	\$0.00	\$528.08	\$806.79	\$ 123.42
Subconsultant Subtotal =									\$ -
Total Fee = \$ 5,900.00									
2. Design Phase - Engineer's Design Report and CSPP Report:									
(Base Bid Item)									
Labor Subtotal =	0	7	15	58	16	0	22	20	(2)
Expense Subtotal =	\$0.00	\$1,232.18	\$1,980.29	\$6,466.02	\$2,440.89	\$0.00	\$1,936.28	\$1,466.88	\$ 77.45
Subconsultant Subtotal =									\$ -
Total Fee = \$ 15,600.00									
(Add Alternate Item)									
Labor Subtotal =	0	0	1	6	0	0	1	1	(2)
Expense Subtotal =	\$0.00	\$0.00	\$132.02	\$668.90	\$0.00	\$0.00	\$88.01	\$73.34	\$ 37.73
Subconsultant Subtotal =									\$ -
Total Fee = \$ 1,000.00									
3. Design Phase - Plans and Specs:									
(Base Bid Item)									
Labor Subtotal =	1	9	23	78	38	12	62	13	(2)
Expense Subtotal =	\$190.69	\$1,584.23	\$3,036.45	\$8,695.68	\$5,797.12	\$1,584.23	\$5,456.80	\$953.47	\$ 1.32
Subconsultant Subtotal =									\$ -
Total Fee = \$ 27,300.00									
(Add Alternate Item)									
Labor Subtotal =	0	2	4	21	8	0	18	3	(2)
Expense Subtotal =	\$0.00	\$352.05	\$528.08	\$2,341.14	\$1,220.45	\$0.00	\$1,584.23	\$220.03	\$ 54.01
Subconsultant Subtotal =									\$ -
Total Fee = \$ 6,300.00									
4. Bidding Phase:									
Labor Subtotal =	0	9	16	22	0	0	0	4	(1.2)
Expense Subtotal =	\$0.00	\$1,584.23	\$2,112.31	\$2,452.63	\$0.00	\$0.00	\$0.00	\$293.38	\$ 157.45
Subconsultant Subtotal =									\$ -
Total Fee = \$ 6,600.00									
PART A SUBTOTAL = \$ 62,700.00									

Classification:	Principal	Project Manager	Design Engineer II	Design Engineer I	Senior Elec. Engineer	Struct. Engineer	Technician	Admin. Assistant	Other Costs
Hourly Rate:	\$190.69	\$176.03	\$132.02	\$111.48	\$152.56	\$132.02	\$88.01	\$73.34	
B. SPECIAL SERVICES									
1. Administrative Assistance:									
Labor Subtotal =	\$ 4,999.14								
Expense Subtotal =	\$ 0.86								
Subconsultant Subtotal =	\$ -								
Total Fee =	\$ 5,000.00								
2. Field Survey - Engineering Design:									
(Base Bid Item)									
Labor Subtotal =	\$ 709.97								
Expense Subtotal =	\$ 70.03								
Subconsultant Subtotal =	\$ 4,620.00								
Total Fee =	\$ 5,400.00								
(Add Alternate Item)									
Labor Subtotal =	\$ 797.98								
Expense Subtotal =	\$ 2.02								
Subconsultant Subtotal =	\$ 400.00								
Total Fee =	\$ 1,200.00								
3. Geotechnical Investigation:									
Labor Subtotal =	\$ 487.00								
Expense Subtotal =	\$ 63.00								
Subconsultant Subtotal =	\$ 3,650.00								
Total Fee =	\$ 4,200.00								
4. Update DBE Program:									
Labor Subtotal =	\$ 445.93								
Expense Subtotal =	\$ 54.07								
Subconsultant Subtotal =	\$ 11,000.00								
Total Fee =	\$ 11,500.00								
PART B SUBTOTAL =	\$ 27,300.00								
GRAND TOTAL =	\$ 90,000.00								

- (1) Mileage, Motel and Meals
(2) Equipment, Materials and Supplies
(3) Vendor Services

FEDERAL CONTRACT PROVISIONS FOR A/E AGREEMENTS

ALL REFERENCES MADE HEREIN TO "CONTRACTOR", "PRIME CONTRACTOR", "BIDDER", "OFFEROR", AND "APPLICANT" SHALL PERTAIN TO THE ARCHITECT/ENGINEER (A/E).

ALL REFERENCES MADE HEREIN TO "SUBCONTRACTOR", "SUB-TIER CONTRACTOR" OR "LOWER TIER CONTRACTOR" SHALL PERTAIN TO ANY SUBCONSULTANT UNDER CONTRACT WITH THE A/E.

ALL REFERENCES MADE HEREIN TO "SPONSOR" AND "OWNER" SHALL PERTAIN TO THE STATE, CITY, AIRPORT AUTHORITY OR OTHER PUBLIC ENTITY EXECUTING CONTRACTS WITH THE A/E.

ACCESS TO RECORDS AND REPORTS

Reference: 2 CFR § 200.333, 2 CFR § 200.336, and FAA Order 5100.38

The contractor must maintain an acceptable cost accounting system. The contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

CIVIL RIGHTS – GENERAL

Reference: 49 USC § 47123

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and sub-tier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

CIVIL RIGHTS – TITLE VI ASSURANCE

Reference: 49 USC § 47123 and FAA Order 1400.11

A) Title VI Solicitation Notice

The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

B) Title VI Clauses for Compliance with Nondiscrimination Requirements

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- 1) **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2) **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- 3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- 4) **Information and Reports:** The contractor will provide all information and reports required by the Nondiscrimination Acts and Authorities, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5) **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
- 6) **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Nondiscrimination Acts and Authorities, and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

C) Title VI List of Pertinent Nondiscrimination Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

DISADVANTAGED BUSINESS ENTERPRISE

Reference: 49 CFR part 26

Contract Assurance (§ 26.13) - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

Prompt Payment (§26.29) - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) calendar days from the receipt of each payment the prime contractor receives from the Sponsor. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Sponsor. This clause applies to both DBE and non-DBE subcontractors.

ENERGY CONSERVATION REQUIREMENTS

Reference: 2 CFR § 200, Appendix II (H)

Contractor and each subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq).

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

Reference: 29 USC § 201, et seq.

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Wage and Hour Division.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Reference: 20 CFR part 1910

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

RIGHT TO INVENTIONS

Reference: 2 CFR § 200 Appendix II (F) and 37 CFR §401

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within in the 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental or research work.

SEISMIC SAFETY

Reference: 49 CFR part 41

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard which provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

TAX DELINQUENCY AND FELONY CONVICTION

Reference: Sections 415 and 416 of Title IV, Division L of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76) and DOT Order 4200.6

Certification - The applicant represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

Certification - The applicant represents that it is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months. A felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

TRADE RESTRICTION CERTIFICATION

Reference: 49 USC § 50104 and 49 CFR part 30

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror:

- a) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- b) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R.; and
- c) has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- a) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- b) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- c) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

VETERAN'S PREFERENCE

Reference: 49 USC § 47112(c)

In the employment of labor (excluding executive, administrative, and supervisory positions), the contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$3,500

DISTRACTED DRIVING

Reference: Executive Order 13513 and DOT Order 3902.10

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$10,000

TERMINATION OF CONTRACT

Reference: 2 CFR § 200 Appendix II (B)

Termination for Convenience

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

Termination by Default

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating

the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

- a) Termination by Owner: The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:
 - 1) Perform the services within the time specified in this contract or by Owner approved extension;
 - 2) Make adequate progress so as to endanger satisfactory performance of the Project;
 - 3) Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

- b) Termination by Consultant: The Consultant may terminate this Agreement in whole or in part, if the Owner:
 - 1) Defaults on its obligations under this Agreement;
 - 2) Fails to make payment to the Consultant in accordance with the terms of this Agreement;
 - 3) Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$25,000

DEBARMENT AND SUSPENSION

Reference: 2 CFR part 180 (Subpart C), 2 CFR part 1200, and DOT Order 4200.5

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

- 1) Checking the System for Award Management at website: <https://www.sam.gov>.
- 2) Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
- 3) Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA later determines that a lower tier participant failed to tell a higher tier that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedy, including suspension and debarment.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$100,000

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

Reference: 2 CFR § 200 Appendix II (E)

1) Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2) Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3) Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any

other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4) Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

Reference: 31 U.S.C. § 1352 – Byrd Anti-Lobbying Amendment; 2 CFR part 200, Appendix II (J); and 49 CFR part 20, Appendix A

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

P

ROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$150,000

BREACH OF CONTRACT TERMS

Reference: 2 CFR § 200 Appendix II (A)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

CLEAN AIR AND WATER POLLUTION CONTROL

Reference: 2 CFR § 200 Appendix II (G)

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 17

SUBJECT: Report from the City Manager on City Activities

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

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

Tentative Agenda for December 23rd Study Session

- Discuss Update of Firework Ordinance

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: December 16, 2020

ITEM NUMBER: 18

SUBJECT: Executive Session

RECOMMENDATION:

BACKGROUND SUMMARY:

At this time, the City Commissioners request an Executive Session to discuss proprietary information of a private business.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

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

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, December 4, 2020, in the City Commission Meeting Room with Mayor Giefer presiding and Commissioners Brinkman, Geitz, Gilligan and Smith present. Also present were City Manager McAnarney, Assistant City Manager Massey, City Clerk Sull and City Attorney Montgomery.

Consent Agenda

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

- a. Consider minutes of the Regular Meeting held on November 18, 2020.
- b. Consider ratification of Payroll Ordinance for the period ending on November 20, 2020.
- c. Consider approval of City of Emporia Charge Offs.

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

CITY COMMISSION (Public Comment)

This is the time for the public to make comments. No comments were made at this time.

ACCOUNTING DEPARTMENT (Government Finance Officers Association - GFOA) (Certificate of Achievement)

Janet Harrouff, Director of Administrative Services, was recognized and addressed the Governing Body. She stated this was the thirty-fourth year in a row that the Government Finance Officers Association of the U.S. and Canada have awarded their Certificate of Achievement for Excellence in Financial Reporting to the City of Emporia. This award is for the financial report ending December 31, 2018. In order to receive the award, the governmental unit must publish a financial report that is easy to read, efficiently organized, comprehensive and whose contents conform to program

standards. The report must satisfy both generally accepted accounting principals and applicable legal requirements. Other members of the Finance Department for the City of Emporia are: Tammy Hopper, Accounting Clerk and Chelsea Tyson, Accounting Clerk.

The Commission thanked the Financial Department for the continued efforts in receiving this prestigious award.

**BOUNDARY
(Resolution Number 3640)**

City Manager McAnarney stated every year the City is required to pass a resolution declaring the entire boundary of the City. He stated there were 7.4 acres annexed into City limits for 2020. The total acres in the entire boundary of the City is 7771.35 acres or 12.14 square miles.

Commissioner Brinkman made a motion approving Resolution Number 3640, a resolution establishing the city boundary lines. Commissioner Smith seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Smith, aye; Commissioner Geitz, aye; Commissioner Gilligan, aye; and Mayor Giefer, aye.

**CITY COMMISSION
(Evergy Kansas Central, Inc.)
(Memorandum of Understanding)**

This item has been rescheduled to the next regular scheduled meeting on December 16, 2020.

**PUBLIC WORKS DEPARTMENT
(Dude Solutions Asset Management)
(Purchase Work Order Software)**

Dean Grant, Public Works Director, was recognized and addressed the Governing Body. He stated as discussed at the previous study session, the public works department would like to purchase asset management/work order software to track outstanding workloads, costs of repairs and equipment maintenance. This software will allow public works to better manage the

assets across all divisions. The software will work with existing GIS software for street repairs and water and sewer line repairs and maintenance. This software package includes a fleet management module that will help the maintenance shop track vehicle/equipment repair and maintenance and tracking costs more easily. Work orders can be generated automatically for each of the divisions when maintenance or repairs are needed on equipment. Staff will be able to receive and complete work orders in the field on a mobile device. Dude Solutions Asset Management software also has a citizen engagement module included, which will allow citizens to report public works issues directly to the department. He stated the cost of the software is \$6,887.50 for implementation which includes work orders, entering assets, merging with existing GIS, etc, and \$19,812.41 annually. He stated staff is recommending approval of the purchase of asset management/work order software from Dude Solutions in the amount of \$6,887.50 for implementation and \$19,812.41 annually.

Commissioner Smith made a motion approving the purchase of asset management/work order software from Dude Solution for \$26,699.91; \$6,887.50 for implementation and \$19,812.41 annually. Commissioner Gilligan seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Gilligan, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Giefer, 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 DECEMBER 9TH STUDY SESSION @ 10:00 A.M.

Airport Runway Edge Lighting
Update on Special Park Projects
Discuss Snow Policy

EXECUTIVE SESSION

Commissioner Gilligan made a motion to adjourn into Executive Session to discuss proprietary information of private businesses and to invite Special Projects Manager, Jim Witt from 1:40 p.m. to 2:05 p.m., in the City Commission Meeting Room. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Smith, aye; and Mayor Giefer, aye.

Upon reconvening the meeting in Regular Session at 2:05 p.m., this same date, in the City Commission Meeting Room, Commissioner Gilligan made a motion to continue the Executive Session discussion with all the same people from 2:05 p.m. to 2:25 p.m. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Smith, aye; and Mayor Giefer, aye.

Upon reconvening the meeting in Regular Session at 2:25 p.m., this same date, in the City Commission Meeting Room, Mayor Giefer stated they had discussed proprietary information of private businesses and no action was taken.

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

Danny Giefer, Mayor

ATTEST:

Kerry Sull, City Clerk