

# **CITY COMMISSION MEETING AGENDA**

City Hall Commission Chambers

Monday, November 7, 2016

7:00 p.m.

MEETING #5049

## **CALL TO ORDER**

## **ROLL CALL**

**INVOCATION BY** Larry Roberts, Christian Motorcyclist Association

## **PLEDGE OF ALLEGIANCE**

## **PETITIONS & PROCLAMATIONS**

Small Business Saturday Proclamation

Dodge City High School Red Demon Soccer Team Day Proclamation

**VISITORS (Limit of five minutes per individual and fifteen minutes per topic. Final action may be deferred until the next City Commission meeting unless an emergency situation does exist).**

## **CONSENT CALENDAR**

1. Approval of City Commission Meeting Minutes, October 17, 2016;
2. Appropriation Ordinance No. 21, November 7, 2016;
3. Cereal Malt Beverage License:
  - a. Kates, E Trail St.,
  - b. Murphy Oil USA, Inc. 1907 N. 14<sup>th</sup> Avenue,
4. Approval of Contract with KDOT for Heritage Landscaping.

## **ORDINANCES & RESOLUTIONS**

**Charter Ordinance No. 41:** A Charter Ordinance Exempting the City of Dodge City, Kansas From the Provisions of K.S.A. 13-1024a and Providing Substitute and Additional Provisions on the Same Subject Relating to the General Improvements and the Issuance of Bonds for the Purpose of Paying Said Improvements. Report by Finance Director/City Clerk, Nannette Pogue.

**Ordinance No. 3641:** An Ordinance Authorizing the City of Dodge City, Kansas, to Enter Into a Lease Purchase Agreement, the Proceeds of which Will be Used to Pay the Costs to Purchase

Radio and Communication Equipment For Use in the Police, Fire and Public Works Department; and to Approve the Execution of Certain Documents in Connection therewith. Report by Director of Finance/City Clerk, Nannette Pogue.

**Ordinance No. 3642:** An Ordinance Designating Certain Streets Within the City of Dodge City, Kansas as Main Trafficways. Report by Finance Director/City Clerk, Nannette Pogue.

**Resolution No. 2016-26:** A Resolution Approving Year End Bonuses. Report by City Manager, Cherise Tieben.

**Resolution No. 2016-27:** A Resolution Authorizing the Offering For Sale of General Obligation Refunding and Improvement Bonds, Series 2016-B of the City of Dodge City. Report by Finance Director/City Clerk, Nannette Pogue.

## **UNFINISHED BUSINESS**

## **NEW BUSINESS**

1. Approval of Agreement with Kansas Department of Transportation for Federal Fund Exchange. Report by Director of Engineering, Ray Slattery.
2. Approval of the 2017 State/Federal Legislative Policy, Report by Assistant Finance Director/Assistant to City Manager, Ernestor DelaRosa.
3. Approval of Memorandum of Understanding between the Board of Trustees of Dodge City Public Library and the City of Dodge City, Kansas. Report by City Manager Cherise Tieben.
4. Approval of Grant Application for Transportation Funds and Match Commitments. Report by Assistant Finance Director/Assistant City Manager, Ernestor Delarosa.
5. Approval of the Memorandum of Understanding Agreement with the Dodge City YMCA for the use of Metal Buildings on St. Mary of the Plains Complex. Report by Director of Parks & Recreation, Paul Lewis.

## **OTHER BUSINESS**

## **EXECUTIVE SESSION**

1. Discussion matters subject to Attorney-Client Privileges
2. Discussion matters subject to Attorney-Client Privileges

## **ADJOURNMENT**

## SMALL BUSINESS SATURDAY PROCLAMATION

**Whereas**, the government of Dodge City, Kansas, celebrates our local small businesses and the contributions they make to our local economy and community; according to the United States Small Business Administration, there are currently 28.8 million small businesses in the United States, they represent 99.7 percent of all businesses with employees in the United States, are responsible for 63 percent of net new jobs created over the past 20 years, and

**Whereas**, small businesses employ over 49 percent of all businesses with employees in the United States; and

**Whereas**, 89 percent of consumers in the United States agree that small businesses contribute positively to the local community by supplying jobs and generating tax revenue; and

**Whereas**, 87 percent of consumers in the United States agree that small businesses are critical to the overall economic health of the United States; and

**Whereas**, 93 percent of consumers in the United States agree that it is important for people to support the small businesses that they value in their community; and

**Whereas**, Dodge City, Kansas supports our local businesses that create jobs, boost our local economy and preserve our neighborhoods; and

**Whereas**, advocacy groups as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

**Now, Therefore**, I, Rick Sowers, Mayor of Dodge City Kansas do hereby proclaim, November 26, 2016, as:

### ***SMALL BUSINESS SATURDAY***

And urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

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Mayor, Rick Sowers

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City Clerk, Nannette Pogue



## WHAT IS SMALL BUSINESS SATURDAY?

**Small Business Saturday**<sup>®</sup> was created in 2010 in response to small business owners' most pressing need: more customers. Falling between Black Friday and Cyber Monday, it's a day to support the local businesses that create jobs, boost the economy and preserve neighborhoods around the country. It has since become a nation-wide, well-known celebrated event on the national calendar with support from elected officials, public and private organizations.



## WHY SUPPORT SMALL BUSINESS SATURDAY?

- Demonstrates commitment to the communities in which we live
- Creates goodwill within the communities
- When we support small business, jobs are created and local communities preserve their unique culture

## WHAT PEOPLE ACROSS THE NATION ARE SAYING ABOUT 2015 SMALL BUSINESS SATURDAY\*:

*"Small Business Saturday was an amazing experience for everyone involved. From the business owners, to the guests, everyone felt a great pride in their community and appreciated the opportunity to find companies that are local to them. I can't wait for next year!"*

– Syd Suntha of Bread and Circuses in Seattle, WA

*"At Cliché Noe Gifts + Home, Small Business Saturday is a very important kick-off to the holiday season and we have double staff all day long to provide that level of service we base our reputation on everyday. Customers are so happy when we 'gift' them the beautiful designer bags. It is a real pleasure to see folks walking around displaying their bags and again, spreading the message: I Shopped Small."*

– Dani Sheehan-Meyer, Cliché Noe Gifts + Home in San Francisco, CA

*"The holiday shopping season is a critical time for our small business owners. Consumers have more choices everyday about where to spend their money and the savvy shoppers know that shopping small impacts their community's economy. Last year, 50% of businesses participating in the Small Business Saturday campaign responded that it had a significant positive impact on their business."*

– Charlotte Gill, Stay Local in New Orleans, LA

*\*If you would like to include any of this content please reach out to [meganh@mbooth.com](mailto:meganh@mbooth.com)*

## 2015 SMALL BUSINESS SATURDAY FACTS:

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- More than 95 million consumers shopped at small businesses on Small Business Saturday in 2015, marking an eight percent increase from 2014<sup>1</sup>
- The U.S. Senate unanimously passed a resolution recognizing November 28, 2015 as Small Business Saturday, supporting efforts to encourage consumers to shop locally, increase awareness of the value of locally owned small businesses and highlight these businesses' impact on the economy of the United States
- Elected officials in all 50 states and Washington, D.C. – including President Obama and many senior government officials – championed Small Business Saturday
- More than 4,100 Neighborhood Champions around the country rallied local businesses and created events and activities in their communities
- 425 small business advocate groups supported the nationwide initiative
- Nearly 100 corporations, including FedEx, Eventbrite, Microsoft, and Yelp, banded together with American Express to promote shopping at small businesses for Small Business Saturday
- In the month of November, there were 85 million social media engagements in support of Small Business Saturday, many using the hashtags #SmallBizSat and #ShopSmall

## JOIN THE COALITION:

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Building on the success of the previous six years, we plan to scale this year's Small Business Saturday by expanding the coalition of supporters and creating more local events around the country. This includes support from advocacy organizations that join the initiative to motivate constituents through incentives and offers to Shop Small® on November 26, 2016.

The coalition will be led by Women Impacting Public Policy, a business advocacy organization representing small businesses. [Join Us!](#)

## CONTACT INFO:

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Jason Lalak, Vice President, Women Impacting Public Policy (WIPP) | Phone: (415) 434-4314 | Email: [JLalak@wipp.org](mailto:JLalak@wipp.org)

<sup>1</sup>Small Business Saturday Consumer Insights Survey by National Federation of Independent Business (NFIB) and American Express. (November 30, 2015). Based on consumer self-reported data and does not reflect actual receipts or sales.

## Proclamation

**WHEREAS**, this year's Dodge City High School men's soccer team, coached by Mr. Saul Hernandez, a DCHS alumnus, entered the 2016 season by winning the Titan Classic in Wichita; and

**WHEREAS**, the Red Demons soccer team then went through their Western Athletic Conference season undefeated; and

**WHEREAS**, the Red Demons soccer team marched through their regular season in undefeated fashion outscoring their opponents by the total score of 79 to 9; and

**WHEREAS**, November 4<sup>th</sup> the Red Demons soccer team advanced to the final four being played in Wichita to compete for their season long goal – a first 6A state championship in soccer to be secured by a team west of Wichita; and

**WHEREAS**, on Friday, these young men took on the team from Shawnee Mission East. The Red Demons soccer team was locked in quite a battle and the contest was scoreless deep into the second half when Joshua DonJuan scored at the 23 minute mark. The Red Demons soccer team went on to win that semi-final by the score of 2-0; and

**WHEREAS**, on Saturday, these players were matched again with the team from Olathe East who had been their opponents in their final game of last year's playoffs. The Red Demons, backed by quite a crowd of fans and spectators, scored an early first half goal and then locked down their opponent. When the final whistle blew, the Red Demons soccer team were a one to nothing victor and the best in the state; and

**WHEREAS**, in bringing home the 6A State Championship to Dodge City High School, these young men allowed no goals by an opponent in post-season play and completed a season composed of 21 WINS and NO LOSSES.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor of the City of Dodge City with the concurrence of the City Commission assembled in regular session at Dodge City, Kansas, this 7<sup>th</sup> day of November, 2016, that Thursday, November 10<sup>th</sup> be set aside as

### **DODGE CITY HIGH SCHOOL RED DEMON SOCCER TEAM DAY**

to honor a team of young men who are representative of the quality and caliber of young men and women, not only of our school community, but of our entire community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the great seal of the City of Dodge City to be affixed, this 7<sup>th</sup> day of November, 2016.

ATTEST

\_\_\_\_\_  
Nannette Pogue, City Clerk

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Mayor

# **CITY COMMISSION MINUTES**

City Hall Commission Chambers

Monday, October 17, 2016

7:00 p.m.

MEETING #5048

## **CALL TO ORDER**

**ROLL CALL:** Mayor Rick Sowers, Commissioners Brian Delzeit, Joyce Warshaw, and Jan Scoggins. Commissioner Kent Smoll was reported absent.

**INVOCATION** by Pastor Tyler Mah of the First Southern Baptist Church

## **PLEDGE OF ALLEGIANCE**

## **PETITIONS & PROCLAMATIONS**

**VISITORS** (Limit of five minutes per individual and fifteen minutes per topic. Final action may be deferred until the next City Commission meeting unless an emergency situation does exist).

## **CONSENT CALENDAR**

1. Approval of City Commission Meeting Minutes, October 3, 2016;
2. Appropriation Ordinance No. 20, October 17, 2016;
3. Cereal Malt Beverage License:
  - a. Sombreros Mexican Food, 308 W. Wyatt Earp Blvd.;
4. Approval of Lease Agreement with PenAir, Inc.

Commissioner Jan Scoggins moved to approve the Consent Calendar as presented; Commissioner Brian Delzeit seconded the motion. The motion carried 4-0.

## **ORDINANCES & RESOLUTIONS**

**Ordinance No. 3639:** An Ordinance Authorizing the Execution of the Third Amendment to the Loan Agreement Between Dodge City, Kansas and the State of Kansas, Acting by and Through the Kansas Department of Health and Environment for the Purpose of Obtaining a Loan in the amount not to exceed the existing loan by \$9,834,150.09 at a rate of 2.58% with the term remaining the same from the Kansas Water Pollution Control Revolving Fund for the Purpose of Financing a Wastewater Treatment Project; Establishing a Dedicated Source of Revenue for Certain Documents in Connection with the Third Amendment to the Loan Agreement was approved on a motion by Commissioner Brian Delzeit. Commissioner Jan Scoggins seconded the motion. The motion carried 4-0.

**Ordinance No. 3640:** An Ordinance Establishing No Parking Zone on Frontview Road from Loretta Avenue West 1, 350 Feet and Providing Penalties for the Violation of the Provisions of This Ordinance was approved on a motion by Commissioner Brian Delzeit. Commissioner Jan Scoggins seconded the motion. The motion carried 4-0.

**Resolution No 2016-24:** A Resolution Delaying the Commencement of the Collection of a Community Improvement District Sales Tax from January 1, 2017 to January 1, 2018 (Santa Fe Plaza Cid) was approved on a motion by Commissioner Jan Scoggins. Commissioner Joyce Warshaw seconded the motion. The motion carried 4-0.

**Resolution No 2016-25:** A Resolution Delaying the Commencement of the Collection of a Community Improvement District Sales Tax from April 1, 2017 to July 1, 2017(Inn Vestments) was approved on a motion by Commissioner Jan Scoggins. Commissioner Joyce Warshaw seconded the motion. The motion carried 4-0.

## **NEW BUSINESS**

1. Commissioner Rick Sowers moved to approve the Amendment No. 10 to the Agreement for Operations Maintenance and Management Services with CH2M Hill in the amount of \$1,176,385 and authorize the City Manager to sign the contract. Commissioner Jan Scoggins seconded the motion. The motion carried 4-0.
2. Commissioner Jan Scoggins moved to approve the 2017 Southwest Kansas Coalition Legislative Policy. Commissioner Brian Delzeit seconded the motion. The motion carried 4-0.
3. Commissioner Joyce Warshaw moved to approve the Agreement with Max Jantz Excavating for Removal of Sediment in River Bed – Accreditation Levee System Project in an amount not to exceed \$1,110,988.35 and authorize the City Manager to sign the agreement. Commissioner Brian Delzeit seconded the motion. The motion carried 4-0.
4. Commissioner Brian Delzeit moved to approve the bid from Motorola Solutions for Radio Communication Devices for Fire/Police/Public Works Departments in an amount not to exceed \$695,733.54, contingent upon Ford County approving the communication equipment, and direct staff to seek lease purchase financing, and allow the City Manager to work with the County Administrator to make changes necessary in the Communications Agreement. Commissioner Joyce Warshaw seconded the motion. The motion carried 4-0.

## **OTHER BUSINESS**

City Manager, Cherise Tieben

- The City received a plaque from DCCC with a picture of their new Activity Center in appreciation of the City's participation in the project.

- At the next meeting, there will be a work session regarding Business Licenses.
  
- We have been approached about allowing chickens in the City limits. We currently allow chickens in the agriculture zone and in other zones with a conditional use permit. Several other communities are making allowances for the chickens.
- Passed around a retirement card for John Scott from Interfaith Housing. The City has worked with him on several projects and he has been a big supporter of housing in the community.
- Sending thank you notes to United Wireless and Boot Hill Casino and Resort for them renewing their naming rights contract at the United Wireless Arena.
- On October 20, 2016, Joyce and Jan will be attending the Kansas League of Municipalities Regional Supper.
- On October 20, 2016, the annual Black Hills dinner will be held.
- On October 27, 2016, Great Plains Development Inc. will hold their annual banquet.
- On October 29, 2016, is the Library's annual wine and cheese fundraiser.
- On October 19, 2016, Kenworth will have their open house.

#### Jane Longmeyer

- CREW organized America Recycles Day on November 5 at the Civic Center Parking Lot from 10:00 a.m. to 1:00 p.m. A flyer is available and information is on the City's website outlining the activities.

#### Commissioner Jan Scoggins

- Thanked Jane Longmeyer for organizing the America Recycles Day and many events like this and her involvement in the community.
- The Ice Rink at the United Wireless Arena is so much fun and would recommend it to people of all ages.

#### Commissioner Joyce Warshaw

- Remind parents that conferences are this week and would encourage all parents to attend.
- Halloween is around the corner, so make sure it is safe for all children.

#### Commissioner Brian Delzeit

- Ray Slattery and his staff did an amazing job on Campus Avenue.
- Asked Ray if he will coordinate with the High School when the No Parking signs are installed.
- Youth Hockey League is starting up.

Mayor Rick Sowers read a statement regarding law enforcement activities that were conducted during the past weekend.

### **EXECUTIVE SESSION**

At 7:45 Rick Sowers moved and Jan Scoggins seconded the motion that the City Commission recess into executive session pursuant to the confidential data relating to financial affairs or trade secrets of third parties and matters relating to security measures exceptions found in K.S.A. 75-4319(b). The justification for closing the meeting is in order to protect the privacy of the entities to be discussed and to avoid jeopardizing security measures that protect citizens and City staff and/or property. The executive session will include the City Manager, City Attorney, Assistant to the City Manager/Assistant Finance Director, Finance Director, County Administrator and County Attorney. The open meeting will resume in the City Commission Chambers in 40 minutes at 8:25 p.m.

The City Commission will not take action upon returning to open session and prior to adjournment.

At 8:25 p.m. the City Commission reconvened to Regular Session.

### **ADJOURNMENT**

Commissioner Jan Scoggins moved to adjourn the meeting; Commissioner Brian Delzeit seconded the motion. The motion carried 4-0.

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Mayor

ATTEST:

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City Clerk, Nannette Pogue

**INDIVIDUAL/SOLE PROPRIETOR  
APPLICATION FOR LICENSE TO SELL CEREAL MALT BEVERAGES**

(This form has been prepared by the Attorney General's Office)

City or  County of Dodge City

<b>SECTION 1 - LICENSE TYPE</b>	
Check One: <input type="checkbox"/> New License <input checked="" type="checkbox"/> Renew License <input type="checkbox"/> Special Event Permit	
Check One:	
<input checked="" type="checkbox"/> License to sell cereal malt beverages for consumption on the premises.	
<input type="checkbox"/> License to sell cereal malt beverages in original and unopened containers and not for consumption on the licenses premises.	

<b>SECTION 2 - APPLICANT INFORMATION</b>		
Kansas Sales Tax Registration Number (required): <u>004-481236736 - F01</u>		
Name <u>Riley E. Skaggs</u>	Phone No. <u>620-225-9466</u>	Date of Birth <u>Feb. 21, 43</u>
Residence Street Address <u>305 E. Trail St</u>	City <u>Dodge City, KS</u>	Zip Code <u>67801</u>
<b>Applicant Spousal Information</b>		
Spouse Name	Phone No.	Date of Birth
Residence Street Address	City	Zip Code

<b>SECTION 3 - LICENSED PREMISE</b>	
Licensed Premise (Business Location or Location of Special Event)	Mailing Address (If different from business address)
DBA Name <u>Kates</u>	Name <u>Kates</u>
Business Location Address <u>305 E. Trail St.</u>	Address <u>305 E. Trail St.</u>
City <u>Dodge City</u> State <u>KS</u> Zip <u>67801</u>	City <u>Dodge City, KS</u> State <u>KS</u> Zip <u>67801</u>
Business Phone No. <u>620-225-9466</u>	<input checked="" type="checkbox"/> I own the proposed business or special event location. <input type="checkbox"/> I do not own the proposed business or event location.
Business Location Owner Name(s)	

<b>SECTION 4 - APPLICANT QUALIFICATION</b>	
I am a U.S. Citizen	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have been a resident of Kansas for at least one year prior to application.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have resided within the state of Kansas for <u>71</u> years.	
I am at least 21 years old.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have been a resident of this county for at least 6 months.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Within 2 years immediately preceding the date of this application, neither I nor my spouse <sup>1</sup> has been convicted of, released from incarceration for or released from probation or parole for any of the following crimes: (1) Any felony; (2) a crime involving moral turpitude; (3) drunkenness; (4) driving a motor vehicle while under the influence of alcohol (DUI); or (5) violation of any state or federal intoxicating liquor law.	<input type="checkbox"/> Yes Have <input checked="" type="checkbox"/> No Have Not
My spouse has previously held a CMB license.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
My spouse has never been convicted of one of the crimes mentioned above while licensed.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

# CORPORATE APPLICATION FOR LICENSE TO SELL CEREAL MALT BEVERAGES

(This form has been prepared by the Attorney General's Office)

City or  County of Dodge City

SECTION 1 - LICENSE TYPE	
Check One: <input type="checkbox"/> New License <input checked="" type="checkbox"/> Renew License <input type="checkbox"/> Special Event Permit	
Check One: <input type="checkbox"/> License to sell cereal malt beverages for consumption on the premises. <input checked="" type="checkbox"/> License to sell cereal malt beverages in original and unopened containers and not for consumption on the licensed premises.	

SECTION 2 - APPLICANT INFORMATION			
Kansas Sales Tax Registration Number (required): <u>004-710727492F-01</u>			
Name of Corporation <u>Murphy Oil USA, Inc.</u>	Principal Place of Business <u>Murphy USA #7483</u>		
Corporation Street Address <u>300 East Peach St., El Dorado, AR 71730</u>	Corporation City <u>El Dorado</u>	State <u>AR</u>	Zip Code <u>71730</u>
Date of Incorporation <u>09-28-1992</u>	Articles of Incorporation are on file with the Secretary of State.		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Resident Agent Name <u>The Corporation Company</u>	Phone No. <u>870-875-7690</u>		
Residence Street Address <u>515 S. Kansas Avenue</u>	City <u>Topeka</u>	State <u>KS</u>	Zip Code <u>66603</u>

SECTION 3 - LICENSED PREMISE			
Licensed Premise (Business Location or Location of Special Event)		Mailing Address (If different from business address)	
DBA Name <u>Murphy USA #7483</u>	Name <u>Permits Department</u>		
Business Location Address <u>1907 North 14th Ave</u>	Address <u>PO Box 7300</u>		
City <u>Dodge City</u> State <u>KS</u> Zip <u>67801</u>	City <u>El Dorado</u>	State <u>AR</u>	Zip <u>71731</u>
Business Phone No. <u>620-227-5228</u>	<input checked="" type="checkbox"/> Applicant owns the proposed business or special event location. <input type="checkbox"/> Applicant does not own the proposed business or event location.		
Business Location Owner Name(s) <u>Murphy Oil USA, Inc.</u>			

SECTION 4 - OFFICERS, DIRECTORS, STOCKHOLDERS OWNING 25% OR MORE OF STOCK			
List each person and their spouse, if applicable. Attach additional pages if necessary.			
Name <u>See Attached.</u>	Position		Date of Birth
Residence Street Address	City	State	Zip Code
Spouse Name	Position		Date of Birth
Residence Street Address	City	State	Zip Code
Name	Position		Date of Birth
Residence Street Address	City	State	Zip Code
Spouse Name	Position		Age
Residence Street Address	City	State	Zip Code
Name	Position		Date of Birth
Residence Street Address	City	State	Zip Code
Spouse Name	Position		Age
Residence Street Address	City	State	Zip Code

\$ 75.00 *AP*



# Parks and Recreation

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PO Box 880 • Dodge City KS 67801 • Phone: 620/225-8160 • Fax: 620/225-8144

## *Memorandum*

To: Cherise Tieben, City Manager  
City Commissioners

From: Paul Lewis, Parks & Recreation Director

Cc: Ray Slattery, Director of Engineering Services  
Melissa McCoy, Project Dev. Coordinator

Date: October 28, 2016

Subject: KDOT 29-TE-0449-01 Agreement

Agenda Item: Consent Calendar

**Recommendation:** Staff recommends authorizing the Mayor to execute the Transportation Alternatives (TA) agreement with Kansas Department of Transportation (KDOT) for the Heritage District Beautification project.

**Background:** In November of 2015 the Commission authorized staff to submit an application to KDOT for a TA project to provide landscaping and beautification of the Heritage District improvements along South Front Street. Through the Heritage District STAR bonds project, new parking structures were to be installed from 1<sup>st</sup> Ave. west to 5<sup>th</sup> Ave. adjacent to the rail lines. The TA project was to fund landscaping improvements along that area similar to work previously completed north of the tracks.

In April of this year the City was notified our project was approved for funding and approval of this contract is required for formal approval of the project by both parties.

**Justification:** This project is an integral part of the Heritage District STAR bond initiative. Through the Heritage Project, new parking structures are being placed in the South Front Street right of way. These structures are necessary to serve the hotel, restaurant, water park, and other improvements already completed or under construction. The landscaping component ties in with work on the north side of the tracks and beautifies the primary downtown corridor in the community.

**Financial Considerations:** The TA program funds 80% of the construction cost and construction engineering for this project with the City being responsible for the remaining 20%.

The amount funded through the TA application is \$192,690 making the City's obligation \$38,538. That amount is available from the STAR bond funds where \$120,000 was anticipated for this project.

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**Purpose/Mission:** This purchase meets the City's Core Value of Making Dodge City the Best Place to Be by providing for the completion of a project that enhances the appearance of the downtown corridor and supports the efforts of the Heritage District project.

**Legal Considerations:** This agreement represents the standard form of agreement between KDOT and their TA Program recipients.

**Attachments:** KDOT Agreement

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PROJECT NO. 29 TE-0449-01  
TA-T044(901)  
TRANSPORTATION ALTERNATIVES PROJECT  
HERITAGE DISTRICT BEAUTIFICATION  
CITY OF DODGE CITY, KANSAS

## AGREEMENT

This Agreement is between the **Secretary of Transportation**, Kansas Department of Transportation (KDOT) (the “Secretary”) and the **City of Dodge City, Kansas** (“City”), **collectively**, the “Parties.”

### RECITALS:

- A. The Secretary is authorized by the current Federal-Aid Transportation Act to set aside certain portion of Federal funding allocated under the current Federal-Aid Transportation Act for Transportation Alternatives (TA) projects.
- B. The Secretary is empowered to pass through Federal Surface Transportation Program (STP) funds for TA projects to eligible state agencies or local governments.
- C. The Secretary and the City are empowered by the laws of Kansas to enter into agreements for Federal STP funding under the Transportation Alternatives Provision of the current Federal-Aid Transportation Act.
- D. The City has requested and Secretary has authorized a Transportation Alternatives (TA) project, as further described in this Agreement.
- E. Under the terms of the current Federal-Aid Transportation Act and the rules and regulations of the Federal Highway Administration (FHWA), states and local governments are, under certain circumstances, entitled to receive assistance in the financing of TA projects, provided however, that in order to be eligible for such federal-aid, such work is required by Federal law to be done in accordance with the laws of the state.

**NOW THEREFORE**, in consideration of these premises and the mutual covenants set forth herein, the Parties agree to the following terms and provisions.

### ARTICLE I

**DEFINITIONS:** The following terms as used in this Agreement have the designated meanings:

1. **“Agreement”** means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.
2. **“City”** means the City of Dodge City, Kansas, with its place of business at 806 2<sup>nd</sup> Ave., Dodge City, KS 67801.

3. **“Construction”** means the work done on the Project after Letting, consisting of building, altering, repairing, improving or demolishing any structure, building or highway; any drainage, dredging, excavation, grading or similar work upon real property.
4. **“Construction Contingency Items”** mean unforeseeable elements of cost within the defined project scope identified after the Construction phase commences.
5. **“Construction Engineering”** means inspection services, material testing, engineering consultation and other reengineering activities required during Construction of the Project.
6. **“Consultant”** means any engineering firm or other entity retained to perform services for the Project.
7. **“Contractor”** means the entity awarded the Construction contract for the Project and any subcontractors working for the Contractor with respect to the Project.
8. **“Design Plans”** means design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies necessary for the Project under this Agreement.
9. **“Effective Date”** means the date this Agreement is signed by the Secretary or the Secretary’s designee.
10. **“Encroachment”** means any building, structure, farming, vehicle parking, storage or other object or thing, including but not limited to signs, posters, billboards, roadside stands, fences, or other private installations, not authorized to be located within the Right of Way which may or may not require removal during Construction pursuant to the Design Plans.
11. **“FHWA”** means the Federal Highway Administration, a federal agency of the United States.
12. **“Hazardous Waste”** includes, but is not limited to, any substance which meets the test of hazardous waste characteristics by exhibiting flammability, corrosivity, or reactivity, or which is defined by state and federal laws and regulations, and any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, including but not limited to leaking underground storage tanks. Any hazardous waste as defined by state and federal laws and regulations and amendments occurring after November 11, 1991, is incorporated by reference and includes but is not limited to: (1) 40 C.F.R. § 261 *et seq.*, Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule; (2) 40 C.F.R. § 280 *et seq.*, Underground Storage Tanks; Technical Requirements and State Program Approval; Final Rules; (3) 40 C.F.R. § 300, National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule; and (4) K.S.A. 65-3430 *et seq.*, Hazardous Waste.
13. **“KDOT”** means the Kansas Department of Transportation, an agency of the state of Kansas, with its principal place of business located at 700 SW Harrison Street, Topeka, KS, 66603-3745.

14. **“Letting” or “Let”** means the process of receiving bids prior to any award of a Construction contract for any portion of the Project.
15. **“Non-Participating Costs”** means the costs of any items or services which the Secretary, acting on the Secretary’s own behalf and on behalf of the FHWA, reasonably determines are not Participating Costs.
16. **“Participating Costs”** means expenditures for items or services which are an integral part of highway, bridge and road construction projects, as reasonably determined by the Secretary.
17. **“Parties”** means the Secretary of Transportation and KDOT, individually and collectively, and the City.
18. **“Preliminary Engineering”** means pre-construction activities, including but not limited to design work, generally performed by a consulting engineering firm that takes place before Letting.
19. **“Project”** means all phases and aspects of the Construction endeavor to be undertaken by the City, as and when authorized by the Secretary prior to Letting, being: **Heritage District Beautification on 5<sup>th</sup> Avenue to 1<sup>st</sup> Avenue adjacent to Wyatt Earp Boulevard near the Railroad Tracks in Dodge City, Kansas**, and is the subject of this Agreement.
20. **“Project Limits”** means that area of Construction for the Project, including all areas between and within the Right of Way boundaries as shown on the Design Plans.
21. **“Responsible Bidder”** means one who makes an offer to construct the Project in response to a request for bid with the technical capability, financial capacity, human resources, equipment, and performance record required to perform the contractual services.
22. **“Right of Way”** means the real property and interests therein necessary for Construction of the Project, including fee simple title, dedications, permanent and temporary easements, and access rights, as shown on the Design Plans.
23. **“Secretary”** means the Secretary of Transportation of the state of Kansas, and his or her successors and assigns.
24. **“Useful Life Period”** means a sufficient period of time, as specifically designated in this Agreement in Article IV, paragraph 2, to secure the investment of federal funds in the Project based on the nature and magnitude of Project costs and generally accepted economic or useful life cycle norms for the type of Construction involved in the Project.
25. **“Utilities” or “Utility”** means all privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, and other similar commodities, including non-transportation fire and police communication systems which directly or indirectly serve the public.

## ARTICLE II

### SECRETARY RESPONSIBILITIES:

1. **Technical Information on Right of Way Acquisition.** The Secretary will provide technical information upon request to help the City acquire Right of Way in accordance with the laws and with procedures established by KDOT's Bureau of Right of Way and the Office of Chief Counsel and as required by FHWA directives to obtain participation of federal funds in the cost of the Project.
2. **Letting and Administration by KDOT.** The Secretary shall Let the contract for the Project and shall award the contract to the lowest Responsible Bidder upon concurrence in the award by the City. The Secretary further agrees, as agent for the City, to administer the Construction of the Project in accordance with the final Design Plans, as required by FHWA, to negotiate with and report to the FHWA and administer the payments due the Contractor or the Consultant, including the portion of the cost borne by the City.
3. **Indemnification by Contractors.** The Secretary will require the Contractor to indemnify, hold harmless, and save the Secretary and the City from personal injury and property damage claims arising out of the act or omission of the Contractor, the Contractor's agent, subcontractors (at any tier), or suppliers (at any tier). If the Secretary or the City defends a third party's claim, the Contractor shall indemnify the Secretary and the City for damages paid to the third party and all related expenses either the Secretary or the City or both incur in defending the claim.
4. **Payment of Costs.** The Secretary agrees to be responsible for eight percent (80%) of the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering, but not to exceed \$154,152.00 for the Project. The Secretary shall not be responsible for the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering that exceed \$192,690.00 for the Project. The Secretary shall not be responsible for the total actual costs of Preliminary Engineering, Right of Way, and Utility adjustments for the Project.
5. **Final Billing.** After receipt of FHWA acknowledgement of final voucher claim, the Secretary's Chief of Fiscal Services will, in a timely manner, prepare a complete and final billing of all Project costs for which the City is responsible and shall then transmit the complete and final billing to the City.

## ARTICLE III

### CITY RESPONSIBILITIES:

1. **Secretary Authorization.** The Project shall be undertaken, prosecuted and completed for and on behalf of the City by the Secretary acting in all things as its agent, and the City hereby constitutes and appoints the Secretary as its agent, and all things hereinafter done by the Secretary in connection with the Project are hereby by the City authorized, adopted, ratified and confirmed to the same extent and with the same effect as though done directly by the City acting in its own individual corporate capacity instead of by its agent. The Secretary is authorized by the City to take such steps as are deemed by the Secretary to be necessary or advisable for the purpose of securing the benefits of the current Federal-Aid Transportation Act for this Project.

2. **Legal Authority.** The City agrees to adopt all necessary ordinances and/or resolutions and to take such administrative or legal steps as may be required to give full effect to the terms of this Agreement.

3. **Conformity with State and Federal Requirements.** The City shall be responsible to design the Project or contract to have the Project designed in conformity with the state and federal design criteria appropriate for the Project in accordance with the current the American Institute of Architects (AIA) standards, the Secretary of the Interior's Standards for the Treatment of Historic Properties, the American Society of Landscape Architects guidelines, KDOT's Design Engineering Requirements, the current Local Projects LPA Project Development Manual, Bureau of Local Project's (BLP's) project memorandums, memos, the KDOT Design Manual, Geotechnical Bridge Foundation Investigation Guidelines, Bureau of Road Design's road memorandums, the latest version, as adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD), the current version of the Bureau of Transportation Safety and Technology's Traffic Engineering Guidelines, and the current version of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions, and any necessary Project Special Provisions, and with the rules and regulations of the FHWA pertaining to the Project.

4. **Design and Specifications.** The City shall be responsible to make or contract to have made Design Plans for the Project.

5. **Submission of Design Plans to Secretary.** Upon their completion, the City shall have the Design Plans submitted to the Secretary by a licensed professional engineer, a licensed professional architect, and/or licensed landscape architect, as applicable, attesting to the conformity of the Design Plans with the items in Article III, paragraph 3 above. The Design Plans must be signed and sealed by the licensed professional engineer, licensed professional architect, and/or licensed landscape architect, as applicable, responsible for preparation of the Design Plans. In addition, geological investigations or studies must be signed and sealed by either a licensed geologist or licensed professional engineer in accordance with K.S.A. 74-7042, who is responsible for the preparation of the geological investigations or studies.

6. **Consultant Contract Language.** The City shall include language requiring conformity with Article III, paragraph 3 above, in all contracts between the City and any Consultant with whom the City has contracted to perform services for the Project. In addition, any contract between the City and any Consultant retained by them to perform any of the services described or referenced in this paragraph for the Project covered by this Agreement must contain language requiring conformity with Article III, paragraph 3 above. In addition, any contract between the City and any Consultant with whom the City has contracted to prepare and certify Design Plans for the Project covered by this Agreement must also contain the following provisions:

- (a) **Completion of Design.** Language requiring completion of all plan development stages no later than the current Project schedule's due dates as issued by KDOT, exclusive of delays beyond the Consultant's control.
- (b) **Progress Reports.** Language requiring the Consultant to submit to the City (and to the Secretary upon request) progress reports at monthly or at

mutually agreed intervals in conformity with the official Project schedule.

- (c) Third Party Beneficiary. Language making the Secretary a third party beneficiary in the agreement between the City and the Consultant. Such language shall read:

“Because of the Secretary of Transportation of the State of Kansas’ (Secretary’s) obligation to administer state funds, federal funds, or both, the Secretary shall be a third party beneficiary to this agreement between the City and the Consultant. This third party beneficiary status is for the limited purpose of seeking payment or reimbursement for damages and costs the Secretary or the City or both incurred or will incur because the Consultant failed to comply with its contract obligations under this Agreement or because of the Consultant’s negligent acts, errors, or omissions. Nothing in this provision precludes the City from seeking recovery or settling any dispute with the Consultant as long as such settlement does not restrict the Secretary’s right to payment or reimbursement.”

7. **Responsibility for Adequacy of Design**. The City shall be responsible for and require any Consultant retained by it to be responsible for the adequacy and accuracy of the Design Plans for the Project. Any review of these items performed by the Secretary or the Secretary’s representatives is not intended to and shall not be construed to be an undertaking of the City’s and its Consultant’s duty to provide adequate and accurate Design Plans for the Project. Reviews by the Secretary are not done for the benefit of the Consultant, the construction Contractor, the City, any other political subdivision, or the traveling public. The Secretary makes no representation, express or implied warranty to any person or entity concerning the adequacy or accuracy of the Design Plans for the Project, or any other work performed by the Consultant or the City.

8. **Design Exception Indemnification**. Any design exception to the current version of the American Association of State Highway and Transportation Officials (AASHTO) Design Standards shall be in accordance with 23 C.F.R. § 625. For any design exception, the City agrees to the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act, to defend, indemnify, hold harmless, and save the Secretary and the Secretary’s authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the design exceptions for this Agreement by the City, the City’s employees, or subcontractors.

9. **Authorization of Signatory**. The City shall authorize a duly appointed representative to sign for the City any or all routine reports as may be required or requested by the Secretary in the completion of the Project.

10. **Right of Way**. The City agrees to the following with regard to Right of Way:

- (a) **Right of Way Acquisition**. The City will, in its own name, as provided by law, acquire by purchase, dedication or condemnation all the Right of Way shown on the final Design Plans in accordance with the schedule established by KDOT. The City agrees the

necessary Right of Way shall be acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and administrative regulations contained in 49 C.F.R. Part 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. The City shall certify to the Secretary, on forms provided by the KDOT's Bureau of Local Projects, such Right of Way has been acquired. The City further agrees it will have recorded in the Office of the Register of Deeds all Right of Way, deeds, dedications, permanent easements and temporary easements.

(b) Right of Way Documentation. The City will provide all legal descriptions required for Right of Way acquisition work. Right of Way descriptions must be signed and sealed by a licensed land surveyor responsible for the preparation of the Right of Way descriptions. The City further agrees to acquire Right of Way in accordance with the laws and with procedures established by KDOT's Bureau of Right of Way and the Office of Chief Counsel and as required by FHWA directives for the participation of federal funds in the cost of the Project. The City agrees copies of all documents, including recommendations and coordination for appeals, bills, contracts, journal entries, case files, or documentation requested by the Office of Chief Counsel will be delivered within the time limits set by the Secretary.

(c) Relocation Assistance. The City will contact the Secretary if there will be any displaced person on the Project prior to making the offer for the property. The Parties mutually agree the Secretary will provide relocation assistance for eligible persons as defined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and as provided in 49 C.F.R. Part 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, and in general accordance with K.S.A. 58-3501 to 58-3507, inclusive, and Kansas Administrative Regulations 36-16-1 *et seq.*

(d) Non-Highway Use of Right of Way. Except as otherwise provided, all Right of Way provided for the Project shall be used solely for public street purposes. Any disposal of or change in the use of Right of Way or in access after Construction of the Project will require prior written approval by the Secretary.

(e) Trails and Sidewalks on KDOT Right of Way. Intentionally Deleted.

(f) Use of City Right of Way. The Secretary shall have the right to utilize any land owned or controlled by the City, lying inside or outside the limits of the City as shown on the final Design Plans, for the purpose of constructing the Project.

11. **Removal of Encroachments**. The City shall initiate and proceed with diligence to remove or require the removal of all Encroachments either on or above the limits of the Right of Way within its jurisdiction as shown on the final Design Plans for this Project. It is further agreed all such Encroachments will be removed before the Project is advertised for Letting; except the Secretary may permit the Project to be advertised for Letting before such Encroachment is fully removed if the Secretary determines the City and the owner of the Encroachment have fully provided for the physical removal of the Encroachment and such removal will be accomplished within a time sufficiently short to present no hindrance or delay to the Construction of the Project.

12. **Future Encroachments.** Except as provided by state and federal laws, the City agrees it will not in the future permit Encroachments upon the Right of Way of the Project, and specifically will require any gas and fuel dispensing pumps erected, moved, or installed along the Project be placed a distance from the Right of Way line no less than the distance permitted by the National Fire Code.

13. **Utilities.** The City agrees to the following with regard to Utilities:

(a) **Utility Relocation.** The City will move or adjust, or cause to be moved or adjusted, and will be responsible for such removal or adjustment of all existing Utilities necessary to construct the Project in accordance with the final Design Plans. New or existing Utilities to be installed, moved, or adjusted will be located or relocated in accordance with the current version of the **KDOT Utility Accommodation Policy** (UAP), as amended or supplemented.

(b) **Status of Utilities.** The City shall furnish the Secretary a list identifying existing and known Utilities affected, together with locations and proposed adjustments of the same and designate a representative to be responsible for coordinating the necessary removal or adjustment of Utilities.

(c) **Time of Relocation.** The City will expeditiously take such steps as are necessary to facilitate the early adjustment of any Utilities, initiate the removal or adjustment of the Utilities, and proceed with reasonable diligence to prosecute this work to completion. The City shall certify to the Secretary on forms supplied by the Secretary that all Utilities required to be moved prior to Construction have either been moved or a date provided by the City as to when, prior to the scheduled Letting and Construction, Utilities will be moved. The City shall move or adjust or cause to be moved or adjusted all necessary Utilities within the time specified in the City's certified form except those necessary to be moved or adjusted during Construction and those which would disturb the existing street surface. The City will initiate and proceed to complete adjusting the remaining Utilities not required to be moved during Construction so as not to delay the Contractor in Construction of the Project.

(d) **Permitting of Private Utilities.** The City shall certify to the Secretary all privately owned Utilities occupying public Right of Way required for the Construction of the Project are permitted at the location by franchise, ordinance, agreement or permit and the instrument shall include a statement as to which party will bear the cost of future adjustments or relocations required as a result of street or highway improvements.

(e) **Indemnification.** To the extent permitted by law, the City will indemnify, hold harmless, and save the Secretary and the Contractor for damages incurred by the Secretary and Contractor because identified Utilities have not been moved or adjusted timely or accurately.

(f) **Cost of Relocation.** Except as provided by state and federal laws, the expense of the removal or adjustment of the Utilities located on public Right of Way shall be borne by the owners. The expense of the removal or adjustment of privately owned Utilities located on private Right of Way or easements shall be borne by the City except as provided by state and federal laws.

14. **Hazardous Waste.** The City agrees to the following with regard to Hazardous Waste:

(a) **Removal of Hazardous Waste.** The City shall locate and be responsible for remediation and cleanup of any Hazardous Waste discovered within the Project Limits. The City shall take appropriate action to cleanup and remediate any identified Hazardous Waste prior to Letting. The City will also investigate all Hazardous Waste discovered during Construction and shall take appropriate action to cleanup and remediate Hazardous Waste. The standards to establish cleanup and remediation of Hazardous Waste include, but are not limited to, federal programs administered by the Environmental Protection Agency, State of Kansas environmental laws and regulations, and City and County standards where the Hazardous Waste is located.

(b) **Responsibility for Hazardous Waste Remediation Costs.** The City shall be responsible for all damages, fines or penalties, expenses, fees, claims and costs incurred from remediation and cleanup of any Hazardous Waste within the Project Limits which is discovered prior to Letting or during Construction.

(c) **Hazardous Waste Indemnification.** The City shall hold harmless, defend, and indemnify the Secretary, the Secretary's agents and employees from all claims, including contract claims and associated expenses, and from all fines, penalties, fees or costs imposed under state or federal laws arising out of or related to any act of omission by the City in undertaking cleanup or remediation for any Hazardous Waste.

(d) **No Waiver.** By signing this Agreement the City has not repudiated, abandoned, surrendered, waived or forfeited its right to bring any action, seek indemnification or seek any other form of recovery or remedy against any third party responsible for any Hazardous Waste on any Right of Way within the Project Limits. The City reserves the right to bring any action against any third party for any Hazardous Waste on any Right of Way within the Project Limits.

15. **Inspections.** The City is responsible to provide Construction Engineering for the Project in accordance with the rules and guidelines developed for the current KDOT approved construction engineering program and in accordance with the current edition of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions and any necessary Project Special Provisions. The detailed inspection is to be performed by the City or the Consultant. The Secretary does not undertake for the benefit of the City, the Contractor, the Consultant or any third party the duty to perform the day-to-day detailed inspection of the Project, or to catch the Contractor's errors, omissions, or deviations from the final Design Plans. The City will require at a minimum all personnel performing Construction Engineering to comply with the high visibility apparel requirements of the KDOT Safety Manual, Chapter 4, Section 8 Fluorescent Vests. The agreement for inspection services must contain this requirement as a minimum. The City may require additional clothing requirements for adequate visibility of personnel.

16. **Traffic Control.** The City agrees to the following with regard to traffic control for the Project:

(a) **Temporary Traffic Control.** The City shall provide a temporary traffic control plan within the Design Plans, which includes the City's plan for handling multi-modal traffic

during Construction, including detour routes and road closings, if necessary, and installation of alternate or temporary pedestrian accessible paths to pedestrian facilities in the public Right of Way within the Project Limits. The City's temporary traffic control plan must be in conformity with the latest version of the Manual on Uniform Traffic Control Devices (MUTCD), as adopted by the Secretary, and be in compliance with the American Disabilities Act of 1990 (ADA) and its implementing regulations at 28 C.F.R. Part 35, and FHWA rules, regulations, and guidance pertaining to the same. The Secretary or the Secretary's authorized representative may act as the City's agent with full authority to determine the dates when any road closings will commence and terminate. The Secretary or the Secretary's authorized representative shall notify the City of the determinations made pursuant to this section.

(b) Permanent Traffic Control. The location, form and character of informational, regulatory and warning signs, of traffic signals and of curb and pavement or other markings installed or placed by any public authority, or other agency as authorized by K.S.A. 8-2005, must conform to the manual and specifications adopted under K.S.A. 8-2003, and any amendments thereto are incorporated by reference and shall be subject to FHWA approval.

(c) Parking Control. The City will control parking of vehicles on the city streets throughout the length of the Project covered by this Agreement. On-street parking will be permitted until such time as parking interferes with the orderly flow of traffic along the street.

(d) Traffic Movements. The arterial characteristics inherent in the Project require uniformity in information and regulations to the end that traffic may be safely and expeditiously served. The City shall adopt and enforce rules and regulations governing traffic movements as may be deemed necessary or desirable by the Secretary and the FHWA.

17. Access Control. The City will maintain the control of access rights and prohibit the construction or use of any entrances or access points along the Project within the City other than those shown on the final Design Plans, unless prior approval is obtained from the Secretary.

18. Maintenance. When the Project is completed and final acceptance is issued and until expiration of the Useful Life Period, the City will, at its own cost and expense, maintain the Project and will make ample provision each year for such maintenance. If notified by the State Transportation Engineer of any unsatisfactory maintenance condition, the City will begin the necessary repairs within thirty (30) days and will prosecute the work continuously until it is satisfactorily completed.

19. Financial Obligation. The City will be responsible for twenty percent (20%) of the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering, up to \$192,690.00 for the Project. In addition, the City agrees to be responsible for one hundred percent (100%) of the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering that exceed \$192,690.00 for the Project. Further, the City agrees to be responsible for one hundred percent (100%) of the total actual costs of Preliminary Engineering, Right of Way, and Utility adjustments for the Project. The City shall also pay for any Non-Participating Costs incurred for the Project along with the associated Non-Participating Construction Engineering costs.

20. Remittance of Estimated Share. The City shall deposit with the Secretary its estimated share of the total Project expenses based upon estimated approved contract quantities. The

City will remit its estimated share by the date indicated on the resolution form Authorization to Award Contract, Commitment of City Funds received by the City from the Secretary. The date indicated for the City to deposit its estimated share of the total Project expenses is fifty (50) days after the Letting date.

21. **Payment of Final Billing.** If any payment is due to the Secretary, such payment shall be made within thirty (30) days after receipt of a complete and final billing from the Secretary's Chief of Fiscal Services.

22. **Accounting.** Upon request by the Secretary and in order to enable the Secretary to report all costs of the Project to the legislature, the City shall provide the Secretary an accounting of all actual Non-Participating Costs which are paid directly by the City to any party outside of the Secretary and all costs incurred by the City not to be reimbursed by the Secretary for Preliminary Engineering, Right of Way, Utility adjustments, Construction, and Construction Engineering work phases, or any other major expense associated with the Project.

23. **Cancellation by City.** If the City cancels the Project, it will reimburse the Secretary for any costs incurred by the Secretary prior to the cancellation of the Project. The City agrees to reimburse the Secretary within thirty (30) days after receipt by the City of the Secretary's statement of the cost incurred by the Secretary prior to the cancellation of the Project.

#### ARTICLE IV

##### **SPECIAL TRANSPORTATION ENHANCEMENT REQUIREMENTS:**

1. **No 4(f) Status.** It is the Parties' intention that neither this Agreement nor the Project create or expand the status of any land involved in this Project as a "significant publicly owned public park, recreation area, or wildlife and waterfowl refuge, or any significant historic site," for purposes of 49 U.S.C. § 303 and 23 C.F.R. 771.135 ("4(f) status"), except as otherwise modified by this Agreement.

(a) **Transportation Alternatives.** Unless otherwise stated below in this section, the Parties agree the major purposes or functions of land involved in the Project are to preserve or enhance the scenic, historic, environmental or archeological aspects, or the usefulness for intermodal users (including bicyclists, pedestrians, and other non-motorized transportation users) of existing or new transportation facilities. It is further agreed any park, recreation or refuge purposes or functions are secondary or incidental for purposes of 49 U.S.C. § 303 and 23 C.F.R. 771.135. Exceptions: NONE.

(b) **4(f) Determinations.** The Parties agree for purposes of any future determinations of 4(f) status issues as required by 49 U.S.C. § 303 or applicable regulations the Secretary is hereby designated as the public official having jurisdiction of such determinations. However, it is not the intent of this section to affect the determination of whether a historic or archaeological site is on or eligible for inclusion on the National Register of Historic Places.

2. **Useful Life.**

(a) **Useful Life Period.** The Parties agree the Useful Life Period of the Project is 20 years, commencing on the date the Secretary gives notice of final acceptance of the Project.

(b) **Insurance.** If the Project includes improvements to a building, the City will purchase and maintain insurance for property damage to the building continuously during the Useful Life Period of the Project in an amount equal to or in excess of the federal funds expended on the Project.

(c) **Change in Public Use.** After the Project is completed and during the entire Useful Life Period, any change in the public use of the real property for the Project will require written approval from the Secretary with FHWA concurrence.

(d) **Recapture of Federal Investment.**

(i) During the first 10 years of the Useful Life Period, if the Project is not used for the purpose set forth in this Agreement or other use approved by the Secretary and the FHWA under subparagraph (c) above, then the City shall pay to the Secretary 100% of the federal funds invested in the Project.

(ii) Following the first 10 years of the Useful Life Period and until the Useful Life Period expires, if the Project is not used for the purpose set forth in this Agreement or other use approved by the Secretary and the FHWA under subparagraph (c) above, then the City shall pay to the Secretary as recapture of federal funds invested in the Project an amount, which will be determined according to the following formula:

$$\frac{\textit{Total Amount of Federal Funds Invested in the Project}}{\textit{Entire Useful Life Period for the Project}} \times \frac{\textit{Number of Full Years Remaining in the Useful Life Period at the time of unauthorized change in use}}{\textit{Recapture Amount}} = \textit{Recapture Amount}$$

(iii) Any payments due to the Secretary pursuant to this subparagraph (d) shall be made within ninety (90) days after receipt of billing from the Secretary's Chief of Fiscal Services.

**ARTICLE V**

**GENERAL PROVISIONS:**

1. **Incorporation of Design Plans.** The final Design Plans for the Project are by this reference made a part of this Agreement.

2. **Civil Rights Act.** The “Special Attachment No. 1,” pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.

3. **Contractual Provisions.** The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part hereof.

4. **Headings.** All headings in this Agreement have been included for convenience of reference only and are not to be deemed to control or affect the meaning or construction or the provisions herein.

5. **Termination.** If, in the judgment of the Secretary, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, the Secretary may terminate this Agreement at the end of its current fiscal year. The Secretary will participate in all costs approved by the Secretary incurred prior to the termination of the Agreement.

6. **Binding Agreement.** This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary and the City and their successors in office.

7. **No Third Party Beneficiaries.** No third party beneficiaries are intended to be created by this Agreement and nothing in this Agreement authorizes third parties to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

**IN WITNESS WHEREOF** the Parties have caused this Agreement to be signed by their duly authorized officers as of the Effective Date.

ATTEST:

THE CITY OF DODGE CITY, KANSAS

\_\_\_\_\_  
CITY CLERK (Date)

\_\_\_\_\_  
MAYOR

(SEAL)

Kansas Department of Transportation  
Secretary of Transportation

By: \_\_\_\_\_  
Catherine M. Patrick, P.E. (Date)  
State Transportation Engineer

### CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

- 1. Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
- 2. Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
- 3. Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges-hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
- 4. Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
- 5. Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

- 6. Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
- 7. Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
- 8. Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
- 9. Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
- 10. Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
- 11. Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
- 12. The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
- 13. Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

## KANSAS DEPARTMENT OF TRANSPORTATION

Special Attachment  
To Contracts or Agreements Entered Into  
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,  
REHABILITATION ACT OF 1973, and any amendments thereto,  
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,  
AGE DISCRIMINATION ACT OF 1975, and any amendments thereto,  
EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY  
POPULATIONS AND LOW INCOME POPULATIONS 1994, and any amendments thereto,  
49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

### NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 355) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such Act, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following "Nondiscrimination Clauses".

### CLARIFICATION

Where the term "Consultant" appears in the following "Nondiscrimination Clauses", the term "Consultant" is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

### Nondiscrimination Clauses

During the performance of this contract, the Consultant, or the Consultant's assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

- 1) Compliance with regulations: The Consultant will comply with the regulations of the U.S. Department of Transportation relating to nondiscrimination in its federally-assisted programs and codified at Title 49, Code of Federal Regulations, Parts 21, 23 and 27, (hereinafter referred to as the "Regulations"). The Regulations are herein incorporated by reference and made a part of this contract.
- 2) Nondiscrimination: The Consultant, with regard to the work performed by the Consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including in the procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- 3) Solicitations for Subcontractors, including Procurements of Material and Equipment: In all solicitations, either competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.

- 4) Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the Consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.
- 5) Employment: The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.
- 6) Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,
  - (a) withholding of payments to the Consultant under the contract until the Consultant complies, and/or
  - (b) cancellation, termination or suspension of the contract, in whole or in part.
- 7) Disadvantaged Business Obligation
  - (a) Disadvantaged Business as defined in the Regulations shall have a level playing field to compete for contracts financed in whole or in part with federal funds under this contract.
  - (b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, color, gender, or national origin in the award and performance of federally-assisted contracts.
  - (c) The Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of Federally-assisted contracts. Failure by the Consultant 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.
- 8) Executive Order 12898
  - (a) To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain, and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the State of Kansas and use such information in complying with Executive Order 12898.
- 9) Incorporation of Provisions: The Consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State.

City of Dodge City

City of Dodge City  
806 N. Second Ave.  
67801

Phone: 620-225-8100  
FAX: 620-225-8144  
www.dodgecity.org

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## ***Memorandum***

To: Cherise Tieben, City Manager  
From: Nannette Pogue  
Date: November 2, 2016  
Subject: Charter Ordinance No. 41  
Agenda Item: Ordinances and Resolutions

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**Recommendation:** I recommend the City Commission adopt Charter Ordinance No. 41.

**Background:** The nature of a Charter Ordinance is to elect that legislative enactments that are not uniformly applicable to all cities not apply to our City. Charter Ordinances are one way in which home rule powers are exercised. Home rule powers are afforded to cities and they are empowered to determine their local affairs and government.

Charter Ordinance No. 41 would exempt the City of Dodge City from the provisions of K.S.A. 13-1024a and provide substitute and additional provisions relating to the same subject. K.S.A. 13-2014 states that any City of the First Class cannot issue General Obligation Bonds to fund most improvements (more specifically outlined in the Charter Ordinance) in excess of \$100,000 without first going to a vote.

The Charter Ordinance also adds a provision that if any improvement by the City is made and it wishes to issue General Bonds to fund these improvements, a Resolution shall be adopted by the Governing Body of the City describing the purpose to be provided for and the amount of Bonds to be issued. At the sole discretion of the Governing Body, such resolution may contain a provision that the issuance of the Bonds be subject to publication in the official newspaper and if within 30 days after the date of publication a sufficient petition is filed, the City shall not have the authority to issue General Obligation Bonds until such questions is submitted to the electors of the City at a special election.

Our Bond Counsel has indicated that most of the Cities of the First Class in Kansas have exempted themselves from the provisions of K.S.A. 13-2014.

**Justification:** This Charter Ordinance would give the City of Dodge City the power to fund improvements necessary to the operation of the City with General Obligation Bonds without conducting an election. We currently are looking at funding the removal of sediment from the Arkansas River Basin in the City Limits. This is phase I of a project

that is required by FEMA to certify the levies. This project cost is approximately \$1,000,000 and would be well over the 100,000 limit to go to an election.

**Financial Considerations:** None with these actions

**Purpose/Mission:** To continue to promote open communications with our community members and to provide a safe and secure community.

**Legal Considerations:** The Charter Ordinance shall require a 2/3 vote of the City Commission and shall be published once each week for two consecutive weeks in the Dodge City Daily Globe. The Charter ordinance will not take effect until 60 days after its final publication. If within 60 days a sufficient petition is filed by the electors, the Charter Ordinance will not take effect until approved by a majority of the electors voting thereon.

**Attachments:** Charter Ordinance No. 41

(Published in the *Dodge City Daily Globe* on November 10, 2016, and November 17, 2016)

**CHARTER ORDINANCE NO. 41**

**A CHARTER ORDINANCE EXEMPTING THE CITY OF DODGE CITY, KANSAS, FROM THE PROVISIONS OF K.S.A. 13-1024a AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO GENERAL IMPROVEMENTS AND THE ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING FOR SAID IMPROVEMENTS.**

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**WHEREAS**, Article 12, § 5 of the Constitution of the State of Kansas (the “Act”) empowers cities to determine their local affairs and government and provides that such power and authority granted thereby to cities shall be liberally construed for the purpose of giving to cities the largest measure of self-government, including passing charter ordinances which exempt such cities from non-uniform statutes and acts of the Kansas Legislature; and

**WHEREAS**, the City of Dodge City, Kansas (the “City”) is a City, as defined in the Act, duly created and organized, under the laws of the State of Kansas; and

**WHEREAS**, K.S.A. 13-1024a is part of an enactment of the Kansas Legislature (K.S.A. 13-1024a *et seq.*) relating to general improvements and the issuance of bonds for such purposes, which enactment is applicable to the City, but is not uniformly applicable to all cities within the State of Kansas; and

**WHEREAS**, the governing body of the City (the “Governing Body”) desires, by charter ordinance, to exempt the City from the provisions of K.S.A. 13-1024a, and to provide substitute and additional provisions therefor.

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

**Section 1. Exemption – K.S.A. 13-1024a.** The City by virtue of the powers vested in it by the Act, hereby elects to exempt itself from and hereby makes inapplicable to it the provisions of K.S.A. 13-1024a, and does hereby provide the following substitute and additional provisions in place thereof:

For the purpose of paying for any bridge, viaduct, street, sidewalk or pedestrian way improvement, airport, public building or structure, parking improvement, or other public utility or works, including any appurtenances related thereto and the land necessary therefor, for lands for public parks and recreation facilities, including golf courses, stadiums and community centers, and developing and making improvements to the same, within or without the city, for the establishment, development and construction of crematories, desiccating or reduction works, including any appurtenances related thereto and the land necessary therefor, within or without the city, or for the improvement, repair or extension of any waterworks, sanitary sewer facilities, sewage treatment or disposal plant, sewerage system, storm water improvement, electric light plant, crematory, desiccating or reduction works or other public utility plant or works owned by the city, and for the purpose of rebuilding, adding to or extending to the same or acquiring land necessary therefor from time to time, as the necessities of the city may require, or for the

acquisition of equipment, vehicles and other personal property to be used in relation to any of the improvements authorized herein, the city may borrow money and issue its general obligation bonds and/or temporary notes for the same.

**Section 2. Bond Authorization.** The City may issue its general obligation bonds (the “Bonds”) to pay the costs of any purpose or purposes described in **Section 1** when authorized to do so by the adoption of a resolution by the Governing Body of the City describing the purpose to be provided for and the amount of Bonds to be issued. The Bonds shall be issued, sold, delivered and retired in accordance with the provisions of the general bond law.

At the sole discretion of the Governing Body, such resolution may (but is not required to) contain a provision that the issuance of the Bonds be subject to: (a) a provision that the resolution be published one time in the official City newspaper, and if within 30 days after the date of publication of the resolution, a petition in opposition to the issuance of the Bonds, signed by not less than 10% of the qualified electors of the City, is filed with the City Clerk, the City shall not have the authority to issue the Bonds until such question is submitted to the electors of the City at a special election called for that purpose or at the next general election and approved by a majority of the electors of the City voting at such election; or (b) approval by a majority of the electors of the City voting on such question at a special election called for that purpose or at the next general election. If the Governing Body provides for notice and protest as set forth in **subsection (a)**, and no such written protest is filed pursuant to **subsection (a)**, the City may proceed to issue the Bonds. Any election required by this section shall be conducted in the manner set forth in K.S.A. 10-120 by the election officer of the county in which the City is located.

**Section 3. Severability.** If any provision or section of this Charter Ordinance is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidity shall not affect any other provision of this Charter Ordinance. In such instance, this Charter Ordinance shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

**Section 4. Effective Date.** This Charter Ordinance shall be published once a week for two consecutive weeks in the official City newspaper, and shall take effect sixty-one (61) days after final publication, unless a petition signed by a number of electors of the City equal to not less than ten percent (10%) of the number of electors who voted at the last preceding regular City election shall be filed in the office of the Clerk, demanding that this Charter Ordinance be submitted to a vote of the electors, in which event this Charter Ordinance shall take effect when approved by a majority of the electors voting at an election held for such purpose.

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**PASSED** with at least a two-thirds (2/3) vote of the entire governing body of the City of Dodge City, Kansas, on November 7, 2016 and **SIGNED** by the Mayor.

(SEAL)

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Mayor

ATTEST:

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Clerk

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**CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of the original Charter Ordinance No. \_\_\_\_; that was passed by the governing body on November 7, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_.

DATED: November 7, 2016.

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Clerk

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**CERTIFICATE OF NO PROTEST**

STATE OF KANSAS            )  
  ) ss:  
COUNTY OF FORD         )

The undersigned, Clerk of the City of Dodge City, Kansas (the “City”), does hereby certify that the governing body of the City duly passed Charter Ordinance No. [\_\_\_\_] on November 7, 2016, that said Charter Ordinance was published once a week for two consecutive weeks in the *Dodge City Daily Globe*, the official City newspaper, on November 10, 2016, and November 17, 2016; that more than sixty (60) days have elapsed from the date of the last said publication; and that there has been no sufficient written protest filed in my office against said Charter Ordinance, as provided in Article 12, Section 5 of the Kansas Constitution.

**WITNESS** my hand and official seal on January 17, 2017

(Seal)

\_\_\_\_\_  
Clerk

## *Memorandum*

*To: Cherise Tieben, City Manager*  
*From: Nannette Pogue*  
*Date: November 3, 2016*  
*Subject: Ordinance No. 3641*  
*Agenda Item: Ordinances and Resolutions*

---

**Recommendation:** I recommend the City Commission approve Ordinance No. 3641 and approve a Lease Purchase Agreement with U.S. Bancorp Government Leasing and Finance, Inc. for the financing of the radios and communication equipment.

**Background** The bid from Motorola Solutions for Radio Communication Devices for Fire/Police/Public Works Departments in an amount not to exceed \$695,733.54, was approved at the October 17, 2016, City Commission meeting. At that time the Commission also directed staff to seek lease purchase financing. I solicited bids for the lease purchase financing of that project. We originally wanted a 10 year contract for lease purchase, but all banks, as well as Motorola, indicated that they could only finance this type of equipment for 7 years. I received 7 bids for the financing of this project. A summary of those bids are attached. The low bid was U.S. Bancorp Government Leasing and Finance, Inc. The interest rate was 1.762%, with annual payments of \$105,767.65 annually over 7 years and the interest paid of \$44,633.55

**Justification:** The City of Dodge City along with Ford County is updating its emergency communications equipment and it was determined to finance this equipment through a Lease Purchase Agreement

**Financial Considerations:** Annual payments of approximately \$105,767.65 for 7 years to be paid from the Capital Improvement Fund.

**Purpose/Mission:** On-going Improvement to provide for community growth.

**Legal Considerations:** All legal considerations will be satisfied with the Ordinance and City Attorney's opinion to be submitted with the lease.

**Attachments:** Ordinance No. 3641 and bid summary.

ORDINANCE NO. 3641

AN ORDINANCE AUTHORIZING THE CITY OF DODGE CITY, KANSAS, TO ENTER INTO A LEASE PURCHASE AGREEMENT, THE PROCEEDS OF WHICH WILL BE USED TO PAY THE COSTS TO PURCHASE RADIO AND COMMUNICATION EQUIPMENT FOR USE IN THE POLICE, FIRE AND PUBLIC WORKS DEPARTMENTS; AND TO APPROVE THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, under the statutes of the State of Kansas, particularly K.S.A. 10-1116b, the City of Dodge City is empowered to enter into certain leases, lease purchase agreements and installment purchase agreements for the lease and/or acquisition of property; and

WHEREAS, K.S.A. 10-1116b provides in pertinent part that nothing in the provisions of K.S.A. 10-1101 et seq. (Kansas Cash Basis Law) shall prohibit a municipality from entering into a lease agreement, with or without an option to buy, or an installment-purchase agreement, if any of such agreements specifically states that the municipality is obligated only to pay periodic payments or monthly installments under the agreement as may lawfully be made from (a) funds budgeted and appropriated for that purpose during such municipality's current budget year or (b) funds made available from any lawfully operated revenue producing source; and

WHEREAS, the City has a need to acquire radio and communication equipment to upgrade the current emergency and communications equipment, but does not have sufficient moneys on hand legally available to purchase the equipment for its use; and

WHEREAS, in order to facilitate the foregoing and to pay the costs thereof, it is necessary and desirable for the City to take the following actions:

1. Enter into an annually renewable Lease Purchase Agreement with U.S. Bancorp Government Leasing and Finance, Inc. as lessor, pursuant to which the City will lease the Radio and Communication Equipment on a year-to-year basis from the Lessor with an option to purchase the Lessor's interest in the equipment.
2. Enter into an Escrow Agreement between the Lessor, the City and U.S. Bank National Association pursuant to which the proceeds of the Lease will be deposited with the Escrow Agent and disbursed to pay the costs of the radio and communication equipment;

The Lease and the Escrow Agreement are referred to together herein as the "City Documents"

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

Section 1. Authorization and Approval of City Documents.

- (a) The City Documents are hereby approved in substantially the forms submitted to and reviewed by the governing body on the date hereof, with such changes therein as shall be approved by the Mayor, the Mayor's execution of the City Documents to be conclusive evidence of such approval.
- (b) The obligation of the City to pay Basic Rent Payment (as defined in the Lease) under the Lease is subject to annual appropriation and shall constitute a current expense of the City and shall not in any way be construed to be an indebtedness or liability of the City in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness or liability by the City, nor shall anything contained in the Lease constitute a pledge of the general tax revenues, funds or moneys of the City, and all provisions of the Lease shall be construed so as to give effect to such intent.
- (c) The Mayor and City Clerk are hereby authorized and directed to execute and deliver the City Documents on behalf of the City.

Section 2. Further Authority. The City shall, and the official and agents of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 3. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the Governing Body.

ADOPTED by the Governing Body and signed by the Mayor of the City of Dodge City, Kansas this 7<sup>th</sup> day of November, 2016.

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Mayor

ATTEST:

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City Clerk

Summary of Bids for Lease Purchase of Radio and Communications Equipment

<u>Bank</u>	<u>Interest Rate</u>	<u>Monthly Payment</u>	<u>Total Interest Paid Over Term</u>
Sunflower Bank	2.950%	117,996.00	130,132.00
Landmark National Bank	3.200%	110,999.28	81,254.96
Bank of the West	2.990%	111,628.61	85,660.26
Clayton Holdings	1.820%	105,926.33	45,744.31
US Bancorp	1.762%	105,767.65	44,633.55
Western State Bank	2.100%	107,056.79	53,657.53
Motorola	3.330%	113,062.61	

\*\*Payment began 1 yr after execution of contract

\*\* I recorded what was given to me, did not change or check any figures

## *Memorandum*

*To: Cherise Tieben, City Manager*  
*From: Nannette Pogue*  
*Date: November 7, 2016*  
*Subject: Ordinance No. 3642*

*Agenda Item: Ordinances and Resolutions*

---

**Recommendation:** I recommend the approval of Ordinance No. 3642

**Background:** At the November 7 City Commission meeting there is action approving the sale of General Obligation Bonds to finance various streets improvements. The City Commission previously approved all of the street improvement projects that will be financed with the GO Bonds. The authority to fund these projects states that the street improvements are main traffic ways. At various times over the years all of the streets in this list of improvements have been designated as main traffic ways except for two. Those two are Gary Avenue and Frontview Street. This Ordinance designates the two streets as main traffic ways.

**Justification:** To issue the General Obligation Bonds that have been authorized, all the streets for improvement are designated as main trafficways.

**Financial Considerations:** No additional

**Purpose/Mission:** To maintain and improve the infrastructure in Dodge City.

**Legal Considerations:** None

**Attachments:** Ordinance No. 3642

(Published in the *Dodge City Daily Globe* on November 11, 2016)

**ORDINANCE NO. 3642**

**AN ORDINANCE DESIGNATING CERTAIN STREETS WITHIN THE CITY OF  
DODGE CITY, KANSAS, AS MAIN TRAFFICWAYS.**

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**WHEREAS**, K.S.A. 12-685 *et seq.* (the “Act”) provides that the governing body of any city is authorized and empowered to designate and establish, by ordinance, as a main trafficway, any existing or proposed street, boulevard, avenue or part thereof, within such city, the primary function of which is, or shall be, the movement of through traffic between areas of concentrated activity within the city or between such areas within the city and traffic facilities outside the city performing the function of a major trafficway; and such designation by the governing body shall be final and conclusive; and

**WHEREAS**, the City Commission (the “Governing Body”) of the City of Dodge City, Kansas (the “City”), hereby finds and determines that certain streets within the City should be designated and established as main trafficways as provided by and under the authority of the Act.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DODGE CITY, KANSAS, AS FOLLOWS:**

**Section 1. Designation.** It is hereby authorized, ordered and directed, under the authority of the Act, that the following streets located within the limits of the City are hereby designated and established as main trafficways:

Street Name  
Gary Avenue  
Frontview Street

**Section 2. Ratification.** The improvements to Gary Avenue and Frontview Street and the authority to issue general obligation bonds of the City to pay the costs thereof (including interest on interim financing and associated financing costs) set forth in Resolution No. 2016-15, adopted by the Governing Body on May 16, 2016, are hereby ratified and confirmed.

**Section 3. Effective Date.** This Ordinance shall take effect and be of force from and after its passage by the governing body of the City and publication in the official City newspaper.

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**PASSED** by the governing body of the City on November 7, 2016, and **SIGNED** by the Mayor.

(SEAL)

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Mayor

ATTEST:

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Clerk

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**CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on November 7, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance or a summary thereof was published in the *Dodge City Daily Globe* on November 11, 2016.

DATED: November 11, 2016.

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Clerk

# *Memorandum*

To: City Commissioners  
City Manager  
From: Barb Slagle  
Director of Human Resources  
Date: November 2, 2016  
Subject: Resolution No. 2016-26  
Agenda Item: Year End Bonuses

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**Recommendation: Approval of Resolution No. 2016-26**

**Background:** Each non-probationary full-time employee with over one (1) year of service will receive a bonus of \$50.00 per calendar years worked for the City, a benefit adopted in 1998. Each non-probationary regular part-time employee with over one (1) year of service will receive a bonus of \$25.00 per calendar years worked for the City. A cap of \$1,000 after 20 years of service has been established.

**Justification:** This is a budgeted item and funds are available.

**Financial Considerations:** The amount budgeted for the 2016 annual bonuses is \$99,600.00.

**Purpose/Mission:** To provide employees an annual reward benefit for their continued efforts in striving to achieve high performance and service standards set by us and expected by the community.

**Legal Considerations:** None

**Attachments:** Resolution No. 2016-26

## *Memorandum*

*To: Cherise Tieben City Manager*  
*From: Nannette Pogue*  
*Date: November 2, 2016*  
*Subject: Resolution No. 2016-27*  
*Agenda Item: Ordinances and Resolutions*

---

**Recommendation:** I recommend the City Commission approve Resolution No. 2016-27

**Background:** Resolution No. 2016-27 is a resolution that offers for sale general obligation bonds, series 2016-B of the City of Dodge City.

Included in this offering will be bonds to finance several street improvements including: Park Street Reconstruction – 5<sup>th</sup> Ave. to Santa Fe Ave.; 1<sup>st</sup> Ave. Reconstruction – Hickory St. to Division St.; Asphalt Street Reconstruction – 3000 block of Gary Ave., intersection of Central Ave. and Frontview St., and Comanche St. from Fairway Dr. to Ave. P; US 50 & Fairway Drive Intersection; Ave. A Bridge Deck Replacement; and 6<sup>th</sup> Ave. Extension. Also, if the current rate environment holds, we will have a chance to refund the 2009-A maturing 2020 to 2029 with the offering.

Earlier this year, the City Commission approved the street projects.

**Justification:** The City is offering for sale the bonds and approving the Preliminary Official Statement so that the underwriter can take the bonds to the market.

**Financial Considerations:** The bonds will mature over 15 years.

**Purpose/Mission:** We strive for high service and performance standards

**Legal Considerations:** Legal obligations fulfilled by authorizing resolution.

**Attachments:** Resolution No. 2016-27 and Preliminary Official Statement

**RESOLUTION NO. 2016-26**

**A RESOLUTION AUTHORIZING PAYMENT OF 2016 YEAR END  
BONUSES TO QUALIFIED EMPLOYEES**

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BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY:

WHEREAS: Taking into consideration the City's financial standing, the Governing Body desires to recognize the dedication and commitment of City employees by a discretionary year end bonus, under the guidelines established by Resolution 98-41.

ADOPTED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY THE 7<sup>TH</sup> DAY OF NOVEMBER, 2016.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Nannette Pogue, City Clerk

**RESOLUTION NO. 2016-27**

**A RESOLUTION AUTHORIZING THE OFFERING FOR SALE OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2016-B, OF THE CITY OF DODGE CITY, KANSAS.**

**WHEREAS**, the City of Dodge City, Kansas (the “Issuer”), has previously authorized certain internal improvements described as follows (collectively the “Improvements”):

<u>Project Description</u>	<u>Ord./Res. No.</u>	<u>Authority (K.S.A.)</u>	<u>Project Cost</u>
Park Street Reconstruction – 5 <sup>th</sup> Ave. to Santa Fe Ave.	Ord. 3087/ Res. 2016-15	12-685 <i>et seq.</i>	\$ 335,000
1 <sup>st</sup> Ave. Reconstruction – Hickory St. to Division St.	Ord. 3038/ Res. 2016-15	12-685 <i>et seq.</i>	240,000
Asphalt Street Reconstruction – 3000 block of Gary Ave.; intersection of Central Ave. and Frontview St.; and Comanche St. from Fairway Dr. to Ave. P	Ord. 3038/ Res. 2016-15	12-685 <i>et seq.</i>	225,000
US 50 & Fairway Drive Intersection	Ord. 3569/ Res. 2016-15	12-685 <i>et seq.</i>	600,000
Ave. A Bridge Deck Replacement	Ord. 3038/ Res. 2016-15	12-685 <i>et seq.</i>	350,000
6 <sup>th</sup> Ave. Extension <sup>1</sup>	Ord. 3087/ Res. 2016-15	12-685 <i>et seq.</i>	<u>1,600,000</u>
<b>Total</b>			<b><u>\$3,350,000</u></b>

<sup>1</sup> The Bonds will finance approximately \$805,000 of this project.

**WHEREAS**, the Issuer proposes to issue its general obligation bonds to pay a portion of the costs of the Improvements; and

**WHEREAS**, the Issuer has previously issued and has outstanding general obligation bonds; and

**WHEREAS**, due to the current interest rate environment, the Issuer has the opportunity to issue its general obligation refunding bonds in order to achieve an interest cost savings on all or a portion of the debt represented by such general obligation bonds described as follows (the “Refunded Bonds”):

<u>Description</u>	<u>Series</u>	<u>Dated Date</u>	<u>Years</u>	<u>Amount</u>
G.O. Refunding and Improvement Bonds	2009-A	October 21, 2009	2020 to 2029	\$2,675,000

**WHEREAS**, the City Commission of the Issuer (the “Governing Body”) hereby selects the firm of Stifel, Nicolaus & Company, Incorporated, Wichita, Kansas (the “Purchaser”), as underwriter for one or more series of general obligation bonds of the Issuer in order to provide funds to permanently finance the Improvements and refund the Refunded Bonds; and

**WHEREAS**, the Issuer desires to authorize the Purchaser to proceed with the offering for sale of said general obligation bonds and related activities; and

**WHEREAS**, one of the duties and responsibilities of the Issuer is to prepare and distribute a preliminary official statement relating to said general obligation bonds; and

**WHEREAS**, the Issuer desires to authorize the Purchaser, in conjunction with the Director of Finance and Gilmore & Bell, P.C., Wichita, Kansas, the Issuer's bond counsel ("Bond Counsel"), to proceed with the preparation and distribution of a preliminary official statement and all other preliminary action necessary to sell said general obligation bonds; and

**WHEREAS**, due to the volatile nature of the municipal bond market and the desire of the Issuer to achieve maximum benefit of timing of the sale of said general obligation bonds, the Governing Body desires to authorize the Mayor to confirm the sale of such general obligation bonds, if necessary, prior to the next meeting of the Governing Body to adopt the necessary ordinance and resolution providing for the issuance thereof.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DODGE CITY, KANSAS, AS FOLLOWS:**

**Section 1.** The Purchaser is hereby authorized to proceed with the offering for sale of the Issuer's General Obligation Refunding and Improvement Bonds, Series 2016-B (the "Bonds") in accordance with the presentation made by the Purchaser this date. The timing of offering for sale, the pricing, the determination of the structuring and repayment terms of the Bonds and the selection of various other professionals necessary to complete the issuance of the Bonds shall be determined by the Director of Finance, in consultation with the Purchaser and Bond Counsel.

The confirmation of the sale of the Bonds shall be subject to the execution of a bond purchase agreement between the Purchaser and the Issuer (the "Bond Purchase Agreement") in a form approved by Bond Counsel and the Issuer's legal counsel, the passage of an ordinance and adoption of a resolution by the Governing Body authorizing the issuance of the Bonds and the execution of various documents necessary to deliver the Bonds. The Mayor is hereby authorized to execute the Bond Purchase Agreement subject to the following parameters: (a) the principal amount of the Bonds shall not exceed \$5,700,000; and (b) the present value savings associated with refunding the Refunded Bonds shall be not less than 2.30% of the principal of the Refunded Bonds. In addition, the Clerk, in conjunction with Bond Counsel, is hereby authorized to publish a Notice of Intent to Seek Private Placement relating to the Bonds in a newspaper of general circulation in Ford County, Kansas, and the *Kansas Register*, if necessary.

**Section 2.** The Preliminary Official Statement, dated November 7, 2016 (the "Preliminary Official Statement") is hereby approved in substantially the form presented to the Governing Body this date, with such changes or additions as the Mayor and Director of Finance shall deem necessary and appropriate. The Issuer hereby consents to the use and public distribution by the Purchaser of the Preliminary Official Statement in connection with the offering for sale of the Bonds.

**Section 3.** For the purpose of enabling the Purchaser to comply with the requirements of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), the Mayor and Director of Finance or other appropriate officers of the Issuer are hereby authorized: (a) to approve the form of the Preliminary Official Statement, and to execute the "Certificate Deeming Preliminary Official Statement Final" in substantially the form attached hereto as *Exhibit A* as approval of the Preliminary Official Statement, such official's signature thereon being conclusive evidence of such official's and the Issuer's approval thereof; (b) covenant to provide continuous secondary market disclosure by annually transmitting certain financial information and operating data and other information necessary to comply with the Rule to certain national repositories and the Municipal Securities Rulemaking Board, as applicable; and (c) take such other actions

or execute such other documents as such officers in their reasonable judgment deem necessary to enable the Purchaser to comply with the requirement of the Rule.

**Section 4.** The Issuer agrees to provide to the Purchaser within seven business days of the date of the Bond Purchase Agreement or within sufficient time to accompany any confirmation that requests payment from any customer of the Purchaser, whichever is earlier, sufficient copies of the final Official Statement to enable the Purchaser to comply with the requirements of the Rule and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board.

**Section 5.** The Mayor, City Manager, Director of Finance, City Attorney and the other officers and representatives of the Issuer, the Purchaser and Bond Counsel are hereby authorized and directed to take such other action as may be necessary to: (a) carry out the sale of the Bonds; and (b) purchase or subscribe for the securities to be deposited in the escrow for the Refunded Bonds.

**Section 6.** This Resolution shall be in full force and effect from and after its adoption.

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**ADOPTED** by the City Commission on November 7, 2016.

(SEAL)

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Mayor

ATTEST:

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Clerk

***EXHIBIT A***

**CERTIFICATE DEEMING  
PRELIMINARY OFFICIAL STATEMENT FINAL**

November 7, 2016

To: Stifel, Nicolaus & Company, Incorporated  
Wichita, Kansas

Re: City of Dodge City, Kansas, General Obligation Refunding and Improvement Bonds,  
Series 2016-B

The undersigned are the duly acting Mayor and Director of Finance of the City of Dodge City, Kansas (the "Issuer"), and are authorized to deliver this Certificate to the addressee (the "Purchaser") on behalf of the Issuer. The Issuer has previously caused to be delivered to the Purchaser copies of the Preliminary Official Statement (the "Preliminary Official Statement") relating to the above-referenced bonds (the "Bonds").

For the purpose of enabling the Purchaser to comply with the requirements of Rule 15c2-12(b)(1) of the Securities and Exchange Commission (the "Rule"), the Issuer hereby deems the information regarding the Issuer contained in the Preliminary Official Statement to be final as of its date, except for the omission of such information as is permitted by the Rule, such as offering prices, interest rates, selling compensation, aggregate principal amount, principal per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters.

**CITY OF DODGE CITY, KANSAS**

By: \_\_\_\_\_  
Title: Mayor

By: \_\_\_\_\_  
Title: Director of Finance

## Memorandum

*To: City Manager  
City Commissioners*   
*From: Ray Slattery, P.E.  
Director of Engineering*  
*Date: October 31, 2016*  
*Subject: Agreement for Federal-Aid Fund  
Exchange Master Agreement*  
*Agenda Item: New Business*

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**Recommendation:** Approve the Agreement with the Kansas Department of Transportation (KDOT) for Federal-Aid Fund Exchange Master Agreement.

**Background:** The Federal Government returns a portion of the money they receive to the State. This money used to be accumulated until such time the city and state could perform a major project in the community. Several years ago the state enacted the Federal Fund Exchange Program. With this program cities could exchange the Federal Money for State money that didn't require all the stipulations as the Federal Money at a 90% exchange rate. This meant the cities could use the money for any type of transportation project and did not have to meet all the KDOT/FHWA standards. Once this Agreement is approved and signed, the City can ask for reimbursement of the Federal Funds.

**Justification:** By approving the agreement, it will allow the City to request its share of the Federal money. This money can be used to fund street projects.

**Financial Considerations:** The city will be able to get 90% of the 2015 and 2016 funds of \$576,158.70 or \$518,542.83. This money is scheduled to offset the bond payment for the Trail St. Reconstruction Project.

**Purpose/Mission:** The fund from this program go to meet the City's core value of ongoing improvement.

**Legal Considerations:** By approving the agreement with KDOT, the City will be responsible to meet the specifications of the agreement.

**Attachments:** Federal-Aid Fund Exchange Master Agreement.

FUND EXCHANGE MASTER  
CITY OF DODGE CITY, KANSAS

**FEDERAL-AID  
FUND EXCHANGE  
MASTER AGREEMENT**

This MASTER AGREEMENT is between **RICHARD CARLSON, Interim Secretary of Transportation**, Kansas Department of Transportation (KDOT) (the “Secretary”) and the **City of Dodge City, Kansas** (the “City”), collectively, the “Parties.”

**RECITALS:**

- A. The Secretary has authorized a Federal Fund Exchange Program under which local units of government may exchange some or all of the Federal Funds allotment by KDOT to the local unit in a specific federal fiscal year for State Funds allocated to the Secretary.
- B. The City desires to exchange all or a portion of the City’s annual allotment of Federal Funds for State Funds at the Exchange Rate or to bank all or a portion of its annual allotment, such amount to be used in the future for either a Federal-Aid Project or exchanged for State Funds at the Exchange Rate.
- C. The Secretary and the City are empowered by the laws of Kansas to enter into agreements incident to the financing, construction, and maintenance of city roads utilizing federal or state funds.
- D. The Parties have determined the Federal Fund Exchange Program would be most efficiently administered under this Master Agreement.

**NOW, THEREFORE**, the Parties agree as follows:

**ARTICLE I**

**DEFINITIONS:**

As used in this Agreement, the capitalized terms below have the following meanings:

- 1. “**Agreement**” means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.
- 2. “**Banked Funds**” means the city’s annual allotment of Federal Funds which the City has decided to use in the future for either a Federal-Aid Project or to be exchanged for State Funds.
- 3. “**City**” means the City of Dodge City, Kansas.
- 4. “**Effective Date**” means the date this Agreement is signed by the Secretary or his designee.

5. **“Exchange Rate”** means the exchange of Federal Funds allotment for State Funds at a rate of ninety percent (90%) of State Funds for one hundred percent (100%) of local federal obligation authority for costs incurred pursuant to this Agreement, on a reimbursement basis.
6. **“Exchanged Funds”** means the funds from the City’s annual allotment of Federal Funds exchanged for State Funds at the Exchange Rate.
7. **“Exchanged Portion”** means a portion of funds from the City’s annual allotment of Federal Funds exchanged for State Funds.
8. **“Federal Funds”** means federal-aid transportation funds, including Surface Transportation Program funds, for use on state and local federal-aid transportation projects.
9. **“Fund Exchange Request”** means the attached form “Attachment A” which is submitted by the City to KDOT to request the exchange of Federal Funds for State Funds in any given year, and the terms of which are incorporated herein by reference.
10. **“KDOT”** means the Kansas Department of Transportation, an agency of the state of Kansas, with its principal place of business located at 700 SW Harrison Street, Topeka, KS, 66603-3745.
11. **“Parties”** means the Secretary and KDOT, individually and collectively, and the City.
12. **“Secretary”** means Michael S. King, in his official capacity as Secretary of Transportation of the state of Kansas, and his successors.
13. **“State Funds”** means State of Kansas transportation funds.

## ARTICLE II

### TERMS OF AGREEMENT:

1. **Secretary Authorization.** The Secretary is authorized by the City to take such steps as are deemed by the Secretary to be necessary or advisable for the purpose of securing the benefits of the current Federal-Aid Transportation Act for this exchange.
2. **Incorporation of Program Application.** The City will submit a Fund Exchange Request when it desires to exchange its Federal Funds. The Fund Exchange Request will be incorporated into and made a part of this Agreement for all purposes.
3. **Exchange of Funds.**
  - (a) When the City submits a Fund Exchange Request to use the Banked Funds for a Federal-Aid Project, the Secretary will apply one hundred percent (100%) of the requested amount to said project, up to the amount indicated on the Fund Exchange Request.

- (b) When the City submits a Fund Exchange Request, to use the Exchanged or Banked Funds pursuant to the Federal Fund Exchange Program, the following terms will apply to the exchange:
  - (i) The City authorizes the Secretary to retain and use the Exchanged Portion of the City's annual allotment of Federal Funds for the federal fiscal year indicated in the Fund Exchange Request in exchange for State Funds at the Exchange Rate.
  - (ii) The Secretary shall reimburse the City, with State Funds, for one hundred percent (100%) of costs incurred pursuant to this Agreement, up to ninety percent (90%) of the amount of funds as indicated on the Fund Exchange Request. All costs incurred in excess of the fund exchange amount will be the sole responsibility of the City.
  - (iii) Any State Funds exchanged pursuant to this Agreement may be carried over in the next federal fiscal year by the City. Banking of Exchanged Funds is limited to three (3) consecutive fiscal years, unless written approval is obtained from the Secretary.
  - (iv) The City understands that the Secretary may use the retained Federal Funds exchanged by the City for any federally eligible purpose or project within the State.
  - (v) The Secretary will make partial payments to the City for amounts not less than \$1,000 and no more frequently than monthly. Such payments will be made after receipt of proper billing showing costs paid by the City and any reimbursement form required by KDOT.

4. **Limitations on Use of State Funds.**

- (a) The City shall not deposit the exchanged State Funds into the operating budget for the City.
- (b) The City shall use the State Funds exchanged pursuant to this Agreement for:
  - (i) transportation projects, as approved by the Secretary, which are eligible under KDOT's Federal Fund Exchange Guidelines; and
  - (ii) for all phases of approved transportation project(s) including, but not limited to preliminary engineering, right of way acquisition, utility relocation, construction and inspection.
- (c) Upon completion of the transportation project, the City shall notify Secretary and allow the Secretary to participate in a final review of the project. Reviews by the Secretary are not done for the benefit of the City or its contractors, or agents, or other political subdivision, or the traveling public. The Secretary makes no representation, express or implied warranty to any person or entity concerning the adequacy or accuracy of the design plans, specifications, estimates, surveys, and any necessary

investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project, or any other work performed by the City.

5. **Availability of State Funds.** The total dollars exchanged under this Agreement are contingent upon the availability of State Funds. If, in the judgment of the Secretary, sufficient State Funds are not appropriated to continue the function performed in this Agreement, the Secretary may terminate this Agreement without further notice. The Secretary will not be responsible to the City for any reduction in State Funds.
6. **Availability of Federal Funds.** The total dollars exchanged under this Agreement are also contingent upon the availability of Federal Funds. If, due to Congressional funding restrictions, sufficient Federal Funds have not been allocated to the City, the Secretary shall exchange funds in the amount available.
7. **Audit.** The City will participate and cooperate with the Secretary in an audit which will occur either annually or by project. The City shall make its records and books available to representatives of the Secretary for audit for a period of five (5) years after date of final payment under this Agreement. If any such audits reveal payments have been made with State Funds to the City for items considered non-participating, the City shall promptly reimburse Secretary for such items upon notification by Secretary.
8. **Compliance with Federal and State Laws.** The City shall comply with all applicable federal, state, and local laws, regulations, executive orders, and ordinances governing the projects undertaken pursuant to this Agreement.
9. **Legal Authority.** The City shall adopt all necessary ordinances and/or resolutions and take such administrative or legal steps as may be required to give full effect to the terms of this Agreement.
10. **Indemnification.** To the extent permitted by law, the City agrees to defend, indemnify, hold harmless, and save the Secretary and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the provisions or performance of this Agreement by the City or the City's employees.

### ARTICLE III

#### GENERAL PROVISIONS:

1. **Civil Rights Act.** The "Special Attachment No. 1," pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.
2. **Contractual Provisions.** The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

- 3. **Binding Agreement.** This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary and the City and their successors in office.
- 4. **No Third Party Beneficiaries.** No third party beneficiaries are intended to be created by this Agreement, nor do the parties herein authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.
- 5. **Headings.** The captions of the various articles and sections of this Agreement are for convenience and ease of reference only, and do not alter the terms and conditions of any part or parts of this Agreement.
- 6. **Effective Date.** This Agreement will become effective as of the date signed by the Secretary or his designee.

IN WITNESS WHEREOF the Parties have caused this Agreement to be signed by their duly authorized officers as of the Effective Date.

ATTEST:

THE CITY OF DODGE CITY, KANSAS

\_\_\_\_\_  
CITY CLERK (Date)

\_\_\_\_\_  
MAYOR

(SEAL)

Kansas Department of Transportation  
Richard Carlson, Interim Secretary of  
Transportation

By: \_\_\_\_\_ (Date)  
Catherine Patrick  
Deputy Secretary and  
State Transportation Engineer

(Example Fund Exchange Request)



**KANSAS DEPARTMENT OF TRANSPORTATION  
BUREAU OF LOCAL PROJECTS  
REQUEST TO EXCHANGE FEDERAL FUNDS UNDER THE FEDERAL-AID FUND  
EXCHANGE MASTER AGREEMENT**

Date: \_\_\_\_\_

County/City: \_\_\_\_\_

Federal Funds to Be Exchanged: \$ \_\_\_\_\_

The Secretary of Transportation is hereby requested to make available to the city/county State Funds in exchange for the city's/county's allotment of Federal Funds in the amount stated above. The Exchange will be made under the Terms and Conditions as set forth in the city/county's Federal Fund Exchange Master Agreement previously executed between the city/county and the Secretary. This request shall be attached to and become a part of the city/county's Federal Funds Exchange Agreement.

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

\_\_\_\_\_  
*Signature\** *Date*

\_\_\_\_\_  
*Typed or Printed Name*

\_\_\_\_\_  
*Title*

*\*The representative signing this request must be authorized by law to bind the city/county to an agreement.*

**KANSAS DEPARTMENT OF TRANSPORTATION**

Special Attachment  
To Contracts or Agreements Entered Into  
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,  
REHABILITATION ACT OF 1973, and any amendments thereto,  
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,  
AGE DISCRIMINATION ACT OF 1975, and any amendments thereto,  
EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY  
POPULATIONS AND LOW INCOME POPULATIONS 1994, and any amendments thereto,  
49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

**NOTIFICATION**

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 355) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such Act, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following "Nondiscrimination Clauses".

**CLARIFICATION**

Where the term "Consultant" appears in the following "Nondiscrimination Clauses", the term "Consultant" is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

**Nondiscrimination Clauses**

During the performance of this contract, the Consultant, or the Consultant's assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

- 1) Compliance with regulations: The Consultant will comply with the regulations of the U.S. Department of Transportation relating to nondiscrimination in its federally-assisted programs and codified at Title 49, Code of Federal Regulations, Parts 21, 23 and 27, (hereinafter referred to as the "Regulations"). The Regulations are herein incorporated by reference and made a part of this contract.
- 2) Nondiscrimination: The Consultant, with regard to the work performed by the Consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including in the procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- 3) Solicitations for Subcontractors, including Procurements of Material and Equipment: In all solicitations, either competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.

- 4) Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the Consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.
- 5) Employment: The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.
- 6) Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,
  - (a) withholding of payments to the Consultant under the contract until the Consultant complies, and/or
  - (b) cancellation, termination or suspension of the contract, in whole or in part.
- 7) Disadvantaged Business Obligation
  - (a) Disadvantaged Business as defined in the Regulations shall have a level playing field to compete for contracts financed in whole or in part with federal funds under this contract.
  - (b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, color, gender, or national origin in the award and performance of federally-assisted contracts.
  - (c) The Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of Federally-assisted contracts. Failure by the Consultant 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.
- 8) Executive Order 12898
  - (a) To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain, and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the State of Kansas and use such information in complying with Executive Order 12898.
- 9) Incorporation of Provisions: The Consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State.

**CONTRACTUAL PROVISIONS ATTACHMENT**

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.  
  
Contractor agrees to comply with all applicable state and federal anti-discrimination laws.  
  
The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

## *Memorandum*

*To: City Manager  
City Commissioners*  
*From: Ernestor De La Rosa*  
*Date: October 25, 2016*  
*Subject: Dodge City Legislative Policy*  
*Agenda Item: New Business*

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**Recommendation:** Staff recommends approval of the 2017 State/Federal Legislative Policy.

**Background:** City staff has been actively working on defining the City of Dodge City 2017 legislative policy that will be submitted to our state legislators and congressional representatives. The legislative policy will be utilized to offer our stance on various issues that could impact how we deal with issues on a local level. The policy defers from but does not conflict with the Southwest Kansas Coalition legislative policy.

**Justification:** The legislative policy is a communication tool that enables our legislators to understand our position on issues that might come up during the legislative session. The City also generally supports the provisions of the State of Municipal Policy of the League of Kansas Municipalities.

**Financial Considerations:** None

**Purpose/Mission:** Together we promote open communications with our community members to improve quality of life and preserve our heritage to foster a better future.

**Legal Considerations:** None

**Attachments:** 2017 State/Federal Legislative Policy



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# *2017 Legislative Policy*

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## **SUMMARY POSITION**

This policy statement presents general state legislative goals and objectives formally adopted by the Governing Body of the City of Dodge City. This statement will be provided to the Dodge City legislative delegation for its consideration at the 2017 legislative session. The focus of this policy statement is on general policies and principles; however, some positions on specific legislative proposals are included under appropriate general policy statements. Future revisions to this statement will include additional positions of the City on specific proposals and bills introduced during the 2017 session.

## **FEDERAL**

### **FEMA**

Although FEMA has revised their mapping strategies, it still discounts the protection that existing structures provide. For Dodge City, this happens when an existing structure is structurally sound but since design standards have changed, a sound structure is now considered useless. It still adds previously unmapped flood areas into a classification of “Undetermined Flooding”. No one knows the affect this will have on the citizens living or development in this newly classified area. Also, the “one fit” approach does not work. Attention needs to be made to local conditions to determine the best “fit” for the area.

If accreditation is still necessary, Dodge City supports new legislation prohibiting FEMA from adding previously unmapped or any new special flood hazard areas to flood insurance rate maps without local government agency approval. In addition, Dodge City supports new legislation prohibiting FEMA from using the “approximation method” for establishing new special flood hazard areas, particularly in developed areas of the country. The “approximation method” was designed by FEMA to streamline map modernizations and employs no reasonable opportunity for due process by affected property owners and local officials. New special flood hazard areas should only be added to the flood insurance rate maps after a detailed study and concurrence of local government.

Dodge City supports legislation that would extend the accreditation time period. This would allow cities to responsibly budget and prepare for the financing necessary to meet the required improvements to the levy system.

## **IMMIGRATION**

Immigrant labor is vital to the Dodge City economy. Concurrently, Dodge City believes in legal immigration. Therefore, Dodge City believes the United States Congress should approach the immigration issue in a sensible way. For Dodge City, a sensible approach is an approach built on an essential foundation including the following:

- 1) All immigration legislation is tempered with an understanding of such legislation's economic impact for companies employing immigrants;
- 2) A recognition that immigrants living in Dodge City require a reduction in time and distance barriers between the individual and his or her pursuance of legal residency;
- 3) It is critical that United States Citizenship and Immigration Services enable local governments the ability to offer biometric services for applicants to reduce travel expenses, lost work and school time;
- 4) Recognition that Dodge City requires additional resources to integrate immigrants into the community; and
- 5) Dodge City supports a clear path to citizenship which is vital for immigrants to become fully integrated into the community.

## **TRANSPORTATION**

**AIR:** The Essential Air Service (EAS) program is critical to providing the region with access to multiple major international airports. Dodge City encourages continued federal funding for passenger air service to Dodge City.

Dodge City supports incorporating qualified classroom training for commercial pilot certification in order to meet the increasing demand for passenger air transportation service in Dodge City and Southwest Kansas communities.

Federal funding through the Airport Improvement Program (AIP) is critical to maintaining the infrastructure of airports. AIP funding is available and should continue to be available to all airports. The uninterrupted funding of the AIP program is critical to the timely delivery of airport improvements. Dodge City supports continued and uninterrupted funding of Federal Aviation Administration and Airport Improvement Projects for airports.

**HIGHWAY:** Transportation infrastructure is critical not only to the safety of regional residents and travelers but also to the maintenance and growth of the regional economy. Dodge City supports increased transportation safety including continued funding for highway maintenance and infrastructure investment and efforts to promote traveler safety.

**RAIL:** Preserving cross-country rail service through Dodge City and Southwest Kansas is important as rural regions must offer many alternative modes of transportation. Dodge City

believes freight and passenger rail service is one important way to maintain and grow the economy of Dodge City. Such service includes, but is not limited to, Amtrak passenger rail service. Dodge City believes Amtrak should continue to be adequately funded at the federal level and that necessary upgrades to rail infrastructure be provided through a joint effort involving federal, states, Amtrak and BNSF.

## **HOUSING**

Prevent disproportionate cuts to rural development programs. Such cuts affect rural housing, water/sewer and business programs, all of which are vital to the continued prosperity of the economy in rural communities.

Provide the assistance of the USDA Rural Development to offer training in local housing associations, in programs such as the Direct Home Loans, Home Repair Loans and Grants, Mutual Self-Help Housing and Guaranteed Rural Housing Loans.

Provide funding of adequate staff levels or training for local entities to accommodate reasonable turn-around times for home loan processing.

## **INTERNET SALES TAX**

We urge Congress to take action to implement the mandatory collection of sales and use taxes on remote sales. The legislation should not preempt state and local sales and use tax authority. Should federal legislation allow for the state imposition of such taxes, we support the distribution of those funds to cities and counties using an equitable formula. Kansas should continue to participate in the Streamlined Sales Tax Project.

## **RENEWABLE ENERGY**

The City strongly supports the renewable energy and the biogas industry. Dodge City believes that developing a viable biogas industry in the United States can boost the economy and provide a reliable, sustainable, distributed source of renewable energy while reducing greenhouse gas emissions. Communities and private organizations around the nation are installing biogas systems to manage wastes, but can also improve profitability for operations through energy and co-product sales, nutrient recovery and avoided energy costs. Dodge City encourages continued support for RINS (renewable identification numbers), which provide an important incentive to producing renewable natural gas and promote financial opportunities to move forward in developing a robust biogas industry.

## **CHISOLM & GREAT WESTERN CATTLE TRAIL**

Dodge City believes in preserving our western heritage and history. Based on the final report that was recently released by the National Park Service on the Chisholm and Great Western Cattle Trail (GWCT), Dodge City strongly supports making the Trails part of the National Trails Act. The GWCT and Chisholm Trail have international interest and economic opportunities for Kansas and the other states included in the Trail. The Santa Fe Trail already has National Trail status and Dodge City believes that the cattle trails of the Great Western Cattle Trail were just as important to expanding the country and developing the West.

# STATE

## HOME RULE

**HOME RULE:** Dodge City strongly supports the constitutional home rule authority of Kansas cities. Consistent with the Home Rule Amendment of the Kansas Constitution **approved by voters in 1960**, Dodge City supports the ability of local elected officials to make decisions for their communities, particularly local tax and revenue decisions. Self-governance by locally elected officials must be preserved in order to ensure that local issues and problems are handled at the level of government closest to the citizens that they represent.

**ANNEXATION:** The ability of Dodge City to grow is inherent to the ultimate success of annexation powers as they are currently established in state statute. Dodge City recognizes the statutory framework which was amended in 2011 and 2015. Further amendment would shift this balance in a way that would impede orderly growth. Therefore, Dodge City would strongly oppose any further change which would limit the authority of Dodge City to grow through annexation.

**EMINENT DOMAIN:** Eminent domain is a fundamental municipal necessity. The authority to acquire property through condemnation proceedings is critical for public improvement projects- Dodge City supports increased flexibility for local government to use eminent domain for economic development purposes, including blight remediation, without seeking legislative approval.

**PUBLIC PROPERTY & RIGHTS-OF-WAY:** Dodge City opposes any legislation which would restrict the ability of cities to control and manage public property and rights-of-way or the ability of cities to franchise those entities that utilize the rights-of-way.

## GOVERNMENTAL ETHICS

**KANSAS OPEN MEETINGS ACT (KOMA) and KANSAS OPEN RECORDS ACT (KORA):** Dodge City supports all levels of government being subject to the same open meeting requirements which promote citizen involvement without being unduly burdensome. Open records laws should balance the public's right to access with the necessity of protecting the privacy of individual citizens and the ability of public agencies to conduct essential business functions. The statutorily required sunset for all exemptions to the Kansas Open Records Act is impractical and should be removed.

## PUBLIC EMPLOYEES

City employees are the foundation of effective city government. City governing bodies must have the authority to develop personnel policies in order to attract and maintain a high quality public workforce.

**KPERS/KP&F:** Dodge City accepts the State's efforts to maintain the solvency of the Kansas Public Employees Retirement System by providing employees with a diverse professional investment portfolio that will offer long-term security. Dodge City supports the current statutory

framework regarding KPERS and KP&F as passed by the 2012 Kansas Legislature. The local KPERS system should remain separate from the state and school retirement system. Changes to the KPERS/KP&F system should consider the impact on cities' ability to hire and retain qualified public employees.

## **MUNICIPAL FINANCE:**

**KANSAS TAX SYSTEM:** Cities are important partners in creating jobs, reviving the economy, delivering vital services, and providing quality of life. The Governor and Kansas Legislature should at a minimum hold public hearings about restructuring the Kansas tax system and any changes must avoid shifting additional financial burdens to local governments.

**PROPERTY TAX EXEMPTIONS:** Dodge City believes that the existing property tax base should be protected and therefore encourages the Kansas Legislature to resist any proposal to further exempt any specific property classification from taxation. The machinery and equipment exemption should not be expanded. The Kansas Legislature should actively review existing exemptions in order to determine whether the exemptions are still appropriate or should be repealed.

**REVENUE SHARING:** The Kansas Legislature should reinstate existing revenue sharing programs. In the event that the State is unable to fully fund said programs, the Kansas Legislature should authorize cities to impose alternative revenue sources in order to maintain appropriate levels of funding for the health, safety, and welfare of our citizens.

**TAX SPENDING LID:** Dodge City opposes any state-imposed limits on the taxing and spending authority of cities. We believe that local spending and taxing decisions are best left to locally elected officials and the citizens they serve. Dodge City strongly supports repeal of the property tax lid.

**UNFUNDED MANDATES:** Dodge City opposes unfunded mandates. If the state seeks to promote particular policy objectives, such mandates should be accompanied by an appropriate level of funding.

## **COMMUNITY DEVELOPMENT**

**ECONOMIC DEVELOPMENT:** Dodge City relies on state and federal programs to remain competitive in efforts to attract and retain businesses and qualified labor. Unfortunately, many government programs are designed for either urban or rural communities. Dodge City is neither due to the region's micropolitan statistical area ( $\mu$ SA) geographical designation. Therefore, Dodge City is too big for rural-oriented programs and too small for urban-oriented programs. Dodge City is dedicated to the design and implementation of economic development programs for the growing segment of Kansas communities that are ineligible for many programs.

**HISTORIC PRESERVATION:** The Historic Tax Credit program and Historic Preservation Grants should be maintained and enhanced. Such programs assist communities in maintaining and/or restoring their historic buildings and serve as a critical resource for economic development and job creation. Without such gap assistance, many if not all redevelopment plans

would be impossible to fulfill. These credits and grants provide valuable private investment that preserves our history and heritage not only for today but for future generations.

**ZONING:** Zoning is a fundamental municipal responsibility and is best controlled by local governments to ensure that acceptable and compatible uses of property are in place to retain and preserve the character of a community. This regulatory process is an activity best suited to the locally elected officials when considerations of health, safety and welfare of the community are to be determined. Dodge City opposes any change which would limit authority of cities.

**STAR BONDS:** Dodge City supports the ability of cities to utilize STAR bonds in order to promote economic development.

## **GAMBLING**

By law, two percent of gambling revenue in Kansas must go to the Problem Gambling and Addictions Grant Fund which is designed to treat problem gamers and people with other addictions. Grants are to be awarded for the direct treatment of pathological gambling and for research regarding the impact of gambling on residents of Kansas, including determining the effectiveness of education and prevention efforts.

The Problem Gambling Fund must be protected for the purpose it is intended and must be allocated throughout the State with an emphasis on the gaming zones where people are at a greater risk to develop issues with problem gambling. The State of Kansas should avoid legislation which would negatively affect existing gaming facilities and the communities which have dedicated public funds for infrastructure and growth related to such facilities.

## **HOUSING**

The State of Kansas has provided many useful tools for communities to utilize incentives where gaps between construction rates and market rates prohibit development without incentives. The retention of these programs is critical to Dodge City as is the simplification of the processes required to make utilization timely and less complicated.

Dodge City strongly supports the Moderate-Income Housing (MIH) Program, an initiative funded by the State of Kansas and administered by Kansas Housing Resources Corporation (KHRC), which works to help cities and counties develop multi-family rental units, single-family for-purchase homes, and water, sewer and street extensions in communities with populations of fewer than 60,000 people. MIH funding can also be used to finance construction costs, rehabilitate unsafe or dilapidated housing, and offer down-payment and closing-cost assistance to homebuyers. We encourage the State of Kansas to continue providing MIH funding and also expand its financial commitment to this very important housing program.

The retention and simplification of programs such as Rural Housing Incentive Districts and Neighborhood Revitalization Program that are currently permitted by statute in qualifying communities is vital to Dodge City. The Kansas Legislature should continue to grant affordable housing tax credits. The tax credit program continues to be a gap financing necessity which is imperative for developers to create affordable housing facilities.

## **TRANSPORTATION**

**TRANSPORTATION:** Passenger rail, freight rail, commercial aviation, general aviation and adequate highways are critical to the safety of our citizens as well as a vital means of maintaining and growing our local economy. Dodge City believes in the continued advocacy and funding for transportation infrastructure and maintenance in Southwest Kansas.

**HIGHWAY;** Transportation infrastructure is critical not only to the safety of regional residents and travelers but also to the maintenance and growth of the regional economy. Dodge City supports increased transportation safety including continued funding for highway maintenance and infrastructure investment and efforts to promote traveler safety.

**RAIL:** Preserving cross-country rail service through Dodge City and Southwest Kansas is important as rural regions must offer many alternative modes of transportation. Dodge City believes freight and passenger rail service is one way to maintain and grow the economy of Dodge City. Such service includes, but is not limited to Amtrak passenger rail service. Dodge City believes Amtrak should continue to be adequately funded and that necessary upgrades to rail infrastructure be provided through a joint effort involving federal, states, Amtrak and BNSF.

## **IMMIGRATION**

Immigrant labor is vital to Dodge City's economy and continued growth and development. In correlation to this issue and due to the increased number of safety and transportation risks with uninsured drivers, Dodge City supports an initiative for limited and restricted driver's license. The City also supports current legislation that gives in-state tuition to undocumented students at Kansas colleges and universities.

## **EDUCATION**

**EDUCATION:** An adequate and stable workforce is essential to maintaining and growing the economy of Dodge City and Southwest Kansas. Therefore, Dodge City believes in establishing educational opportunities for local and regional residents. Such opportunities include, but are not limited to, specialized training programs and educational degree programs. To meet these educational goals, Dodge City wishes to maintain adequate funding to allow for growth and advancement of educational programs in K-12, community colleges and technical training programs. Additionally, Dodge City supports adequate funding for all Kansas Board of Regents institutions.

## **MEDICAID**

Medical providers are challenged in meeting their communities' needs. We support the expansion of Medicaid/KanCare through receipt of the state budget neutral money therefore allowing such entities the ability to support critical services for their citizens.

## **WATER**

**WATER:** In 2016, Dodge City is dedicated to thoughtful water policy that enables Dodge City to safely and effectively meet water needs while also protecting resources. Dodge City believes

increased local involvement is critical to the successful implementation of the current Kansas Water Plan and the Vision for the Future of Water in Kansas plan which is intended to coordinate the management, conservation and development of the water resources across the state for the next fifty years. Dodge City also strongly encourages the development of new and sustainable water supplies.

The expanded use of reclaimed or re-use water is one way that communities/cities can meet the future demands for water. The use of this water for non-potable uses needs to be considered. A couple of examples are: 1) to expand the use of re-use water for irrigation of private property; or 2) for use in construction projects.

In order to provide for the future growth of a community, cities must be diligent in purchasing water rights; however, in the past, water rights were ‘tied together’ and municipalities lost additional allocation with this procedure. When water rights are converted to municipal use from agriculture use, there is a reduction in the amount allowed for consumption. Agriculture consumption is in the form of irrigation. Most of the water consumption incurred by municipalities occurs during the summer months by irrigation. Consequently, municipalities should not have a reduction when converting water rights.

Dodge City supports legislation to allow municipalities the ability to “untie” currently owned water rights and reduce or eliminate the conversion of water rights from agriculture to municipal.

The City generally supports state legislative initiatives which would improve the quality of life for our citizens and enhance the effectiveness of local governments consistent with Home Rule. The City generally supports the provisions of the Statement of Municipal Policy of the League of Kansas Municipalities.

## *Memorandum*

*To: City Commissioners*  
*From: Cherise Tieben*  
*Date: October 18, 2016*  
*Subject: Library MOU*  
*Agenda Item: New Business*

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**Recommendation:** Staff recommends the approval of the Memorandum of Understanding with the Dodge City Public Library.

**Background:** As you may recall, including the Library in our Work Comp policies had unexpected results to our Work Comp premium as a result of rather significant claims that occurred at the Library. Our agent recommended that we separate their policy from ours in order to keep the impact from being spread over significantly higher class ratings such as police, fire and maintenance, thus lowering the financial impact of the Libraries losses. We also discovered that their Director and Officers (D&O) coverages was not combined with ours as we had always believed. So this is revised agreement provides for a reimbursement of their own Work Comp and D&O policies.

**Justification:** By separating out the Library policies for Work Comp and D&O coverage, there should ultimately be a financial savings to the taxpayers.

**Financial Considerations:** At this time, we do not anticipate any additional expense. However, if the Library's claim experience continues to climb we are afforded the opportunity in the agreement to engage in discussions and negotiations regarding the nature and extent of future reimbursements.

**Purpose/Mission:** Together we strive to achieve high performance and service standards set by us and expected by the community.

**Legal Considerations:** The City Attorney has prepared the agreement.

**Attachments:** Memorandum of Understanding

## MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (this “Agreement”) is made and entered into by and between the CITY OF DODGE CITY, KANSAS, a municipal corporation (the “CITY”) and the BOARD OF TRUSTEES OF DODGE CITY PUBLIC LIBRARY (the “LIBRARY”), a body corporate and politic authorized by Kansas statute (K.S.A. 12-1223) (collectively the “Parties”).

WHEREAS, the CITY and the LIBRARY each provide for the operation and maintenance of the physical facility known as the Dodge City Public Library located at 1001 N. Second Ave., Dodge City, Kansas (the “FACILITY”); and

WHEREAS, the CITY and the LIBRARY desire to clarify the responsibilities of the Parties for the operation and maintenance of the FACILITY; and

WHEREAS, the FACILITY was financed through a bond election voted upon by the citizens of Dodge City, Kansas on November 4, 1978, authorizing expenditures up to One Million, Nine Hundred Thousand Dollars (\$1,900,000) for its construction. The FACILITY was dedicated in August of 1982 at 1001 N. Second Ave.; and

WHEREAS, the Parties have agreed that the Memorandum of Understanding dated 1996 between the CITY and the LIBRARY, which delineated the responsibilities of each party for the maintenance and improvement of the FACILITY, should be updated to better reflect present day activities; and

WHEREAS, the Parties have reached an agreement for the maintenance, operation and capital improvements of the FACILITY and both desire to commit to one another their respective intent and desire from this point forward.

NOW THEREFORE, the Parties do hereby agree as follows:

**BOTH PARTIES AGREE AND ACKNOWLEDGE:**

- a. The FACILITY is owned by the CITY.
- b. The FACILITY is occupied by the LIBRARY and the LIBRARY possesses a leasehold interest in said real property.

**THE LIBRARY AGREES TO:**

- a. Pay, out of its annual tax levy and operating budget, all operating expenses associated with the Dodge City Public Library operation including but not limited to payment of all utility expenses, payroll expenses, general supplies, and insurance expenses including liability coverage, as well as real and personal property coverage.
- b. Pay all general maintenance building repair expenses associated with the FACILITY interior/exterior that do not meet the criteria of the CITY's Capital Improvement Program.
- c. Pay all costs associated with office equipment, including but not limited to copiers, computers, printers, etc.
- d. Provide general grounds maintenance, including but not limited to, mowing, trimming, litter control, sidewalk snow removal and ice control.
- e. Purchase, through its annual operating budget, all building and equipment needs not considered eligible for the Capital Improvement Program.

THE CITY AGREES TO:

- a. Submit for consideration in its annual Capital Improvement Program all eligible capital improvement projects and capital maintenance projects. These projects will compete with other CITY projects and will be prioritized for funding. Eligible capital improvement projects are those projects estimated to cost more than Twenty-Five Thousand Dollars (\$25,000.00) and having a life expectancy of at least seven (7) years. Capital maintenance projects are those projects estimated to cost more than Ten Thousand Dollars (\$10,000.00) and having a life expectancy of at least seven (7) years.
- b. Provide semiannual grounds maintenance such as fertilizing and weed control, provide routine landscape maintenance to planter and flower beds according to CITY standards and assist in maintaining the irrigation system.
- c. Provide maintenance and repair of all parking areas.
- d. Provide initial snow removal in parking lots based on CITY determined priority list and ongoing maintenance as needs and priorities permit.
- e. Provide reimbursement of insurance premiums to the LIBRARY at the present premium amounts for Workers Compensation and Director & Officer Liability insurance coverage. The parties agree that if said insurance premiums increase in any subsequent year, the parties will engage in discussions and negotiations regarding the nature and extent of any future reimbursements, if any.

The LIBRARY will submit its six-year improvement program to the City Manager for submission in the City of Dodge City Six-Year Capital Improvement Program by May 31<sup>st</sup> of each year. Capital improvement projects will be evaluated and recommendations made for prioritization for submission to the Commission.

The LIBRARY agrees to submit its annual budget request to the CITY by May 31<sup>st</sup> of each year.

The Parties agree to use good faith efforts in working together to accomplish the purposes and intent of this Memorandum of Understanding.

The Parties agree to maintain an open communications during the annual budget preparation process and be willing to share detailed information about the operation of the Parties.

The Parties agree that this Memorandum of Understanding is a general guideline and is to serve as a general understanding of each party's responsibilities. Any disagreements will be resolved between the City Manager and the Director of the Public Library or their designees.

IN WITNESS WHEREOF, the Parties have signed this Memorandum of Understanding on the date stated below.

CITY OF DODGE CITY, KANSAS  
a Municipal Corporation

by: \_\_\_\_\_  
Rick Sowers, Mayor

ATTEST:

by: \_\_\_\_\_  
Nannette Pogue, City Clerk

DODGE CITY PUBLIC LIBRARY

by: \_\_\_\_\_  
\_\_\_\_\_, President

DATED this \_\_\_\_ day of \_\_\_\_\_, 2016.



# Parks and Recreation

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PO Box 880 • Dodge City KS 67801 • Phone: 620/225-8160 • Fax: 620/225-8144

## *Memorandum*

To: City Manager, Cherise Tieben  
City Commissioners

From: Ernestor De La Rosa  
Paul Lewis

Date: November 4, 2016

Subject: Public Transportation Grant Letters

Agenda Item: New Business

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**Recommendation:** Staff recommends the City Commission approve the submission of applications for 5311 public transportation grant including local match financial commitment letters as follows:

1. U.S.C. 49-5311 Public Transportation Operating Grant in the amount of \$432,246 which includes \$78,670 for dispatch and \$26,240 for replacement of two minibuses.

**Background:** The Dodge City Public Transportation provides services to Dodge City and Ford County area residents. Our services include Fixed Route, Demand Response and ADA Para-transit service. Currently we provide over 33,000 rides annually and we continue to increase ridership. The proposed budget for this grant (see Attachment 1) will continue funding for the program as follows:

- **Fixed Route Bus Service in Dodge City.** The Fixed Route bus system was expanded in May 2015. Each route runs hourly from 6:00 am to 6:00 pm, Monday through Friday.
- **Door-to-Door ADA Para-transit Service.** We continue to provide door to door service (within  $\frac{3}{4}$  of a mile of the Fixed Routes) for passengers with physical, cognitive or visual disabilities which prevent them from utilizing the fixed route buses.
- **Regional Demand Response Service.** We provide service outside the  $\frac{3}{4}$  mile Para-transit zone, and up to 2 miles beyond the city limits. Any resident may schedule a door-to-door ride if the ride's origin or destination is beyond the  $\frac{3}{4}$  mile Para-transit zone and within a 2 mile radius of City limits. Based on our reports over the last five months, we are providing over 1,000 Para-transit and Regional Demand Response rides per month.

**Justification:** As of today, Dodge City Public Transportation is providing over 3,400 rides a month with both Fixed Route and Para transit/Demand Response service. We have seen a 33% increase in total rides when comparing to last year. We expect that the Fixed Route and Para-transit services continue to increase and build ridership.

**Financial Considerations:** There are no significant changes to the level of funding requested. Our operating and administrative budget remains the same or similar. For this grant cycle staff recommends Dodge City commit to meeting the local match costs associated with this important public service. The letters of financial commitment required for the 5311 grant application are as follows:

- U.S.C. 49-5311 Public Transportation Grant:
  - \*Operations (50%) \$307,976
  - \*Dispatch (50%) \$78,670
  - Administration (20%) \$19,360
  - Capital (20%) \$26,240
  - **TOTAL** **\$432,246**

The commitment letters are required to include a 50% local match of the Federal transportation funds for Operations and Dispatch for which the City is applying. Historically KDOT has supplemented the Federal funds and for this grant cycle we anticipate State funding of an additional 20%. With State funding, the net City obligation will be \$309,055 of which \$203,285 is budgeted in Public Transportation (3410) for 2017; \$26,930 is provided from existing covered positions in the Parks budget (5210); \$26,240 is budgeted in the depreciation fund and \$52,600 will be raised through Service Contracts.

**Purpose/Mission:** Improvements to public transportation represent the City's core values of Ongoing Improvement and Preparing for the Community's Future. Dodge City's expanding service is helping more residents every day by allowing them to get to work, do their shopping and get to medical appointments. The availability of public transportation also allows older residents to live more independently.

**Legal Considerations:** These commitment letters are required elements of the City's application for grant funding. KDOT will consider all requests and most likely will adjust the final approved amounts.

**Attachments:** Program budget document and sample letters of financial support.

**SFY 2018 Public Transportation Budget 5311 and 5317  
July 1, 2017 - June 30, 2018**

		DR/Paratransit (4 buses)	Fixed Route (3 buses)	Finney County Dispatch
<b>Section L. Operating Assistance Budget</b>				
1.	Personnel – Driver (Paid)			
	1 FT wages			
	Regular PT	152,880	142,180	
	Health Insurance	46,900	46,900	
	FICA/KPERS	29,050	27,010	
	Personnel - Dispatcher			
	Personnel - Mechanic			
	Wages, 50%	8,100	8,100	
	Health Insurance	3,825	3,825	
	FICA/KPERS	1,540	1,540	
	<b>Total Personnel</b>	<b>242,295</b>	<b>229,555</b>	
2.	Vehicle Insurance	2,000	2,000	
3.	Advertising (includes marketing materials)	5,000	5,000	
4.	Fuel	42,000	42,000	
5.	Maintenance, Repair, Lubrication, Parts, Labor, Tires	36,000	28,800	
6.	Storage (Paid)			
7.	Contract Services (Specify name & reason)*			
8.	Communications/Phone	600	600	
9.	Other (Must specify each item)			
9a	FIT Dispatching Contract			163,150

**SFY 2018 Public Transportation Budget 5311 and 5317**  
**July 1, 2017 - June 30, 2018**

		DR/Paratransit (4 buses)	Fixed Route (3 buses)	Finney County Dispatch		
10.	Licenses & Registration	2,000	2,000			
11.	KPTA Membership Dues	100	100			
12.	KPTA Annual Meeting Expenses	500	500			
13.	RTAP Driver Training	1,000	1,000			
14.	RTAP Manager Training	300	300			
15.	KCC Registration Fee	250	250			
16.	DOT Driver's Physical	900	900			
<b>17.</b>	<b>Total Operating Expenses (Add #1 through #16)</b>	<b>332,945</b>	<b>313,005</b>	<b>163,150</b>		
18.	Comments and Explanations of line items above					
19.	Project Income - Fares	12,000	18,000			
<b>20.</b>	<b>Net Operating Cost (Line #17 - #19)</b>	<b>320,945</b>	<b>295,005</b>	<b>163,150</b>		
21.	<b>5311 Reimbursement Request (50% of Line 20)</b>	160,473	147,503	81,575		
<b>Operating/Dispatch/Mobility Manager Local Match Letters</b>						
22.	5311 Operating/Dispatch Local Match Letter (50%)	160,473	147,503	81,575		
<b>Section K - Capital Assistance Budget</b>						
	20 Passenger Minibus (2)	60,000	60,000			
	Bike Raks (4)		8,000			
<b>4.</b>	<b>Total Capital with 2.5% contingency</b>	<b>61,500</b>	<b>69,700</b>			
5.	Capital Reimbursement Request (80%)	49,200	55,760			
<b>6.</b>	<b>Capital Local Match Letter (20%)</b>	<b>12,300</b>	<b>13,940</b>			

**SFY 2018 Public Transportation Budget 5311 and 5317  
July 1, 2017 - June 30, 2018**

		DR/Paratransit (4 buses)	Fixed Route (3 buses)	Finney County Dispatch		
<b>Section M - Administrative Assistance Budget</b>						
24.	Administrative Personnel					
	Transportation Supervisor	18,305	18,305			
	Administrative Aide (25%)	0	0			
	Clerical Support, (6hrs x 5 days x 52 wks @ 10) 75%	7,800	7,800			
	Health Insurance	11,000	11,000			
	FICA/KPERS	4,960	4,960			
	<b>Total Administrative Personnel</b>	<b>42,065</b>	<b>42,065</b>			
25.	Building Insurance	1,130	1,130			
26.	Office Supplies	320	320			
27.	Postage	240	240			
28.	Building Maintenance (must specify)	1,070	1,070			
29.	Utilities	2,680	2,680			
30.	Contract Services - Specify name and reason (must attach copy of contract)					
31.	Pre-Employment Drug Testing	400	400			
32.	Other (must specify each item)					
	Admin to FIT			7,750		
33.	Uniforms	500	500			
34.	Agency Audit					
35.	<b>Total Administrative Expenses</b>	<b>48,405</b>	<b>48,405</b>	<b>7,750</b>		
36.	List any general comments and explanations of line items above					
37.	Administration Reimbursement Request (80%)	38,720	38,720	6,200		
38.	<b>Administration Local Match Letter (20%)</b>	<b>9,680</b>	<b>9,680</b>	<b>1,240</b>		

**SFY 2018 Public Transportation Budget 5311 and 5317  
July 1, 2017 - June 30, 2018**

			DR/Paratransit (4 buses)	Fixed Route (3 buses)	Finney County Dispatch		
<b>SUMMARY (unreimbursed expense)</b>							
<b>5311 Operating (50%)</b>			160,473	147,503			
<b>5311 Capital (20%)</b>			12,300	13,940			
<b>5311 Administration Assistance (20%)</b>			9,680	9,680			
<b>5311 Dispatch (50%)</b>					78,670		
<b>5317 Mobility Manager (20%)</b>							
<b>Match Letter Requirements</b>			182,453	171,123	78,670		
<b>Local Match Letters</b>							
Dodge City			182,453	171,123	78,670		

<b>Sources</b>							
	Anticipated KDOT Subsidy (20% Operating)		64,190	59,000			
	Dodge City						
	Public Transportation (001-3410)		67,498	57,118	78,670		
	Parks (001-5210)		13,465	13,465			
	Service Contracts		25,000	27,600			
	MERF (140-3410)		12,300	13,940			



# Parks and Recreation

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PO Box 880 • Dodge City KS 67801 • Phone: 620/225-8160 • Fax: 620/225-8144

## *Memorandum*

To: Cherise Tieben, City Manager  
City Commissioners

From: Paul Lewis, Parks & Recreation Director

Cc: Ernestor De La Rosa, Asst. to the City Manager  
DeWayne Donaldson, YMCA Exec. Director

Date: November 3, 2016

Subject: YMCA Building MOU Agreement

Agenda Item: New Business

**Recommendation:** Staff recommends approving the Building MOU Agreement with the Dodge City YMCA for use of metal buildings being reconstructed on the St. Mary Complex.

**Background:** Several months ago with the water park project ready to start and the Heritage District STAR Bonds program on the horizon, the City had six pre-engineered metal buildings needing to be disposed of or reallocated. There was also a need to establish a new base for Park Department operations as the previous site in Wright Park was no longer an option.

To address multiple issues, a plan was developed to reconstruct the buildings in various locations. A component of the plan provided for constructing three of the buildings on the St. Mary campus and moving the Gymnastics and Cheer programs from their present home at the All-4-Fun site up to St. Mary Complex. That move allowed the Parks Department to take over the entire All-4-Fun site as their operations headquarters and maintenance area.

Discussions were held with the YMCA administrative staff and program leaders for Gymnastics and Cheer regarding this transition. Agreement was reached whereby:

- ) City would be responsible for covering the expense of re-erecting the buildings with new exterior sheeting, insulation, and sidewalk approaches;
  - ) YMCA would be responsible for all interior build out including plan development and construction costs;
  - ) City would donate to YMCA building materials salvaged from the deconstruction of the buildings from their original locations including HVAC units, electrical fixtures and equipment, doors and frames, etc.;
  - ) City would provide temporary funding for the YMCA improvements and YMCA would initiate a capital campaign to repay all such funding within 12 months.
-

J) YMCA would agree to use the facilities exclusively for cheer, dance and gymnastics unless otherwise approved by the City.

The buildings required to make this project a reality are currently being reconstructed at the St. Mary site. In the next few weeks, the City's responsibilities outlined under this agreement will be complete and we will be able to turn the property over to the YMCA to begin their obligations.

**Justification:** This agreement provides multiple benefits for both parties. The City was unable to find another home for the Parks Department and the All-4-Fun site represents the best alternative for their operational needs. Fully using the All-4-Fun building provides the office space necessary and the large area is easily converted into shop space.

For the YMCA, this plan relocates Gymnastic and Cheer closer to their base of operations making it easier to oversee and more convenient for patrons to register and participate in other functions. Additional space will be available making programing hours more compatible for the two programs and providing space to reestablish a successful dance program.

**Financial Considerations:** The City's portion of the project for building reconstruction has previously been approved and funded through the Capital Improvement Fund. The temporary YMCA funding for their buildout is available in the Growth Fund. The YMCA has budgeted that work at \$200,000.

**Purpose/Mission:** This agreement is consistent with the City's Core Purpose of Working Towards Excellence by working cooperatively to achieve a goal.

**Legal Considerations:** This Memorandum of Understanding has been reviewed by the City Attorney and approved as to form. The Dodge City YMCA Board of Directors has approved the agreement and authorized their Chairperson to sign.

**Attachments:** City/YMCA Building MOU

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MEMORANDUM OF UNDERSTANDING  
ST. MARY COMPLEX BUILDINGS

This Memorandum of Understanding (this “MOU”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the City of Dodge City, KS (City) and the Dodge City YMCA, (YMCA), a not for profit Kansas corporation, to define obligations of both parties for the construction and operation of pre-engineered metal buildings on the St. Mary Complex grounds.

YMCA and City agree as follows:

City will:

1. Reconstruct three (3) pre-engineered metal buildings (the “Buildings) disassembled from the Heritage District consisting of approximately 12,000 sq. ft. The Buildings will be reconstructed on the St. Mary Complex in the general locations depicted on Attachment A. City obligations shall be limited to engineering and reconstructing the shells of the Buildings including structural steel, exterior sheeting and roof panels, insulation, concrete slab, providing electrical service to an exterior disconnect, plumbing rough-ins and exterior sidewalks and approaches.
2. Donate to YMCA the materials salvaged and stored from the disassembly of the Buildings including doors and frames, light fixtures, HVAC equipment, and electrical panels, for use in the Buildings.
3. Provide financing for YMCA paid improvements incurred during the reconstruction of the Buildings. Any such financing shall be offered to YMCA at a zero percent (0.0%) interest rate. All financing shall be repaid to City, in full, no later than twelve (12) months from the date that YMCA occupies the Buildings to provide programming. YMCA is free to establish any schedule of payments as long as the City is repaid in full no later than twelve (12) months from the date YMCA occupies the Buildings.
4. Allow YMCA exclusive possession and use of the Buildings for the period of three (3) years from the date that YMCA first takes possession of the Buildings for use and occupancy. The parties agree to negotiate in good faith a renewal term of this Agreement for a period of five (5) years at such time as two (2) years of this Agreement have passed.

YMCA will:

1. Provide all architectural design, engineering and construction for interior improvements for the Buildings and any related improvements. All plans must have the prior approval of City. YMCA will obtain all building permits as required for any improvements, and all improvements shall be constructed in compliance with all applicable City codes and regulations.
2. YMCA intends to initiate a capital fund raising campaign to acquire necessary funds for repayment of all City funded expenditures.
3. Utilize the Buildings for Dodge City Diamond cheer/dance and Flip Zone gymnastics programs. This usage by said program shall be at reasonable times and rental arrangements. If said program terminate operation or relocate to any other location other than the Buildings, the use of the reconstructed buildings will revert to City, unless the

parties to this Agreement mutually agree otherwise. The YMCA will have first right to propose and present alternate programs and/or uses of the buildings.

4. Be responsible for all normal operational functions including:
  - a. Paying all utility costs associated with the Buildings' operations
  - b. Providing all custodial service required for maintaining interior spaces of the Buildings.
  - c. Being responsible for all non-capital repairs and maintenance to the Buildings.
5. Refrain from making any permanent modifications to the Buildings without first obtaining approval from City.

This Memorandum of Understanding shall be binding on the Parties hereto and their successors and assigns

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

**CITY OF DODGE CITY, KANSAS**

By: \_\_\_\_\_  
RICK SOWERS, Mayor

ATTEST:

\_\_\_\_\_  
NANETTE POGUE, City Clerk

**DODGE CITY YMCA**

By: \_\_\_\_\_  
AARON CONRARDY, President