

CITY COMMISSION AGENDA

City Hall Commission Chambers

Monday, March 4, 2014

7:00 p.m.

MEETING #4916

CALL TO ORDER

ROLL CALL

INVOCATION by John Losero of Fanatics for Christ Ministries

PLEDGE OF ALLEGIANCE

PETITIONS & PROCLAMATIONS

Problem Gambling Awareness Week

VISITORS

CONSENT CALENDAR

1. Approval of City Commission Meeting Minutes, February 18, 2013
2. Appropriation Ordinance No. 5, March 4, 2013;

ORDINANCES & RESOLUTIONS

Ordinance No. 3554 An Ordinance Adding Article 9 to Chapter V of the Dodge City Code relating to Scrap Metal Dealers, Establishing an Application Process and Registration Fee; and Providing for the Suspension or Revocation of the Registration. Report by City Clerk/Director of Finance, Nannette Pogue.

UNFINISHED BUSINESS

Ordinance No. 3552: An Ordinance of the City of Dodge City, Kansas Amending the Official Zoning Map of the City, changing the Property Known as 511 Sunflower from R-1, Residential Low to C-2, Commercial Highway. Report by Director of Developmental Services, Dennis Veatch.

NEW BUSINESS

1. Approval of acceptance of the Heritage Trust Fund Grant Award for the Atchison Topeka and Santa Fe (ATSF) Railway Depot project. Report by Project Development Coordinator, Melissa McCoy.
2. Approval of Bids for Fire Truck. Report by Fire Chief, Kevin Norton.
3. Approval of KLINK Agreement of KDOT. Report by Director of Engineering Services, Ray Slattery.
4. Approval of Levy Assessment, Additional Services with Wilson and Company. Report by Director of Engineering Services, Ray Slattery.

OTHER BUSINESS

ADJOURNMENT

PROCLAMATION

Whereas, on behalf of the citizens of Dodge City, we are pleased to join Southwest Kansas Problem Gambling Task Force in promoting March 3-9, 2013, as Problem Gambling Awareness Week in Dodge City; and,

Whereas, promoting the awareness week provides individuals in the problem gambling community an opportunity to educate the public and policymakers about the social and financial effectiveness of services available for problem gambling; and,

Whereas, problem gambling is a public health issue affecting tens of thousands of Kansans of all ages, races, and ethnic backgrounds in all communities and which has a significant societal and economic cost; and,

Whereas, problem gambling is treatable and treatment is effective in minimizing the harm to both individuals and society as a whole; and,

Whereas, numerous individuals, professionals and organizations have dedicated their efforts to the education of the public about problem gambling and the availability and effectiveness of treatment; and,

Whereas, Southwest Kansas Problem Gambling Task Force invites all residents of Dodge City to participate in Problem Gambling Awareness Week..

NOW, THEREFORE, by virtue of the authority vested in me as the Mayor of the City of Dodge City, do hereby proclaim the week of March 3-9, 2013 as

National Problem Gambling Awareness Week

and encourage all citizens to help spread the message that there is help for problem gamblers through treatment.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the City of Dodge City to be affixed, this 4th day of March, 2013.

Rick Sowers, Mayor

Nannette Pogue, City Clerk

CITY COMMISSION MINUTES

City Hall Commission Chambers

Monday, February 18, 2013

7:00 p.m.

MEETING #4914

CALL TO ORDER

ROLL CALL: Mayor Rick Sowers, Commissioners, Joyce Warshaw, Jim Sherer, Kent Smoll and Brian Delzeit.

INVOCATION by Marguerite Ferrell of Apostolic Faith Pentecostal 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).

Trisha Martinez – Comment on Pit-bull Ban and some additional information

CONSENT CALENDAR

1. Approval of City Work Session Minutes, February 4, 2013;
2. Approval of City Commission Meeting Minutes, February 4, 2013;
3. Appropriation Ordinance No. 4, February 18, 2013;

Commissioner Jim Sherer moved to approve the Consent Calendar as presented; Commissioner Joyce Warshaw seconded the motion. The motion carried unanimously.

ORDINANCES & RESOLUTIONS

Ordinance No. 3552: An Ordinance to Amend the Official Zoning Map of the City, changing the Property Known as 511 Sunflower from R-1, Residential Low to C-2, Commercial Highway was tabled on a motion by Commissioner Rick Sowers. Motion was seconded by Commissioner Joyce Warshaw. The motion carried unanimously.

Amy Smith - Owns property adjacent to 511 Sunflower. Petition was presented to vote no on the rezoning. Presented reasons and why they are against the rezoning.

Maria Fierro - Friend and customer of Ismeal Hernandez, spoke in favor of rezoning;

Ismeal Hernandez – Answered questions regarding security lighting and spoke in favor of rezoning.

Jerri Erikson – Owns property south of the grocery store. Complained about the property in the past and spoke against rezoning.

Ordinance No. 3553: An Ordinance Amending Certain Provisions of Chapter 7 of the Dodge City Municipal Code and Adopting the 2009 Edition of the International Fire Code was approved on a motion by Commissioner Kent Smoll. Motion was seconded by Commissioner Brian Delzeit. The motion carried unanimously.

Resolution No. 2013-08: A Resolution Amending Building Permit Fees was approved on a motion by Commissioner Jim Sherer. Motion was seconded by Commissioner Joyce Warshaw. The motion carried unanimously.

Resolution No. 2013-09: A Resolution to consider Establishing a Rural Housing Incentive District for Summerlon Phase III-N1 Project and Establishing a Public Hearing on Such Matter, and providing for the Giving of Notice of Such Public Hearing was approved on a motion by Commissioner Brian Delzeit. Motion was seconded by Commissioner Jim Sherer. The motion carried unanimously.

Resolution No. 2013-10: A Resolution Establishing a Policy for the City of Dodge City, Kansas to Provide Assistance to other Counties, Cities, and Townships during Disasters, Pursuant to K.S.A. 12-16,117 was approved on a motion by Commissioner Jim Sherer. Motion was seconded by Commissioner Kent Smoll the motion carried unanimously.

UNFINISHED BUSINESS

NEW BUSINESS

OTHER BUSINESS

City Manager, Ken Strobel:

- Received information from League of Kansas Municipalities, Petition on line to oppose the Bill regarding City Commission elections;
- Reminder – Weather permitting, Joint City/County Commission Meeting on Wednesday at 5:30 p.m.

Commissioner, Joyce Warshaw:

- Appreciate Audiences participation and input in issues.

Commissioner, Jim Sherer:

- Community moving forward, thanks for those in attendance;
- Talked about Dodge City Night.

Commissioner, Kent Smoll:

- Sales Tax report 5.9% over last year;
- Thanks for shopping local.

Mayor, Rick Sowers:

Thanks for everyone showing up tonight;
Echoes everyone else's comments.

ADJOURNMENT

Commissioner Jim Sherer moved to adjourn the meeting; Commissioner Kent Smoll seconded the motion. The motion carried unanimously.

Rick Sowers, Mayor

ATTEST:

Nannette Pogue, City Clerk

Memorandum

*To: Ken Strobel, City Manager
Cherise Tieben, Assistant City Manager*
From: Nannette Pogue
Date: February 28, 2013
Subject: Ordinance Relating to Scrap Metal Dealers
Agenda Item: Ordinances and Resolutions

Recommendation: I recommend the City Commission approve the Ordinance Relating to Scrap Metal Dealers

Background: In 2011, the Kansas Legislature adopted measures to require businesses engaged in the business of Scrap Metal Dealers to be registered by municipalities. Along with the registration process, the statute provides for requirements of the applicant, regulations, required records, unlawful acts, etc.

Justification: The ordinance as presented mirrors the Kansas State law and requires Scrap Metal Dealers to register with the City of Dodge City on a form provided by the State.

Financial Considerations: The fees to the businesses are \$100 to register for 10 years, with a \$25 annual renewal fee.

Purpose/Mission: We strive for high service standards

Legal Considerations: Ordinance complies with the State regulations.

Attachments: Scrap Metal Dealer Ordinance

ORDINANCE NO. 3454

AN ORDINANCE ADDING ARTICLE 9 TO CHAPTER V OF THE DODGE CITY CODE RELATING TO SCRAP METAL DEALERS, ESTABLISHING AN APPLICATION PROCESS AND REGISTRATION FEE; AND PROVIDING FOR THE SUSPENSION OR REVOCATION OF THE REGISTRATION.

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

CHAPTER V, ARTICLE 9

SECTION 5-901. Definitions: As used in this section, the following definitions shall apply:

- (a) “Scrap metal dealer” means any person that operates a business out of a fixed location, and that is either:
 - (1) Engaged in the business of buying and dealing in regulated scrap metal;
 - (2) Purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or
 - (3) Operating, carrying on, conducting or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer.
- (b) “Regulated scrap metal yard” means any yard, plot, space, enclosure, building or any other place where regulated scrap metal is collected, gathered together and stored or kept for shipment, sale or transfer.
- (c) “Regulated scrap metal” shall mean wire, cable, bars ingots, wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors made from aluminum; catalytic converters containing platinum, palladium or rhodium; and copper, titanium, tungsten, stainless steel and nickel in any form; for which the purchase price described in K.S.A. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item composed in whole or in part of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling. Aluminum shall not include food or beverage containers.
- (d) “Bales of regulated metal” means regulated scrap metal property processed with professional Recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.
- (e) “Ferrous metal” means a metal that contains iron or steel.
- (f) “Junk vehicle” means a vehicle not requiring a title as provided in Chapter 8 of the Kansas Statutes Annotated, and amendments thereto, aircraft, boat, farming implement, industrial equipment, trailer or any other conveyance used on the highways and roadways, which has no use or resale value except as scrap.

(g) “Nonferrous metal” means a metal that does not contain iron or steel, including but not limited to, copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.

(h) “Tin” means a metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.

(i) “Vehicle part” means the front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit’ or the rear clip consisting of those body parts behind the rear edge of the black doors, including both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit; or any other vehicle part.

Section 5-902. Application

(a) No business shall purchase any regulated scrap metal without having first registered each place of business with the City Clerk.

(b) The City Clerk shall provide the Chief of Police written notice of the filing of registration by a scrap metal dealer within 10 days of registration or renewal.

(c) A registration for a scrap metal dealer shall be verified and upon a form approved by the Kansas Attorney General and shall contain:

- (1) The name and residence of the applicant;
- (2) The length of time that the applicant has resided within the State of Kansas and a list of all residences outside the State of Kansas during the previous 10 years.
- (3) The particular place of business for which a registration is desired;
- (4) The name of the owner of the premises upon which the place of business is located; and
- (5) The applicant shall disclose any prior convictions within 10 years immediately preceding the date of making the registration for theft; theft of property lost, mislaid or delivered by mistake; theft of services; criminal deprivation of property; or any other crime involving possession of stolen property, as defined under Kansas law, or comparable crimes as defined under the laws of any other state.

(d) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of \$100.

(e) The City Clerk shall accept a registration for a scrap metal dealer from any scrap metal dealer engaged in business in the city and qualified to file such registration to purchase regulated scrap metals. Such registration shall be issued for a period of 10 years.

(f) If an original registration is accepted, the City Clerk shall grant and issue annual renewals thereof upon application of the registration holder, if the registration holder is qualified to receive the same and the registration has not been revoked as provided by law. The fee for such renewal, which shall be in addition to the fee provided by subsection (d), shall be \$25.

(g) No registration issued under this act shall be transferable.

(h) Violation of subsection (a) is a Class C misdemeanor.

(i) This section shall not apply to a business licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such business buys or recycles regulated scrap metal that are not motor vehicle components.

Section 5-903. Qualifications.

(a) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meets the statutory requirements for such registration, the City Clerk shall accept such filing and the scrap metal dealer shall be deemed to be properly registered.

(b) No scrap metal registration shall be accepted for;

(1) A person who is under 18 years of age and whose parents or legal guardians have been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that such parents or legal guardians held a registration under this act.

(2) A person who, within five years immediately preceding the date of filing, has pled guilty to, been convicted of, released from incarceration for or released from probation or parole for committing, attempting to commit, or conspiring to commit a violation of Article 37 of Chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A.21-5801 through 21-5839 and subsection (a)(6) of K.S.A. 21-6412, perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 21-5903, compounding a crime, K.S.A. 21-3807, prior to its repeal, obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its repeal, interference with law enforcement, K.S.A. 21-5094, interference with judicial process, K.S.A. 21-5905, or any crime involving moral turpitude.

(3) A person who, within the five years immediately preceding the date of registration, has pled guilty to, been found guilty of, or entered a diversion agreement for violating the provisions of section 1, and amendments thereto, K.S.A. 50-6,109 *et seq.*, and amendments thereto, the laws of another state comparable to such provisions or laws of any county or city regulating the sale or purchase of regulated scrap metal three or more times.

(4) A person who within the three years immediately preceding the date of registration held a scrap metal dealer registration which was revoked, or managed a facility for a scrap metal dealer whose registration was revoked, or was an employee whose conduct led to or contributed to the revocation of such registration.

(5) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last three years.

(6) A partnership or limited liability company, unless all members of the partnership or limited company are otherwise qualified to file a registration.

(7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason.

(8) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration.

(9) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that the spouse held a registration under this act.

Section 5-904. Suspension, Revocation, Appeals.

(a) The Governing Body, upon five days notice to the persons holding a registration, may suspend the scrap metal dealer's registration for up to 30 days for any one of the following reasons:

(1) The registrant has been convicted of violating any of the provisions of K.S.A 50-6,109 *et seq.*, and amendments thereto, or any similar ordinance, resolution or rules or regulations made by the board or the city, as the case may be;

(2) the employment or continuation in employment of a person if the registered scrap metal dealer knows such a person has, within the 24 months prior to the notice of suspension or revocation action, been convicted of violating any provisions of this Article, or K.S.A. 50-9,109 *et se.*, and amendments thereto, or the laws of another state comparable to such provisions, or any city or county ordinance or resolution, or regulation controlling scrap metal sale or purchase in Kansas or any other state; or

(3) permitting any criminal activity under the Kansas criminal code or city ordinance in or upon the registrant's place of business.

(b) The Governing Body may revoke the registration of a scrap metal dealer who has had its registration suspended three or more times within a 24-month period.

(c) The Governing Body, upon five days' notice to the person holding the registration, shall revoke or suspend the registration for any one of the following reasons;

(1) The registrant has fraudulently registered by knowingly giving materially false information on the registration form;

(2) the registrant has become ineligible to obtain a registration under this act;

(3) the nonpayment of any registration fees after receiving written notice that such registration fees are more than 30 days past due; or

(4) within 20 days after the order of the City Clerk denying, revoking or suspending any registration, the registrant may appeal to the district court and the district court shall proceed to hear such appeal as though the court had original jurisdiction of the matter.

Upon request by the registrant, the municipal court may enjoin the revocation or suspension of a registration until final disposition of any action brought under this act.

- (d) Any action brought under subsections (a), (b), or (c) shall be brought individually against a single registrant's site and not against any other scrap metal sites or locations registered by the same individual, company or business entity.

Section 5-905. Unlawful Acts, Scrap Metal Dealer Register.

(a) Except as provided in subsection (d), it shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer, or employee or agent of a dealer, unless such person presents to such scrap metal dealer, or employee or agent of such dealer, at or before the time of sale, the following information: The seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license. The identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.

(b) Every scrap metal dealer shall keep a register in which the dealer, or employee or agent of the dealer, shall at the time of purchase or receipt of any item for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:

- (1) The time, date and place of transaction;
- (2) the seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license; the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller;
- (3) a copy of the identification card or document containing such identifying number;
- (4) the license number, color and style or make of any motor vehicle in which the junk vehicle or other regulated scrap metal property is delivered in a purchase transaction;
- (5) a general description, made in accordance with the custom of the trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;
- (6) the weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;
- (7) if a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number and serial number if applicable;

(8) the amount of consideration given in a purchase transaction for the junk vehicle or other regulated scrap metal property; and

(9) the name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase.

(c) The scrap metal dealer's register, including copies of identification cards, may be kept in electronic format.

(d) Notwithstanding the foregoing, this section shall not apply to:

(1) transactions involving regulated scrap metal, except for catalytic converters, for which the total sale price for all regulated scrap metal is \$50.00 or less;

(2) transactions involving only catalytic converters for which the total sale price is \$30.00 or less;

(3) transactions in which the seller is also a scrap metal dealer; or

(4) transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.

(e) The exceptions contained in subsections (d)(1) and (d)(2) shall not apply to any purchase from any seller of the following materials:

(1) Catalytic converters purchased separate from a vehicle;

(2) Coated or insulated wire or stripped wire or burnt wire;

(3) Refrigeration condensing units or air conditioning coils of any type; or

(4) Copper tubing, bars, plate, buss bar and sheet copper.

(f) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to pay for any of the items described in subsections (e)(1) through (4) by any means other than:

(1) A prenumbered check drawn on a regular bank account in the name of the scrap metal dealer and with such check made payable to the person documented as the seller in accordance with subsection (b); or

(2) a system for automated cash or electronic payment distribution which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with subsection (b).

Section 5-906. Unlawful Acts, Purchase and Sale of Scrap, Mandatory Hold.

(a) It shall be unlawful for any such scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 50-6.110,

and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in K.S.A. 50-6.110, and amendments thereto. All records kept in accordance with the provisions of this act shall be open at all times to peace or law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to peace or law enforcement officers upon request.

(b) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 50-6.110, and amendments thereto, requires information to be presented by the seller, without obtaining from the seller a signed statement that: (1) each item is the seller's own personal property, is free of encumbrances and is not stolen; or (2) that the seller is acting for the owner and has permission to sell each item.

(c) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which K.S.A. 50-6.100, and amendments thereto, requires information to be presented by the seller, without: (1) inspecting the vehicle offered for sale and recording the vehicle identification number; and (2) obtaining an appropriate vehicle title or bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.

(d) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase or receive any regulated scrap metal from a minor unless such minor is accompanied by a parent or guardian or such minor is a licensed scrap metal dealer.

(e) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any of the following items of regulated scrap metal property without obtaining proof that the seller is an employee, agent or person who is authorized to sell the item of regulated scrap metal property on behalf of the governmental entity, utility provider, railroad, cemetery, civic organization or scrap metal dealer:

- (1) Utility access cover;
- (2) street light poles or fixtures;
- (3) road or bridge guard rails;
- (4) highway or street sign;
- (5) water meter cover;
- (6) traffic directional or traffic control signs;
- (7) traffic light signals;
- (8) any metal marked with any form of the name or initials of a governmental entity;

- (9) property owned and marked by a telephone, cable, electric, water or other utility provider or any such wire or cable that has had the sheathing removed, making ownership identification impossible;
- (10) property owned and marked by a railroad;
- (11) funeral markers or vases;
- (12) historical markers;
- (13) bales of regulated metal;
- (14) beer kegs;
- (15) manhole covers;
- (16) fire hydrants or fire hydrant caps;
- (17) junk vehicles with missing or altered vehicle identification numbers;
- (18) real estate signs;
- (19) bleachers or risers, in whole or in part; and
- (20) twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge.

(f) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to sell, trade, melt or crush, or in any way dispose of, alter or destroy any regulated scrap metal, junk vehicle or vehicle part upon notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe an item has been stolen. A scrap metal dealer shall hold any of the items that are designated by or on behalf of the law enforcement agency for 30 days, exclusive of weekends and holidays.

Section 5-907. Penalties.

(a) Except as otherwise provided in subsection (h) of Sec. 5-903 and subsections (b) and (c) of this Section, any person intentionally violating the provisions of the Article, and amendments thereto, shall be guilty of a Class C misdemeanor with a penalty of a minimum fine of \$200.

(b) Any person convicted of violating the provisions of this Article, and amendments thereto. For the second time within a two-year period shall be guilty of a Class C misdemeanor with a penalty of a minimum fine of \$500.

(c) Any person convicted of violating the provisions of this Article, and amendments thereto, for the third and subsequent times within a two-year period shall be guilty of a Class B misdemeanor with a penalty of a minimum fine of \$1000.

Section 2. This Ordinance shall take effect upon its publication of the summary in the official City newspaper as provided by law.

PASSED AND APPROVED by the Governing Body of the City of Dodge City, Kansas, this 4th day of March, 2013

RICK SOWERS, MAYOR

ATTEST:

NANNETTE POGUE, CITY CLERK

ORDINANCE NO. 3552

AN ORDINANCE OF THE CITY OF DODGE CITY, KANSAS AMENDING THE OFFICIAL ZONING MAP OF THE CITY, CHANGING A PORTION OF THE PROPERTY KNOWN AS 511 SUNFLOWER FROM R-1, RESIDENTIAL LOW DENSITY TO C-2, COMMERCIAL HIGHWAY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE CIY, KANSAS:

SECTION 1: The following described real property located in Dodge City, Ford County, Kansas is hereby zoned C-2, Commercial Highway:

The West 77 feet of the North 120 feet, except the West 17 feet thereof, Lot 4, Block 9, Replat of Block 9-20, Crawford Addition (vacated), an addition to the City of Dodge City, Ford County, Kansas.

SECTION 2: This ordinance shall take effect, from and following its publication in the official paper, as required by law.

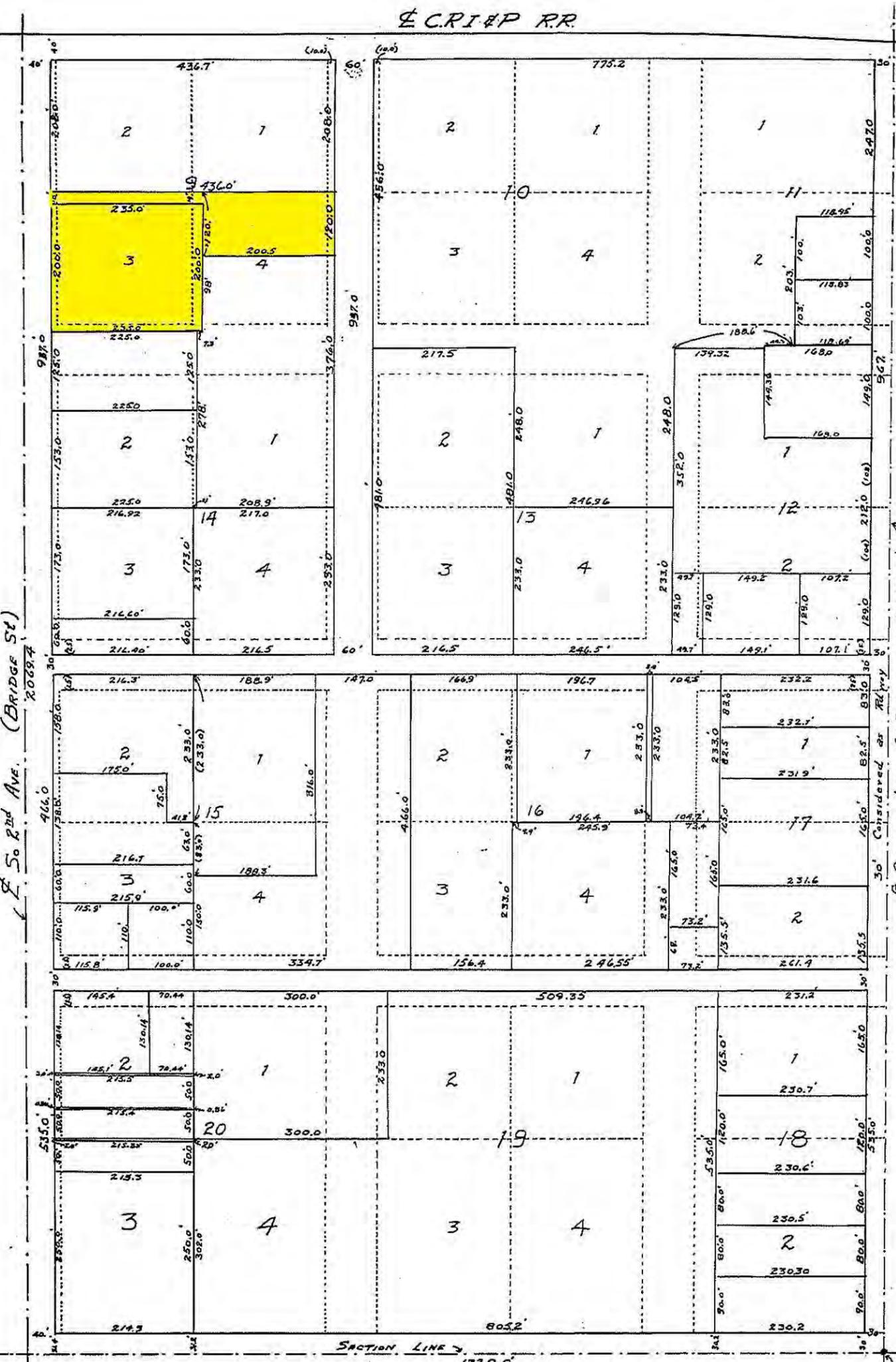
PASSED BY THE CITY OF DODGE CITY GOVERNING BODY, IN REGULAR SESSION AND APPROVED BY THE MAYOR, THIS FOURTH DAY MARCH, 2013.

RICK SOWERS, MAYOR

ATTEST:

NANNETTE POGUE, CITY CLERK

E C R I & P R R.



REPLAT OF
BLOCKS 9-20 INCL:
CRAWFORDS ADDITION
DODGE CITY KANSAS
AS VACATED

LEGEND
 Existing Property Lines
 Block & Lot Boundaries
 All East & West Measurements Provided for
 Existing Shortage

PETITIONED BY: ALL PROPERTY OWNER
 Dated OCT. 29, 1947
 FILE NO
 PREPARED BY: CHAS. H. SWIFT & CO.
 Survey by DALE V. DAVIS
 DEPUTY COUNTY SURVEYOR
 APPROVED BY
 COUNTY ENGINEER

STATE OF KANSAS
 This instrument was filed in this office
 on the 29th day of OCTOBER, A.D.
 1947 at the County Clerk's Office
 and duly recorded in Book C
 of Plat No. 212

Fee \$ 2.00
 Hattie M. Conroy
 Register of Deeds

Sec Corner
 SEC 35. T26S. R25W

STATE OF KANSAS }
FORD COUNTY } ss:

This instrument was filed in this office
on the 21st day of March A.D.
2007 at 9:00 o'clock AM
and duly Recorded in Book 142
at Myself Page 770-771
Brenda Fee \$ 7.00
Register of Deeds

DISCHARGE OF MORTGAGE

TO: FORD COUNTY REGISTER OF DEEDS
PO BOX 1352
DODGE CITY, KS 67801

DESCRIPTION OF MORTGAGE DISCHARGED:

Date of Mortgage: 07-12-05 Date Mortgage Discharged: 03-09-07

Mortgage Recorded in Book: 334 Page No. 84-91 Date: 07-15-05

County in Which Property is Located: FORD

Mortgagor(s) Name: MARICELA A HERNANDEZ AND ISMAEL HERNANDEZ, HUSBAND AND WIFE

Legal Description of Property:

SEE ATTACHED

THE ABOVE DESCRIBED MORTGAGE IS FULLY PAID, SATISFIED, RELEASED AND DISCHARGED.

WITNESS my hand this 19 day of March, 2007.

SUNFLOWER BANK, N.A.

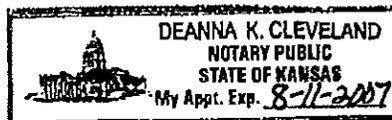
Lynn Herbic
LYNN HERBIC, VICE-PRESIDENT

STATE OF KANSAS
SALINE COUNTY, S.S.

On the date written below, before me, the undersigned Notary Public in and for the State and County aforesaid, appeared the above person, who is personally known to me to be Lynn Herbic, Vice-President of Sunflower Bank, N.A., a national banking association duly formed and existing under the laws of the United States of America, who is personally known to me to be the same person who executed, as such Officer, the above Discharge of Mortgage on behalf of the Mortgagee, and such person duly acknowledged the execution of this Discharge of Mortgage as the act and deed of the Mortgagee.

In testimony whereof, I have hereunto set my hand and affixed my official seal on the date written below.

Deanna K. Cleveland
Notary Public
My commission expires: August 11, 2007 DATE: March 19, 2007



A TRACT OF LAND LOCATED IN LOTS 3 AND 4, BLOCK 9 OF THE REPLAT OF BLOCKS 9 TO 20 INCLUSIVE, CRAWFORD'S ADDITION TO DODGE CITY, KANSAS, (NOW VACATED), DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 10 FEET WEST OF THE NORTHWEST CORNER OF LOT 3, BLOCK 9, IN THE REPLAT OF BLOCK 9 TO 20 INCLUSIVE, CRAWFORD'S ADDITION TO DODGE CITY, KANSAS, (NOW VACATED), THENCE SOUTH ON A LINE PARALLEL WITH AND 10 FEET WEST OF THE WEST BOUNDARY LINE OF SAID LOT 3, 218 FEET; THENCE EAST ON A LINE PARALLEL WITH SOUTH LINE OF SAID LOTS 3 AND 4, 285.5 FEET; THENCE NORTH PARALLEL WITH THE WEST BOUNDARY LINE OF SAID LOT 4, 98 FEET; THENCE WEST PARALLEL WITH THE NORTH BOUNDARY LINE OF SAID LOT 4, 50.5 FEET; THENCE NORTH PARALLEL WITH THE WEST BOUNDARY LINE OF SAID LOT 4, 120 FEET, TO THE NORTH BOUNDARY LINE OF SAID LOTS 3 AND 4, TO THE PLACE OF BEGINNING.

The property is located in FORD County at 512 2ND AVE, DODGE CITY, Kansas 67801.

Exhibit A

SUNFLO

POB

235'

218'

120'

50.5'

98'

285.5'

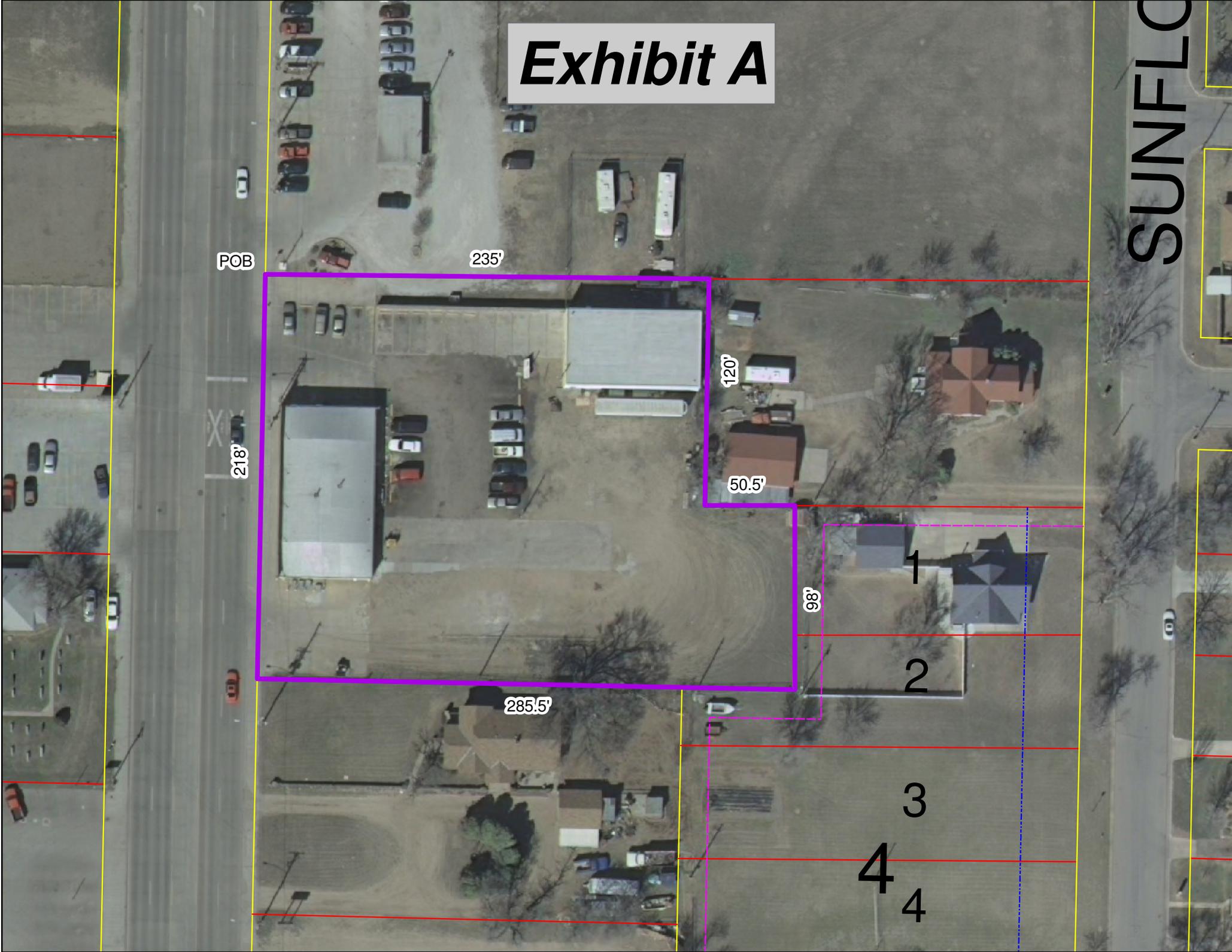
1

2

3

4

4



Trustee's Deed-Joint Tenancy
(Kansas Form)

THIS INDENTURE made this 13th day of September, 2012, by and between Hugh D. Edwards as Trustee of the Hugh Daniel Edwards Trust dated 5-3-05, as Grantors, and Ismael Hernandez and Maricela A. Hernandez as Grantees.

Grantors, by virtue of the terms and provisions of said trust agreements, and for Ten Dollars (\$10) and other valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, sell, and convey to Ismael Hernandez and Maricela A. Hernandez, as joint tenants with the right of survivorship and not as tenants in common, the following described real estate in FORD County, Kansas, to-wit:

The North 120 feet, except the West 17 feet thereof, Lot 4, Block 9, Replat of Blocks 9-20 Inc., Crawford Addition (Vacated), an Addition to the City of Dodge City, Ford County, Kansas, according to the Plat recorded in Plat Book "C" at Page 21 1/2.

Municipal Address: 511 Sunflower Ave., Dodge City, KS 67801

Except and subject to easements, restrictions and reservations of record, if any

Grantors covenant that the trusts remain in full force and effect at this time and that the Trustees have the authority, without limitation, to sell and convey all of the above described real estate.

Dated this 13th day of September, 2012.

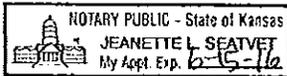
The Hugh Daniel Edwards Trust dated 5-3-05

Hugh D Edwards
Hugh D. Edwards, Trustee

ACKNOWLEDGMENT

STATE OF KANSAS,
COUNTY OF FORD SS:

The foregoing trustee's deed was acknowledged before me this 13th day of September, 2012, by Hugh D. Edwards as Trustee of the Hugh Daniel Edwards Trust dated 5-3-05.



Jeanette Seatvet
Notary Public

My Commission expires 6-15-16

Taxes: 3201 Robin Rd.
Dodge City Ks 67801

STATE OF KANSAS }
FORD COUNTY } ss:



This instrument was filed in this office on the 19 day of Sept. A.D. 2012 at 8:30 o'clock Am and duly Recorded in Book 340 at Deeds Page 411 Fee \$ 8.00
Register of Deeds

Entered in transfer record in my office this 24th day of Sept. A.D. 2012 Shawardeck
County Clerk



Brandi Pugh

Exhibit B

SUNFLO

17'

120'

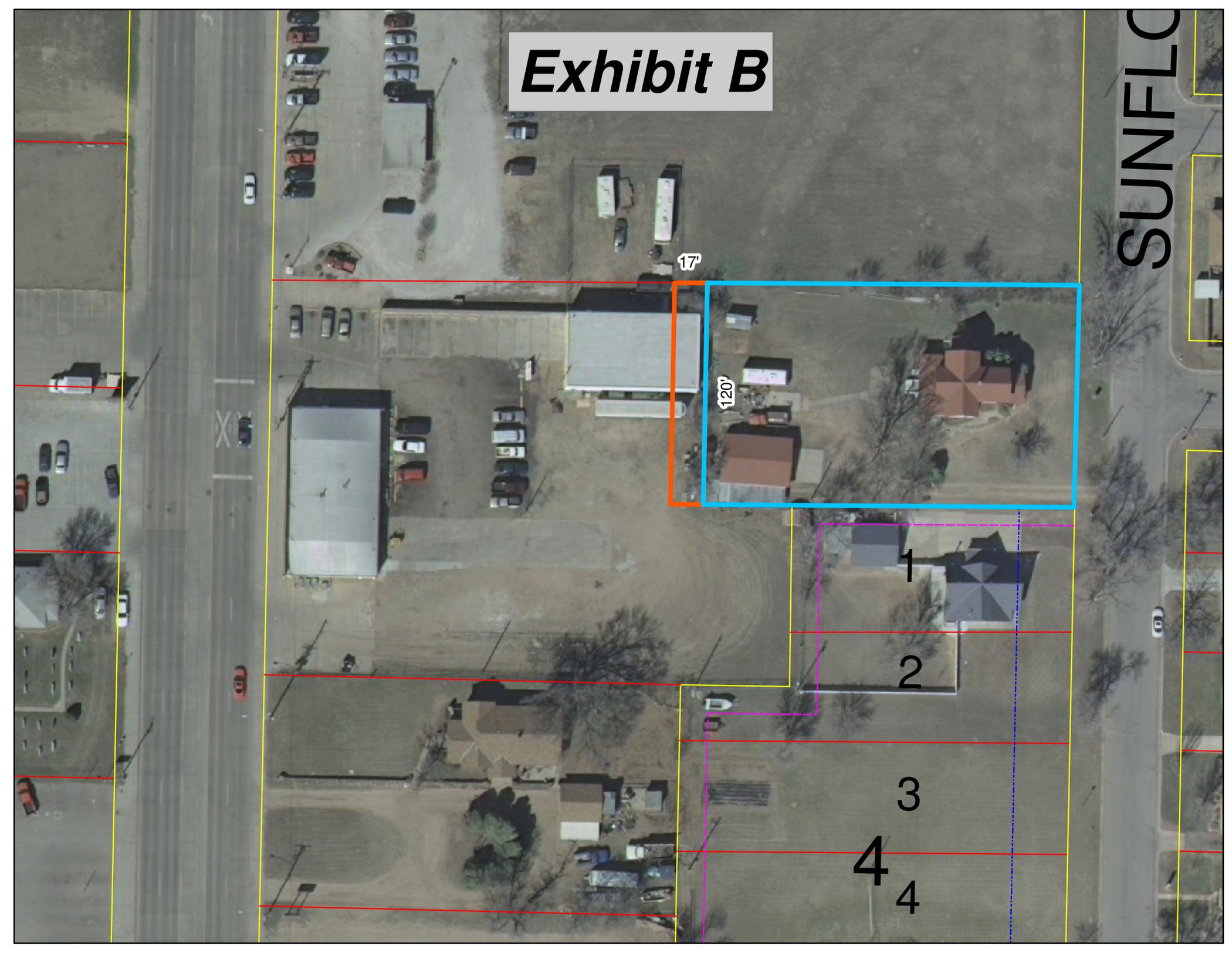
1

2

3

4

4



PLAT OF SURVEY

© Copyright 2002-2013

11161 Quaker Road Dodge City, Kansas 67801
Phone 620-339-9737

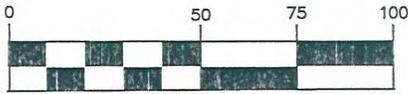
The West 77 feet of the North 120 feet, except the West 17 feet thereof, Lots 4 Block 9, Replat of Block 9-20 inc. Crawford Addition (Vacated), an Addition to the City of Dodge City, Ford County, Kansas

Legend

- ⊙ Found rebar as noted
 - △ Set 1/2"x30" Iron pin W/cap #684
 - FD 1/2"x30" iron pin W/cap #684
 - Found Square Conc. w/ 1/2" Rebar
- M = Measured Distance
P = Platted Distance

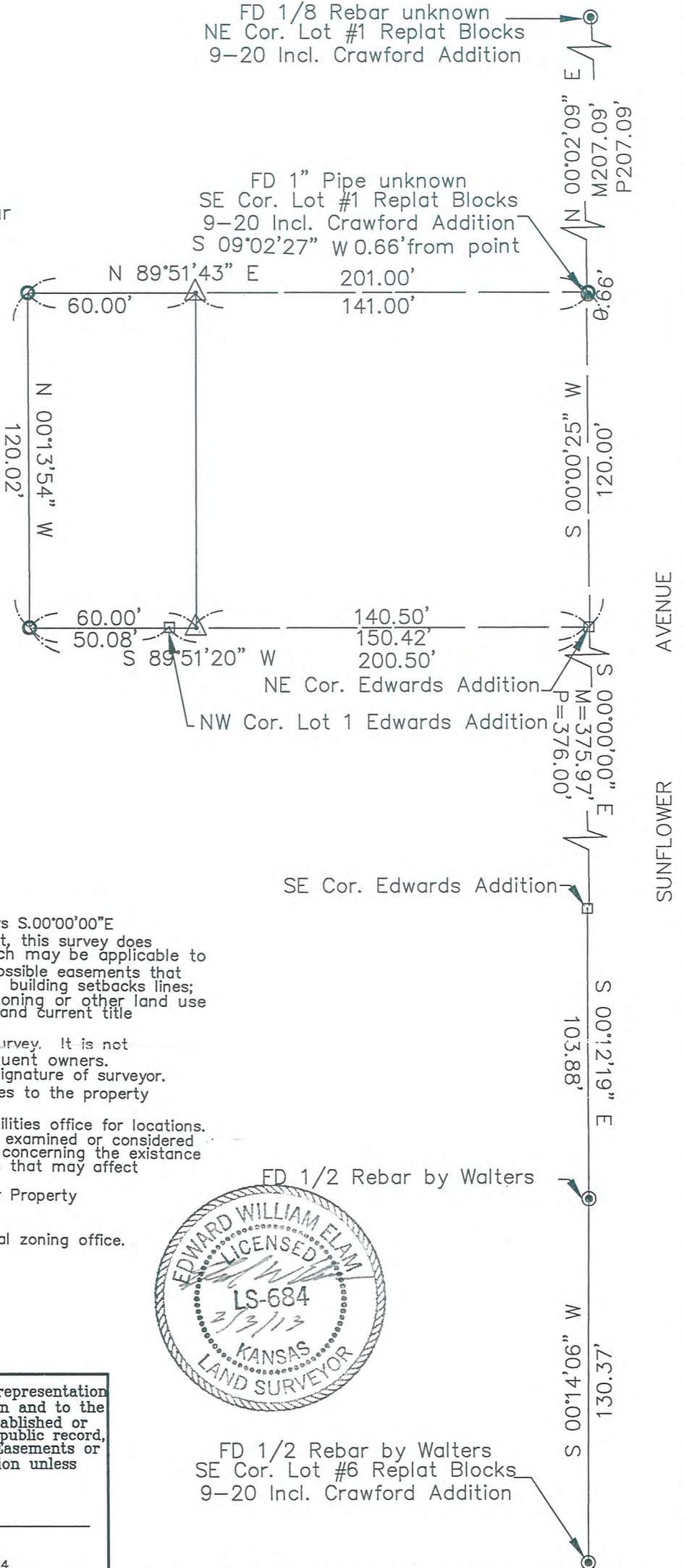


GRAPHIC SCALE



(IN FEET)

1 inch = 50 ft.



It is assumed that East Line Edwards Addition bears S.00°00'00"E
 Except as specifically stated or shown on this plat, this survey does not purport to reflect any of the following which may be applicable to the subject real estate: easements, other than possible easements that were visible at the time of making of this survey; building setbacks lines; restrictive covenants; subdivision restrictions; zoning or other land use regulation, and any other facts that an accurate and current title search may disclose.
 Declaration is made to original purchaser of the survey. It is not transferable to additional institutions or subsequent owners.
 Survey is valid only if print has original seal and signature of surveyor.
 The location and/or existence of utility service lines to the property surveyed are unknown and are not shown.
 Before excavations are begun contact the local utilities office for locations.
 Subsurface and environmental conditions were not examined or considered as a part of this survey. No statement is made concerning the existence of underground or overhead containers or facilities that may affect the use or development of this tract.
 This survey meets current "Minimum Standards for Property Boundary Surveys."
 We did not show existing utility easement.
 Building setbacks are not shown, contact your local zoning office.



Field Work completed on February 3, 2013

I hereby certify that the drawing hereon is a true representation of a survey performed under my personal supervision and to the best of my knowledge, land title lines have been established or re-established, in accordance with the documents of public record, or physical evidence of obliterated corner location. Easements or setbacks, if shown, are based upon platted information unless otherwise noted.

Signature: _____

Edward W. Elam

Date: February 3, 2013

Reg. No. _____

684

FD 1/2 Rebar by Walters
SE Cor. Lot #6 Replat Blocks
9-20 Incl. Crawford Addition

Survey For: Ismael and Maricela A. Hernandez

Exhibit C

SUNFLO

77'

120'

17'

1

2

3

4

4

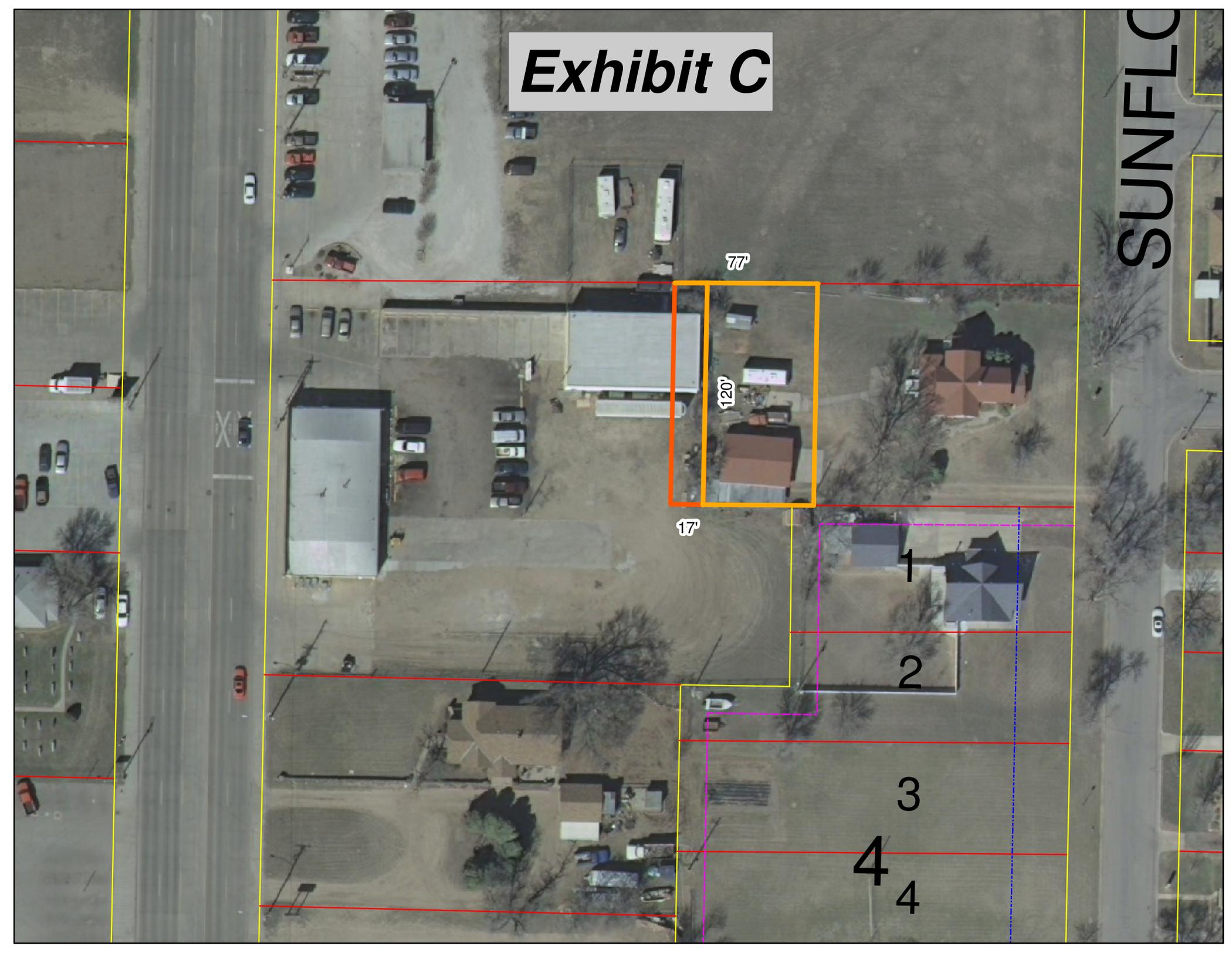
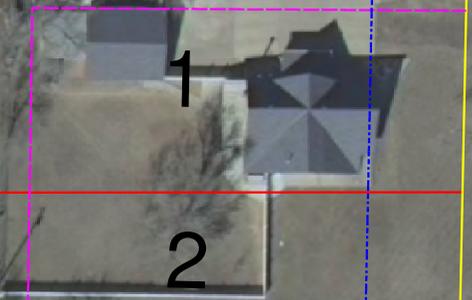


Exhibit D

SUNFLO





City of Dodge City

806 N. Second Ave. Phone: 620-225-8100
PO Box 880 FAX: 620-225-8144
Dodge City, KS 67801 www.dodgecity.org

Memorandum

To: City Manager
Assistant City Manager
City Commissioners

From: Melissa McCoy

Date: February 27, 2013

Subject: 2013 Heritage Trust Fund Application

Agenda Item: Approval of Heritage Trust Grant for Santa Fe Depot

Recommendation: Staff recommends acceptance by the City of Dodge City (the City) of the Heritage Trust Fund Grant Award for the Atchison Topeka and Santa Fe (ATSF) Railway Depot stabilization project in the amount of \$90,000.

Background: On November 1, 2012, the City applied for a Heritage Trust Fund grant from the Kansas State Historical Society. The purpose of the grant was to repair and restore south/west windows/window frames (80 windows/frames) and south/west doors/door frames (9 doors) at the ATSF Railway Depot per the Secretary of the Interior's Standards for Rehabilitation.

On February 9, 2013, the Heritage Trust Fund Grant was awarded to the City in the amount of \$90,000. The funded work items are:

- Repair of south and west windows, window frames, doors and door frames.
- Installation of new ventilated storm windows on exterior side of all south and west windows.

Financial Considerations:

The estimated cost for the project, including a 20% contingency budget is \$152,160. The City, through the Tourism Task Force has completed payment of the architectural fees for the project in the amount of \$12,900. In addition, the City has been approved to utilize the State Historic Rehabilitation Tax Credits (tax credits) for the project which will cover 25 % of eligible costs.

The match from the City is \$70,000. After tax credits, the amount would be \$52,500. In the past, the Tourism Task Force budget, which is funded through the "Why Not Dodge" Sales Tax, has been utilized for Depot Development and Stabilization. Staff would recommend that this fund be used for the match.

Purpose/ Mission: The Project is consistent with the City's Core Purpose of "Making Dodge City the best place to be" and our core value of Ongoing Improvement.

Legal Considerations: N/A

Attachments:

Letter from State Historical Society for approval of acceptance of Heritage Trust Grant Award

6425 SW 6th Avenue
Topeka, KS 66615



phone: 785-272-8681
fax: 785-272-8682
cultural_resources@kshs.org

Kansas Historical Society

Sam Brownback, Governor
Jennie Chinn, Executive Director

February 11, 2013

Re: 2013 Heritage Trust Fund Grant Application

Dear City of Dodge City:

I am pleased to inform you that at the February 9, 2013, meeting of the Kansas Historic Sites Board of Review, the board recommended that your application for preservation of the Atchison, Topeka and Santa Fe Railway Depot should be funded. As the Executive Director of the Kansas Historical Society, I support the board's decision and extend the offer of a Heritage Trust Fund grant as described below:

Amount of Award: \$ 90,000 *All awards are subject to available funding.*

Funded work items:

- **Repair south and west windows, window frames, doors and door frames.**
- **Install new ventilated storm windows on exterior side of all south and west windows.**

Should you choose to accept this award, please send a letter indicating thus to the Heritage Trust Fund grant manager, Katrina Ringler, by no later than **March 8, 2013**. **Both the grantee and the Kansas Historical Society must sign a project agreement before any work may begin on your project.** Since your grant application will be used as the basis for your project agreement, please inform Ms. Ringler of any possible changes in your budget, time line, or scope of work. She will then contact you to work out the details of the agreement and to answer any questions you might have concerning the administration of your project.

In addition to the project agreement, your project administrator must attend a grant orientation before grant activities can begin. Please see the enclosed schedule for more information. If you need additional information, please feel free to contact Katrina Ringler at (785) 272-8681, ext. 215 or kringler@kshs.org.

Once again, let me extend my congratulations. I am looking forward to a successful project.

Sincerely,

Jennie Chinn
Executive Director

ml
Enclosure

Memorandum

*To: City Manager
Assistant City Manager
City Commissioners*

From: Kevin Norton, Fire Chief DCFD

Date: 03-04-2013

Subject: Approval of bid for Fire Truck

Agenda Item: New Business

Recommendation: Approve the bid from Pierce Manufacturing Inc.

Background: Since the McGrath study (Sept. 2010) recommended replacing our ageing first out Engines we have made great strides in achieving this goal. In April 2011 the Fire Engine from Station # 1 (E412) was replaced and in 2012 our Brush Truck was completely rebuilt on the existing Ford chassis. Approving this bid to replace the Engine from Station # 2 (E411) completes this process.

Justification: NFPA Standards require a fire engine to be pulled from first out response after 20 years of service. Engine 411 is a 1990 model and has been in continuous service, it has 116,000 miles on the odometer.

Financial Considerations: Funds for this purchase are allocated in the MERF budget. The finance director will seek proposals for a five year lease purchase agreement.

Purpose/Mission: Purpose is to equip our firefighters with a modern and dependable fire engine to provide fire protection to the community.

Legal Considerations: None.

Attachments: Results of sealed bid opening on Feb. 19th, 2013

Bid Opening 02/19/2013

Pierce Manufacturing Inc. Appleton Wisconsin
Bid Price \$441,503 after prepay discount \$427,172.00
Delevery 180-210 days

Emergency One Inc. Ocala, Florida
Bid Price \$445,024 after prepay discount \$429,498.00
Delevery 270 days

Rosenbauer America. Wyoming, Minnesota
Bid Price \$474,643 after prepay discount \$466,761.00
Delivery 360 days

Alexis Fire Equipment Co. Alexis, Illinois
Bid Price \$439,468.00 (unit did not meet specifications)

Memorandum

To: City Manager
Assistant City Manager
City Commissioners

From: Ray Slattery, P.E.
Director of Engineering Services

Date: February 26, 2013

Subject: KLINK Agreement for US 50, with KDOT,
ST 1302.

Agenda Item: New Business

Recommendation: Approve KLINK Resurfacing Program Agreement with KDOT for the Mill & Overlay of US 50 within the city limits.

Background: In April of 2012 the city submitted an application to KDOT under Transportation City Connecting Links (KLINK) for a 1½" mill & 1½" overlay of US 50 within the City. In August we received word that the proposed project had been selected and would be funded in KDOT Fiscal Year 2014 (July 1, 2013 to June 30, 2014). The state's participation in this project is 50% of the cost of construction and construction engineering, up to a maximum of \$200,000. The construction estimate on the applications was \$399,994. The KLINK Program is only for maintenance/resurfacing, major modifications are not part of the KLINK Program. The city will begin design on this project once the agreement is finalized. It is anticipated that this project will be bid, approved, and constructed as soon as possible after July 1, 2013.

Justification: This section of US 50 has not seen any maintenance applications in some time. It is starting to show signs of deterioration. KDOT and City forces have filled "pot holes" along the route. We have seen an increase in traffic on this roadway since Wyatt Earp Blvd. is longer in the state highway system. With the added traffic comes added loading and maintenance of the roadway.

Financial Considerations: The city will be responsible for 50% of the construction and construction engineering of the project up to \$200,000. It is anticipated that the city's share may be slightly above the \$200,000 amount. We will be requesting \$250,000 of funding for this project from the 2012 Street Program through GOB funding.

Purpose/Mission: With the completion of this project we can meet the On Going Improvement and Safety that the residents and businesses expect from this roadway.

Legal Considerations: The City is entering into an agreement with KDOT and is bound by the provisions of this agreement.

Attachments: The KLINK Agreement with KDOT and map of US 50 that shows the construction limits.

PROJECT NO. 50-29 U-0150-01
KLINK RESURFACING PROJECT
CMS CONTRACT NO. _____
CITY OF DODGE CITY, KANSAS

AGREEMENT

This Agreement is between **MICHAEL S. KING, Secretary of Transportation, Kansas Department of Transportation (KDOT)** (the "Secretary") and the **City of Dodge City, Kansas** ("City"), collectively, the "Parties."

RECITALS:

- A. The City has applied for and the Secretary has approved a KLINK Resurfacing Project.
- B. The Secretary and the City are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of city connecting links of the State Highway System through the City.
- C. The City desires to construct a street resurfacing Project on US-50, a city connecting link for the State Highway system, in the City.
- D. The Secretary desires to enter into an Agreement with the City to participate in the cost of the Project by use of State Highway funds.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE I

DEFINITIONS:

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

1. **City Connecting Link** - a route inside the city limits of a city which: (1) connects a state highway through a city; (2) connects a state highway to a city connecting link of another state highway; (3) is a state highway which terminates within such city; (4) connects a state highway with a road or highway under the jurisdiction of the Kansas Turnpike Authority; or (5) begins and ends within a city's limits and is designated as part of the national system of Interstate and defense highways.

2. **KLINK Resurfacing Program** - a city connecting link (KLINK) resurfacing program that is a part of the KDOT Local Partnership Program with cities and counties. The state's participation in the cost of construction and construction engineering will be seventy-five percent (75%) for cities with a population of less than 10,000 or fifty percent (50%) for cities with a population of 10,000 or greater, up to a maximum of \$200,000.00 per fiscal year of state funds. The KLINK Resurfacing Program is for contract maintenance only.

3. **Project** - mill and overlay, reconstruction, minor patching, joint repair, slurry seal, microsurfacing, and any other pre-approved resurfacing methods for the KLINK Resurfacing Program for US-50, from West City Limits to East City Limits.

4. **Eligible/Participating Bid Items** - all bid items that pertain to Project resurfacing and striping along the connecting link only. Items eligible for KLINK funding include manhole adjustments, milling, overlays, aggregate or paved shoulders (if already existing), concrete pavement, thin bonded concrete overlays, joint repair, slurry seals, bituminous seals, ultra thin bonded overlay, concrete and asphalt pavement patching, subgrade improvement, reconstruction, traffic control, transporting of salvageable material (millings), striping, traffic signal loops on the state highway and that portion of the traffic signal loops that lie inside the return on side streets, and pavement marking on the connecting link. Video-detection systems are participating, except on side streets; however, such systems will require pre-approval, as well as additional details, and a bill of materials to be included in the final design plans. Resurfacing work is participating out to the curb returns on side streets.

5. **Non-Eligible/Non-Participating Bid Items** - items typically non-eligible for KLINK funding include but are not limited to: bridge deck patching, utility adjustments, curb and gutter, overlay of curb and gutter, adjustment or reestablishment of survey markers, drainage appurtenances, driveways, entrances, sidewalks, sidewalk ramps, construction warranties, traffic loop construction outside the return on a side street, video detection on side streets, and construction outside of the curb and gutter. Work performed outside the Project limits on side streets, or outside the city limits is non-eligible for state participation, items with unit price changes from the let price (other than items with price adjustment specification in the bid documents) and any other items deemed non-eligible by the Secretary.

6. **Fiscal Year (FY)** - the state's fiscal year begins July 1 and ends on June 30 of the following calendar year.

ARTICLE II

SECRETARY RESPONSIBILITIES:

1. **Reimbursement of Project Costs.** The Secretary agrees to reimburse the City fifty percent (50%) of the total actual costs of construction (which includes the costs of all construction contingency items) and construction engineering, but not to exceed \$200,000.00, as the Secretary's total share of the cost to construct 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 exceeds \$400,000.00. The Secretary shall not be responsible for the total actual costs of preliminary engineering, utility adjustments, or items not participating in the KLINK Resurfacing Program.

2. **Reimbursement Payments.** The Secretary will make such payment to the City as soon as reasonably possible after construction of the Project is completed, after receipt of proper billing, and attestation by a licensed professional engineer employed by the City that the Project was constructed within substantial compliance of the final design plans and specifications.

ARTICLE III

CITY RESPONSIBILITIES:

1. **Limited Scope.** The Project is limited to roadway resurfacing along the Project location. The Project roadway resurfacing may include all eligible items as defined above. Roadway resurfacing does not include such non-eligible items as defined above and any other items deemed non-eligible by the Secretary.

2. **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 KLINK Resurfacing Program for this Project.

3. **General Indemnification.** To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act, the City will 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, the City's employees, agents, or subcontractors. The City shall not be required to defend, indemnify, hold harmless, and save the Secretary for negligent acts or omissions of the Secretary or his or her authorized representatives or employees.

4. **Indemnification by Contractors.** The City 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 of 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.

5. **Design, Letting, and Administration.** To prepare or contract to have prepared, the design plans, specifications, and cost estimate (PS&E) for the Project, to let the contract, and award the contract to the lowest responsible bidder. The City agrees to construct or have constructed the Project in accordance with the final design plans and specifications; inspect or have inspected the construction; administer the Project; and make the payments due the contractor, including the portion of cost borne by the Secretary. The City shall design the Project or contract to have the Project designed in conformity with the current version of Section 16.0 City Connecting Links (KLINK) Resurfacing Program of the LPA Project Development Manual.

6. **Responsibility for Adequacy of Design.** The City and any consultant retained by the City shall have the sole responsibility for the adequacy and accuracy of the design plans, specifications, and estimates. Any review of these items that may be performed by the Secretary or his or her 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, specifications, and estimates. Such reviews are not done for the benefit of the consultant, the construction contractor, the City, or other political subdivision, nor the traveling public. The Secretary makes no representation, expressed or implied warranty to any person or entity concerning the adequacy or accuracy of the design plans, specifications, and estimates or any other work performed by the consultant or the City.

7. **Design Schedule and Submission to Secretary.** The City will follow a schedule for design and development of plans that will allow the Project to be let to contract in the programmed fiscal year; otherwise, the City agrees the Secretary has the right to withdraw the Secretary's participation in the Project. If the City's Project preliminary plans, specifications, and a cost estimate (PPS&E) are submitted to KDOT's Bureau of Local Projects later than May 1 of the programmed fiscal year, at the Secretary's discretion, the Project may be moved into a future fiscal year.

8. **Movement of Utilities.** 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 structures, pole lines, pipelines, meters, and other utilities, publicly or privately owned, which may be necessary for construction of the Project in accordance with the final design plans. The expense of the removal or adjustment of the utilities and encroachments located on public right of way or easement shall be borne by the owner or the City.

9. **Future Encroachments.** The City will prohibit future erection, installation or construction of encroachments either on or above the right of way, and it will not in the future permit the erection of fuel dispensing pumps upon the right of way of the connecting link. The City further agrees it will require any fuel dispensing pumps erected, moved or installed along the connecting link be placed no less than twelve (12) feet back of the right of way line.

10. **Legal Authority.** The City will 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.

11. **Temporary Traffic Control.** It is understood the City (or the City's consultant) shall determine the manner in which traffic is to be handled during construction in accordance with the latest version, adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD).

12. **Permanent Traffic Control.** The City shall conform 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 a public authority, or other agency as authorized by K.S.A. 8-2005, shall 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 the approval of the Secretary.

13. **Access Control.** The City will maintain 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.

14. **Final Design Plans.** The final design plans will depict the entire Project location. The eligible/participating bid items must be shown separated and listed apart from the non-eligible/non-participating bid items on the final design plans, bid documents, and on the detailed billing provided by the City. The City shall have the final design plans signed and sealed by a licensed professional engineer. The City will furnish to KDOT's Bureau of Local Projects an electronic set of final design plans and specifications. The City further agrees the specifications will require the contractor to provide a performance bond in a sum not less than the amount of the contract as awarded.

15. Program Administration. In addition to complying with all requirements contained in Section 16.0 City Connecting Links (KLINK) Resurfacing Program of the LPA Project Development Manual:

(a) The City acknowledges that funding for the Project may be cancelled if the City proceeds to advertise, let, or award a contract for the Project, prior to receipt of notification from KDOT's Bureau of Local Projects of its completion of the final review of the plans, specifications, and estimates (PS&E).

(b) The City acknowledges that funding for the Project may be cancelled if the City awards the contract for the Project prior to its receipt of an "Authority to Award" notification from KDOT's Bureau of Local Projects.

(c) The City will provide to KDOT's Bureau of Local Projects an electronic copy of the executed contract, the completed tax exemption form (PR-76 or PR-74a) and the City's Notice of Award.

(d) After the contract for the Project is awarded, the City will promptly notify both the Project Manager of KDOT's Bureau of Local Projects and the KDOT Area Engineer to communicate the date the contractor is anticipated to begin work on the Project.

(e) The City acknowledges that any costs for work completed prior to receipt of a Notice of Actual Start Date from the KDOT Area Engineer are ineligible for participation in the Program, will be deemed non-participating costs, and shall be the responsibility of the City.

16. Discrimination Laws. The City will: (a) 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 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) include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; and (d) include those provisions in (a) through (c) in every contract, subcontract or purchase order so they are binding upon such contractor, subcontractor or vendor. If the City fails to comply with any applicable requirements of (a) through (d) above or if the City is found guilty of any violation by federal or state agencies having enforcement jurisdiction for those Acts, such violation will constitute a breach of this Agreement. If the Secretary determines the City has violated applicable provisions of the ADA, the violation will constitute a breach of this Agreement. If any violation under this paragraph occurs, this Agreement may be cancelled, terminated or suspended in whole or in part.

17. Prevailing Wages. The City will require the contractor to pay prevailing wages. The City will incorporate into the construction contract the current general wage decision for the county in which the Project is being constructed. The City can obtain the current wage decision from the KDOT Bureau of Construction and Maintenance website.

18. Inspections. The City will provide the construction engineering/inspection necessary to determine substantial compliance with the final design plans, specifications, and this Agreement. The

City will require at a minimum all personnel, whether City or consultant to comply with the high visibility apparel requirements of the *KDOT Safety Manual*, Chapter 4, Section 8 Fluorescent Vests. If the City executes an agreement for inspection, the agreement must contain this requirement as a minimum. The City may set additional clothing requirements for adequate visibility of personnel.

19. Corrective Work. The City will direct or cause its contractor to accomplish any corrective action or work required by the Secretary's representative as needed for a determination of the funding participation in the KLINK Resurfacing Program. The Secretary does not undertake (for the benefit of the City, the contractor, the consultant, or any third party) the duty to perform day-to-day detailed inspection of the Project or to catch the contractor's errors, omissions or deviations from the final design plans and specifications.

20. Attestation. Upon completion of the Project the City shall have a licensed professional engineer employed by the City attest in an email to the KDOT Area Engineer and the Project Manager for KDOT's Bureau of Local Projects, that the Project was completed in substantial compliance with the final design plans and specifications.

21. Final Acceptance. Prior to issuing final payment to the contractor, the City must obtain final acceptance of the Project from the KDOT Area Engineer.

22. Accounting. Upon request by the Secretary, the City will provide the Secretary an accounting of all actual non-participating costs which are paid directly by the City to any party outside of KDOT and costs incurred by the City not to be reimbursed by KDOT for preliminary engineering, utility adjustments, or any other major expense associated with the Project. This will enable the Secretary to report all costs of the Project to the legislature.

23. Reimbursement Request. The City will request payment from the Secretary after the City has paid the contractor in full, and a licensed professional engineer has attested in writing the Project has been completed in conformance with the plans and specifications.

24. Audit. The City will participate and cooperate with the Secretary in an annual audit of the 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 by the City for items considered non-participating, the City shall promptly reimburse the Secretary for such items upon notification by the Secretary.

ARTICLE IV

GENERAL PROVISIONS:

1. Existing Right of Way. The Project will be constructed within the limits of the existing right of way.

2. Incorporation of Final Plans. The final design plans and specifications are by this reference made a part of this Agreement.

3. Compliance with Federal and State Laws. The Parties agree to comply with all appropriate state and federal laws and regulations applicable to this Project.

4. **Project Modification.** Any of the following Project changes require the City to send a formal notice to the Secretary for approval:

- a. Fiscal year the Project is to be let
- b. Project length
- c. Project location
- d. Project scope

Items b, c, and d require an attached map to scale.

It is further mutually agreed during construction, the City shall notify the Secretary of any changes in the plans and specifications.

5. **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.

6. **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.

7. **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.

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

9. **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.

10. **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.

11. **Effective Date.** This Agreement will become effective as of the date signed by the Secretary or designee.

The signature page immediately follows this paragraph.

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

ATTEST:

THE CITY OF DODGE CITY, KANSAS

CITY CLERK (Date)

MAYOR

(SEAL)

Kansas Department of Transportation
Michael S. King, Secretary of Transportation

By: _____ (Date)
Jerome T. Younger, P.E.
Deputy Secretary and
State Transportation Engineer

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
Assistant City Manager
City Commissioners

From: Ray Slattery, P.E.
Director of Engineering Services

Date: February 27, 2013

Subject: Professional Services to provide
Accreditation of City's Levee System
Phase III - Additional Services, SD
1102

Agenda Item: New Business

Recommendation: Given the importance of maintaining our Levee Certification staff would recommend approval of the Additional Services for Phase III, Levee Improvement Design, with Wilson & Company to provide professional additional services to assist the city with accreditation of its levee system in the amount of \$121,036. Funds will be taken from the Stormwater Drainage Fund.

Background: In April of 2008 the city entered into an agreement with FEMA to determine if our levee system would indeed provide the necessary protection that it was designed to. Should the city not be able to provide this accreditation, then much of Dodge between the BNSF Railroad tracks and Beeson Rd. would be placed in the 100-yr. flood zone and require flood protection insurance. The process of accreditation started when the City Commission signed the PAL (Provisionally Accredited Levee) agreement with FEMA. In September of 2008, Wilson & Company was retained to complete the discovery phase of the levee assessment. In January of 2009, Wilson & Company was retained to complete the assessment necessary to meet FEMA requirements, additional data collection and analysis was collected. From this data the necessary improvements can be designed. In July of 2011, Wilson & Company was retained for Levee Improvement Design. To date Wilson & Company has completed the Improvement Plans to 55%, met with representatives of the USACE, and Kansas Department of Water Resources on permitting. During the design phase, additional items have been discovered that need to be addressed for the Levee Accreditation and relieve problems due to the levee system. The additional services are required to finalize the Improvement Plans, Ave. D Drain Improvements, assure the City that FEMA will accept the plans, and perform a study to determine if the flood zones on the land side of the Levee System can be reduced.

Justification: The completion of this Phase of the Levee Accreditation is necessary to meet the FEMA requirements.

Financial Considerations: The cost of the Additional Services, Phase III, Levee Improvement Design, is \$121,036. Funds will be taken from the Stormwater Drainage Fund.

Purpose/Mission: The completion of the Levee Accreditation will allow the existing Levee System to meet the FEMA requirements, which will aid in the continued growth of Dodge City.

Legal Considerations: By approving the professional services with Wilson & Company the City will enter into a contract with Wilson & Company and be responsible to make payments for the completed work.

Attachments: Exhibit A.1 - Scope of Additional Services, Dodge City Levee Assessment Phase III (Levee Improvement Design)

Exhibit A.1

Scope of Additional Services
Dodge City, Kansas Levee Assessment – Phase III
(Levee Improvements Design)
2-26-13

ENGINEER – Wilson & Company, Inc., Engineers & Architects (WCI) (Prime Consultant); AMEC Earth and Environmental (Subconsultant – Geotechnical and Engineering Support

CITY – City of Dodge City, Kansas

USACE – United States Army Corps of Engineers

FEMA – Federal Emergency Management Agency

Scope of Services

This document defines the ENGINEER's additional scope of services necessary to develop Final Plans, Special Provisions, and Estimates that will allow the CITY to correct the various levee deficiencies identified in the *Dodge City Levee Assessment, Phase II Preliminary Report* dated January 2011. The need for most of the included tasks was not apparent at the time that the scope and fee was developed for the Phase III services contract. Other tasks were known but not enough information was available at the time of scoping to define the fee. An explanation of the justification for each of the proposed tasks is provided along with the scope descriptions and proposed fee. Following is a list of the proposed additional service tasks:

1. Design and Exhibit Preparation for the Levee Closures at the 2nd Street Bridge
2. D Avenue Drain Capacity Improvements Analysis and Design
3. Analysis, Plans & Specs for a Material Alternative for Embankment Protection
4. Value Engineering to Reduce Project Construction Costs
5. Increased Design Efforts Due to Cost Reduction Revisions
6. FEMA Conditional Letter of Map Revision Request
7. USACE 408 Permitting Coordination
8. Revise Interior Drainage Analysis Per new Methodology (Optional)

The following sections describe the justification for and the scope of each of the additional service Tasks.

1. Design and Exhibit Preparation for the Levee Closures at 2nd Avenue

Justification:

At the time that the contract for Phase III design services was executed, the type and extents of the required levee closures at the 2nd Avenue Bridge were unknown. Thus, a task to evaluate two alternatives for the closures was included in the executed contract but development of plans for the chosen alternative was

identified to be done as an additional service once the scope of the design could be tied down. The alternatives that were evaluated included extension of the floodwalls so that a conventional sandbag closure could be implemented and modifications to the bridge and floodwalls to support a removable stop log system.

It was found that both of these alternatives would require expensive design, analysis and construction to implement. In addition, conventional sandbag closures are very labor intensive to install. The current proposed scope and fee is for preparing a design and exhibits for "Big Bag USA" sandbag closure systems at each end of the bridge. The system will utilize large, foldable, self supporting, open top sand bags that can be filled quickly with a front end loader or ready mix concrete truck. It appears that the system can be implemented with only modification to the existing fence which can be deferred until the time that the system is needed. The use of the "Big Bag" closures at 2nd Avenue will significantly lower manpower requirements in a flood event making safe operation of the system more practical to achieve. Design these closures was not included in the Phase III scope and fee. This type of closure system will be much more economical to implement than other systems that were evaluated.

Scope:

Provide research, design, and exhibit preparation to demonstrate that the proposed "Big Bag" systems can be used as an alternative to normal sandbags for the 2nd Avenue closures, and provide guidance for purchasing materials and implementing the system in the field.

Fee: \$5,570

2. D Avenue Drain Capacity Improvements Analysis and Design

Justification:

During the detailed hydraulic analysis performed during preliminary design of the project a hydraulic deficiency issue was identified in an existing concrete structure located between the culvert in Trail Street and the Arkansas River. This deficiency restricts flow through the existing Trail Street Culverts. Flooding occurs near the culverts in large rainfall events. Increasing the capacity of the concrete structure will help mitigate flooding in the area of the culvert but will require additional design efforts and construction budget. This issue was unknown at the start of Phase III and thus design of modifications to the concrete structure was not included in the Phase III scope and fee.

Scope:

Detailed hydraulic analysis, concept through final design, plan and specification preparation for modifications to the existing trapezoidal and vertical walled concrete lined channel segment located immediately downstream of the Trail Street box culvert on the Avenue D open channel drain. This task will include additional design survey and mapping of the existing structure and structural design of the reinforced concrete components and associated hand railing. The plans and specifications will be included in the plan set and specifications for the "Dodge City Levee System Rehabilitation Project".

Fee: \$28,978

3. Analysis, Plans & Specs for a Material Alternative for Embankment Protection

Justification:

During the preliminary design process it has been determined that several areas of the system need to be armored to maintain stability in flood events. Rock riprap is a common material for this type of armoring and

has been proposed for use in the restoration project in the preliminary plans. There is some concern that the lack of locally available riprap material may lead to high construction costs for the armoring. An alternative armoring material known as articulating concrete block has been preliminarily reviewed for use on the project and appears to be compatible with the use. Armoring constructed of this material may also be easier to maintain as its finished surface is smoother for mowing operations. It is recommended that this material be fully evaluated for use on the project and included in the plans and bid form as an alternative to riprap. It is expected that including the alternative material may result in more competitive construction bids for the armoring. Inclusion of the alternative armoring will require additional engineering, analysis, plan sheets and specifications that were not included in the Phase III scope and fee.

Scope:

Perform design and analysis and prepare plans and specifications for an articulating concrete block bid alternate for embankment armoring in select areas of the project. The plans and specifications will be included in the plan set and specifications for the "Dodge City Levee System Rehabilitation Project".

Fee: \$17,256

4. Value Engineering to Reduce Project Construction Costs

Justification:

At the time that the Phase III scope and fee were prepared it was anticipated that the project improvements to achieve the required freeboard would consist primarily of excavation of a large channel of a uniform cross section between the existing levees. This approach was similar to the original design approach of a having a uniform cross section throughout the levee system extents. The recommended improvements included a much wider channel than the original design in order to achieve the required FEMA freeboard at critical locations. The preliminary design, based on this approach, was advanced to a point such that armoring requirements could be assessed and costs for the project could be estimated. It was determined at that point that the project would meet the project objectives for FEMA certification but would be expensive to construct due to large volumes of excavation and armoring that would be required. Value engineering was utilized to look at other design alternatives. This effort took considerable time but resulted in a design that will substantially reduce the construction costs of the proposed project through reduction of required excavation and armoring. The large extent of required armoring and associated high costs were not apparent at the time that the Phase III scope and fee were prepared. Thus, the value engineering effort was not included. The effort will result in significant reduction (approximately \$4 million) of construction costs for the project. The cost of this additional effort is small in comparison to the resulting construction savings.

Scope:

Work associated with developing and analyzing various configurations of improvements to the levee system to achieve the minimum required freeboard for FEMA certification of the levees while minimizing costs.

Fee: \$24,136

5. Increased Design Efforts Due to Cost Reduction Revisions

Justification:

The revised design developed in the value engineering effort has increased the complexity of the design effort and resulted in portions of the original design being re-done. Additional analysis and review will be required for areas of the levees that are proposed to be raised. Additional details and specifications are required to

address non-uniform cross sections and levee raising. This additional effort was not anticipated or included in the Phase III scope and fee. The cost of this additional effort is very small in comparison to the construction savings that will be realized as a result of the effort.

Scope:

Work associated with revising the grading plans for the project, revising armoring plans, adding details and profiles, additional analysis and review, and adding specifications associated with raising the levee in select areas. All of this effort is associated with construction cost saving measures.

Fee: \$17,012

6. FEMA Conditional Letter of Map Revision Request

Justification:

The FEMA levee certification process is undergoing changes. The current process for having FEMA review the analysis and proposed improvements associated with a levee system prior to construction of the improvements is to prepare and submit a request for a Conditional Letter of Map Revision for the project. FEMA will review this submittal and will comment on items that they are concerned about or issue a conditional approval for the improvements and associated regulatory floodplain changes that may occur as a result of the construction. Acquiring FEMA's conditional approval for the project prior to construction will reduce the risk of constructing improvements that FEMA may not accept during the certification process. This effort was not anticipated or included in the Phase III scope and fee.

Scope:

Prepare a request package for a FEMA Conditional Letter of Map Revision (CLOMR) for the Dodge City Levee Rehabilitation Project and provide coordination and additional data as needed during the FEMA review of the request. The request package will consist of several technical documents, calculations, and plans prepared in other tasks of the project along with completion of standard FEMA forms. Some of the existing information will require special formatting for this application. The FEMA review fee for the CLOMR is not included in this task. The current FEMA review fee is \$6,050. There is good potential that FEMA may waive the review fee for this CLOMR submittal.

Fee: \$12,192

7. USACE 408 Permitting Coordination

Justification:

While it was understood that several regulatory permits would be required for construction of the project, it was not anticipated that a USACE 408 permit would be required when the Phase III scope and fee was prepared. USACE 408 is a review and permitting process required for federally constructed public works that are proposed to be modified by a separate entity. The purpose of the process is to demonstrate that the modification will not have an adverse impact and that the function of the works will be maintained. USACE 408 review processes can be minor or major depending on the type of modifications involved. Indications from USACE are that this will be a minor review and will be handled at the Tulsa District level without the need for a significant technical application package. However, it is anticipated that coordination with the USACE while they are performing their review will be needed. This effort was not anticipated or included in the Phase III scope and fee.

Scope:

Prepare a letter request USACE for permission to modify the Dodge City Levee System and coordinate with USACE and provide supplementary information during their review process. Based on verbal communication with USACE, it is assumed that their 408 permit review will be based on documents prepared in other tasks and a separate technical report document will not be required.

Fee: \$4,348

8. Revise Interior Drainage Analysis Per New Methodology

Justification:

Interior drainage analyses are performed for levee projects to determine the extent of flooding that can be expected on the landward sides of levees during the 100-year local rainfall event and other local rainfall events that may occur while flood flows are in the river. These analyses are based on the joint probabilities of flood events in the river coinciding with local flood events. An interior drainage analysis for the project was completed during Phase II of the project based on generally accepted methodology in use at that time. Refinements have been made to the procedure since that time and have been approved by USACE. The refined procedure has been found to be less conservative and generally results in the mapping of smaller interior floodplains behind the levees. Thus, revising the interior drainage analysis with the modified procedure could result in fewer properties located in FEMA regulatory floodplains and having the federal requirement of purchasing flood insurance. This task is optional for the levee certification process but could have benefits to the property owners impacted by interior floodplains. This effort was not anticipated or included in the Phase III scope and fee.

Scope:

Revise the existing interior drainage analysis and floodplain mapping for the project in accordance with a refined methodology that has been approved by USACE. This analysis will redefine the limits of the floodplains adjacent to the landward side of the levee system. Revised exhibits of the floodplains will be produced and will be submitted to FEMA with the CLOMR request and levee certification package.

Fee: \$11,544

Summary of Additional Service Tasks and Fees

Task Description	Estimated Task Fee
1. Design and Exhibit Preparation for the Levee Closures at the 2nd Street Bridge	\$5,570
2. Avenue D Drain Capacity Improvements Analysis and Design	\$28,978
3. Analysis, Plans & Specs for a Material Alternative for Embankment Protection	\$17,256
4. Value Engineering to Reduce Project Construction Costs	\$24,136
5. Increased Design Effort Due to Cost Reduction Revisions	\$17,012
6. FEMA Conditional Letter of Map Revision Request	\$12,192
7. USACE 408 Permitting Coordination	\$4,348
8. Revise Interior Drainage Analysis Per new Methodology	\$11,544
Total Additional Services Tasks Fee	\$121,036

DODGE CITY LEVEE SYSTEM REHABILITATION - PHASE III
 Additional Services Fee Estimate

2/26/2013

Task	Project Manager \$163	Senior Engineer \$155	Structural Engineer \$159	Project Engineer \$120	Design Engineer \$80	Structural Tech \$95	CADD Tech \$77	Admin. Assistant \$65	Survey Manager \$130	Survey Party Chief \$75	Survey Field Tech. \$60	Direct Expenses	Sub-Consultant Fees	Task Labor Hours	Task Cost	
1	10	10	60	10	10	10	20	2	2	12	12	\$100.00	\$0	50	\$5,570	
2	40	8	60	10	10	10	100	2	2	12	12	\$750.00		258	\$28,978	
3	24	12		60			60	2						154	\$17,256	
4	80	12		24			80							196	\$24,136	
5	24	6		10			80						\$4,690	120	\$17,012	
6	10			24			8	2					\$6,892	44	\$12,192	
7	20	6						2						28	\$4,348	
8	12	8		60			12	2						94	\$11,544	
	220	50	60	188	20	10	360	10	2	12	12					
Estimated Manpower Sub-totals																
Total													\$850.00	\$11,582	944	\$121,036