

CITY COMMISSION MEETING AGENDA

City Hall Commission Chambers

Monday, December 16, 2013

7:00 p.m.

MEETING #4942

CALL TO ORDER

ROLL CALL

INVOCATION: by Dr Jerry Ketner, New Hope on Plains

PLEDGE OF ALLEGIANCE

PETITIONS & PROCLAMATIONS

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

CONSENT CALENDAR

1. Approval of City Commission Meeting Minutes, December 2, 2013
2. Appropriation Ordinance No. 24, December 16, 2013;
3. Cereal Malt Beverage License Applications;
 - a. Tony's Super Gordas, 605 S. 2nd Avenue.
4. Approval of Kansas Department of Transportation (KDOT) Enhancement (TE) Project Agreements for the Atchison, Topeka and Santa Fe (ATSF) Railway Depot Restoration and the Gunsmoke Trail Extension Project.

ORDINANCES & RESOLUTIONS

Resolution 2013-37: A Resolution Describing and Defining the Boundary of the City of Dodge City, Kansas. Report by Director of Engineering, Ray Slattery.

Resolution 2013-38: A Resolution Adopting a Title VI Policy. (Required for Public Transportation and other Federal Funded Operations). Report by Director of Parks & Recreation, Paul Lewis.

UNFINISHED BUSINESS

NEW BUSINESS

1. Approval for Santa Fe Depot Bids for the Windows and Doors Project. Report by Project Development Coordinator, Melissa McCoy.
2. Approval of a Memorandum of Understanding between the City of Dodge City and Boot Hill Museum. Report by Assistant City Manager, Cherise Tieben
3. Approval of 2014 Memorandum of Understanding between the City Of Dodge City and the Fraternal Order of Police Lodge #49. Report by Assistant City Manager, Cherise Tieben.
4. Approval of Allocation of 2013 Special Alcohol and Drug Funds. Report by Finance Director/City Clerk, Nannette Pogue.

OTHER BUSINESS

ADJOURNMENT

CITY COMMISSION MEETING MINUTES

City Hall Commission Chambers

Monday, December 2, 2013

7:00 p.m.

MEETING #4941

CALL TO ORDER

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

INVOCATION by Dr Jerry Ketner, New Hope on Plains

PLEDGE OF ALLEGIANCE

Commissioner Rick Sowers removed item #2 from New Business. Commissioner Jim Lembright seconded the motion. Motion carried 5-0.

PETITIONS & PROCLAMATIONS

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

CONSENT CALENDAR

1. Approval of City Commission Meeting Minutes, November 18, 2013
2. Appropriation Ordinance No. 23, December 2, 2013;
3. Cereal Malt Beverage License Applications;
 - a. Casa Alvarez, 1701 W. Wyatt Earp Blvd.
4. Approval of Change Order #1 of 2013 Asphalt Street Project. Presented by Director of Engineering Services, Ray Slattery.
5. Approval of Appointment to Park & Recreation Advisory Board. Presented by Director of Parks and Recreation, Paul Lewis.

Commissioner Rick Sowers moved to approve the Consent Calendar as presented; Commissioner Brian Delzeit seconded the motion. The motion carried unanimously.

ORDINANCES & RESOLUTIONS

Ordinance No. 3574: Commissioner Jim Lembright moved to approve An Ordinance Annexing to the City of Dodge City the Described Property, (Right of Way adjacent to Loves Travel Center) in Accordance with K.S.A. 12-520 ET.SEQ; and providing for the Zoning Thereof, Commissioner Joyce Warshaw seconded the motion. The motion carried unanimously.

UNFINISHED BUSINESS**NEW BUSINESS**

1. The 2014 Southwest Kansas Coalition Legislative Policy was approved on a motion by Commissioner Rick Sowers, seconded by Commissioner Brian Delzeit. Motion carried unanimously.
3. A Contract Addendum to extend the All-4-Fun purchase agreement for 3 years, with Jack and Glatha Denton was approved on a motion by Commissioner Rick Sowers, seconded by Commissioner Brian Delzeit. The motion carried 4-0, Mayor Smoll abstained.

Mayor Kent Smoll introduced Jim Witt who was a former City Manager in Dodge City and left 20 years ago this week.

OTHER BUSINESS

City Manager, Ken Strobel:

- Cherise and Ken will be out of town to make presentation, then to the Kansas City Managers Association Meeting;
- Governors Economic Council meets and Cherise will make a presentation to the Council regarding the Housing progress in Dodge City;
- Grand opening of Hinkle House from 4:00 p.m. to 7:00 p.m. on December 18th; and
- Need to have a Joint City/County Commission Meeting.

Commissioner, Brian Delzeit:

- Remind everyone that it is an important time of the year for the local merchants. Encourage to shop local.

Commissioner, Joyce Warshaw

- Encourage everyone to support Salvation Army;
- Encourage everyone to read to the children.

Commissioner, Jim Lembright:

- Welcome Jim Witt.

Mayor, Kent Smoll:

- Glad to be back in Dodge City;
- Lighting of the tree was tonight, if you have a preference as to the time of the lighting of the Mayors Christmas tree for the future, please let someone know. Parade of lights was also held tonight.

ADJOURNMENT

Commissioner Brian Delzeit moved to adjourn the meeting; Commissioner Jim Lembright seconded the motion. The motion carried unanimously.

Mayor

ATTEST:

Nannette Pogue, City Clerk

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

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

City or County of Dodge City

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

SECTION 2 – APPLICANT INFORMATION		
Kansas Sales Tax Registration Number (required): <u>004-K13346808-F01</u>		
Name: <u>Francisco Gamboa-Jara</u>	Phone No. <u>620-430-1315</u>	Date of Birth <u>2/18/1960</u>
Residence Street Address <u>807 N 2nd</u>	City <u>Dodge City KS</u>	Zip Code <u>67801</u>
Applicant Spousal Information		
Spouse Name	Phone No.	Date of Birth
Residence Street Address	City	Zip Code

SECTION 3 – LICENSED PREMISE			
Licensed Premise (Business Location or Location of Special Event)		Mailing Address (If different from business address)	
DBA Name <u>Super Gordas Tony</u>	Name <u>Francisco Gamboa-Jara</u>		
Business Location Address <u>605 S. 2nd</u>	Address <u>807 N. 2nd</u>		
City <u>Dodge City</u> State <u>KS</u> Zip <u>67801</u>	City <u>Dodge City</u> State <u>KS</u> Zip <u>67801</u>		
Business Phone No. <u>620-225-8600</u>	<input checked="" type="checkbox"/> I own the proposed business or special event location. <input type="checkbox"/> I do not own the proposed business or event location.		
Business Location Owner Name(s) <u>Francisco Gamboa-Jara</u>			

SECTION 4 – APPLICANT QUALIFICATION	
I am a U.S. Citizen	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have been a resident of Kansas for at least one year prior to application.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have resided within the state of Kansas for <u>26</u> years.	
I am at least 21 years old.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have been a resident of this county for at least 6 months.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Within 2 years immediately preceding the date of this application, neither I nor my spouse ¹ has been convicted of, released from incarceration for or released from probation or parole for any of the following crimes: (1) Any felony; (2) a crime involving moral turpitude; (3) drunkenness; (4) driving a motor vehicle while under the influence of alcohol (DUI); or (5) violation of any state or federal intoxicating liquor law.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Have Have Not
My spouse has previously held a CMB license.	<u>N/A</u> <input type="checkbox"/> Yes <input type="checkbox"/> No
My spouse has never been convicted of one of the crimes mentioned above while licensed.	<u>N/A</u> <input type="checkbox"/> Yes <input type="checkbox"/> No



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: Paul Lewis and Melissa McCoy

Date: December 12, 2013

Subject: TE Project Agreement Approval
Agenda Item: Consent Calendar

Recommendation: Approve Kansas Department of Transportation (KDOT) Transportation Enhancement (TE) Project Agreements for the Atchison, Topeka and Santa Fe (ATSF) Railway Depot Restoration and the Gunsmoke Trail Extension Project.

Background: On August 5, 2014, the City Commission approved the TE Projects Request for the ATSF Railway Depot and the Gunsmoke Trail Extension Projects. The purpose of this request was to approve funding critical to the aforementioned projects.

KDOT has now submitted the formal agreements for approval of TE funding to the City of Dodge City for approval.

Justification: The TE funding for the ATSF Railway Depot will provide monies critical to the completion of the windows, doors and soffit project as well as enhancements to the existing Dining Room. If approved, stabilization of the (North and East) windows/doors/soffits would begin in spring of 2014. The Enhancement of the Dining Room would begin in the fall of 2014.

The Gunsmoke Trail project extends the existing trail from Soule and Manor drive south to Comanche Ave and provides a spur to the west up to 14th and Comanche. The project also includes HAWK signals at Soule and at Comanche and pedestrian signal modifications at Comanche and 14th Ave.

Financial Considerations: The TE program is a reimbursement program where KDOT reimburses 80 % of eligible costs (construction and project administration). The cost estimate for the ATSF Project is \$257,750. The City will be responsible for the remaining 20 % estimated at \$62,527 plus preliminary design fees anticipated to be \$5,000 or less. The 20 % match plus the architectural fees has been secured through the Tourism Task Force budget which is funded through the “Why Not Dodge” Sales Tax. These funds have been utilized previously for Depot Development and Stabilization. The cost estimate for the bicycle/pedestrian trail extension is \$406,441 of which the city’s responsibility will be \$81,288 plus preliminary design costs of approximately \$17,670. This project is included in the 2014 CIP program and funded in the 2014 Proposed Budget.

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: Transportation Enhancement Project Agreements for ATSF Railway Depot Restoration and Pedestrian -Bike Path

PROJECT NO. 29 TE-0374-01
TEA-T037(401)
TRANSPORTATION ENHANCEMENT PROJECT
ATSF RAILWAY DEPOT RESTORATION
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 Secretary is authorized by the current Federal-Aid Transportation Act to set aside certain portion of Federal funding allocated under the current Federal-Aid Transportation Act for Transportation Enhancement (TE) projects.
- B. The Secretary is empowered to pass through Federal Surface Transportation Program (STP) funds for TE projects to eligible state agencies or local governments.
- C. The Secretary and the City are empowered by the laws of Kansas to enter into agreements for Federal STP funding under the Transportation Enhancement Provision of the current Federal-Aid Transportation Act.
- D. The City has requested and Secretary has authorized a Transportation Enhancement (TE) project, as further described in this Agreement.
- E. Under the terms of the current Federal-Aid Transportation Act and the rules and regulations of the Federal Highway Administration (FHWA), states and local governments are, under certain circumstances, entitled to receive assistance in the financing of TE projects, provided however, that in order to be eligible for such federal-aid, such work is required by Federal law to be done in accordance with the laws of the state.

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

ARTICLE I

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

- 1. **“Agreement”** means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.
- 2. **“City”** means the City of Dodge City, Kansas, with its place of business at 806 2nd Avenue/P.O. Box 880, Dodge City, KS 67801.

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

14. **“Letting” or “Let”** means the process of receiving bids prior to any award of a Construction contract for any portion of the Project.
15. **“Non-Participating Costs”** means the costs of any items or services which the Secretary, acting on the Secretary’s own behalf and on behalf of the FHWA, reasonably determines are not Participating Costs.
16. **“Participating Costs”** means expenditures for items or services which are an integral part of projects, as reasonably determined by the Secretary.
17. **“Parties”** means the Secretary of Transportation and KDOT, individually and collectively, and the City.
18. **“Preliminary Engineering”** means pre-construction activities, including but not limited to design work, generally performed by a consulting engineering firm that takes place before Letting.
19. **“Project”** means all phases and aspects of the Construction endeavor to be undertaken by the City, as and when authorized by the Secretary prior to Letting, being: **Restoration of Atchison, Topeka, and Santa Fe (ATSF) Railway Depot at 101 E Wyatt Earp Blvd, to include repair of north and east windows, doors, gutters, downspouts and metal soffits (Phase I), and Harvey House Dining Room Development (Phase II) in Dodge City, Kansas**, and is the subject of this Agreement.
20. **“Project Limits”** means that area of Construction for the Project, including all areas between and within the Right of Way boundaries as shown on the Design Plans.
21. **“Responsible Bidder”** means one who makes an offer to construct the Project in response to a request for bid with the technical capability, financial capacity, human resources, equipment, and performance record required to perform the contractual services.
22. **“Right of Way”** means the real property and interests therein necessary for Construction of the Project, including fee simple title, dedications, permanent and temporary easements, and access rights, as shown on the Design Plans.
23. **“Secretary”** means Michael S. King, in his official capacity as Secretary of Transportation of the state of Kansas, and his successors.
24. **“Useful Life Period”** means a sufficient period of time, as specifically designated in this Agreement in Article IV, paragraph 2, to secure the investment of federal funds in the Project based on the nature and magnitude of Project costs and generally accepted economic or useful life cycle norms for the type of Construction involved in the Project.
25. **“Utilities” or “Utility”** means all privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, and other similar commodities, including non-transportation fire and police communication systems which directly or indirectly serve the public.

ARTICLE II

SECRETARY RESPONSIBILITIES:

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

ARTICLE III

CITY RESPONSIBILITIES:

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) **Right of Way Acquisition.** The City will, in its own name, as provided by law, acquire by purchase, dedication or condemnation all the Right of Way shown on the final Design Plans in accordance with the schedule established by KDOT. The City agrees the necessary Right of Way shall be acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface

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

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

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

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

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

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

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

12. **Future Encroachments**. Except as provided by state and federal laws, the City agrees it will not in the future permit Encroachments upon the Right of Way of the Project, and specifically

will require any gas and fuel dispensing pumps erected, moved, or installed along the Project be placed no less than the distance permitted by the National Fire Code from the Right of Way line.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Temporary Traffic Control. The City shall provide a temporary traffic control plan within the Design Plans, which includes the City's plan for handling multi-modal traffic during Construction, including detour routes and road closings, if necessary, and installation of

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

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

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

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

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

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

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

20. Cost Estimates. The estimated cost for Construction is \$206,200, and for Construction Engineering is \$51,550, for total estimated costs of \$257,750. It is mutually agreed these estimated cost figures are to be used for encumbrance purposes and adjustments will be made based on the actual Project costs, as approved by the Secretary.

21. **Remittance of Estimated Share.** The City shall deposit with the Secretary its estimated share of the total Project expenses based upon estimated approved contract quantities. The City will remit its estimated share by the date indicated on the resolution form Authorization to Award Contract, Commitment of City Funds received by the City from the Secretary. The date indicated for the City to deposit its estimated share of the total Project expenses is fifty (50) days after the Letting date.

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

23. **Audit.** All local governmental units, Non-Profit Organizations, and Indian Tribal governments shall comply with Federal-Aid Transportation Act and OMB Circular A-133 "Audits of State and Local Governments, and Non-Profit Organizations." Further, the City agrees to the following provisions:

(a) **Common Rule.** It is the policy of the Secretary to make any final payments to the City for services related to the Project in a timely manner. The Single Audit Standards set forth in Federal O.M.B. Circular A-133, "Audits of States, Local Governments and Non Profit Organizations" in 49 C.F.R. Part 18 (Common Rule), require an audit be performed by an independent certified public accountant in accordance with these standards. All information audited shall comply with 49 C.F.R. Part 18 (Common Rule).

(b) **Single Audit.** The Secretary may pay any final amount due for the authorized work performed based upon the City's most recent Single Audit Report available and a desk review of the claim by the Contract Audit Section of KDOT's Bureau of Fiscal Services. The City, by acceptance of this Agreement, acknowledges the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement. The Parties agree as the Single Audit Report becomes available for the reimbursement period (normally should occur within a period of 1-2 years), the Secretary will review the Single Audit Report for items which are declared as not eligible for reimbursement. The City agrees to refund payment made by the Secretary to the City for items subsequently found to be not eligible for reimbursement by audit.

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

25. **Organizational Registration Requirements.**

(a) **Dun & Bradstreet.** If it has not already done so, the City shall obtain a Data Universal Numbering System (DUNS) number, which may be obtained from Dun and Bradstreet, Inc. (D & B) by telephone (currently 866-705-5711) or the Internet (currently <http://fedgov.dnb.com/webform>).

(b) System for Award Management. The City agrees it shall maintain current registrations in the System for Award Management (<http://www.sam.gov>) at all times during which it has active federal awards.

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

ARTICLE IV

SPECIAL TRANSPORTATION ENHANCEMENT REQUIREMENTS:

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

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

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

2. **Useful Life**.

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

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

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

(d) Fees or Other Income. During the Useful Life Period, any minimal fees collected or other income generated by the Project facility will be applied toward the

maintenance and operation of the Project facility or will be held in reserve for future maintenance or repair costs in accordance with the City’s maintenance plan for the Project.

(e) Recapture of Federal Investment.

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

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

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

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

ARTICLE V

GENERAL PROVISIONS:

1. **Incorporation of Design Plans.** The final Design Plans for the Project are by this reference made a part of this Agreement.
2. **Civil Rights Act.** The “Special Attachment No. 1,” pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.
3. **Contractual Provisions.** The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part hereof.
4. **Headings.** All headings in this Agreement have been included for convenience of reference only and are not be deemed to control or affect the meaning or construction or the provisions herein.

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

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

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

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

ATTEST:

THE CITY OF DODGE CITY, KANSAS

CITY CLERK (Date)

MAYOR

(SEAL)

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

By: _____
Jerome T. Younger, P.E. (Date)
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.

PROJECT NO. 29 TE-0384-01
TEA-T038(401)
TRANSPORTATION ENHANCEMENT PROJECT
PEDESTRIAN-BICYCLE PATH
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 Secretary is authorized by the current Federal-Aid Transportation Act to set aside certain portion of Federal funding allocated under the current Federal-Aid Transportation Act for Transportation Enhancement (TE) projects.
- B. The Secretary is empowered to pass through Federal Surface Transportation Program (STP) funds for TE projects to eligible state agencies or local governments.
- C. The Secretary and the City are empowered by the laws of Kansas to enter into agreements for Federal STP funding under the Transportation Enhancement Provision of the current Federal-Aid Transportation Act.
- D. The City has requested and Secretary has authorized a Transportation Enhancement (TE) project, as further described in this Agreement.
- E. Under the terms of the current Federal-Aid Transportation Act and the rules and regulations of the Federal Highway Administration (FHWA), states and local governments are, under certain circumstances, entitled to receive assistance in the financing of TE projects, provided however, that in order to be eligible for such federal-aid, such work is required by Federal law to be done in accordance with the laws of the state.

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

ARTICLE I

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

1. **“Agreement”** means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.
2. **“City”** means the City of Dodge City, Kansas, with its place of business at 806 2nd Avenue/P.O. Box 880,, Dodge City, KS 67801.

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

14. **“Letting” or “Let”** means the process of receiving bids prior to any award of a Construction contract for any portion of the Project.
15. **“Non-Participating Costs”** means the costs of any items or services which the Secretary, acting on the Secretary’s own behalf and on behalf of the FHWA, reasonably determines are not Participating Costs.
16. **“Participating Costs”** means expenditures for items or services which are an integral part of highway, bridge and road construction projects, as reasonably determined by the Secretary.
17. **“Parties”** means the Secretary of Transportation and KDOT, individually and collectively, and the City.
18. **“Preliminary Engineering”** means pre-construction activities, including but not limited to design work, generally performed by a consulting engineering firm that takes place before Letting.
19. **“Project”** means all phases and aspects of the Construction endeavor to be undertaken by the City, as and when authorized by the Secretary prior to Letting, being: **Construction of a 10 foot-wide concrete shared use trail connecting to the existing trail at Soule and Manor Drive, through Chilton Park, and then west on Comanche to 14th Avenue, to include amenities (bike rack, trash receptacle, bench, landscaping, and pedestrian signal), in Dodge City, Kansas,** and is the subject of this Agreement.
20. **“Project Limits”** means that area of Construction for the Project, including all areas between and within the Right of Way boundaries as shown on the Design Plans.
21. **“Responsible Bidder”** means one who makes an offer to construct the Project in response to a request for bid with the technical capability, financial capacity, human resources, equipment, and performance record required to perform the contractual services.
22. **“Right of Way”** means the real property and interests therein necessary for Construction of the Project, including fee simple title, dedications, permanent and temporary easements, and access rights, as shown on the Design Plans.
23. **“Secretary”** means Michael S. King, in his official capacity as Secretary of Transportation of the state of Kansas, and his successors.
24. **“Useful Life Period”** means a sufficient period of time, as specifically designated in this Agreement in Article IV, paragraph 2, to secure the investment of federal funds in the Project based on the nature and magnitude of Project costs and generally accepted economic or useful life cycle norms for the type of Construction involved in the Project.
25. **“Utilities” or “Utility”** means all privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, and other similar commodities, including non-transportation fire and police communication systems which directly or indirectly serve the public.

ARTICLE II

SECRETARY RESPONSIBILITIES:

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

ARTICLE III

CITY RESPONSIBILITIES:

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) **Right of Way Acquisition.** The City will, in its own name, as provided by law, acquire by purchase, dedication or condemnation all the Right of Way shown on the final Design Plans in accordance with the schedule established by KDOT. The City agrees the necessary Right of Way shall be acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface

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

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

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

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

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

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

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

12. **Future Encroachments**. Except as provided by state and federal laws, the City agrees it will not in the future permit Encroachments upon the Right of Way of the Project, and specifically

will require any gas and fuel dispensing pumps erected, moved, or installed along the Project be placed no less than the distance permitted by the National Fire Code from the Right of Way line.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Temporary Traffic Control. The City shall provide a temporary traffic control plan within the Design Plans, which includes the City's plan for handling multi-modal traffic during Construction, including detour routes and road closings, if necessary, and installation of

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

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

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

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

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

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

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

20. Cost Estimates. The estimated cost for Construction is \$388,770, and for Construction Engineering is \$17,671, for total estimated costs of \$406,441. It is mutually agreed these estimated cost figures are to be used for encumbrance purposes and adjustments will be made based on the actual Project costs, as approved by the Secretary.

21. **Remittance of Estimated Share.** The City shall deposit with the Secretary its estimated share of the total Project expenses based upon estimated approved contract quantities. The City will remit its estimated share by the date indicated on the resolution form Authorization to Award Contract, Commitment of City Funds received by the City from the Secretary. The date indicated for the City to deposit its estimated share of the total Project expenses is fifty (50) days after the Letting date.

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

23. **Audit.** All local governmental units, Non-Profit Organizations, and Indian Tribal governments shall comply with Federal-Aid Transportation Act and OMB Circular A-133 "Audits of State and Local Governments, and Non-Profit Organizations." Further, the City agrees to the following provisions:

(a) **Common Rule.** It is the policy of the Secretary to make any final payments to the City for services related to the Project in a timely manner. The Single Audit Standards set forth in Federal O.M.B. Circular A-133, "Audits of States, Local Governments and Non Profit Organizations" in 49 C.F.R. Part 18 (Common Rule), require an audit be performed by an independent certified public accountant in accordance with these standards. All information audited shall comply with 49 C.F.R. Part 18 (Common Rule).

(b) **Single Audit.** The Secretary may pay any final amount due for the authorized work performed based upon the City's most recent Single Audit Report available and a desk review of the claim by the Contract Audit Section of KDOT's Bureau of Fiscal Services. The City, by acceptance of this Agreement, acknowledges the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement. The Parties agree as the Single Audit Report becomes available for the reimbursement period (normally should occur within a period of 1-2 years), the Secretary will review the Single Audit Report for items which are declared as not eligible for reimbursement. The City agrees to refund payment made by the Secretary to the City for items subsequently found to be not eligible for reimbursement by audit.

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

25. **Organizational Registration Requirements.**

(a) **Dun & Bradstreet.** If it has not already done so, the City shall obtain a Data Universal Numbering System (DUNS) number, which may be obtained from Dun and Bradstreet, Inc. (D & B) by telephone (currently 866-705-5711) or the Internet (currently <http://fedgov.dnb.com/webform>).

(b) System for Award Management. The City agrees it shall maintain current registrations in the System for Award Management (<http://www.sam.gov>) at all times during which it has active federal awards.

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

ARTICLE IV

SPECIAL TRANSPORTATION ENHANCEMENT REQUIREMENTS:

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

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

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

2. **Useful Life**.

(a) Useful Life Period. The Parties agree the Useful Life Period of the Project is 10 years, commencing on the date the Secretary gives notice of final acceptance of the Project.

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

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

(d) Recapture of Federal Investment.

(i) During the first 5 years of the Useful Life Period, if the Project is not used for the purpose set forth in this Agreement or other use approved by the Secretary and the FHWA under subparagraph (c) above, then the City shall pay to the Secretary 100% of the federal funds invested in the Project.

(ii) Following the first 5 years of the Useful Life Period and until the Useful Life Period expires, if the Project is not used for the purpose set forth in this Agreement or other use approved by the Secretary and the FHWA under subparagraph (c) above, then the City shall pay to the Secretary as recapture of federal funds invested in the Project an amount, which will be determined according to the following formula:

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

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

ARTICLE V

GENERAL PROVISIONS:

1. **Incorporation of Design Plans.** The final Design Plans for the Project are by this reference made a part of this Agreement.
2. **Civil Rights Act.** The “Special Attachment No. 1,” pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.
3. **Contractual Provisions.** The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part hereof.
4. **Headings.** All headings in this Agreement have been included for convenience of reference only and are not be deemed to control or affect the meaning or construction or the provisions herein.
5. **Termination.** If, in the judgment of the Secretary, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, the Secretary may terminate this Agreement at the end of its current fiscal year. The Secretary will participate in all costs approved by the Secretary incurred prior to the termination of the Agreement.

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

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

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

ATTEST:

THE CITY OF DODGE CITY, KANSAS

CITY CLERK (Date)

MAYOR

(SEAL)

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

By: _____
Jerome T. Younger, P.E. (Date)
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: December 10, 2013

*Subject: Resolution 2013-37
Boundary Resolution Describing
the City Limits of Dodge City*

Agenda: Ordinances and Resolutions

Recommendation: Approval of Boundary Resolution 2013-37.

Background: Each year the City must adjust the boundary resolution that describes the City limits of the City to account for any additional land that has been annexed in the past year or correct any errors found in the description. Since the adoption of the last boundary resolution an error in the description was found and two parcels on East Trail Street have been annexed. The correction and additions to the boundary are highlighted in the attached Resolution.

Justification: Additional land has been annexed by the City and the City is required by KSA 12-517 to adjust the City's boundary by resolution.

Financial Considerations: None

Purpose/Mission: The City is responsible for following State laws. By updating our boundaries, we have identified what properties should be served by the City and can plan for long-term improvements to those areas.

Legal Considerations: The City is obligated under state statute to update the boundary of the City.

Attachments: Boundary Resolution and map showing the property annexed in 2013.

RESOLUTION NO. 2013-37

A RESOLUTION DESCRIBING AND DEFINING
THE BOUNDARY OF THE CITY OF DODGE CITY

WHEREAS, the City of Dodge City must define the corporate limits of said City by virtue of K.S.A. 12-517 of the General Statutes of Kansas:

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

SECTION 1: That the Corporate limits of the City of Dodge City, Kansas shall be and are as follows, to wit:

(A) Beginning at a point on the south line of Military Avenue, in Riverview Addition, and the east line of Section 25, Township 26 South, Range 25 West of the 6th P.M.; thence East along the south line of said Military Avenue to the northeast corner of Shuman Tracts; thence South along the east line of Shuman Tracts to the southeast corner of Tract 7, Shuman Tracts; thence East and perpendicular to the east line of said Tract 7 to a point on the east right-of-way line of Road 113; thence South along the east right-of-way line of the Road 113 to a point that intersects the north right-of-way line of Wyatt Earp Blvd; thence East along the north right-of-way line of said Wyatt Earp Blvd to a point that intersects the northerly extension of the east right-of-way line of U.S. Highway 56-283; thence South along the extended east right-of-way line of U.S. Highway 56-283 to a point on the south line of Section 29; thence West along the south line of Section 29 to the west right-of-way line of U.S. Highway 56-283 Overpass; thence South along the west line of the U.S. Highway 56-283 Overpass to the south right-of-way line of the A.T. & S.F. Railroad; thence Southeasterly along the south right-of-way line of said A.T. & S.F. Railroad for a distance of 1904.07 feet; thence North along the right-of-way line of said A.T. & S.F. Railroad for a distance of 50.00 feet; thence Southeasterly along the south right-of-way line of said A.T. & S.F. Railroad for a distance of 250.45 feet; thence South to a point that is 360.00 feet North of the north right-of-way line of U.S. Highway 400; thence Southeasterly and parallel to the north right-of-way line of said U.S. Highway 400 to a point on the west line of Tract 15 of Wilkinson Place No. 2; thence South along the west line of said Tract 15 of Wilkinson Place No. 2 to a point that is 205.00 feet North of the north right-of-way line of U.S. Highway 400; thence Southeasterly and parallel to the north right-of-way line of said U.S. Highway 400 to a point on the east line of Tract 17 of said Wilkinson Place No. 2; thence South along the east line of said Tract 17 of Wilkinson Place No. 2 to the south right-of-way line of said U.S. Highway 400; thence Southeasterly along the south right-

of-way line of said U.S. Highway 400 to the east line Happy Trails Subdivision a replat lots 12&14 of Wilkinson Place No. 1; thence South along the east line of said Happy Trails Subdivision to the southeast corner thereof; thence West along the south line of said Happy Trails Subdivision and continuing to the southwest corner of Tract 9 of Wilkinson Place No. 1; thence North along the west line of said Tract 9 to the south right-of-way line of U.S. Highway 400; thence Northwesterly along the south right-of-way line of said U.S. Highway 400 to a point that is 770.45 feet East of the west line of Section 32, Township 26 South, Range 24 West, thence South for a distance of 200.00 feet; thence West for a distance of 140.00 feet; thence North for a distance of 252.81 feet to the south right-of-way line of U.S. Highway 400; thence Northwesterly along the south right-of-way line of said U.S. Highway 400 to the east right-of-way line of U.S. Highway 56/283; thence South along the east right-of-way line of said U.S. Highway 56/283 a distance of 668.85 to a point on the north line of Lot 1, Block 2 of Gladden Addition No.2, said point being 113.94 feet east of the west quarter corner of Section 32, Township 26 South, Range 24 West; thence East along the north line of said Lot 1, Block 2 of Gladden Addition No.2 to the northeast corner thereof; thence South along the east line of said Lot 1, Block 2 to the southeast corner thereof; thence West along the south line of Lot 1, Block 2 and Lot 1, Block 1 of Gladdens Addition No. 2 to the southwest corner thereof; thence North along the west line of said Lot 1, Block 1 of Gladdens Addition No. 2 to the northwest corner thereof, said corner being of the south line of the Northeast Quarter of Section 31, Township 26 South, Range 24 West; thence west along the south line of the northeast quarter of said Section 31 to a point 651.58 west of the southeast corner thereof; thence North a distance of 922.02 feet to a point on the south right-of-way line of East Trail Street 605.87 west of the west right-of-way of U.S. Highway 56/283; thence west along the south right-of-way line of East Trail Street a distance of 142.46 feet; thence South for a distance of 920.00 feet; thence West for a distance of 560.00 feet to the east line of McCaustland Place; thence South along the east line of said McCaustland Place to the southeast corner thereof; thence West along the south line of said McCaustland Place to a point on the east line of the northeast drain of the Dodge City Flood Control Project; thence South along the east line of said northeast drain a distance of 1,601.50 feet; thence Southeasterly along a line having a deflection angle of 54 degrees 13 minutes a distance of 424.98 feet to the west line of McCaustland Road No. 2; thence South along the west line of said McCaustland Road No. 2 for a distance of 150 feet to the north bank of the Arkansas River; thence Northwesterly along the north bank of the Arkansas River to a point on the east line of Section 36, Township 26 South, Range 25 West of the 6th P.M.; thence South along the east line of said Section 36 to the southeast corner thereof; thence West along the south line of said Section 36 to the west line of Minneola Road; thence South along the west line of said Minneola Road to a point that is approximately 1314 feet North of the south line of Section 2; thence West and parallel to the south line of said Section 2 to a point that is 748.70 feet West of the west line of

South Second Avenue; thence Northwesterly and parallel to the west line of said South Second Avenue for a distance of 1265.60 feet; thence North for a distance of 200 feet to the East-West half section line of Section 2; thence West along the said half section line of Section 2 to the east line of Veeann Avenue; thence South along the east line of said Veeann Avenue to the south line of Merrit Road; thence West along the south line of said Merrit Road to the west line of Section 2 and the east line of Section 3, Township 27 South, Range 25 West; thence South along the east line of said Section 3 to the north right-of-way line of U.S. Highway 56; thence West along said north right-of-way line of U.S. Highway 56 to the east right-of-way line of Road 109; thence North along said east right-of-way line of Road 109 to the southerly right-of-way line of McArtor Road; thence Northeasterly along said southerly right-of-way line of McArtor Road to the north line of the south half of Section 3, Township 27 South, Rang 25 West; thence East along the north line of the south half of said Section 3 to the center corner thereof; thence North along the west line of the northeast quarter of said Section 3 to a point on the north right-of-way line of the Atchison, Topeka & Santa Fe Railroad; thence Southwesterly along the north right-of-way of said Atchison, Topeka and Santa Fe Railroad to the west line of Lewis Addition No. 2; thence North along the west line of said Lewis Addition No. 2 to the south line of Section 34; thence West along the south line of said Section 34 to the west line of June Avenue; thence North along the west line of said June Avenue to the north line of Boley Morgison Addition; thence East along the north line of said Boley Morgison Addition to the northeast corner thereof; thence North along the half section line of Section 34 a distance of 432 feet; thence East parallel with the south line of said Section 34 a distance of 1,676 feet; thence South parallel with the said half section line to the north line of Beeson Road; thence East along the north line of said Beeson Road to the west line of Sunset Tracts; thence North along the west line of said Sunset Tracts to the northwest corner thereof; thence Northeasterly along the south bank along the Arkansas River to the extended east line of Tract 15 and Tract 88 of Westview Place No. 1; thence North along the extended east line of said Tract 15 and Tract 88 of Westview Place No. 1 to the northeast corner of said Tract 15; thence West along the north line of said Westview Place No. 1 to the east line of Moncrief Place No. 2; thence South along the east line of said Moncrief Place No. 2 to the southeast corner thereof; thence West along the south line of said Moncrief Place No. 2 to the southwest corner thereof; thence North along the west line of said Moncrief Place No. 2 to the south line of West Park Street; thence East along the south line of said Park Street to a point on the east line of Matt Down Lane; thence North along the east line of said Matt Down Lane to a point intersecting the extended south line of Access Road; thence westerly along the south line of said Access Road and parallel to the south line of Blocks 1 and 2 Allphin Addition No. 2 to the east line of Glenridge Estates; thence continuing Westerly along the south line of said Access Road and parallel to the south line of Block 1 of Glenridge Estates for a distance of 287.20 feet; thence Westerly along the south line of said Access Road and

parallel to the south line of Block 3 of Glenridge Estates for a distance of 319.90 feet; thence North for a distance of 45.00 feet; thence Westerly and parallel to the south line of said Block 3 to the southeast corner of Lot 4 West Hwy 50 Addition; thence continuing Westerly along the south line of Lot 4 of said West Hwy 50 Addition a distance of 40.88 feet; thence South a distance of 20 feet; thence westerly along the south line of said Lot 4 West Hwy 50 Addition to the southwest corner thereof; thence North along the west line of said Lot 4 to the northwest corner thereof; thence East along the north line of said Lot 4 to the northeast corner thereof; thence North along the west line of Block 3 and Block 7 of Glenridge Estates to the northwest corner of Lot 36, Block 7 of said Glenridge Estates; thence East along the north line of said Block 7 to the northeast corner of Lot 29 of said Block 7; thence South along the east line of said Block 7 to the northeast corner of Lot 22 of said Block 7; thence East along the north line of said Block 7 to the east line of Matt Down Lane; thence North along the east line of said Matt Down Lane to a point on the south line of U.S. Highway 50; thence Northeasterly along the south line of said U.S. Highway 50 to a point intersecting the east-west half section line of Section 22; thence East along the half section line of said Section 22 for a distance of 110.0 feet to the northeast corner of Lot 3, Block 1, J.S. & L. Subdivision; thence North 73 degrees 7 minutes 19 seconds east for a distance of 204.45 feet; thence South 89 degrees 53 minutes 58 seconds east for a distance of 196.02 feet to the northeast corner of Lot 1, Block 1, of said J.S. & L. Subdivision; thence South 5 degrees 47 minutes 43 seconds west for a distance of 60 feet to a point on the east-west half section line of said Section 22; thence East along the half section line of said Section 22 to the center thereof; thence North along the north-south half section line of Section 22 to the South Quarter corner of Section 15; thence West along the south section line of said Section 15 to the Southwest corner thereof; thence North along the west section line of said Section 15 to the West Quarter corner thereof; thence East along the east-west half section line of said Section 15 to a point 160 feet east of the Southwest corner of the Northeast Quarter of said Section 15; thence North 30 feet to the extended north line of Ross Blvd.; thence East along the north line of said Ross Blvd. to the west line of the Northeast Quarter of said Section 15; thence continuing East along said north line of Ross Blvd. for a distance of 627.40 feet; thence North 40 feet; thence East 40 feet parallel to the north line of said Ross Blvd.; thence South 40 feet to the north line of said Ross Blvd. thence East along the north line of said Ross Blvd. to the west line of the Southeast Quarter of the Northeast Quarter of said Section 15; thence North along the west line of said Southeast Quarter of the Northeast Quarter of Section 15 to the northwest corner thereof; thence East along the north line of said Southeast Quarter of the Northeast Quarter of Section 15 said line being the south line of Lot 1, Block 1, Church Subdivision on an assumed bearing of South 89 degrees 52 minutes 40 seconds east to a point 374.24 feet west of the southeast corner of said lot 1; thence North 00 degrees 07 minutes 20 seconds east for a distance of 415.64 feet; thence South 47 degrees 41 minutes 14 seconds east for

a distance of 326.15 feet; thence South 89 degrees 42 minutes 28 seconds for a distance of 130.05 feet to a point on the east line of said lot 1; thence South along the east line of said Lot 1, Block 1 to the southeast corner thereof; thence East along the north line of said Southeast Quarter of the Northeast Quarter of Section 15 a distance of 55 feet to the northeast corner thereof; thence North along the east section line of said Section 15 to the southwest corner of the west half of section 11, Township 26 South, Range 25 West; thence continuing North along the west line of the west half of said Section 11 to the northwest corner thereof; thence East along the north line of the west half of said Section 11 to the northeast corner thereof; South along the east line of the west half of said Section 11 to the southeast corner thereof said corner being the north quarter corner of Section 14, Township 26 South, Range 25 West; thence East along the north line of said Section 14 to the northeast corner thereof; thence South along the east line of said Section 14 to the extended north line of Canterbury Road; thence East along the north line of said Canterbury Road to the west line of Joel Avenue; thence North along the west line of said Joel Avenue to the north line of William Street; thence East along the north line of said William Street to a point on the extended east line of the alley in Block 5, Kliesen Subdivision; thence South along the east line of said alley to a point on the south line of Anna Avenue; thence West along the south line of said Anna Avenue to the northeast corner of Lot 3, Block 6, Kliesen Subdivision; thence South along the east line of said Lot 3 to a point on the south line of the alley in Block 6, Kliesen Subdivision; thence West along the south line of said alley to the northeast corner of Lot 2, Block 7, Kliesen Hills Subdivision; thence South along the east line of said Lot 2 to the southeast corner thereof; thence East along the north line of Ross Boulevard to a point on the extended east line of Lot 11, Block 6, Kliesen Hills Subdivision; thence South along the said east line of Lot 11 to the southeast corner thereof; thence South along the extended east line of Lots 1 through 8, Block 6, Kliesen Hills Subdivision to a point on the south line of Saint Joseph Street; thence West along the said south line of Saint Joseph Street extended to the west line of Section 13, Township 26 South, Range 25 West, being the center of Avenue "A"; thence South along the said west line of Section 13 to a point 643.5 feet north of the extended north line of Lot 10, Block 14, Kliesen Subdivision; thence East parallel with the north line of said Lot 10 for a distance of 511.5 feet; thence South parallel with the west line of said Lot 10 for a distance of 643.5 feet to a point on the north line of said Lot 10; thence East along the north line of said Lot 10 to the northeast corner thereof; thence South along the east line of said Lot 10 extended to the south line of U.S. Highway 50; thence East along the south line of U.S. Highway 50 to the east line of Section 24; thence South along the east line of said Section 24 to the point of beginning, except Lot 2, Block 1, Whispering Hills, a subdivision of part of the northwest quarter of Section 14, Township 26 South, Range 25 West, and except Lots 3 through 6 Blocks 1 and 2, Allphin

Addition, along with that portion of the 20 foot alley, 26th Avenue, and Matt Down Lane adjacent to said Lots 3 through 6, Allphin Addition No.2.

(B) Excel Main Plant No. 1 described as follows:

From the southwest corner, Section 33, Township 26 South, Range 24 West of the 6th P.M. and the northwest corner, Section 4, Township 27 South, Range 24 West of the 6th P.M.; thence Easterly 1,190 feet to a point "A" which is a point on a west building line. Point "A" will be the starting point of this building description; thence Southerly from point "A" along a west line 30 feet to point "B" of said building; thence Easterly along a south line, 270 feet to point "C" of said building; thence along an east line, Northerly 20 feet to a point "D" of said building; thence along a south line Easterly 400 feet to point "E" of said building; thence along an east line Northerly 50 feet to point "F" of said building; thence Westerly along a north line 275 feet to point "G" of said building; thence Northerly along an east line 15 feet to point "H" of said building; thence Westerly along a north line 48 feet to point "I" of said building; thence Northerly along an east line 35 feet to point "J" of said building; thence Easterly along a south line 25 feet to point "K" of said building; thence Northerly along an east line 35 feet to point "L" of said building; thence Westerly along a north line 23 feet to a point "M" of said building; thence Northerly along an east line 20 feet to point "N" of said building; thence Easterly along a south line 80 feet to point "O" of said building; thence Northerly along an east line 20 feet to point "P" of said building; thence Westerly along a north line 90 feet to point "Q" of said building; thence Northerly along an east line 60 feet to point "R" of said building; thence Westerly along a north line 95 feet to point "S" of said building; thence Northerly along an east line 30 feet to point "T" of said building; thence Westerly along a north line 40 feet to point "U" of said building; thence Northerly along an east line 33 feet to point "V" of said building; thence Westerly along a north line 390 feet to point "W" of said building; thence Southerly along a west line 170 feet to point "X" of said building; thence Easterly along a south line 170 feet to point "Y" of said building; thence Southerly along a west line 113 feet to point "A" of said building.

Excel Secondary Plant No. 2 described as follows:

From point "B" of Excel Main Plant Easterly along a south building line 90 feet to point "A1" of said building; thence Southerly and on a perpendicular line between Main Plant No. 1 and Secondary Plant No. 2, 30 feet to point "B1" of Secondary Plant No. 2. Point "B1" of said exhibit will be the starting point of this building description; thence from point "B1" Southerly along a west line 35 feet to point "C1" of said building; thence Easterly along a south line 60 feet to point "D1" of said building; thence Southerly along a west line 90 feet to point "E1" of said building; thence Easterly along a south line 265 feet to point "F1" of said building; thence

Northerly along an east line 20 feet to point "G1" of said building; thence Easterly along a south line 60 feet to point "H1" of said building; thence Northerly along an east line 55 feet to point "I1" of said building; thence Westerly along a north line 60 feet to point "J1" of said building; thence Northerly along an east line 50 feet to point "K1" of said building; thence from point "K1" Westerly along a north line 325 feet to point "B1" of said building.

(C) Part of the east half of Section 21, Township 26 South, Range 24 West and part of the west half of Section 22, Township 26 South, Range 24 West, Ford County, Kansas, referred to as Chaffin Industrial Park, more fully described as follows:
Commencing at the southwest corner of the southeast quarter of Section 21, Township 26 South, Range 24 West, Ford County, Kansas; thence North 0 degrees 50 minutes East along the west boundary line of the southeast quarter of said Section 21 for 102.85 feet to a point of beginning, said point being at the intersection of the north right-of-way of the Atchinson, Topeka and Santa Fe Railway with the east right-of-way line of U.S. Hwy 56-283; thence continuing North 0 degrees 50 minutes East along the west boundary line of the southeast quarter of said Section 21 for 110.88 feet; thence North 31 degrees 57 minutes East along the east right-of-way line of said U.S. Hwy 50 for 4,378.95 feet; thence North 33 degrees 10 minutes East along the east right-of-way line of said U.S. Hwy 56-283 for 295 feet; thence Northeasterly along a curve to the right having a radius of 2,292.01 feet along the south right-of-way line of said U.S. Hwy 50 for 1,722.53 feet; thence South 0 degrees 38 minutes East for 3,594.2 feet to a point on the north right-of-way line to the Atchinson, Topeka and Santa Fe Railway; thence South 77 degrees 11 minutes West along the north right-of-way line of said Atchinson, Topeka and Santa Fe Railway for 2,510.63 feet; thence North 12 degrees 49 minutes West for 25 feet; thence South 77 degrees 11 minutes West for 15.6 feet; thence along a curve to the left having a radius of 2,694.93 feet along the north right-of-way line of said Atchinson, Topeka and Santa Fe Railway for 1,722.6 feet to the point of beginning, containing 194.28 acres.

AND

Commencing at the southwest corner of the southeast quarter of Section 21, Township 26 South, Range 24 West, Ford County, Kansas; thence East 90 degrees along the south boundary line of the southeast quarter of said Section 21 for 174.87 feet to a point of beginning, said point being on the south right-of-way line of the Atchinson, Topeka and Santa Fe Railway; thence continuing East 90 degrees along the south boundary line of the southeast quarter of said Section 21 for 1,170.62 feet to a point on right-of-way; thence Northeasterly on a curve to the right having a radius of 8,594.42 feet along the center line of the abandoned Atchinson, Topeka and Santa Fe Railway right-of-way for 1,542.0 feet to a point on the east boundary line of the southeast quarter of said Section 21, said point being 883.0 feet North of the southeast

corner of the southeast quarter of said Section 21; thence North 0 degrees 26 minutes East along the east boundary line of the southeast quarter of said Section 21 for 230.15 feet to a point on the south right-of-way line of said Atchinson, Topeka and Santa Fe Railway; thence South 77 degrees 11 minutes West along the south right-of-way line of said Atchinson, Topeka and Santa Fe Railway for 1,130.42 feet; thence South 12 degrees 49 minutes East for 25 feet; thence South 77 degrees 11 minutes West for 15.6 feet; thence along a curve to the left having a radius of 2,764.93 feet along the south right-of-way line of said Atchinson, Topeka and Santa Fe Railway for 1,164.4 feet to the point of beginning, containing 25.63 acres.

Lot 7, Section 28, Township 26 South, Range 24 West, Ford County, Kansas, except railroad right-of-way, more fully described as follows:

Commencing at the northwest corner of Lot 7, Section 28, Township 26 South, Range 24 West, Ford County, Kansas; thence East 90 degrees along the north boundary line of said Lot 7 for 134.33 feet to a point of beginning, said point being on the present south right-of-way line of the Atchinson, Topeka and Santa Fe Railway; thence continuing East 90 degrees along the north boundary line of said Lot 7 for 1,170.62 feet to a point on the centerline of an abandoned Atchinson, Topeka and Santa Fe Railway right-of-way; thence Southwesterly on a curve to the left having a radius of 8,594.42 feet along the centerline of said abandoned Atchinson, Topeka and Santa Fe Railway right-of-way for 395.1 feet to a point on the south boundary line of said Lot 7; thence North 89 degrees 56 minutes West along the south boundary line of said Lot 7 for 1,043.7 feet to the southwest corner of said Lot 7; thence North 0 degrees 50 minutes East along the west boundary line of said Lot 7 for 59.7 feet to a point on the present south right-of-way of the Atchinson, Topeka and Santa Fe Railway; thence Northeasterly along a curve to the right, having a radius of 2,964.93 feet for 263.5 feet to the point of beginning, containing 6.63 acres, more or less.

(D) A tract of land located in the southwest quarter of Section 33, Township 26 South, Range 24 West of the 6th P.M., Ford County, Kansas, referred to as Millard Warehouse, more fully described as follows:

Beginning at the southwest corner of the southwest quarter of Section 33, Township 26 South, Range 24 West of the 6th P.M., Ford County, Kansas; thence North 0 degrees 15 minutes 38 seconds West along the west line of the southwest quarter of said Section 33 for 600 feet; thence North 89 degrees 44 minutes 22 seconds East at right angles to the west line of the southwest quarter of said Section 33 for 350 feet; thence South 0 degrees 15 minutes 38 seconds East parallel with the west line of the southwest quarter of said Section 33 for 605.84 feet; thence North 89 degrees 18 minutes 15 seconds West for 350.05 feet to the point of beginning; containing 211,022 square feet or 4.84 acres, more or less.

(E) A tract of land being part of Sections 20, 21, 28 and 29, Township 26 South, Range 24 West of the 6th P.M., Ford County, Kansas, referred to as the Dodge City Municipal Airport, more fully described as follows:

Commencing at the northeast corner of Section 29; thence South 0 degrees 12 minutes 04 seconds West along the east line of Section 29 for 894.76 feet to the point of beginning; thence continuing South 0 degrees 12 minutes 04 seconds West along said east line of Section 29 for 1,060.53 feet; thence South 26 degrees 10 minutes 18 seconds East, parallel with and 750 feet easterly of the centerline of Runway 14-32 to the northerly right-of-way line of US Highway 56-283; thence Westerly along said northerly right-of-way line of US Highway 56-283 to a point on the west line of the east half of Section 29; thence North 0 degrees 00 minutes 41 seconds West along said west line of the east half of Section 29 to the North Quarter Corner of Section 29; thence North 0 degrees 14 minutes 05 seconds West along the west line of the Southeast quarter of Section 20 for 28 feet; thence North 29 degrees 10 minutes 18 seconds West parallel with and 750 feet westerly of the centerline of Runway 14-32 for 2,928.26 feet to a point on the north line of the southwest Quarter of Section 20; thence South 89 degrees 15 minutes 43 seconds East along said north line of the southwest quarter of Section 20 for 279.5 feet; thence North 26 degrees 10 minutes 18 seconds West for 1,228.08 feet; thence North 63 degrees 49 minutes 42 seconds East for 300 feet; thence North 26 degrees 10 minutes 18 seconds West for 500 feet; thence North 63 degrees 49 minutes 42 seconds East for 150 feet; thence North 26 degrees 10 minutes 18 seconds West for 961.60 feet to the south right-of-way line of US Highway 50; thence South 89 degrees 16 minutes 23 seconds East along said south right-of-way line of US Highway 50 for 112.13 feet; thence South 26 degrees 10 minutes 18 seconds East for 910.87 feet; thence North 63 degrees 49 minutes 42 seconds East for 150 feet; thence South 26 degrees 10 minutes 18 seconds East for 500 feet; thence North 63 degrees 49 minutes 42 seconds East for 300 feet; thence South 26 degrees 10 minutes 18 seconds East for 900 feet; thence North 63 degrees 49 minutes 42 seconds East for 100 feet; thence South 26 degrees 10 minutes 18 seconds East, parallel with and 600 feet easterly of the centerline of Runway 14-32 for 2,361.81 feet; thence South 89 degrees 03 minutes 34 seconds East for 1,785.95 feet to a point on the east line of Section 20; thence South 89 degrees 06 minutes 17 seconds East parallel to the south line of Section 21 for 700 feet; thence South 57 degrees 39 minutes 37 seconds East for 464.77 feet; thence South 32 degrees 20 minutes 23 seconds West for 719.66 feet; thence South 0 degrees 30 minutes 56 seconds East parallel to the west line of Section 21 for 462.45 feet to a point on the south line of said Section 21; thence South 0 degrees 12 minutes 04 seconds West parallel to the west line of Section 28 for 254.76 feet; thence South 89 degrees 06 minutes 17 seconds East parallel to the north line of said Section 28 for 457 feet; thence South parallel to said west line of Section 28 for 640 feet; thence west parallel to said north line of Section 28 for 1,157 feet to the point of beginning.

RESOLUTION NO. 2013-37
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(F) A tract of land being part of Sections 21 and 28, Township 26 South, Range 25 West of the 6th P.M. Ford County, Kansas, referred to as Casino and Event Center, more fully described as follows:

Commencing at the northeast corner of the Southeast Quarter of said Section 21; thence on an assumed bearing of North 89 degrees 39 minutes 54 seconds West along the north line of the Southeast Quarter of said Section 21 for a distance of 222.21 feet to the Northwesternly right of way line of U.S. Highway 50; thence South 34 degrees 50 minutes 32 seconds West along said right of way for a distance of 402.92 feet to the Point of Beginning; thence South 26 degrees 58 minutes 43 seconds East along said right of way line for a distance of 158.82 feet; thence South 34 degrees 50 minutes 32 seconds West along said right of way line for a distance of 6,241 feet more or less, to the Northeast corner of a tract recorded in the Ford County Register of Deeds, Book 176, page 274; thence West along the North line of two tracts described in the Ford County Register of Deeds Book 176, page 274 and Book 188, page 563, a distance of 807.95 to a point on the East line of a tract described in Ford County Register of Deeds, Book 151, page 233; thence North along the east line of and the projection thereof of said tract a distance of 749.23 feet; thence West a distance of 539.03 to the West line of said section 28, said point being 440 feet north of the West Quarter corner of said section 28; thence North along the west line of said Section 28 a distance of 1,784.58 feet; thence East parallel to the north line of said Section 28 a distance of 417.59 feet; thence North parallel to the west line of said Section 28 a distance of 417.42 to the north line thereof; thence West along the north line of said Section 28 to the northwest corner thereof; thence North along the west line of Section 21 to the West Quarter corner of said Section 21; thence South 89 degrees 39 minutes 54 seconds East along the east-west half section line of said Section 21 to a point 1,332.5 feet west of the East Quarter corner of said Section 21; thence South 0 degrees 20 minutes 06 seconds West a distance of 80 feet; thence South 55 degrees 09 minutes 28 seconds East a distance of 869.61; thence North 34 degrees 50 minutes 32 seconds East a distance of 292.00 feet to the point of beginning.

Said tract of land is considered contiguous with the City of Dodge City via right of way U.S. Highway 50 and Matt Down Road.

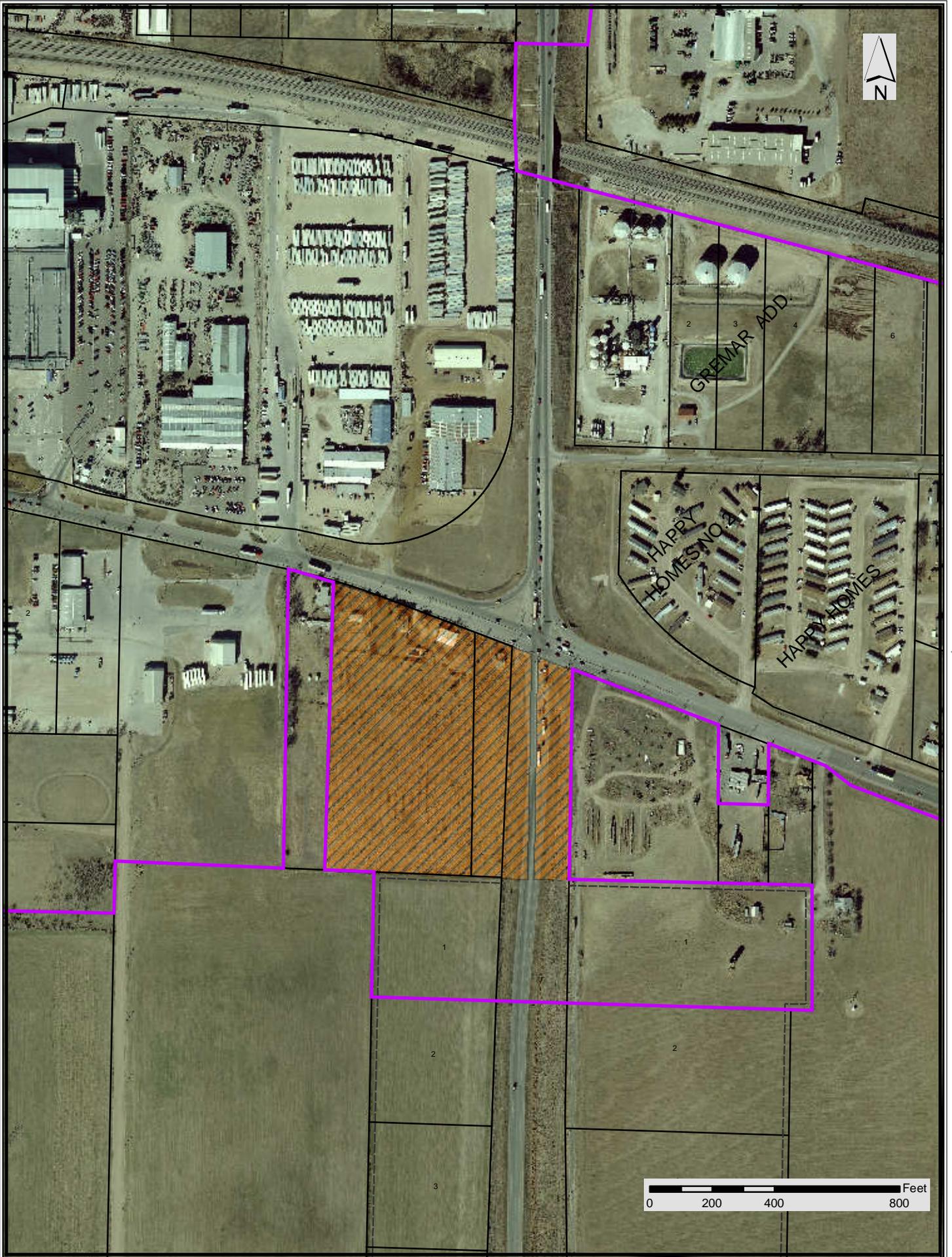
Adopted by the Governing Body of the City of Dodge City

this 16th day of December, 2013.

E. Kent Smoll, Mayor

ATTEST:

Nannette Pogue, City Clerk





Parks and Recreation

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

Memorandum

To: Ken Strobel, City Manager
Cherise Tieben, Assistant City Manager
City Commissioners

From: Paul Lewis, Director of Parks and Recreation 

Cc: Barb Slagle, Human Resources

Date: December 12, 2013

Subject: Resolution 2013-38: Title VI Policy

Agenda Item: Ordinances and Resolutions

RECOMMENDATION: Staff recommends adoption of Resolution 2013-38 establishing a new Title VI policy for the City of Dodge City, repealing and replacing all other resolutions and policies in conflict.

BACKGROUND: As a requirement from the Kansas Department of Transportation (KDOT) involving the Public Transportation Program, staff has drafted a new Title VI policy which prohibits discrimination on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The intent of this policy is to repeal and replace any existing policies and adopt a new, comprehensive plan for the City in all departments.

JUSTIFICATION: This policy is required for the City to remain in good standing with KDOT, State and Federal Government. It provides a complaint procedure and process for anyone who believes they have been subject to discrimination.

FINANCIAL CONSIDERATIONS: Failure to maintain an appropriate Title VI policy would potentially disqualify the City from receiving Federal funds for programs such as Public Transportation, Federal Highway funds and other funding programs.

PURPOSE/MISSION: This policy is consistent with the City's core value of making Dodge City the best place to be.

LEGAL CONSIDERATIONS: This policy does not expose the City to any additional liability. It details a plan for how discrimination issues will be addressed.

ATTACHMENTS: Resolution 2013-38
Title VI Complaint Procedures
Title VI Complaint Form
Limited English Proficiency Plan

RESOLUTION 2013-38
A RESOLUTION ADOPTING A TITLE VI POLICY

WHEREAS, Title VI of the Civil Rights Act of 1964 [42 U.S.C. §2000d et seq.], states that:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance

WHEREAS, the intent of Executive Order 13166 “Improving Access to Services for Persons with Limited English Proficiency” (65FR 50121) is to reduce language barriers and improve access to programs receiving federal funds, especially by persons who are limited in their English proficiency;

WHEREAS, the City of Dodge City, Kansas, is a recipient of federal financial assistance through the Public Transportation Program and other City programs and therefore obligated to have policies in place to adhere to Title VI and Executive Order 13166;

WHEREAS, a broad cross-section of community members has begun using Public Transportation services, driving dramatic increases in ridership numbers;

WHEREAS, our Community residents include people from more than 20 nations, with recent immigrants sometimes needing access to interpreters and translated documents;

WHEREAS, staff in Parks and Recreation and Human Resources, as well as the Kansas Department of Transportation have reviewed and approved the attached documents; and

WHEREAS, these Title VI, Limited English Proficiency and Public Participation plans are consistent with the intent and actions already followed by the City of Dodge City;

NOW, THEREFORE, BE IT RESOLVED BY THE ELECTED CITY COMMISSION OF DODGE CITY

- 1) The City of Dodge City hereby adopts a compliance policy and procedure governing complaints associated with Title VI of the Civil Rights Act of 1964 and Executive Order 13166.
- 2) Related Documents - Policy documents shall be kept and updated from time to time as needed by the Title VI Coordinator and include:
 - a. Title VI Complaint Procedures
 - b. Title VI Policy Notice
 - c. Limited English Proficiency (LEP) Plan
 - d. Title VI Coordinator Responsibilities
- 3) The Human Resource Director for the City of Dodge City will serve as the Title VI Coordinator as called for in the policy documents;

- 4) A Public Transportation Advisory Committee is hereby established and shall be a subcommittee of the Parks and Recreation Advisory Committee

ADOPTED AND PASSED by the City Commission of Dodge City on this 16TH day of December, 2013.

E. Kent Smoll, Mayor

ATTEST:

Nannette Pogue, City Clerk

Title VI Complaint Procedures For City of Dodge City

Title VI Complaint Procedure: The following pertains only to Title VI complaints regarding the services of the City of Dodge City.

Title VI of the Civil Rights Act of 1964 [42 U.S.C. §2000d et seq.], states that:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The City of Dodge City has in place a Title VI Complaint Procedure, which outlines a process for local disposition of Title VI complaints and is consistent with federal guidelines. If you believe that the City of Dodge City has violated your civil rights on the basis of race, color, or national origin, you may file a written complaint by following the procedure outlined below.

1. Submission of Title VI Complaint

Any person who feels that he or she, individually or as a member of any class of persons, on the basis of race, color or national origin has been excluded from or denied the benefits of, or subjected to discrimination caused by the City of Dodge City, may file a written complaint with the Title VI Coordinator. A sample [complaint form](#) is available for download at www.dodgecity.org/TitleVI and is available in hard copy from the Title VI Coordinator in Dodge City. Upon request, the Title VI Coordinator will mail the complaint form. **Such complaints must be filed within 180 calendar days after the date the discrimination occurred.**

***Note:** Assistance in the preparation of any complaints will be provided to a person or persons upon request and as appropriate. If information is needed in another language, then contact the Title VI Coordinator, at 620-225-8100 or by email title.vi.complaint@dodgecity.org, or visit our administrative office at 806 N. Second Avenue, Dodge City, KS 67801.*

Complaints may be emailed to title.vi.complaint@dodgecity.org, or may be mailed to or submitted by hand to:

Title VI Coordinator
City of Dodge City
806 N. Second Avenue
P.O. Box 880
Dodge City, KS 67801

2. Referral to Review Officer

Upon receipt of the complaint, the Title VI Coordinator shall forward the complaint to the Supervisor of the relevant Program. The Supervisor shall appoint one or more staff review officers, as appropriate, to evaluate and investigate the complaint. If necessary, the Complainant shall meet with the staff review officer(s) to further explain his or her complaint. The staff review officer(s) shall complete their review no later than 45 calendar days after the date the agency received the complaint. If more time is required, the Supervisor shall notify the Complainant of the estimated timeframe for completing the review. Upon completion of the review the staff review officer(s) shall make a recommendation regarding the merit of the complaint and whether remedial actions are available to provide redress. Additionally, the staff review officer(s) may recommend improvements to the relevant Program's

processes relative to Title VI, as appropriate. The staff review officer(s) shall forward their recommendations to the Supervisor for concurrence. If the Supervisor concurs, he or she shall issue the Program's written response to the Complainant. This final report should include a summary of the investigation, all findings with recommendations, or corrective measures where appropriate. The final report shall also be submitted to the Title VI Coordinator.

For complaints related to the Public Transportation Program: Upon receipt of a complaint, Dodge City Public Transportation Program shall forward a copy of this complaint and the resulting written response to the appropriate KDOT and FTA Region 7 contacts.

3. Request for Reconsideration

If the Complainant disagrees with the Supervisor's response, he or she may request reconsideration by submitting the request, in writing, to the Supervisor within 10 calendar days after receipt of the Supervisor's response. The request for reconsideration shall be sufficiently detailed to contain any items the Complainant feels were not fully understood by the Supervisor. The Supervisor shall notify the Complainant and the Title VI Coordinator of his or her decision in writing either to accept or reject the request for reconsideration within 10 calendar days. In cases where the Supervisor agrees to reconsider, the matter shall be returned to the staff review officer(s) to reevaluate in accordance with Section 2 above.

4. Appeal

If the request for reconsideration is denied, the Complainant may appeal the Supervisor's response by submitting a written appeal to the City Manager of Dodge City no later than 10 calendar days after receipt of the Supervisor's written decision rejecting reconsideration. The City Manager will make a determination to either request reevaluation by the staff review officer(s) or, in cases related to Public Transportation Program, the City Manager may forward the complaint to KDOT for further investigation.

5. (For complaints related to Public Transportation Program only) - Submission of Complaint to the State of Kansas Department of Transportation

If the Complainant is dissatisfied with the City of Dodge City's resolution of the complaint, he or she may submit a written complaint to the State of Kansas Department of Transportation (KDOT) for further investigation. The submission of complaint must be received by KDOT within 180 days after the date of alleged discrimination, or 10 calendar days after receipt of the written decision rejecting reconsideration or appeal, whichever is later. Complaints submitted to KDOT should be mailed to:

KDOT Office of Contract Compliance
Eisenhower State Office Building
700 Southwest Harrison
3rd Floor West
Topeka, KS 66603

The Complainant may also file a complaint directly with the Federal Transit Administration, at:
Federal Transit Administration
Office of Civil Rights
1200 New Jersey Avenue SE
Washington, DC 20590

City of Dodge City Title VI Coordinator Responsibilities

The Title VI Coordinator is charged with the responsibility for implementing, monitoring, and ensuring the City's compliance with Title VI regulations. Title VI responsibilities are as follows:

1. Process the disposition of Title VI complaints received by the City.
2. Collect statistical data (race, color, sex, age, disability or national origin) of participants in and beneficiaries of federally funded programs, as well as affected citizens and impacted communities.
3. Conduct annual Title VI reviews to determine the effectiveness of program activities at all levels.
4. Conduct Title VI reviews of construction contractors, consultant contractors, suppliers, and other recipients of federal-aid contracts administered through the City.
5. Review City program directives in coordination with Title VI liaisons for special emphasis program areas (e.g. Public Transportation). Where applicable, include Title VI language and related requirements.
6. Conduct training programs on Title VI and other related statutes for City employees.
7. Prepare a yearly report of Title VI accomplishments and goals, as required.
8. Develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English.
9. Conduct post-grant approval reviews of City programs and applicants, for compliance with Title VI requirements.
10. Identify and eliminate discrimination.
11. Establish procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be necessary.

Limited English Proficiency (LEP) Plan Dodge City Public Transportation

The intent of Executive Order 13166 “Improving Access to Services for Persons with Limited English Proficiency” (65FR 50121) is to reduce language barriers and improve access to programs receiving federal funds, especially by persons who are limited in their English proficiency. As a federally funded program, the Dodge City Public Transportation Program will identify barriers to LEP individuals, and implement a language assistance plan which will reduce language barriers and enhance access to our services by persons with Limited English Proficiency..

Four Factor Analysis for Dodge City and Ford County

1. Number and Proportion of LEP individuals who can utilize the service provided by Dodge City Public Transportation.

Table 1 shows the Limited English Proficiency (LEP) Population Groups residing in Ford County. The 7,041 Spanish speakers who speak English “less than very well” represent 23% of the Ford County population, and meets the criteria for providing written translations of all materials. There are an additional 532 people who speak nine different languages and English “less than very well”, but as each is a small number none of those fit the criteria requiring written translations of materials. We do, however, encounter these persons as we provide Public Transportation services, and our LEP Plan is developed with them in mind as well as the many Spanish speakers.

2. Identify the frequency in which LEP individuals come into contact with our Public Transportation Program.

Spanish speakers with limited English proficiency make up 23% of the Ford County population. Hispanics (both those who speak English very well and less than very well) made up approximately 44% of our ridership in July and August 2013. We know from experience that many have limited English proficiency.

While no other population or language group meets the LEP threshold for mandatory translation of all materials, we do encounter many individuals with limited English proficiency. Two large beef processing plants employ about 5,600 workers, and recruit internationally to fill these positions. Many new immigrants with limited English proficiency come to our community for these jobs, and many choose to ride our buses.

3. Identify the importance of our Public Transportation service to the LEP community.

As new immigrants to the United States, and new job holders in our community, many LEP individuals have neither driver’s licenses nor cars. They are very public transit dependent. As time passes, many of these individuals acquire cars or at least a

network of friends with whom they can carpool. Even then they may be transit dependent because a family (2 adults plus children) might have just one car. In such cases, either one adult might need public transportation to get to work, or the other adult and children might need public transportation for shopping and medical appointments. Both data and anecdotal evidence tells us that public transportation is very important to the LEP community.

4. Identify resources available for assisting LEP individuals and the respective costs of these resources.

Resources for Spanish Speakers: Spanish is the most common language spoken by our LEP population, and meets the Title VI threshold requiring that translations be available in Spanish. Therefore, we have developed a number of different resources.

- Translations: All essential documents are available in English and Spanish, including:
 - Passenger Policies and Guidelines
 - All notices posted on buses
 - Title VI Notice, Complaint Form and Complaint Procedures

Cost: For documents containing complex language requiring high level Spanish – English proficiency, we utilize the services of a professional translator who charges 11 cents per word plus \$25 per hour of translation work. For brief, simple notices posted on buses, we utilize bilingual staff at City Hall. While there is a cost (staff time), the Public Transportation Program is not billed for this work.

- Bilingual staff: One of our full-time drivers is bilingual in English and Spanish. When communication difficulties arise, other drivers use cell phones to get the assistance from the bilingual driver. When recruiting new drivers our job advertisement notes that “bilingual skills are strongly preferred but not required”. We contract with Finney County Transit to provide Dispatch services, so they encounter each of the LEP clients when reservations are taken. FIT has one dispatcher who is bilingual, and utilize various other resources for understanding LEP clients.

Cost: Bilingual staff members in Dodge City are paid up to 7% over base salary because of this important skill. There is also a cost in terms of the time these staff members spend dealing with communication difficulties encountered by staff members who do not have bilingual skills. Finney County Transit bills us (and KDOT) for all the extra time it takes to work with LEP clients due to communication difficulties. However, there is no way to know what portion of the cost is related to communication with LEP clients.

- “Basic Spanish for Transit Employees”: To provide an additional resource for our drivers we will provide each driver, and place in each bus a copy of a small book “Basic Spanish for Transit Employees”. We will train drivers utilizing the accompanying training DVD. Finney County Transit provides this resource for Dispatchers.

Cost: Each book costs \$4.50 and the training video costs \$7.

Resources for Speakers of Other Languages: Because we have 532 persons who speak nine different languages (neither English nor Spanish) we have identified a resource we can utilize to assist when working with these clients.

- Pay as You Go Personal Interpreter Service: An additional resource we can utilize for simultaneous telephone translation in any language is the Pay-as-You-Go Interpreter Service provided by Language Line (www.languageline.com). When an LEP client calls our office (or Dispatch), this service can be utilized by calling their number and asking for a specific language interpreter. The interpreter joins in a 3 way telephone conversation and provides simultaneous translation between the caller and our staff. This resource can be especially valuable with LEP clients who speak a language other than Spanish, because we have no staff members who speak languages such as Arabic, Somali, or Laotian. It is possible to have documents translated if needed.
Cost: \$3.95 per minute which KDOT has determined can be charged to the 5311 grant as an operating cost.

Limited English Proficiency Plan

Identified LEP Individuals Table 1 contains information about Ford County's LEP populations. Spanish is the only language group which meets the threshold to require written translations of all documents.

Language Assistance Measures In order to meet the needs of all LEP populations we will take the following steps.

For LEP Spanish Speakers: We will take the following actions:

- Translate all documents into Spanish, utilizing City Hall staff when possible and hiring professional translators when necessary. This includes:
 - Passenger Policies and Guidelines
 - All notices posted on buses
 - Title VI Notice, Complaint Form, and Complaint Procedures
- Use Google Translate to enable our website to be translated and presented in Spanish.
- Make every effort to recruit and hire bilingual staff who speak Spanish
- Provide each driver, and place in each bus a copy of "Basic Spanish for Transit Employees" and utilize the training video in training all drivers.
- Work with Finney County Transit to assure that Dispatchers can work effectively with LEP Spanish speakers.
- Utilize Pay-As-You-Go Personal Interpreter and Translation Service (www.languageline.com) when necessary.

For LEP Speakers of Other Languages:

- Use Google Translate to enable LEP individuals to translate our Website information into their native language.
- Utilize Pay-As-You-Go Personal Interpreter and Translation Service (www.languageline.com) when necessary.

- Utilize “I Speak” cards (see attached) to help identify the language being spoken by our LEP client, recognizing that our only resource for helping them will be the Pay-as-You-Go Personal Interpreter service. Many times they will bring another member of their language community who speaks English well and who can help interpret for us.

Training Staff – Identify how agency staff will be trained in utilizing language assistance measures.

- Our Drivers will be trained in using the “Basic Spanish for Transit Employees” by utilizing the training video which accompanies the resource.
- Our Administrative Staff will be trained in how to utilize the Pay-As-You-Go Interpreter service.
- We will collaborate with Finney County Transit to assure that Dispatch staff has the skills needed to meet the communication challenges with all LEP language groups.

Providing Notice – Identify how Dodge City Public Transportation will provide notice of the LEP plan and the Title VI procedures.

- LEP Plan will be posted on Dodge City Public Transportation website
- LEP Plan will be provided to any person or agency requesting a copy.
- The person to contact in regards to the LEP plan is Kathy Denhardt, Mobility Manager, and can be reached at 620-682-0011 or kathyd@dodgecity.org.
- On our website we will post “If a complaint is to be filed by an LEP individual, please utilize the Title VI Complaint Form and Complaint Procedures posted on this website.”

Monitoring and Updating LEP Plan – Dodge City Public Transportation Program will take the following actions to monitor and update the LEP Plan:

- At a minimum, our agency will update the LEP plan every three years as required by the Title VI update schedule.
- We will examine the LEP Plan annually as new drivers are being hired and trained in order to assure we are carrying out the plan to the fullest extent.
- If a large number of LEP individuals present us with new challenges (e.g. a new language is introduced into the community), we will examine the LEP Plan to determine if any changes might be necessary, or any resources might be utilized which we had not known about previously.

City of Dodge City

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

Memorandum

To: City Manager
Assistant City Manager
City Commissioners

From: Melissa McCoy, Project Development Coordinator

Date: December 16, 2013

Subject: Santa Fe Windows/Doors and Soffit Project
Agenda Item: Approval of Bids

Recommendation: Staff recommends that the previous bids from October 31 for the Santa Fe Depot Windows and Doors project be rejected as there was an error in one of the bids that was submitted. Staff also recommends the approval of the low base bid in the amount of \$198,402 from Pishny Restoration Services for the south and west windows/doors as well as approval of Alternate 1 in the amount of 39,900 for the soffits and guttering on the south and west side of the Atchison, Topeka and Santa Fe (ATSF) Railway Depot.

Staff also requests that the Commission reject the Alternate 2 bid in the amount of \$166,019 which includes the north and east windows/doors and Alternate 3 in the amount of \$58,700 for all north and east soffits and guttering as this portion of the project will need to be let by the Kansas Department of Transportation per the funding agreement.

Background:

On October 31 at 2:00 PM, a Bid Opening was held at City Hall. Bids were submitted from Pishny Restoration of Lenexa, KS. Sutherland Builders, Inc. of Wichita, KS. and the Wilson Group from Greenwood, MO. However, at a later date one of the bidders came forward to explain that an error had been made in their bid that greatly affected their cost proposal. Since there was a great price difference in the bids received, City Staff determined that the existing bids would have to be rejected and the project rebid.

The re-bid opening for the Santa Fe Windows/Doors and Soffits Project then took place on November 21, 2013. Bids were submitted by Sutherland Builders, Inc. of Wichita, KS. and Pishny Restoration Services of Lenexa, KS. The bid tab is attached at the end of this document.

Justification:

Pishny Restoration Services had the low bid and included a well-prepared Historic Treatment Document. If approved the south and west windows/doors/soffits and gutters project will begin in January of 2014.

Financial Considerations:

Funds for the Windows/Doors and Soffits project in the amount of \$140,717 have been secured through the Tourism Task Force budget which is funded by the “Why Not Dodge” Sales Tax. These funds have been utilized previously for Depot Development and Stabilization.

Grant Funding from the Heritage Trust Grant in the amount of \$90,000 was awarded to restore the south and west windows and doors. Other funding for the project will come from Historic Rehabilitation Tax Credits in the amount \$46,905. The Total of Awarded funds for the project is \$136,905.

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:

Bid Tab

Project Cost Spreadsheet

Project:	Project Cost	20 % Contingency	Total Project Costs	Grant Funds	Match	25% Tax Credits	Match After Tax Credits
HTF Project Costs S/W Windows and Doors	\$198,402.00	\$39,620.00	\$237,722.00	\$90,000	\$147,722	\$36,930	110,792.00
Pending Costs: SW Soffits and Gutters	\$39,900.00	N/A	\$39,900.00	N/A	\$39,900	\$9,975	29,925.00
Total (s)	\$238,302.00	\$39,620.00	\$277,622.00	\$90,000	\$187,622	\$46,905	140,717.00
Depot Dev. Funds: \$208,835.00							
Contingency: \$9,849.61							
Total Available Funds: \$ 218,684.61							

Memorandum

*To: City Manager
City Commissioners*
From: Cherise Tieben
Date: 11-21-13
Subject: Boot Hill MOU
Agenda Item: New Business

Recommendation: Staff recommends entering into a Memorandum of Understanding with Boot Hill Museum.

Background: The Commission has previously recognized that Boot Hill Museum is an anchor for the tourism industry in our community and therefore has a significant impact on the City's economic growth. Therefore, on April 1st of this year, the Commission approved passage of Ordinance No. 37 and Resolution 2013-11 which raised the Transient Guest Tax 2% in order to provide an alternative source of funding for the Museum to make needed repairs, restoration and improvements.

Justification: The Why Not Dodge fund through Organizational Funding has been one of the primary means of support for Boot Hill Museum for the last several years. It was the desire of those involved to provide funding stability to the Museum in light of numerous discussions of reducing the amount contributed to Organizational Funding. The Guest tax seemed the most appropriate mode to assist in funding this valuable asset to our community and assuring its continued existence through operations, repairs and upgrades. If the tax exceeds the \$200,000 needed to assist Boot Hill Museum or if the funds are no longer needed to sustain the Museum, the funds may be reallocated to another tourism related activity.

Financial Considerations: Dedication of the collection of the additional 2% Guest tax to Boot Hill up to \$200,000 annually or in accordance with the MOU.

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

Legal Considerations: None

Attachments: Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
CITY OF DODGE CITY
AND
BOOT HILL MUSEUM**

This **MEMORANDUM OF UNDERSTANDING** is made and entered into by and between the **CITY OF DODGE CITY, KANSAS (CITY)**, a municipal corporation and **BOOT HILL MUSEUM (MUSEUM)**, a non-profit 501(c)3 organization operating in Dodge City, Kansas.

WHEREAS, the CITY has recognized the numerous benefits of tourism to the community and our City/County's economic growth and has worked for many years to establish the community as a destination for tourism; and

WHEREAS, the MUSEUM is recognized as an anchor in establishing and developing the community as a destination for our tourists to experience the history and relive the legend of Dodge City; and

WHEREAS, the MUSEUM has worked diligently to preserve and interpret the Old West through exhibits, education and entertainment reflective of the area's rich heritage; and

WHEREAS, the CITY increased the collection of Transient Guest Tax (Tax) from six percent (6%) to eight percent (8%) as authorized by Charter Ordinance No. 37 and Resolution No. 2013-11, and

WHEREAS, the CITY has agreed to provide from such Tax a supplemental revenue to Boot Hill Museum to assist with defined expenses, and

WHEREAS, the CITY believes that the proposed expenditure of all, or a portion of, the two percent (2%) increase in the Tax is within the purpose and intent of the imposition of said tax in accordance with State statutes.

December 11, 2013

NOW, THEREFORE, the Parties do hereby enter into this Memorandum of Understanding as evidence of their good faith, desire, and intent to utilize a portion of the Tax to assist with the operation, maintenance and development of Boot Hill Museum, Inc.

THE CITY AGREES TO:

1. Commencing July 1, 2013 and for a period of five (5) consecutive years thereafter, Establish a separate fund for purposes of this Memo called the Tourism Restoration Account (the "Account") into which an amount equal to twenty-five percent (25%) of the City's total eight percent (8%) Transient Guest Tax (the "Tax") collected by the State, less the State's administrative fee and returned to the City in quarterly payments shall be deposited.
2. Provide the balance of the Account to the Museum at least forty-five (45) days after the collection of the Tax by the City from the State of Kansas, as long as appropriate documentation indicating the continuing need is received by the City Manager prior to distribution and as long as the annual allocation does not exceed two hundred thousand dollars (\$200,000.00).
3. Prevent the reallocation of the initial two hundred thousand dollars (\$200,000.00) of the annual contributions to the Account for other purposes, except in the case of temporary and/or emergency situations and only following discussion with the President of the Museum Board.
4. If the Account exceeds an annual collection of two hundred thousand dollars (\$200,000.00) the excess funds may be allocated by the City to the CVB operating fund or to another tourism related activity or entity, as solely determined by the City. The City will inform the Museum of any such reallocation, or may, in the City's sole discretion, add all or a portion of such excess to the Museum's quarterly allocation with appropriate documentation of special need.
5. The City will be responsible to fund all travel related expenses, not including wages and benefits, required by the Brand Ambassador for

all events the individual attends as requested by and on behalf of the City of Dodge City. Travel expense reimbursement will occur in conformance with the City travel reimbursement policy.

THE MUSEUM AGREES TO:

1. Provide, on an annual basis, to the City Manager's office prior to distribution of any funds:
 - a. an updated annual budget.
 - b. an updated five (5) year strategic plan, which indicates maintenance items and capital improvement items. The plan should be accompanied with a list of grant programs and fund raising programs that are being pursued in an effort to seek additional sources of funding.
 - c. provide audited financials.
2. Allow the City of Dodge City the opportunity to utilize the Brand Ambassador at a minimum of six (6) trade shows, Dodge City Night in Topeka and at least twenty-four (24) other local events throughout each calendar year. The City will provide at least a two (2) month notice for all trade shows and or events requiring travel outside of the City of Dodge City. The City will make every attempt to provide at least one (1) week notice for local utilization of the Brand Ambassador. However, both parties agree that some activities do arise spontaneously and if the Brand Ambassador is readily available, permission shall not be unreasonably withheld.
3. Utilize not less than twenty-five thousand dollars (\$25,000.00) of the Account in each of the first two (2) years of this agreement and fifty thousand dollars (\$50,000.00) of the Tax in year three (3), four (4) and five (5) of the agreement to fund the deferred maintenance expenses as outlined in the five (5) year strategic plan. An itemized list of the completed deferred maintenance items shall be provided annually with a list of actual costs for the completion of such deferred maintenance.

4. Utilize one hundred seventy-five thousand dollars (\$175,000.00) of the Account to subsidize the funding of the general operational expenses of the Museum in year one (1) and two (2) and one hundred fifty thousand (\$150,000.00) in year three (3), four (4) and five (5) of this agreement. If the subsidy is not needed in any of those five years, the Account funds shall be applied to the deferred maintenance items in accordance with the Strategic Plan referred to in 1.b. above.
 - a. Allocate approximately forty thousand dollars (\$40,000.00) of the operational funds to the wages and benefits of the Brand Ambassador position each year for the first five (5) years of this agreement.
5. The Museum shall appoint the City Manager or his designee as a member of the Boot Hill Board of Directors.

BOTH PARTIES AGREE:

1. To meet quarterly to review the Museum's Budget and Strategic Plan for maintenance and improvements.
2. Should all or a portion of the Account no longer be needed to support the Museum that the funds will be reallocated to other tourism entities or activities.
3. To use good faith efforts in working together to accomplish the purpose and intent of this Memorandum of Understanding.
4. To maintain an open line of communication regarding the needs and uses of the Account and should remain willing to share detailed information about the City's collection and disbursement of the Account and the Museum's utilization of the Account.
5. In the event the Account distribution is less than two hundred thousand dollars (\$200,000.00) annually the Board and City Manager shall agree to a proration of the expenditures set out above.
6. To reevaluate the allocation of the Account end of five (5) years in order to refine: the total allocation, brand ambassador allocation, deferred maintenance allocation and the necessity of the continuation of the distribution to the Museum.

December 11, 2013

7. That any disagreements regarding this Memorandum of Understanding will be discussed immediately between the City Manager and the President of the Museum Board of Directors before the City Manager makes a final determination of the issue.
8. This MOU may be amended, extended or terminated at any time following discussions with the Museum Board and approval by the City Commission.

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

**CITY OF DODGE CITY, KANSAS
a Municipal Corporation**

by: _____

Kent Smoll, Mayor

ATTEST:

by: _____

Nannette Pogue, City Clerk

DATED this ____ day of _____, 2013.

Boot Hill Museum, Inc.

by: _____

Dean Bush, President

DATED this ____ day of _____, 2013.

Memorandum

To: City Commissioners
City Manager
Assistant City Manager

From: Barb Slagle
Human Resource Officer

Date: December 11, 2013

Subject: 2014 FOP MOU

Agenda Item: New Business

Recommendation: Staff recommends approval, pending final review by the City Attorney, of the 2014 Memorandum of Understanding (MOU) between the City of Dodge City and the Fraternal Order of Police Lodge #49.

Background: The proposed one-year MOU continues with the salary schedule that was completed in 2011 in accordance with the 2011 MOU with one change. It was agreed during negotiations this year to remove the Training Rate for newly hired Police Officers, which was \$15.68 per hour. It was agreed to hire Police Officers beginning January 1, 2014, at the Probationary Rate of \$16.46 per hour, thus eliminating the training rate. This will result in one or two officers going to the probationary rate on 1/1/2014 who were initially hired at the training rate earlier this year.

Due to changes made in litigation and concerns regarding the outcome of pending cases, a one-year contract is recommended. Other changes made in the 2014 MOU were made in conjunction with changes that occurred in State law with workers compensation, and Federal law with the USERRA Act (Military Leave). Lastly a wording change in removing the name of the particular shift schedule that the officers follow occurred along with defining Family Members under sick leave (use provisions).

Justification: In 2002, the City Commission agreed to follow the PEER Act which forced the City to recognize bargaining units. The FOP Lodge #49's first MOU with the City of Dodge City was approved in 2004. In accordance with PEER, good faith negotiations are entered into prior to the expiration of each contract. The 2014 contract was negotiated in 2013.

Financial Considerations: The budget was prepared recognizing the amounts negotiated in the proposed contract. Eliminating the training rate for newly hired officers will impact the 2014 budget only slightly if staffing remains steady as it has in most of 2013.

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

Legal Considerations: City Attorney Brad Ralph served on the negotiation team. He is currently making a final review of the document.

Attachments: FOP Memorandum of Understanding 1/1/2014 – 12/31/2014.

MEMORANDUM OF UNDERSTANDING

BETWEEN

CITY OF DODGE CITY, KANSAS

And

**FRATERNAL ORDER OF POLICE, LODGE #49
OF DODGE CITY, KANSAS**

(01/01/14– 12/31/14)

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DEFINITIONS

Calendar Days: The days of Monday through Sunday unless otherwise indicated.

Chief: The Chief of Police

Commander: Commanding Officer of the Police Dept. (Lieutenants and above)

City: The City of Dodge City, Kansas

Gender: the male shall include the female and the female shall include the male

Immediate Supervisor: the person directly above the officer in rank

Lodge: The Fraternal Order of Police Lodge #49

Memorandum: This Memorandum of Understanding

Officer: a sworn police officer of the Dodge City Police Department.

Department: The Dodge City Police Department

Employee Unit: All officers employed in the position of Patrol Officer, School Resource Officer, Warrant Officer, Detective, Corporal and Sergeant.

MEMORANDUM OF UNDERSTANDING

This memorandum reflects the agreements reached between representatives of the City and representatives of the Lodge as the exclusive representative of the officers within the Employee Unit, which agreements were reached between the parties pursuant to the provisions of the PEER Act, and which agreements define and establish certain conditions of employment which relate specifically to members of the Employee Unit during the period of time this Memorandum remains in effect. The parties agree that all other conditions of employment of members of the Employee Unit, except only those specifically set forth in this Memorandum, shall be governed by the ordinances, resolutions, policies, rules, regulations and practices as established, implemented and amended from time to time by the City. In the event of a conflict between the provisions of agreements set forth in this Memorandum and City policies, the provisions of this Memorandum shall govern.

NOW THEREFORE, IN CONSIDERATION OF MUTUAL COVENANTS AND AGREEMENTS HEREINAFTER CONTAINED, THE CITY OF DODGE CITY, KANSAS AND THE LODGE HEREBY AGREE AS FOLLOWS;

Article 1 - RECOGNITION OF EMPLOYEE ORGANIZATION

The City recognizes and acknowledges that the Lodge has been certified by the Public Employee Relations Board of the State of Kansas in Case No. 75-UDC-1-2083 as the exclusive representative for all Patrol Officers, School Resource Officers, Warrant Officers, Detectives, Corporals and Sergeants employed by the Department for the purpose of meeting and conferring pursuant to the Public Employer-Employee Relations Act of the State of Kansas, with respect to conditions of employment, as defined by the Act. The recognition herein afforded extends only to those classifications of officers who are in the Employee Unit for which the Lodge received certification under the above order. Excluded from the representation herein afforded are all other officers and non-sworn personnel of the Department, all confidential employees and all officers of the rank of Lieutenant and above. However, nothing in this article shall preclude any officer or individual excluded from the Employee Unit from becoming a member of the Lodge.

Article 2 - MANAGEMENT RIGHTS

The Lodge acknowledges that the City has certain statutory and common law rights which it must retain in order to carry out its governmental responsibilities. Except as otherwise expressly provided in this Memorandum, the Lodge agrees that the City retains its rights to make, modify and execute such policies and decisions as it deems necessary or appropriate to carry out its governmental responsibilities. All practices and conditions not covered by this Memorandum shall continue to be governed, controlled and interpreted by reference to the ordinances of the City and rules and regulations of the City and the Department.

Unless otherwise stated in this contract, nothing in this Memorandum shall be construed to modify or limit the existing rights of the City to:

- A. Direct the work of the officers;
- B. To determine the services and level of services to be offered by the City;
- C. To determine the number of officers required;
- D. To schedule overtime as determined necessary;
- E. To lay off, terminate, or otherwise relieve officers for lack of work or other legitimate reasons.

Article 3 - NONDISCRIMINATION

The City and Lodge agree that they shall not directly or indirectly discourage or deprive or coerce any officer in the enjoyment of any rights conferred by the laws of the State of Kansas or the United States; that the City shall not discriminate against any officer with respect to hours, wages, or any other term or condition of employment by reason of his/her membership in the Lodge or his/her participation in any lodge activities, collective negotiations with the City or his institution of any grievances, complaints, or proceedings under this Memorandum with respect to any terms or conditions of employment. The Lodge agrees to not discriminate against any officer of the Department because of his/her non-membership in the Lodge. The City and the Lodge will fully comply with applicable laws and regulations regarding discrimination against any employee due to such person's race, color, creed, religion, national origin, sex, age, or disability.

Article 4 - LODGE STATUS AND RIGHTS

Section 4.1 - Rights of Representation

Officers within the Employee Unit shall be represented by the Lodge for the purpose of meeting and conferring with the designated representative of the City with respect to the conditions of employment as established by this Memorandum, and administration of grievances arising from the administration of this Memorandum.

Members of the Employee Unit will generally refrain from directly or indirectly contacting any member of the Governing Body of the City for the purpose of discussing, influencing, or attempting to change any condition of employment pertaining to the officers during the meet and confer process.

Section 4.2 - Dues Deduction

The City agrees to deduct dues, according to the Lodge membership agreement, from the officers within the Employee Unit who voluntarily provide the City with a written authorization and in accordance with the Finance Departments payroll requirements. The sum of such deducted dues shall be electronically remitted biweekly to the account established at the Dodge City Credit Union by the Treasurer of the Lodge.

Section 4.3 - F.O.P. Days

The City agrees to grant up to one hundred twenty (120) hours annually to the Lodge for leave, with pay and without loss of seniority rights, to individuals designated by the Lodge, to attend to Lodge business. It is further provided that the Lodge give, if possible, at least thirty (30) days of advance notice of intended use of such leave to the Chief for approval. The use of such leave shall not be considered working time for overtime purposes and will not be subject to overtime payment.

If in the opinion of the Chief, the use of such leave results in a shortage of necessary manpower, then the Chief shall have the right to cancel any such leaves. Once the total hours allocated have been exhausted no further such leaves may be granted under this section. If the Lodge fails to use all the hours authorized the unused hours may not be carried over to the next year.

The Lodge business referenced herein includes, but is not limited to, State and National conferences of the Fraternal Order of Police organization, attendance at

educational conferences in which the F.O.P. or Lodge members participate or sponsor, or civic events in which the F.O.P or its members participate or sponsor.

Included within the events covered by this section are any hours where officers are released to be engaged in the following:

- 1) State Convention
- 2) Local representation at State F.O.P board meetings
- 3) Local representation at National F.O.P convention
- 4) Local representation at educational conferences
- 5) Fundraisers
- 6) State and National legislative committee
- 7) Special Olympics

This list is not exhaustive of all items covered by this section.

Section 4.4 - Lodge Business

The City agrees that the Lodge President or the Vice President in the absence of the President, may conduct Lodge business during regular working hours in City facilities or elsewhere if a specific need arises and approval for such is granted by the immediate supervisor. At no time shall this routine business interfere with or disrupt the regular work of any officer. If the routine business exceeds more than fifteen (15) minutes per day, approval from the Chief will be required. Otherwise all Lodge business shall be conducted during off duty hours.

Section 4.5 - Lodge Business Meetings

Any on duty members of the Lodge executive board and on duty Lodge Steward shall upon request be given reasonable time to attend not to exceed one (1) regular Lodge meeting and one (1) special Lodge meeting per month which is held during such members on duty time, as long as priority calls are responded to. The Chief will be given written notice at least seven (7) calendar days in advance of any such regular meetings and at least twenty –four (24) hours notice of any special meeting.

Section 4.6 - Bulletin Boards and Interoffice Mail *(Amended 08 & 11)*

4.6. (a) Notices - The Lodge shall have the privilege of the use of designated bulletin boards for the purpose of posting notices of its legitimate activities. All posted notices shall be on letterhead which clearly indicates that the notice relates to activities of the Lodge and shall be copied to the Chief or designee prior to its posting. If the Chief denies the posting, the Lodge President may appeal to the City Manager who will make the final decision.

It shall be the responsibility of the Lodge to remove notices which are outdated.

4.6.(b) Interoffice Mail - The Lodge shall have the privilege of the reasonable use of the existing interoffice mail service (i.e. email, faxes and mail distribution boxes) for transmittal of communications for the official business of the Lodge to its members, state and national Fraternal Order of Police agencies, as allowable by law. Interoffice mail that is sent to all Lodge members or a classification of Lodge members (refer to Article 5) that could be considered inflammatory is prohibited. If the Chief denies the distribution, the Lodge President may appeal to the City Manager who will make the final decision. The City reserves the right to review any and all other information sent to or from City communications equipment per Departmental policy.

4.6. (c) Meeting Room & File Cabinet - The Lodge may have the use of a Department room for meetings, with the prior approval of the Chief. The Lodge may keep at the Department its own locked file cabinet. The City accepts no liability for the cabinet or the contents of the cabinet.

Section 4.7 - Negotiators Meetings *(Amended 07)*

Three (3) members of the Lodge negotiating team designated by the President, shall be granted on duty leave time with pay to meet with the designated representatives of the City for negotiation meetings, when such meetings are scheduled during their on duty hours. If any of the three designated representatives are scheduled to work a 5 p.m. to 5 a.m. shift immediately prior to a scheduled negotiation session, an effort will be made to relieve the member from their assigned shift early and without loss of pay, in order to rest prior to the day of negotiations. The Chief shall be notified of the members to be on such leave for negotiations, no less than three (3) days in advance, unless an emergency substitution is required. Any other designated member of the Lodge negotiating team wanting to participate must do so using accumulated personal leave time or attend during their off-duty time. If any member of the Lodge negotiating team is on his regular days off when negotiations occur, they shall not be in pay status and are not eligible for overtime. Any hours of such leave shall not be considered as hours worked for overtime purposes.

Section 4.8 - Steward's Responsibility *(Amended 08)*

Stewards shall be permitted reasonable time to be present upon an officers request at an investigatory interview as provided in Section 12.5, in addition to disciplinary

conferences and officer grievance hearings without loss of pay if such conferences or hearings are scheduled during the Steward's regular working hours, provided enough personnel remain on duty to provide adequate police service and provided permission is granted by the immediate supervisor. The officer, who is the subject of the disciplinary action or the grievance, shall be granted up to thirty (30) minutes of duty time without loss of pay to review with the Steward the disciplinary action or grievance prior to the conference or hearing. Notification of the intent to utilize the thirty (30) minute period shall be given to the immediate supervisor as soon as reasonably possible. The thirty (30) minute period shall be used at the end of the shift unless the immediate supervisor grants another time. Permission shall not be unreasonably withheld. Time spent on Lodge activities, representation of members, and attendance at pre-disciplinary conferences with officers outside the Steward's normal working hours shall not be considered time spent in the employ of the City or the Department.

Stewards and alternates have no authority to take strike action, or any other action interrupting the Department's operation. In the event of such action by a Steward he shall be subject to proper Department and City discipline.

There shall be no more than one (1) Steward and one (1) alternate per shift or unit. A list of Stewards and alternates shall be provided to the Chief every six (6) months (January and July) which list shall be updated sooner if modifications occur between these dates.

Article 5 - JOB CLASSIFICATIONS *(Amended 08)*

The City has full discretion in establishing, modifying, abolishing or reestablishing job classifications, determining the job descriptions and job requirements for a particular classification, the number of personnel needed or assigned to a particular classification, and determining the qualifications for particular job classifications consistent with seniority, training, education, experience, ability, performance, and the Department's requirements. The Lodge shall be notified of any new or amended job description or classification prior to implementation and afforded an opportunity to consult with the Department regarding such changes. Current job descriptions and classifications are provided in Appendix I-V for convenience only and are not part of this Memorandum and are not the subject to bargaining under this Memorandum.

Section 5.1 - Classification List *(Amended 08)*

The job classifications for officers of the Department and primary objective of each position covered by this Memorandum are currently as follows:

Sergeant: Under general supervision, performs and serves as supervisor in patrol on the street, Detective Bureau or special assignments in the protection of life and property; supervises others in the absence of the Lieutenant; performs special investigative duties.

Corporal: Under close supervision, this position is an officer in training for supervisory responsibility. Performs and serves as a lead worker in patrol on the street, or during special assignments in the protection of life and property; may supervise others in the absence of the Sergeant and Lieutenant; may perform special investigations or other duties as required. Work varies requiring individual judgment within prescribed standards and procedures.

Detective: Under general supervision, performs specialized work investigating criminal offenses and related problems. Work involves duty in plainclothes and requires discretion and specialized knowledge to investigate and detect crime. Assignments are received from higher ranked officers. Advice is available from supervisors on unusual situations and work is closely reviewed through inspection and review of reports.

Patrolman: Under general supervision, patrols an assigned beat and investigates incidents in the enforcement of law and order in the protection of life and property.

The job descriptions for these positions shall follow the Classification and Pay Plan of the City. *See Appendices I-V & IX.*

Article 6 - PROBATIONARY PERIODS

Section 6.1 - New Hire Probation

New Officers shall be considered Probationary Officers for the first twelve (12) months of their employment. Any unpaid leave interruption of employment in excess of seven (7) continuous days, during the probationary period, shall not be counted as part of such probationary period. Probationary Officers may be discharged or disciplined at the sole discretion of the Department without recourse

to the provisions of this Memorandum. Probationary Officers shall not accrue seniority until the completion of their probationary period. Upon the completion of the probationary period, the officers' seniority date will be measured from their date of hire as provided in Article 7.

Section 6.2 - Promotional Probation

Officers promoted to higher ranks shall have their names removed from all eligibility lists on the date of promotion and shall be on probation for the first twelve (12) months of service in the higher rank.

Article 7 – Seniority *(Amended 07-08)*

Seniority shall be measured by continuous service as a sworn police officer with the Department from the date of last hire. Seniority shall be broken by discharge, resignation, retirement, permanent disability and time in rank of more than thirty (30) days. Suspensions of less than thirty (30) days will not result in a break in seniority. In the case of a break in seniority caused by suspensions of thirty (30) days or more, seniority shall only be reduced by the length of the suspension.

In the event an officer who has resigned is rehired in the department within ninety (90) days of the resignation, seniority in the position held at the time of resignation shall be reduced by the length of the resignation period. Such former employee shall be eligible for rehire only in the position of patrol officer. The rehired officer shall be placed on probation for a period of ninety (90) days. The officer will not be eligible for specialty assignment or division until the officer has completed the ninety (90) day probationary period. Upon successful completion of the probationary period, the officer will become eligible for promotional testing if all other criteria have been met.

In cases of disputes concerning seniority, the City's records as interpreted by the Director of Human Resources shall govern.

Section 7.1 - Seniority Rosters

The Lodge will be provided with an up-to-date seniority roster containing names, length of service, Bureau and rank of each officer represented by the Lodge. This seniority roster will be provided to the Lodge and will be posted no later than fifteen (15) calendar days prior to the opening of the bid period in January. In the event an officer believes an error has been made as to his/her position on the seniority roster, he/she shall have ten (10) calendar days after the roster is posted to file his/her protest, in writing with the Chief and a copy to the Lodge.

Section 7.2 - Seniority / Reduction in Rank

If an officer is reduced to his previous rank, he shall commence earning “time in grade” seniority from the date he last held the duties of that previous rank.

Article 8 - Hours of Work

Section 8.1 - Patrol Bureau *(Amended 08, 12 & 14)*

The normal work cycle in Patrol Bureau, exclusive of officers on special assignment such as GREAT Officers and School Resource Officers, shall consist of a twenty-eight (28) day work cycle. In said work cycle, an officer shall work twelve (12) hour shifts.

8.1. (a) – Special Assignment

The normal work cycle for those on special assignment, such as GREAT Officers and School Resource Officers, shall be established by the Chief in conjunction with the coordinating organization.

Section 8.2 - Detective Bureau *(Amended 08 & 12)*

The normal work week in the Detective Bureau shall consist of four (4) ten hour days with three (3) days off during the calendar week.

Section 8.3 - Meal Period and Breaks *(Amended 08)*

Each officer in the Patrol Bureau and each detective in the Detective Bureau should be allowed a forty-five (45) minute paid meal period per shift in addition to two (2) paid breaks per shift, breaks shall not exceed fifteen (15) minutes per break. An officer/detective will be subject only to priority calls during his meal period and breaks. Priority calls will be defined in the Department’s policy manual.

Article 9 - Work Assignments

Except for normal rotation, the work schedule in effect on the date of this Memorandum shall be continued; provided, that the City may change the work schedule by posting notice of such change in the briefing room for a period of ten (10) days in advance of the effective date of the change. Mutual good faith discussions of such change shall take place during such ten (10) day period if

requested by the Lodge. Final determination for any such changes shall rest with the City.

Section 9.1 - Semiannual Bidding Procedure – Patrol Bureau *(Amended 08 & 12)*

Officers assigned to the Patrol Bureau shall be assigned semiannually to their respective shifts on a bid basis in accordance with seniority, experience, and qualifications. Final determination of shift assignment will be made by the Chief or his/her designee based on previous stated qualifications. An officer who has his/her bid position changed, shall receive an explanation from the Chief or his/her designee, with notification sent to the Lodge that such explanation was given. Any member of the Employee Unit opposing their shift assignment shall have the opportunity to meet with the Chief to discuss their placement; however, the Chief's decision is final. Bid posting will be made available and will be made effective on a date mutually agreed upon by the Chief and the Lodge President.

Section 9.2 - Assignment out of Rank

The City recognizes the need for individual officers to perform from time to time, the duties of officers of the next higher rank when that position is vacant. Authorized leave of less than thirty (30) days is not considered a vacancy.

9.2.(a) Acting Detective - In the event that an eligibility list is not available for the detective position, senior officers shall have first option to temporarily perform the duties of a Detective, at the pay of a Detective, whenever a Detective's position is vacant.

9.2. (b) Acting Sergeant - Corporals on each shift may be assigned by their immediate and/or unit supervisor to temporarily perform the duties of a Sergeant, at the pay of a Sergeant, whenever a Sergeant's position is vacant.

9.2. (c) Acting Lieutenant - Sergeant on each shift may be assigned by their immediate and/or unit supervisor to temporarily perform the duties of a Lieutenant, at the pay of a Lieutenant, whenever a Lieutenant's position is vacant.

Section 9.3 - Rotating Detective *(Amended 08)*

The party's recognize the need for officers to continue improving their ability to perform their current job assignments and prepare them for promotional opportunities. When in the sole judgment of the Chief existing circumstances allow, a rotating detective position will be implemented to help achieve this goal.

The rotating detective's position will be open to any officer **not** currently on new hire or disciplinary probation, or any performance improvement plan (PIP). The rotating detective position will be considered a temporary transfer from Patrol Bureau to the Detective Bureau for not more than a six (6) month rotation to coincide with semiannual bidding period. The rotating detective position will be paid at the assigned officer's current rate of pay.

The selection process will include a request for consideration in writing to the Training and Standards Bureau Commander. The administration will review the last two (2) performance evaluations and the officer's file maintained by the Sergeant. Upon recommendation from the Bureau Commander the Chief shall make the final determination to fill the rotating detective position. The failure to receive the appointment shall not be subject to the Grievance Procedure.

The assigned officer will be allowed to maintain a modified dress code as determined by the Bureau Commander. The officer will be assigned cases and maintain a case load as determined by the Bureau Commander who supervise and monitor the position. The officer will be subject to call outs to assist other detectives when approved by the Bureau Commander.

Article 10 - TRANSFERS

Section 10.1 - Personal Requests

Any officer may request a transfer of assignment from one shift to another. All such requests for transfer shall be in writing and served on the Bureau Commander, with a copy to the Chief. Requests for transfer shall be granted only for legitimate personal reasons or the officer's inability to adequately perform assigned duties and provided there is an open position available or another eligible qualified officer will consent to trade shift or assignment with the officer seeking the transfer. If the Chief denies the transfer request the officer may not appeal the decision. No transfers between Bureaus or specialized units shall be allowed under this section.

Section 10.2 - Departmental Transfers

The Bureau Commander may transfer officers, either temporarily or for the duration of a bid period, to another shift or unit. Reasons for such transfers shall include, but not be limited to the following:

- Providing adequate police services;
- Inability to perform assigned duties;

Inability to successfully complete training requirements of his position;
Inability to function within a given area without an unusual incidence of
founded complaints.

The officer affected and the Lodge shall receive a written explanation of the transfer from the Chief. Departmental transfers, for the purpose of affording necessary police service, shall as far as practicable be in reverse order of seniority on each shift. If the transfer is not made based on seniority as previously stated, a written explanation will be provided to the Lodge by the Chief, prior to the transfer. All officers transferred at the request of the department shall be paid the overtime rate for all hours worked in the event they do not receive their requisite days off.

Section 10.3 - Promotions

When a permanent vacancy occurs in any Employee Unit position except Patrol Officer, it shall be filled as determined by the City. Internal applications to fill vacancies shall be processed in accordance with the City's Police Department Promotional Procedures (Appendix VII).

The Departmental promotional procedures shall only be changed from those in effect on the date of this Memorandum following consultation between the City and the Lodge. In the event either party proposes to change such procedures, the parties agree to name three (3) representatives to sit as an advisory committee to consider the proposed revisions. Any revisions shall be accomplished if possible through mutual consent of the advisory committee; provided, however, if mutual consent of the committee is not obtained, final determination shall rest with the City. In the event of a change in procedures either by mutual consent of the advisory committee or by the City in the absence of such mutual consent, a copy of the procedures as modified shall be provided to the Lodge President.

Article 11 - ACCIDENT REVIEW

When an accident occurs involving a City owned vehicle operated by a member of the Employee Unit, the City Police Department shall follow the Departmental Policy 401 (Appendix VIII).

The Departmental "Accidents Involving Police Vehicles" procedures shall not be changed except following consultation between the City and the Lodge. In the event either party proposes to change such procedures, the City agrees to name three (3) representatives to sit with three (3) representatives from the Lodge as an advisory committee to consider the proposed revisions. Any revisions shall be

accomplished through mutual consent and if mutual consent is not obtained, final determination shall rest with the City.

ARTICLE 12 – OFFICER’S RIGHTS DURING AN INVESTIGATION *(Amended 07)*

Section 12.1 – Purpose *(Amended 07)*

The purpose of this Article is to establish officer’s rights during investigations of complaints or allegations of misconduct against an officer who is a member of the Employee Unit in order to ensure that such investigations are fair, impartial and complete and to safeguard the rights of officers and provide for the confidentiality of investigations to the extent allowed by law.

Section 12.2 – Scope *(Amended 07)*

All complaints or allegations of misconduct or violations of city or department policies shall be investigated either by Internal Affairs, Human Resources, the appropriate supervisor or an outside agency (i.e. KBI, FOSO, FBI or other) whomever is appropriate as determined by the Chief or the City Manager.

Section 12.3 – Officer’s Privacy *(Amended 07)*

All such investigations shall be treated as confidential personnel matters and personally identifiable information concerning the subject of the investigation shall not be released to the news media without the consent of the officer under investigation unless disclosure of the information is required by the Kansas Open Records Act or other federal or state regulation. At the point a final determination of the investigation has been made a summary of the determination may be released at the discretion of the City Manager.

Section 12.4 - Documentation & Record Retention *(Amended 07)*

All documents concerning complaints or allegations of misconduct or policy violations by an officer shall be considered confidential. During any investigation no documents relating to the investigation may be removed from the assigned investigator’s office without the express consent of the Chief, the City Manager, upon the written order of a court of competent jurisdiction or as required under the Kansas Open Records Act. All closed internal investigations files shall be retained as required by state and federal law and held in a confidential file in the office of the Director of Human Resources. Only investigation records which resulted in disciplinary action will be placed in the officer’s personnel file in the Human Resources Office.

Section 12.5 – Officer’s Rights During an Investigation *(Amended 07- 08)*

When conducting an investigation of any complaint or allegation the designated investigator, as provided in Section 12.2, shall have access to all documents, files and records related to the complaint or allegation and may question and interview any officer who may have information related to the complaint or allegation.

An “Initial Inquiry” occurs when an officer who is not the named subject of a complaint or allegation is asked to clarify, confirm or state facts and circumstances relevant to the investigation. If during an Initial Inquiry the investigator recognizes that disciplinary action against the officer being interviewed is probable, or if the officer requests the presence of the Lodge Steward, the investigator shall cease the Initial Inquiry and proceed with questioning as an “Investigatory Interview.”

An “Investigatory Interview” occurs when the investigator questions an officer who is the named subject of a complaint or allegation to obtain information which could be used as a basis for disciplinary action against the officer being questioned or the investigator asks the officer to defend his/her conduct in response to a complaint or allegation. If the officer at any time has a reasonable belief that disciplinary action against the officer may result from what he/she says, the officer has a right to request that the Lodge Steward be present during the interview. The officer may make the request for the Lodge Steward at anytime before or during the interview and may not be disciplined for making the request.

Once a request is made for the presence of a Lodge Steward, the investigator may either (1) grant the request and delay or reschedule the questioning until the Lodge Steward arrives and has an opportunity to consult privately with the officer, or (2) deny the request and end the interview immediately, or (3) give the officer the choice of either (a) having or completing the Initial Inquiry or Investigatory Interview without the presence of the Lodge Steward or (b) ending the Initial Inquiry or Investigatory Interview. If the investigator denies the request for the presence of the Lodge Steward and continues to ask questions the officer may refuse to answer and may not be disciplined for such refusal.

If the investigator grants the request for the presence of the Lodge Steward, when the Steward arrives the investigator will inform the Steward of the subject matter of the interview and will allow the Steward to:

- A. Meet privately with the officer before questioning begins or continues;

- B. Speak during the interview;
- C. Request that the investigator clarify a question being asked;
- D. Advise the officer on how to answer the investigator's questions, and
- E. Following the questioning, provide any additional information or evidence to the investigator.

In exercising the above privileges, the Steward shall not unduly delay, disrupt or interfere with the interview, argue or bargain over the purpose of the interview or direct the officer not to answer any question or falsify any answer. Once the Steward has been requested and is present the refusal of the officer to answer the investigator's questions or to fully cooperate in the investigation, shall be the basis for disciplinary action.

Neither the officer being investigated nor the Steward shall interfere with or attempt in any manner whatsoever to obstruct the investigation. Although the officer being investigated and the Steward may discuss the matter together, neither the officer nor the Steward shall discuss the investigation, complaint or allegations directly or indirectly with any other officers, Department personnel or City employees or officials until after the pre-disciplinary conference is completed as provided in Section 13.2A. Any such violation may be the basis for disciplinary action, up to and including termination.

When the officer being questioned is the subject of an Investigatory Interview the following will apply:

- A. The officer shall be advised of his/her right to have a Lodge Steward present for the interview.
- B. The officer shall be advised of his/her Garrity rights prior to the interview.
- C. The officer shall be advised of his/her Miranda rights prior to any criminal interview.
- D. The officer shall be advised of the allegations of the complaint prior to the interview.
- E. The interview shall be at a reasonable hour, preferably just before or after the officer is on duty, unless the circumstances of the investigation dictate otherwise.
- F. The interview shall take place at a location designated by the investigating officer which shall normally be at the police facility or other City office.
- G. Upon request the officer shall be informed of the title and name of the investigator and the identity of all persons present during the interview.
- H. The officer shall not be subjected to any offensive language, coercion, or promise of reward as inducement to answer questions. Nothing herein is to be construed as to prohibit the investigator from informing the officer that

his/her conduct or refusal to answer question or cooperate in the investigation may become the subject of disciplinary action.

- I. The complete interview shall be recorded mechanically. There shall be no “off-the-record” conversation except by mutual agreement. All recesses called during the interview shall be noted in the record.
- J. The officer may request to be given a copy of any audio/visual recording made of the interview. The officer will reimburse the Department for the cost of the tape. The request must be made within seventy-two (72) hours of the interview.

Section 12.6 – Other Rights and Responsibilities of Officers *(Amended 07-08 & 11)*

12.6. (a) Psychological Evaluation - The Chief may order with prior approval from the Director of Human Resources any officer to submit to a psychological evaluation whenever the Chief determines such examination to be necessary to ensure that no underlying factors are present that would affect the officer’s overall ability to perform his/her duties. The officer will sign a release allowing a “fitness for duty” letter be provided to the Director of Human Resources.

12.6. (b) Search and Seizure - If a search of an officer’s home, personal vehicle or other private premises is necessary; the officer shall be given the opportunity to sign a Consent to Search Form. If the officer refuses to sign the waiver, any search associated with the investigation shall be in accordance with the Kansas Criminal Code, and the Kansas Code of Criminal Procedure.

12.6. (c) Polygraph/CVSA Examinations - Upon the order of the Chief, officers shall submit to polygraph or CVSA examinations when the examinations are specifically directed and narrowly related to a particular investigation being conducted. Whenever a complaint from a citizen is the basis for the investigation, the matter is non-criminal, and no corroborating information has been discovered, officers shall not be required to submit to a polygraph or CVSA examination unless the complainant also submits to a polygraph or CVSA examination which is specifically directed and narrowly related to the complaint. No officer will be required to sign any document, which does not accurately state the conditions under which he/she is taking the examination. No statement of an officer shall be subject to psychological stress evaluation without being advised that the statement will be subject to such before making any statement.

12.6. (d) Cooperation with Investigation or Inquiry - During an investigation/inquiry, all officers shall fully cooperate with the investigators, and shall truthfully answer all questions asked. The refusal of an officer to answer questions or give a statement during a non-criminal investigation/inquiry may result in disciplinary action. Prior to the completion of a disciplinary conference as provided in Section 13.2A, all officers shall refrain from discussion of the inquiry, investigation, complaint or allegation directly or indirectly with any other officer(s), Department personnel, City employee(s) and/or official(s); provided, however, nothing set forth in this Section 12.6 (d) shall prevent the officer being investigated and the Steward representing the officer from discussing the investigation with each other. Any violation may be the basis for disciplinary action up to and including termination.

12.6. (e) False Information - Any officer found to have knowingly given false information, or to have concealed information during an investigation will be subject to disciplinary action.

12.6. (f) Failure to Report Misconduct - Failure of an officer to report observed misconduct may subject the observing officer to disciplinary action.

Section 12.7 – Notification of the Results of an Investigation *(Amended 07)*

The officer who has been the subject of an Investigatory Interview shall be given a written notification of the results of the investigation.

ARTICLE 13 – DISCIPLINE *(Amended 07-08, 12 & 13)*

Section 13.1 - Disciplinary Actions *(Amended 07-08)*

Disciplinary action shall include but not be limited to verbal counseling (documented in the officer’s working file), a written reprimand, change of work assignment, suspension, demotion, or dismissal from the department. Verbal counseling is a coaching tool for addressing minor violations in an attempt to prevent subsequent violations and to serve as a warning to the officer that the officer needs to improve in the listed areas and that repeated incidents of a similar or related nature may result in discipline up to and including termination.

The City reserves the right to, “with just cause” as defined herein, discharge, suspend or otherwise discipline officers for violations of City and/or Department rules and regulations or other misconduct; provided however the City may discharge or otherwise discipline an officer who is within his/her new hire

probationary period, at any time and without compliance with the procedures set out below. All actions to terminate officers shall require the approval of the Director of Human Resources.

For purposes of this Article, the phrase “with just cause” shall mean any grounds or reasons put forth by management in good faith and which are not arbitrary, capricious, unwarranted, irrational, unreasonable, or irrelevant to providing and maintaining an efficient and effective police department.

All disciplinary actions except for verbal counseling or actions taken during the new hire probationary period shall be preceded by a Disciplinary Conference with the Chief or his/her designee.

Section 13.2 – Disciplinary Conference *(Amended 07-08)*

The disciplinary conference is an administrative process which shall be utilized for all forms of discipline except verbal counseling. At the request of the officer a Steward may attend with and represent the officer at any disciplinary conference.

The disciplinary conference shall include the following:

A. At least twenty – four (24) hours preceding the time of the disciplinary conference a written report shall be provided to the officer or delivered to the officer’s last known address, advising of the reasons for the proposed action and shall include a copy of the investigative report. The report shall describe the alleged misconduct leading to the disciplinary action, the violation of any policies or regulations involved, and the level of discipline being proposed. An officer may submit a request to extend the time of the disciplinary conference up to an additional twenty-four (24) hours; the Chief will not unreasonably deny the request.

B. At the time of the conference, the officer and/or the Steward shall be given an opportunity to respond to the written report and proposed disciplinary action. Any written response from the officer and/or the Steward shall be placed in the disciplinary file.

Within seventy-two (72) hours (exclusive of Saturdays, Sundays and/or recognized City Holidays) of the close of the disciplinary conference, the Chief or his/her designee shall either, 1) provide the officer the written decision of the disciplinary action to be imposed, if any, or 2) advise the officer in writing that the matter is under advisement and that additional information is being gathered in response to the officer’s statements at the time of the conference. An officer shall have twenty

– four (24) hours to provide a written rejection of an agreement to extend the time for additional consideration or investigation. If a written rejection is filed by the officer, the person initiating the discipline shall provide a written decision within seven (7) calendar days of the close of the disciplinary hearing. The failure of the officer to attend the disciplinary conference shall constitute the officer's agreement with and consent to the disciplinary action as described in the conference report as provided in subsection 13.2A, and forfeits the right of further appeal.

Section 13.3 – Penalties *(Amended 07)*

Penalties listed in Regulation 2.2 of the Dodge City Police Department Policy and Procedure Manual which is in effect on the date of execution of this Memorandum shall be a guide for disciplinary action in the interests of uniformity and fairness. All penalties recommended by supervisors for offenses listed in DCPD regulations shall be within the prescribed limits. The penalty schedule shown in Regulation 2.2 shall in no way limit any penalty which the Chief may impose.

A “Reckoning Period” is defined as that period of time during which an officer is expected to have a record free of the similar type of offense he/she was found guilty of previously. All Reckoning Periods shall be computed from the date discipline is imposed. During the Reckoning Period, at the discretion of the Chief, special duty assignments may be restricted.

Whenever taking any disciplinary action (other than Verbal Counseling), a copy of the disciplinary report will be placed in the disciplined officer's Personnel File. A written copy of any written reprimand, suspension, demotion or dismissal shall be provided to the disciplined officer. Repeated violations of Dodge City Police Department Regulations, or any other course of conduct indicating an officer has little or no regard for his/her obligations as an officer of the Department shall be a cause for dismissal. This shall apply regardless of the severity of the offenses, regardless of any Reckoning Period, and regardless of whether the violations are of the same type.

Section 13.4 – Review of Disciplinary Action *(Amended 07-08, 12 & 13)*

Upon receipt of the Chief's written decision, a non- new hire probationary officer may request a review of such decision to the City Manager by filing a written Request for Review with the Director of Human Resources within seven (7) calendar days of receipt of the Chief's written decision. The Request for Review shall set forth in detail the reasons for the officer's request that the Chief's written decision be reviewed, as well as any controverted facts and/or interpretations of

policy. The request will also state the officer's description of appropriate disciplinary action, if any.

13.4.1 If the disciplinary action involves suspension without pay of nine (9) days or less, the officer may request review of the written decision by the City Manager as provided in Sections 13.5 and 13.7. A hearing pursuant to Section 13.6 shall not be available to the officer.

13.4.2 If the disciplinary action involves suspension without pay of ten (10) days or more, demotion or dismissal, the officer may request review of the written decision by the City Manager as provided in Sections 13.5, 13.6 and 13.7. The officer's request for review shall specifically state the reasons that the officer believes the decision to be arbitrary, capricious, unwarranted or unreasonable under the circumstances, and the officer's contention as to the appropriate disciplinary action, if any.

13.4.3 If no Request for Review is timely filed, the Chief's written decision is deemed final and no further review and/or appeal under this Section may be taken.

Section 13.5 – Administrative Review *(Added 13)*

The City Manager shall have thirty (30) calendar days to conduct his/her administrative review of the Chief's written decision. The City Manager will have available all documentation regarding the matter and may conduct such additional investigation as the City Manager deems appropriate or necessary to render a decision. The officer shall be afforded the opportunity to personally meet with the City Manager, along with a Lodge Steward, if the officer so chooses. In the absence of a hearing under Section 13.6 the City Manager will render a decision no later than thirty (30) days following the conclusion of the administrative review.

Section 13.6 –Hearing Procedures *(Added 13)*

As part of the Administrative Review, and when required by Section 13.4.2, the City Manager shall afford the officer a hearing conducted by the City Manager at a date and time established by the City Manager. The officer shall be notified of the time and place of the hearing in writing at least seven (7) days in advance of the hearing, unless a shorter time frame is agreed to by the officer. A Steward and/or an attorney may represent the officer at the hearing, and the City Attorney may represent the City. The City and the officer will exchange lists of all anticipated witnesses at least forty-eight (48) hours in advance of the hearing. The City

Manager, at his/her discretion, may adjourn and re-convene the hearing as the needs of the parties may require.

A record will be made of the hearing either by court reporter or by audiotape. Any fees for court reporter services shall be shared equally between the Lodge and the City.

If proceedings occur during normal working hours of the officer, the officer shall be in pay status, unless the officer has been suspended without pay.

Within thirty (30) days of the conclusion of the hearing, the City Manager will render a decision in writing, which shall be submitted to the officer with a copy to the Lodge President and the Chief. The City Manager may request an extension of up to an additional fourteen (14) calendar days, which request shall not be unreasonably refused. A copy of the decision will be included in the officer's personnel file.

Section 13.7 – Court Appeal *(Amended 07, 13)*

The officer may seek judicial review of the City Manager's decision by the Ford County District Court, but only after exhausting the applicable administrative review procedures as set forth in Section 13.5. The judicial review, if pursued, must be filed with the District Court no later than thirty (30) days following the date of the City Manager's decision, otherwise the City Manager's decision is final.

Section 13.8 – Release of Findings *(Amended 11, 13)*

When a final determination of disciplinary action has been made and all appeals are concluded, a notice will be posted for Department staff stating the policy(ies) violated, the date the violation occurred and the disciplinary action taken. No other information will be included in this posting.

ARTICLE 14 - GRIEVANCE PROCEDURE *(Amended 07)*

Section 14.1 –Definitions *(Amended 07)*

14.1. (a) Grievance – means an allegation by a member or members of the Employee Unit (the “Grievant”) related to the misinterpretation or misapplication of the provisions of this Memorandum by management. Disciplinary actions shall not be the subject of a grievance under this grievance procedure, but shall be administered in accordance with the procedures set out in Article 13 (Discipline).

14.1. (b) Grievance Mediation – means a mediation session(s) conducted by the Federal Mediation and Conciliation Service (FMCS) in an effort to resolve the grievance.

Section 14.2 – Procedures *(Amended 07-08)*

Step 1: In the event of a grievance involving the misinterpretation and misapplication of the provisions of this Memorandum by management, the Grievant shall, within fourteen (14) calendar days from the date the grievable action is taken, provide to the Chief a written statement stating specifically the alleged misinterpretation or misapplication of the provisions of this Memorandum, the Grievant's contention as to the correct interpretation or application of the provision in question, the reasons supporting the Grievant's contention and the Grievant's request for relief. Within fourteen (14) calendar days of receipt of the written grievance, the Chief shall submit a written response to the Grievant.

Step 2: If the Grievant believes the Chief's response does not resolve the grievance, the Grievant shall, within five (5) calendar days (exclusive of Saturdays, Sundays and/or recognized City Holidays) of receipt of the Chief's response, submit to the Director of Human Resources an appeal of the Chief's response which shall include the following information: (1) a copy of the original grievance, (2) a copy of the Chief's response and a detailed statement as to why the Grievant believes the Chief's response has not resolved the grievance.

Upon receipt of the above information, the Director will meet with the Grievant to review the reasons for the position taken by the Grievant and shall meet with the Chief to review the Chief's reasons for the position taken in the response. Within fourteen (14) calendar days of receipt of the Grievant's appeal, the Director shall issue a written determination to the Grievant, the Chief and the Lodge specifically setting forth the Director's decision as to the correct interpretation or application of the provision of this Memorandum which is the subject of the grievance, and describing what action is necessary to comply with the decision, if any. The Director's determination shall be final and shall serve as binding precedent for any future grievance concerning the same provision, unless the Grievant continues to Step 3.

Step 3: In the event the Director's determination is not acceptable to the Grievant, the Grievant shall, within five (5) calendar days (exclusive of Saturdays, Sundays and/or recognized City Holidays) of the receipt of the Director's determination, file a written application with the Lodge, for the Lodge to request Grievance Mediation

with regard to the Director's decision in Step 2. If the Lodge agrees that the issue should be submitted for Grievance Mediation, the Lodge shall, within five (5) calendar days (exclusive of Saturdays, Sundays and/or recognized City Holidays) of receipt of the Grievant's application, file a written request with the Director for Grievance Mediation, which request shall include the Lodge position as to the proper interpretation or application of the provision in question and the reason therefore. Upon receipt of the request from the Lodge for review, the Director shall request the appointment of a Federal Mediation and Conciliation Service (FMCS) mediator to review the Director's decision. Any fees charged by the mediator shall be shared equally between the Lodge and the City. If an agreement is reached through the Grievance Mediation that requires a modification of this Memorandum, the provision as amended shall be immediately incorporated as part of this Memorandum for the remaining term of the Memorandum.

Step 4: If no agreement is reached as a result of Grievance Mediation, the matter will be submitted to the City Manager who shall issue a final decision within ten (10) calendar days (exclusive of Saturdays, Sundays and/or recognized City Holidays) of the final mediation meeting and the provision in question shall be interpreted and applied in accordance with the City Manager's final determination. Either party desiring a transcript of any appeal proceedings shall be responsible for any associated costs.

During the Grievance Mediation as provided herein, only the provision of this Memorandum which is the subject of the original grievance shall be considered, unless the Lodge and the City mutually agree to consider other provisions.

Article 15 - OFFICER LEAVE

Leaves of absence shall be without pay unless specifically stated that the leave is to be with pay.

Section 15.1 – Vacations *(Amended 07& 11)*

Effective the first payroll of the term covered by this Memorandum and after successfully completing one (1) year of service, each officer shall be entitled to vacation leave, as follows:

- A. From the date of employment, the officer shall accrue 3.077 hours of vacation leave per pay period per year.
- B. After 182 pay periods of continuous service with the City, the officer shall accrue 4.615 hours of vacation leave per pay period per year.

C. After 390 pay periods of continuous service with the City, the officer shall accrue 6.154 hours of vacation leave per pay period per year.

15.1. (a) Vacation Leave Accumulation - Vacation leave not used during the year it is earned may accrue to a maximum of:

- 1) one hundred sixty (160) hours for those accruing 3.077 hours of vacation leave per pay period.
- 2) two hundred (200) hours for those accruing 4.615 hours of vacation leave per pay period.
- 3) two hundred forty (240) hours for those accruing 6.154 hours of vacation leave per pay period.

Officers shall not earn vacation time while on an unpaid leave of absence or layoff.

15.1.(b) Vacation Buyout - Officers separating from employment with the City in good standing shall be compensated for vacation leave accrued and unused. In the case of death in service of any officer for any reason, such payment shall be made in accordance with the Court's orders in an estate proceeding, or in the absence of an estate proceeding to the officer's spouse, or if no spouse survives to the officer's children. This compensation shall be paid at the officer's base rate of pay at the time of termination. Good standing will normally be defined as the officer separating voluntarily and giving no less than two (2) weeks notice. However, individual circumstances outside the officer's control will be considered in determining if the separation was in good standing. Officers who resign after being notified of a written decision of disciplinary action and officers who are dismissed for misconduct for any circumstance/situation set forth in, but not limited to, the Dodge City Police Department Personnel Policies Manual, shall not be compensated for vacation leave accrued and unused. The determination of whether the full-time officer is leaving in good standing at the time of the separation is subject to the procedures of Article 14.

Section 15.2 - Sick Leave *(Amended 11 & 12 & 14)*

15.2. (a) Entitlement - All introductory and regular officers in the City's service shall be entitled to accrue sick leave. Sick leave shall accrue at 3.692 hours per pay period per year.

15.2. (b) Limitations of Accumulation - Earned and unused sick leave may accrue to a maximum of nine hundred–sixty (960) hours. Officers shall not earn sick leave while on an unpaid leave of absence or layoff.

15.2. (c) Transferred Officers - When an officer is transferred to another Department of the City, any unused sick leave that may have accumulated to his credit shall continue to be available for his use, as allowable.

15.2.(d) Termination - Officers separating from employment with the City in good standing, who have a minimum of one (1) year continuous service on the date of separation, shall be compensated for twenty-five percent (25%) of their IIP accrued and not used. This compensation shall be paid at the officer's base rate of pay at the time of termination. In the case of death in service of any officer for any reason, such payment shall be made in accordance with the Court's orders in an estate proceeding, or in the absence of an estate proceeding to the officer's spouse, or if no spouse survives to the officer's children. Good standing will normally be defined as the officer separating voluntarily and giving no less than two (2) weeks notice. However, individual circumstances outside the officer's control will be considered in determining if the separation was in good standing. Officers who resign after being notified of a written decision of disciplinary action and officers who are dismissed for misconduct for any circumstance/situation set forth in, but not limited to, the Dodge City Police Department Personnel Policies Manual, shall not be compensated for vacation leave accrued and unused. The determination of whether said officer is leaving in good standing at the time of the separation is subject to the procedures of Article 14.

15.2. (e) Use Provisions - Use of accumulated sick leave by an officer or payment to an officer of paid sick leave shall be subject to the following rules:

- 1) In the case of actual sickness or disability of the officer or for medical, dental, or eye examination or treatment for which arrangements cannot be made outside working hours, and
- 2) When the officer is required to care for a sick or injured Family Member. An officer shall report all instances of this nature requiring absence from work, prior to his/her scheduled work time. Failure to fulfill these requirements may result in a denial of sick leave. **NOTE:** *Family Member as applied here shall mean officer's spouse, children, stepchildren, parents, and any legal dependent residing in the officer's home.*

- 3) See Section 15.7 concerning use of sick leave while subject to an approved Worker's Compensation Claim.
- 4) Any officer who is absent for more than three (3) consecutive work days due to illness or off-duty injury, shall furnish to the Director of Human Resources a certificate from a duly licensed physician, stating clearly the nature of the illness or injury and the probable length of time it will be necessary for the officer to be absent due to such illness or off-duty injury. Prior to return of work the officer shall provide a written statement from a licensed physician certifying that the officer is able to return to duty.

15.2. (f) Payment Beyond Accrued Vacation and Sick Leave - Any officer, who is sick or temporarily disabled and has exhausted all accrued paid leave, may request in writing an advance of additional sick leave. Upon recommendation and approval of the Chief and approval of the City Manager an officer who has exhausted accrued sick leave may be granted additional leave time up to two hundred-forty (240) hours. The officer will be required to repay this advance from his accrued sick and vacation time upon return to full-time employment.

A City of Dodge City Employee Sick Bank is available for illnesses which do not yet qualify for Long Term Disability coverage through KPER's or KP&F. The Sick Bank may be petitioned for a loan of sick time after all paid leave is exhausted due to the illness. Officers may contact the Finance Director for additional information and restrictions.

15.2. (g) Record of Sick Leave - It shall be the responsibility of the City to keep a record of sick leave and each officer's accumulation and use of sick leave. Any disagreement with City records shall be reported to the Finance Director within five (5) days of the officer's receipt of such City records.

Section 15.3 – Holidays *(Amended 07-08, 11 & 12)*

15.3.(a) Holiday Hours & Deadline for Use -Officers shall accrue eighty (80) hours of floating holiday leave throughout the calendar year with pay in compensation for the ten (10) holidays provided other City employees as established by the City Personnel Policy. The holiday hours not used prior to April 1st of the subsequent year will be forfeited. Officers shall, in addition to the eighty (80) floating holiday hours, receive all other holidays, in eight (8) hour increments, as declared to be such by the City for the benefit of other City employees.

15.3. (b) Holiday and Scheduling - A request for vacation and holiday leave shall be submitted to the officer's immediate supervisor. Leave may be taken only after approval by the Chief. Requests for days off using single vacation days, flex time, or holidays, shall be responded to not later than forty-eight (48) hours before the start of the officer's shift on the requested days off but shall in no instance be permitted to detract from providing adequate police service. If the requesting officer is not on duty it will be the responsibility of the requesting officer to contact the department for confirmation of denial or approval of the day off request.

15.3.(c) Pay Upon Termination – In the event an officer terminates after utilizing the benefit of a floating holiday and prior to the actual occurrence of the holiday, the officer's final paycheck will be reduced by an amount equal to that paid for the floating holiday. The amount can be deducted from base pay, accrued vacation, or the twenty-five percent (25%) of IIP the officer would have received in the final check. Officers separating from employment in good standing shall be compensated for holiday leave accrued and unused. In the case of death in service of any officer for any reason, such payment shall be made in accordance with the Court's orders in an estate proceeding, or in the absence of an estate proceeding to the officer's spouse, or if no spouse survives, to the officer's children. This compensation shall be paid at the officer's base rate of pay at the time of termination.

15.3. (d) Exception - Officers shall not accrue holiday time while on an unpaid leave of absence or layoff.

15.3.(e) Pay Upon Termination for Holiday Bank – Officers who have established holiday bank time prior to April of 1993, will be paid for such time at their current hourly rate of pay.

Section 15.4 - General Leaves of Absence *(Amended 08)*

Any general leave of absence, which shall be granted, is the decision of the City Manager. The maximum general leave of absence shall be ninety (90) calendar days. Any officer desiring a general leave of absence shall submit a written request to the Chief stating the reason for such request, at least seven (7) days prior to the commencement of the requested leave, except in cases of emergency. Before an officer may take a general leave of absence, written permission must be obtained from the City Manager with notice to the Lodge. The time an officer

spends on general leave of absence shall not be counted as time worked in determining any benefits under this Memorandum. Failure to report at the end of general leave of absence will be considered a voluntary resignation on behalf of the officer. If an officer on a general leave of absence obtains other employment with a law enforcement agency while on such leave, his City employment will be automatically terminated and the officer will have no recourse whatsoever under this Memorandum.

Section 15.5 - Maternity Leave

Temporary disabilities, caused or contributed by pregnancies, miscarriage, abortion, childbirth, and recovery there from, are temporary disabilities, and will be treated as such under the regular employee sick leave policy. All rules regarding sick leave shall apply to maternity leave. The City will make a reasonable attempt to find a suitable light duty position for the officer, once light duty is required by the officer's physician and the physician's light duty notification is received by the Chief.

Section 15.6 - Military Leave *(Amended 08 & 14)*

Any full time officer who is a member of the National Guard or an organized military reserve of the United States shall be granted military leave for a tour of active duty or field training encampment. Leave of absence shall be approved only upon presentation of orders pursuant to such training and with the consent of the Chief and the City Manager. Military leave with pay shall be granted for the purpose of allowing an officer to engage in military training.

The officer may choose one of the following options with regard to pay received during military leave:

- A. Present re-numeration to City Clerk received for such period from the military and receive full pay from the City.
- B. Use accumulated annual leave or holiday leave and retain re-numeration received from the military.
- C. Take leave without pay and retain military pay.

Any officer who leaves the City service for active military duty as an inductee or volunteer shall be placed on military leave without pay. An officer must report back to the City at the beginning of the first regularly scheduled work period that begins on the next calendar day following completion of service, if duration of military service was 1-30 days. If, due to no fault of an officer, timely reporting back to work would be impossible or unreasonable, the officer must report back to work as soon as possible after the expiration of an 8-hour rest period. An officer

returning from military leave shall be entitled to restoration to the former position or position of like pay and responsibility, if the officer makes application for reinstatement within ninety (90) days after release from active duty if duration of military service was more than 180 days, and fourteen (14) days after release from active duty if duration of military service was 31-180 days, provided further, that the officer is physically and mentally capable of performing the duties of the position involved. The right to restoration of employment may end after an employee has performed service in the uniformed services for a cumulative period in excess of five (5) years while in an employment relationship with the City of Dodge City. The City fully complies with the provisions of the Uniformed Services Employment and Reemployment Rights Act.

Section 15.7 - Injury Leave

Officers injured on the job are covered by the Kansas State Worker's Compensation Act. This law provides specific benefits. The officer may be granted injury leave for the twenty-six (26) weeks of the injury in which the Designated Physician will not allow temporary reassignment to a restricted light duty employment position.

In the event, that the employee is removed from regular or light duty by the City's Designated Physician, for a period not to exceed twenty-six (26) weeks, the following procedure will be followed:

- A. The supervisor shall report the officer's hours for those twenty-six (26) weeks as Injury Leave (IL) on the respective time sheet. The officer will continue to receive their current gross pay, excluding overtime from the City.
- B. The officer will endorse the Worker's compensation benefit check and return it to the City.
- C. If the officer chooses to accept the Worker's compensation benefit check instead of the City compensation, the officer must notify the Human Resources Office immediately.

In the event, that the officer is removed from regular or light duty by the City's Designated Physician, for a period in excess of twenty-six (26) weeks, the officer may use sick and/or accumulated vacation leave to replace the exhausted injury leave under the following provision:

If the officer's current gross pay, excluding overtime, is greater than the maximum benefit paid by Worker's Compensation an officer may be eligible, upon written request with Chief and City Manager approval, to use sick leave to make up the difference in gross pay. Under no circumstances shall the sum of the Worker's Compensation benefit plus the allowed sick leave exceed an

officer's regular gross pay. Regular gross pay calculation in this situation shall be based on the work period and hours of work specified in Article 8.

Additional provisions of injury leave beyond the twenty-six (26) week period shall include:

- A. Paid leave shall not accrue unless the officer works a minimum of forty (40) hours per pay period in a restricted duty capacity.
- B. Insurance premiums typically paid by payroll reduction are the officer's responsibility for payment.
- C. Flexible spending account annual election will be reduced by the biweekly contribution amount for which no withholding is made. If the officer has exhausted the spending account prior to being authorized leave without pay, the City reserves the right to either recalculate the biweekly election amount based on the remaining pay periods in the benefit year after the officer returns to work, or require the officer to reimburse the flexible spending account fund the contribution amount for which no withholding was made, prior to the officer returning to work.

Officers are reminded, that if an injury results from the officer's deliberate intention to cause such injury; or from the officer's willful failure to use a guard or protection against accident required pursuant to any statute and provided for the officer, or a reasonable and proper guard and protection voluntarily furnished the officer by the Department, any compensation in respect to that injury shall be disallowed.

Section 15.8 - Bereavement Leave *(Amended 11 & 14)*

Each officer shall have, in the event of a death in his immediate family, three (3) consecutive calendar days off with pay, one (1) of which shall be the day of the funeral. The term "immediate family" shall include the officer's spouse, children, stepchildren, grandchildren, parents, stepparents, grandparents, spouse's grandparents, brother, sister, parents of spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, or relative living in the officer's home.

In the event of the death of a spouse, child or stepchild the employee shall be allowed five (5) consecutive calendar days of leave. In the event of the death of any other immediate family member, the employee shall be allowed three (3) consecutive calendar days of leave.

In the event that the officer must travel out of state, the officer shall be allowed up to two (2) additional days of leave, chargeable to the officer's vacation accrual or sick leave accrual.

In all cases, the employee will receive paid leave only for those hours within the leave period he/she would have normally been scheduled to work.

Section 15.9 – Educational Leave

Upon satisfactory completion of at least three (3) years of employment with the Department, an Educational Leave of absence without pay may be granted to an officer not to exceed twelve (12) consecutive months. Course work shall be related to a law enforcement career. Requests shall be submitted to the Chief in writing and must be approved in advance by the Chief and the City Manager. No more than one (1) officer shall be granted educational leave at any one time. The granting or denial of such leave shall not be the subject of a grievance.

While on Educational Leave, without pay, additional leaves and seniority will not accrue. Payment of health insurance premiums will become the responsibility of the officer on leave and time on such leave shall count towards the officer's Cobra coverage period in the event the officer fails to return to active duty with the Department upon expiration of this leave.

If the officer desires to return to active duty with the Department the officer shall provide a written application for return to the Chief no later than sixty (60) days prior to the expiration of the leave period. Upon receipt of such application and for a period of sixty (60) days thereafter, the Chief will provide notice to the officer of any vacancies within the Department for which the officer is qualified. If the officer desires to apply for any such vacancy, the officer shall timely file an application which will be considered along with any other applications for the position. If the officer is selected to fill the position, the officer shall report to active duty within the time established and shall retain the seniority status in effect at the time the leave was granted. In the event the officer fails to apply for the position or is not selected to fill the position, such action shall be deemed as a voluntary resignation by the officer.

Article 16 - COMPENSATION

Section 16.1 - Adoption of Annual Pay Plans *(Amended 07-08, 09-10, 11, 12, 13 & 14)*

Appendix IX, attached hereto, sets forth the base pay plan for the period from January 1, 2014 through the date of the expiration of this Memorandum on December 31, 2014.

Section 16.2 - Annual Pay Plan Step Increases *(Amended 07-08)*

A step advancement on the current pay plan will be awarded on the date of the officer's in rank anniversary, unless the officer has reached the maximum step. In the event of a demotion, the in rank anniversary date will be designated as the date the officer was demoted to the lower classification.

Section 16.3 - Promotional Placement *(Amended 07-08)*

In the event of promotion to a new pay classification (i.e. police officer to Detective or Corporal or Detective or Corporal to Sergeant) the officer will be placed on the promoted classification at the first step which results in not less than a two and one-half percent (2.5%) increase in pay for the promoted officer. Time being served in the new classification, in an acting role and consecutive to the promotional placement, will be considered in placing the promoted officer.

Section 16.4 - Special Duty Pay *(Amended 07-08)*

Officers employed in the following capacity will receive as special duty pay the following amounts, in addition to their base pay:

A. Bilingual Officer Ranking:

- | | |
|-----------------|----|
| 1) NOVICE | 1% |
| 2) INTERMEDIATE | 3% |
| 3) ADVANCED | 5% |
| 4) SUPERIOR | 7% |

B. Canine Officer: ½ hour per day for daily care compensation, plus paid training time.

C. Certified Instructor: paid training time

D. Field Training Officer: One (1) hour extra per day spent training an assigned officer.

When Canine Duty and Field Training Officer Duty pay, as set forth above, is provided by award of additional paid work time, a good faith effort will be made not to furlough the additional paid time unless such action is required by budget limitations.

Section 16.5 - Educational Incentive *(Amended 07-08)*

Members of the Employee Unit who are or become eligible for the following educational pay incentive shall receive such incentive per pay period as follows below:

Education	Incentive Pay
Associates Degree or sixty (60) college hours from an accredited institution	\$0.29 per hour
Bachelors Degree or 124 college hours from an accredited institution	\$0.58 per hour
Graduate Degree (Masters) from an accredited institution	\$0.87 per hour

All academic degrees or college hours earned must be from an institution which has been accredited by the North Central Association Commission on Accreditation and School Improvement.

Members of the Employee Unit hired after December 31, 2006 shall only be reimbursed for degrees or hours associated with the Administration of Criminal Justice, a related field, or meet the requirements of the department as approved by the Chief in coordination with the Director of Human Resources.

Section 16.6 - Annual Bonus

If approved annually by the City Commission, each officer will receive fifty dollars (\$50.00) per calendar year worked up to a maximum of one thousand dollars (\$1,000.00).

Section 16.7 - Court Time *(Amended 08)*

Officers shall receive pay at the overtime rate for a minimum of two (2) hours or time actually worked, whatever is greater, for traffic or criminal court appearances arising from the officer's duties as a City of Dodge City Police Department officer, when they are required to appear as a witness for the City or State while off-duty. Officers who have multiple court appearances in a single day will receive the two (2) hour minimum on the first court appearance and a one (1) hour minimum for nonsequential court visits in the same day. Officers will not receive court time pay for appearances while on duty. Officers will not receive court overtime pay for a court appearance arising from off-duty employment. Flex time may be utilized in lieu of payment if the officer and his immediate supervisor can adequately arrange

scheduling within the officers four (4) week, 28-day work cycle, with the Chief's approval.

Section 16.8 – Wellness Incentive *(Amended 07-08, 14)*

The City shall provide payroll deduction for membership to the Dodge City Family YMCA to all members of the Employee Unit and their dependents. Dependents shall be classified as those qualified for coverage under the City Health Insurance criteria or eligible for classification as a dependent by the IRS for income tax purposes. The members of the Employee Unit shall be responsible to pay any fee for activities that are not included in the membership.

Article 17 - OVERTIME PAYMENT

Section 17.1 - Overtime Rate and Scheduling *(Amended 07 & 12)*

All officers shall receive one and one-half (1-1/2) times their regular rate of pay for work performed in excess of one hundred seventy-one (171) hours in the twenty-eight (28) day work cycle. Any officer called back to duty will receive a minimum of two (2) hours or time actually worked, whichever is greater. Flex time may be utilized in lieu of overtime payment if the Chief or his/her designee can adequately arrange scheduling within the same twenty-eight (28) day work cycle. Flex time shall not accrue beyond the twenty-eight (28) day work cycle during which the overtime hours were incurred.

Overtime within the Patrol Bureau will be based on necessity as determined by the Chief, and incurred only upon prior approval of the Chief or his/her designee. Assignment of overtime will be based on qualifications and experience needed and will be assigned at the discretion of the Chief or his/her designee.

Section 17.2 – On Call Pay for Detectives *(Amended 08 & 12)*

The Detective who is assigned to be on call during off-duty hours shall be paid an on call stipend in the amount of one hundred fifty dollars (\$150.00) for each week spent in on call status.

Article 18 - RETIREMENT AND PENSION FUND

All officers shall come under the Kansas Police and Fireman's Retirement System as set forth by the City of Dodge City, Kansas, Charter Ordinance and Kansas State Statutes.

Article 19 - PROFESSIONAL SERVICES

The City and the Lodge are in agreement that it is in the best interest of the Department that as many officers as possible participate in professional, educational, and training courses whenever the same are available.

No later than January 15th of each calendar year, the Lodge shall provide the Chief with a list of suggested training subjects desired by the Lodge. The provided list may be used as a guide in selecting those subjects to be selected by the Chief for approved training.

Approved training will be posted on a designated bulletin board as such becomes available. Officers may make the request for the posted training to their immediate supervisor for approval by the Chief.

Factors to be considered by the Chief in approving individual requests will include but not be limited to:

1. Education qualifications as may be required for admittance to a course.
2. Special technical training as may be required for admittance to a course.
3. The applicability of such course to the officer's present assignment.
4. Any established prerequisites or criteria that are recommended by the school, funding agency or the department.
5. The ability of the officer to utilize the training in an effective and efficient manner for the benefit of the department.

If all factors considered by the Chief are equal, seniority will prevail in determining officers to be sent to each such training course or seminar.

Article 20- UNIFORMS

Section 20.1 – Clothing – Uniform Allowance *(Amended 07)*

Any officer who is required to wear a uniform in the performance of her/her duties shall be provided with three (3) such uniforms, except patrol which shall be provided with five (5) such uniforms (see Appendix X) at the expense of the City. Replacement shall be at such time and in such amounts as the Chief and the City Manager may designate. Under most normal circumstances, City issued uniforms shall be worn while at work. Off duty use of uniforms is prohibited. Members of the Lodge will be allowed to wear a lapel sized pin on the class A uniform or Detective clothing representative of the Fraternal Order of Police.

City personnel who wear a uniform that may be directly associated with the City are not allowed to patronize any establishment that's primary business is serving alcoholic beverages while in that uniform, except, as conditions warrant, in the official performance of their duties.

The Detective's dress will be business professional, described as a collared shirt with dress slacks. On days the Detective will appear for court the dress will be a suit with a conventional tie for a male detective, female detectives dress will be a business suit or a professional style dress. Exceptions to this would be call outs and special details i.e., search warrants. Detectives shall be provided a lump sum five hundred dollars (\$500.00) clothing allowance per calendar year, to purchase appropriate clothing to comply with Department dress policy. The clothing allowance shall be provided in a separate payroll check from the Detective's regular pay. If an officer is promoted to Detective after the first of the year, the allowance shall be prorated.

Section 20.2 - Dry Cleaning of Officers Uniforms *(Amended 07)*

Officers in the Employee Unit who are provided a uniform by the City will continue to clean their uniforms at the dry cleaning facility contracted by the City at no cost to the officers. Officers who are issued class A uniforms will also have tailoring at this same dry cleaning facility at no cost to the officer.

Detectives shall receive a twenty dollar (\$20.00) per pay period allowance to dry clean their business professional work attire.

Article 21 – JOINT COMMITTEES

There shall be a joint uniform and equipment committee composed of two (2) officers appointed by the Chief and two (2) officers appointed by the Lodge. The Chairperson of the committee will be a commander chosen by the Chief. The purpose of the committee shall be to study, evaluate and make recommendations to the Chief concerning the purchase of new equipment/uniforms or the upgrading, utilization, maintenance, or upkeep of Department equipment/uniforms.

Article 22 - INSURANCE COVERAGE

Section 22.1 – Health and Life Insurance *(Amended 08)*

The City agrees, during the term of this Memorandum, to offer the program qualified officers of the Employee Unit the same medical plan(s), life insurance and Health Savings Account (HSA) contributions, which are made available to other program qualified City employees. The City reserves the right to make changes to the City health, life insurance and HSA plan at anytime. The City will provide the Lodge with an explanation of changes to the Medical, Dental, Life and HSA plans, prior to implementation.

Section 22.2 – Workers Compensation *(Amended 14)*

All Lodge members are insured against accidents on the job through Worker's Compensation insurance. Lodge members injured on the job are covered by the Kansas State Worker's Compensation Act. This law provides specific benefits, the amount of which depends upon the seriousness of the injury or illness, for compensable job related injuries or contracting of a compensable occupational disease while employed with the City. A compensable work related injury or illness from an on the job activity will entitle the officer to the benefits of Worker's Compensation and injury leave in accordance with the Worker's Compensation Act and the policy of the City as discussed in Section 15.7 titled Injury Leave.

Any accidental injury, regardless of extent, should be reported immediately, and in accordance with State law, to the Immediate Supervisor to insure utilization of the benefits from Worker's Compensation. To initiate a claim, the following procedure is established:

- A. The officer shall immediately report any injury, regardless of extent, to his/her Immediate Supervisor.
- B. The Immediate Supervisor shall see to it that first aid is provided and, if necessary, the injured officer taken to the City's Designated Physician, or designated medical treatment facility.
- C. The Immediate Supervisor shall inform the Chief of the incident; whereupon the Chief or the Immediate Supervisor shall notify the Human Resources office.
- D. The Immediate Supervisor shall confirm that an Accident Report and/or a Report of Injury form has been completed and submitted within twenty-four (24) hours of being made aware of the accident or injury.

Officers are reminded that if an injury results from the officer's deliberate intention to cause such injury; or from the officer's willful failure to use a guard or protection against accident required pursuant to any statute and provided for the officer, or a reasonable and proper guard and protection voluntarily furnished the officer by the Department, any compensation in respect to that injury shall be disallowed.

The City will utilize a designated physician to treat all compensable work related injuries. The physician name will be provided to the Lodge President annually. The designated physician will also perform all employment physicals. For compensable work related injuries, the City shall no longer allow the officer to seek medical attention on their own. The designated physician must be seen first and can make subsequent referrals. In the event the officer does not see the designated physician, this will be considered unauthorized medical expenses and those expenses in excess of five hundred dollars (\$500.00) will be the responsibility of the officer. Unauthorized medical shall be used if the officer requests a second opinion and further coverage under workers compensation will only occur if we are administratively ordered to accept a different physician of record, according to KSA44-510h(b)(2).

The process shall be as follows:

- A. Non-emergency injuries or accidents where simple First Aid will not suffice:
 1. Inform Human Resources Office or Safety Director of the accident and transport to the physician.
 2. The Human Resources Office or Safety Director will then notify Family Practice Associates, the City's workers compensation provider, of the situation.
 3. A physician at Family Practice Associates will then treat officer.
 4. Officer will then be released by physician to:
 - a. return to work
 - 1) with restrictions
 - 2) with no restrictions
 - b. recommend when an officer may return to work.
 5. Accident shall be investigated and reported formally to the Human Resources Office using the appropriate documentation.
- B. Emergency
 1. Transport to Western Plains Regional Hospital and inform admissions staff that this is a Worker's Compensation injury and that Dr. Trotter is the City's designated physician.

2. Notify Human Resources Office or Safety Director as soon as possible of situation.
 3. Investigate accident and report as above.
- C. The following are the supervisor's responsibilities in all injury/accident situations:
1. TRANSPORT officer to either designated physician or hospital
 2. Inform Human Resources Office or Safety Director as soon as possible as to:
 - a. what happened
 - b. probable injury
 3. INVESTIGATE and REPORT incident to Human Resources.

The supervisors and Human Resources shall then develop the temporary restricted duty work assignment if such is available.

In all situations, consult with the Human Resources Office if there are employment restrictions issued by the physician for a period of time in excess of three (3) days. We will need to determine if a temporary restricted duty work assignment needs to be made. Under this approach an officer who is injured need not be an officer of that Bureau for temporary restricted duty work assignment. Temporary restricted duty work should be used for work related injuries only. Assigning employees who were injured while off-the-job only increases the risk to the city regarding re-injury of the officer.

Temporary reassignment to restricted duty employment, may be utilized when available by the City when officers temporarily lose the ability to perform the essential functions of the position to which they hold an appointment, due to a compensable work related injury or accident. These provisions shall apply to officers utilizing injury leave.

- A. Policy shall apply when an individual temporarily loses the ability to perform the position's essential functions, due to a compensable job related accident or illness.
- B. Policy does not apply to the loss of job qualifications due to other circumstances.
- C. Temporary reassignments shall be made when the injury or illness results in more than seven (7) days absence from the job.
- D. No reassignment shall be made without a physician's authorization to return to work, stipulating the restrictions of the type of employment duties that the officer may undertake at the time of the release.
- E. Temporary restricted duty work reassignment shall be made on the basis of Department need for such services. Temporary restricted duty work

reassignment need not be confined to the current Bureau in which the officer is employed.

F. Candidates for temporary restricted duty work reassignment must meet the minimum qualifications for the position to which they will be reassigned.

G. Reassignment to a higher grade will be based on a physician's release to perform more strenuous work.

H. Reassignment will continue until either the designated or authorized physician releases the officer to regular duty, or a final disability rating which restricts the duties or type of work the officer is capable of performing is established. In the latter instance, provisions of the ADA relating to reasonable accommodation and undue hardship shall apply.

I. In the event that no light duty employment is available, the affected officer, shall utilize available injury leave according to Section 15.7. Once the injury leave is exhausted, the officer is still eligible under state statute for worker's compensation benefits.

In the event of permanent loss of the ability to perform essential functions of a position, the provisions set forth in the Americans with Disabilities Act (ADA) of 1991 shall apply.

Article 23 - STRIKES AND LOCKOUTS

The Lodge, on behalf of the Employee Unit, recognizes that the protection of the public health, safety and welfare are of paramount importance to the Employee Unit and the City. Therefore, during the life of this Memorandum the Lodge and all individual members of the Employee Unit, will not condone, nor encourage, nor instigate, nor participate in any work slowdowns, stoppages, or strikes, or any actions that are detrimental to the operations of the Department. The City agrees that it shall take no actions that constitute a lockout.

Article 24 - REDUCTION IN FORCE

If in the sole discretion of the City Manager, it is determined that a reduction in force is required, retention will be based on seniority. Individuals to be reduced are at the discretion of the City Manager.

Article 25 - MISCELLANEOUS PROVISIONS

Section 25.1 - Memorandum of Understanding Posting

A copy of the Memorandum of Understanding will be available at Police Headquarters. City will assist Lodge in preparation of copies for all members of the Lodge.

Section 25.2 - Civil Suits

In the event of a civil suit against an officer arising from the performance of his duties while acting within the scope of his employment, the City shall provide legal counsel and will indemnify the officer in accordance with the provisions of the Kansas Tort Claims Act, K.S.A. (2010 supp.) 75-6101 et seq.

Section 25.3 - Officer's Rights to Personnel File

Officers who wish to inspect their Personnel file may do so by appointment during regular office hours of City Hall. All officer inspections of their Personnel file shall be in the presence of the Director of Human Resources or his/her designee. Officers may not remove the file from the Human Resources Office. Officers may not duplicate information found in the Personnel file, except under very rare conditions. The Director of Human Resources shall have the discretion to determine which information may be duplicated.

Section 25.4 - Bilingual Officers Certification

The certification process will be in compliance with the City's policy for all bilingual officers.

Although the Department shall pay those officers selected as Certified Bilingual Officers, any use of Certified Bilingual Officers will be at the discretion of the Department. Any Certified Bilingual Officer who is on duty shall be available for use at the direction of the Department. If a Certified Bilingual Officer declines a request to assist, then that officer may be removed from eligibility as a Certified Bilingual Officer and shall not be paid or allowed to be on any Department list as such.

If the Department determines that an off-duty Certified Bilingual Officer is needed for duty, Certified Bilingual Officers should be offered the assignment based on qualification and merit. If an off-duty, paid, certified bilingual officer, not on an

approved leave, declines to be called in for duty three (3) or more times in any consecutive twelve (12) month period, not including approved leave periods, then that officer may be removed from eligibility as a Certified Bilingual Officer for a period of time not to exceed twelve (12) months.

Section 25.5 - Smoke Free Workplace

Smoking by officers upon the Department's or City's premises or in Department owned, operated and controlled vehicles is prohibited except in designated areas. Any violations may subject officers to discipline.

Section 25.6 - Americans With Disabilities Act

Both parties are subject to the terms of the Americans with Disabilities Act (ADA).

Section 25.7 – Burial Expenses

The City agrees to defray the funeral and burial expenses, for any officer of the Department killed in the line of duty or who dies from an injury that is compensable through the City worker's compensation provider. The maximum defrayal will not exceed five thousand dollars (\$5,000.00).

Article 26 - UNIVERSALLY APPLICABLE CITY POLICIES

City ordinances, resolutions, policies, regulations, rules and practices which by their nature are universally applicable to all regular full-time employees shall govern the terms and conditions of employment of members of the Employee Unit unless specifically modified, amended, rescinded or changed by the provisions of the specific articles as set forth in this Memorandum.

The Employee Unit acknowledges and agrees that the City retains the sole right and authority to modify, amend or rescind any and all such universally applicable policies at any time, including the period of time this Memorandum remains in effect; provided, however, the City agrees that any such modification, amendment or rescission of any such City policies made by the City under this provision shall remain universally applicable to all City employees, including members of the Employee Unit, and will not discriminate against or single out members of the Employee Unit for treatment different from other City employees, without the prior written approval of the Lodge. Timely notice of any such changes shall be provided to all officers within the Employee Unit.

Article 27 - ENTIRE MEMORANDUM OF UNDERSTANDING

It is expressly understood that all matters not included in this Memorandum of Agreement are by intention and design specifically excluded and by agreement of the parties fall within the powers, duties, and responsibilities of the Department and the City.

Article 28 - SAVINGS CLAUSE

Should any term or provision of this Memorandum be in conflict with any state or federal statute, or other applicable law or regulation binding upon Dodge City, Kansas, such law or regulation shall prevail. In such event, however, the remaining terms and provisions of this Memorandum will continue in full force and effect.

If any article or section of this Memorandum shall be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any article or section shall be restrained by such tribunal, the remainder of the Memorandum shall not be affected thereby. The parties shall then enter into immediate negotiations for the purpose of arriving at a mutually satisfactory replacement for such article or section.

Article 29 - DURATION *(Amended 07-08, 11 & 12)*

In the event either the City or the Lodge desires to include as part of any subsequent Memorandum of Agreement, any condition of employment as defined in K.S.A. 75-4322 (f), or desires to modify, amend or rescind any provision of this Memorandum as part of a subsequent memorandum other than items contained in Article 8 Hours of Work and Article 16 Section 1 Compensation, Adoption of Annual Pay Plans, such party shall provide written notice to the other of items to be considered for negotiation on or before February 1 immediately preceding the expiration date of this Memorandum. The Chief Negotiator and the Director of Human Resources shall meet and both shall agree to negotiate any additional items other than Article 8 and Article 16. Agreement to negotiate such items shall not be unreasonably withheld. Upon timely receipt of such notice and agreement of additional items, the parties shall then meet and confer in an effort to reach agreement on the noticed proposal(s) within the provisions of the PEER Act.

The terms and conditions set forth in this memorandum shall take effect as of January 1, 2014 and shall expire at midnight on December 31, 2014.

IN WITNESS WHEREOF, said parties have caused this agreement to be signed on the 16th day of December, 2013, by their duly authorized officers.

FRATERNAL ORDER OF
POLICE LODGE #49

CITY OF DODGE CITY

By: _____
James Morton, Lodge President

By: _____
E. Kent Smoll, Mayor

ATTEST:

ATTEST:

William Sutton, Lodge Secretary

Nannette Pogue, City Clerk

APPENDICES

APPENDIX I - POLICE SERGEANT

CLASS TITLE: Police Sergeant
ACCOUNTABLE TO: Police Lieutenant
FAMILY: Public Safety

FLSA Status: Partially Exempt

PRIMARY OBJECTIVE OF POSITION: Under general supervision, performs and serves as supervisor in patrol on the street, or special assignments in the protection of life and property; supervises others in the absence of the Lieutenant; performs special investigative duties.

MAJOR AREAS OF ACCOUNTABILITY AND PERFORMANCE:

MAJOR DUTIES: Performs a variety of duties in patrolling, investigating, controlling traffic and communications; serves as supervisor of shift, or performs specialized work; assigns street officers to beats; assists in giving pre-shift briefing; directs traffic; serves warrants and subpoenas; performs crowd control; responds to family and public disputes; writes press releases; schedules shift; performs primary and follow-up investigations of crimes involving adults and juveniles; evaluates subordinates; assures departmental rules and policies are carried out; collects and preserves evidence; presents testimony in court; investigates major traffic accidents and complaints; provides escort services; interviews and obtains statements from suspects, witnesses and complainants; assists other agencies; monitors condition of equipment and fleet; trains and instructs police personnel in investigation and patrol duties; reviews reports of police officers for completeness and clarity.

MARGINAL DUTIES: Makes presentations to schools and civic groups; performs related duties as required.

SPECIFIC CHARACTERISTICS:

Work varies requiring individual judgment within prescribed standards and procedures; prepares reports of own activities and investigative and operational reports; works regularly with confidential information; uses and oversees materials and equipment; handles small amounts of funds; contact with fellow employees and the public is frequent and requires considerable tactfulness; work requires occasional contact with undesirable physical conditions; hazards, including exposure to erratic humans, requires care and use of proper safety equipment and procedures to prevent injuries.

PHYSICAL AND SENSORY REQUIREMENTS:

Ability to perform moderate physical work, to lift 50 pounds, and to lift and carry up to 25 pounds; ability to restrain a person.

Ability to stand, walk, sit, ride, climb, bend, kneel, crawl, twist, reach, grasp, push, pull and perform similar body movements.

Possess hand/eye/foot coordination adequate to operate a computer, fire arms, hand tools, a bicycle, and a vehicle.

CLASS TITLE: Police Sergeant (cont.)

Ability to talk and hear in person, by telephone, and by two-way radio.

Ability to see and read instructions, characters on a computer screen, documents, manuals, observe on patrol and to investigate scenes of incidents.

SUPERVISION - RESPONSIBILITY FOR WORK OF OTHERS: Serves as supervisor on a shift and as shift commander in the absence of the Lieutenant; may lead detective operation.

EDUCATION, TRAINING AND EXPERIENCE REQUIREMENTS: Any combination of education and experience equivalent to an associate degree in Criminal Justice or a related field plus three years of experience as a Police Officer, including advanced training and proven proficiency; possession of a valid driver's license; must possess a current State Law Enforcement Certification; must maintain certification in all areas as required.

EXAMPLES OF PERFORMANCE CRITERIA AND QUALIFICATIONS:

ESSENTIAL FUNCTIONS:

Maintains and applies knowledge of current departmental policies, rules, procedures, instructions, laws, regulations and police literature.

Effectively assigns personnel to beats in the protection of life and property and maintains peace and order.

Prepares complete and accurate reports and records; provides complete information; review of officer's reports are thorough.

Maintains and oversees operations properly and effectively; effectively leads and trains new employees.

Performs effective and proper investigations of crimes and major traffic incidents; collects, preserves, prepares and presents evidence from crime scenes; interrogates suspects and prisoners and interviews witnesses.

Maintains and exhibits discretion and integrity at all times when handling confidential data.

Follows and demonstrates proper safety procedures.

Deals tactfully and effectively with the public and speaks clearly and concisely.

Effectively and properly analyzes situations and adopts a quick, effective and reasonable course of action giving due regard to the hazards and circumstances of each situation.

Maintains physical condition and agility to perform essential functions of job.

Maintains a keen observation and ability to remember names, faces, and details of incidents.

Establishes and maintains effective working relationships with employees, superiors, other agencies and the public.

DICTIONARY OF OCCUPATIONS: # - 375.133-010 Title: Patrol Sergeant

APPENDIX II – POLICE CORPORAL

CLASS TITLE: Police Corporal

FLSA Status: Partially Exempt

ACCOUNTABLE TO: Police Sergeant

FAMILY: Public Safety

PRIMARY OBJECTIVE OF POSITION:

Under close supervision, this position is an officer in training for supervisory responsibility. Performs and serves as a lead worker in patrol on the street, or during special assignments in the protection of life and property; may supervise others in the absence of the Sergeant and Lieutenant; may perform special investigations or other duties as required. Work varies requiring individual judgment within prescribed standards and procedures.

MAJOR AREAS OF ACCOUNTABILITY AND PERFORMANCE:

MAJOR DUTIES: Operates an automobile in patrolling an assigned area for the prevention of crime and the enforcement of traffic laws and regulations; responds to radio and telephone dispatches and appears at scenes of disorder or crime; notes and reports traffic hazards; controls traffic at scenes of emergencies; investigates and prepares reports on offenses, accidents, and damages to property; checks businesses; gives directions and information; makes arrests; issues citations; serves warrants and subpoenas; gives verbal warnings; prepares reports on arrests and property impounded; directs traffic; books prisoners; inspects to assure property protection; inspects establishments providing alcohol beverages and entertainment; intervenes in private or public disputes to protect the public and maintain order; testifies in court; transports prisoners; performs initial and follow-up investigations of crimes involving adults and juveniles; investigates complaints; interrogates witnesses and suspects; issues citations for parking and moving violations; assists fire department, ambulance service, and other agencies; impounds and tags evidence; escorts parades and processions; uses initiative and discretion through judgment; assists in assigning patrol officers to beats; assists in giving pre-shift briefings; assures departmental rules and policies are carried out;

MARGINAL DUTIES: Speaks before school and civic groups as required; serve in specialty areas or as instructors as assigned; performs related duties as assigned.

SPECIFIC CHARACTERISTICS:

Work varies requiring individual judgment within prescribed standards and procedures; initiates routine operational and unit reports; prepares reports of own activities and investigation and operational reports; works regularly with confidential information; uses and oversees materials and equipment; handles funds of a small amount; contact with fellow employees and the public is frequent requiring a high degree of tact, diplomacy and good judgment to cope with stress situations in a manner which will command public respect; duties require work to be performed in undesirable physical conditions in which erratic humans are frequently encountered; hazards include the need to physically control humans, requiring constant safety considerations in the performance of duties.

PHYSICAL AND SENSORY REQUIREMENTS:

Ability to perform moderate physical work, to lift 50 pounds, and to lift and carry up to 50 pounds, but occasionally 100 pounds; ability to restrain a person.

Ability to stand, walk, sit, ride, climb, bend, kneel, crawl, twist, reach, grasp, push, pull, and perform similar body movements.

Possess hand/eye/foot coordination adequate to use office equipment, investigative equipment, firearms, and operate a vehicle.

Ability to talk and hear in person, by telephone, and by two-way radio.

Ability to see and read instructions, characters on a computer screen, manuals and patrol procedures and activities.

SUPERVISION - RESPONSIBILITY FOR WORK OF OTHERS:

Serves as the lead worker of a team or group on a shift and in the absence of the Sergeant and Lieutenant.

EDUCATION, TRAINING AND EXPERIENCE REQUIREMENTS:

Requires completion of high school education or G.E.D.; valid driver's license; ability to maintain State law enforcement certification and required in-service training; minimum of three years of continuous service as a sworn police officer.

EXAMPLES OF PERFORMANCE CRITERIA AND QUALIFICATIONS:

ESSENTIAL FUNCTIONS:

Effectively supervises and motivates personnel in the absence of the Sergeant and the Lieutenant; effectively performs shift supervisor/commander duties in the absence of the Sergeant and the Lieutenant.

Effectively instructs and trains subordinate personnel.

Maintains and applies knowledge of current departmental policies, rules, procedures, instructions, laws, regulations and police literature.

Trains in, maintains and applies knowledge of current departmental policies, procedures, rules, instruction, laws, regulations and police literature; complies with departmental policies and procedures.

Maintains and applies current knowledge of safe and proper use of firearms and weapons.

Effectively patrols assigned area deterring and detecting crimes.

Effectively and properly controls crime, traffic, or emergency scenes.

Conducts investigations properly and effectively; reports are complete and clear.

Properly serves civil processes.

Effectively maintains peace and order in assigned areas.

Effectively and properly interrogates suspects and prisoners.

Analyzes situations and adopts a quick, effective, and reasonable course of action giving due regard to surrounding hazards and circumstances of each situation.

Maintains physical condition and agility to perform essential functions.

Deals tactfully and effectively with the public.

Speaks clearly and precisely before groups.

Follows and demonstrates proper safety procedures at all times.

Establishes effective working relationships with fellow employees, superiors, personnel of other agencies, and the public.

APPENDIX III - DETECTIVE

CLASS TITLE: Detective

FLSA Status: Partially Exempt

ACCOUNTABLE TO: Police Sergeant or other supervisor

FAMILY: Public Safety

PRIMARY OBJECTIVE OF POSITION: Under general supervision, performs specialized work investigating criminal offenses and related problems. Work involves duty in plainclothes and requires discretion and specialized knowledge to investigate and detect crime. Assignments are received from higher ranked officers. Advice is available from supervisors on unusual situations and work is reviewed through inspection and a review of reports.

MAJOR AREAS OF ACCOUNTABILITY AND PERFORMANCE:

MAJOR DUTIES: Gathers information and evidence to arrest persons alleged to have committed a crime; Visits crime scenes, searches for and preserves evidence, investigates clues and searches for and apprehends violators; performs work in accordance with rules and procedures but the employee must exercise independent judgment; Interview suspects, prisoners, complainants and witnesses; Makes regular inspections of beer parlors, bowling alleys, dance halls and other places where vice may be discovered; Makes specialized vice investigations and raids and apprehends violators. Checks pawnshops and secondhand stores for stolen property; Appears in court to present evidence and testify as required; Composes reports of investigations, arrests, property and evidence impoundment, etc.; And, assists fire department with arson investigations.

MARGINAL DUTIES: The examples of work performed are not intended to be all-inclusive. The City of Dodge City reserves the right to assign or delegate additional and/or related duties as needed. Speaks before school and civic groups as required; senior officers serve in specialty areas or as instructors as assigned.

SPECIFIC CHARACTERISTICS:

Work varies requiring individual judgment within prescribed standards and procedures; prepares reports of own activities and investigation reports; works regularly with confidential information; responsible for equipment and materials; handles small amounts of funds; contacts with the public are varied and continual; communications requires a high degree of tact, diplomacy and good judgment to cope with stress situations in a manner which will command public respect; hazards, including the need to physically control humans, requires constant safety considerations in the performance of duties.

PHYSICAL AND SENSORY REQUIREMENTS:

Ability to accurately and effectively discharge a rifle, shotgun, and handgun with the left and right hands.

Ability to subdue a violent and/or uncooperative person by methods requiring physical force.

Ability to drag or carry an average adult of about 160 pounds, a distance of fifteen to twenty feet away from danger.

Ability to distinguish colors accurately.

Ability to perform moderate/heavy physical work, to lift 75 pounds, and to lift and carry up to 50 pounds, but occasionally 100 pounds; ability to restrain a person.

Ability to stand, walk, sit, ride, climb, bend, kneel, crawl, twist, reach, grasp, push, pull and perform similar body movements.

Possess hand/eye/foot coordination adequate to operate office equipment, side arms, and a vehicle.

Ability to talk and hear in person, by telephone, and by two-way radio.

Ability to see and read instructions, characters on a computer screen, manuals and observe activities on assigned beat.

SUPERVISION - RESPONSIBILITY FOR WORK OF OTHERS: Normally none, but may be lead other employees at crime scene investigation until relieved by supervisor.

EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS: A combination of experience and training which include: one year of experience as a commissioned Dodge City Police Officer. Any equivalent combination of experience and training. Offers of employment may be made contingent upon passing a pre-employment physical and/or drug screening, upon satisfactory evaluation of a psychological examination, and upon satisfactory evaluation of the results of a police records check.

Possession of and ability to maintain a valid Kansas driver's license. Ability to maintain State law enforcement certification.

EXAMPLES OF PERFORMANCE CRITERIA AND QUALIFICATIONS:

ESSENTIAL FUNCTIONS:

Trains in, maintains and applies knowledge of current departmental policies, procedures, rules, instruction, laws, regulations and police literature; complies with city and departmental policies and procedures.

Maintains and applies current knowledge of safe and proper use of firearms and weapons.

Effectively and properly controls crime, traffic, or emergency scenes.

Maintains Considerable knowledge of the principles and practices of law enforcement.

Maintains Considerable knowledge of pertinent Federal and State laws and City ordinances.

Knowledge of geography of the city and location of major buildings and landmarks.

Ability to react quickly and calmly in emergencies.

Ability to effectively plan, organize, and supervise the work of others.

Ability to use independent judgment in conditions not covered by policy or previous practice.

Ability to communicate clearly and effectively in oral and written form.

Ability to develop and maintain effective relationships with associates, employees of other departments, representatives of outside agencies, and the public.

An employee shall not pose a direct threat to the Health or safety of other individuals in the workplace.

Conducts investigations properly and effectively; reports are complete and clear.

Properly serves civil processes.

Effectively maintains peace and order in assigned areas.

Effectively and properly interrogates suspects and prisoners.

Analyzes situations and adopts a quick, effective, and reasonable course of action giving due regard to surrounding hazards and circumstances of each situation.

Maintains physical condition and agility to perform essential functions.

Deals tactfully and effectively with the public.

Speaks clearly and precisely before groups.

Follows and demonstrates proper safety procedures at all times.

Establishes effective working relationships with fellow employees, superiors, personnel of other agencies, and the public.

APPENDIX #IV – POLICE OFFICER

CLASS TITLE: Police Officer

FLSA Status: Partially Exempt

ACCOUNTABLE TO: Police Sergeant or other supervisor

FAMILY: Public Safety

PRIMARY OBJECTIVE OF POSITION: Under general supervision, patrols an assigned beat and investigates incidents in the enforcement of law and order in the protection of life and property.

MAJOR AREAS OF ACCOUNTABILITY AND PERFORMANCE:

MAJOR DUTIES: Operates an automobile in patrolling an assigned area for the prevention of crime and the enforcement of traffic laws and regulations; responds to radio and telephone dispatches and appears at scenes of disorder or crime; notes and reports traffic hazards; controls traffic at scenes of emergencies; investigates and prepares reports on offenses, accidents, and damages to property; checks businesses; gives directions and information; makes arrests; issues citations; serves warrants and subpoenas; gives verbal warnings; prepares reports on arrests and property impounded; directs traffic; books prisoners; inspects to assure property protection; inspects establishments providing alcohol beverages and entertainment; intervenes in private or public disputes to protect the public and maintain order; testifies in court; transports prisoners; performs initial and follow-up investigations of crimes involving adults and juveniles; investigates complaints; interrogates witnesses and suspects; issues citations for parking and moving violations; assists fire department, ambulance service, and other agencies; impounds and tags evidence; escorts parades and processions; uses initiative and discretion through judgment.

MARGINAL DUTIES: Occasionally serves as dispatcher; speaks before school and civic groups as required; senior officers serve in specialty areas or as instructors as assigned; performs related duties as assigned.

SPECIFIC CHARACTERISTICS:

Work varies requiring individual judgment within prescribed standards and procedures; prepares reports of own activities and investigation and operational reports; works regularly with confidential information; responsible for equipment and materials; handles small amounts of funds; contacts with the public are varied and continual; communications requires a high degree of tact, diplomacy and good judgment to cope with stress situations in a manner which will command public respect; hazards, including the need to physically control humans, requires constant safety considerations in the performance of duties.

PHYSICAL AND SENSORY REQUIREMENTS:

Ability to perform moderate/heavy physical work, to lift 75 pounds, and to lift and carry up to 50 pounds, but occasionally 100 pounds; ability to restrain a person.

Ability to stand, walk, sit, ride, climb, bend, kneel, crawl, twist, reach, grasp, push, pull and perform similar body movements.

Possess hand/eye/foot coordination adequate to operate office equipment, side arms, and a vehicle.

Ability to talk and hear in person, by telephone, and by two-way radio.

Ability to see and read instructions, characters on a computer screen, manuals, and observe activities on assigned beat.

SUPERVISION - RESPONSIBILITY FOR WORK OF OTHERS: Normally none.

EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS: Requires completion of high school education or G.E.D.; valid driver's license; ability to obtain State law enforcement certification and in-service training within one year of appointment.

EXAMPLES OF PERFORMANCE CRITERIA AND QUALIFICATIONS:

ESSENTIAL FUNCTIONS:

Trains in, maintains and applies knowledge of current departmental policies, procedures, rules, instruction, laws, regulations and police literature; complies with departmental policies and procedures.

Maintains and applies current knowledge of safe and proper use of firearms and weapons.

Effectively patrols assigned area deterring and detecting crimes.

Effectively and properly controls crime, traffic, or emergency scenes.

Conducts investigations properly and effectively; reports are complete and clear.

Properly serves civil processes.

Effectively maintains peace and order in assigned areas.

Effectively and properly interrogates suspects and prisoners.

Analyzes situations and adopts a quick, effective, and reasonable course of action giving due regard to surrounding hazards and circumstances of each situation.

Maintains physical condition and agility to perform essential functions.

Deals tactfully and effectively with the public.

Speaks clearly and precisely before groups.

Follows and demonstrates proper safety procedures at all times.

Establishes effective working relationships with fellow employees, superiors, personnel of other agencies, and the public.

DICTIONARY OF OCCUPATIONS: # - 375.263-014 Title: Police Officer I

APPENDIX #V – DETECTIVE SERGEANT

Job Title: Detective Sergeant
Exempt: No
Reports To: Police Lieutenant – Detective Bureau Commander
Department: Police
Date: April, 2009

JOB SUMMARY

The job duties of the Detective Sergeant include but are not limited to the day to day operations and minimal supervision of the Detective Bureau; carries a case load and oversees the transfer of cases to the County Attorney; responds to and supervises activities in the field such as crime scenes, critical incidents, and investigations.

DUTIES AND RESPONSIBILITIES

The following are the performance expectations of the City along with examples of how the expectation relates to the position of a Detective Sergeant. This is not an exhaustive list of job responsibilities and therefore, other duties may be assigned:

On-going Improvement

Job Knowledge & Effectiveness

Expectation to:

- Investigates criminal cases assigned.
- Checks and processes the paperwork turned in by detectives.
- Assists other detectives and patrol officers with criminal investigations.
- Responds to and supervises the processing of crime scenes and critical incidents.

Supports the operations of the department by:

- Demonstrates ability to plan, complete tasks and monitor results within established deadlines.
- Effectively applying knowledge to solve a range of problems.
- Following department policies on a consistent basis.
- Performs job responsibilities consistently, timely, cost-effectively, ensuring customer satisfaction.
- Making decisions regarding the efficient and cost-effective way to perform job responsibilities.
- Identify and understand issues, problems, and opportunities and takes action consistent with available facts and probable consequences.
- Adjusts to changing conditions; accepts new duties and responsibilities with a positive attitude.

Customer Focus

Demonstrates concern for satisfying customers:

- Assists citizens by answering questions, and explaining the responsibilities of the department.
- Responds accurately to general knowledge questions from the public.
- Maintains professional manner when a resident or customer has a complaint or problem.
- Respects the confidentiality of information or concerns shared by others.
- Is honest and forthright with people.

Demonstrates ability to develop, maintain, and strengthen partnerships with others inside and outside the organization:

- Establishing acceptable customer service guidelines for employees to adhere to.
- Assists residents in a respectful, friendly manner when approached with questions.
- Assists in the resolution of customer complaints, concerns, or service needs.
- Attempts to build relationships with people whose assistance, cooperation, and support may be needed.
- Recognizes the business concerns of others and attempts to foster City-Community partnerships.

Adaptability, Innovation & Continuous Learning

Ensures that the vision, mission and values of the City are represented when performing the functions of a Detective Sergeant:

- Is proactive in ensuring that job responsibilities meet the vision, mission, and values of the organization.
- Weigh the costs, benefits, risks and chances for success in making a decision.
- Anticipates possible problems and develops contingency plans in advance.
- Takes responsibility for own mistakes does not blame others.

Demonstrates ability to support organizational changes needed to improve the organization's effectiveness;

- Initiating and implementing new methods, approaches or technologies.
- Works cooperatively with others to produce innovative solutions.
- Demonstrates openness to new organizational structures, procedures and technology.

Takes responsibility for one's own performance:

- Takes initiative and responsibility for ensuring continual updating of skills and education necessary for the position.
- Promptly notifies Police Lieutenant – Detective Bureau Commander about any problems that affect his/her ability to accomplish planned goals.
- Maintains all licenses, certifications, etc. as well as continue to learn new techniques and methodologies related to their field.

Honesty, Integrity & Respect

Fosters teamwork with coworkers; act as a team leader; and develop and demonstrate interest in getting groups to learn to work together.

- Listens and responds constructively to other team members.
- Is patient with other team members, administration, and customers.
- Expresses disagreement constructively e.g., emphasizing points of agreement, suggesting alternatives that may be acceptable to the group.
- Cross-trains in other areas of the Police Department as appropriate. Assists in other departments when needed.
- Treats all members of the team, department, City and Community with respect, ensuring cultural differences are respected.
- Ensuring that all work is performed equally among team members, each taking responsibility for jobs that many not be desirable duties.

Safety

Ensures that all activities are carried out in a safe manner; adhering to all City safety regulations:

- Ensures that the City's equipment is safely operated and driving laws are obeyed.
- Ensures all regulations pertaining to the safe use of equipment are understood and followed.
- Reports all accidents to the appropriate individual. Follows all policies for reporting, investigating, and follow-up of equipment incidents, or personal injuries.

Supervisory Responsibilities

Supervise employees by:

- Ensuring that employees understand how work related to the City's mission.
- Prepares employee evaluation instruments and assists in employee development.
- Approves vacation/sick time.
- Instructs and trains in methods and procedures.
- Stays informed regarding employee's progress and performance.

- Recognizes and acknowledges employees for their contributions.
- Allows employees latitude to make decisions within their technical experience.
- Communicates with supervisor(s) regarding performance issues and performance improvement measures.

Fosters confidence in employees' by:

- Providing employees with challenging new tasks.
- Delegating significant responsibility and authority;
- Encouraging employees to make decisions and solve problems.
- Provides helpful, behaviorally specific feedback to employees.
- Shares information, advice, and suggestions to assist others in being successful; provides successful coaching.
- Regularly meets with employees to review their development progress.

QUALIFICATION REQUIREMENTS

To perform this job successfully, an individual must be able to perform each duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required at the time of hire or for the continuation of employment.

EDUCATION AND/OR EXPERIENCE

- High School Diploma or equivalent
- Minimum of one (1) years of supervisory police experience with the DCPD at a rank no lower than Corporal.
- Minimum of four (4) years experience as a commissioned police officer at least two (2) of which were with DCPD.
- KLETC Certification.
- A valid Kansas motor vehicle operator's license.
- Good driving record.

SKILLS AND ABILITIES

- Ability to maintain a professional manner when dealing with the public.
- Ability to take control of situations, dictating subordinate activities in a responsible manner.
- Ability to respond to complaints and grievances.
- Ability to comprehend, retain and apply City and state policies and legislation, i.e. City ordinances, procedure manuals, etc.
- Ability to operate various types of equipment – standard office equipment, computer and related software. Two-way Radio. Other equipment/apparatus could be required.

LANGUAGE SKILLS

- Ability to communicate effectively with other members of the staff, supervisor, and the public.
- Ability to communicate in both written and verbal form.
- Ability to develop, interpret and implement City policies and procedures; written instructions, general correspondence; Federal, State, City, and local regulations; MSDS sheets, safety manuals; and warning labels.

MATHEMATICAL SKILLS

- Ability to calculate basic mathematical calculations.

REASONING ABILITY

- Ability to respond to complaints and grievances posed by the public.
- Ability to define problems and deal with a variety of situations.
- Ability to think quickly, maintains self-control, and adapt to stressful situations.
- Ability to use good judgment and effectively solve problems.

PHYSICAL AND WORK ENVIRONMENT

The physical and work environments described are representative of those that must be met by an employee to successfully perform the function of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform these functions.

Physical Environment:

- The duties of this job include physical activities such as stooping, kneeling, standing, reaching, walking, lifting and/or move (up to 50 pounds), grasping, talking, hearing/listening, seeing/observing, and repetitive motions.
- Specific vision abilities required by this job include close, distance and peripheral vision; depth perception; and the ability to adjust focus.

Work Environment:

- Work is performed both indoors and outdoors often in cold or inclement weather.
- Work is performed during all hours of the day and night including on weekends and holidays.
- Performance of some tasks exposes Detective Sergeant to the possibility of physical injury, to hazardous materials and to violent or disturbed individuals.

APPENDIX #VI - IDENTIFICATION OF GENERAL APPTITUDES AND PHYSICAL REQUIREMENTS

Job title: Police Officer (all sworn positions) **Dept:** Police **Division:** All

The Americans with Disabilities Act requires that we identify the general aptitudes and physical requirements needed to perform the job listed above. Individuals employed in the position must be able to perform all essential job functions with or without reasonable accommodation.

1. Mental Abilities: General learning ability. The ability to “catch on” or understand instructions and underlying principals.

- Ability to understand and follow oral instruct
- Ability to understand and follow written instruction
- Ability to guide and/or give instruction
- Ability to make decisions in accordance with established policies and procedures
- Ability to make appropriate decisions with no established guidance. Ability to analyze situations, utilizing logic, experience, creativity and information to develop solutions
- Not essential to job functions

2. Communication Abilities: Ability to understand meanings of words and ideas associated with them and to use them effectively. To comprehend language, to understand relationships between words and to understand the meanings of whole sentences and paragraphs. To present information and ideas clearly.

a. Speaking/Talking:

- Communicate by telephone/radio
- Communicate with general public
- Communicate with coworkers
- Not essential to job function

b. Hearing/Listening:

- In environments with minimal distractions and background noise
- In environments with distractions and background noise
- Not essential to job function

c. Reading: Ability to read and understand text

- Essential to job function
- Not essential to job function

3. Numerical Abilities: Ability to perform mathematical operations quickly and accurately.

- Ability to mentally perform accurate two digit calculations
- Ability to perform accurate calculations aided by calculator, adding machine or measurement device
- Not essential to job function

4. Spatial Abilities: Ability to comprehend forms in space and understand relationships of plane and solid objects. May be used in such tasks as blue print reading and in solving geometric problems. Frequently described as the ability to visualize objects of two or three dimensions or to think visually of geometric forms.

- Essential function
- Not essential to job function

5. Motor Coordination: Ability to coordinate eyes and hands or fingers rapidly and accurately in making precise movements with speed. Ability to make a movement response accurately and quickly.

a. Manual Dexterity: Ability to move the hands easily and skillfully. To work with the hands in placing and turning motions.

- Use telephone Use radio/console Use calculator
- Use office machinery (fax, copier etc)
- Use computer keyboard and mouse
- Use hand tools Use power tools
- Other Firearms, taser, handcuffs, defensive tactics etc.
- Not essential to job function

b. Finger Dexterity: Ability to move the fingers and manipulate small objects with the fingers rapidly and accurately.

- Essential to job function
- Not essential to job function

Explain: Load and operate firearms under stress, collect evidence

6. Physical Demands:

a. Strength: The quality, state or property of being strong. The power to withstand strain, force or stress

Please check (X) in appropriate boxes below.

Ability to Manipulate Materials/Equipment	Lbs.	Frequency of Manipulation		
		Occasionally	Frequently	Continuously
Lift	0-5			X
	5-10			X
	10-15		X	
	15-25		X	
	25-50	X		
	50+	X		
Push/Pull	0-5		X	
	5-10		X	
	10-15		X	
	15-25		X	
	25-50	X		
	50+	X		
Hold/Carry	0-5			X
	5-10			X
	10-15		X	
	15-25	X		
	25-50	X		
	50+	X		

Manipulation done from (check all that apply): ground to waist waist level waist to shoulder
 above shoulder

Not essential to job function (check all that apply): Lift Push/Pull Hold/Carry

b. Climbing: To move or mount by using the feet and hands.

- | | | |
|---|---|--|
| <u>Ladders</u> | <u>Stairways</u> | <u>Steps</u> |
| <input checked="" type="checkbox"/> step stool | <input type="checkbox"/> 1 flight | <input type="checkbox"/> 1-2 |
| <input checked="" type="checkbox"/> 8' to 10' step ladder | <input type="checkbox"/> 2 flights | <input type="checkbox"/> 2-3 |
| <input checked="" type="checkbox"/> extension ladder | <input checked="" type="checkbox"/> 3 or more flights | <input type="checkbox"/> 3-4 |
| <input checked="" type="checkbox"/> other <u>walls & fences</u> | <input type="checkbox"/> other _____ | <input checked="" type="checkbox"/> other <u>see stairways</u> |
| <input type="checkbox"/> Not essential to job | <input type="checkbox"/> Not essential to job | <input type="checkbox"/> Not essential to job |

c. Ability to Stand, Sit, Walk and Run:

Please check (X) in appropriate boxes below

Duration (hours/day)	Occasionally	Frequently	Continuously
----------------------	--------------	------------	--------------

	0-1	1-3	3-5	5-7	7-9	9+			
Stand			X				X		
Sit						X		X	
Walk		X					X		
Run	X						X		

If walking or running, over what type of terrain? flat rough (X) both

Not essential to job function (check all that apply): Stand Sit Walk Run

d. Stooping, Kneeling, Crouching and/or Crawling: To bend forward and down from the middle of the waist or the middle of the back, to bend downwards, to lower oneself and/or to move freely on hands or knees.

Daily Amounts

0-5x 5-20x 20-50x 50+x Other _____

Not essential to job function

e. Reaching, Handling, Fingering and/or Feeling: To stretch out, extend or put forth an arm. To touch or grasp something by extending or stretching. To touch, lift, hold or operate with the hands.

Daily Amounts

0-5x 5-20x 20-50x 50+x Other _____

Not essential to job function

7. Seeing: To perceive or comprehend by the sense of sight.

Essential to job function (check all that apply):

Peripheral vision

Night vision

Focus (distinctness or clarity)

Color perception (discriminate between colors)

Depth perception (determine distance relationships between objects)

Not essential to job function

APPENDIX #VII - DCPD PROMOTIONAL TESTING POLICY

(Modified October 4, 2010) *(Amended 07-08 & 10)*

TRAINING REQUIREMENTS

214.01 To be eligible to take any promotional examination, an officer must have sixty (60) approved KLETC accredited training hours as required for each promotable position. Officers completing the sixty (60) approved KLETC accredited hours shall send a transcript of the applicable training to the Training Section Commander.

214.02 To meet the sixty (60) hour requirement, officers must receive training in all of the areas listed below, or may take other courses if prior approval of the Chief of Police is obtained. Officers must complete all courses in order to receive credit towards this requirement.

Sergeant and Lieutenant

Basic Supervision
Advanced supervision
Leadership
Ethics
Community policing

Corporal

Basic Supervision
Leadership
Ethics
Community Policing

Detective

Crime scene investigation
Fingerprinting (collection and preservation)
Interview and Interrogation
Photography

214.03 The Training Section Commander will assess the validity of any such hours earned and will review the training transcripts from all candidates for promotion and send his/her recommendation to the Chief of Police for approval. If an officer wants to grieve the decision for acceptable hours, the officer shall send an Officer's Report [through channels] to the Chief of Police. The report shall contain a list of courses and supporting documentation that he/she believes meet the requirements of Section 214.02.

DETECTIVE PROMOTIONAL PROCESS:

214.04 To begin the process for placement on the eligibility list for Detective, officers must meet the following criteria prior to or during the next promotional cycle:

Three (3) years of experience as a commissioned police officer, one (1) years being with the Dodge City Police Department, and the required training as listed in Section 214.02.

CORPORAL PROMOTIONAL PROCESS

214.05 To begin the process for placement on the eligibility list for Corporal, officers must meet the following criteria prior to or during the next promotional cycle:

Three (3) years of experience as a commissioned police officer, one (1) years being with the Dodge City Police Department, and the required training as listed in Section 214.02.

SERGEANT PROMOTIONAL PROCESS:

214.06 To begin the process for placement on the eligibility list for Sergeant, a candidate must have a minimum of one year as a corporal or two years as a Detective with the Dodge City Police Department, time spent as an “acting” detective, corporal or sergeant (as defined in Section 9.2,) will be considered as time served towards the completion of the requirements to test for the position of sergeant. In addition, the following criteria must be met prior to or during the next promotional cycle:

Four (4) years of experience as a commissioned police officer, two (2) years being with the Dodge City Police Department, and the required training as listed in Section 214.02.

LIEUTENANT PROMOTIONAL PROCESS:

214.07 To begin the process for placement on the eligibility list for Lieutenant, a candidate must have a minimum of two years in a supervisory position as a commissioned officer with the Dodge City Police Department, at the rank of Sergeant or above; time spent as an “acting” sergeant or lieutenant (as defined in Section 9.2,) will be considered as time served towards the completion of the requirements to test for the position of Lieutenant. In addition, the following criteria must be met prior to or during the next promotional cycle:

Six (6) years of experience as a commissioned police officer with the Dodge City Police Department, and the required training as listed in Section 214.02.

APPLICATION PROCEDURE:

214.08 A qualified officer who wishes to take any written promotional examination(s) shall direct a separate Officer's Report to the Training Section Commander, for each test the officer wishes to take. The report should include his/her seniority and training that fulfills the requirements listed in Section 214.02. An officer who is, at the time he/she submits the report, enrolled in course(s) that will bring him/her up to the minimum training required to take the test(s) must attach a copy of his/her current approved course to the report.

214.09 The Training Section Commander is responsible for verifying each officer's eligibility for each examination. He/she is also responsible for placing the original Officer's Reports in the officers' training files, supplying an examination eligibility list to the Chief of Police, and notifying all officers who have applied to take the test(s) as to their eligibility status. In verifying an officer's years as a commissioned police officer, years as a commissioned jailor or other similar position will not be considered.

WRITTEN EXAMINATIONS:

214.10 Written examinations, which are the first step in the process for establishment of each promotional eligibility list, will be obtained and administered by the Training Section Commander. Written examinations may be given annually or more often as necessary depending upon the current and future position allocations and needs of the Department. The dates for the written examinations will be posted on official Departmental bulletin boards at least thirty (30) days prior to the examination dates. All written exams shall be obtained from a professional source independent of the City of Dodge City.

214.11 The Training Section Commander, or his/her designee, shall be present when written promotional tests are administered.

SENIORITY CREDIT:

214.12 Seniority credit shall be computed from a seniority list, and shall be limited to one (1) point credit for each complete year served with the Dodge City Police Department up to; six (6) years of service for the Detective and Corporal list; eight (8) years of service for the Sergeant list; and ten (10) years of service for the Lieutenant list.

ORAL INTERVIEWS:

214.13 The Chief of Police will choose persons to form an interview board, consisting of at least three (3) members, all of which will be from law enforcement agencies separate from the Dodge City Police Department, and will appoint a chairperson for each board. The board will interview candidates for Lieutenant, Sergeant, Corporal, and Detective candidates. Board members will score candidates during the interview, using structured questions and rating sheets prepared by the Training Section Commander and approved by City Personnel. Each eligible candidate will be notified of the date, time and location of his/her Oral Interview.

SCORING:

214.14 Officers will be scored in five (5) areas: Seniority Credit, Oral Interview, Affidavit writing, and Written Examination. Scores in these areas will be added into a composite score for an officer, according to the following scale.

- A. Seniority Credit.....10% total score
- B. Oral Interview.....35% total score
- C. Written Examination.....25% total score
- D. Affidavit Exercise.....30% total score

Scores shall be posted as soon as reasonably possible.

ELIGIBILITY LISTS:

214.15 Eligibility lists will be established for use by the Chief of Police in making promotions to the ranks of Detective, Corporal, Sergeant, and Lieutenant. The eligibility list will not contain those who score less than a 70% composite score.

214.16 The promotional cycle will run from the 1st day of the month following the administration of the respective test until that date the following year. Each eligibility list is effective on the 1st day of the month which follows administration of the respective test, and each will stand for one (1) year, unless exhausted prior to the set date the following year.

214.17 The eligibility lists will contain the final composite scores, in rank order. They will be compiled by the Training Section Commander who will deliver them to the Chief of Police. The lists will then be posted on official Departmental bulletin boards for at least thirty (30) days.

214.18 For each list, consisting of officers that have a 70% or greater composite score of the points available, only officers ranking in the top twenty-five percent (25%), or a minimum of three candidates, which ever is greater, will be considered for promotion. In the event there are less than three eligible candidates on the promotional list, all will be considered for promotion. For each individual promotion, the Chief of Police must select from the top 3 candidates, according to their overall promotional score.

214.19 The promoted officer shall be evaluated after having served six (6) months and one (1) year in his/her new rank by their immediate supervisor. This evaluation shall be forwarded, through channels, to that officer's Division Commander. Division Commanders are responsible for submitting written recommendations to the Chief of Police, stating whether a newly-promoted officer should retain his/her higher salary grade/range. The promotional probation period shall be one (1) year.

APPENDIX VIII - DCPD ACCIDENT REVIEW POLICY

401.01 Each employee of the Department assigned to operate a Departmental vehicle shall be held responsible for the care and use of the vehicle, as well as all of its accessories and equipment.

401.02 Upon taking possession of a vehicle, an employee of the Department shall inspect both its interior and exterior for damage and/or items left in it by other employees or by prisoners. If the member discovers damage or contraband, he/she shall immediately report it to his/her supervisor.

401.03 Employees of the Department, when involved in a traffic accident while operating a Department vehicle shall:

- A. Immediately notify the on duty supervisor.
- B. Obtain an incident numbered case regardless of the amount of damage.
- C. Complete the City of Dodge City Property Damage Report form.
- D. Complete a detailed narrative describing how the accident occurred.

401.04 The State of Kansas Motor Vehicle Accident Report form shall be used on all accidents involving City vehicles.

401.05 All supervisors shall:

- A. In cases of Department vehicle accidents, notify dispatch to contact either the Ford County Sheriff Department or the Kansas Highway Patrol to take the accident report.
- B. In cases of damage discovered by an employee, initiate an investigation to determine the origin of the damage;
- C. In case of injury to an employee, he/she shall complete the City of Dodge City Injury Accident Report, and an Employer Authorization For Work Comp Medical Treatment Form.
- D. Complete a narrative concerning the accident to include his/her opinion on the cause of the accident and whether or not the Department employee was negligent.
- E. Obtain a copy of the completed Kansas Motor Vehicle Accident Report.
- F. Submit all assembled reports to the respective Bureau Commander.

401.06 Accidents and/or other incidents involving damage to Departmental vehicles shall be reviewed by the Accident Review Board, which will be made up of the Patrol

Bureau Commander, Investigations Bureau Commander and two Patrol Officers appointed by the Chief or his/her designee. The Accident Review Board shall have the following responsibilities:

- A. Review accidents involving Departmental vehicles;
- B. Consider investigative reports, statements, other documents, the testimony of witnesses, and the previous driving record of the Department employee involved;
- C. Make recommendations, in conjunction with existing Departmental Policies and Regulations, to the Chief of Police for final disposition.

401.07 Notification of the time, date and location of an Accident Review Board hearing shall be delivered to the involved Department employee's immediate supervisor.

A. A written notification of the Accident Review Board Hearing shall be utilized, and shall contain all pertinent information.

B. A copy of the written notification of the Accident Review Board Hearing shall accompany the original form and shall be signed, by both the Department employee and the supervisor serving the notice, at the time the service is made.

C. The original notification form shall be retained by the involved Department employee.

D. The signed copy shall be forwarded to the Patrol Bureau Commander, who shall have the responsibility of maintaining a file of notification receipts.

401.08 The Patrol Bureau Commander or his/her designee shall:

A. Maintain a control log of damaged vehicles;

B. Notify the involved Department employee(s), in writing, five (5) days prior to the scheduled Accident Review Board hearings;

C. Maintain a file for signed notifications of the Accident Review Board Hearings;

D. Present all cases, including all documents pertaining to each traffic accident, to the Accident Review Board;

E. Prepare a report detailing findings of the Accident Review Board which will be forwarded to the Chief of Police.

APPENDIX IX – PAY PLAN (Amended 07-08, 09-10, 11, 12, 13& 14)

<u>Name</u>	<u>Description</u>	<u>Date in Position</u>	<u>Dec. 31, 2013 Placement</u>	<u>1/1/2014 Placement</u>	<u>2014 Step Movement</u>
MCGINNITY	At Training Rate	5/27/2013	15.68	16.46	17.12
DYER	At Training Rate	10/14/2013	15.68	16.46	17.12
MACHIELA	Probationary Rate	12/10/2012	17.12	17.12	17.55
BANGERT	Police Officer	05/28/2013	17.12	17.12	17.55
GILLAN	Police Officer	06/11/2013	17.12	17.12	17.55
MORROW	Police Officer	06/18/2013	17.12	17.12	17.55
FREGON, A	Police Officer	4/5/2011	17.99	17.99	18.44
OCHOA	Police Officer	09/17/2013	17.12	17.12	17.55
KRAMER	Police Officer	4/30/2008	20.35	20.35	20.86
WARKENTIN, J	Police Officer	10/4/2011	19.37	19.37	19.86
MORALES	Police Officer	09/03/2013	17.55	17.55	17.99
STEIN, B	Police Officer	1/03/2012	17.55	17.55	17.99
HERRERA, F	Police Officer	5/9/2006	20.35	20.35	20.86
THOMPSON	Police Officer	8/20/2012	18.90	18.90	19.37
RICH	Police Officer	4/25/2012	17.55	17.55	17.99
LIMA	Police Officer	7/3/2007	19.86	19.86	20.35
VACANT –HELD OPEN	Police Officer				
GUTIERREZ	Police Officer	5/30/2012	17.55	17.55	17.99
SUTTON	Police Officer	7/3/2007	19.86	19.86	20.35
VACANT –HELD OPEN	Police Officer				
MAZZA, A	Police Officer	03/15/2011	17.99	18.44	18.44
KOLBECK, L	Police Officer	7/7/2009	18.90	18.90	19.37
CAIN, J	Police Officer	7/28/2009	18.90	18.90	19.37
KELLEY, C	Police Officer	9/29/2009	18.90	18.90	19.37
WARD, D	Police Officer	12/22/2009	18.90	18.90	19.37
OLSEN, C	Police Officer	1/4/2010	18.90	18.90	19.37
VACANT –HELD OPEN					
VACANT					
VACANT					
BROWN	Police Corporal	1/10/2005	22.64	22.64	23.21
HADOVANIC	Police Corporal	1/7/2013	21.02	21.02	21.55
KELLY, B	Police Corporal	07/29/13	20.51	20.51	21.02
GOERTZEN, J	Police Corporal	9/8/2010	20.51	20.51	21.02
GEORGE	Detective	1/1/2007	25.30	25.30	25.30
VILLASENOR	Detective	3/05/2012	21.28	21.28	21.81
VACANT	Detective				
BICE	Detective	6/23/2008	23.49	23.49	24.07

<i>Name</i>	<i>Description</i>	<i>Date in Position</i>	<i>Dec. 31, 2012 Placement</i>	<i>1/1/2013 Placement</i>	<i>2013 Step Movement</i>
ROBBINS	Detective	2/9/2009	22.36	22.36	22.91
GORDON	Detective	1/7/2013	21.28	21.28	21.81
MOORADIAN, J	Sergeant	8/9/2010	24.52	24.52	25.13
STEIN	Sergeant	07/22/2013	22.77	22.77	23.34
MORTON	Sergeant	7/7/2003	29.14	29.14	29.14
MCGEE, S	Sergeant	8/18/2010	24.52	24.52	25.13
WARREN	Sergeant	6/23/2002	29.14	29.14	29.14

	Police Officer	Corporal	Detective	Sergeant
Probationary Rate	\$16.46			
Step 1	\$17.12	\$18.58	\$19.76	\$22.77
Step 2	\$17.55	\$19.05	\$20.25	\$23.34
Step 3	\$17.99	\$19.52	\$20.76	\$23.92
Step 4	\$18.44	\$20.01	\$21.28	\$24.52
Step 5	\$18.90	\$20.51	\$21.81	\$25.13
Step 6	\$19.37	\$21.02	\$22.36	\$25.76
Step 7	\$19.86	\$21.55	\$22.91	\$26.40
Step 8	\$20.35	\$22.09	\$23.49	\$27.06
Step 9	\$20.86	\$22.64	\$24.07	\$27.74
Step 10	\$21.38	\$23.21	\$24.68	\$28.43
Step 11	\$21.92	\$23.79	\$25.29	\$29.14

APPENDIX #X - UNIFORMS & EQUIPMENT PROVIDED BY DEPARTMENT *(Amended 12)*

Patrol

1. Uniforms (replaced as needed)
 - 5 long sleeve shirts
 - 5 short sleeve shirts
 - 5 pairs of pants
 - Boots

2. Duty Gear
 - Belt and related items for belt
 - Pepper spray
 - Flashlight

3. Weapon
 - Duty handgun
 - Taser
 - Patrol rifle
 - Shotgun

4. Ballistic Vest

5. Business cards

6. Hand radio

7. Practice Ammunition*** (50 rounds per month, half being .223 and half being .40 caliber) at the officer's option

MEMORANDUM

TO: Ken Strobel, City Manager
Cherise Tieben, Assistant City Manager

FROM: Nannette Pogue, Finance Director/City Clerk

DATE: December 11, 2013

SUBJECT: Recommendation for 2013 Special Alcohol and Drug Funds

AGENDA ITEM: New Business

The City of Dodge City receives a portion of the alcohol and drug tax that is collected in the community. That tax is allocated 1/3 to the General Fund, 1/3 to a Special Park and Recreation Fund and 1/3 to a Special Alcohol and Drug Fund. This allocation is spelled out in the Kansas State Statutes. The amount deposited into the Special Alcohol and Drug fund is to be used for “the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers”. In order to accomplish this, we take applications from agencies/programs that provide those services. A committee of 3 individuals reviewed the applications are making a recommendation on the allocation of these funds. The 3 people serving on the committee were Jane Longmeyer, Luanne Menard and Vickie Williamson. I was the coordinator and facilitator. There is approximately \$117,000 to be allocated for these programs. The applications received, the amount applied for and the recommended allocation is:

<u>Agency/Program</u>	<u>Specific Program</u>	<u>Amount Applied For</u>	<u>Amount Recommended</u>
Friends of Recovery	Oxford Houses in Dodge City - Aftercare	\$20,000	\$ 18,000
Catholic Social Services	Drug and Alcohol Evaluations and Assessments	\$12,000	\$ 11,000
New Chance	Alcohol & addiction services including prevention, Education, detoxification and treatment	\$72,227	\$ 67,000
Police Department	Gang Resistance Education and Training (GREAT)	\$14,340	
Police Department	Juvenile Underage Drinking/Group Enforcement (JUDGE)	\$10,000	

Police Department	Combined for Red Ribbon Week and other supplies for anti drug and alcohol programs		\$ 6,000
Area Mental Health	Integrated dual diagnosis treatment for severe mental illness and drug and alcohol programs	\$17,776	\$ 15,000
Ford County Kids Count	Fundamentals of Healthy Families	\$ 11,021	\$ 0
YMCA of SW Kansas	Free family fun nights	\$ 10,002	\$ 0

The Committee met and reviewed the applications. The recommendations for funding were for those programs that dealt directly with treatment, prevention and education of alcohol and drug addiction. While all of the applications described a very worthy program and one that the community needs, the committee felt that the services weren't a direct service for drug and alcohol issues, but more on the fringe. And because the request for funding was 167,366 and only \$117,000, it was recommended not to fund these programs with this money. All of the agencies will be advised of the efforts of the Ford County Health Coalition and encouraged to participate in the coalition. The Committee also will request additional information from Friends of Recovery prior to allocating the funds.

Justification: The applications received meet the general requirements of the program. The recommendations by the committee are the amounts they feel best meets the overall goals of the program.

Financial Considerations: Money is available in the Special Alcohol and Drug fund to pay the recommended amounts.

Purpose/Mission: Support the quality of life in Dodge City by best spending the monies the City receives for drug and alcohol treatment, education and prevention programs.

Legal Considerations: None