

# **CITY COMMISSION MEETING AGENDA**

City Hall Commission Chambers

May 15, 2017

Monday, 7:00 p.m.

MEETING #5067

## **CALL TO ORDER**

## **ROLL CALL**

**INVOCATION BY** Virgil Winkler of Jail Ministry

## **PLEDGE OF ALLEGIANCE**

## **PETITIONS & PROCLAMATIONS**

Salvation Army Week Proclamation

National Public Works Week Proclamation

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

## **CONSENT CALENDAR**

1. Approval of City Work Session Minutes, May 1, 2017;
2. Approval of City Commission Meeting Minutes, May 1, 2017;
3. Joint City/County Commission Meeting Minutes, May 8, 2017;
4. Appropriation Ordinance No. 10, May 15, 2017;
5. Approval of Agreement with Pinegar & Smith;
6. Approval of Disadvantage Business Enterprise Program (DBE) for airport projects.

## **ORDINANCES & RESOLUTIONS**

**Ordinance No. 3657:** An Ordinance Authorizing and Providing for the Issuance of General Obligation Bonds, Series 2017-A, of the City of Dodge City, Kansas; Providing for the Levy and Collection of an Annual Tax for the Purpose of Paying the Principal of and Interest on said Bonds as They Become Due; Authorizing Certain Other Documents and Actions in Connection Therewith; and Making Certain Covenants with Respect Thereto. Report by Finance Director/City Clerk, Nannette Pogue.

**Resolution No. 2017-18:** A Resolution Prescribing the Form and Details of and Authorizing and Directing the Sale and Delivery of General Obligation Bonds, Series 2017-A, of the City of Dodge City, Kansas, Previously Authorized by Ordinance No. 3657 of the Issuer; Making Certain Covenants and Agreements to Provide for the Payment and Security Thereof; and Authorizing Certain Other Documents and Actions Connected Therewith. Report by Finance Director/City Clerk, Nannette Pogue.

**Resolution No. 2017-19:** A Resolution of the Governing Body of the City of Dodge City, Kansas Giving Notice of a Public Hearing on the Advisability of Creating a Community Improvement District. Report by Finance Director/City Clerk, Nannette Pogue.

## **UNFINISHED BUSINESS**

## **NEW BUSINESS**

1. Approval of Bids for 6<sup>th</sup> Avenue Rough Grading. Report by Director of Engineering Ray Slattery.

## **OTHER BUSINESS**

## **ADJOURNMENT**

# PROCLAMATION

of

## The City of Dodge City, Kansas

Founded in 1872

**Whereas**, the Salvation Army's only business in this community of Dodge City, Kansas, as everywhere, is still human business, undertaken with joy for the family of humankind to the greater glory of God; and

**Whereas**, through sound, innovative, and professional services, the Salvation Army serves the people of Dodge City with unshakable faith in all, no matter how desperate the situation and views all people as people with possibilities; and

**Whereas**, the Salvation Army acts on behalf of all the residents of our community, with neither salvation nor any other condition prerequisite, nor expecting any thanks, yet nonetheless welcoming community support;

**Now, Therefore, Be It Resolved**, that I, Rick Sowers, Mayor of the City of Dodge City, Kansas, do hereby proclaim May 15-21, 2017, as

### Salvation Army Week

In Dodge City, Kansas, and urge all citizens to join in saluting the steadfast men and women who bind up the broken hearted and renew the heart of our community by their quiet service of companion.

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

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Dodge City, Kansas to be affixed this 15<sup>th</sup> day of May, 2017.

\_\_\_\_\_  
Mayor, City of Dodge City

# PROCLAMATION

WHEREAS, public works services provided in our community are an integral part of our citizen's everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, streets and highways, public buildings, solid waste collection, and snow removal; and

WHEREAS, the health, safety and comfort of this community greatly depends on these facilities and services; and

WHEREAS, the quality and effectiveness of these facilities, as well as their planning, design, and construction, is vitally dependent upon the efforts and skill of public works officials; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff public works departments is materially influenced by the people's attitude and understanding of the importance of the work they perform.

NOW, THEREFORE, I, Rick Sowers, Mayor of the City of Dodge City, do hereby proclaim the week of May 21 through May 27, 2017 as

## **“NATIONAL PUBLIC WORKS WEEK”**

in the City of Dodge City, and I call upon all citizens and civic organizations to acquaint themselves with the issues involved in providing our public works and to recognize the contributions which public works officials make every day to our health, safety, comfort, and quality of life.

Given under my hand and the Seal of the City of Dodge City this 8th day of May, 2017.

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Rick Sowers, Mayor

Attest

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Nannette Pogue, City Clerk

# **CITY COMMISSION WORK SESSION MINUTES**

City Hall Commission Chambers

Tuesday, May 1, 2017

5:30 p.m.

**ROLL CALL:** Mayor Rick Sowers, Commissioners, Jan Scoggins, Joyce Warshaw, Kent Smoll, Rick Sowers. Brian Delzeit

## **WORK SESSION**

- A tour of the Depot building was given to the Commissioners by Melissa McCoy
- Discussion of Contract with YMCA. Cherise discussed with the City Commission that they have been asked by the Corporate Board that governs both the Dodge City YMCA Board of Directors and the Garden City YMCA Board of Directors to consider having the local board have less governance. Scott Bogner, President of the Corporate Board spoke. Aaron Conrardy, President of the Dodge City YMCA also spoke. There was some confusion as to what was being asked to consider and when. When additional information and clarification is received, it will be passed on to the City Commission.
- Update on Star Bond Project. Cherise Tieben, City Manager, gave the City Commission an update on the Star Bond Project in the Power District on 14<sup>th</sup> Avenue. There is a plan available. On the regular meeting agenda is a Resolution that sets a public hearing for June 5.
- Cherise Tieben, City Manager, discussed a proposed contract with Pinegar & Smith to represent the City of Dodge City's interests at the State and Federal level of government regarding the Bio Gas project. All Commissioners were interested in pursuing the contract.

## **ADJOURNMENT**

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Mayor

ATTEST:

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Nannette Pogue, City Clerk

# **CITY COMMISSION MEETING MINUTES**

City Hall Commission Chambers

May 1, 2017

Monday, 7:00 p.m.

MEETING #5065

## **CALL TO ORDER**

**ROLL CALL:** Mayor Rick Sowers, Commissioners, Kent Smoll, Jan Scoggins, Joyce Warshaw, Brian Delzeit.

**INVOCATION** by Rev Virgil Winkler of Jail Ministries

## **PLEDGE OF ALLEGIANCE**

## **PETITIONS & PROCLAMATIONS**

The National Travel and Tourism Week Proclamation was presented by Brent Harris. Mayor Rick Sowers proclaimed May 7 – 13, 2017 as National Travel and Tourism Week.

- Janay Wallace, Dodge City Convention and Tourism, made additional comments and passed out information to the City Commission regarding the economic value of tourism in the community.
- Mark Vierthaler, representing Boot Hill Distillery, the Depot Theater, and the Main Street Dodge City Board, talked about tourism in Dodge City and also the proclamation that follows, National Historic Preservation month.
- Lara Brehm representing Boot Hill Museum talked about the activities at Boot Hill for Travel and Tourism. They will be kicking off their season earlier than normal with their dinner and show beginning May 20. She also reminded the public of the Boots and Beer fundraiser that will be held this weekend.

The National Historic Preservation Month Proclamation was presented by Melissa McCoy. Mayor Rick Sowers proclaimed May, 2017, as National Historic Preservation Month. In honor of National Historic Preservation month, several activities will be held to promote all the historic structures located in Dodge City. Anthony Lyons will do a presentation at the Carnegie Arts Center entitled “The Santa Trail” on May 18<sup>th</sup> at 6:30 pm. A Downtown Building Tour will be held on May 24<sup>th</sup>. A Historic Photo Contest will be held through the month of May and all photos submitted will be put on display at the Carnegie Center for the Arts during Final Friday. During National Tourism Week walking tours lead by Charlie Meade will take place in Historic Downtown Dodge City. In June, a Youth Preservation Summit will be held.

The Older American Month Proclamation was presented by Rick Schaffer. Mayor Rick Sowers proclaimed May, 2017, to be Older Americans Month. Rick Shaffer thanked the Commissioners for proclaiming Older American Month and discussed the benefits that Older Americans provide.

**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).**

Boy Scout Troop 110 – Michael Ort, Scout Master of Troop 110 said he was there with boy scouts earning their Citizenship in the Community Badge

Linda Duree – talked to the City Commission about Beekeeping in the City Limits. Her husband, Warren Duree, rescues bees. They are asking the City Commission to consider adopting an ordinance which allows beekeeping in Dodge City. Maria Ortiz Smith introduced her son Landon and his friend Henri who made a presentation about bees, debunking common myths.

#### **CONSENT CALENDAR**

1. Approval of City Commission Meeting Minutes, April 17, 2017
2. Appropriation Ordinance No. 9, May 1, 2017;
3. Cereal Malt Beverage License:
  - a. Dodge City Athletics' Baseball Association, San Jose Drive,
  - b. Loves Travel Stops # 558, 2505 E. Trail St.

Commissioner Kent Smoll moved to approve the Consent Calendar as presented; Commissioner Jan Scoggins seconded the motion. The motion carried unanimously.

#### **ORDINANCES & RESOLUTIONS**

**Resolution No. 2017-14:** A Resolution of the Governing Body of the City of Dodge City, Kansas Determining That the City is Considering Establishing a Rural Housing Incentive District Within the City and Adopting a Plan for the Development of Housing and Public Facilities in Such Proposed District; Establishing the Date and Time of a Public Hearing on Such Matter, and Providing for the Giving of Notice of Such Public Hearing. (Summerlon Phase V) was approved on a motion by Commissioner Brian Delzeit. Commissioner Joyce Warshaw seconded the motion. The motion carried unanimously.

**Resolution No. 2017-15:** A Resolution of the Governing Body of the City of Dodge City, Kansas Determining That the City is Considering Establishing a Rural Housing Incentive District Within the City and Adopting a Plan for the Development of Housing and Public Facilities in Such Proposed District; Establishing the Date and Time of a Public Hearing on Such Matter, and Providing for the Giving of Notice of Such Public Hearing. (Wagon Wheel Unit Two) was approved on a motion by Commissioner Jan Scoggins. Commissioner Kent Smoll seconded the motion. The motion carried unanimously.

**Resolution No. 2017-16:** A Resolution of the Governing Body of the City of Dodge City, Kansas Establishing the Date and Time of a Public Hearing for Consideration of Adoption of a Star Bond Project Plan Within a Star Bond District Previously Created Within the City Pursuant to KSA 12-17, 160 Et Seq., and Providing for the Giving of Notice of Such Public Hearing (14<sup>th</sup> Avenue Area). Commissioner Kent Smoll moved that the Commission adopt Resolution No. 2017-16 to establish the date and time for a public hearing on June 5, 2017, at 7:00 p.m. for consideration of adoption of (1) an amended STAR Bond District Plan, and (2) a STAR Bond Project Plan for Power Center Area 1 within the STAR Bond district. Commissioner Jan Scoggins seconded the motion. The motion carried unanimously.

**Resolution No. 2017-17:** A Resolution Certifying Legal Authority to Apply for and Administer the 2017 Rural Business Enterprise Grant from the United States Department of Agriculture, Rural Development was approved on a motion by Commissioner Jan Scoggins. Commissioner Joyce Warshaw seconded the motion. The motion carried unanimously.

#### **NEW BUSINESS**

Commissioner Brian Delzeit moved to approve the Final Plat of Wagon Wheel Addition, Unit Two. Commissioner Kent Smoll seconded the motion. The motion carried unanimously.

Commissioner Kent Smoll moved to approve the Bid from Klotz Sand Co. in the amount of \$958,286.53 for Infrastructure Improvements for the Candletree #8 sub-division. Commissioner Jan Scoggins seconded the motion. The motion carried unanimously.

#### **OTHER BUSINESS**

City Manager Cherise Tieben

- Condolences to one of Dodge City's Police Officers who lost their child this week.
- May 8<sup>th</sup> there will be a Joint City Commission Meeting at 6:00 p.m. at the City Commission Meeting Chambers.

Jane Longmeyer

- On May 10<sup>th</sup>, the City is partnering with Pizza Hut to fundraise for the fireworks display. A portion of the proceeds will go to fireworks from 5:00 – 9:00 dine in or carry out.
- The Fire Department will start fire hydrant testing on May 8<sup>th</sup> on the north side of town.
- There will also be a fundraising event for the Fire Department in June at Wendy's.

Commissioner Kent Smoll

- Shop local and shop often
- Write a check to support the Dodge City Fireworks display. It is one of the best in this part of the State.

Commissioner Jan Scoggins

- Special applause to the 3 young scouts who attended the meeting tonight.
- Thanks to everyone who attended the meeting on behalf of beekeeping

Commissioner Joyce Warshaw

- Reminded everyone of the 5 x 5 auction that will be held at the Depot Theater this weekend.
- This is teach appreciation week. Please thank a teacher.
- Thanked the Boy Scouts for their attendance at the meeting.

Commissioner, Brian Delzeit

Mayor, Rick Sowers

- Glad that we didn't get the snow that towns further west received over the weekend.

**ADJOURNMENT**

Commissioner Joyce Warshaw moved to adjourn the meeting. Commissioner Kent Smoll seconded the motion. The motion carried unanimously.

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Mayor

ATTEST:

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City Clerk, Nannette Pogue

**Joint City/County Commission Meeting Minutes**  
**Monday, May 8, 2017**  
**City Hall Commission Chambers**  
**6:00 PM**  
**Meeting # 5066**

**CALL TO ORDER**

**COUNTY COMMISSION ROLL CALL:** Commissioners Chris Boys and Ken Snook.  
Commissioner Shawn Tasset was reported absent.

**CITY COMMISSION ROLL CALL:** Mayor Rick Sowers, Commissioners Brian Delzeit, Joyce Warshaw, Jan Scoggins and Kent Small

Various reports were given regarding the Sales Tax Projects.

- Cheyenne Schellhamer, Facilities Director of the Longbranch Lagoon, reported that there were 18 days until the opening of the Water Park. New for season pass holders will be a party on the Friday before the public opening on Memorial Day weekend. Another new feature of the park will be frequent visits at birthday parties and other events is the mascot, Marshall. He was in attendance at the meeting for everyone to meet. There are new aerobics and exercise classes. Jr. Life guarding is also in place for those under 14 not yet eligible to be a life guard.
- Chris Ragland gave a report on the United Wireless Arena and Boot Hill Casino and Resort Conference Center. To date there has been 98 event days at the Conference Center and 81 event days at the arena. This includes set up and tear down days. The events at both places have had an economic impact in the community of approximately \$4.4 M. This year in the arena has been Hairball, 3 major basketball tournaments, the Globetrotters, Newsboys, Kenny Rogers, Los Tigres Del Norte, and the Dodge City Law football games. Upcoming events include the Loud Mouth Comedy Tour, Tim Hawkins, Ron White and Kansas. An event is added on the first weekend of Dodge City Days. Additionally, \$141,000 has been spent on marketing, Naming Rights for United Wireless Arena was renewed and the Naming Rights for the Boot Hill Casino and Resort Conference Center was secured. Chris talked about the reach effort that they were able to look at, particularly for the Kenny Rogers show because several credit card sales were made.
- Molly Madsen, Tournament Director, talked about the tournaments held to date at Legends Park. To date 2 baseball tournaments have been held and one postponed because of the weather. There is a new logo for Legends Park. There is new tournament software and an app that is popular and has made it easier for teams to sign up and instantly see what is happening with the tournaments.
- Tommy Estes from Dodge City Raceway Park was unable to attend, but Melissa McCoy passed out rack cards with the 2017 Racing Season dates.

An update regarding the STAR Bond project was given by City Manager, Cherise Tieben. She stated that the City has been working on a STAR bond project on 14<sup>th</sup> Avenue. She has been working with the County on parts of the project and the cooperation has been good. Consultants have put in a tremendous amount of time.

**UPCOMING MEETINGS:**

1. Monday, August 14, 2017, 6:00 p.m. – Joint Commission Meeting – Rose Room, Ford County Government Center.

2. Monday, November 13, 2017 6:00 p.m. – Joint Commission Meeting – City Commissioners Chambers City Hall.

**ADJOURNMENT**

County Action: Commissioner Chris Boys moved to adjourn the County Commission meeting. Commissioner Ken Snook seconded the motion. The motion carried 2-0.

**CITY COMMISSION MEETING**

City Action: Commissioner Brian Delzeit moved to recess into executive session pursuant to the “confidential data relating to financial affairs or trade secrets of second parties and preliminary discussion prior to acquisition of real estate” exception found in K.S.A. 75-4319(b)(4)+(6). The justification for closing the meeting is to protect the privacies of the entities to be discussed. The executive session will include the City Manager, Assistant to the City Manager and the Finance Director. The open meeting will resume in the City Commission Chamber in 40 minutes at 7:25 p.m. The Commission will not take action upon returning to open session and prior to adjournment. Commissioner Kent Smoll seconded the motion. The motion carried unanimously.

The regular session reconvened at 7:25 p.m.

Commissioner Kent Smoll moved to adjourn the meeting. Commissioner Jan Scoggins seconded the motion. The motion carried unanimously.

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Mayor

ATTEST:

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City Clerk, Nannette Pogue



## City of Dodge City

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

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### Memorandum

To: Cherise Tieben, City Manager & City Commission  
From: Ernestor De La Rosa, Asst. to the City Manager  
Date: May 15, 2017  
Subject: Professional Services Agreement with Pinegar, Smith and Associates  
Agenda Item: Consent Calendar

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**Recommendation:** Authorize staff to sign a contract for lobbyist services with Pinegar, Smith and Associates to monitor the Federal Clean Air Act and the renewable fuel standard (RFS) program in regards to the methane gas project.

**Background:** In 2014, the City of Dodge City began working on a project to capture methane from effluent that is discharged at the south wastewater treatment plant. The effluent is produced by the National Beef Packing Company as well as the community. The purpose of capturing methane is to turn it into renewable natural gas (RNG).

The goal of the project is to provide a sustainable way to capture the methane gas and repurpose it as natural gas to enter the nation's energy supply. The project also creates a strong revenue stream that could eventually provide significant property tax reduction for the community.

The renewable fuel standard program was established by the Energy Policy Act of 2005 and expanded and extended by the Energy Independence and Security Act 2007, in an effort to reduce greenhouse gas emissions and expand the nation's renewable fuels sector while reducing reliance on imported oil.

After reviewing the financial projections, the City decided to finance and construct the project. Under the RFS program, the Dodge City methane capture project will contribute to the production of renewable fuels in the U.S. and generate a revenue stream from gas sales and from RIN credit sales.

**Justification:** Activities in Washington can happen at a very rapid pace. Our Kansas Legislators are not able, nor expected; to keep everyone informed that may be impacted by specific legislation. The lobbyist service makes sure that our interests are represented to other legislators and their staff while working in coordination with our delegation to protect our interests in regards to the methane gas project.

**Financial Considerations:** The consultant's fee for the representation to be provided is for the sum of \$25,000.00.

**Purpose/Mission:** By coordination this contract through this contract we are able to better serve Dodge City citizens in our efforts to make Dodge City the best place to be.

**Legal Considerations:** None at this time.

**Attachments:** Agreement

## **Agreement for Professional Services**

This Independent Contractor Agreement (the "Agreement") is entered into by and between Pinegar, Smith & Associates, Inc. (the "Consultant"), and The City of Dodge City (the "Client").

### **RECITALS**

**WHEREAS**, the Client is in need of assistance in the area of government affairs and

**WHEREAS**, Consultant has agreed to perform consulting work for the Client in government affairs services and other related activities for the Client;

**NOW, THEREFORE**, the parties hereby agree as follows:

**1. Consultant's Services.** Consultant shall be available and shall provide to the Client professional services in the area of government affairs ("Consulting Services") as needed and requested.

**A. Deliverables.** Consultant will communicate on a regular basis with the City Manager and or her designee. Consultant will monitor the federal Clean Air Act and the renewable fuel program, and state issues identified of importance to the City of Dodge City as directed by the City Manager. Timely communication will occur transmitting requested legislative reports to the City Manager regarding legislation of interest that could impact or be of interest to the client. At the request of the Client, Consultant will be available for additional discussions with the Client via telephone.

**2. Consideration.**

**A. Rate.** Client shall pay Consultant, as Consultant's fee for the representation as provided in this Agreement, the sum of Twenty-Five Thousand Dollars (\$25,000.00) payable and due June 1, 2017. The Client shall pay Consultant the amount due pursuant to submitted invoice received by the Client.

**B. Expenses.** Additionally, the Client will pay Consultant for the following expenses: Hospitality, not to exceed \$500.00 per year unless prior approval by client is granted and travel expenses (all travel by Consultant will be pre-approved by Client); Consultant shall submit written documentation and receipts where available itemizing the dates on which expenses are incurred. The Client shall pay Consultant the amounts due pursuant to submitted reports when a report is received by the Client. Consultant will pay for any necessary lobbyist registration fee for Clients interest.

**3. Independent Contractor.** Nothing contained herein or any document executed in connection herewith, shall be construed to create an employer-employee partnership or joint venture relationship between the Client and Consultant. Consultant is an independent contractor and not an employee of the Client or any of its subsidiaries or affiliates. The consideration set forth in Section 2 shall be the sole consideration due Consultant for the services rendered hereunder. It is understood that the Client will not withhold any amounts for payment of taxes from the

compensation of Consultant hereunder. Consultant will not represent to be or hold itself out as an employee of the Client and Consultant acknowledges that he shall not have the right or entitlement in or to any of the pension, retirement or other benefit programs now or hereafter available to the Client's regular employees. Any and all sums subject to deductions, if any, required to be withheld and/or paid under any applicable state, federal or municipal laws or union or professional guild regulations shall be Consultant's sole responsibility and Consultant shall indemnify and hold Client harmless from any and all damages, claims and expenses arising out of or resulting from any claims asserted by any taxing authority as a result of or in connection with said payments.

**4. Confidentiality.** In the course of performing consulting services, the parties recognize that Consultant may come in contact or become familiar with information that the Client or its subsidiaries or affiliates may consider confidential. Consultant agrees to keep all such information confidential and not to discuss or divulge it to anyone other than appropriate Client's personnel or their designees.

**5. Term.** This Agreement shall commence on June 1, 2017 and shall terminate on May 30, 2018, unless earlier terminated by either party hereto. Either party may terminate this Agreement upon Thirty (30) days prior written notice. The Client may, at its option, renew this Agreement for an additional term of one year on the same terms and conditions as set forth herein by giving notice to Consultant of such intent to renew on or before April 1, 2018.

**6. Consultant's Taxpayer I.D. Number.** The taxpayer I.D. number of the Consultant is 48-1249735. The Consultant will register with the Secretary of State to perform the agreed upon services enumerated herein.

**7. Representations and Warranties.** The Consultant will make no representations, warranties, or commitments binding the Client without the Client's prior consent. The Consultant makes no warranties or representation to Client concerning the success or results obtained from Consultant's services. All statements of Consultant on these matters are statement of opinion only.

**8. Legal Right.** Consultant covenants and warrants that he has the unlimited legal right to enter into this Agreement and to perform in accordance with its terms without violating the rights of others or any applicable law and that he has not and shall not become a party to any other agreement of any kind which conflicts with this Agreement. Consultant shall indemnify and hold harmless the Client from any and all damages, claims and expenses arising out of or resulting from any claim that this Agreement violates any such agreements. Breach of this warranty shall operate to terminate this Agreement automatically without notice as specified in Paragraph 5 and to terminate all obligations of the Client to pay any amounts which remain unpaid under this Agreement.

**9. The Waiver.** Failure to invoke any right, condition, or covenant in this Agreement by either party shall not be deemed to imply or constitute a waiver of any rights, condition, or covenant and neither party may rely on such failure.

**10. Notice.** Any notice or communication permitted or required by this Agreement shall be deemed effective when personally delivered or deposited, postage prepaid, in the first-class mail of the United States properly addressed to the appropriate party at the address set forth below:

1. Notices as to Consultant:

John D. Pinegar, President  
Pinegar, Smith & Associates, Inc.  
513 SW Van Buren St.  
Topeka, Kansas 66603

2. Notices to the Client:

Ms. Cherise Tieben, City Manager  
City of Dodge City  
806 North Second Avenue  
Dodge City, Kansas 67801

**WHEREFORE**, the parties have executed this Agreement as of the date written above.

**City of Dodge City**

By: \_\_\_\_\_  
Cherise Tieben  
*City of Dodge City*

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

**Pinegar, Smith & Associates, Inc.**

By: \_\_\_\_\_  
John D. Pinegar  
*Pinegar, Smith & Associates, Inc.*

Date \_\_\_\_\_

## *Memorandum*

*To: City Manager  
City Commissioners*

*From: Corey Keller, Airport Manager*

*Date: May 9, 2017*

*Subject: Disadvantage Business Enterprise  
Program DBE*

*Agenda Item: Consent Calendar*

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**Recommendation:** It is staffs recommendation to approve the Disadvantage Business Enterprise Program (DBE) as required by FAA to receive federal funds for airport improvement projects.

**Background:** The City of Dodge City / Dodge City Regional Airport has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Dodge City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract.

The City of Dodge City has received Federal financial assistance from the Department of Transportation for airport improvements and as a condition of receiving this assistance the city is required to have an approved DBE program.

The City of Dodge City has established overall DBE goals for prime contracts exceeding \$250,000 in FAA funded projects for airport improvements. The 2012 DBE program had a goal of 4.00%; the 2017 DBE program has a goal of 4.00%. The attached 2017 DBE program is an updated version of the 2012 DBE program.

The Airport Manager has been delegated as the DBE Liaison Officer. In that capacity the Airport Manager is responsible for implementing all aspects of the DBE program.

**Justification:** To meet requirements of the FAA to have an approved DBE program.

**Financial Considerations:** In order to receive federal funds for airport improvements the DBE program is a requirement of the FAA.

**Purpose/Mission:** To provide a safe and secure airport for commercial and general aviation and to meet current guidelines as directed by the federal government.

**Legal Considerations:** DOT / FAA requirements to receive federal funds for airport improvements.

**Attachments:** 2017/2020 DBE program.

City of Dodge City

Dodge City  
Regional Airport  
DDC

**DISADVANTAGED  
BUSINESS ENTERPRISE  
PROGRAM**

FY 2017 / 2020

## City of Dodge City DBE Program

### **POLICY STATEMENT**

#### **Section 26.1, 26.23 Objectives/Policy Statement**

The City of Dodge City, Kansas has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City of Dodge City has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the City of Dodge City has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City of Dodge City to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Airport Manager has been delegated as the DBE Liaison Officer. In that capacity, the Airport Manager is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Dodge City in its financial assistance agreements with the Department of Transportation.

The City of Dodge City has disseminated this policy statement to the City Commission and other components of our organization. We have distributed this statement to DBE and non-DBE companies that perform work for us on DOT-assisted contracts by publishing in the publication of notice announcing the proposed goal in the Dodge City Daily Globe local newspaper.

**ADOPTED** by the Governing Body of the City of Dodge City, Kansas, the 15th day of May, 2017.

Attest:

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

\_\_\_\_\_  
Rick Sowers, Mayor

## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 26.1 Objectives**

The objectives are found in the policy statement on the first page of this program.

### **Section 26.3 Applicability**

The City of Dodge City is the recipient of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

### **Section 26.5 Definitions**

The City of Dodge City will use terms in this program that have the meaning defined in Section 26.5.

### **Section 26.7 Non-discrimination Requirements**

The City of Dodge City will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the City of Dodge City will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

### **Section 26.11 Record Keeping Requirements**

#### **Reporting to DOT: 26.11(b)**

We will report DBE participation to DOT as follows:

We will submit annually the Uniform Report of DBE Awards or Commitments and Payment Form, as modified for use by FAA recipients.

#### **Bidders List: 26.11(c)**

The City of Dodge City will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the DBE and non-DBE contractors and subcontractors who seek to work on DOT-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

We will collect this information in the following ways: The bidder/offer or will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offer or commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts.

### **Section 26.13 Federal Financial Assistance Agreement**

The City of Dodge City has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

#### **Assurance: 26.13(a)**

The City of Dodge City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The City of Dodge City DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of Dodge City of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance: 26.13b

We will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

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

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 DBE Program Updates**

Since the City of Dodge City has received grants of \$250,000 or more for airport planning or development, we will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

### **Section 26.23 Policy Statement**

The Policy Statement is elaborated on the first page of this program.

### **Section 26.25 DBE Liaison Officer (DBELO)**

We have designated the following individual as our DBE Liaison Officer:

Corey Keller Superintendent of Public Works / Airport Manager

806 Second Ave.  
Dodge City Kansas 67801  
Office: 620-225-8170  
[coreyk@dodgecity.org](mailto:coreyk@dodgecity.org)

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the City of Dodge City complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Airport Manager concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 2 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO has access to staff of legal counsel and engineers to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes City of Dodge City progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the governing body on DBE matters and achievement.
9. Participates with engineer to determine contractor compliance with good faith efforts.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Participates in DBE training seminars.

### **Section 26.27 DBE Financial Institutions**

The City of Dodge City has not identified any financial institutions owned and controlled by socially and economically disadvantaged individuals in the community or area at this time.

### **Section 26.29 Prompt Payment Mechanisms**

The City of Dodge City will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the City of Dodge City. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the City of Dodge City. This clause applies to both DBE and non-DBE subcontractors.

### **Section 26.31 Directory**

The City of Dodge City utilizes the Kansas Department of Transportation DBE Directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. We will make the directory available to prospective bidders through the Airport Manager Office to assist them in identifying certified DBEs. Copies of the directory will also be available at pre-bid meetings. The Directory may be found in Attachment 3 to this program document.

### **Section 26.33 Over-concentration**

The City of Dodge City has not identified that over-concentration exists in the types of work that DBEs perform.

### **Section 26.35 Business Development Programs**

The City of Dodge City has not established a business development program.

### **Section 26.37 Monitoring and Enforcement Mechanisms**

The City of Dodge City will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts.
3. We will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. This will be accomplished by review and comparison of all applicable documents.
4. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT reporting form.

### **Section 26.39 Small Business Participation**

The City of Dodge City has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-assisted public works projects by small business concerns (both DBEs and non-DBE small businesses). The City of Dodge City will take all reasonable steps to eliminate obstacles to Small Business participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors. Bidders for federally funded projects will make attempts to contact both DBEs and non-DBE small businesses by advertising in the local paper, direct contact by mail and phone calls.

## **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 26.43 Set-asides or Quotas**

The City of Dodge City does not use quotas in any way in the administration of this DBE program.

### **Section 26.45 Overall Goals**

The City of Dodge City will establish overall goals if we anticipate that we will award prime contracts exceeding \$250,000 in FAA funds in a Federal fiscal year in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the City of Dodge City does not anticipate awarding more than \$250,000 in FAA funds in prime contracts within the Federal fiscal year, we will not develop an overall goal; however the existing DBE program will remain in effect and the City of Dodge City will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

City of Dodge City will establish overall goals in accordance with the 2-Step process as specified in 49 CFR Part 26.45. The first step is to determine the relative availability of DBEs in the market area, "base figure". The second step is to adjust the "base figure" percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on projects.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this program.

In accordance with Section 26.45(f) the City of Dodge City will submit its 3-year overall goal to DOT on June 1, 2017 for FY 2018/2019/2020. The next 3-year overall goal will be submitted on June 1, 2018 for FY 2019/2020/2021. In establishing the overall goal, the City of Dodge City will consult with minority, women's and general contractor groups, community organizations, and other officials or organizations to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City of Dodge City efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goals, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Dodge City Regional Airport Administrative Office for 30 days following the date of the notice, and informing the public that City of Dodge City and DOT will accept comments on the goals for 45 days from the date of the notice. Notice will be issued in general circulation media and available minority- focus media and trade publications, websites. Normally, we will issue this notice by June 1. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses.

We will begin using our overall goal on October 1, unless we have received other instructions from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

#### **Section 26.49 Vehicle/Equipment Manufacturers Goals**

The City of Dodge City will require each vehicle/equipment manufacturer, as a condition of being of an authorized to bid or propose on FAA assisted vehicle/equipment procurements, to certify that it has complied with the requirements only if required by FAA.

#### **Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation**

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 4 to this program. This section of the program will be updated when the goal calculation is updated.

#### **Section 26.51(d-g) Contract Goals**

The City of Dodge City will use contract goals to meet any portion of the overall goal. The City of Dodge City does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work.)

We will express our contract goals as a percentage of total amounts of a DOT-assisted project.

#### **Section 26.53 Good Faith Efforts Procedures**

#### Demonstration of good faith efforts (26.53(a) & (c))

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The Airport Manager is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive.

We will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

#### Information to be submitted (26.53(b))

The City of Dodge City treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require all bidders/offerors to submit the following information at the time of bid:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment and
6. If the contract goal is not met, evidence of good faith efforts.

#### Administrative reconsideration (26.53(d))

Within 5 business days of being informed by the City of Dodge City that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

#### Good Faith Efforts when a DBE is replaced on a contract (26.53(f))

The City of Dodge City will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBE Liaison officer immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the City of Dodge City may issue a termination for default proceeding.

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the City of Dodge City to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of 4.11% percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/offer's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts.

**Section 26.55 Counting DBE Participation**

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. We will not count the participation of a DBE subcontract toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

**SUBPART D and E – CERTIFICATION STANDARDS/PROCEDURES**

**Section 26.61 – 26.91 Certification**

The City of Dodge City does not certify DBE firms. We will accept DBE firms certified by the State of Kansas and surrounding states with proof of certification from such state.

**SUBPART F – COMPLIANCE AND ENFORCEMENT**

**Section 26.109 Information, Confidentiality, Cooperation**

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

Monitoring Payments to DBEs

We will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request

by any authorized representative of the City of Dodge City or DOT. This reporting requirement also extends to any certified DBE subcontractor.

We will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

## **ATTACHMENTS**

Attachment 1	Regulations: 49 CFR Part 26
Attachment 2	Organizational Chart
Attachment 3	DBE Directory
Attachment 4	Overall DBE Goal (Include Breakout of Estimated Race-Neutral & Race-Conscious Participation, Public Participation, and Contract Goal)
Attachment 5	Forms 1 & 2 for Demonstration of Good Faith Efforts or Good Faith Effort Plan
Attachment 6	Uniform Report of DBE Awards & Commitment

**Attachment 1**

Regulations: 49 CFR 26  
(Regulations will be available for public distribution)

## Attachment 2

### City Of Dodge City Organizational Chart

#### Citizens of Dodge City

- City Commission (5)
  - City Manager
    - Director of Finance/ City Clerk
    - Director Of Parks and Recreation
    - Director Of Conv.& Visitors Bureau
    - Director of Engineering Services
    - Director of Development Services
    - Superintendent of Public Work/ Airport Manager
    - Fire Chief
    - Chief of Police
    - Director Of Human Resources
    - Assistant to The City Manager (2)
    - Public Information Officer
    - Director of Economic Development
    - Director of Administration
    - City Judge
    - Legal Counsel

**Attachment 3**

**DBE Directory**

**NOTE:** A current **DBE** listing is available for public distribution, from the Kansas Department of Transportation at:

<http://www.ksdot.org/divadmin/civilrights/>

And

<http://www.ksdot.org/divAdmin/DBEConstruction/dbedir.aspx>

**Attachment 4**

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**DBE GOAL for FY-2017 - 2020**  
DODGE CITY REGIONAL AIRPORT, DODGE CITY, KANSAS

Section 26.45: Overall DBE 4-Year Goal

**Name of Recipient:** City of Dodge City

**Goal Period:** FY-2017-2018-2019-2020 –June 1, 2017 through June 30, 2020

**DBE Overall Goal:** 4.00%

**Step 1. Analysis:** Actual relative availability of DBEs

NAICS	Type of Work	Total DBE's	Total All Firms
23	Construction	1	90
48-484	Transportation	2	70
	Total	<b>3</b>	<b>160</b>

Divide the total number of DBE's by the total number of All Firms = 1.88%

**Step 2. Analysis:** Adjustment to Step 1 base figure to make it more precise.

Median of past 3 years accomplishments = 3.34%

To arrive at an overall goal, we added our Step 1 base figure with our Step 2 adjustment figure and then averaged the total arriving at an overall goal of 2.60%. We feel this adjusted goal figure will accurately reflect DBE participation that can be achieved for the type of project work being awarded during FY-13/14/15. However, the City of Dodge City is increasing its overall goal by 1.4% for a total overall goal of **4.00%** for FY-2018/2019 and 2020.

Further, there are no applicable disparity studies for the local market area or recent legal case information available from the State of Kansas to show any evidence of barriers to entry or competitiveness of DBEs in Dodge City or Southwest Kansas counties.

**Breakout of Estimated Race Neutral (RN) and Race Conscious (RC) Participation.** 26.51(b)(1-9)

The recipient will meet the maximum feasible portion of its overall goal by using RN means of facilitating DBE participation.

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation;
2. Providing technical assistance and other services;
3. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors

The recipient estimates that in meeting its overall goal 4.00%, it will obtain 4.00% from RN participation and 0% through RC measures.

The City of Dodge City does not have a history of DBE participation or over-achievement of goals to reference and expects to obtain its DBE participation through the use of DBE contract goals or a conscious effort to obtain DBE participation. Therefore, we are applying the entire goal of 4.00 to race-conscious participation.

The City of Dodge City will adjust the estimated breakout of RN and RC DBE participation as needed to reflect actual DBE participation (see Section 26.51(f)) and track and report RN and RC participation separately. For reporting purposes, RN DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract obtained through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal,

DBE participation on a prime contract exceeding a contract goal and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

**Public Participation** - Consultation: Section 26.45(g)(1).

The City of Dodge City submits its overall 4-year goal to DOT on August 1 as required.

Before establishing the overall goal, the City of Dodge City will consult with the Chamber of Commerce, Community Development Office, and KDOT, without limiting consultation to these persons or groups, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City of Dodge City's efforts to establish a level playing field for the participation of DBEs

Following the consultation, we will publish a notice in the local newspaper of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the airport administration building for 30 days following the date of the notice, and informing the public that the City of Dodge City and DOT will accept comments on the goals for 45 days from the date of the notice. Normally, we will issue this notice by June 1 of each year. The notice must include addresses to which comments may be sent and addresses where the proposal may be reviewed.

Our overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses, if any.

### **Contract Goals**

The City of Dodge City will use contract goals to meet any portion of the overall goal that the recipient does not project being able to meet using RN means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the recipient's overall goal that is not projected to be met through the use of RN means.

The City of Dodge City will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. It need not establish a contract goal on every such contract, and the size of the contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work and availability of DBE's to perform the particular type of work).

We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

PUBLIC NOTICE

The City of Dodge City – Dodge City Regional Airport hereby announces its four-year overall goal for federal fiscal years 2017 - 2020 of 4.00% for Disadvantaged Business Enterprise (DBE) participation on airport construction projects. The proposed goal and rationale are available for inspection between 8:00 a.m. and 5:00 p.m., Monday through Friday at the Airport Manager's Office, 703 West Trail Street, Dodge City, KS and at the Dodge City Regional Airport Administration Office, 100 Airport Road, Dodge City KS for 30 days from the date of this publication.

Comments on the DBE goal will be accepted for 45 days from the date of this publication and can be sent to the following:

Corey Keller, Superintendent of Public Works / Airport Manager  
Dodge City Regional Airport  
806 Second Ave.  
Dodge City KS 67801

or

Ofelia Medina,  
*DBE Compliance Specialist*  
*FAA Office of Civil Rights, AWP-9*  
*Federal Aviation Administration*  
*P.O. Box 92007*  
*Los Angeles, CA 90009-2007*

**Attachment 5**

**Forms 1 & 2 for Demonstration of Good Faith Efforts**

**FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

The undersigned bidder has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

\_\_\_\_\_ The bidder is committed to a minimum of \_\_\_\_\_ % DBE utilization on this contract.

\_\_\_\_\_ The bidder (if unable to meet the DBE goal of \_\_\_\_\_%) is committed to a minimum of \_\_\_\_\_% DBE utilization on this contract and should submit documentation demonstrating good faith efforts.

Name of bidder firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_  
(Signature) Title

**FORM 2: LETTER OF INTENT**

Name of bidder firm: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

.....

.....

.....

.....

The bidder is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

**Affirmation**

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By \_\_\_\_\_  
(Signature) Title

**If the bidder does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

## Attachment 6

### Uniform Report of DBE Awards & Commitment

UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS										
**Please refer to the Instructions sheet for directions on filling out this form**										
1. Submitted to (check only one):		<input type="checkbox"/> FHWA		<input type="checkbox"/> FAA		<input type="checkbox"/> FTA--Vendor Number _____				
2. AIP Numbers (FAA Recipients Only):										
3. Federal fiscal year in which reporting period falls:		FY _____		4. Date This Report Submitted:						
5. Reporting Period		<input type="checkbox"/> Report due June 1 (for period Oct. 1-Mar. 31)				<input type="checkbox"/> Report due Dec. 1 (for period April 1-Sept. 30)				
6. Name of Recipient:										
7. Annual DBE Goal(s):		Race Conscious Goal _____ %		Race Neutral Goal _____ %		OVERALL Goal _____ %				
		A	B	C	D	E	F	G	H	I
<b>AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD</b> <small>(total contracts and subcontracts awarded or committed during this reporting period)</small>		Total Dollars	Total Number	Total to DBEs (dollars)	Total to DBEs (number)	Total to DBEs /Race Conscious (dollars)	Total to DBEs/Race Conscious (number)	Total to DBEs/Race Neutral (dollars)	Total to DBEs/Race Neutral (number)	Percentage of total dollars to DBEs
8. Prime contracts awarded this period										
9. Subcontracts awarded/committed this period										
<b>TOTAL</b>										
		A	B	C	D	E	F	G	H	I
<b>DBE AWARDS/COMMITMENTS THIS REPORTING PERIOD-BREAKDOWN BY ETHNICITY &amp; GENDER</b>		Black American	Hispanic American	Native American	Subcont. Asian American	Asian-Pacific American	Non-Minority Women	Other (i.e. not of any other group listed here)	TOTALS (for this reporting period only)	Year-End TOTALS
10. Total Number of Contracts (Prime and Sub)										
11. Total Dollar Value										
		A	B	C	D	E				
<b>ACTUAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD</b>		Number of Prime Contracts Completed	Total Dollar Value of Prime Contracts Completed	DBE Participation Needed to Meet Goal (Dollars)	Total DBE Participation (Dollars)	Percentage of Total DBE Participation				
12. Race Conscious										
13. Race Neutral										
14. Totals										
15. Submitted by (Print Name of Authorized Representative)				16. Signature of Authorized Representative						
17. Phone Number:				18. Fax Number:						

City of Dodge City

City of Dodge City  
806 N. Second Ave.  
67801

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

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*Memorandum*

*To: Cherise Tieben, City Manager*  
*From: Nannette Pogue*  
*Date: May 11, 2017*  
*Subject: Ordinance No. 3657 and Resolution No. 2017-18*  
*Agenda Item: Ordinances and Resolutions*

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**Recommendation:** I recommend the City Commission approve Ordinance No. 3657 and Resolution No. 2017-18

**Background:** Ordinance No. 3657 authorizes and provides for the issuance of General Obligation Bonds, Series 2017-A of the City, provides for the levy and collection of annual tax to pay the principal and interest on the bonds.

The City has previously taken action to fund several street improvements including: Trail Street reconstruction near National Beef entrance; 1<sup>st</sup> Avenue reconstruction & waterline replacement; Arkansas River sediment removal; street improvements on Market St., Soule St. & 6<sup>th</sup> Ave.; Stormwater Improvements for the Ave. K RCB design; 4<sup>th</sup> Ave. reconstruction; and 6<sup>th</sup> Ave. Extension (The Bonds will finance approximately \$560,000 of this project)

By approving Ordinance No. 3657, the City Commission will authorize the issuance of General Obligation Bonds, Series 2017 A, of the City in the principal amount of \$2,945,000 of its general obligation bonds, together with premium thereon, to pay a portion of the costs of the Improvements.

This bond issue is a public bond sale. It was advertised in the Kansas Register and Dodge City Daily Globe that bids will be taken until May 15 at 11:00 a.m. A tabulation of the bids will be available at the meeting on Monday night. Ahead of the Ordinance, the Commission will approve the best bid for the bonds.

Resolution No. 2017-18 prescribes the form and details of the sale and delivery of the bonds and makes certain covenants and agreements to provide for the payment and security of those bonds.

**Justification:** Necessary to fund street improvement projects and stormwater improvement projects.

**Financial Considerations:** Annual payments to mature the bonds.

**Purpose/Mission:** We value progress and growth for the community's future.

**Legal Considerations:** All have been satisfied by bond counsel. They have prepared all of the ordinances, resolutions and other documents necessary to legally complete the sale.

**Attachments:** Ordinance No. 3657 and Resolution No. 2017-18.

**ORDINANCE NO. 3657**

**OF**

**THE CITY OF DODGE CITY, KANSAS**

**PASSED**

**MAY 15, 2017**

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**GENERAL OBLIGATION BONDS  
SERIES 2017-A**

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**ORDINANCE NO. 3657**

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 2017-A, OF THE CITY OF DODGE CITY, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.**

**WHEREAS**, the City of Dodge City, Kansas (the “City”) is a city of the first class, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, pursuant to the laws of the State of Kansas applicable thereto, by proceedings duly had, the City Commission of the City (the “Governing Body”) has authorized the following improvements (the “Improvements”) to be made in the City, to-wit:

<u>Project Description</u>	<u>Ord./Res. No.</u>	<u>Authority (K.S.A.)</u>	<u>Project Cost</u>
Main Trafficway Improvements – Trail Street reconstruction near National Beef entrance	Ord. 3572/ Res. 2017-05	12-685 <i>et seq.</i>	\$ 250,000.00
Main Trafficway Improvements – 1 <sup>st</sup> Avenue reconstruction & waterline replacement	Ord. 3572/ Res. 2017-05	12-685 <i>et seq.</i>	500,000.00
Stormwater Improvements – Arkansas River sediment removal	Res. 2017-06	13-1024a/ Ch. Ord. 41	1,110,988.35
Street Improvements – Market St., Soule St. & 6 <sup>th</sup> Ave.	Res. 2017-06	13-1024a/ Ch. Ord. 41	300,000.00
Stormwater Improvements – Ave. K RCB design	Res. 2017-06	13-1024a/ Ch. Ord. 41	50,000.00
Street Improvements – 4 <sup>th</sup> Ave. reconstruction	Res. 2017-06	13-1024a/ Ch. Ord. 41	150,000.00
Main Trafficway Improvements – 6 <sup>th</sup> Ave. Extension <sup>1</sup>	Ord. 3087/ Res. 2016-15	12-685 <i>et seq.</i>	<u>1,600,000.00</u>
<b>Total</b>			<b><u>\$3,960,988.35</u></b>

<sup>1</sup> The Bonds will finance approximately \$560,000 of this project; the City anticipates using proceeds of its Series 2013-A Bonds and Series 2016-B Bonds pursuant to the substitution provisions in **Section 504** of the respective bond resolutions to finance the balance.

**WHEREAS**, all legal requirements pertaining to the Improvements have been complied with, and the Governing Body now finds and determines that the total cost of the Improvements (including issuance costs of the general obligation bonds) and related expenses are at least \$2,945,000\*, said cost to be paid by the City at large by the issuance of general obligation bonds; and

**WHEREAS**, the Governing Body is authorized by law to issue general obligation bonds of the City to pay the costs of the Improvements and proposes to issue \$2,945,000\* of its general obligation bonds[, together with bid premium thereon,] to pay a portion of the costs of the Improvements; and

**WHEREAS**, the Governing Body has advertised the sale of the Bonds in accordance with the law and at a meeting held in the City on this date awarded the sale of such Bonds to the best bidder.

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

**Section 1. Definitions of Words and Terms.** In addition to words and terms defined elsewhere herein, the following words and terms in this Ordinance shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

**“Act”** means the Constitution and statutes of the State of Kansas including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, K.S.A. 12-685 *et seq.* and K.S.A. 13-1024a *et seq.*, as amended by Charter Ordinance No. 41, as amended and supplemented.

**“Bond and Interest Fund”** means the Bond and Interest Fund of the City for its general obligation bonds.

**“Bond Resolution”** means the resolution to be adopted by the Governing Body prescribing the terms and details of the Bonds and making covenants with respect thereto.

**“Bonds”** means the City's General Obligation Bonds, Series 2017-A, dated June 1, 2017, authorized by this Ordinance.

**“City”** means the City of Dodge City, Kansas.

**“Clerk”** means the duly appointed and acting Clerk of the City or, in the Clerk's absence, the duly appointed Deputy, Assistant or Acting Clerk.

**“Director of Finance”** means the duly appointed and acting Director of Finance of the City or, in the Director of Finance's absence, the duly appointed Deputy, Assistant or Acting Director of Finance of the City.

**“Governing Body”** means the City Commission of the City.

**“Mayor”** means the duly elected and acting Mayor of the City or, in the Mayor's absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

**“Ordinance”** means this Ordinance authorizing the issuance of the Bonds.

**“State”** means the State of Kansas.

**“Substitute Improvements”** means the substitute or additional improvements of the City authorized in the manner set forth in the Bond Resolution.

**Section 2. Authorization of the Bonds.** There shall be issued and hereby are authorized and directed to be issued the General Obligation Bonds, Series 2017-A, of the City in the principal amount of \$2,945,000\*, for the purpose of providing funds to: (a) pay a portion of the costs of the Improvements; and (b) pay costs of issuance of the Bonds.

**Section 3. Security for the Bonds.** The Bonds shall be general obligations of the City payable as to both principal and interest from ad valorem taxes which may be levied without limitation as

to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

**Section 4. Terms, Details and Conditions of the Bonds.** The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Bond Resolution hereafter adopted by the Governing Body.

**Section 5. Levy and Collection of Annual Tax.** The Governing Body shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by levying and collecting the necessary taxes upon all of the taxable tangible property within the City in the manner provided by law.

The taxes above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due and the fees and expenses of the Paying Agent. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund.

If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the City and to reimburse said general funds for money so expended when said taxes are collected.

**Section 6. Further Authority.** The Mayor, Director of Finance, Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

**Section 7. Governing Law.** This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

**Section 8. Effective Date.** This Ordinance shall take effect and be in full force from and after its passage by the Governing Body and publication of the Ordinance or a summary thereof in the official City newspaper.

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**PASSED** by the City Commission on May 15, 2017 and **SIGNED** by the Mayor.

(SEAL)

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Mayor

ATTEST:

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Clerk

**RESOLUTION NO. 2017-18**

**A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION BONDS, SERIES 2017-A, OF THE CITY OF DODGE CITY, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 3657 OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.**

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**WHEREAS**, the Issuer has heretofore passed the Ordinance authorizing the issuance of the Bonds;  
and

**WHEREAS**, the Ordinance authorized the City Commission of the Issuer (the “Governing Body”) to adopt a resolution prescribing certain details and conditions and to make certain covenants with respect to the issuance of the Bonds; and

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary for the Issuer to authorize the issuance and delivery of the Bonds in the principal amount of \$2,945,000\* to pay a portion of the costs of the Improvements.

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

**ARTICLE I**

**DEFINITIONS**

**Section 101. Definitions of Words and Terms.** In addition to words and terms defined elsewhere herein, the following words and terms as used in this Bond Resolution shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“**Act**” means the Constitution and statutes of the State of Kansas including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, K.S.A. 12-685 *et seq.* and K.S.A. 13-1024a *et seq.*, as amended by Charter Ordinance No. 41, as amended and supplemented.

“**Authorized Denomination**” means \$5,000 or any integral multiples thereof.

“**Beneficial Owner**” of the Bonds includes any Owner of the Bonds and any other Person who, directly or indirectly has the investment power with respect to such Bonds.

“**Bond and Interest Fund**” means the Bond and Interest Fund of the Issuer for its general obligation bonds.

**“Bond Counsel”** means the firm of Gilmore & Bell, P.C., or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the Issuer.

**“Bond Payment Date”** means any date on which principal of or interest on any Bond is payable.

**“Bond Register”** means the books for the registration, transfer and exchange of Bonds kept at the office of the Bond Registrar.

**“Bond Registrar”** means the State Treasurer and any successors and assigns.

**“Bond Resolution”** means this resolution relating to the Bonds.

**“Bonds”** means the General Obligation Bonds, Series 2017-A, authorized and issued by the Issuer pursuant to the Ordinance and this Bond Resolution.

**“Business Day”** means a day other than a Saturday, Sunday or any day designated as a holiday by the Congress of the United States or by the Legislature of the State and on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

**“Cede & Co.”** means Cede & Co., as nominee of DTC and any successor nominee of DTC.

**“City”** means the City of Dodge City, Kansas.

**“Clerk”** means the duly appointed and/or elected Clerk or, in the Clerk's absence, the duly appointed Deputy Clerk or Acting Clerk of the Issuer.

**“Code”** means the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder by the United States Department of the Treasury.

**“Compliance Account”** means the Compliance Account created pursuant to *Section 501* hereof.

**“Consulting Engineer”** means an independent engineer or engineering firm, or architect or architectural firm, having a favorable reputation for skill and experience in the construction, financing and operation of public facilities, at the time employed by the Issuer for the purpose of carrying out the duties imposed on the Consulting Engineer by this Bond Resolution.

**“Costs of Issuance”** means all costs of issuing the Bonds, including but not limited to all publication, printing, signing and mailing expenses in connection therewith, registration fees, financial advisory fees, all legal fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with compliance with the Code, all expenses incurred in connection with receiving ratings on the Bonds, and any premiums or expenses incurred in obtaining municipal bond insurance on the Bonds.

**“Costs of Issuance Account”** means the Costs of Issuance Account for General Obligation Bonds, Series 2017-A created pursuant to *Section 501* hereof.

**“Dated Date”** means June 1, 2017.

**“Debt Service Account”** means the Debt Service Account for General Obligation Bonds, Series 2017-A created within the Bond and Interest Fund pursuant to *Section 501* hereof.

**“Debt Service Requirements”** means the aggregate principal payments (whether at maturity or pursuant to scheduled mandatory sinking fund redemption requirements) and interest payments on the Bonds for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State and having full trust powers.

**“Defaulted Interest”** means interest on any Bond which is payable but not paid on any Interest Payment Date.

**“Defeasance Obligations”** means any of the following obligations:

(a) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are (i) not subject to redemption prior to maturity or (ii) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(3) such cash and the principal of and interest on such United States Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and United States Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) such obligations are rated in a rating category by Moody's or Standard & Poor's that is no lower than the rating category then assigned by that Rating Agency to United States Government Obligations.

**“Derivative”** means any investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations.

**“Director of Finance”** means the duly appointed and acting Director of Finance of the Issuer or, in the Director of Finance's absence, the duly appointed Deputy, Assistant or Acting Director of Finance of the Issuer.

**“Disclosure Undertaking”** means the Issuer's Omnibus Continuing Disclosure Undertaking, as may be amended and supplemented, relating to certain obligations contained in the SEC Rule.

“**DTC**” means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors and assigns, including any successor securities depository duly appointed.

“**DTC Representation Letter**” means the Blanket Letter of Representation from the Issuer and the Paying Agent to DTC which provides for a book-entry system, or any agreement between the Issuer and Paying Agent and a successor securities depository duly appointed.

“**Event of Default**” means each of the following occurrences or events:

(a) Payment of the principal and of the redemption premium, if any, of any of the Bonds shall not be made when the same shall become due and payable, either at Stated Maturity or by proceedings for redemption or otherwise;

(b) Payment of any installment of interest on any of the Bonds shall not be made when the same shall become due; or

(c) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Bond Resolution (other than the covenants relating to continuing disclosure requirements contained herein and in the Disclosure Undertaking) on the part of the Issuer to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Issuer by the Owner of any of the Bonds then Outstanding.

“**Federal Tax Certificate**” means the Issuer's Federal Tax Certificate dated as of the Issue Date, as the same may be amended or supplemented in accordance with the provisions thereof.

“**Financeable Costs**” means the amount of expenditure for an Improvement which has been duly authorized by action of the Governing Body to be financed by general obligation bonds, less: (a) the amount of any temporary notes or general obligation bonds of the Issuer which are currently Outstanding and available to pay such Financeable Costs; and (b) any amount of Financeable Costs which has been previously paid by the Issuer or by any eligible source of funds unless such amounts are entitled to be reimbursed to the Issuer under State or federal law.

“**Fiscal Year**” means the twelve month period ending on December 31.

“**Funds and Accounts**” means funds and accounts created pursuant to or referred to in *Section 501* hereof.

“**Governing Body**” means the City Commission of the Issuer.

“**Improvement Fund**” means the Improvement Fund for General Obligation Bonds, Series 2017-A created pursuant to *Section 501* hereof.

“**Improvements**” means the improvements referred to in the preamble to the Ordinance and any Substitute Improvements.

“**Independent Accountant**” means an independent certified public accountant or firm of independent certified public accountants at the time employed by the Issuer for the purpose of carrying out the duties imposed on the Independent Accountant by this Bond Resolution.

**“Interest Payment Date(s)”** means the Stated Maturity of an installment of interest on any Bond which shall be March 1 and September 1 of each year, commencing September 1, 2017.

**“Issue Date”** means the date when the Issuer delivers the Bonds to the Purchaser in exchange for the Purchase Price.

**“Issuer”** means the City and any successors or assigns.

**“Maturity”** when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for redemption or otherwise.

**“Mayor”** means the duly elected and acting Mayor, or in the Mayor's absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the Issuer.

**“Moody's”** means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody's” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

**“Notice Address”** means with respect to the following entities:

(a) To the Issuer at:

City Hall  
806 2nd Avenue  
P.O. Box 880  
Dodge City, Kansas 67801  
Fax: (620) 225-8144

(b) To the Paying Agent at:

State Treasurer of the State of Kansas  
Landon Office Building  
900 Southwest Jackson, Suite 201  
Topeka, Kansas 66612-1235  
Fax: (785) 296-6976

(c) To the Purchaser:

[Purchaser]  
[Address]  
Fax: [Fax]

(d) To the Rating Agency(ies):

Moody's Municipal Rating Desk  
7 World Trade Center  
250 Greenwich Street, 23rd Floor  
New York, New York 10007

S&P Global Ratings, a division of S&P Global Inc.  
55 Water Street, 38th Floor  
New York, New York 10004

or such other address as is furnished in writing to the other parties referenced herein.

**“Notice Representative”** means:

- (a) With respect to the Issuer, the Clerk.
- (b) With respect to the Bond Registrar and Paying Agent, the Director of Bond Services.
- (c) With respect to any Purchaser, the manager of its Municipal Bond Department.
- (d) With respect to any Rating Agency, any Vice President thereof.

**“Official Statement”** means Issuer’s Official Statement relating to the Bonds.

**“Ordinance”** means Ordinance No. [\_\_\_\_] of the Issuer authorizing the issuance of the Bonds, as amended from time to time.

**“Outstanding”** means, when used with reference to the Bonds, as of a particular date of determination, all Bonds theretofore authenticated and delivered, except the following Bonds:

- (a) Bonds theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of *Article VII* hereof; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered hereunder.

**“Owner”** when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register. Whenever consent of the Owners is required pursuant to the terms of this Bond Resolution, and the Owner of the Bonds, as set forth on the Bond Register, is Cede & Co., the term Owner shall be deemed to be the Beneficial Owner of the Bonds.

**“Participants”** means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

**“Paying Agent”** means the State Treasurer and any successors and assigns.

**“Permitted Investments”** shall mean the investments hereinafter described, provided, however, no moneys or funds shall be invested in a Derivative: (a) investments authorized by K.S.A. 12-1675 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A. 12-1677a, and amendments thereto; (c) direct obligations of the United States Government or any agency thereof; (d) the Issuer's temporary notes issued pursuant to K.S.A. 10-123 and amendments thereto; (e) interest-bearing time deposits in commercial banks or trust companies located in the county or counties in which the Issuer is located which are insured by the Federal Deposit Insurance Corporation or collateralized by securities

described in (c); (f) obligations of the federal national mortgage association, federal home loan banks, federal home loan mortgage corporation or government national mortgage association; (g) repurchase agreements for securities described in (c) or (f); (h) investment agreements or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody's or Standard & Poor's; (i) investments and shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts evidencing ownership interests in securities or portions thereof described in (c) or (f); (k) municipal bonds or other obligations issued by any municipality of the State as defined in K.S.A. 10-1101 which are general obligations of the municipality issuing the same; or (l) bonds of any municipality of the State as defined in K.S.A. 10-1101 which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (c) or (f), all as may be further restricted or modified by amendments to applicable State law.

**“Person”** means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

**“Purchase Price”** means the principal amount of the Bonds plus accrued interest to the date of delivery[, plus a premium of \$\_\_\_\_\_][, less an underwriting discount of \$\_\_\_\_\_].

**“Purchaser”** means [Purchaser], [City, State], the original purchaser of the Bonds, and any successor and assigns.

**“Rating Agency”** means any company, agency or entity that provides, pursuant to request of the Issuer, financial ratings for the Bonds.

**“Rebate Fund”** means the Rebate Fund for General Obligation Bonds, Series 2017-A created pursuant to *Section 501* hereof.

**“Record Dates”** for the interest payable on any Interest Payment Date means the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

**“Redemption Date”** means, when used with respect to any Bond to be redeemed, the date fixed for the redemption of such Bond pursuant to the terms of this Bond Resolution.

**“Redemption Price”** means, when used with respect to any Bond to be redeemed, the price at which such Bond is to be redeemed pursuant to the terms of this Bond Resolution, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

**“Replacement Bonds”** means Bonds issued to the Beneficial Owners of the Bonds in accordance with *Section 210* hereof.

**“SEC Rule”** means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

**“Securities Depository”** means, initially, DTC, and its successors and assigns.

**“Special Record Date”** means the date fixed by the Paying Agent pursuant to *Article II* hereof for the payment of Defaulted Interest.

**“Standard & Poor's” or “S&P”** means S&P Global Ratings, a division of S&P Global Inc., a corporation organized and existing under the laws of the State of New York, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Standard & Poor's shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

**“State”** means the state of Kansas.

**“State Treasurer”** means the duly elected Treasurer or, in the Treasurer's absence, the duly appointed Deputy Treasurer or acting Treasurer of the State.

**“Stated Maturity”** when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond and this Bond Resolution as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

**“Substitute Improvements”** means the substitute or additional improvements of the Issuer described in *Article V* hereof.

[ **“Term Bonds”** means the Bonds scheduled to mature in the year 2026.]

[ **“\_\_\_ Term Bonds”** means the Bonds scheduled to mature in the year \_\_\_\_.]

[ **“2026 Term Bonds”** means the Bonds scheduled to mature in the year 2026.]

[ **“Term Bonds”** means collectively the [\_\_\_\_] Term Bonds[, the [\_\_\_\_] Term Bonds] and the 2026 Term Bonds.]

**“Treasurer”** means the duly appointed and/or elected Treasurer of the Issuer or, in the Treasurer's absence, the duly appointed Deputy Treasurer or acting Treasurer of the Issuer.

**“United States Government Obligations”** means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payment on obligations issued by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated in the highest rating category by a nationally recognized rating service and such obligations are held in a custodial account for the benefit of the Issuer.

## ARTICLE II

### AUTHORIZATION AND DETAILS OF THE BONDS

**Section 201. Authorization of the Bonds.** The Bonds have been heretofore authorized and directed to be issued pursuant to the Ordinance in the principal amount of \$2,945,000\*, for the purpose of providing funds to: (a) pay a portion of the costs of the Improvements; and (b) pay Costs of Issuance.

**Section 202. Description of the Bonds.** The Bonds shall consist of fully registered bonds in an Authorized Denomination, and shall be numbered in such manner as the Bond Registrar shall determine. All of the Bonds shall be dated as of the Dated Date, shall become due in the amounts, on the Stated Maturities, subject to redemption and payment prior to their Stated Maturities as provided in *Article III* hereof, and shall bear interest at the rates per annum as follows:

[SERIAL BONDS]

<u>Stated Maturity</u> <u>September 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>	<u>Stated Maturity</u> <u>September 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
2017	\$	_____ %	2022	\$	_____ %
2018			2023		
2019			2024		
2020			2025		
2021			2026		

[TERM BONDS]

<u>Stated Maturity</u> <u>September 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
2026	\$ _____	_____ %]

The Bonds shall bear interest at the above specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the later of the Dated Date or the most recent Interest Payment Date to which interest has been paid on the Interest Payment Dates in the manner set forth in *Section 204* hereof.

Each of the Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be printed in accordance with the format required by the Attorney General of the State and shall be substantially in the form attached hereto as *EXHIBIT A* or as may be required by the Attorney General pursuant to the Notice of Systems of Registration for Kansas Municipal Bonds, 2 Kan. Reg. 921 (1983), in accordance with the Kansas Bond Registration Law, K.S.A. 10-620 *et seq.*

**Section 203. Designation of Paying Agent and Bond Registrar.** The State Treasurer is hereby designated as the Paying Agent for the payment of principal of and interest on the Bonds and Bond Registrar with respect to the registration, transfer and exchange of Bonds. The Mayor of the Issuer is hereby authorized and empowered to execute on behalf of the Issuer an agreement with the Bond Registrar and Paying Agent for the Bonds.

The Issuer will at all times maintain a Paying Agent and Bond Registrar meeting the qualifications herein described for the performance of the duties hereunder. The Issuer reserves the right to appoint a successor Paying Agent or Bond Registrar by (a) filing with the Paying Agent or Bond Registrar then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent or Bond Registrar and appointing a successor, and (b) causing notice of appointment of the successor Paying Agent and Bond Registrar to be given by first class mail to each Owner. No resignation or removal of the Paying Agent or Bond Registrar shall become effective until a successor has been appointed and has accepted the duties of Paying Agent or Bond Registrar.

Every Paying Agent or Bond Registrar appointed hereunder shall at all times meet the requirements of K.S.A. 10-501 *et seq.* and K.S.A. 10-620 *et seq.*, respectively.

**Section 204. Method and Place of Payment of the Bonds.** The principal of, or Redemption Price, and interest on the Bonds shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal or Redemption Price of each Bond shall be paid at Maturity to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the principal office of the Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Paying Agent to the address of such Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Owner; or (b) in the case of an interest payment to Cede & Co. or any Owner of \$500,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank ABA routing number and account number to which such Owner wishes to have such transfer directed.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Owner of such Bond on the relevant Record Date and shall be payable to the Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The Issuer shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefore to be mailed, by first class mail, postage prepaid, to each Owner of a Bond entitled to such notice at the address of such Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Bonds and at least annually shall forward a copy or summary of such records to the Issuer.

**Section 205. Payments Due on Saturdays, Sundays and Holidays.** In any case where a Bond Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Bond Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Bond Payment Date, and no interest shall accrue for the period after such Bond Payment Date.

**Section 206. Registration, Transfer and Exchange of Bonds.** The Issuer covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the office of the Bond Registrar as herein provided. Each Bond when issued shall be registered in the name of the Owner thereof on the Bond Register.

Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the principal office of the Bond Registrar, the Bond Registrar shall transfer

or exchange such Bond for a new Bond or Bonds in any Authorized Denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange.

Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Bond Registrar, duly executed by the Owner thereof or by the Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Bond Resolution. The Issuer shall pay the fees and expenses of the Bond Registrar for the registration, transfer and exchange of Bonds provided for by this Bond Resolution and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Bond Registrar, are the responsibility of the Owners of the Bonds. In the event any Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Code § 3406, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Owner hereunder or under the Bonds.

The Issuer and the Bond Registrar shall not be required (a) to register the transfer or exchange of any Bond that has been called for redemption after notice of such redemption has been mailed by the Paying Agent pursuant to *Article III* hereof and during the period of 15 days next preceding the date of mailing of such notice of redemption; or (b) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the Issuer of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to this *Article II*.

The Issuer and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute Owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Owner or upon the Owner's order shall be valid and effective to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Bond Registrar, the Bond Register may be inspected and copied by the Owners (or a designated representative thereof) of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Owners whose authority is evidenced to the satisfaction of the Bond Registrar.

**Section 207. Execution, Registration, Authentication and Delivery of Bonds.** Each of the Bonds, including any Bonds issued in exchange or as substitutions for the Bonds initially delivered, shall be executed for and on behalf of the Issuer by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the Clerk, and the seal of the Issuer shall be affixed thereto or imprinted thereon. The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds in the manner herein specified, and to cause the Bonds to be registered in the office of the Clerk, which registration shall be evidenced by the manual or facsimile signature of the Clerk with the seal of the Issuer affixed thereto or imprinted thereon. The Bonds shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bonds ceases to

be such officer before the delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds as herein specified, and when duly executed, to deliver the Bonds to the Bond Registrar for authentication.

The Bonds shall have endorsed thereon a certificate of authentication substantially in the form attached hereto as **EXHIBIT A** hereof, which shall be manually executed by an authorized officer or employee of the Bond Registrar, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Bond Resolution or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Bond Registrar. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Bond Resolution. Upon authentication, the Bond Registrar shall deliver the Bonds to the Purchaser upon instructions of the Issuer or its representative.

**Section 208. Mutilated, Lost, Stolen or Destroyed Bonds.** If (a) any mutilated Bond is surrendered to the Bond Registrar or the Bond Registrar receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Issuer and the Bond Registrar such security or indemnity as may be required by each of them, then, in the absence of notice to the Issuer or the Bond Registrar that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and, upon the Issuer's request, the Bond Registrar shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Issuer, in its discretion, may pay such Bond instead of issuing a new Bond.

Upon the issuance of any new Bond under this Section, the Issuer and the Paying Agent may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the Issuer, and shall be entitled to all the benefits of this Bond Resolution equally and ratably with all other Outstanding Bonds.

**Section 209. Cancellation and Destruction of Bonds Upon Payment.** All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and destroyed and shall file an executed counterpart of such certificate with the Issuer.

**Section 210. Book-Entry Bonds; Securities Depository.** The Issuer and Paying Agent have entered into a DTC Representation Letter with DTC. The Bonds shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no Beneficial Owner will receive

certificates representing their respective interests in the Bonds, except in the event the Bond Registrar issues Replacement Bonds as provided in this Section. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Bonds to the Participants until and unless the Bond Registrar authenticates and delivers Replacement Bonds to the Beneficial Owners as described in the following paragraph.

The Issuer may decide, subject to the requirements of the Operational Arrangements of DTC (or a successor Securities Depository), and the following provisions of this section to discontinue use of the system of book-entry transfers through DTC (or a successor Securities Depository):

(a) If the Issuer determines (1) that the Securities Depository is unable to properly discharge its responsibilities, or (2) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (3) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds; or

(b) if the Bond Registrar receives written notice from Participants having interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, then the Bond Registrar shall notify the Owners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Bond Registrar shall register in the name of and authenticate and deliver Replacement Bonds to the Beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (a)(1) or (a)(2) of this paragraph, the Issuer, with the consent of the Bond Registrar, may select a successor securities depository in accordance with the following paragraph to effect book-entry transfers.

In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Bond Registrar, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the Issuer, the Bond Registrar or Owners are unable to locate a qualified successor of the Securities Depository in accordance with the following paragraph, then the Bond Registrar shall authenticate and cause delivery of Replacement Bonds to Owners, as provided herein. The Bond Registrar may rely on information from the Securities Depository and its Participants as to the names of the Beneficial Owners of the Bonds. The cost of printing, registration, authentication, and delivery of Replacement Bonds shall be paid for by the Issuer.

In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the Issuer may appoint a successor Securities Depository provided the Bond Registrar receives written evidence satisfactory to the Bond Registrar with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Bond Registrar upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in an Authorized Denominations and form as provided herein.

**Section 211. Nonpresentment of Bonds.** If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the Issuer to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Bond Resolution or on, or with respect to, said Bond. If any Bond is not presented for payment within four (4) years following the date when such Bond becomes due at Maturity, the Paying Agent shall repay, without liability for interest thereon, to the Issuer the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Issuer, and the Owner thereof shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the Issuer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

**Section 212. Preliminary and Final Official Statement.** The Preliminary Official Statement dated April 17, 2017, is hereby ratified and approved. The Official Statement is hereby authorized to be prepared by supplementing, amending and completing the Preliminary Official Statement, with such changes and additions thereto as are necessary to conform to and describe the transaction. The Mayor and Director of Finance are hereby authorized to execute the Official Statement as so supplemented, amended and completed, and the use and public distribution of the Official Statement by the Purchaser in connection with the reoffering of the Bonds is hereby authorized. The proper officials of the Issuer are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the Issue Date.

The Issuer agrees to provide to the Purchaser within seven business days of the date of the sale of Bonds sufficient copies of the Official Statement to enable the Purchaser to comply with the requirements of the SEC Rule and Rule G-32 of the Municipal Securities Rulemaking Board.

**Section 213. Sale of the Bonds.** The sale of the Bonds to the Purchaser is hereby ratified and confirmed. The Mayor and Director of Finance are hereby authorized to execute the official bid form submitted by the Purchaser. Delivery of the Bonds shall be made to the Purchaser on the Issue Date (which shall be as soon as practicable after the adoption of this Bond Resolution), upon payment of the Purchase Price.

### ARTICLE III

#### REDEMPTION OF BONDS

**Section 301. Redemption by Issuer.**

*Optional Redemption.* At the option of the Issuer, Bonds maturing on September 1 in the years 2025, and thereafter, will be subject to redemption and payment prior to their Stated Maturity on September 1, 2024, and thereafter, as a whole or in part (selection of maturities and the amount of Bonds of each maturity to be redeemed to be determined by the Issuer in such equitable manner as it may determine) at any time, at the Redemption Price of 100% (expressed as a percentage of the principal amount), plus accrued interest to the Redemption Date.

[ **Mandatory Redemption.** [(a) [ ] Term Bonds.] The [ ] Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in **Article IV** hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on September 1 in each year, the following principal amounts of such [ ] Term Bonds:

<b><u>Principal Amount</u></b>	<b><u>Year</u></b>
\$	

\*

\_\_\_\_\_  
\*Final Maturity

(b) [ ] Term Bonds. The [ ] Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in **Article IV** hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on September 1 in each year, the following principal amounts of such [ ] Term Bonds:

<b><u>Principal Amount</u></b>	<b><u>Year</u></b>
\$	

[ ]\*

\_\_\_\_\_  
\*Final Maturity]

(c) 2026 Term Bonds.] The 2026 Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in **Article IV** hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on September 1 in each year, the following principal amounts of such 2026 Term Bonds:

<b><u>Principal Amount</u></b>	<b><u>Year</u></b>
\$	

2026\*

\_\_\_\_\_  
\*Final Maturity]

At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the Issuer may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Owner thereof whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical;

or (3) receive a credit with respect to the mandatory redemption obligation of the Issuer under this Section for any Term Bonds subject to mandatory redemption on said mandatory Redemption Date which, prior to such date, have been redeemed (other than through the operation of the mandatory redemption requirements of this subsection) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this subsection. Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the Issuer to redeem Term Bonds of the same Stated Maturity on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for Term Bonds of the same Stated Maturity as designated by the Issuer, and the principal amount of Term Bonds to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the Issuer intends to exercise any option granted by the provisions of clauses (1), (2) or (3) above, the Issuer will, on or before the 45th day next preceding each mandatory Redemption Date, furnish the Paying Agent a written certificate indicating to what extent the provisions of said clauses (1), (2) and (3) are to be complied with, with respect to such mandatory redemption payment.]

**Section 302. Selection of Bonds to be Redeemed.** Bonds shall be redeemed only in an Authorized Denomination. When less than all of the Bonds are to be redeemed and paid prior to their Stated Maturity, such Bonds shall be redeemed in such manner as the Issuer shall determine. Bonds of less than a full Stated Maturity shall be selected by the Bond Registrar in a minimum Authorized Denomination of principal amount in such equitable manner as the Bond Registrar may determine.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than a minimum Authorized Denomination are then Outstanding, then for all purposes in connection with such redemption a minimum Authorized Denomination of face value shall be treated as though it were a separate Bond of the denomination of a minimum Authorized Denomination. If it is determined that one or more, but not all, of a minimum Authorized Denomination of face value represented by any Bond is selected for redemption, then upon notice of intention to redeem a minimum Authorized Denomination, the Owner or the Owner's duly authorized agent shall forthwith present and surrender such Bond to the Bond Registrar: (1) for payment of the Redemption Price and interest to the Redemption Date of a minimum Authorized Denomination of face value called for redemption, and (2) for exchange, without charge to the Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the redemption date to the extent of a minimum Authorized Denomination of face value called for redemption (and to that extent only).

**Section 303. Notice and Effect of Call for Redemption.** In the event the Issuer desires to call the Bonds for redemption prior to maturity, written notice of such intent shall be provided to the Bond Registrar in accordance with K.S.A. 10-129, as amended, not less than 45 days prior to the Redemption Date. The Bond Registrar shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Bond Registrar at least 45 days prior to the Redemption Date of written instructions of the Issuer specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. [The foregoing provisions of this paragraph shall not apply in the case of any mandatory redemption of Term Bonds hereunder, and Term Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the Issuer and whether or not the Paying Agent holds moneys available and sufficient to effect the required redemption.]

Unless waived by any Owner of Bonds to be redeemed, if the Issuer shall call any Bonds for redemption and payment prior to the Stated Maturity thereof, the Issuer shall give written notice of its intention to call and pay said Bonds to the Bond Registrar and the Purchaser. In addition, the Issuer shall cause the Bond Registrar to give written notice of redemption to the Owners of said Bonds. Each of said written notices shall be deposited in the United States first class mail not less than 30 days prior to the Redemption Date.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;
- (d) a statement that on the Redemption Date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and
- (e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the principal office of the Paying Agent.

The failure of any Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the Issuer shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on such Redemption Date.

For so long as the Securities Depository is effecting book-entry transfers of the Bonds, the Bond Registrar shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice from the Bond Registrar, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the Issuer defaults in the payment of the Redemption Price) such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been surrendered for redemption shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

In addition to the foregoing notice, the Issuer shall provide such notices of redemption as are required by the Disclosure Undertaking. Further notice may be given by the Issuer or the Bond Registrar

on behalf of the Issuer as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if official notice thereof is given as above prescribed:

(a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (1) the CUSIP numbers of all Bonds being redeemed; (2) the date of issue of the Bonds as originally issued; (3) the rate of interest borne by each Bond being redeemed; (4) the maturity date of each Bond being redeemed; and (5) any other descriptive information needed to identify accurately the Bonds being redeemed.

(b) Each further notice of redemption shall be sent at least one day before the mailing of notice to Owners by first class, registered or certified mail or overnight delivery, as determined by the Bond Registrar, to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(c) Each check or other transfer of funds issued for the payment of the Redemption Price of Bonds being redeemed shall bear or have enclosed the CUSIP number of the Bonds being redeemed with the proceeds of such check or other transfer.

The Paying Agent is also directed to comply with any mandatory standards then in effect for processing redemptions of municipal securities established by the State or the Securities and Exchange Commission. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.

## ARTICLE IV

### SECURITY FOR BONDS

**Section 401. Security for the Bonds.** The Bonds shall be general obligations of the Issuer payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

**Section 402. Levy and Collection of Annual Tax; Transfer to Debt Service Account.** The Governing Body shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by, to the extent necessary, levying and collecting the necessary taxes upon all of the taxable tangible property within the Issuer in the manner provided by law.

The taxes referred to above shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the other ad valorem taxes of the Issuer are levied and collected. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund, shall be kept separate and apart from all other funds of the Issuer shall thereafter be transferred to the Debt Service Account and shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due, taking into account any scheduled mandatory redemptions, and the fees and expenses of the Paying Agent.

If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the Issuer and to reimburse said general funds for money so expended when said taxes are collected.

## ARTICLE V

### ESTABLISHMENT OF FUNDS AND ACCOUNTS DEPOSIT AND APPLICATION OF BOND PROCEEDS

**Section 501. Creation of Funds and Accounts.** Simultaneously with the issuance of the Bonds, there shall be created within the Treasury of the Issuer the following Funds and Accounts:

- (a) Improvement Fund for General Obligation Bonds, Series 2017-A.
- (b) Debt Service Account for General Obligation Bonds, Series 2017-A (within the Bond and Interest Fund).
- (c) Rebate Fund for General Obligation Bonds, Series 2017-A.
- (d) Costs of Issuance Account for General Obligation Bonds, Series 2017-A.
- (e) Compliance Account.

The Funds and Accounts established herein shall be administered in accordance with the provisions of this Bond Resolution so long as the Bonds are Outstanding.

**Section 502. Deposit of Bond Proceeds.** The net proceeds received from the sale of the Bonds shall be deposited simultaneously with the delivery of the Bonds as follows:

- (a) An amount necessary to pay the Costs of Issuance shall be deposited in the Costs of Issuance Account.
- (b) The remaining balance of the proceeds derived from the sale of the Bonds shall be deposited in the Improvement Fund.

**Section 503. Application of Moneys in the Improvement Fund.** Moneys in the Improvement Fund shall be used for the sole purpose of: (a) paying the costs of the Improvements, in accordance with the plans and specifications therefor prepared by the Consulting Engineer heretofore approved by the Governing Body and on file in the office of the Clerk, including any alterations in or amendments to said plans and specifications deemed advisable by the Consulting Engineer and approved by the Governing Body; and (b) paying interest on the Bonds during construction of the Improvements; (c) paying Costs of Issuance; and (d) transferring any amounts to the Rebate Fund required by this *Article V*.

Withdrawals from the Improvement Fund shall be made only when authorized by the Governing Body. Each authorization for costs of the Improvements shall be supported by a certificate executed by the Consulting Engineer stating that such payment is being made for a purpose within the scope of this Bond

Resolution and that the amount of such payment represents only the contract price of the property, equipment, labor, materials or service being paid for or, if such payment is not being made pursuant to an express contract, that such payment is not in excess of the reasonable value thereof. Authorizations for withdrawals for other authorized purposes shall be supported by a certificate executed by the Director of Finance (or designate) stating that such payment is being made for a purpose within the scope of this Bond Resolution. Upon completion of the Improvements, any surplus remaining in the Improvement Fund shall be deposited in the Debt Service Account.

**Section 504. Substitution of Improvements; Reallocation of Proceeds.**

(a) The Issuer may elect for any reason to substitute or add other public improvements to be financed with proceeds of the Bonds provided the following conditions are met: (1) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been duly authorized by the Governing Body in accordance with the laws of the State; (2) a resolution or ordinance authorizing the use of the proceeds of the Bonds to pay the Financeable Costs of the Substitute Improvement has been duly adopted by the Governing Body pursuant to this Section, (3) the Attorney General of the State has approved the amendment made by such resolution or ordinance to the transcript of proceedings for the Bonds to include the Substitute Improvements; and (4) the use of the proceeds of the Bonds to pay the Financeable Cost of the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law.

(b) The Issuer may reallocate expenditure of Bond proceeds among all Improvements financed by the Bonds; provided the following conditions are met: (1) the reallocation is approved by the Governing Body; (2) the reallocation shall not cause the proceeds of the Bonds allocated to any Improvement to exceed the Financeable Costs of the Improvement; and (3) the reallocation will not adversely affect the tax-exempt status of the Bonds under State or federal law.

**Section 505. Application of Moneys in Debt Service Account.** All amounts paid and credited to the Debt Service Account shall be expended and used by the Issuer for the sole purpose of paying the principal or Redemption Price of and interest on the Bonds as and when the same become due and the usual and customary fees and expenses of the Bond Registrar and Paying Agent. The Treasurer is authorized and directed to withdraw from the Debt Service Account sums sufficient to pay both principal or Redemption Price of and interest on the Bonds and the fees and expenses of the Bond Registrar and Paying Agent as and when the same become due, and to forward such sums to the Paying Agent in a manner which ensures that the Paying Agent will receive immediately available funds in such amounts on or before the Business Day immediately preceding the dates when such principal, interest and fees of the Bond Registrar and Paying Agent will become due. If, through the lapse of time or otherwise, the Owners of Bonds are no longer entitled to enforce payment of the Bonds or the interest thereon, the Paying Agent shall return said funds to the Issuer. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Bond Resolution and shall be held in trust by the Paying Agent for the benefit of the Owners of the Bonds entitled to payment from such moneys.

Any moneys or investments remaining in the Debt Service Account after the retirement of the Bonds shall be transferred and paid into the Bond and Interest Fund.

**Section 506. Application of Moneys in the Rebate Fund.**

(a) There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Federal Tax Certificate. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to satisfy the Rebate Amount (as defined in the Federal Tax

Certificate), for payment to the United States of America, and neither the Issuer nor the Owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and the Federal Tax Certificate.

(b) The Issuer shall periodically determine the arbitrage rebate, if any, under Code § 148(f) in accordance with the Federal Tax Certificate, and the Issuer shall make payments to the United States of America at the times and in the amounts determined under the Federal Tax Certificate. Any moneys remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision made therefor, shall be deposited into the Bond and Interest Fund.

(c) Notwithstanding any other provision of this Bond Resolution, including in particular *Article VII* hereof, the obligation to pay arbitrage rebate to the United States of America and to comply with all other requirements of this Section and the Federal Tax Certificate shall survive the defeasance or payment in full of the Bonds.

**Section 507. Deposits and Investment of Moneys.** Moneys in each of the Funds and Accounts shall be deposited in accordance with laws of the State, in a bank, savings and loan association or savings bank organized under the laws of the State, any other state or the United States: (a) which has a main or branch office located in the Issuer; or (b) if no such entity has a main or branch office located in the Issuer, with such an entity that has a main or branch office located in the county or counties in which the Issuer is located. All such depositories shall be members of the Federal Deposit Insurance Corporation, or otherwise as permitted by State law. All such deposits shall be invested in Permitted Investments as set forth in this Article or shall be adequately secured as provided by the laws of the State. All moneys held in the Funds and Accounts shall be kept separate and apart from all other funds of the Issuer so that there shall be no commingling with any other funds of the Issuer.

Moneys held in any Fund or Account may be invested in accordance with this Bond Resolution and the Federal Tax Certificate in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any Fund or Account shall accrue to and become a part of such Fund or Account; provided that, during the period of construction of the Improvements, earnings on the investment of such funds may, at the discretion of the Issuer, be credited to the Debt Service Account.

**Section 508. Application of Moneys in the Costs of Issuance Account.** Moneys in the Costs of Issuance Account shall be used by the Issuer to pay the Costs of Issuance. Any funds remaining in the Costs of Issuance Account, after payment of all Costs of Issuance, but not later than the later of 30 days prior to the first Stated Maturity of principal or one year after the date of issuance of the Bonds, shall be transferred to the Improvement Fund until completion of the Improvements and thereafter to the Compliance Account or Debt Service Account.

**Section 509. Application of Moneys in the Compliance Account.** Moneys in the Compliance Account shall be used by the Issuer to pay fees and expenses relating to compliance with federal arbitrage law and state or federal securities laws. Any funds remaining in the Compliance Account on the sixth anniversary of the Issue Date shall be transferred to the Debt Service Account.

## ARTICLE VI

### DEFAULT AND REMEDIES

**Section 601. Remedies.** The provisions of the Bond Resolution, including the covenants and agreements herein contained, shall constitute a contract between the Issuer and the Owners of the Bonds. If an Event of Default occurs and shall be continuing, the Owner or Owners of not less than 10% principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Owners of Bonds similarly situated:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Owner or Owners against the Issuer and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of the Bond Resolution or by the Constitution and laws of the State;

(b) by suit, action or other proceedings in equity or at law to require the Issuer, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds.

**Section 602. Limitation on Rights of Owners.** The covenants and agreements of the Issuer contained herein and in the Bonds shall be for the equal benefit, protection, and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Bond Resolution. No one or more Owners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Outstanding Bonds.

**Section 603. Remedies Cumulative.** No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners of the Bonds by this Bond Resolution may be enforced and exercised from time to time and as often as may be deemed expedient. If action or proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or shall have been determined adversely to such Owner, then, and in every such case, the Issuer and the Owners of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

## ARTICLE VII

### DEFEASANCE

**Section 701. Defeasance.** When any or all of the Bonds, redemption premium, if any, or scheduled interest payments thereon have been paid and discharged, then the requirements contained in this Bond Resolution and the pledge of the Issuer's faith and credit hereunder and all other rights granted hereby shall terminate with respect to the Bonds or scheduled interest payments thereon so paid and discharged. Bonds, redemption premium, if any, or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Bond Resolution if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of or Redemption Price of said Bonds and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments. If the amount to be so deposited is based on the Redemption Price of any Bonds, no such satisfaction shall occur until (a) the Issuer has elected to redeem such Bonds, and (b) either notice of such redemption has been given, or the Issuer has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Bond Registrar to give such notice of redemption in compliance with *Article III* hereof. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Issuer, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or such bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Bond Resolution.

## ARTICLE VIII

### TAX COVENANTS

**Section 801. General Covenants.** The Issuer covenants and agrees that it will comply with: (a) all applicable provisions of the Code necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds; and (b) all provisions and requirements of the Federal Tax Certificate. The Mayor and the Director of Finance are hereby authorized and directed to execute the Federal Tax Certificate in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the Issuer. The Issuer will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the Issuer.

**Section 802. Survival of Covenants.** The covenants contained in this Article and in the Federal Tax Certificate shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to *Article VII* hereof or any other provision of this Bond Resolution until such time as is set forth in the Federal Tax Certificate.

## ARTICLE IX

### CONTINUING DISCLOSURE REQUIREMENTS

**Section 901. Disclosure Requirements.** The Issuer hereby covenants with the Purchaser and the Beneficial Owners to provide and disseminate such information as is required by the SEC Rule and as further set forth in the Disclosure Undertaking, the provisions of which are incorporated herein by reference. Such covenant shall be for the benefit of and enforceable by the Purchaser and the Beneficial Owners.

**Section 902. Failure to Comply with Continuing Disclosure Requirements.** In the event the Issuer fails to comply in a timely manner with its covenants contained in the preceding section, the Purchaser and/or any Beneficial Owner may make demand for such compliance by written notice to the Issuer. In the event the Issuer does not remedy such noncompliance within 10 days of receipt of such written notice, the Purchaser or any Beneficial Owner may in its discretion, without notice or demand, proceed to enforce compliance by a suit or suits in equity for the specific performance of such covenant or agreement contained in the preceding section or for the enforcement of any other appropriate legal or equitable remedy, as the Purchaser and/or any Beneficial Owner shall deem effectual to protect and enforce any of the duties of the Issuer under such preceding section. Notwithstanding any other provision of this Bond Resolution, failure of the Issuer to comply with its covenants contained in the preceding section shall not be considered an Event of Default under this Bond Resolution.

## ARTICLE X

### MISCELLANEOUS PROVISIONS

**Section 1001. Annual Audit.** Annually, promptly after the end of the Fiscal Year, the Issuer will cause an audit to be made of the financial statements of the Issuer for the preceding Fiscal Year by an Independent Accountant. The audit report shall contain a statement regarding the Issuer's compliance with the arbitrage rebate covenants contained in the Federal Tax Certificate and covenants regarding continuing disclosure contained herein and the Disclosure Undertaking. Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the Clerk. Such audit shall at all times during the usual business hours be open to the examination and inspection by any taxpayer, any Owner of any of the Bonds, or by anyone acting for or on behalf of such taxpayer or Owner. Upon payment of the reasonable cost of preparing and mailing the same, a copy of any annual audit will, upon request, be sent to any Owner or prospective Owner. As soon as possible after the completion of the annual audit, the Governing Body shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Bond Resolution, the Issuer shall promptly cure such deficiency.

**Section 1002. Amendments.** The rights and duties of the Issuer and the Owners, and the terms and provisions of the Bonds or of this Bond Resolution, may be amended or modified at any time in any respect by ordinance or resolution of the Issuer with the written consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Owners and duly acknowledged or

proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the Clerk, but no such modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon any Bond;
- (b) effect a reduction in the amount which the Issuer is required to pay as principal of or interest on any Bond;
- (c) permit preference or priority of any Bond over any other Bond; or
- (d) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Bond Resolution.

Any provision of the Bonds or of this Bond Resolution may, however, be amended or modified by ordinance or resolution duly adopted by the Governing Body at any time in any legal respect with the written consent of the Owners of all of the Bonds at the time Outstanding.

Without notice to or the consent of any Owners, the Issuer may amend or supplement this Bond Resolution for the purpose of curing any formal defect, omission, inconsistency or ambiguity herein, to grant to or confer upon the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners, to more precisely identify the Improvements, to reallocate proceeds of the Bonds among Improvements, to provide for Substitute Improvements, to conform this Bond Resolution to the Code or future applicable federal law concerning tax-exempt obligations, or in connection with any other change therein which is not materially adverse to the interests of the Owners.

Every amendment or modification of the provisions of the Bonds or of this Bond Resolution, to which the written consent of the Owners is given, as above provided, shall be expressed in a resolution or ordinance adopted by the Governing Body amending or supplementing the provisions of this Bond Resolution and shall be deemed to be a part of this Bond Resolution. A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of this Bond Resolution shall always be kept on file in the office of the Clerk, and shall be made available for inspection by the Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Bond Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental ordinance or resolution or of this Bond Resolution will be sent by the Clerk to any such Owner or prospective Owner.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the ordinance or resolution of the Issuer hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

The Issuer shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Bond Resolution which affects the duties or obligations of the Paying Agent under this Bond Resolution.

**Section 1003. Notices, Consents and Other Instruments by Owners.** Any notice, consent, request, direction, approval or other instrument to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Bond Resolution, and shall be conclusive

in favor of the Issuer and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register.

In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Bond Resolution, Bonds owned by the Issuer shall be disregarded and deemed not to be Outstanding under this Bond Resolution, except that, in determining whether the Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Owners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer.

**Section 1004. Notices.** Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Bond Resolution shall be in writing, given to the Notice Representative at the Notice Address and shall be deemed duly given or filed if the same shall be: (a) duly mailed by registered or certified mail, postage prepaid; or (b) communicated via fax, with electronic or telephonic confirmation of receipt. Copies of such notices shall also be given to the Paying Agent. The Issuer, the Paying Agent and the Purchaser may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

All notices given by: (a) certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed; (b) fax as aforesaid shall be deemed duly given as of the date of confirmation of receipt. If, because of the temporary or permanent suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such other form of notice as shall be made with the approval of the Paying Agent shall constitute a sufficient notice.

**Section 1005. Electronic Transactions.** The issuance of the Bonds and the transactions related thereto and described herein may be conducted and documents may be stored by electronic means.

**Section 1006. Further Authority.** The officers and officials of the Issuer, including the Mayor, Director of Finance, and Clerk, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Bond Resolution and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

**Section 1007. Severability.** If any section or other part of this Bond Resolution, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Bond Resolution.

**Section 1008. Governing Law.** This Bond Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State.

**Section 1009. Effective Date.** This Bond Resolution shall take effect and be in full force from and after its adoption by the Governing Body.

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**ADOPTED** by the City Commission on May 15, 2017.

(SEAL)

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Mayor

ATTEST:

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Clerk

**RESOLUTION NO. 2017-19**

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS GIVING NOTICE OF A PUBLIC HEARING ON THE ADVISABILITY OF CREATING A COMMUNITY IMPROVEMENT DISTRICT.**

**WHEREAS**, pursuant to the provisions of the Community Improvement District Act, K.S.A. 12-6a26 *et seq.* (the “Act”), cities are authorized to establish community improvement districts, to authorize the performance of community improvement district projects, and to authorize the financing of such projects from the imposition of a community improvement district sales tax to be levied on the sale of tangible personal property or rendering or furnishing of taxable services within the proposed community improvement district in accordance with the Act; and,

**WHEREAS**, the Governing Body of the City of Dodge City, Kansas (the “City”) has determined to consider the advisability of creating a community improvement district as described in a petition (the “Petition”) filed for the establishment of a community improvement district in accordance with the Act, a copy of which is attached hereto as *Exhibit A*; and,

**WHEREAS**, the City desires to call and conduct a public hearing under the provisions of the Act in order to determine whether it is advisable to create a community improvement district within the City and approve the project and method of financing the project as requested in the Petition pursuant to the Act.

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

**Section 1. Time and Place of Hearing.** Notice is hereby given that a public hearing will be held by the Governing Body of the City of Dodge City, Kansas to consider the advisability of creating a community improvement district as described in the Petition on June 5, 2017, at City Hall, located at 806 N. Second Avenue, Dodge City, Kansas, the public hearing to commence at 7:00 p.m. or as soon thereafter as the Governing Body can hear the matter. At the public hearing, the Governing Body will receive public comment on the foregoing matters.

**Section 2. The General Nature of the Proposed Project.** The proposed project to be performed within the proposed community improvement district is described in *Exhibit B*, attached hereto and incorporated herein by reference.

**Section 3. The Estimated Cost of the Project.** The estimated cost of the proposed project is Three Hundred and Eighty Thousand Dollars (\$380,000.00).

**Section 4. The Proposed Method of Financing the Project.** The proposed method of financing for the proposed community improvement district is by levying of Special Assessments.

**Section 5. The Proposed Amount of Community Improvement District Sales Tax.** A one-half percent (1/2%) community improvement district sales tax is proposed to be levied within the proposed community improvement district in accordance with the Act on the sale of tangible personal property or rendering or furnishing of taxable services within the proposed community improvement district.

**Section 6. Legal Description and Map Exhibit.** A legal description and map exhibit of the proposed community improvement district are attached hereto as *Exhibit C* and *Exhibit D*, respectively, and incorporated herein by reference.

**Section 7. Notice of Public Hearing.** The City Clerk is hereby authorized and directed to provide for notice of the public hearing by taking the following actions:

(a) A copy of this resolution must be mailed by United States certified mail, return-receipt requested, at least ten (10) days prior to June 5, 2017, to each owner of real property within the proposed community improvement district.

(b) This resolution, including all exhibits attached hereto, must be published in the official City newspaper once each week for two (2) consecutive weeks; the second publication must occur at least seven (7) days prior to June 5, 2017.

**Section 8. Effective Date.** This resolution will be effective upon its adoption by the Governing Body of the City of Dodge City, Kansas.

**ADOPTED** by the Governing Body of the City of Dodge City, Kansas on this 15<sup>th</sup> day of May, 2017.

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Rick Sowers, Mayor

Attest:

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Nanette Pogue, City Clerk

**EXHIBIT A**

Community Improvement District Petition

[Petition on file with City Clerk]

## **EXHIBIT B**

### Proposed Project

The general nature of the proposed project (the "**Project**") is to promote the development of a new commercial building along a portion of Wyatt Earp, as is more particularly described herein, by providing community improvement district financing, in accordance with this Petition and with the Act, to finance the construction, maintenance, and procurement of certain improvements, costs, and services within the District, including, but not limited to, land acquisition, infrastructure related items, sidewalks, parking lots, buildings, utilities, landscaping, lighting, signage, marketing and advertisement, cleaning and maintenance, security, soft costs of the Project, and the City and the petitioner's administrative costs in establishing and maintaining the District, and any other items permitted to be financed within the District under the Act.

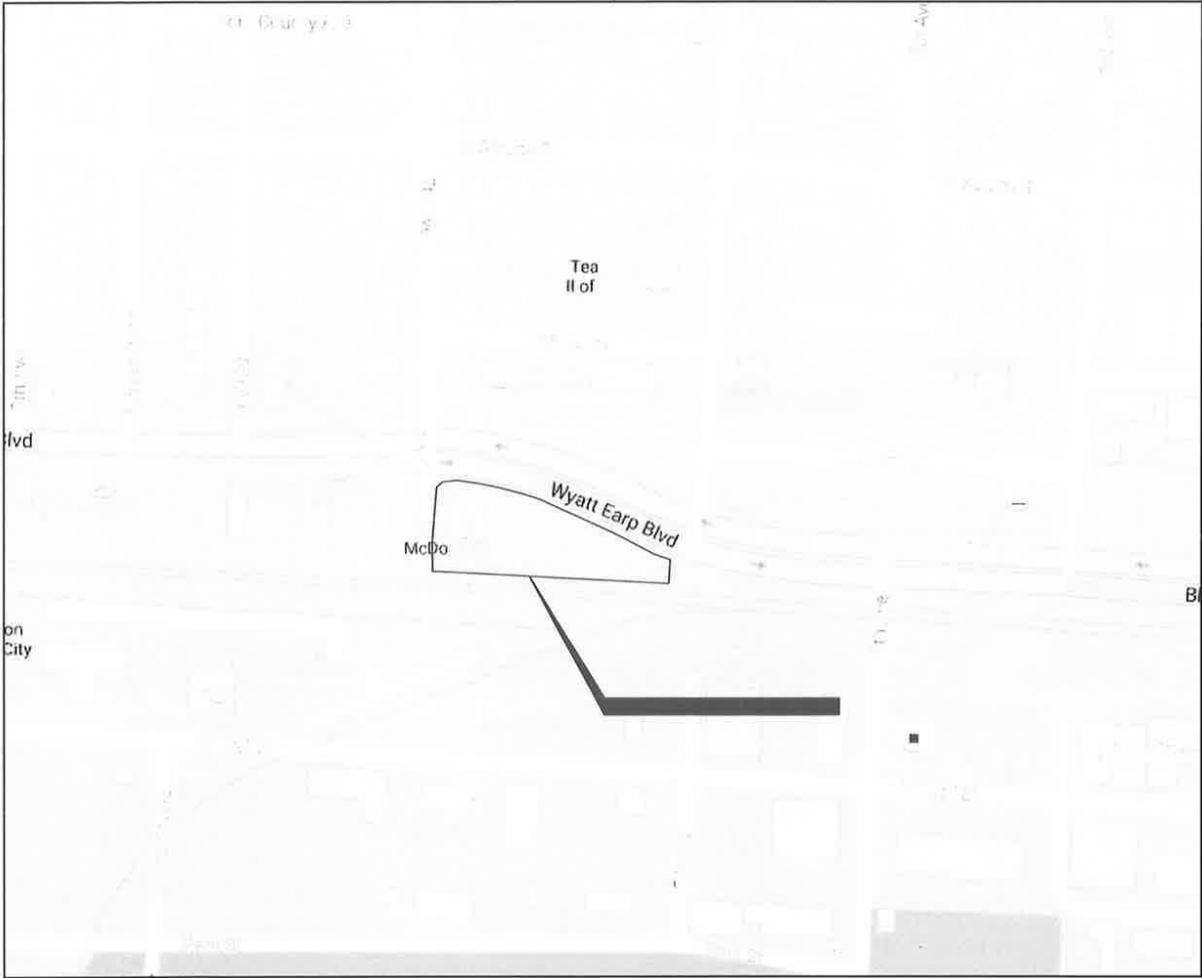
**EXHIBIT C**

Legal Description

Lot One (1) and Lot Two (2), Block Two (2), Centennial Addition to the City of Dodge City, Ford County, Kansas.

**EXHIBIT D**

Map



## Memorandum

*To: City Manager  
City Commissioners*

*From: Ryan Reid  
Director of Administration*

*Date: May 15, 2017*

*Subject: Bids for 6<sup>th</sup> Ave. Rough Grading;  
ST 1611*

*Agenda Item: New Business*

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**Recommendation:** Approve the bid from Malm Construction Co. in the amount of \$222,833.78 for the rough grading of 6<sup>th</sup> Ave. from Ross Blvd. to the City Limits. The Engineer's Estimate for the project was \$360,089.00, which makes the bid from Malm 38% below the estimate. This portion of the street extension will be completed to allow Candletree #8 to start developing and prepare the earthwork for the paving portion of the 6<sup>th</sup> Ave. extension in 2018.

**Background:** This section of 6<sup>th</sup> Ave. was originally designed in 2005 and was put on the shelf to be completed at a later date due to a lack of need and funds to move the project forward. In 2015, it was decided that the extension of Comanche St. from Matt Down Rd. to US50 Highway was not desirable and funds earmarked for the purchase of right-of-way for that extension could be utilized on another project. At that point it was decided that those funds would go towards the extension of 6<sup>th</sup> Ave. from Ross Blvd. to the City Limits due to continued residential development and an increase in demand for the project. In order to speed up the process and allow the design engineer to bring the street design up to current standards, the rough grading for the roadway and construction of regional stormwater detention facilities were broken out to help move the Candletree #8 residential development forward.

**Justification:** The extension of 6<sup>th</sup> Ave. will provide a much needed additional access point to a region of the City that is seeing a great deal of residential development. This project will help reduce traffic on the local asphalt roads by diverting that traffic to a major collector. In turn, this will help reduce street maintenance costs in the future.

**Financial Considerations:** Funding to complete the rough grading to extend 6<sup>th</sup> Ave. from Ross Blvd. to the City limits will come from previously authorized General Obligation Bonds. There is \$1.6M in General Obligation Bonds budgetted to complete both the rough grading and the paving for this street extension. After completing the rough grading, approximately \$1.3M of the General Obligation Bonds will remain to complete the paving portion of the extension.

**Purpose/Mission:** The completion of this project aligns with the City's core value of ongoing improvement by providing and preparing for the community's future.

**Legal Considerations:** By approving the bid from Malm Construction Co. the City will enter into a contract with the Malm Construction Co. and be responsible to make payments to the Malm Construction Co. for the completed work.

**Attachments:** The bid tabulation and Engineer's estimate are attached.

