

CITY COMMISSION MEETING AGENDA

City Hall Commission Chambers

Tuesday, August 2, 2021

7:00 p.m.

MEETING #5188

Public is welcome although seats are limited for social distancing; or you can view as follows:

1. Watch live on our Facebook page at www.facebook.com/cityofdodgecity

2. Or watch it on our Vimeo page at www.vimeo.com/cityofdodgecity.

The meeting will be archived on both sites to be viewed after the live video has ended.

CALL TO ORDER

ROLL CALL

INVOCATION BY Pastor Elder Lavant Owen of Hanna Memorial Church

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

Community Development Block Grant (CDBG) Performance

APPROVAL OF AGENDA

PETITIONS & PROCLAMATIONS

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

Boot Hill Quarterly Update

Mini MPA Presentation

CONSENT CALENDAR

1. Approval of City Commission Meeting Minutes July 19, 2021.
2. Appropriation Ordinance No.15, August 2021.

3. Cereal Malt Beverage License:
 - a. River Stop, 705 S. 14th Avenue,
 - b. Spee-D-Stop, 2615 Gary Avenue,
4. Approve Change Order #1 for Wagon Wheel III Sub-Division.
5. Approve Change Order #2 for the Avenue K RCB Replacement Project.
6. Approval to Execute the FAA ARPA Grant.

ORDINANCES & RESOLUTIONS

Ordinance No. 3759: An Ordinance of the City of Dodge City, Kansas Amending the Official Zoning Map of the City, Changing the Property Located at 401 Beech Street from AG Agricultural, to R-2 Residential Medium Density. Report by Planning & Zoning Administrator, Nathan Littrell.

UNFINISHED BUSINESS

NEW BUSINESS

1. Approval of Replat for Summerlon Addition, Phase VII. Report by Planning & Zoning Administrator, Nathan Littrell.
2. Approval of Quote for Spare Vacuum Compressor for Warrior Project. Report by Director of Engineering, Ray Slattery.
3. Approval of Quote for Spare Gas Chromatograph for Warrior Project. Report by Director of Engineering, Ray Slattery.
4. Approval of Boot Hill Museum Memorandum of Understanding. Report by Assistant City Manager/Public Affairs, Melissa McCoy.
5. Approval of Kansas Department of Transportation Cost Share Program Agreement. Report by Assistant City Manager/Public Affairs, Melissa McCoy.
6. Approval to Purchase of Water Meters and Neptune's AMI System. Report by Public Works Director, Corey Keller.

OTHER BUSINESS

1. Discussion of Campaign Signage

STAFF REPORTS

ADJOURNMENT

CITY COMMISSION MEETING MINUTES

City Hall Commission Chambers

Monday, July 19, 2021

7:00 p.m.

MEETING #5187

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CALL OR ORDER

ROLL CALL: Mayor Rick Sowers, Commissioners, Kent Smoll., Brian Delzeit, Blanca Soto, Joseph Nuci present.

INVOCATION by Pastor Daniel

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mayor Rick Sowers moved to add a Proclamation Cowboy Week and under new business add approval to have a public hearing to attempt to exceed the Revenue Neutral Rate. Commissioner Kent Smoll seconded the motion. The motion carried unanimously.

PETITIONS & PROCLAMATIONS

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

Human Resource Officer, Tara Schraeder recognized the eleven participants that took part in the 2021 Engage Dodge program. Those that participated met once a week for nine weeks and learned about the city's mission, departments and operations. She thanked the class for their commitment to educating themselves about their local government and community. She thanked them for their participation.

CONSENT CALENDAR

1. Approval of City Commission Meeting Minutes, July 6, 2021
2. Appropriation Ordinance No.14, July 19, 2021;
3. Cereal Malt Beverage License:
 - a. Dodge House Restaurant, 2408 W. Wyatt Earp Blvd.
4. Approval of Contract Amendment No. 1 for Design of Iron Road.

Commissioner Blanca Soto moved to accept the consent calendar as presented. Commissioner Joseph Nuci seconded the motion. The motion carried unanimously.

ORDINANCES & RESOLUTIONS

Ordinance No. 3758: An Ordinance authorizing and providing for the issuance of General Obligation Bonds, Series 2021-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 was approved on a motion by Commissioner Kent Smoll. Commissioner Brian Delzeit seconded the motion. The motion carried unanimously.

Resolution 2021-18: A Resolution prescribing the form and details of and authorizing and directing the sale and delivery of General Obligation Bonds. Series 2021-A, of the City of Dodge City, Kansas, previously authorized by Ordinance No. 3758 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 was approved on a motion by Commissioner Kent Smoll. Commissioner Brian Delzeit seconded the motion. The motion carried unanimously.

Resolution 2021-19: A Resolution authorizing and directing the issuance, sale and delivery of General Obligation Temporary Notes, Series 2021-1, of the City of Dodge City, Kansas; providing for the levy and collection of an annual tax, if necessary, for the purpose of paying the principal of and interest on said notes as they become due; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith was approved on a motion by Commissioner Blanca Soto. Commissioner Brian Delzeit seconded the motion. The motion carried unanimously.

UNFINISHED BUSINESS

NEW BUSINESS

1. Commissioner Kent Smoll made a motion to approve to have a public hearing to exceed the Revenue Neutral Rate. Commissioner Brian Delzeit seconded the motion. The motion carried unanimously.

OTHER BUSINESS

STAFF REPORTS

EXECUTIVE SESSION

At 7:35 pm Commissioner Brian Delzeit moved that the city commission move into executive session pursuant to the confidential data relating to financial affairs or trade secrets of third parties, exception found in K.S.A. 75-4319 (b)(4). The justification for closing the meeting is to protect the privacy of the entities to be discussed. The open meeting will resume in the City Commission Chambers in 15 minutes at 7:50 pm. Those who will be included are City Commissioners, City Manager, Nick Hernandez and City Attorney, Brad Ralph. The Commission may take action upon returning to open session and prior to adjournment. Commissioner Blanca Soto made a motion; Commissioner Joseph Nuci seconded the motion. The motion carried unanimously.

Meeting reconvened at 7:50, Commissioner Blanca Soto moved to take action to approve a letter of intent dated July 19, 2021 from Wild Pines Ventures, LLC allowing the City Manager to sign said documents. Commissioner Kent Smoll seconded the motion. The motion carried unanimously.

ADJOURNMENT

Commissioner Brian Delzeit made a motion to adjourn the meeting. Commissioner Kent Smoll seconded the motion. The motion carried unanimously.

ATTEST:

Mayor

City Clerk

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

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

City or County of Dodge City KS

SECTION 1 - LICENSE TYPE			
Check One: <input type="checkbox"/> New License <input checked="" type="checkbox"/> Renew License <input type="checkbox"/> Special Event Permit			
Check One: <input type="checkbox"/> License to sell cereal malt beverages for consumption on the premises. <input checked="" type="checkbox"/> License to sell cereal malt beverages in original and unopened containers and not for consumption on the licenses premises.			
SECTION 2 - APPLICANT INFORMATION			
Kansas Sales Tax Registration Number (required): <u>01-0790866</u>			
I have registered as an Alcohol Dealer with the TTB. <input checked="" type="checkbox"/> Yes (required for new application)			
Name <u>Nageeb Alhaj</u>	Phone No. <u>620-408-7716</u>	Date of Birth <u>1-1-68</u>	
Residence Street Address <u>3206 Gary Ave</u>	City <u>Dodge City KS</u>	Zip Code <u>67801</u>	
Applicant Spousal Information			
Spouse Name <u>Laura Alhaj</u>	Phone No. <u>620 408-7716</u>	Date of Birth <u>7-16-80</u>	
Residence Street Address <u>3206 Gary Ave</u>	City <u>Dodge City</u>	Zip Code <u>67801</u>	
SECTION 3 - LICENSED PREMISE			
Licensed Premise (Business Location or Location of Special Event)		Mailing Address (If different from business address)	
DBA Name <u>River Stop</u>		Name <u>River Stop</u>	
Business Location Address <u>705 S 14th Ave</u>		Address <u>2307 Central Ave</u>	
City <u>Dodge city</u> State <u>KS</u> Zip <u>67801</u>	City <u>Dodge city</u> State <u>KS</u> Zip <u>67801</u>		
Business Phone No. <u>620-225-9511</u>	<input type="checkbox"/> I own the proposed business location. <input type="checkbox"/> I do not own the proposed business location.		
Business Location Owner Name(s) <u>Nageeb Alhaj</u>			
SECTION 4 - APPLICANT QUALIFICATION			
I am a U.S. Citizen			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have been a resident of Kansas for at least one year prior to application.			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have resided within the state of Kansas for <u>19</u> years.			
I am at least 21 years old.			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have been a resident of this county for at least 6 months.			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Within 2 years immediately preceding the date of this application, neither I nor my spouse* have been convicted of, released from incarceration for or released from probation or parole for any of the following crimes: (1) Any felony; (2) a crime involving moral turpitude; (3) drunkenness; (4) driving a motor vehicle while under the influence of alcohol (DUI); or (5) violation of any state or federal intoxicating liquor law.			<input type="checkbox"/> Yes Have <input checked="" type="checkbox"/> No Have Not
My spouse has previously held a CMB license.			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
My spouse has never been convicted of one of the crimes mentioned above while licensed.			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

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

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

City or County of Dodge City

SECTION 1 - LICENSE TYPE

Check One: New License Renew License Special Event Permit

Check One:

- License to sell cereal malt beverages for consumption on the premises.
 License to sell cereal malt beverages in original and unopened containers and not for consumption on the licenses premises.

SECTION 2 - APPLICANT INFORMATION

Kansas Sales Tax Registration Number (required): 01-0790966

I have registered as an Alcohol Dealer with the TTB. Yes (required for new application)

Name <u>Nagreb Alhaj</u>	Phone No. <u>620-408-7716</u>	Date of Birth <u>1-1-68</u>
Residence Street Address <u>3206 Gray Ave</u>	City <u>Dodge City</u>	Zip Code <u>67801</u>

Applicant Spousal Information

Spouse Name <u>Laura Alhaj</u>	Phone No. <u>620-408-7716</u>	Date of Birth <u>7-16-83</u>
Residence Street Address <u>3206 Gray Ave</u>	City <u>Dodge City</u>	Zip Code <u>67801</u>

SECTION 3 - LICENSED PREMISE

Licensed Premise (Business Location or Location of Special Event)	Mailing Address (If different from business address)
DBA Name <u>Spec D Stop</u>	Name <u>Spec D Stop</u>
Business Location Address <u>2615 Gray Ave</u>	Address <u>1142 Kliesen St</u>
City <u>Dodge City</u> State <u>KS</u> Zip <u>67801</u>	City <u>Dodge City</u> State <u>KS</u> Zip <u>67801</u>
Business Phone No. <u>620-228 6905</u>	<input checked="" type="checkbox"/> I own the proposed business location. <input type="checkbox"/> I do not own the proposed business location.
Business Location Owner Name(s) <u>Nagreb Alhaj</u>	

SECTION 4 - APPLICANT QUALIFICATION

I am a U.S. Citizen Yes No

I have been a resident of Kansas for at least one year prior to application. Yes No

I have resided within the state of Kansas for 19 years.

I am at least 21 years old. Yes No

I have been a resident of this county for at least 6 months. Yes No

Within 2 years immediately preceding the date of this application, neither I nor my spouse* have been convicted of, released from incarceration for or released from probation or parole for any of the following crimes:
 (1) Any felony; (2) a crime involving moral turpitude; (3) drunkenness; (4) driving a motor vehicle while under the influence of alcohol (DUI); or (5) violation of any state or federal intoxicating liquor law.

Yes Have No Have Not

My spouse has previously held a CMB license. Yes No

My spouse has never been convicted of one of the crimes mentioned above while licensed. Yes No



Memorandum

To: Nick Hernandez, City Manager and City Commissioners
From: Ray Slattery, PE, Director of Engineering Services
Date: May 27, 2021
Subject: Change Order #1, Wagon Wheel III Sub-Division, PL 2002
Agenda Item: Consent Calendar

Recommendation: Approve Change Order #1 for Wagon Wheel III Sub-Division for an increase in the amount of \$17,823.00.

Background: The Wagon Wheel II Sub-Division Infrastructure Project was approved in June of 2020. During the project a few small changes had to be made due to the construction of the houses. A water service had to be moved from plan location because it was going to be in the outer edge of a driveway. This happened on one of the lots that did not have a lot of street frontage. During the construction of one of the houses, the sewer riser was hit, the contractor repaired the riser to prevent dirt from plugging the line. Some manhole rings and lids had to be adjusted to meet the new elevation of the yards. It was not fully known during design how the developer was going to landscape the lots or what the finish grade may be. An area inlet was adjusted so that it could be converted into a storm drain Manhole and pipe extended so the area inlet in a yard could go away.

Justification: This change order provided the necessary work to complete the sub-division infrastructure installation.

Financial Considerations: Change Order #1 is for an increase of \$17,823.00. Funding will be from RHID program set up for Wagon Wheel III.

Purpose/Mission: The completion of this project aligns with the City's Core Value of Ongoing Improvement and Safety.

Legal Considerations: By approving the Change Order from Klotz Sand Company, the contract dollar amount will be amended.

Attachments: Change Order #1

CITY OF DODGE CITY

Change Order

CONTRACT FOR: Wagon Wheel III

PROJECT NUMBER: PL 2002

CONTRACTOR: Klotz Sand Co.

REQUEST NUMBER: 1

ITEM DESCRIPTION	UNIT	CONTRACT OR PREVIOUS QUANTITY	ADJUSTED QUANTITY	AMOUNT OF OVERRUN OR UNDERRUN	CONTRACT UNIT PRICE	NEW UNIT PRICE	DOLLAR AMOUNT OF CHANGE
Move Water Service	L.S.	0	1	1		\$ 750.00	\$ 750.00
Repair Sewer Riser	L.S.	0	1	1		\$ 200.00	\$ 200.00
Adjust Manhole Rings & Covers	L.S.	0	1	1		\$ 2,040.00	\$ 2,040.00
Inlet Adjustment	L.S.	0	1	1		\$ 14,833.00	\$ 14,833.00
						NET INCREASE	\$ 17,823.00

RECOMMENDED FOR APPROVAL:

This is to affirm that I have inspected this change in plans and construction and hereby agree to the quantities, unit prices, and amounts shown above.

Ray Slattery, P.E.
Director of Engineering Services

Contractor: Klotz Sand Co.

Connie Marquez, City Clerk

Mayor or City Manager

By: _____



Memorandum

To: Nick Hernandez, City Manager and City Commissioners
From: Ray Slattery, PE, Director of Engineering Services
Date: July 23, 2021
Subject: Change Order #2, Ave. K RCB Replacement, SD 1701
Agenda Item: Consent Calendar

Recommendation: Approve Change Order #2 for the Ave. K RCB Replacement Project for a total increase in the amount of \$9,430.00.

Background: The Ave. K RCB Project was approved in August of 2019 the Commission approved the construction of this project. The start date was set for January 2020. When demolition started in January 2020, a major AT&T phone duct was found that was not located during the design phase. AT&T scheduled to move the duct, but due to their scheduling it was going to be a few weeks. Then the COVID shut down took place and AT&T did not do any work per their company policy. Once AT&T went back to work there was a backlog on all their projects. Once the duct was moved and out of the way, Building Solutions had moved on to other projects to keep their crews busy. Building Solutions was able to start back on the project earlier this year. However, during the delay with all the wet weather, Silt and other debris washed into the project. The Contractor had to remove this material and replace it with dry soil and crushed concrete to provide a stable building area. To date only punch list items remain and the intersection is open to traffic.

Justification: This change order provided the necessary foundation for the project.

Financial Considerations: Change Order #2 is for an increase of \$9,430.00. Funding will be from the 2019 Series-A GOB.

Purpose/Mission: The completion of this project aligns with the City's Core Value of Ongoing Improvement and Safety.

Legal Considerations: By approving the Change Order from Building Solutions, LLC, the contract dollar amount will be amended.

Attachments: Change Order #2

CITY OF DODGE CITY

Change Order

CONTRACT FOR: Avenue K & Military Avenue RCB Repl.

PROJECT NUMBER: SD 1701

CONTRACTOR: Building Solutions

REQUEST NUMBER: 2

ITEM DESCRIPTION	UNIT	CONTRACT OR PREVIOUS QUANTITY	ADJUSTED QUANTITY	AMOUNT OF OVERRUN OR UNDERRUN	CONTRACT UNIT PRICE	NEW UNIT PRICE	DOLLAR AMOUNT OF CHANGE
Removal of Silt and Unstable Material Repl. With Select Fill	LS	0	1	1		\$ 9,430.00	\$ 9,430.00
NET INCREASE						\$	9,430.00

RECOMMENDED FOR APPROVAL:

This is to affirm that I have inspected this change in plans and construction and hereby agree to the quantities, unit prices, and amounts shown above.

Ray Slattery, P.E.
Director of Engineering Services

Contractor: Building Solutions

Connie Marquez, City Clerk

Mayor or City Manager

By: _____



Memorandum

To: City Manager
City Commissioners
From: Corey Keller Public Works Director
Date: July 28, 2021
Subject: Approval to Execute the FAA ARPA Grant
Agenda Item: Consent Calendar

Recommendation: To Authorize Nick Hernandez and Brad Ralph to execute the FAA ARPA grant offer 3-20-0017-035-2021 in the amount of \$59,000.00

Background: On March 11, 2021, the President signed the American Rescue Plan Act of 2021 (Public Law 117-2) (ARPA). Section 7102 of ARPA provides approximately \$8 billion in economic relief to airports to prevent, prepare for, and respond to the COVID-19 pandemic, including relief from rent and minimum annual guarantees (MAG) for eligible airport concessions at primary airports. Based on the category type and the number of enplanements for Dodge City we received \$59,000.00 of these funds.

Justification: The funds will be utilized by the airport to offset additional costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments.

Financial Considerations: The grant will reimburse the City with Federal funds up to \$59,000.00 for loss of revenues that occurred to the airport during COVID-19 Pandemic.

Purpose/Mission: Together we serve to make Dodge City the best place to be.

Legal Considerations: Legal is reviewing the grant offer and no documents will be signed until there is an agreement.

Attachments: FAA Grant 3-20-0017-035-2021



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

Airports Division
Central Region
Iowa, Kansas, Missouri, Nebraska

FAA ACE-600
901 Locust
Kansas City, MO 64106

Airport Rescue Grant Transmittal Letter

July 27, 2021

Ms. Kelli Enlow
Airport Manager
Dodge City Regional Airport
806 2nd Avenue
Dodge City, KS 67801

Dear Ms. Enlow:

Please find the following electronic Airport Rescue Grant Offer, Grant No. 3-20-0017-035-2021 for Dodge City Regional Airport. This letter outlines expectations for success. Please read and follow the instructions carefully.

To properly enter into this agreement, you must do the following:

- a. The governing body must provide authority to execute the grant to the individual signing the grant; i.e., the sponsor's authorized representative.
- b. The sponsor's authorized representative must execute the grant, followed by the attorney's certification, **no later than August 25**, in order for the grant to be valid.
- c. You may not make any modification to the text, terms or conditions of the grant offer.
- d. The grant offer must be digitally signed by the sponsor's legal signatory authority and then the grant offer will be routed via email to the sponsor's attorney. Once the attorney has digitally attested to the grant, an email with the executed grant will be sent to all parties.

Subject to the requirements in 2 CFR § 200.305, each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System. The terms and conditions of this agreement require you draw down and expend these funds within four years.

An airport sponsor may use these funds for costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments. Please refer to the [Airport Rescue Grants Frequently Asked Questions](#) for further information.

With each payment request you are required to upload an invoice summary directly to Delphi. The invoice summary should include enough detail to permit FAA to verify compliance with the American Rescue Plan Act (Public Law 117-2). Additional details or invoices may be requested by FAA during the review of your payment requests.

As part of your final payment request, you are required to include in Delphi:

- A signed SF-425, *Federal Financial Report*
- A signed closeout report (a sample report is available [here](#)).

Until the grant is completed and closed, you are responsible for submitting a signed and dated SF-425 annually, due 90 days after the end of each Federal fiscal year in which this grant is open (due December 31 of each year this grant is open).

As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to assure your organization will comply with applicable audit requirements and standards.

I am readily available to assist you and your designated representative with the requirements stated herein. The FAA sincerely values your cooperation in these efforts.

Sincerely,

Jason Knipp
Kansas State Planner



U.S. Department
of Transportation
Federal Aviation
Administration

AIRPORT RESCUE GRANT

GRANT AGREEMENT

Part I - Offer

Federal Award Offer Date July 27, 2021

Airport/Planning Area Dodge City Regional

Airport Rescue Grant No. 3-20-0017-035-2021

Unique Entity Identifier 073316721

TO: City of Dodge City
(herein called the "Sponsor")

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA an Airports Rescue Grant Application dated **June 28, 2021**, for a grant of Federal funds at or associated with the **Dodge City Regional Airport**, which is included as part of this Airport Rescue Grant Agreement;

WHEREAS, the Sponsor has accepted the terms of FAA’s Airport Rescue Grant offer;

WHEREAS, in consideration of the promises, representations and assurances provided by the Sponsor, the FAA has approved the Airport Rescue Grant Application for the **Dodge City Regional Airport**, (herein called the "Grant" or "Airport Rescue Grant") consisting of the following:

WHEREAS, this Airport Rescue Grant is provided in accordance with the American Rescue Plan Act ("ARP Act", or "the Act"), Public Law 117-2, as described below, to provide eligible Sponsors with funding for costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments. Airport Rescue Grant amounts to specific airports are derived by legislative formula (See Section 7102 of the Act).

WHEREAS, the purpose of this Airport Rescue Grant is to prevent, prepare for, and respond to the coronavirus pandemic. Funds provided under this Airport Rescue Grant Agreement must be used only for purposes directly related to the airport. Such purposes can include the reimbursement of an airport’s operational expenses or debt service payments in accordance with the limitations prescribed in the Act. Airport Rescue Grants may be used to reimburse airport operational expenses directly related to **Dodge City Regional Airport** incurred no earlier than January 20, 2020.

Airport Rescue Grants also may be used to reimburse a Sponsor's payment of debt service where such payments occur on or after March 11, 2021. Funds provided under this Airport Rescue Grant Agreement will be governed by the same principles that govern "airport revenue." New airport development projects not directly related to combating the spread of pathogens may not be funded with this Grant. Funding under this Grant for airport development projects to combat the spread of pathogens will be reallocated using an addendum to this Agreement for identified and approved projects.

NOW THEREFORE, in accordance with the applicable provisions of the ARP Act, Public Law 117-2, the representations contained in the Grant Application, and in consideration of (a) the Sponsor's acceptance of this Offer; and, (b) the benefits to accrue to the United States and the public from the accomplishment of the Grant and in compliance with the conditions as herein provided,

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay 100% percent of the allowable costs incurred as a result of and in accordance with this Grant Agreement.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is **\$59,000**, allocated as follows:

\$59,000	ARPA General [KW]
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2. **Grant Performance.** This Airport Rescue Grant Agreement is subject to the following Federal award requirements:

- a. The Period of Performance:

1. Shall start on the date the Sponsor formally accepts this agreement, and is the date signed by the last Sponsor signatory to the agreement. The end date of the period of performance is 4 years (1,460 calendar days) from the date of acceptance. The period of performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.
2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. (2 Code of Federal Regulations (CFR) § 200.1)

- b. The Budget Period:

1. For this Airport Rescue Grant is 4 years (1,460 calendar days). Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the budget period.
2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to §200.308.

- c. Close out and Termination.
1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the period of performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the Grant within one year of the period of performance end date with the information available at the end of 120 days. (2 CFR § 200.344)
 2. The FAA may terminate this Airport Rescue Grant, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.
 3. **Unallowable Costs.** The Sponsor shall not seek reimbursement for any costs that the FAA has determined to be unallowable under the ARP Act.
 4. **Indirect Costs - Sponsor.** The Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the Grant Application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages only.
 5. **Final Federal Share of Costs.** The United States' share of allowable Grant costs is 100%.
 6. **Completing the Grant without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the Grant without undue delays and in accordance with this Airport Rescue Grant Agreement, the ARP Act, and the regulations, policies, standards, and procedures of the Secretary of Transportation ("Secretary"). Pursuant to 2 CFR § 200.308, the Sponsor agrees to report to the FAA any disengagement from funding eligible expenses under the Grant that exceeds three months or a 25 percent reduction in time devoted to the Grant, and request prior approval from FAA. The report must include a reason for the stoppage. The Sponsor agrees to comply with the attached assurances, which are part of this agreement and any addendum that may be attached hereto at a later date by mutual consent.
 7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
 8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs unless this offer has been accepted by the Sponsor on or before **August 25**, or such subsequent date as may be prescribed in writing by the FAA.
 9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner, including uses that violate this Airport Rescue Grant Agreement, the ARP Act, or other provision of applicable law. For the purposes of this Airport Rescue Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement(s). The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or relate to this Airport Rescue Grant Agreement, including, but not limited to, any action taken by a Sponsor related to or arising from, directly or indirectly, this Airport Rescue Grant Agreement.
11. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**
- a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
 - b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at <https://sam.gov/SAM/pages/public/index.jsf>.
12. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
13. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Agreement.
14. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
15. **Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 United States Code (U.S.C.) § 50101 the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured goods produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.
16. **Audits for Sponsors.**
- PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA.
17. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:
- a. Verify the non-Federal entity is eligible to participate in this Federal program by:
 1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or

2. Collecting a certification statement from the non-Federal entity attesting the entity is not excluded or disqualified from participating; or
 3. Adding a clause or condition to covered transactions attesting the individual or firm is not excluded or disqualified from participating.
- b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g. subcontracts).
 - c. Immediately disclose to the FAA whenever the Sponsor (1) learns the Sponsor has entered into a covered transaction with an ineligible entity, or (2) suspends or debars a contractor, person, or entity.

18. Ban on Texting While Driving.

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to this Airport Rescue Grant or subgrant funded by this Grant.
 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - A. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - B. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded by this Airport Rescue Grant.

19. Trafficking in Persons.

- a. You as the recipient, your employees, subrecipients under this Airport Rescue Grant, and subrecipients' employees may not –
 1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 2. Procure a commercial sex act during the period of time that the award is in effect; or
 3. Use forced labor in the performance of the award or subawards under the Airport Rescue Grant.
- b. The FAA as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity –
 1. Is determined to have violated a prohibition in paragraph a. of this Airport Rescue Grant Agreement term; or
 2. Has an employee who is determined by the agency official authorized to terminate the Airport Rescue Grant Agreement to have violated a prohibition in paragraph a. of this Airport Rescue Grant term through conduct that is either –

- A. Associated with performance under this Airport Rescue Grant; or
- B. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 2 CFR Part 1200.
- c. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a. of this Grant condition during this Airport Rescue Grant Agreement.
- d. Our right to terminate unilaterally that is described in paragraph a. of this Grant condition:
 - 1. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and
 - 2. Is in addition to all other remedies for noncompliance that are available to the FAA under this Airport Rescue Grant.

20. Employee Protection from Reprisal.

- a. Prohibition of Reprisals —
 - 1. In accordance with 41 U.S.C. § 4712, an employee of a grantee or subgrantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (a)(2) of this Grant condition, information that the employee reasonably believes is evidence of:
 - a. Gross mismanagement of a Federal grant;
 - b. Gross waste of Federal funds;
 - c. An abuse of authority relating to implementation or use of Federal funds;
 - d. A substantial and specific danger to public health or safety; or
 - e. A violation of law, rule, or regulation related to a Federal grant.
 - 2. Persons and bodies covered: The persons and bodies to which a disclosure by an employee is covered are as follows:
 - a. A member of Congress or a representative of a committee of Congress;
 - b. An Inspector General;
 - c. The Government Accountability Office;
 - d. A Federal employee responsible for oversight or management of a grant program at the relevant agency;
 - e. A court or grand jury;
 - f. A management official or other employee of the Sponsor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct; or
 - g. An authorized official of the Department of Justice or other law enforcement agency.
 - 3. Submission of Complaint — A person who believes that they have been subjected to a reprisal prohibited by paragraph a. of this Airport Rescue Grant Agreement may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.

4. Time Limitation for Submittal of a Complaint — A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
 5. Required Actions of the Inspector General — Actions, limitations, and exceptions of the Inspector General’s office are established under 41 U.S.C. § 4712(b).
 6. Assumption of Rights to Civil Remedy — Upon receipt of an explanation of a decision not to conduct or continue an investigation by the Office of Inspector General, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c).
21. **Limitations.** Nothing provided herein shall be construed to limit, cancel, annul, or modify the terms of any Federal grant agreement(s), including all terms and assurances related thereto, that have been entered into by the Sponsor and the FAA prior to the date of this Airport Rescue Grant Agreement.
22. **Face Coverings Policy.** The sponsor agrees to implement a face-covering (mask) policy to combat the spread of pathogens. This policy must include a requirement that all persons wear a mask, in accordance with Centers for Disease Control (CDC) and Transportation Security Administration (TSA) requirements, as applicable, at all times while in all public areas of the airport property, except to the extent exempted under those requirements. This special condition requires the airport sponsor continue to require masks until Executive Order 13998, Promoting COVID-19 Safety in Domestic and International Travel, is no longer effective.

SPECIAL CONDITIONS FOR USE OF AIRPORT RESCUE GRANT FUNDS

CONDITIONS FOR EQUIPMENT -

1. **Equipment or Vehicle Replacement.** The Sponsor agrees that when using funds provided by this Grant to replace equipment, the proceeds from the trade-in or sale of such replaced equipment shall be classified and used as airport revenue.
2. **Equipment Acquisition.** The Sponsor agrees that for any equipment acquired with funds provided by this Grant, such equipment shall be used solely for purposes directly related to combating the spread of pathogens at the airport.
3. **Low Emission Systems.** The Sponsor agrees that vehicles and equipment acquired with funds provided in this Grant:
 - a. Will be maintained and used at the airport for which they were purchased; and
 - b. Will not be transferred, relocated, or used at another airport without the advance consent of the FAA.

The Sponsor further agrees that it will maintain annual records on individual vehicles and equipment, project expenditures, cost effectiveness, and emission reductions.

CONDITIONS FOR UTILITIES AND LAND -

4. **Utilities Proration.** For purposes of computing the United States’ share of the allowable airport operations and maintenance costs, the allowable cost of utilities incurred by the Sponsor to operate and maintain airport(s) included in the Grant must not exceed the percent attributable to the capital or operating costs of the airport.
5. **Utility Relocation in Grant.** The Sponsor understands and agrees that:

- a. The United States will not participate in the cost of any utility relocation unless and until the Sponsor has submitted evidence satisfactory to the FAA that the Sponsor is legally responsible for payment of such costs;
- b. FAA participation is limited to those utilities located on-airport or off-airport only where the Sponsor has an easement for the utility; and
- c. The utilities must serve a purpose directly related to the Airport.

The Sponsor's acceptance of this Offer and ratification and adoption of the Airport Rescue Grant Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor. The Offer and Acceptance shall comprise an Airport Rescue Grant Agreement, as provided by the ARP Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to this Grant. The effective date of this Airport Rescue Grant Agreement is the date of the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

Dated July 27, 2021

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**

Jim A. Johnson

(Signature)

Jim A. Johnson

(Typed Name)

Director, Central Region Airports Division

(Title of FAA Official)

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Airport Rescue Grant Application and incorporated materials referred to in the foregoing Offer under Part I of this Airport Rescue Grant Agreement, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Airport Rescue Grant Application and all applicable terms and conditions provided for in the ARP Act and other applicable provisions of Federal law.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct. ¹

Dated

City of Dodge City

(Name of Sponsor)

(Signature of Sponsor's Designative Official/Representative)

By:

(Type Name of Sponsor's Designative Official/Representative)

Title:

(Title of Sponsor's Designative Official/Representative)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Kansas . Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the ARP Act. The Sponsor understands funding made available under this Grant Agreement may only be used for costs related to operations, personnel, cleaning, sanitization, janitorial services, and combating the spread of pathogens at the airport incurred on or after January 20, 2020, or for debt service payments that are due on or after March 11, 2021. Further, it is my opinion the foregoing Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

Dated at _____

By:

(Signature of Sponsor's Attorney)

AIRPORT RESCUE GRANT ASSURANCES

AIRPORT SPONSORS

A. General.

1. These Airport Rescue Grant Assurances are required to be submitted as part of the application by sponsors requesting funds under the provisions of the American Rescue Plan Act of 2021 ("ARP Act," or "the Act"), Public Law 117-2. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
2. Upon acceptance of this Airport Rescue Grant offer by the sponsor, these assurances are incorporated into and become part of this Airport Rescue Grant Agreement.

B. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this Airport Rescue Grant that:

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Airport Rescue Grant including but not limited to the following:

FEDERAL LEGISLATION

- a. 49 U.S.C. Chapter 471, as applicable
 - b. Davis-Bacon Act — 40 U.S.C. 276(a), et. seq.
 - c. Federal Fair Labor Standards Act — 29 U.S.C. 201, et. seq.
 - d. Hatch Act — 5 U.S.C. 1501, et. seq.²
 - e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et. seq.
 - f. National Historic Preservation Act of 1966 — Section 106 — 16 U.S.C. 470(f).
 - g. Archeological and Historic Preservation Act of 1974 — 16 U.S.C. 469 through 469c.
 - h. Native Americans Grave Repatriation Act — 25 U.S.C. Section 3001, et. seq.
 - i. Clean Air Act, P.L. 90-148, as amended.
 - j. Coastal Zone Management Act, P.L. 93-205, as amended.
 - k. Flood Disaster Protection Act of 1973 — Section 102(a) — 42 U.S.C. 4012a.
 - l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f)).
 - m. Rehabilitation Act of 1973 — 29 U.S.C. 794.
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- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 — 42 U.S.C. 6101, et. seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 — 42 U.S.C. 4151, et. seq.
- s. Power plant and Industrial Fuel Use Act of 1978 — Section 403- 2 U.S.C. 8373.
- t. Contract Work Hours and Safety Standards Act — 40 U.S.C. 327, et. seq.
- u. Copeland Anti-kickback Act — 18 U.S.C. 874.1.
- v. National Environmental Policy Act of 1969 — 42 U.S.C. 4321, et. seq.
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 — 31 U.S.C. 7501, et. seq.²
- y. Drug-Free Workplace Act of 1988 — 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

EXECUTIVE ORDERS

- a. Executive Order 11246 – Equal Employment Opportunity
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction
- f. Executive Order 12898 – Environmental Justice
- g. Executive Order 14005 – Ensuring the Future Is Made in All of America by All of America's Workers.

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
 - b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.^{3,4}
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- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 28 CFR Part 35 – Discrimination on the Basis of Disability in State and Local Government Services.
- e. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- f. 29 CFR Part 1 – Procedures for predetermination of wage rates.¹
- g. 29 CFR Part 3 – Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- h. 29 CFR Part 5 – Labor standards provisions applicable to contracts covering Federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- i. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally assisted contracting requirements).¹
- j. 49 CFR Part 20 – New restrictions on lobbying.
- k. 49 CFR Part 21 – Nondiscrimination in Federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- l. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- m. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Program.
- n. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹
- o. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- p. 49 CFR Part 30 – Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- q. 49 CFR Part 32 – Government-wide Requirements for Drug-Free Workplace (Financial Assistance).
- r. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- s. 49 CFR Part 41 – Seismic safety of Federal and Federally assisted or regulated new building construction.

FOOTNOTES TO AIRPORT RESCUE GRANT ASSURANCE B

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ Cost principles established in 2 CFR Part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses
- ⁴ Audit requirements established in 2 CFR Part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations, or circulars are incorporated by reference in this Grant Agreement.

1. Purpose Directly Related to the Airport

It certifies that the reimbursement sought is for a purpose directly related to the airport.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this Grant, and to finance and carry out the proposed grant; that an official decision has been made by the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed Grant and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Good Title.

It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

4. Preserving Rights and Powers.

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with this Grant Agreement.

c. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations, and the terms and conditions of this Grant Agreement.

5. Consistency with Local Plans.

Any project undertaken by this Grant Agreement is reasonably consistent with plans (existing at the time of submission of the Airport Rescue Grant application) of public agencies that are authorized

by the State in which the project is located to plan for the development of the area surrounding the airport.

6. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where any project undertaken by this Grant Agreement may be located.

7. Consultation with Users.

In making a decision to undertake any airport development project undertaken by this Grant Agreement, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

8. Pavement Preventative Maintenance.

With respect to a project undertaken by this Grant Agreement for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport, including Airport Rescue Grant funds provided under this Grant Agreement. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

9. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all Grant accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the Grant in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the Grant supplied by other sources, and such other financial records pertinent to the Grant. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a Grant or relating to the Grant in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

10. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on the airport funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

11. Veteran's Preference.

It shall include in all contracts for work on any airport development project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment

of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

12. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, State and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:
 1. Operating the airport's aeronautical facilities whenever required;
 2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 3. Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

13. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

14. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft.

15. Exclusive Rights.

The sponsor shall not grant an exclusive right to use an air navigation facility on which this Grant has been expended. However, providing services at an airport by only one fixed-based operator is not an exclusive right if—

- a. it is unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide the services; and
- b. allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an agreement existing on September 3, 1982, between the operator and the airport.

16. Airport Revenues.

- a. This Grant shall be available for any purpose for which airport revenues may lawfully be used to prevent, prepare for, and respond to coronavirus. Funds provided under this Airport Rescue Grant Agreement will only be expended for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport(s) subject to this agreement and all applicable addendums for costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments as prescribed in the Act
- b. For airport development, 49 U.S.C. § 47133 applies.

17. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

18. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

19. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
 - 1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;

2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 4. all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

20. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this Grant.

- a. Using the definitions of activity, facility, and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR Part 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
 1. Programs and Activities. If the sponsor has received a grant (or other Federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities
 2. Facilities. Where it receives a grant or other Federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of, real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
2. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language

It will include the following notification in all solicitations for bids, Requests for Proposals for work, or material under this Grant and in all proposals for agreements, including airport concessions, regardless of funding source:

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

e. Required Contract Provisions.

1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT Acts and regulations.
2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - A. For the subsequent transfer of real property acquired or improved under the applicable activity, grant, or program; and
 - B. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, grant, or program.

- C. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- D. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

21. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any activity that uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

22. Policies, Standards and Specifications.

It will carry out any project funded under an Airport Rescue Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars for AIP projects, as of June 28, 2021.

23. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

24. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 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 1936 (31 U.S.C. 3801).

25. Acquisition Thresholds.

The FAA deems equipment to mean tangible personal property having a useful life greater than one year and a per-unit acquisition cost equal to or greater than \$5,000. Procurements by micro-purchase means the acquisition of goods or services for which the aggregate dollar amount does

not exceed \$10,000, unless authorized in accordance with 2 CFR § 200.320. Procurement by small purchase procedures means those relatively simple and informal procurement methods for securing goods or services that do not exceed the \$250,000 threshold for simplified acquisitions.

Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects

View the most current Series 150 Advisory Circulars (ACs) for Airport Projects at
http://www.faa.gov/airports/resources/advisory_circulars and
http://www.faa.gov/regulations_policies/advisory_circulars



Memorandum

To: Nick Hernandez, City Manager and City Commissioners
From: Nathan Littrell, Planning & Zoning Administrator
Date: August 2, 2021
Subject: Rezoning for 401 Beech St.
Agenda Item: Ordinance #3759

Recommendation: The Planning Commission held a public hearing on July 13, 2021 and recommends approval of this zoning amendment. It is also City staff's recommendation to approve this rezoning.

Background: The applicant wishes to rezone this property to R-2 Residential Medium Density to allow for single family housing in this location. There is currently one residence and agriculture use on this property. The applicant plans to replat this area into smaller residential lots.

Justification: The property is adjacent to other residential development, including a mobile home park. Utilizing this property for residential development would be compatible with the area and a best use for this land. The rezoning of this property is in agreement with the City's Comprehensive Plan.

Financial Considerations: None

Purpose/Mission: Approving this rezoning will encourage and support growth and development in our community.

Legal Considerations: None

Attachments: Ordinance #3759, Map

ORDINANCE NO. 3759

AN ORDINANCE OF THE CITY OF DODGE CITY, KANSAS AMENDING THE OFFICIAL ZONING MAP OF THE CITY, CHANGING THE PROPERTY LOCATED AT 401 BEECH STREET FROM AG AGRICULTURAL, TO R-2, RESIDENTIAL MEDIUM DENSITY.

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

SECTION 1: The following described real property located in Dodge City, Ford County, Kansas is hereby rezoned:

A tract of land in Section 36, Township 26 South, Range 25 West of the 6th P.M., Ford County, Kansas, and is more particularly described as follows:

Beginning at a point on the West line of said Section 36, 3,605 feet North of the Southwest corner of said section; Thence Southeasterly to a point 378.7 feet East and 3,522 feet North of said Southwest corner of said Section; Thence North parallel to the West line of said Section to the South Bank of the Arkansas River; Thence Westerly along the South bank of the Arkansas River to the West line of said Section; Thence South to the Place of Beginning.

EXCEPT all of that land lying North of the below described tract of land and South of the Arkansas River: A tract of land located in the Northwest Quarter (NW/4) of Section 36, Township 26 South, Range 25 West of the 6th P.M., Ford County, KS, described as beginning at a point on the West line of said NW/4, Section 36, which is 3,605 feet North of the Southwest corner of said Section 36; Thence Southeasterly a distance of 387.7 feet to a point 3,522 feet North of and 378.7 feet East of the Southwest corner of said Section 36; Thence North parallel to the West line of said Section 36, a distance of 386.8 feet, to the South right of way line of the Dodge City Flood Protection Works, said point being 3,908.8 feet North of and 387.7 feet East of the Southwest corner of said Section 36; Thence West along the South right of way line of said Flood Protection Works, a distance of 378.7 feet, more or less, to the West line of said Section 36; Thence South along the West line of said Section 36, a distance of 304.05 feet to the point of beginning.

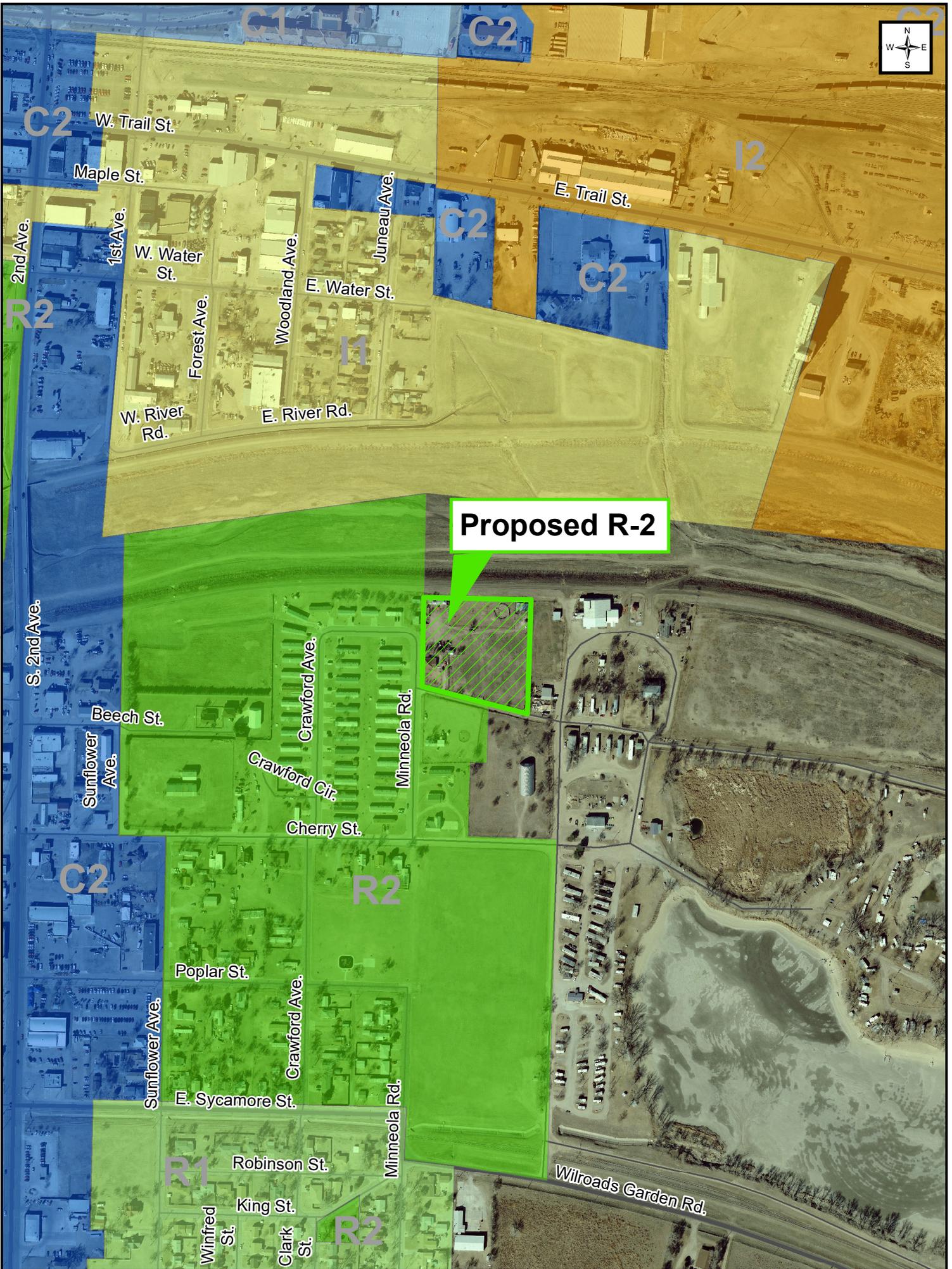
SECTION 2: This ordinance shall take effect, from and following its publication in the official paper, as required by law.

PASSED BY THE CITY OF DODGE CITY GOVERNING BODY, IN REGULAR
SESSION AND APPROVED BY THE MAYOR, THIS SECOND DAY OF AUGUST,
2021.

RICK SOWERS, MAYOR

ATTEST:

CONNIE MARQUEZ, CITY CLERK





Memorandum

To: Nick Hernandez, City Manager and City Commissioners
From: Nathan Littrell, Planning & Zoning Administrator
Date: August 2, 2021
Subject: Summerlon Addition, Phase VII
Agenda Item: New Business

Recommendation: The Planning Commission met on July 13, 2021 to review and recommend approval of this replat. It is also City staff's recommendation to approve this plat.

Background: The applicant wishes to replat this area to allow for the large single lot to be split up into 3 smaller lots so the separate lots could potentially be sold individually. The property still plans on multi-family housing for these properties. This area has been previously platted, but this portion undeveloped.

Justification: The applicant simply wishes to divide the large lot into 3 smaller lots. A lot split isn't allowed for anything more than two lots, so this property had to be replatted. This plat meets all of the City's zoning and subdivision requirements and is consistent with the City Comprehensive Plan.

Financial Considerations: None

Purpose/Mission: Approving this plat will encourage and support growth and development in our community.

Legal Considerations: None

Attachments: Plat Application, Map, Plat

CITY OF DODGE CITY
APPLICATION FOR PLAT APPROVAL

Section No. 24
Township No. 26
Range No. 25

Subdivision Case No. 21-07
Date Filed 6/28/21

I. Name of Subdivision Summerlon Addition phase VII

II. General Location _____

III. Name of Property Owner Summerlon Properties, LLC
Address 1902 Hi Street + Dodge City KS 67801
Phone 785-776-0541

IV. Name of Agent N/A
Address _____
Phone _____

V. Name of Surveyor Tim Sloan
Address 2017 Vanesta Place Suite 110 Manhattan, KS 66503
Phone 785-776-0541

VI. Subdivision Information:
A. Gross Acreage of Plat 1.7 (Ac.)

- B. Number of Lots:
- 1. Residential 3
 - 2. Commercial _____
 - 3. Industrial _____
 - 4. Other _____

C. Minimum Lot Frontage 71.56

D. Minimum Lot Area 28,749

E. Existing Zoning R3

F. Proposed Zoning R3

G. Public Water Supply Yes X No _____

H. Public Sanitary Sewers Yes X No _____

.....

This application was received at the office of the Secretary of the Dodge City Zoning Board at _____ (A.M.) (P.M.) on the 28th day of June, 2021. It has been checked and found to be complete and accompanied by required documents and the appropriate fee of \$ 115.00.

Nathan Littel
Name

Planning + Zoning Administrator
Title

pd \$115.00 cash 6/28/21 of

US HIGHWAY 50

N 89°24'34" W 315.90' (S&P)

CAPITAL DEVELOPMENT LLC
BOOK 253 PAGE 816

S 38°37'43" W 67.89' (S&P)

LOT 1
34107 SQ FT

N 67°12'03" W 38.68'

20.00' U.E.

N 29°43'05" E 132.55' (S&P)

N 89°24'34" W 204.27'

INGRESS/EGRESS
EASEMENT

S 00°35'26" W 113.48'

LOT 2
62856 SQ FT

25.0' B.S.

N 56°01'36" W 48.88'

45.00'

40.64'

12.90'

N 61°48'03" E 53.54' (S&P)

L=71.56'
R=50.00' (S)

SUNRISE CT

SUMMERLON INC
BOOK 205 PAGE 609

N 30°17'51" E 77.63' (S&P)

N 56°01'36" W 33.52' (S&P)

S 55°55'14" E 28.66'

MUETING, NICK &
PAULA
BOOK 1 PAGE 687

S 89°24'42" E 180.88'
CENTERLINE 20.0' D.E.

S 00°35'26" W 113.48'

N 02°53'28" W 47.60' (S&P)

S 67°35'09" W 24.02'

LOT 3
28749 SQ FT

S 51°59'59" E 36.80'

N 03°18'31" E 22.38'

N 89°24'42" W 30.29'

U.E.

S 89°24'42" E 277.04' (S&P)

N 00°17'49" W 29.91' (S&P)

RICO MUNOZ,
JAIME & RICO,
SILVA BOOK D
PAGE 109

DERSTEIN, JEREMY, &
DONITA BOOK D PAGE
109

GONZALEZ, SIMON
& GISELDA
BOOK D PAGE 109

ROBIN RD

ROLLIEDEE
ADDITION

Replat of Summerlon Addition, Phase V Closure Table

Segment# 1: Line Course: N89° 24' 42"W North: 1,721,102.04'	Length: 277.04' East: 878,457.24'	Perimeter: 1,450.45' Area: 88,079.57Sq.Ft. Error Closure: 0.0009 Course: S15°18"W Error North: -0.00090 East: -0.0002
Segment# 2: Line Course: N0° 35' 18"E North: 1,721,217.05'	Length: 115.02' East: 878,458.42'	
Segment# 3: Line Course: N56° 01' 36"W North: 1,721,235.78'	Length: 33.52' East: 878,430.62'	
Segment# 4: Curve Length: 71.56' Radius: 50.00' Delta: 82.00 (d)Tangent: 43.46' Chord: 65.61' Course: N1° 18' 31"W Course In: N50° 18' 31"W Course Out: N47° 41' 29"E RP North: 1,721,267.71' East: 878,392.15' End North: 1,721,301.37' East: 878,429.12'		
Segment# 5: Line Course: N38° 37' 43"E North: 1,721,354.41'	Length: 67.89' East: 878,471.50'	
Segment# 6: Line Course: N0° 35' 18"E North: 1,721,461.78'	Length: 107.38' East: 878,472.61'	
Segment# 7: Line Course: S89° 24' 34"E North: 1,721,458.53'	Length: 315.90' East: 878,788.49'	
Segment# 8: Line Course: S29° 43' 05"W North: 1,721,343.41'	Length: 132.55' East: 878,722.78'	
Segment# 9: Line Course: S61° 48' 03"W North: 1,721,318.11'	Length: 53.54' East: 878,675.60'	
Segment# 10: Line Course: S30° 17' 51"W North: 1,721,251.08'	Length: 77.63' East: 878,636.43'	
Segment# 11: Line Course: S2° 53' 28"E North: 1,721,203.54'	Length: 47.60' East: 878,638.83'	
Segment# 12: Line Course: S51° 59' 59"E North: 1,721,129.10'	Length: 120.91' East: 878,734.11'	
Segment# 13: Line Course: S0° 17' 49"E North: 1,721,099.19'	Length: 29.91' East: 878,734.27'	

Notes:

No easements, restrictions reservations, setbacks, or other matter of record, if any, affecting the title of this property are shown, as per agreement with the landowner.

No gaps or overlaps exist.

There are no lines of possession that affect this survey.

Parent tract is recorded in Book 327, Page 762, Register of Deeds Office, Ford County, Kansas.

No existing buildings are shown, as per agreement with the owners.

All building setback requirements shall be determined by the zoning district, unless otherwise noted.

Contour lines and elevations are from a survey specifically executed for this plat.

Zoning: "R2"

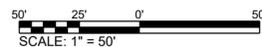
Floodplain Note:

Flood Plain: Flood Zone X, an area determined to be outside the 0.2% annual chance floodplain, FEMA FIRM (Flood Insurance Rate Map) Community Panel Number 20057C0194E, effective date, SEPTEMBER 25, 2009

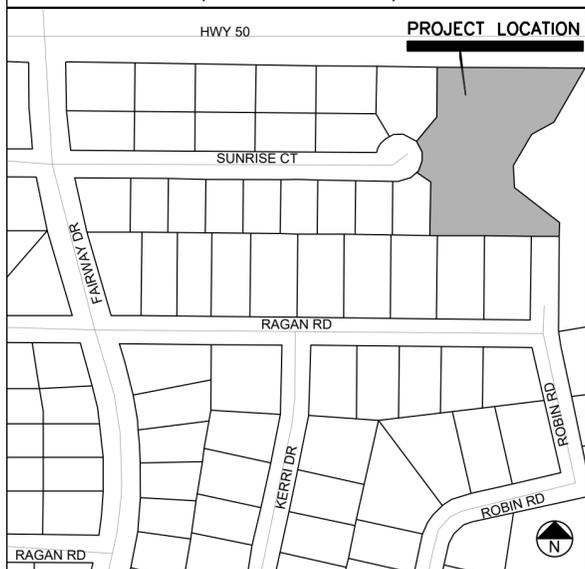
Utility Notes:

Any utility company that locates facilities in any easement shall have the right to prune, remove, eradicate, cut and clear away any trees, limbs, vines and brush on the utility easement now or at any future time and prune and clear away any tree limbs, vines, and brush on lands adjacent to the utility easement whenever, in the utility companies judgment, such may interfere with or endanger the construction, operation, or maintenance of its facilities, together with the right of ingress to and egress from the utility easement and contiguous land subject to this plat for the purpose of surveying, erecting, constructing, maintaining, inspecting, rebuilding, replacing, and with or endangering the construction, operation or maintenance of said facilities.

CURVE DATA						
NO.	RADIUS	ARC	CHORD	DELTA	TANGENT	BEARING
1	50.00	71.56	65.61	81°59'55.3"	43.46	N 65°58'47" E



VICINITY MAP
(NOT TO SCALE)



LEGEND

- Monument Found (1/2" Rebar),
- 1/2"x24" Rebar w/CLS66 Cap Set
- △ Section Corner, NOTE: All section corner monument origins are unknown unless otherwise noted.
- * Matched Plat Bearing
- (P) Plat Dimension
- (S) Surveyed Dimension
- B.S. Building Setback
- D.E. Drainage Easement
- U.E. Utility Easement
- I.E.E. Ingress/Egress Easement
-  Drainage Easement Hatch
-  Utility Easement Hatch
-  Ingress/Egress Easement Hatch

FINAL PLAT
REPLAT OF SUMMERLON
ADDITION, PHASE VII

An Addition to the City of Dodge City,
Ford County, Kansas

SMH
CONSULTANTS

Civil Engineering • Land Surveying • Landscape Architecture
www.smhconsultants.com

Manhattan, KS - HQ P: (785) 776-0541 • Dodge City, KS P: (620) 255-1952
Overland Park, KS P: (913) 444-9615 • Colorado Springs, CO P: (719) 465-2145

Drawn By: ATJ Project 2106-0269 DD #

JULY 2021

OWNERS CERTIFICATE:

THE UNDERSIGNED, GREGORY GASKILL, HEREBY CERTIFIES HE IS A MEMBER OF SUMMERLON PROPERTIES, LLC, A KANSAS LIMITED LIABILITY COMPANY, AND IS DULY AUTHORIZED AS AN AGENT FOR SUMMERLON PROPERTIES, LLC, AND HAS CAUSED TO BE LAID OUT AND PLATTED A TRACT OF LAND TO BE CALLED "REPLAT OF SUMMERLON ADDITION, PHASE VII" ADDITION TO THE CITY OF DODGE CITY, FORD COUNTY, KANSAS, WHICH INCLUDES PORTIONS OF THE FOLLOWING:

LOT 10, BLOCK 2, REPLAT OF SUMMERLON ADDITION, PHASE V, CITY OF DODGE CITY, FORD COUNTY, KANSAS

SUBJECT TO EASEMENT AND RESTRICTION OF RECORD.

THE UNDERSIGNED, AS SUCH OWNERS, DO HEREBY STATE THAT ALL STREET RIGHT-OF-WAYS AS SHOWN ON THIS PLAT ARE HEREBY DEDICATED TO THE PUBLIC, AN EASEMENT AND LICENSE TO LOCATE, CONSTRUCT, OPERATE, INSPECT, REPLACE, AND MAINTAIN, OR AUTHORIZE THE LOCATION, CONSTRUCTION, OPERATION, INSPECTION, REPLACEMENT AND MAINTENANCE OF POLES, WIRES, CONDUITS, WATER, GAS, AND SEWER PIPES; REQUIRED DRAINAGE CHANNELS OR STRUCTURES; HARD AND IMPERVIOUS SURFACES; OR, OTHER STRUCTURES NECESSARY TO CARRY OUT THE FUNCTION OF THE EASEMENT, UPON THE AREA MARKED FOR EASEMENTS ON THIS PLAT, IS ALSO HEREBY DEDICATED TO THE PUBLIC, WHEN, AND IF, USED ON THIS PLAT, THE TERM "UTILITY" SHALL INCLUDE, BY WAY OF EXAMPLE, BUT NOT LIMITED TO, SEWER, WATER, GAS, ELECTRICITY, CABLE T.V. AND TELEPHONE. WHEN, AND IF, USED ON THIS PLAT, THE TERM "TRAVEL" SHALL INCLUDE ALL FORMS OF TRAVEL, BY WHATEVER MEANS, UNLESS THE TERM IS LIMITED BY OTHER WORDS OR PHRASES, SUCH AS, "PEDESTRIAN TRAVEL", ETC. THE UNDERSIGNED ACKNOWLEDGES THAT PURSUANT TO K.S.A. 12-406, THE DEDICATION OF RIGHT-OF-WAYS AND EASEMENTS TO THE PUBLIC CONSTITUTES A CONVEYANCE THEREOF TO THE CITY OF DODGE CITY, FORD COUNTY, KANSAS, IN TRUST, FOR THE USES NAMED, EXPRESSED OR INTENDED.

ON THIS _____ DAY OF _____, 2021.

SUMMERLON PROPERTIES, LLC

GREGORY M. GASKILL, PRES.

STATE OF KANSAS)
COUNTY OF FORD) SS

BEFORE ME, A NOTARY PUBLIC, WITHIN AND FOR SAID COUNTY AND STATE, PERSONALLY KNOWN TO ME TO BE THE LEGAL PARTY WHO EXECUTED THE ABOVE AND FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT SAID PARTY EXECUTED THE SAME AS A FREE AND VOLUNTARY ACT AND DEED FOR THE PURPOSES SET FORTH.

IN WITNESS WHEREOF, I HAVE HEREUNTO PUT MY HAND AND SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

MY COMMISSION EXPIRES _____.

NOTARY PUBLIC

DODGE CITY PLANNING COMMISSION:

THIS PLAT OF "REPLAT OF SUMMERLON ADDITION, PHASE VII" HAS BEEN SUBMITTED TO AND APPROVED BY THE DODGE CITY PLANNING COMMISSION THIS _____ DAY OF _____, 2021.

CHAIRMAN, TIM TAYLOR

SECRETARY, NATHAN LITRELL

REGISTER OF DEEDS CERTIFICATE:

STATE OF KANSAS)
COUNTY OF FORD)

THIS IS TO CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN THE OFFICE OF FORD COUNTY REGISTER OF DEEDS ON THIS _____ DAY OF _____, 2021 AT _____ O'CLOCK ____ M. IN CABINET/SLIDE # _____, DOC ID # _____, AND IS DULY RECORDED.

BRENDA POGUE, FORD COUNTY REGISTER OF DEEDS

FEE TOTAL: _____

TRANSFER RECORD CERTIFICATE:

THIS IS TO CERTIFY THAT THIS INSTRUMENT WAS ENTERED INTO THE TRANSFER RECORD ON THIS _____ DAY OF _____, 2021.

DEBBIE COX, FORD COUNTY CLERK

SURVEYOR:

SMH Consultants
Tim Sloan, P.S., Vice-President
2017 Vanesta Place, Suite 110,
Manhattan, KS 66503
PH: 785-776-0541
707 3rd Avenue, Suite A,
Dodge City, Kansas 67801
PH: 620-255-1952

OWNER and SUB-DIVIDER:

Summerlon Properties, LLC
1902 Hi Street
Dodge City, Kansas 67801
Ph: 620-430-2859
Contact: Greg Gaskill

CITY APPROVAL

STATE OF KANSAS)
CITY OF DODGE CITY) SS

THE ABOVE AND FOREGOING DOCUMENT KNOWN AS "REPLAT OF SUMMERLON ADDITION, PHASE VII" TO THE CITY OF DODGE CITY, FORD COUNTY, KANSAS, HAVING BEEN SUBMITTED TO THE GOVERNING BODY OF THE CITY OF DODGE CITY, FORD COUNTY, KANSAS AT THE REGULAR MEETING HELD ON THE _____ DAY OF _____, 2021, HAS BEEN EXAMINED AND CONSIDERED AND THE SAME IS HEREBY APPROVED THIS _____ DAY OF _____, 2021.

THE CITY OF DODGE CITY, KANSAS

RICK SOWERS, MAYOR

CONNIE MARQUEZ, CITY CLERK

CERTIFICATION BY REVIEW SURVEYOR

STATE OF KANSAS)
COUNTY OF FORD) SS

THIS PLAT HAS BEEN EXAMINED THIS _____ DAY OF _____, 2021 FOR COMPLIANCE WITH THE REQUIREMENTS OF THE ACT CONCERNING LAND SURVEYS IN THE STATE OF KANSAS, K.S.A. 58-2005.

BENJAMIN A. RUMBAUGH, COUNTY SURVEYOR, FORD COUNTY, KANSAS

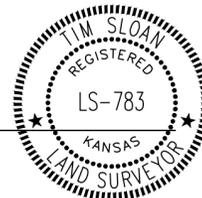
SURVEYOR CERTIFICATE:

I, TIM SLOAN, THE UNDERSIGNED, DO HEREBY CERTIFY THAT I AM, BY PROFESSION, A LAND SURVEYOR, AND THAT THE RE-PLAT OF "SUMMERLON ADDITION PHASE VII", AN ADDITION TO THE CITY OF DODGE CITY, FORD COUNTY, KANSAS CORRECTLY REPRESENTS A SURVEY MADE UNDER MY SUPERVISION ON THE _____ DAY OF _____, 2021, AND THAT ALL MONUMENTS SHOWN HEREIN ACTUALLY EXIST AND THEIR POSITIONS ARE CORRECTLY SHOWN. THIS SURVEY MEETS THE KANSAS MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING OF A TRACT OF LAND WHICH INCLUDES PORTIONS OF THE FOLLOWING:

LOT 10, BLOCK 2, REPLAT OF SUMMERLON ADDITION, PHASE V, CITY OF DODGE CITY, FORD COUNTY, KANSAS

SUBJECT TO EASEMENT AND RESTRICTION OF RECORD.

TIM SLOAN, P.S.
VICE-PRESIDENT



Final Plat
**REPLAT OF SUMMERLON,
ADDITION, PHASE VII**

An Addition to the City of Dodge City,
Ford County, Kansas



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Drawn By: ATJ Project 2106-0042 DD #

JULY 2021

Summerlon Phase VII



KLIESEN SUB. NO. 2

Kliesen St.

U.S. Hwy. 50 U.S. HIGHWAY 50

REPLAT SUMMERLON PHASE VII

Sunrise Ct. SUNRISE CT.

SUMMERLON PHASE 2

Ragan Rd. RAGAN RD.

Ragan Rd.

KERRI DR

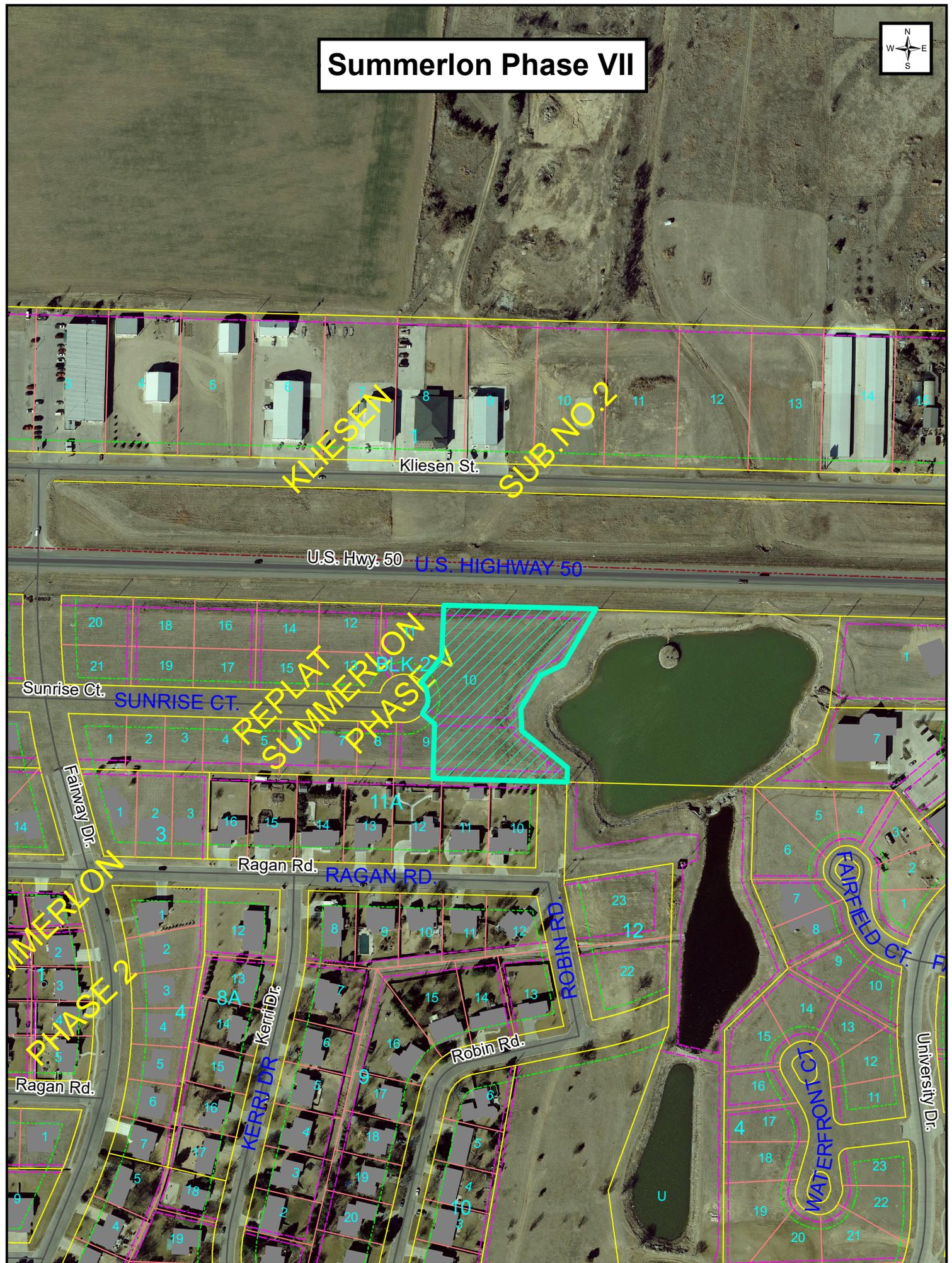
Robin Rd.

ROBIN RD.

FAIRFIELD CT

WATERFRONT CT

University Dr.





Memorandum

To: Nick Hernandez, City Manager and City Commissioners
From: Ray Slattery, PE, Director of Engineering Services
Date: July 27, 2021
Subject: Approve Quote for Spare Compressor for Warrior Project
Agenda Item: New Business

Recommendation: Approve the quote from Guild Associates, Inc. for a spare Vacuum Compressor in the amount of \$93,703.75.

Background: In January, the Warrior Project experienced a fire in one of the vacuum compressors. However, in October 2020 the Commission had approved the purchase of a spare Vacuum and Feed compressor. The spare vacuum compressor was delivered and put into service immediately. Staff has requested a quote to again have a spare Vacuum compressor in stock for when the need arises. Payback on having a spare Vacuum compressor is roughly 18 days. There is a 10-12 week lead time for the Vacuum Compressor.

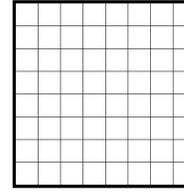
Justification: By purchasing this spare compressor, we will be able to keep the Warrior Project operational in the event the existing compressors fail. This will ensure that the City will continue produce bio-gas and generate revenue. This will also allow the City to meet our contractual obligations to provide bio-gas to our contract buyers.

Financial Considerations: Payment for the compressor will not be needed until delivery of the compressor. Delivery of the compressor will be later this year. Payment will come from the insurance claim from the fire of the Vacuum Compressor.

Purpose/Mission: This project aligns with the City's Core Value of "Ongoing Improvement" and "Working Towards Excellence". Together we endeavor to provide an alternate source of revenue for the City along with our goal of good steward ship of our resources.

Legal Considerations: None

Attachments: Quote from Guild Associates, Inc.



Guild Associates, Inc.
 5750 Shier-Rings Road
 Dublin, OH 43016
 Phone: (614) 798-8215
 Fax: (614) 798-1972

QUOTE

DATE: 07/06/2021

TO:

Jacobs

ATTN: Cody Woods

(620) 339-1099

Cody.woods@jacobs.com

QUOTE # 2021-083

FROM:

Jim Kotary

Guild Associates, Inc.

(614) 496-9407

jimkotary@guildassociates.com

Quote Expiration: 30 Days

Terms: Net 30

Guild Associates is pleased to provide this quote for your consideration.

LINE #	TAGS	DESCRIPTION	QTY	UOM	PRICE/UOM	EXT PRICE
1	C-251A, C-251B	PUMP, VACUUM, LIQUID RING, XL-500 CBM W/ MECHANICAL SEALS JOHN CRANE TYPE 8-1	1	EA	\$92,884.19	\$92,884.19
2	C-251A, C-251B	PAINT, PUMP, VACUUM, LIQUID RING, XL-500 CBM, RAL 7040 (WINDOW GREY)	1	EA	\$819.56	\$819.56
					TOTAL	\$93,703.75

Estimated Lead Time: 10-12 Weeks

Shipping and handling charges for standard ground shipping is included in total.

[Please email the purchase order to mailto:jimkotary@guildassociates.com](mailto:jimkotary@guildassociates.com). Please reference this quote number on your [purchase order](#).

Guild accepts credit card (Master Card, VISA, and American Express), check, or wire transfer for the payment. For credit card payment please call Diana Spurgeon, at (614-652-6527) with the information. A 5% fee will be added to each credit card purchase.

If payment by check, the order will be placed after the check clears the bank. Please reference this quote number on your payment.

Wire transfer account information: ACH TO: FBC Bank, a division of CNB Bank.

Routing # 031306278

ACCT # 1306781899

Contact Guild's Service Center for all service requests.

Guild offers a complete service portfolio for: service, spare parts, warranty service, and technical support. Guild service is not limited to equipment manufactured by Guild.

Call: 614-715-0093

[E-mail: service@guildassociates.com](mailto:service@guildassociates.com)

[Service Center Link available at: http://www.guildassociates.com/gas_processing_service](http://www.guildassociates.com/gas_processing_service)



Memorandum

To: Nick Hernandez, City Manager and City Commissioners
From: Ray Slattery, PE, Director of Engineering Services
Date: July 28, 2021
Subject: Approve Quote for Spare Gas Chromatograph for Warrior Project
Agenda Item: New Business

Recommendation: Approve the quote from Emerson for a spare Gas Chromatograph in the amount of \$60,806.00.

Background: On May 26, 2021 the gas chromatograph (GC) on the Industrial anaerobic lagoon quit working. Jacobs Staff and representatives from Emerson worked the entire month of June to fix the GC. There were two complex valves that failed and had to be rebuilt. After the valves were rebuilt, the GC had to be recalibrated. During recalibration another valve failed and pressured up the unit causing more damage. As with most things these days, it took some time to get the necessary parts to repair the unit. On July 1st, they were able to get the GC operational again. Since this GC was not operational for the month of June, we were not able to separate gas streams, i.e. measure the heat content from the municipal and industrial lagoons. Therefore, all gas generated had to be sold as industrial gas to OCI. No RIN's were produced for the month. It is estimated that we lost out on the production of 100,000 or more RIN's for the month. We just recently sold the batch of RIN's for \$3.09 per RIN. If the GC would have been operational during the month of June; the June RIN's would have been sold with this batch. With this facility being operational 24/7/365 we have estimated that it is been running in excess of 25,000 hours. After that long of run time parts will start to fail. That is why we are recommending having a spare GC and spare parts for other major components. Payback on having a spare gas chromatograph is calculated at less than 6 days. There is a 20-21week lead time for the gas chromatograph.

Justification: By purchasing the spare GC, we will be able to keep the Warrior Project operational in the event the one of the GC's fail. This will ensure that the City will continue produce bio-gas and generate revenue. This will also allow the City to meet our contractual obligations to provide bio-gas to our contract buyers.

Financial Considerations: Payment for the GC's will come from the depreciation fund of the Warrior Project.

Purpose/Mission: This project aligns with the City's Core Value of "Ongoing Improvement" and "Working Towards Excellence". Together we endeavor to provide an alternate source of revenue for the City along with our goal of good steward ship of our resources.

Legal Considerations: None

Attachments: Quote from Guild Associates, Inc.

Customer Data		Ordering Information	
Company	Dodge City Waste Water Treatment Plant 4120 North 14 th Ave. Dodge City, KS 67801 USA	Order From	Rosemount Inc. Gas Chromatographs-Service Center 10241 West Little York Rd, Suite 200 Houston, TX 77040
Attention	Cody Woods	Contact	CSC
Phone	620.339.1099	Phone	713.396.8870
Email	cody.woods@jacobs.com	FAX	713.466.8175
Reference	Model 770XA – Landfill Application Reference SO# 738364	Submit Order	GC.CSC@Emerson.com
Proposal Data		Technical Application/Support Information	
Proposal #	76637	Sales Contact:	Jeff Derks
Date	Thursday July 1, 2021	Phone:	816.214.2355
Valid For	30 Days	Email:	Jeff.Derks@Emerson.com
Shipment	20 Weeks*	Technical/Application Support Specialist:	Bryn E. Leon
F.O.B	Houston Factory	Phone:	713.396.8870
Terms	Net 30 Days	Email:	Bryn.Leon@Emerson.com

Mr. Woods,

Thank you for the opportunity to propose a Model 770XA Process Gas Chromatograph System to perform your landfill gas stream measurements, similar to GC SO# 738364. Please see Application Description, as well as Exceptions & Clarifications, included in this proposal for additional technical details.

We appreciate your interest in Emerson and thank you for your consideration. If you have any questions or require additional information, please feel free to contact me at (713) 396-8870.

Sincerely,

Bryn E. Leon
Application Support Specialist
Emerson Automation Solutions
Gas Chromatograph Division
Phone: 713.396.8870
Fax: 713.466.8175
Bryn.Leon@Emerson.com

CC: Jeff Derks

Please forward purchase orders to: GC.CSC@Emerson.com

Upon submittal of your purchase requisition, please ensure all the items listed below are included to avoid delays in the processing and delivery of your order.

- | | |
|-------------------------|--|
| - P.O. Number | - Payment Terms |
| - Customer Need Date | - Tax Exemption Document (if applicable) |
| - Bill To Address | - Agreed Terms & Conditions |
| - Ship To Address | - End User Name |
| - Shipping Instructions | - End User Address |
| - Freight Terms | - End User Contact Name & Phone Number |

*The Factory has committed to a **20-week** estimated lead time for the proposed Model 770XA Gas Chromatograph System. This is after receipt and acceptance of written purchase order, subject to prior sale, and complete project information at the factory. Quoted lead time is estimated per the current workload, subject to adjustment at time of purchase order acceptance based on workload at that time.

Item	Qty	Description	Unit	Total
1	1	770XA Gas Chromatograph - Landfill Gas (LF8) – Ref SO# 738364 Order Model #: 770XA-BR-C-F-AC-SK-AN-BN-N-S4-LF8-S-S Order Part #: 2-7-770XA-249	\$ 47,220.00	\$ 47,220.00
		BR Branding:	Rosemount Analytical Blue	
		C Hazardous Area Rating & Approvals:	CSA - Class I, Division 1/Zone 1	
		F Mounting:	Floor-Mount	
		AC Power:	Universal 85 to 240 VAC	
		SK Front Panel:	LCD - Color Local Operator Interface	
		AN Additional* I/O & Serial/Modem Communications - Slot A:	None	
		BN Additional* I/O & Serial/Modem Communications - Slot B:	None	
		N FOUNDATION Fieldbus Interface:	None	
		S4 Stream Switching:	Internal (up to) 3 Sample Streams & 1 Calibration Stream (Single Block)	
		LF8 Oven Assembly/Application:	Landfill Gas - 8 min.	
		S Internal Interconnect Cable & 2nd Solenoid Driver Board:	Single Interconnect Cable and Single Solenoid Driver Board	
		S Application Software:	Standard GPA 2172/GPA2145	

***Standard Communications - 5 DI / 5 DO / 2 AI / 6 AO (All Isolated) & (3) RS232, RS422 or RS485 (Factory/Field Configurable) Serial Ports & 2 Ethernet Connections - (1) RJ-45 and (1) Multi-Wire Termination**

Item	Qty	Description	Unit	Total
2	1	Sample Conditioning System for 770XA GC (Ref SO# 738364) Order Part #: 2-1-7119-130	\$ 11,088.00	\$ 11,088.00

DESCRIPTION:

1. (1) Vapor sample stream with Genie 120 bypass, filter, liquid sample shut-off valve and flow indication arranged in a double block and bleed configuration
2. (1) Auto-calibration stream with internal stream switching hardware
3. (1) Dia-vac pump, 115VAC
4. Mounted on a 304SS sample plate
5. **Customer must supply a 20psig vapor sample above its hydrocarbon dewpoint to the GC Sample Conditioning System (SCS)**

LANDFILL GAS, 8-MINUTE (LF8): APPLICATION DESCRIPTION

<u>Stream Components</u>	<u>Measured Ranges</u>
Nitrogen	0-10%
Oxygen	0-10%
Methane	0-80%
Carbon Dioxide	0-60%

Analysis Time: 8-Minutes (or less)

8-Hour Repeatability (Ambient): ± 3.0 BTU in 1000 scf.

18-Hour Repeatability -18 to 55°C (0-130°F): ± 5.0 BTU in 1000 scf.

Each GC is factory tested for 18-hours in Emerson's environmental chamber, which cycles over a temperature range of 0-130°F

EXCEPTIONS & CLARIFICATIONS:

- Price includes MON2020 Interface Software and (1) Electronic set of manuals. Standard Documentation is defined as one (1) electronic copy each of the hardware and software manuals ('IOM') and system parameters/drawings. Please consult the factory if hard copies of manuals are required.
- Add an additional \$ 169 each for any certificates that may be required; including Certificate of Compliance, Certificate of Origin, or Hazardous Area (CSA).
- Calibration/test data will be included in the parameter list/documentation included with the GC when shipped.
- Availability of drawings will be advised upon receipt of order.

Item	Qty	Description	Unit	Total
3	1	BTU Standard Application Customer Check-Out, prior to shipment Order Part #: 2-9-8001-341	\$ 1,749.00	\$ 1,749.00

NOTES:

- Customer Check-Out (CCO) will be scheduled (4) weeks in advance of expected shipment. Any Buyer delays to CCO schedule, after that date, are subject to a reschedule fee of \$850. CCO delays of more than one month will incur storage charges of \$1,200 per week, per unit.
- Any Buyer requested modifications or additions to the scope of supply, made at CCO, are subject to additional charges.
- CCO includes (1) standard 8-hr workday with an application engineer. No more than (1) day per unit is typically necessary. If during check-out it is determined that additional time is required, it will be billed at the time of service.
- Please add (1) week to the lead time quoted if CCO is purchased.**

Item	Qty	Description	Unit	Total
4	1	Packing & Crating for Domestic (US) Shipment – Model 770XA Order Part #: 2-9-9060-214	\$ 749.00	\$ 749.00

Total \$ 60,806.00

Gas Chromatograph Application Guarantee

Rosemount Analytical (“Rosemount”) guarantees the equipment supplied will perform to Rosemount’s published specifications or Rosemount will either remedy the defective portion of the product at its sole expense or take the equipment back and refund the equipment cost to the client. This guarantee will expire 90 days following successful start-up and commissioning and is valid only if the following application information is conveyed before commencement of equipment manufacture to Rosemount:

- The entire stream composition is given and quantified
- All start-up / shut-down conditions are given
- All upset conditions are given
- The temperatures and pressures at the process sample point are given
- The return pressures for bypass and vent(s) are given
- Any component polymerization, contaminants, solvents, corrosives, abrasives, catalyst fines, pipe rouse, lubricants, additives, or other foreign matter is identified
- Any other information Rosemount requests specific to the application is given

And Rosemount supplies:

- the Process Gas Chromatograph(s)
- the sample handling system (excluding sample transport tubing)
- the sample conditioning system
- the process probe(s)
- all required software, for IBM compatible computer(s)
- any other items Rosemount considers essential to proper operation of the equipment

And:

- Sample transport tubing is pre-cleaned and purged by client before equipment start-up
- Rosemount field service personnel turn on initial power to the equipment at site
- Rosemount field service personnel start up and commission the equipment at site, and
- Customer Analyzer technician(s) have attended a Rosemount GC training class.

This Application Guarantee is subject to:

LIMITED WARRANTY: Subject to the limitations contained in The Limitation of Liability Clause herein, Seller warrants that the licensed firmware embodied in the Goods will execute the programming instructions provided by Seller, and that the Goods manufactured, or Services provided by Seller will be free from defects in materials or workmanship under normal use and care until the expiration of the applicable warranty period. Goods are warranted for twelve (12) months from the date of initial installation or eighteen (18) months from the date of shipment by Seller, whichever period expires first. Consumables and Services are warranted for a period of 90 days from the date of shipment or completion of the Services. Products purchased by Seller from a third party for resale to Buyer ("Resale Products") shall carry only the warranty extended by the original manufacturer. Buyer agrees that Seller has no liability for Resale Products beyond making a reasonable commercial effort to arrange for procurement and shipping of the Resale Products. If Buyer discovers any warranty defects and notifies Seller thereof in writing during the applicable warranty period, Seller shall, at its option, correct any errors that are found by Seller in the firmware or Services or repair or replace F.O.B. point of manufacture that portion of the Goods or firmware found by Seller to be defective, or refund the purchase price of the defective portion of the Goods/Services. All replacements or repairs necessitated by inadequate maintenance, normal wear and usage, unsuitable power sources or environmental conditions, accident, misuse, improper installation, modification, repair, storage or handling, or any other cause not the fault of Seller are not covered by this limited warranty and shall be at Buyer's expense. Seller shall not be obligated to pay any costs or charges incurred by Buyer or any other party except as may be agreed upon in writing in advance by Seller. All costs of dismantling, reinstallation and freight and the time and expenses of Seller's personnel and representatives for site travel and diagnosis under this warranty clause shall be borne by Buyer unless accepted in writing by Seller. Goods repaired, and parts replaced by Seller during the warranty period shall be in warranty for the remainder of the original warranty period or ninety (90) days, whichever is longer. This limited warranty is the only warranty made by Seller and can be amended only in a writing signed by Seller. THE WARRANTIES AND REMEDIES SET FORTH ABOVE ARE EXCLUSIVE. THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR ANY OTHER MATTER WITH RESPECT TO ANY OF THE GOODS OR SERVICES.

LIMITATION OF REMEDY AND LIABILITY: SELLER SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE. THE REMEDIES OF BUYER SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXCEED THE PRICE TO BUYER OF THE SPECIFIC GOODS MANUFACTURED OR SERVICES PROVIDED BY SELLER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. BUYER AGREES THAT IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXTEND TO INCLUDE INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE TERM "CONSEQUENTIAL DAMAGES" SHALL INCLUDE BUT NOT BE LIMITED TO, LOSS OF ANTICIPATED PROFITS, REVENUE OR USE AND COSTS INCURRED INCLUDING WITHOUT LIMITATION FOR CAPITAL, FUEL AND POWER, AND CLAIMS OF BUYER'S CUSTOMERS.

Acceptance of this offer is limited to acceptance of the express terms of the offer set forth in the attached Terms and Conditions of Sale, including, but not limited to, SELLER's Limited Warranty in Section 5 and Limitation of Remedy and Liability in Section 6. Any proposal for additional or different terms or attempts by BUYER to vary any of the attached terms hereof in BUYER's acceptance by purchase order or otherwise shall not operate as a rejection of this offer to sell, but shall be deemed a material alteration thereof, and this offer shall be deemed accepted by BUYER without said additional or different terms. If this document shall be deemed an acceptance of a prior offer by BUYER, such acceptance is expressly conditional upon BUYER's assent to any additional or different terms set forth on the attached Terms and Conditions. Leases between BUYER and Emerson Financial Services are subject to approval and execution of required documentation.

Terms and Conditions of Sale

Rosemount Inc.

These terms and conditions the attendant quotation or acknowledgment, and all documents incorporated by reference therein, binds seller, (i.e., Rosemount Inc. or other Emerson Automation Solutions Group Company), hereinafter Seller, and the buyer, as referenced on the face of the purchase order (Order), hereinafter Buyer, and constitutes the entire agreement (Agreement) between Buyer and Seller for the provision of services (Services) and/or the sale of goods (Goods) including (except as provided in Section 10) firmware incorporated therein.

1. PRICES: Unless otherwise specified by Seller, Seller's price for the Goods and/or Services shall remain in effect for thirty (30) days after the date of Seller's quotation or acceptance of the order for the Goods/Services, whichever is delivered first, provided an unconditional, complete authorization for the immediate manufacture and shipment of the Goods and/or provision of Services pursuant to Seller's standard order processing procedures is received and accepted by Seller within such time period. If such authorization is not received by Seller within such thirty (30) day period, Seller shall have the right to change the price for the Goods/Services to Seller's price in effect for the Goods/Services at the time the Order is released to final manufacture. Prices for Goods do not cover storing, installing, starting up or maintaining Goods unless expressly stated in Seller's quotation. Notwithstanding the foregoing, the price for Goods/Services sold by Seller, but manufactured by others, shall be Seller's price in effect at the time of shipment to Buyer.

2. DELIVERY, ORDER ACCEPTANCE AND DOCUMENTATION: All shipping dates are approximate and are based upon Seller's prompt receipt of all necessary information from Buyer to properly process the Order. Notwithstanding any provisions to the contrary in this or other documents related to this trans-action, and regardless of how price was quoted, whether FOB, FAS, CIF or otherwise, legal title to the Goods and risk of loss thereto shall transfer to Buyer as follows: for sales in which the end destination of the Goods is within the United States, upon delivery to the freight carrier at the shipping point; for sales in which the end destination of the Goods is outside of the United States, immediately after the Goods have passed beyond the territorial limits of the United States. Seller shall provide Buyer with that data/documentation which is specifically identified in the quotation. If additional copies of data/documentation or non-standard data/documentation are to be provided by Seller, they shall be provided to Buyer at Seller's price then in effect. Data/documentation marked as confidential or proprietary may not be reproduced or used for any purpose other than the purpose for which it was provided and may not be disclosed to third parties without the prior written permission of Seller. Notwithstanding any provision to the contrary, if delivery is delayed due to any act or omission of Buyer, or if having been notified that the Goods are ready for inspection, customer checkout (CCO), or dispatch, Buyer fails within fourteen (14) days of such notice: (i) to take the Goods, or (ii) provide adequate shipping instructions, or (iii) attend inspection or (iv) specify a CCO date; Seller shall be entitled to place the Goods into a suitable storage at Buyer's expense. At that time, delivery shall be deemed to be complete, risk and title of the Goods shall transfer to Buyer, and Buyer shall pay Seller Net 30 days from date of Seller's invoice.

3. EXCUSE OF PERFORMANCE: Seller shall not be liable for delays in performance or for non-performance due to failure or interruption of computer or telecommunication systems, acts of God, war, riot, fire, terrorism, labor trouble, unavailability of materials or components, explosion, accident, compliance with governmental requests, laws, regulations, orders or actions, or other unforeseen circumstances or causes beyond Seller's reasonable control. In the event of such delay, the time for performance or delivery shall be extended by a period of time reasonably necessary to overcome the effect of the delay.

4. TERMINATION AND SUSPENSION BY BUYER: Buyer may terminate or suspend its Order for any or all of the Goods/Services covered by the Agreement only upon Seller's written consent or pursuant to Seller's applicable policy or practices covering such termination or suspension. Any changes affecting the Goods or Services made by Buyer shall only be binding upon Seller if agreed to by Seller in writing and any resulting adjustment to price, schedule, or both shall be mutually agreed in writing. Seller may cancel any Order or terminate any agreement without liability to Seller if Buyer fails to meet the conditions specified herein.

5. LIMITED WARRANTY: Subject to the limitations contained in Section 6 herein, Seller warrants that the licensed firmware embodied in the Goods will execute the programming instructions provided by Seller, and that the Goods manufactured by Seller will be free from defects in materials or workmanship under normal use and care and Services will be performed by trained personnel using proper equipment and instrumentation for the particular Service provided. The foregoing warranties will apply until the expiration of the applicable warranty period. Except as specified below, Goods are warranted for twelve (12) months from the date of initial installation or eighteen (18) months from the date of shipment by Seller, whichever period expires first. Consumables and Services (except as specified below) are warranted for a period of ninety (90) days from the date of shipment or completion of the Services. Products purchased by Seller from a third party for resale to Buyer ("Resale Products") shall carry only the warranty extended by the original manufacturer. Buyer agrees that Seller has no liability for Resale Products beyond making a reasonable commercial effort to arrange for procurement and shipping of the Resale Products. If Buyer discovers any warranty defects and notifies Seller thereof in writing during the applicable warranty period, Seller shall, at its option, correct any errors that are found by Seller in the firmware or Services or repair or replace F.O.B. point of manufacture that portion of the Goods or firmware found by Seller to be defective, or refund the purchase price of the defective portion of the Goods/Services. All replacements or repairs necessitated by inadequate maintenance, normal wear and usage, unsuitable power sources or environmental conditions, accident, misuse, improper installation, modification, repair, use of unauthorized replacement parts, storage or handling, or any other cause not the fault of Seller are not covered by this limited warranty, and shall be at Buyer's expense. Seller shall not be obligated to pay any costs or charges incurred by Buyer or any other party except as may be agreed upon in writing in advance by Seller. All costs of dismantling, reinstallation and freight and the time and expenses of Seller's personnel and representatives for site travel and diagnosis under this warranty clause shall be borne by Buyer unless accepted in writing by Seller. Goods repaired, and parts replaced by Seller during the warranty period shall be in warranty for the remainder of the original warranty period or ninety (90) days, whichever is longer. This limited warranty is the only warranty made by Seller and can be amended only in a writing signed by Seller. THE WARRANTIES AND REMEDIES SET FORTH ABOVE ARE EXCLUSIVE. THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR ANY OTHER MATTER WITH RESPECT TO ANY OF THE GOODS OR SERVICES.

6. LIMITATION OF REMEDY AND LIABILITY: SELLER SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE. THE REMEDIES OF BUYER SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXCEED THE PRICE TO BUYER OF THE SPECIFIC GOODS MANUFACTURED OR SERVICES PROVIDED BY SELLER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. BUYER AGREES THAT IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXTEND TO INCLUDE

INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE TERM "CONSEQUENTIAL DAMAGES" SHALL INCLUDE, BUT NOT BE LIMITED TO, LOSS OF ANTICIPATED PROFITS, REVENUE OR USE AND COSTS INCURRED INCLUDING WITHOUT LIMITATION FOR CAPITAL, FUEL AND POWER, AND CLAIMS OF BUYER'S CUSTOMERS.

7. PATENTS: Subject to the limitations contained in Section 6, Seller shall defend any suits brought against Buyer based on a claim that use of the Goods manufactured by Seller constitutes an infringement of a valid patent of the United States, and shall pay any damages awarded therein against Buyer, provided that Buyer: promptly notifies Seller in writing of the filing of such suit or the threat thereof; permits Seller to control completely the defense or compromise of such claim of infringement; and provides all reasonable assistance and cooperation requested by Seller for the defense of such suit. In the event that only the Goods manufactured by Seller are held to be infringing in such suit and their use is enjoined, Seller shall, at its sole option and expense, provide a commercially reasonable alternative, including, but not limited to, procuring for Buyer the right to continue using the Goods, replacing them with a non-infringing product or modifying them so they become non-infringing. Buyer agrees that Seller shall not be liable for infringement, and that Buyer shall fully indemnify Seller therefore, if infringement is based upon the use of Goods in connection with goods not manufactured by Seller or in a manner for which the Goods were not designed by the Seller or if the Goods were not designed by the Seller or if the Goods were designed by the Buyer or were modified by or for the Buyer in a manner to cause them to become infringing.

8. TAXES: Any tax or governmental charge payable by the Seller because of the manufacture, sale or delivery of the Goods, or provision of Services, may at Seller's option be added to the price herein specified. The foregoing shall not apply to taxes based upon Seller's net income. Prices do not include any sales, use, excise, value added or similar taxes. Taxes shall be the responsibility of Buyer and Seller shall include them on all invoices, absent the receipt of a valid exemption from Buyer.

9. TERMS OF PAYMENT: Unless otherwise agreed by Seller, and subject to the approval of Seller's Credit Department, terms are F.O.B. shipping point, net 30 days from date of Seller's invoice in U.S. currency, except for applicable milestone payments or export shipments for which Seller may require other arrangements. Freight charges may include shipping and handling charges, and Buyer shall pay all such charges. If any payment owed to Seller hereunder is not paid when due, it shall bear interest, at a rate to be determined by Seller which shall not exceed the maximum rate permitted by law, from the date on which it is due until it is received. Seller shall have the right, among other remedies, either to terminate the Agreement or to suspend further deliveries under this and/or other agreements with Buyer in the event Buyer fails to make any payment hereunder when due. Buyer shall be liable for all expenses attendant to collection of past due amounts, including attorneys' fees.

10. SOFTWARE AND FIRMWARE: Notwithstanding any other provision herein to the contrary, Seller or applicable third-party owner shall retain all rights of ownership and title in its respective firmware and software, including all copyrights relating to such firmware and software and all copies of such firmware and software. Except as otherwise provided herein, Buyer is hereby granted a nonexclusive, royalty free license to use firmware and software, and copies of firmware and software, incorporated into the Goods only in conjunction with such Goods and only at the Buyer's plant site where the Goods are first used. Buyer's use of certain firmware (as specified by Seller) and all other software shall be governed exclusively by Seller's and/or third-party owner's applicable license terms.

11. BUYER SUPPLIED DATA: To the extent that Seller has relied upon any data or information supplied by Buyer to Seller ("Data") in the selection or design of the Goods and/or provision of the Services and the preparation of Seller's quotation, and the Data is inadequate or inaccurate, any warranties or other provisions contained herein which are affected by such conditions shall be null and void.

12. EXPORT/IMPORT: Buyer agrees to comply with all applicable import and export control laws, regulations, orders and requirements, including without limitation those of the United States and the European Union, and the jurisdictions in which the Seller and Buyer are established or from which items may be supplied. Accurate and complete disclosure of destination and end user is required of all product scheduled for overseas shipment.

13. GENERAL PROVISIONS: (a) Buyer shall not assign its rights or obligations under the Agreement without Seller's prior written consent. (b) There are no understandings, agreements or representations, express or implied, not specified in the Agreement. (c) No action, regardless of form, arising out of transactions under the Agreement, may be brought by either party more than two [2] years after the cause of action has accrued. (d) Any modification of these terms and conditions must be set forth in a written instrument signed by a duly authorized representative of Seller. (e) The Agreement is formed and shall be construed, performed and enforced under the laws of the State of Missouri. However, Buyer and Seller agree that the proper venue for all actions arising under the Agreement shall be only in the USA and in the State where the Goods involved in such actions were manufactured. (f) UNLESS OTHERWISE SPECIFICALLY PROVIDED IN SELLER'S QUOTATION, GOODS AND SERVICES HEREUNDER ARE NOT INTENDED FOR USE IN ANY NUCLEAR OR NUCLEAR RELATED APPLICATIONS. Buyer (i) accepts Goods and Services in accordance with the restriction set forth in the immediately preceding sentence, (ii) agrees to communicate such restriction in writing to any and all subsequent purchasers or users and (iii) agrees to defend, indemnify and hold harmless Seller from any and all claims, losses, liabilities, suits, judgments and damages, including incidental and consequential damages, arising from use of Goods and Services in any nuclear or nuclear related applications, whether the cause of action be based in tort, contract or otherwise, including allegations that the Seller's liability is based on negligence or strict liability. (g) The 1980 United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. (h) If any provision of the Agreement is invalid under any statute or rule of law, such provision, to that extent only, shall be deemed to be omitted without affecting the validity of the remainder of the Agreement (i) Seller specifically objects to the application of any Federal Acquisition Regulation ("FAR") or other governmental procurement provision or clause to this Agreement. (j) The rights, remedies and protections afforded to Seller under this Agreement, including but not limited to indemnification of Seller, limitation of remedy and liability and limited warranty shall extend to Seller and to its affiliates, subsidiaries or related companies performing or supplying work, services or products under this Agreement or any agreement into which it is incorporated by reference. (k) Seller does not agree to: (i) indemnify Buyer; or (ii) name Buyer as an additional insured.

Form A (4/2011)

Please note: For any Purchase Order ("Order") released by Buyer pursuant to this Quote, Buyer agrees the sale of any Rosemount Goods or Services shall be governed exclusively by the Rosemount Analytical Inc. Terms and Conditions of Sale ("Agreement") which are attached hereto and made a part of this Quote, and any subsequently released Order, and shall then form the Agreement between the parties. Moreover, unless otherwise agreed to by the parties in writing, Rosemount hereby rejects any and all Terms and Conditions found on any Purchase Order released that contradict or are at variance with the Rosemount Terms and Conditions of Sale and all such Terms and Conditions shall be null and void and shall have no force or effect.



Memorandum

To: Nickolaus Hernandez, City Manager and City Commission
From: Melissa McCoy, Assistant City Manager/Public Affairs
Date: July 28, 2021
Subject: Approval of Boot Hill Museum Memorandum of Understanding
Agenda Item: New Business

Recommendation: City staff recommends approval of the revised Memorandum of Understanding (MOU) with Boot Hill Museum (“Museum”).

Background: The Commission has previously recognized that Boot Hill Museum is an anchor for the tourism industry in our community and therefore has a significant impact on the City’s economic growth. On April 1st, 2013, the Commission approved passage of Ordinance No. 37 and Resolution 2013-11 which raised the Transient Guest Tax 2% in order to provide an alternative source of funding for the Museum to make needed repairs, restorations, improvements and support operations. At that time the City and Boot Hill Museum entered a memorandum of understanding (MOU) to utilize the additional Transient Guest Tax funds for that purpose for a term of five years. The initial MOU expired in July of 2018 and was renewed for an additional three years. The attached document continues the prior arrangement for another three years.

Justification: The funding generated from the additional 2% guest tax has provided essential economic stability for the Museum for operations and deferred maintenance. Since this tax has been passed, Boot Hill Museum has been able to address deferred maintenance needs and stabilize their operations.

The funds under this agreement will be dedicated to deferred maintenance, operations, and the brand ambassador. One of the changes in this agreement is that different Brand Ambassadors may be utilized with prior approval by the City. The Museum will use its best efforts to bring in a minimum of three traveling/temporary exhibits per year. They will also provide the City with an updated annual budget and five-year strategic plan. The City Manager or his designee will serve as a member of the board of directors. Failure to comply with the requirements in the MOU may result in the loss of tax proceeds to the museum.

Financial Considerations: With this agreement, the City will continue to dedicate not more than \$200,000 of the additional 2% Guest tax collected to the Museum. Any receipts over the \$200,000 are retained by the City and may be reallocated to another tourism related activity.

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

Legal Considerations: The City Attorney and Boot Hill Museum Board of Directors have both reviewed and approved the attached MOU.

Attachments: Memorandum of Understanding

August 2, 2021

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

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

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

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

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

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

WHEREAS, the **CITY** has agreed to provide from the **Tax** a supplemental revenue to the **MUSEUM** to assist with defined expenses; and,

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

NOW, THEREFORE, the **Parties** do hereby enter into this **MEMORANDUM** as evidence of their good faith, desire, and intent to utilize a portion of the **Tax** to assist with the operation, maintenance, and development of the **MUSEUM**.

THE CITY AGREES TO:

1. Commencing July 1, 2021 and for a period of three (3) consecutive years thereafter, recommence a separate fund for purposes of this **MEMORANDUM** called the Tourism Restoration Account (the “**Account**”) into which an amount

August 2, 2021

- equal to twenty-five percent (25%) of the CITY's total eight percent (8%) Transient Guest Tax (the "Tax") collected by the State from outside the Heritage Area, less the State's administrative fee and returned to the CITY in quarterly payments, shall be deposited.
2. Provide the balance of the Account to the MUSEUM at least forty-five (45) days after the collection of the Tax by the CITY from the State of Kansas, as long as appropriate documentation indicating the continuing need is received by the City Manager prior to distribution, and as long as the annual allocation does not exceed two hundred thousand dollars (\$200,000.00).
 3. Prevent the reallocation of the initial two hundred thousand dollars (\$200,000.00) of the annual contributions to the Account for other purposes, except in the case of temporary and/or emergency situations and only following discussion with the President of the MUSEUM's Board.
 4. To use the funds in excess of \$200,000 in the Account for other attractions or other tourism related projects.
 5. Be responsible to fund all reasonable travel related expenses, not including wages and benefits, required by a designated Brand Ambassador or Brand Ambassadors for all events a designated Brand Ambassador or Brand Ambassadors attend as requested by and on behalf of the CITY. Travel expense reimbursement will occur in conformance with the CITY's travel reimbursement policy.

THE MUSEUM AGREES TO:

1. Provide to the City Manager, on an annual basis, and prior to distribution of any funds:
 - a. an updated annual budget.
 - b. an updated five (5) year strategic plan, which includes current maintenance projects and deferred maintenance projects. The plan should be accompanied by a list of grant programs and fundraising programs that are being pursued to acquire additional sources of funding.
 - c. current audited financials.
2. Provide the CITY with the personal appearance of a designated Brand Ambassador or Brand Ambassadors at a minimum of six (6) trade shows, Dodge City Night in Topeka and at least twenty-four (24) other local events throughout each calendar year. The CITY will provide at least a two (2) month notice for all trade shows and or events requiring travel outside of the CITY. The CITY will make every attempt to provide at least one (1) week notice for local utilization of the Brand Ambassador. However, the Parties agree that some activities do arise spontaneously and if the Brand Ambassador is readily available, permission shall

August 2, 2021

- not be unreasonably withheld. If the number of personal appearances by Brand Ambassadors do not meet the requirements as set forth above, then the Parties agree that funds from the Account may be adjusted accordingly during the next calendar year.
3. Utilize not less than fifty thousand dollars (\$50,000.00) of the Account per year to fund deferred maintenance expenses as outlined in the five (5) year strategic plan referenced in paragraph 1.b above. Allowable costs would include any expense related to deferred maintenance except for staff wages. An itemized list of the completed deferred maintenance items shall be provided annually with a list of actual costs for the completion of such deferred maintenance.
 4. Utilize no more than one hundred fifty thousand dollars (\$150,000.00) of the Account to subsidize the funding of the general operational expenses of the Museum. If said subsidy is not needed in any of those five years, the Account funds shall be applied to the deferred maintenance items in accordance with the Strategic Plan referred to in paragraph 1.b above.
 5. Allocate not more than forty thousand dollars (\$40,000.00) of the operational funds to the wages for a designated Brand Ambassador or Ambassadors. Different Brand Ambassadors may be utilized with prior approval by the CITY.
 6. The MUSEUM shall appoint the City Manager or his designee as a member of the Boot Hill Board of Directors.

THE PARTIES AGREE:

1. To meet quarterly to review the MUSEUM's Budget and Strategic Plan for maintenance and improvements. At this quarterly meeting the MUSEUM will provide an accounting of all Brand Ambassador appearances to date for the year.
2. Additional Brand Ambassador appearances for other entities will be covered under this MOU with prior approval of the City Manager.
3. That if all or a portion of the Account is no longer needed to support the MUSEUM, the funds in the Account will be reallocated to other tourism entities or activities.
4. To use good faith efforts in working together to accomplish the purpose and intent of this MEMORANDUM.
5. To maintain an open line of communication regarding the needs and uses of the Account and should remain willing to share detailed information about the CITY's collection and disbursement of the Account and the MUSEUM's utilization of the Account.

August 2, 2021

6. In the event the Account distribution is less than two hundred thousand dollars (\$200,000.00) annually the MUSEUM and City Manager will agree to a proration of the expenditures set out above.

To reevaluate the allocation of the Account at the end of each three (3) year period in order to refine: the total allocation, Brand Ambassador allocation, deferred maintenance allocation, and the necessity of the continuation of the distribution to the MUSEUM.

7. That any disagreements regarding this MEMORANDUM will be discussed immediately between the City Manager and the President of the MUSEUM's Board before the City Manager makes a final determination of the issue.
8. This MEMORANDUM may be amended, extended, or terminated at any time following discussions with the MUSEUM's Board and approval by the City Commission.
9. The MUSEUM agrees to use its best efforts to utilize the traveling/temporary exhibit space to host at least three (3) traveling exhibits per calendar year. The Parties will meet each calendar year prior to March 1 to discuss and evaluate the proposed schedule of exhibits for the following calendar year (At said annual meeting between the Parties, the MUSEUM will present tentative agreements for the appearance of the proposed traveling exhibits to be hosted in the following year. If the MUSEUM is unable to reach this goal in any given year, the MUSEUM will provide to the CITY a Report identifying the factors that prevented full compliance with this provision. If the MUSEUM is unable to reach this goal for any two (2) consecutive years, the CITY may elect to set this MEMORANDUM aside and reopen negotiations of a Memorandum of Understanding to replace this MEMORANDUM. The MUSEUM agrees to provide temporary and rotating exhibits from existing collections for the remainder of the year, as well as MUSEUM functions.
 - a) The PARTIES will always be cognizant of the MUSEUM's mission as exhibits are scheduled from year to year to not unnecessarily jeopardize the tax status of the MUSEUM.
 - b) The MUSEUM agrees to track the number of visitors as well as their point of origin and report annually to the CITY.
10. Failure by the MUSEUM to comply with the requirements of this MEMORANDUM may result in the loss of the Tax proceeds as provided in this MEMORANDUM.

August 2, 2021

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

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

by: _____
Rick Sowers, Mayor

ATTEST:

by: _____
Connie Marquez, City Clerk

DATED this ____ day of _____, 2021.

Boot Hill Museum, Inc.

by: _____
Kerri Baker, President

DATED this ____ day of _____, 2021.



Memorandum

To: Nickolaus Hernandez, City Manager and City Commission

From: Melissa McCoy, Assistant City Manager/Public Affairs

Date: August 2, 2021

Subject: Approval of KDOT Cost Share Program Agreement for Dodge City Streetscape Project

Agenda Item: New Business

Recommendation: Staff recommends approval of the Kansas Department of Transportation (KDOT) Cost Share Program Agreement for Project No. 29 U-2409-01, for the Downtown Dodge City Streetscape Project (Streetscape) of a 19% funding match not to exceed \$2,000,000.

Background: The KDOT Cost Share Funds for the Streetscape construction costs will renovate the existing downtown streetscape along Front Street from Central Avenue to Third Avenue from Wyatt Earp Boulevard to the building facades on Front Street. This project will create a western inspired plaza area and Second Avenue from Front Street to Gunsmoke Street will be improved with the creation of a plaza street that can be used for vehicular traffic or closed to control traffic for community events.

As part of the renovations, a multi-use pedestrian and bicycle trail will be constructed along Wyatt Earp to provide safer pedestrian walkability from Boot Hill Museum to the Historic Santa Fe Depot. Other safety measures include raised intersections and enhanced lighting. In addition, since most of the water and sewer infrastructure are over a century old, the underground utilities will also be renovated or replaced. Upgraded electrical and gas will be installed through collaboration with local utility companies. New communications services will also be installed to provide broadband services to support commerce and those living in downtown.

Justification: The KDOT Cost Share funds are crucial to bridging the funding gap needed to help complete this project. The Downtown Streetscape project will replace aging and inadequate infrastructure to meet the needs of modern retail and living spaces. The project aims to provide a more walkable and inviting downtown district, through safety improvements. Enhancements will also be incorporated to provide safe efficient vehicular traffic throughout the downtown.

The proposed streetscape is generating excitement and there has been a positive response to the preliminary design by the public and potential investors. Construction is anticipated to take up to eighteen months and begin in January 2022.

Financial Considerations: There is currently \$7,250,000 committed to the project with a total project cost of \$10,297,726. The KDOT Cost Share grant provides a 19% match not to exceed \$2,000,000 for the project. STAR Bonds revenues make up \$3,500,000. Then, \$1,750,000 of American Recovery Act funds that the City will receive is dedicated to the water/wastewater and

sewer utility improvements in the project district. The City is in the process of applying for an Economic Development Administration (EDA) Grant and an Information Network of Kansas (INK) grant to provide additional funding.

Purpose/Mission: This project accomplishes the City's Core Purpose of "together we serve to make Dodge City the best place to be." In addition, it meets the Core Value of ongoing improvement, valuing progress, growth, and new possibilities for Dodge City's future.

Legal Considerations: The City Attorney has reviewed the agreement and found it correct to form.

Attachments:

Agreement No. 191-21 for Project No. 29 U-2409-01

PROJECT NO. 29 U-2409-01
COST SHARE PROGRAM
DODGE CITY STREETScape
CITY OF DODGE CITY, KANSAS

AGREEMENT

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

RECITALS:

- A. The Kansas Legislature, through K.S.A. § § 68-2314b and 68-2314c, authorized the Secretary to provide funding for programs to assist local units of government in the administration of transportation projects including construction, preservation, expansion, and modernization throughout the state. The KDOT Cost Share Program has been authorized by the Governor of the State of Kansas and the Kansas Secretary of Transportation under this legislation.
- B. The LPA applied for and the Secretary has selected a roadway and trail improvement project to participate in the Cost Share Program, as further described in this Agreement.
- C. The Secretary and the LPA are empowered by the laws of Kansas to enter into agreements for the construction of transportation projects in the state of Kansas.
- D. Cities and counties are, under certain circumstances, entitled to receive assistance in the financing of the construction and reconstruction of streets and state highways, provided however, in order to be eligible for such state aid, such work is required to be done in accordance with the laws of Kansas.

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

ARTICLE I

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

1. “**Agreement**” means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.
2. “**Construction**” means the work done on the Project after Letting, consisting of building, altering, repairing, improving, or demolishing any structure, building or highway; any drainage, dredging, excavation, grading or similar work upon real property.
3. “**Construction Contingency Items**” mean unforeseeable elements of cost within the defined project scope identified after the Construction phase commences.

4. **“Construction Engineering”** means inspection services, material testing, engineering consultation, and other reengineering activities required during Construction of the Project.
5. **“Consultant”** means any engineering firm or other entity retained to perform services for the Project.
6. **“Contractor”** means the entity awarded the Construction contract for the Project and any subcontractors working for the Contractor with respect to the Project.
7. **“Design Plans”** means design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies necessary for the Project under this Agreement.
8. **“Effective Date”** means the date this Agreement is signed by the Secretary or the Secretary’s designee.
9. **“Encroachment”** means any building, structure, farming, vehicle parking, storage or other object or thing, including but not limited to signs, posters, billboards, roadside stands, fences, or other private installations, not authorized to be located within the Right of Way which may or may not require removal during Construction pursuant to the Design Plans.
10. **“Hazardous Waste”** includes, but is not limited to, any substance which meets the test of hazardous waste characteristics by exhibiting flammability, corrosivity, or reactivity, or which is defined by state and federal laws and regulations, and any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, including but not limited to leaking underground storage tanks. Any hazardous waste as defined by state and federal laws and regulations and amendments occurring after November 11, 1991, is incorporated by reference and includes but is not limited to: (1) 40 C.F.R. § 261, *et seq.*, Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule; (2) 40 C.F.R. § 280, *et seq.*, Underground Storage Tanks; Technical Requirements and State Program Approval; Final Rules; (3) 40 C.F.R. § 300, National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule; and (4) K.S.A. § 65-3430, *et seq.*, Hazardous Waste.
11. **“KDOT”** means the Kansas Department of Transportation, an agency of the State of Kansas, with its principal place of business located at 700 SW Harrison Street, Topeka, KS, 66603-3745.
12. **“Letting” or “Let”** means the process of receiving bids prior to any award of a Construction contract for any portion of the Project.
13. **“Local Public Authority” or “LPA”** means the City of Dodge City, Kansas, with its place of business at 806 N. 2nd Avenue, KS 67801.

14. “**MUTCD**” means the latest version of the Manual on Uniform Traffic Control Devices as adopted by the Secretary.
15. “**Non-Participating Costs**” means the costs of any items or services which the Secretary, acting on the Secretary’s own behalf, reasonably determines are not Participating Costs.
16. “**Participating Costs**” means expenditures for items or services which are an integral part of highway, bridge, and road construction projects, as reasonably determined by the Secretary.
17. “**Parties**” means the Secretary of Transportation and KDOT, individually and collectively, and the LPA.
18. “**Preliminary Engineering**” means pre-construction activities including, but not limited to, design work generally performed by a consulting engineering firm that takes place before Letting.
19. “**Project**” means all phases and aspects of the Construction endeavor which is the subject of this Agreement and to be undertaken by the LPA, as and when authorized by the Secretary prior to Letting, being: **Dodge City Streetscape, construction of a streetscape to include multi-use trail; installation of raised intersections; enhanced lighting; installation of broadband; and water and sewer improvements along Front Street from Central Avenue to Third Avenue and from E. Wyatt Earp Blvd to Front Street/Gunsmoke Street in Dodge City, Kansas.**
20. “**Project Limits**” means that area of Construction for the Project, including all areas between and within the Right of Way boundaries as shown on the Design Plans.
21. “**Responsible Bidder**” means one who makes an offer to construct the Project in response to a request for bid with the technical capability, financial capacity, human resources, equipment, and performance record required to perform the contractual services.
22. “**Right of Way**” means the real property and interests therein necessary for Construction of the Project, including fee simple title, dedications, permanent and temporary easements, and access rights, as shown on the Design Plans.
23. “**Secretary**” means the Secretary of Transportation of the State of Kansas, and his or her successors and assigns.
24. “**Utilities**” or “**Utility**” means all privately, publicly, or cooperatively owned lines, facilities, and systems for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, and other similar commodities, including non-transportation fire and police communication systems which directly or indirectly serve the public.

ARTICLE II

FUNDING:

1. **Funding.** The table below reflects the funding commitments of each Party. The Total Actual Costs of Construction include Construction Contingency Items. The Parties agree estimated costs and contributions are to be used for encumbrance purposes and may be subject to change.

The total estimated construction cost is \$10,297,726.00.

Party	Responsibility	Total Projected Contribution (\$)
Secretary	19% of Total Actual Costs of Construction; Total Contribution to Actual Costs of Construction not to exceed \$2,000,000.00.	\$2,000,000.00
LPA	81% of Total Actual Costs of Construction until Secretary’s funding limit is reached; 100% of Total Actual Costs of Construction after Secretary’s funding limit is reached; 100% of Cost of Preliminary Engineering, Construction Engineering, Right of Way, and Utility Adjustments; 100% Non-Participating Costs.	
Total Estimated Construction Cost		<u>\$10,297,726.00</u>

ARTICLE III

SECRETARY RESPONSIBILITIES:

1. **Technical Information on Right of Way Acquisition.** Upon a request from the LPA, the Secretary will provide technical information to help the LPA acquire Right of Way in accordance with the laws of the State of Kansas.

2. **Reimbursement Payments.** The Secretary agrees to make partial payments to the LPA for amounts not less than \$1,000.00 and no more frequently than monthly. Such payments will be made after receipt of proper billing and approval by a by a licensed professional engineer, a licensed professional architect, and/or licensed landscape architect, as applicable, employed by the LPA that the Project is being constructed within substantial compliance of the Design Plans.

ARTICLE IV

LPA RESPONSIBILITIES:

1. **Secretary Authorization.** The Secretary is authorized by the LPA to take such steps as deemed necessary or advisable by the Secretary to secure the benefits of state aid for this Project.
2. **Legal Authority.** The LPA agrees to adopt all necessary ordinances and/or resolutions and to take such administrative or legal steps as may be required to give full effect to the terms of this Agreement.
3. **Design and Specifications.** The LPA shall be responsible to make or contract to have made Design Plans for the Project.
4. **Letting and Administration by LPA.** The LPA shall Let the contract for the Project and shall award the contract to the lowest Responsible Bidder upon concurrence in the award by the Secretary. The LPA further agrees to administer the Construction of the Project in accordance with the Design Plans, and the current version of the LPA's currently approved procedures, and administer the payments due the Contractor, including the portion of the cost borne by the Secretary.
5. **Conformity with State, Local, and Federal Requirements.** The LPA shall be responsible to design the Project or contract to have the Project designed in conformity with the state, local, and federal design criteria appropriate for the Project as well as in conformity with state, local, and federal law appropriate for the Project in accordance with the current the American Institute of Architects (AIA) standards, the Secretary of the Interior's Standards for the Treatment of Historic Properties, the American Society of Landscape Architects guidelines, KDOT's Design Engineering Requirements, the current Local Projects LPA Project Development Manual, Bureau of Local Project's (BLP's) project memorandums, memos, the KDOT Design Manual, Geotechnical Bridge Foundation Investigation Guidelines, Bureau of Road Design's road memorandums, the latest version, as adopted by the Secretary, of the MUTCD, the current version of the Bureau of Traffic Engineering's Traffic Engineering Guidelines, and the current version of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions, and any necessary Project Special Provisions, and with the rules and regulations of the FHWA pertaining to the Project.
6. **Submission of Design Plans to Secretary.** Upon their completion, the LPA shall have the Design Plans submitted to the Secretary by a licensed professional engineer, a licensed professional architect, and/or licensed landscape architect, as applicable, attesting to the conformity of the Design Plans with Article IV, paragraph 5. The Design Plans must be signed and sealed by the licensed professional engineer, licensed professional architect, and/or licensed landscape architect, as applicable, responsible for preparation of the Design Plans. In addition, geological investigations or studies must be signed and sealed by either a licensed geologist or licensed professional engineer who is responsible for the preparation of the geological investigations or studies. All technical professionals involved in the Project are required to meet the applicable licensing and/or certification requirements as stated in K.S.A. § 74-7001, *et seq.*

7. **Consultant Contract Language.** The LPA shall include language requiring conformity with Article IV, paragraph 5 above, in all contracts between the LPA and any Consultant with whom the LPA has contracted to perform services for the Project. In addition, any contract between the LPA and any Consultant retained by them to perform any of the services described or referenced in this paragraph for the Project covered by this Agreement must contain language requiring conformity with Article IV, paragraph 5 above. In addition, any contract between the LPA and any Consultant with whom the LPA has contracted to prepare and certify Design Plans for the Project covered by this Agreement must also contain the following provisions:

- (a) **Completion of Design.** Language requiring completion of all plan development stages no later than the current Project schedule's due dates as issued by KDOT, exclusive of delays beyond the Consultant's control.
- (b) **Progress Reports.** Language requiring the Consultant to submit to the LPA (and to the Secretary upon request) progress reports at monthly or at mutually agreed intervals in conformity with the official Project schedule.
- (c) **Third-Party Beneficiary.** Language making the Secretary a third-party beneficiary in the agreement between the LPA and the Consultant. Such language shall read:

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

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

9. **Performance Bond.** The LPA agrees to require the Contractor to provide a performance bond in a sum not less than the amount of the contract as awarded.

10. **Plan Retention.** The LPA will maintain a complete set of final Design Plans reproducible, as-built prints, approved shop drawings, and structural materials certification for five (5) years after the Project's completion. The LPA further agrees to make such reproducible, prints, drawings, and certifications available for inspection by the Secretary upon request. The LPA shall provide access to or copies of all the above-mentioned documents to the Secretary.

11. **General Indemnification.** To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act (K.S.A. § 75-6101, *et seq.*) as applicable, the LPA will defend, indemnify, hold harmless, and save the Secretary and the Secretary's authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property, or claims of any nature whatsoever arising out of or in connection with the provisions or performance of this Agreement by the LPA, the LPA's employees, agents, subcontractors or its consultants. The LPA shall not be required to defend, indemnify, or hold the Secretary harmless for negligent acts or omissions of the Secretary or the Secretary's authorized representatives or employees.

12. **Indemnification by Contractors.** The LPA agrees to require the Contractor to indemnify, hold harmless, and save the Secretary and the LPA from personal injury and property damage claims arising out of the act or omission of the Contractor, the Contractor's agent, subcontractors (at any tier), or suppliers (at any tier). If the Secretary or the LPA defends a third party's claim, the Contractor shall indemnify the Secretary and the LPA for damages paid to the third party and all related expenses either the Secretary or the LPA or both incur in defending the claim.

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

14. **Right of Way.** The LPA agrees to the following with regard to Right of Way:

(a) **Right of Way Acquisition.** The LPA will, in its own name, as provided by law, acquire by purchase, dedication or condemnation all the Right of Way shown on the final Design Plans in accordance with the schedule established by KDOT. The LPA agrees the necessary Right of Way shall be acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and administrative regulations contained in 49 C.F.R. Part 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. The LPA shall certify to the Secretary, on forms provided by the KDOT's Bureau of Local Projects, such Right of Way has been acquired. The LPA further agrees it will have recorded in the Office of the Register of Deeds all Right of Way, deeds, dedications, permanent easements and temporary easements.

(b) Right of Way Documentation. The LPA will provide all legal descriptions required for Right of Way acquisition work. Right of Way descriptions must be signed and sealed by a licensed land surveyor responsible for the preparation of the Right of Way descriptions. The LPA agrees copies of all documents, including recommendations and coordination for appeals, bills, contracts, journal entries, case files, or documentation requested by the Office of Chief Counsel will be delivered within the time limits set by the Secretary.

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

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

(e) Trails and Sidewalks on KDOT Right of Way. With regard to any bike or pedestrian paths or sidewalks (“Trail/Sidewalk”) constructed on state highway right of way, if any, pursuant to the Design Plans, the City agrees as follows:

- (i) City Responsible for Repairs and Providing Alternative Accessible Routes. The City agrees that the primary purpose of KDOT Right of Way is for the construction and maintenance of US-50B. If the construction or maintenance of US-50B reasonably requires the Trail/Sidewalk on KDOT Right of Way to be damaged or removed, the City shall be responsible for all repairs to the Trail/Sidewalk made necessary as a result of US-50B construction or maintenance. In the event the Trail/Sidewalk on KDOT Right of Way is temporarily closed or removed for any reason and for any length of time, the City will be wholly responsible for providing an alternative accessible path and for compliance with all laws and regulations relating to accessibility.
- (ii) Interference with KDOT Right of Way. If the Secretary, in the Secretary’s sole judgment, determines that continued use of the Trail/Sidewalk is or will interfere with KDOT use of its Right of Way or is otherwise rendered impractical, inconvenient, or unsafe for use by the traveling public, the City will remove the Trail/Sidewalk and restore the KDOT Right of Way location to its original condition prior to the Construction of the Trail/Sidewalk.

- (iii) Incorporation of Trail/Sidewalk into Local Transportation System. The City agrees to take all steps necessary to designate the Trail/Sidewalk component of the Project as an integral part of its local transportation system, being primarily for transportation purposes and having only incidental recreational use for purposes of 49 U.S.C. § 303 and 23 C.F.R. 771.135.
- (iv) Maintenance. When the Project is completed and final acceptance is issued, the City, at its own cost and expense, will maintain, including snow removal if required by law, the Trail/Sidewalk on KDOT Right of Way and make ample provision each year for such maintenance. If notified by the State Transportation Engineer of any unsatisfactory maintenance condition, the City will begin the necessary repairs within a reasonable period and will prosecute the work continuously until it is satisfactorily completed. Any notification by the State Transportation Engineer, however, is not intended to and shall not be construed to be an undertaking of the City's absolute duty and obligation to maintain the Trail/Sidewalk.

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

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

17. **Utilities.** The LPA agrees to the following with regard to Utilities:

- (a) Utility Relocation. The LPA will move or adjust, or cause to be moved or adjusted, and will be responsible for such removal or adjustment of all existing Utilities necessary to construct the Project in accordance with the final Design Plans. New or existing Utilities to be installed, moved, or adjusted will be located or relocated in accordance with the current version of the KDOT Utility Accommodation Policy (UAP), as amended or supplemented.
- (b) Status of Utilities. The LPA shall furnish the Secretary a list identifying existing and known Utilities affected, together with locations and proposed adjustments of the same and designate a representative to be responsible for coordinating the necessary removal or adjustment of Utilities.

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

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

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

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

18. **Hazardous Waste.** The LPA agrees to the following with regard to Hazardous Waste:

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

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

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

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

19. Inspections. The LPA is responsible for providing Construction Engineering for the Project in accordance with any applicable state and local rules and guidelines.

(a) By LPA personnel. LPA personnel who are fully qualified to perform the inspection services in a competent and professional manner may be utilized by the LPA to inspect the Project, in which case the LPA shall provide the Secretary with a list of such personnel who will act as the assigned inspectors and their certifications.

(b) By a Consultant. If the LPA does not have sufficient qualified engineering employees to accomplish the Construction Engineering on this Project, it may engage the professional services of a qualified consulting engineering firm to do the necessary services. The Consultant retained must represent it is in good standing and full compliance with the statutes of the State of Kansas for registration of professional engineers (K.S.A. § 74-7021), the FHWA and all federal agencies, provide personnel who are fully qualified to perform the services in a competent and professional manner, and provide the Secretary with a list of assigned inspectors and their certifications.

(c) Protective Clothing. The LPA will require at a minimum all LPA personnel and all Consultant personnel performing Construction Engineering to comply with the high visibility requirements of the MUTCD, Chapter 6E.02, High-Visibility Safety Apparel. If the LPA executes an agreement for Construction Engineering, the agreement shall contain this requirement as a minimum. The LPA may set additional clothing requirements for adequate visibility of personnel.

20. Corrective Work. Representatives of the Secretary may make periodic inspection of the Project and the records of the LPA as may be deemed necessary or desirable. The LPA will direct or cause its contractor to accomplish any corrective action or work required by the Secretary's representative as needed for a determination of state participation. The Secretary does not undertake (for the benefit of the LPA, the Contractor, the Consultant, or any third party) the duty to perform day-to-day detailed inspection of the Project or to catch the Contractor's errors, omissions, or deviations from the final Design Plans.

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

(a) **Temporary Traffic Control.** The LPA shall provide a temporary traffic control plan within the Design Plans, which includes the LPA's plan for handling multi-modal traffic during Construction, including detour routes and road closings, if necessary, and installation of alternate or temporary pedestrian accessible paths to pedestrian facilities in the public Right of Way within the Project Limits. The LPA's temporary traffic control plan must be in conformity with the latest version of the MUTCD, as adopted by the Secretary, and be in compliance with the American Disabilities Act of 1990 (ADA) as amended by the ADA Amendments Act of 2008, implementing regulations at 28 C.F.R. Part 35, and FHWA rules, regulations, and guidance pertaining to the same.

(b) **Permanent Traffic Control.** The location, form, and character of informational, regulatory, and warning signs, of traffic signals and of curb and pavement or other markings installed or placed by any public authority, or other agency as authorized by K.S.A. § 8-2005, must conform to the latest version of the MUTCD as adopted by the Secretary.

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

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

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

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

24. **Audit.** The LPA will participate and cooperate with the Secretary in an annual audit of the Project. The LPA shall make its records and books available to representatives of the Secretary for audit for a period of five (5) years after date of final payment under this Agreement. If any such audits reveal payments have been made with state funds by the LPA for items considered Non-Participating Costs, the LPA shall promptly reimburse the Secretary for such items upon notification by the Secretary.

25. **Accounting.** Upon request by the Secretary and in order to enable the Secretary to report all costs of the Project to the legislature, the LPA shall provide the Secretary an accounting of

all actual Non-Participating Costs which are paid directly by the LPA to any party outside of the Secretary and all costs incurred by the LPA not to be reimbursed by the Secretary for Preliminary Engineering, Right of Way, Utility adjustments, Construction, and Construction Engineering work phases, or any other major expense associated with the Project.

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

ARTICLE V

SPECIAL COST SHARING PROGRAM REQUIREMENTS:

1. **Letting Deadline.** The LPA agrees that it shall Let the Project no later than six (6) months after July 2021. The LPA may make a written request to the Secretary to the extend the deadline to Let the Project. In the Secretary's sole discretion, the Secretary may either grant or deny the LPA's request for an extension. If the LPA does not Let the Project no later than six (6) months after July 2021, the Secretary may cancel this Agreement.

2. **Recapture of State Investment.** The Parties agree to the following terms regarding the recapture of the Secretary's share:

(a) **Recapture Period.** The Parties agree the recapture period of the Project is ten (10) years, commencing on the date the Secretary or the LPA gives notice of final acceptance of the Project.

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

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

(d) **Recapture Formula.** If the Project is not used for the purpose set forth in this Agreement or other use approved by the Secretary, the LPA shall pay back to the Secretary a percentage of the Secretary's share as follows:

- | | |
|--|-------------------------------|
| 1) Violates in 1 st year of 10-year period: | 100% of the Secretary's Share |
| 2) Violates in 2 nd year of 10-year period: | 90% of the Secretary's Share |
| 3) Violates in 3 rd year of 10-year period: | 80% of the Secretary's Share |
| 4) Violates in 4 th year of 10-year period: | 70% of the Secretary's Share |
| 5) Violates in 5 th year of 10-year period: | 60% of the Secretary's Share |
| 6) Violates in 6 th year of 10-year period: | 50% of the Secretary's Share |

- 7) Violates in 7th year of 10-year period: 40% of the Secretary's Share
- 8) Violates in 8th year of 10-year period: 30% of the Secretary's Share
- 9) Violates in 9th year of 10-year period: 20% of the Secretary's Share
- 10) Violates in 10th year of 10-year period: 10% of the Secretary's Share

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

ARTICLE VI

GENERAL PROVISIONS:

1. **Acceptance.** No contract provision or use of items by the Secretary shall constitute acceptance or relieve the LPA of liability in respect to any expressed or implied warranties.
2. **Amendment.** Any amendment to this Agreement shall be in writing and signed by the Parties.
3. **Binding Agreement.** This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary and the LPA and their successors in office.
4. **Civil Rights Act.** The "Special Attachment No. 1, Rev. 09.20.17" pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.
5. **Compliance with Federal and State Laws.** The LPA shall comply with all applicable state and federal laws and regulations. The LPA represents and warrants that any Contractor and/or Consultant performing any services on the Project will also comply with all applicable state and federal laws and regulations.
6. **Contractual Provisions.** The provisions found in the most current version of the "Contractual Provisions Attachment (Form DA-146a)," which is attached hereto, are hereby incorporated into this Agreement, and made a part thereof.
7. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.
8. **Debarment of State Contractors.** Any Contractor who defaults on delivery or does not perform in a satisfactory manner as defined in this Agreement may be barred for up to a period of three (3) years, pursuant to K.S.A. § 75-37,103, or have its work evaluated for pre-qualification purposes. Contractors retained by the LPA for the Project shall disclose any conviction or judgment for a criminal or civil offense of any employee, individual or entity which controls a company or organization or will perform work under this Agreement that indicates a lack of business integrity or business honesty. This includes (1) conviction of a criminal offense for obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or

subcontract; (2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property; (3) conviction under state or federal antitrust statutes; and (4) any other offense to be so serious and compelling as to affect responsibility as a state contractor. An individual or entity shall be presumed to have control of a company or organization if the individual or entity directly or indirectly, or acting in concert with one or more individuals or entities, owns or controls 25 % or more of its equity, or otherwise controls its management or policies. Failure to disclose an offense may result in a breach of this Agreement for cause.

9. **Entire Agreement.** This Agreement, with all attached exhibits, expresses the entire agreement between the Parties with respect to the Project. No representations, promises, or warranties have been made by the Parties that are not fully expressed or incorporated by reference in this Agreement.

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

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

12. **Independent Contractor Relationship.** The relationship of the Secretary and the LPA shall be that of an independent contractor, and nothing in this Agreement shall be construed to create a partnership, joint venture, or employee-employer relationship. The LPA is not the agent of the Secretary and is not authorized to make any representation, contract, or commitment on behalf of the Secretary. It is expressly understood that any individual performing services under this Agreement on behalf of the LPA shall not be deemed to be an employee or independent contractor of the Secretary, and such individual shall not be entitled to tax withholding, workers' compensation, unemployment compensation or any employee benefits, statutory or otherwise, from the Secretary. The LPA agrees that it is solely responsible for the reporting and payment of income, social security, and other employment taxes due to the proper taxing authorities with respect to such personnel. The LPA agrees to indemnify, defend and hold harmless the Secretary and its directors, officers, employees, and agents from and against any and all costs, losses, damages, liabilities, expenses, demands, and judgments, including court costs and attorney's fees, relating to the reporting and payment of income, social security, and other employment taxes and the provision of employee benefits (including but not limited to workers' compensation, unemployment insurance, and health insurance coverage or assessable payments required under state or federal) with respect to such individual performing services under this Agreement on behalf of the LPA. This provision shall survive the expiration or termination of this Agreement.

13. **Industry Standards.** Where not otherwise provided in this Agreement, materials or work called for in this Agreement shall be furnished and performed in accordance with best established practice and standards recognized by the contracted industry and comply with all applicable federal, state, and local laws and rules and regulations promulgated thereunder.

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

15. **Nondiscrimination and Workplace Safety.** The LPA shall comply with all federal, state, and local laws, and rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violations of applicable laws, rules, or regulations may result in termination of this Agreement.

16. **Notices.** Any notice required or submitted under this Agreement shall be deemed given if personally delivered or mailed by registered or certified mail, return receipt requested and postage prepaid, to the following addresses of the Parties or such other addresses as either party shall from time to time designate by written notice.

The Secretary:
Kansas Department of Transportation
Attn: Michelle Needham
Division of Fiscal & Asset Management
700 SW Harrison Street, 2nd Floor West
Topeka, KS 66603-3754

The LPA:
City of Dodge City
806 N. 2nd Avenue
Attn: Nickolaus Hernandez
Dodge City, KS 67801

17. **Restriction on State Lobbying.** Funds provided by the Secretary under this Agreement shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this Agreement shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

18. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected, and each provision of this Agreement shall be enforced to the fullest extent permitted by law.

19. **Technical Advice and Assistance; Limitations.** Technical advice, assistance, or both, provided by the Secretary under this Agreement shall not be construed as an undertaking by the Secretary of the duties of the LPA or any other individual or entity, or the duties of any Consultant, Contractor, licensed professional engineer, or inspector hired by the LPA.

20. **Termination.** If, in the judgment of the Secretary, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges

hereunder, the Secretary may terminate this Agreement at the end of its current fiscal year. The Secretary will participate in all costs approved by the Secretary incurred prior to the termination of the Agreement.

21. **Waiver.** A Party’s failure to exercise or delay in exercising any right, power, or privilege under this Agreement shall not operate as a waiver. Further, no single or partial exercise of any right, power, or privilege shall preclude any other or further exercise thereof.

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

ATTEST:

THE CITY OF DODGE CITY, KANSAS

CITY CLERK (Date)

MAYOR

(SEAL)

Kansas Department of Transportation
Secretary of Transportation

By: _____
Lindsey Douglas (Date)
Deputy Secretary

CONTRACTUAL PROVISIONS ATTACHMENT

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

The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 07-19), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

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

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001, *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, *et seq.*) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101, *et seq.*) (ADA), and Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to reasonably perform the duties of a particular job or position; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to

comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) Contractor agrees to comply with all applicable state and federal anti-discrimination laws and regulations; (g) Contractor agrees all hiring must be on the basis of individual merit and qualifications, and discrimination or harassment of persons for the reasons stated above is prohibited; and (h) if it is determined that the contractor has violated the provisions of any portion of this paragraph, such violation shall constitute a breach of contract and the contract may be canceled, terminated, or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

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

KANSAS DEPARTMENT OF TRANSPORTATION

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

PREAMBLE

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. § 2000d to 2000d-4) and other nondiscrimination requirements and the Regulations, hereby notifies all contracting parties that it will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, color, national origin, sex, age, disability, income-level or Limited English Proficiency (“LEP”).

CLARIFICATION

Where the term “contractor” appears in the following “Nondiscrimination Clauses”, the term “contractor” is understood to include all parties to contracts or agreements with the Secretary of Transportation, Kansas Department of Transportation. This Special Attachment shall govern should this Special Attachment conflict with provisions of the Document to which it is attached.

ASSURANCE APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in its Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration (FHWA), the Federal Transit Administration (“FTA”) or the Federal Aviation Administration (“FAA”) as they may be amended from time to time which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontractors, Including Procurements of Material and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA, Federal Transit Administration (“FTA”), or Federal Aviation Administration (“FAA”) to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or, the FHWA, FTA, or FAA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA, FTA, or FAA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of the paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any

subcontract or procurement as the Recipient or the FHWA, FTA, or FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

ASSURANCE APPENDIX E

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- The Federal Aid Highway Act of 1973 (23 U.S.C. § 324 et. seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et. seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et. seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL No. 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with LEP, and resulting agency guidance, national origin discrimination includes discrimination because of LEP. To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681)



Memorandum

To: City Manager
City Commissioners
From: Corey Keller Public Works Director
Date: July 28, 2021
Subject: Purchase of Water Meters and Neptune's AMI System
Agenda Item: New Business

Recommendation: To purchase Neptune's Advanced Meter Infrastructure (AMI) and 1414 water meters from Municipal Supply in the amount of \$656,433.65 This is a sole source purchase; Municipal Supply is the only supplier of the Neptune meters.

Background: This purchase is to purchase all the meters necessary to complete the radio read project that was implemented in the early 2000's. This purchase will also include the equipment necessary to install the AMI system. The AMI system will upgrade the old Automated Meter Reading system (AMR) which will eliminate the need for a meter reader, driving around collecting the meter data. The AMI system will consist of six data collectors placed strategically throughout town on already existing City infrastructure allowing for almost instant water meter readings. This will allow staff real time access of a customer's water usage. It also includes the capabilities to give the customers real time access of the water usage if deemed necessary. The AMI system will streamline staff efficiencies for collecting the data on the meters and will give our customers a much better experience when dealing with our staff.

\$447,253.56 of this purchase is to purchase the water meters necessary to complete the radio read project started several years ago. \$209,180.00 is to purchase the equipment necessary to install the AMI System. Staff will perform much of the installation of the new equipment, eliminating the need for any installation labor.

Justification: The AMI system is the most advanced technology in meter reading. This technology will free up two employees from having to collect meter data physically, allowing them to be utilized in other areas of the division. This will also give our customer service staff real time information on meter data and allow them to trouble shoot customer problems prior to sending anyone to collect meter data.

Financial Considerations: The \$656,433.65 for this project will be paid for with American Rescue Plan Act funds. The city will receive a total 4.1 million through 2021 and 2022. The city has already received a little over 2 million in funding for 2021.

Purpose/Mission: Together we serve to make Dodge City the best place to be.

Legal Considerations: None

Attachments: Municipal Supply Quote, Gateway Info Sheet, and NAAS Brochure



A PRODUCT SHEET OF NEPTUNE TECHNOLOGY GROUP

R900[®] Gateway v4 Fixed Network Data Collector



Streamline Measurement and Boost Efficiency

Maximize the efficiency of your workforce – not only by automating meter reading but also by freeing up time for other tasks. Like the other components of Neptune's R900[®] System, the R900[®] Gateway fixed network data collector is designed for quick installation, ease of use, and flexibility. The R900 Gateway collects metering data as well as daily leak, reverse flow, and days of no flow alerts from all E-CODER[®]-equipped meters. The R900 Gateway's software-defined radio technology can process eight meter readings simultaneously and gather 360 readings per second – optimizing your fixed network with high throughput reading performance; especially in high-density R900[®] deployments. The data you collect is accurate, timely, and simple to share with other departments – so you can turn it into meaningful information that will help identify hidden causes of loss and optimize efficiency.

Migrate Backward and Forward With Total Confidence

Get the most value from your current assets, both infrastructure and workforce, through Neptune[®] systems that allow you to migrate at your own pace from mobile automatic meter reading (AMR) to advanced metering infrastructure (AMI). Providing fixed network functionality, the R900 Gateway is easily integrated into the system with mobile methods of reading your existing R900 endpoints, so that you can choose the technology you need, where you need it – without a need for special programming or reprogramming of MIUs. The R900 Gateway supports the R900 System's 1 Watt fixed network message from endpoints, reducing infrastructure costs.

Resolve Customer Issues Proactively with Detailed Data

The R900 Gateway gives your utility simplified access to information that will help you identify and resolve water-related issues quickly and easily. You'll be able to track detailed hourly water consumption for individual accounts and receive alerts that will help you proactively improve service to your customers. Save them – and your utility – time and money, and inform customers of excessive water usage to head off high bill complaints, reduce delinquent payments, and eliminate write-offs.

KEY BENEFITS

Facilitates Migration to AMI

- Supports the 1 Watt fixed network message from R900 endpoints, reducing infrastructure costs
- Migrate at your own pace – your system can be read by any combination of mobile and fixed that you choose
- No reprogramming of endpoints required to migrate to fixed network reading

Simple Access to Powerful Data

- On-demand read capability – obtain a reading whenever you need it
- Daily leak, reverse flow, and days of no flow alerts from E-CODER-equipped meters

Improves Meter Reading Efficiency

- Software-defined radio (SDR) technology capable of processing eight readings simultaneously
- Optimal performance in high-density R900 environments – capable of 360 readings per second

No Stranded Assets

- Maintains compatibility with existing R900s deployed
- Utilizing the power of our software-defined radio technology, all existing R900 Gateway v3 units can be easily updated to obtain R900 Gateway v4 functionality

Specifications

Receiver

- 910-920 MHz
- 50 channels
- Processes 8 readings simultaneously
- Processes 360 readings per second
- Capable of handling up to 25,000 R900s

Installation Options

- Rooftop
- Pole (2" – 16" diameter)
- Wall
- Water towers
- Street lights

Power Supplies

- 100-140 VAC
- 150W Solar
- 220W Solar

Battery Backup

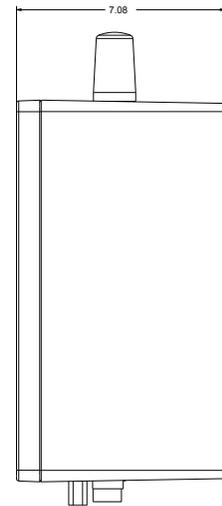
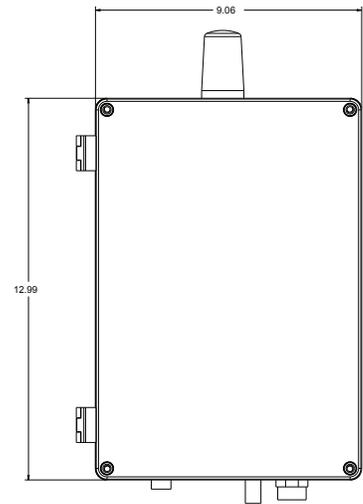
- AC version – UPS provides 8 hours battery backup
- Solar version – 3-day backup battery

Backhaul Options

- Multi-carrier cellular modem
 - LTE Cat 3 Dual & Quad
 - EVDO/CDMA 1x
 - UMTS/HSPA
 - EDGE/GPRS
- Ethernet RJ-45
- Private LAN compatibility via Ethernet connection

Environmental

- NEMA 4X enclosure
- Operating temperature: -22°F to +140°F (-30°C to +60°C)
- Storage temperature: -40°F to +158°F (-40°C to +85°C)
- 0-95% non-condensing humidity



#winyourday
neptunetg.com

Neptune Technology Group
1600 Alabama Highway 229
Tallahassee, AL 36078
800-633-8754 f 334-283-7293

Expand the Possibilities of AMI and Win Your Day with Network-as-a-Service (NaaS)

A Product of Neptune Technology Group



NEPTUNE
TECHNOLOGY GROUP

#winyourday

Empower your utility to do more with an outsourced, open-standard Network-as-a-Service (NaaS) solution from Neptune[®].

Get back to the business of water with a NaaS solution from Neptune where AMI infrastructure is actively managed and monitored over the life of the project.

Today's advanced metering systems require complex network design, ongoing support, inherent security, and increased head-end server computing and storage. Not every utility has the financial, technical, or human resources to implement such complex network and software systems.

Save time, labor, and money by outsourcing through Neptune. Your utility won't have to worry about design, installation, and ongoing operations and maintenance (O&M) for the life of the AMI project with Neptune's NaaS managed service:

- Reduce time and effort to deploy
- Optimize AMI network performance
- Improve infrastructure reliability and security
- Future proof deployment with Neptune's R900[®] technology
- Support AMI functionality with back-up mobile AMR meter reading



The Neptune NaaS Solution

With Neptune's managed network service, you and your utility can focus on the business of water. Neptune's NaaS solution includes:



HARDWARE

- Neptune AMI network infrastructure and R900 end-point hardware
- No additional costs for network expansion due to utility growth
- Centralized device management and reporting



FIELD OPS

- Execution of site leasing agreements and carrier contracts
- Installation of collectors and AMI infrastructure
- Freedom from ongoing fees associated with site leases, backhaul, AC power, and maintenance
- All break-fix repair costs of data collectors and AMI network



NETWORK OPS

- 24x7 Network Operations Center (NOC) monitoring
- Proactive monitoring of alarms, and trouble ticket triage
- End-to-end AMI network operations, security, and monitoring



TECHNICAL SUPPORT

- Ongoing maintenance and infrastructure updates for the life of the project
- Network design to ensure coverage, redundancy, and performance
- Cloud-based resources to ensure high availability, scalability, and performance

Leverage the Power of NaaS

The connected and purposeful utility of tomorrow will build on today's Smart Water Networks and managed network service. Prepare to meet your future needs today with a fully managed and monitored open-standard NaaS solution from Neptune.



Benefits of Network-as-a-Service



Smart Water Deployment

With NaaS from Neptune, the design and installation of the AMI network infrastructure allows for rapid deployment. The network provides comprehensive coverage, redundancy, and performance to assure reliable meter reading across your installed meter base.



Optimized Network Performance

Neptune's cloud-based NaaS service ensures high availability and scalability for the most demanding of AMI applications. Managed AMI network operations include hardware and software upgrades for the life of the project. Mitigate concerns for AMI network obsolescence in the future.



Network Security and Resiliency

Leverage a standards-based infrastructure with the first LoRa Alliance™ certified solution for water AMI networks. Achieve improved infrastructure reliability and security through the LoRaWAN™ protocol and NaaS service. The network ensures secure and redundant connectivity end-to-end.



Be Future-Proof with the R900

Future compatibility of multiple reading systems is assured with Neptune R900 technology. Build on your existing system and move seamlessly from mobile AMR to AMI data collection without stranding assets or the pressure of deploying a comprehensive reading solution all at once. Smart end-points do not require re-programming. Deploy with confidence.



Moving Beyond AMI

Leverage the broad eco-system of developers from the LoRa Alliance. The open standard-based network supports additional water and wastewater automation initiatives.

Leave AMI Network maintenance behind with a custom NaaS solution from Neptune. Advanced functionality becomes simple to use now and in the future.



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