

CITY COMMISSION MEETING AGENDA

City Hall Commission Chambers

Tuesday, January 16, 2024

7:00 p.m.

MEETING #5269

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

PLEDGE OF ALLEGIANCE

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).

CONSENT CALENDAR

1. Approval of City Commission Meeting Minutes, January 2, 2024.
2. Appropriation Ordinance No.2, January 15, 2024.
3. Cereal Malt Beverage License:
 - a. Taylor's Roadhouse, 2305 W. Wyatt Earp Blvd.
4. Approve the Cancellation Agreement with KDOT (Kansas Department of Transportation) for the Trail St. and US56/283 Intersection Geo-Metric Improvement Project.
5. Approve the Agreement with KDOT (Kansas Department of Transportation) for the Replacement of the Northbound Bridge over the Arkansas River on 14th Avenue.
6. Approve the quote from Victory Electric to install 30 LED Street Lights for United Village.

ORDINANCES & RESOLUTIONS

UNFINISHED BUSINESS

NEW BUSINESS

1. Approval of the Audit Engagement Letter with Kennedy McKee & Company for the Year Ending December 31, 2023. Report by Nicole May, Finance Director
2. Approve the Real Estate Contract for the Purchase of a Tract of Land for Right of Way for the Future Extension of 6th Avenue along Iron Flat's Phase 1. Report by Ray Slattery, Director of Engineering.
3. Approval of City Commission Board Appointments. Report by Nick Hernandez, City Manager.
4. Approval of Prime on the Nine Lease Agreement & Alcohol Sales Transfer Agreement. Report by Melissa McCoy, Assistant City Manager, and Paige Bangerter Gilmore, City Attorney.
5. Approval of Memorandum of Understanding for Utility Bill Reimbursement and Waiver, Report by Nick Hernandez, City Manager.

OTHER BUSINESS

STAFF REPORTS

ADJOURNMENT

CITY COMMISSION MEETING MINUTES

City Hall Commission Chambers

Tuesday, January 2, 2024

7:00 p.m.

MEETING #5268

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 Mayor Michael Burns, Commissioner Joseph Nuci, Rick Sowers, Chuck Taylor, Kent Smoll

PLEDGE OF ALLEGIANCE

INVOCATION by Pastor Jerry Nolte of United Methodist Church

APPROVAL OF AGENDA

Commissioner Kent Smoll made a motion to approve the agenda as presented. Commissioner Joseph Nuci seconded the motion. The motion carried 5 – 0.

PETITIONS & PROCLAMATIONS

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

Karen Watson a citizen of Dodge City spoke about potholes on Trail Street.

CONSENT CALENDAR

1. Approval of City Commission Meeting Minutes, December 18, 2023.
2. Approval of Special City Commission Meeting Minutes, December 28, 2023.
3. Appropriation Ordinance No.1, January 2, 2022.
4. Cereal Malt Beverage License:
 - a. Dodge City Community College, 2501 N. 14th Avenue.
 - b. Pizza Hut, 110 Frontview.

Commissioner Joseph Nuci made a motion to approve the consent calendar as presented. Commissioner Kent Smoll seconded the motion. The motion carried 5 – 0.

ADJOURN SINE DIE

INSTALLATION OF ELECTED INCOMING CITY COMMISSIONERS (With Oath Ceremony)

The installation of the new city commissioners elected for 2024, Jeffery Reinert and Daniel Pogue were sworn in as new Dodge City Commissioners. Rick Sowers was sworn in at an earlier time and is a returning commissioner.

ELECTION OF MAYOR AND VICE MAYOR

Commissioner Rick Sowers moved to nominate Chuck Taylor for City Mayor
Commissioner Jeffery Reinert seconded the motion. Motion carried 5 - 0.

Commissioner Rick Sowers moved to nominate Jeffery Reinert for Vice Mayor. Commissioner Michael Burns seconded the motion. The motion carried 5 - 0.

Mayor Chuck Taylor called the meeting to order

ORDINANCES & RESOLUTIONS

Resolution No. 2024-01: A Resolution of the City of Dodge City, Kansas, authorizing the preparation of financial statements and financial reports on the basis of cash receipts and disbursements was approved on a motion by Commissioner Michael Burns. Commissioner Rick Sowers seconded the motion. The motion carried 5 – 0.

UNFINISHED BUSINESS

NEW BUSINESS

STAFF REPORTS

ADJOURNMENT

Commissioner Jeffery Reinert made a motion to adjourn the meeting. Commissioner Rick Sowers seconded the motion. The motion carried 5 - 0.

ATTEST:

Mayor

City Clerk



Memorandum

To: Nick Hernandez, City Manager and City Commissioners

From: Ray Slattery, PE, Director of Engineering Services

Date: January 16, 2024

Subject: Approve KDOT Cancellation Agreement for the Trail St. and US 56/283 Intersection Geo-metric Improvement (GI) Project, 56-29 KA 5423-01, ST 1908

Agenda Item: Consent Calendar

Purpose: Approve KDOT's (Kansa Department of Transportation) Cancellation Agreement for the Trail St. and US56/283 Intersection GI Project.

Recommendation: Approve the Cancellation Agreement with KDOT for the Trail St. and US56/283 Intersection GI Project.

Background: In May of 2020 the City entered into an agreement with KDOT for the GI project at this intersection. Plans were completed and KDOT bid the project. However, the project came in close to double the estimate for construction. At that point both the City and KDOT agreed to reject all bids. It was discussed that the project may be bid at a later date. However, both KDOT and the City have looked at the long term viability of the proposed improvements and have decided to study the entire corridor from the Airport Rd. to south of this intersection to ensure the correct improvement are done. The City has entered into a contract with Olsson to study this corridor. KDOT has agreed to partner with he City on the cost of this study.

Since the project will no longer be bid, KDOT wished to have the City approve and sign the Cancellation Agreement.

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations: None

Amount \$: N/A

Fund:

Budgeted Expense Grant Bonds Other

Legal Considerations: Cancellation of KDOT Agreement Number 72-20

Mission/Values: This aligns with the City's Core Value of Ongoing Improvement, Safety, Working Towards Excellence.

Attachments: Cancellation Agreement for Agreement No. 72-03 from KDOT for the 56-29 KA-5423-01

Approved for the Agenda by:

Ray Slattery, PE

Ray Slattery, PE, Dir. of Engineering Services

PROJECT NO. 56-29 KA-5423-01
ACNHP-A542(301)
INTERSECTION IMPROVEMENTS
CITY OF DODGE CITY, KANSAS

CANCELLATION OF AGREEMENT

PARTIES: **Secretary of Transportation**, Kansas Department of Transportation (KDOT) (the
“Secretary”)

The City of Dodge City, Kansas (the “City”)

Collectively referred to as the “Parties.”

PURPOSE: The Parties desire to cancel the Original Agreement No. 72-20, Project No. 56-29 KA-5423-01 for intersection improvements, dated March 29, 2020.

EFFECTIVE

DATE: The Parties mutually agree the Original Agreement and the Project have been cancelled as of the date signed by the Secretary or designee at the City's request.

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

ATTEST:

CITY OF DODGE CITY, KANSAS

CITY CLERK (Date)
(SEAL)

MAYOR

Kansas Department of Transportation
Secretary of Transportation

By: _____
Greg M. Schieber, P.E. (Date)
Deputy Secretary and
State Transportation Engineer

Approved as to form:



Memorandum

To: Nick Hernandez, City Manager and City Commissioners

From: Ray Slattery, PE, Director of Engineering Services

Date: January 16, 2024

Subject: Approve KDOT Agreement for New Bride on 14th Ave. over the Arkansas River, 029 U-2495-01, ST 2306

Agenda Item: Consent Calendar

Purpose: Approve KDOT's (Kansa Department of Transportation) Agreement for replacement of the Northbound Bridge over the Arkansas River on 14th Ave.

Recommendation: Approve the Agreement with KDOT for the replacement of the Northbound Bridge over the Arkansas River on 14th Ave.

Background: In May of 2023 the City applied to KDOT for the replacement of the Northbound Bridge over the Arkansas River on 14th Ave. under the Kansas Local Bridge Improvement Program (KLBIP). The project will provide a new bridge with a widened sidewalk over the river where the current northbound bridge is located. The bridge is posted for load, it is considered functionally obsolete and structurally deficient. The bridge is 65 years old with an estimated life of 50 years. The existing bridge was built in 1957 and had a rehabilitation project in 1987 to remove deteriorating hinges from the structure. During a repair project investigation, it was determined the structure's overhangs are in poor condition, and the deck between the two girders is in fair condition. The east overhang carries a large waterline that supplies residents north of the river with fresh water. This waterline would be relocated and buried prior to replacing the structure. Replacing overhangs is necessary. A project to replace the overhangs would not be able to widen the overhangs enough to improve the geometry enough to remove the Functionally Obsolete status of the bridge. Also, construction of new overhangs is expensive, and a preservation project of that size would need considerable time to fully realize the benefit of the project. Also, during the project investigation, it was discovered the reinforced concrete structure has developed numerous shear cracks at many locations throughout the 621-foot long, two-girder structure. At least 3 to 5 hairline shear cracks in each span of each beam, as well as 8 to 10 moderate to severe shear cracks were investigated, measured, and mapped. The structure is rated 6-deck, 6-super, and 6-sub. The NBI condition ratings do not capture the shear cracking occurring in the reinforced concrete beams as these are relatively small areas of "poor" condition versus a large area of the superstructure in "fair" condition. The same argument is made for the poor condition of the overhangs versus the large area of the deck in fair condition. The bridge is at risk of falling into poor condition within 3 to 4 years if major repairs are not performed. An emergency repair with CFR was completed on 4 of the most severe shear cracks in October 2022 and the City has hired a consultant to monitor all shear cracks on a semi-annual basis. If this type of repair were to be applied at all shear crack locations, the repairs would be very expensive, but would not improve load-carrying capacity, and would not improve geometry. Given the other flaws in the structure, the expense of repairing the deck with full-depth and partial-depth patching, replacing both overhangs, and repairing the shear cracks that have developed, a superstructure replacement, or full replacement of the structure is the logical choice and is supported by three benefit cost analyses (available upon request). The 1957 bridge was built before the levee system. It was not built high enough or long enough, so the City must have a COE Detailed Operation Plan to isolate the structure during major storm events. The new structure would be designed to span the levees.

In August of 2023, Governor Kelly made a trip to Dodge City to announce the Local Bridge projects. The Northbound 14th Ave. Bridge will receive \$7 Million dollars from KDOT through the KLBIP Program. This project has to be awarded by August of 2025. KDOT will be responsible for Participating Costs of Construction and Construction Engineering, not to exceed the forementioned \$7,000,000. The City will be responsible for funding the remainder of the project. It is estimated that the City's share will be approximately \$2,000,000.

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations: By signing the Agreement, the City will be responsible for payment of the project above KDOT's Share of \$7,000,000. Funding will come from General Obligation Bonds.

Amount \$: N/A

Fund:

Budgeted Expense Grant Bonds Other

Legal Considerations: N/A

Mission/Values: This aligns with the City's Core Value of Ongoing Improvement, Safety, Working Towards Excellence.

Attachments: Agreement No. 726-23 from KDOT for the 029 U-2495-01 (Northbound 14th Ave. Bridge Replacement) Project.

Approved for the Agenda by:



Ray Slattery, PE, Dir. of Engineering Services

PROJECT NO. 029 U-2495-01 _____
KANSAS LOCAL BRIDGE IMPROVEMENT PROGRAM
BRIDGE RECONSTRUCTION/REHABILITATION
DODGE CITY, KANSAS

PROJECT AGREEMENT

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

RECITALS:

- A. The Kansas Legislature, through K.S.A. § 68-2314c, authorized the Secretary to provide funding for programs to assist local units of government in the administration of transportation projects to aid local public authorities in replacing or repairing bridges throughout the state. The Kansas Local Bridge Improvement Program (KLBIP) has been authorized by the Governor of the State of Kansas and the Kansas Secretary of Transportation under this legislation.
- B. The Secretary and the City are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of bridges in the State of Kansas.
- C. The City has requested, and the Secretary has authorized, a project under the KLBIP, as further described in this Agreement.
- D. Cities and counties may be eligible to receive state assistance in the financing of the construction and reconstruction of bridges, roads, and state highways provided the work is required to be done in accordance with the laws of Kansas and any applicable federal requirements.

NOW THEREFORE, the Parties agree to the following terms and provisions:

ARTICLE I

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

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

3. **“Construction”** means the work done on the Project after Letting, consisting of building, altering, repairing, improving, or demolishing any structure, building or highway; any drainage, dredging, excavation, grading, or similar work upon real property.
4. **“Construction Contingency Items”** mean unforeseeable elements of cost within the defined project scope identified after the Construction phase commences.
5. **“Construction Engineering” or “CE”** means inspection services, material testing, engineering consultation and other reengineering activities required during Construction of the Project.
6. **“Consultant”** means any engineering firm or other entity retained to perform consulting or design services for the Project.
7. **“Contractor”** means the entity awarded the Construction contract for the Project and any subcontractors working for the Contractor with respect to the Project.
8. **“Design Plans”** means design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies necessary for the Project under this Agreement.
9. **“Effective Date”** means the date this Agreement is signed by the Secretary or the Secretary’s designee.
10. **“Encroachment”** means any building, structure, vehicle, parking area, or other object or thing, including but not limited to signs, posters, billboards, roadside stands, fences, or other private installations, not authorized to be located within the Right of Way which may or may not require removal during Construction pursuant to the Design Plans.
11. **“Hazardous Waste”** means 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.

12. **“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.
13. **“Letting” or “Let”** means the process of receiving bids prior to any award of a Construction contract for any portion of the Project.
14. **“MUTCD”** means the latest version of the Manual on Uniform Traffic Control Devices as adopted by the Secretary.
15. **“NBI”** means the National Bridge Inventory, under the jurisdiction of the U.S. Department of Transportation, Federal Highway Administration.
16. **“Non-Participating Costs”** means the costs of any items or services which the Secretary reasonably determines are not Participating Costs.
17. **“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.
18. **“Parties”** means the Secretary of Transportation and KDOT, individually and collectively, and the City.
19. **“Preliminary Engineering” or “PE”** means pre-construction activities, including but not limited to design work, generally performed by a consulting engineering firm that takes place before Letting.
20. **“Project”** means all phases and aspects of the KLBIP project to be undertaken by the City, being: **Replacement of Bridge No. 406950290803001 on 14th Avenue Northbound, located 0.5 mile south of Park Street, over the Arkansas River in the City of Dodge City, Kansas,** and is the subject of this Agreement.
21. **“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.
22. **“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.
23. **“Right of Way”** means the real property and interests therein necessary for the Project, including fee simple title, dedications, permanent and temporary easements, and access rights, as shown on the Design Plans.
24. **“Secretary”** means the Secretary of Transportation of the State of Kansas, and the Secretary’s successors and assigns.

25. **“Utilities” or “Utility”** means all privately, publicly, or cooperatively-owned lines, facilities, and systems for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, and other similar commodities, including non-transportation fire and police communication systems which directly or indirectly serve the public.

ARTICLE II

FUNDING:

1. **Funding.** The table below reflects the funding commitments of each Party. The Participating 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.

| Party | Responsibility |
|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Secretary | 85% of Participating Costs of Construction and Construction Engineering (CE), not to exceed \$7,000,000.00. |
| City | 15% of Participating Costs of Construction and CE until Secretary’s funding limit is reached. 100% of Participating Costs of Construction and CE after Secretary’s funding limit is reached. 100% of Non-Participating Costs, Preliminary Engineering (PE), Right of Way, and Utility adjustments. |

2. **Funding Limitation.** No reimbursement shall be made for the costs of Preliminary Engineering, Right of Way acquisition, or Utility adjustments. No reimbursement will be made for work performed by City staff for project administration, engineering, or inspection.

3. **Reimbursement Payments.** The Secretary will make partial payments to the City for amounts not less than one thousand dollars (\$1,000.00) and no more frequently than monthly. Such payments will be made after receipt of proper billing; however, the Secretary will not make payments for reimbursement payments for Construction or Construction Engineering until the Project has been Let. **To be eligible for reimbursement, the Project must be under contract for construction prior to August 29, 2025.** A retainage of five hundred dollars (\$500.00) will be withheld from the final payment until the City completes its obligations under this Agreement, including all requirements of Exhibit A, Minimum Structure and Design Requirements.

ARTICLE III

CITY RESPONSIBILITIES:

1. **Legal Authority.** By signature on this Agreement, the signatory certifies that he or she has legal and actual authority as representative and agent for the City to enter into this Agreement on its behalf. The City agrees to adopt all necessary ordinances or resolutions, and to take any administrative and/or legal steps as may be required to give full effect to the terms of this Agreement.

2. **Letting and Administration by the City.** The City will prepare or contract to have prepared the Design Plans for the Project, Let the contract, and award the Construction contract to the lowest Responsible Bidder. The City agrees to construct or have constructed the Project in accordance with the final Design Plans; inspect or have inspected the construction; administer the Project; and make the payments due the Contractor, including the portion of cost borne by the Secretary.

3. **Design and Specifications.** The City shall design the Project or contract to have the Project designed in conformity with the appropriate design criteria for the Project in accordance with the City's established procedures, criteria, and industry standards. Specifically, the City agrees to comply with the technical and other requirements listed in Exhibit A - Structure and Design Requirements, which is attached and incorporated into this Agreement, as well as in conformity with applicable state, local, and federal law. The replacement structure design must meet current American Association of State Highway and Transportation Officials (AASHTO) Design requirements. The Design Plans must be signed and sealed by the licensed professional engineer responsible for preparation of the Design Plans. 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.*

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

(a) **Completion of Design.** Language requiring completion of all plan development stages no later than the current Project schedule's due dates as issued by KDOT, exclusive of delays beyond the Consultant's control.

(b) **Progress Reports.** Language requiring the Consultant to submit to the City (and to the Secretary upon request) progress reports at monthly or at mutually agreed intervals in conformity with the official Project schedule.

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

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

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

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

7. **Inspections**. The City will provide the Construction Engineering necessary to determine substantial compliance with the final Design Plans and this Agreement. The City will require at a minimum all personnel, whether City or Consultant to comply with the high visibility requirements of the MUTCD, Chapter 6E.02, High-Visibility Safety Apparel. If the City executes an agreement for Construction Engineering, the agreement must contain this requirement as a minimum. The City may set additional clothing requirements for adequate visibility of personnel.

8. **General Indemnification**. To the extent permitted by law and subject to the Kansas Tort Claims Act (K.S.A. § 75-6101, *et seq.*) as applicable, the City 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 City, the City’s employees, agents, subcontractors, or its consultants. The City 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.

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

10. **Reimbursement Requests.** The City shall submit invoices to the Secretary for reimbursement of costs incurred by the City for the Project. Invoices shall be submitted in amounts not less than one thousand dollars (\$1,000.00) and no more frequently than once per month. Invoices for reimbursement of costs for Construction and Construction Engineering (CE) are not eligible for reimbursement prior to the Project being Let and the Project being under contract for construction prior to the date specified in Article II, paragraph 3.

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

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

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

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

15. **Failure to Let.** The City acknowledges and agrees that the City's failure to award the construction contract for the Project by **August 29, 2025**, or within two (2) years from the Project

award, will be considered a constructive act of cancellation by the City and the City will be deemed to have cancelled the Project for purposes of this Agreement. In such instance, the City will be subject to the reimbursement requirements set forth in Article III, paragraph 14.

16. **Final Review.** Upon completion of the Project, the City shall notify Secretary and allow the Secretary or Secretary's designee to participate in a final review of the Project to confirm compliance with the terms of this Agreement. Reviews by the Secretary are not done for the benefit of City or its contractors, or agents, or other political subdivision, or the traveling public. The Secretary makes no representation or express or implied warranty to any person or entity concerning the adequacy or accuracy of the Design Plans, specifications, estimates, surveys, and any necessary investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project, or any other work performed by City.

ARTICLE IV

GENERAL PROVISIONS:

1. **Incorporation of Final Plans and Attachments.** The final Design Plans, specifications, special provisions, Construction Contract Proposal (as available), the agreement estimate for Construction Engineering (if applicable), and other Attachments are all essential documents of this Agreement and are either attached to this Agreement or incorporated by reference and made a part of this Agreement as if set forth in their entirety herein.

2. **Compliance with Federal and State Laws.** The City shall comply with all applicable federal, state, and local laws, regulations, executive orders, and ordinances governing the Project undertaken pursuant to this Agreement.

3. **Civil Rights Act.** The **Civil Rights Attachment, Rev. 01.24.2023** pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.

4. **Contractual Provisions.** The provisions found in the current version of the **Contractual Provisions Attachment (Form DA-146a)**, which is attached, are incorporated into and made a part of this Agreement.

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

6. **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.

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

8. **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.

9. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

10. **Severability.** If any provision of this Agreement is held invalid, the invalidity does not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this Agreement are severable.

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: _____
Greg M. Schieber, P.E. (Date)
Deputy Secretary and
State Transportation Engineer

Approved as to form:

INDEX OF ATTACHMENTS

- Exhibit A: Minimum Structure and Design Requirements
- Civil Rights Attachment, Rev. 01.24.2023
- Contractual Provisions Attachment (Form DA-146a)

*Note – If left unchecked, then inapplicable.

**KANSAS LOCAL BRIDGE IMPROVEMENT PROGRAM FY 2024
(Minimum Structure and Design Requirements)**

- The City will acquire the services of a Professional Engineer, licensed in the state of Kansas, to perform the design and analysis of the project. All plans shall have the seal and signature of the engineer in charge of their development.
- All bridges shall be designed to carry legal loads without load posting limitations.
- A scour evaluation shall be performed on all bridges to ensure the bridge is not scour critical. Submit the completed Scour Appraisal Form 2023 (found on KART).
- Provide Load and Resistance Factor Rating (LRFR) superstructure load ratings (including Federal Highway Administration (FHWA) mandated Specialized Hauling Vehicles and Emergency Vehicles). The use of AASHTO Bridge Design and Rating (BrDR) software is preferred. All bridges shall have a completed KDOT Bureau of Local Projects Load Rating Summary Sheet (LRSS) sealed and signed by a licensed Professional Engineer.
- The owner is responsible for acquiring all right-of-way, permits, and clearances needed for the Project.
- Within ninety (90) days of completion of construction, submit a complete initial inspection to KDOT Bureau of Local Projects. The initial inspection shall be performed under the supervision of a qualified Bridge Inspection Team Leader.
- Submit total project costs to KDOT Bureau of Local Projects upon project completion. (Includes but is not limited to right-of-way, utility relocation, design, construction, and inspection services costs.)
- Basic hydraulic analysis based on HDS-5 or HEC-18 as appropriate.
- Load and Resistance Factor Design (LRFD) HL-93 superstructure design.
- Use Allowable Stress Design (ASD) as a minimum for foundation design. Use Modified Engineering News Record Formula for Pile Driving.
- Bridges less than 75' in length:
 - Minimum of one geology core sample and analysis report at each bridge site sealed and signed by a qualified licensed professional.
- Bridges greater than or equal to 75' in length:
 - Follow requirements in the KDOT LPA Project Development Manual for geology requirements.
 - A KDOT plan review at the field check stage is required. Geology and planned foundations should be included in the field check plan review set.

Standard industry practice and sound engineering judgment in accordance with the Kansas State Board of Technical Professions shall be exercised at all times throughout the design and analysis phases of the Project.

**KANSAS DEPARTMENT OF TRANSPORTATION
CIVIL RIGHTS ACT ATTACHMENT**

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 Attachment shall govern should this 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. 100-259), (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)

State of Kansas
 Department of Administration DA-146a
 (Rev. 07-19)

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.



Memorandum

To: Nick Hernandez, City Manager and City Commissioners
From: Ray Slattery, PE, Director of Engineering Services
Date: January 16, 2024
Subject: Approval of Street Lights for the United Village Subdivision, PL 2204
Agenda Item: Consent Calendar

Purpose: Provide Streetlights for the United Village Subdivision.

Recommendation: Approve the quote from Victory Electric to install 30 LED Street Lights for United Village in the amount \$286,660.00.

Background: The United Village Subdivision is currently under development; infrastructure is being installed and house foundations are being placed. As with all new subdivisions, the City requests a quote from Victory Electric to install streetlights at intersections, major bends, mid-way of extralong blocks, and at the end of a cul-de-sac of the subdivision. The United Village Subdivision will have 30 streetlights. Victory Electric and the City have a program in place where the City pays for the cost of the individual streetlights and installation, Victory Electric then bills the City a monthly fee of approximately \$4.71 per light per month. This fee covers the electrical usage and any maintenance of the streetlight from the date of installation forward. The streetlights will consist of metal poles, underground wiring in conduit, and 50-watt LED luminaires. Three 100-watt LED luminaires will be installed at the subdivision street intersections and McArto Rd. & 14th Ave. This is an eligible RHID expense.

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations: The cost of the 30 streetlights, installed, is \$286,660.00.

Amount \$: \$286,660.00

Fund:

Budgeted Expense Grant Bonds Other RHID

Legal Considerations: By approving the quote the City will be responsible for payment to Victory Electric.

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

Attachments: Estimate and Map of Street Light placement from Victory Electric.

Approved for the Agenda by:

Ray Slattery, PE

Ray Slattery, PE, Dir. of Engineering Services

The Victory Electric Cooperative Assn., Inc.

Estimate

3230 N 14th Ave.

Dodge City, KS 67801

Phone: 620-227-2139

DATE December 13, 2023
United Village Street

Estimate project Lights
United Village

Member Name Development

Bill To:

Estimate valid until: March 12, 2024

Prepared by: Jeff Hubbell

Ray Slattery - City of Dodge City

Comments or special instructions:

| Description | AMOUNT |
|------------------------------------------------|----------------------|
| Steel Poles, Anchors, & Breakaway Bases | \$ 191,195.00 |
| Wire & Conduit | \$ 83,505.00 |
| Light Fixtures & Junction Boxes | \$ 11,960.00 |
| | |
| | |
| | |
| <i>Labor and Equipment built into estimate</i> | |
| TOTAL | \$ 286,660.00 |

If you have any questions concerning this estimate, Contact 620-227-2139

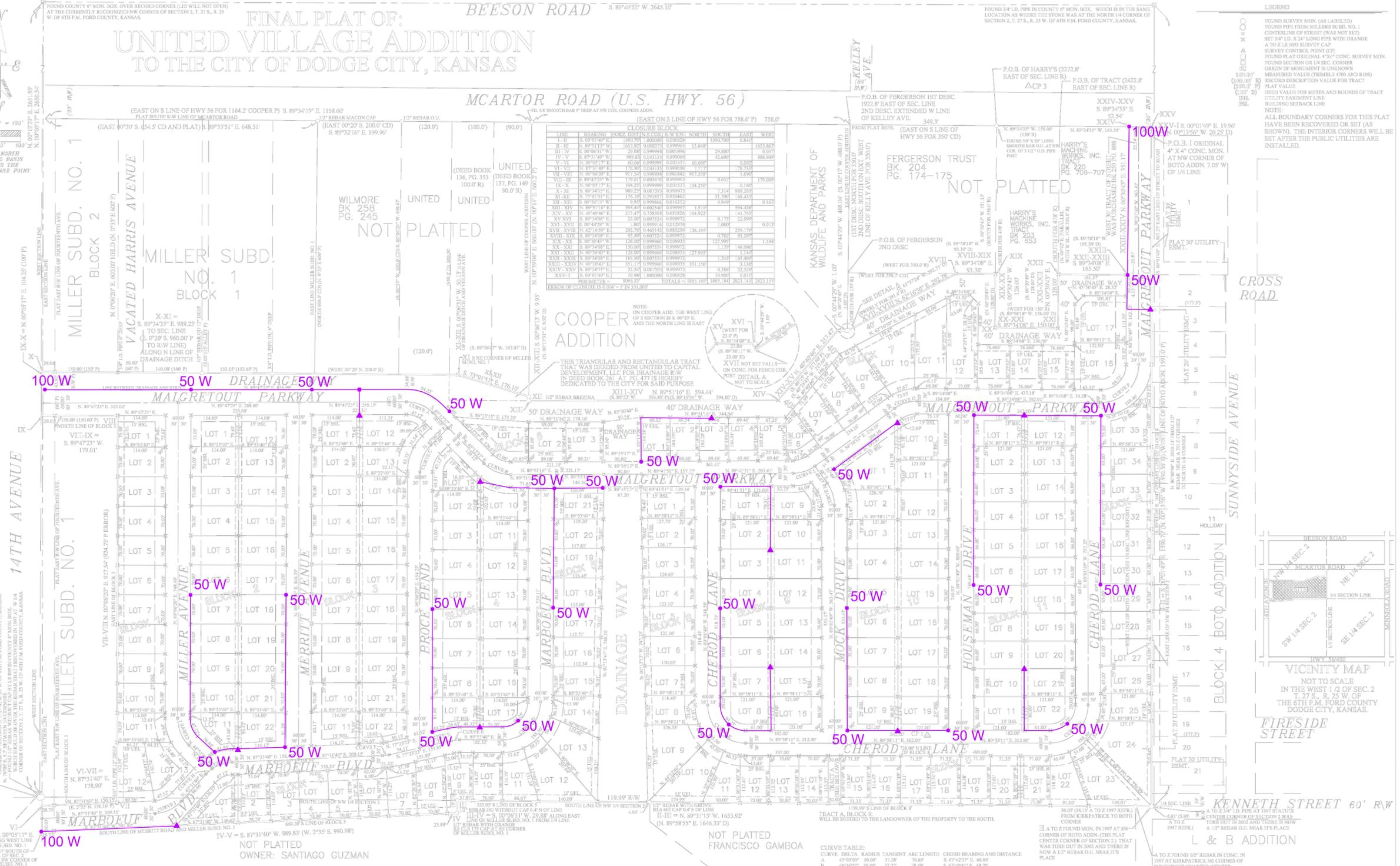


A Touchstone Energy® Cooperative 



FINAL PLAT OF: UNITED VILLAGE ADDITION TO THE CITY OF DODGE CITY, KANSAS

MCARTOR ROAD (U.S. HWY. 56)



DATE OF TOPOGRAPHY: MAY - NOV, 2022
 DATE OF TOPO. PREPARATION: MAY - FEB, 2023
 SITE CTS
 CP #1: THIS IS THE INITIAL CONTROL POINT (GPS NORTH IS FROM THIS MON.) SET 1/2" X 24" LONG GROUND ROD WITH ORANGE A TO Z L.S 1053 SURVEY CAP (6" DEEP) WNW OF CENTER OF SEC. 2 (AS SHOWN) NORTH = 20,000.00', EAST = 20,000.00', ELEVATION = 2496.28' GPS (DERIVED FROM CITY OF DODGE CITY GPS NETWORK)
 CP #2 (NOT SHOWN) SET 1/2" X 24" LONG GROUND ROD WITHOUT SURVEY CAP (6" DEEP) ON ROUGHLY THE WEST R/W LINE OF 14TH AVE. 20' SOUTH OF 2ND MHT SOUTH OF WEST 14th CORNER OF SEC. 2 NORTH = 19,390.62', EAST = 17,849.47', ELEVATION = 2498.40' GPS
 CP #3 (AS SHOWN) SET 1/2" X 24" LONG GROUND ROD WITH ORANGE A TO Z L.S 1053 SURVEY CAP (6" DEEP) WNW OF NE COR. OF THIS SURVEY. NORTH = 21,539.50', EAST = 20,240.83', ELEVATION = 2487.92' GPS
 THE ELEVATIONS FOR THIS DRAWING WERE MEASURED BY GPS. THE TYPICAL ACCURACY FOR THESE TYPE OF MEASUREMENTS IS +/- 0.1' TO 0.2'

LEGEND
 FOUND SURVEY MON. (AS LABELED)
 FOUND PIPE FROM MILLERS SUBD. NO. 1 CENTERLINE OF STREET (WAS NOT SET)
 8FT 3/4" I.D. X 24" LONG PIPE WITH ORANGE A TO Z L.S 1053 SURVEY CAP
 SURVEY CONTROL POINT (CP)
 FOUND PLAT ORIGINAL 4" X 6" CONC. SURVEY MON.
 FOUND SECTION OR 1/4 SEC. CORNER
 ORIGIN OF MONUMENT IS UNKNOWN
 MEASURED VALUE (FRABLE 470 AND 8108)
 RECORD DESCRIPTION VALUE FOR TRACT
 PLAT VALUE
 SHED VALUE FOR METERS AND BOUNDS OF TRACT
 UTILITY EASMENT LINE
 BUILDING SETBACK LINE
 NOTE:
 ALL BOUNDARY CORNERS FOR THIS PLAT HAVE BEEN RECOVERED OR SET (AS SHOWN). THE INTERIOR CORNERS WILL BE SET AFTER THE PUBLIC UTILITIES ARE INSTALLED.



NOT TO SCALE
 IN THE WEST 1/2 OF SEC. 2
 T. 27 S., R. 25 W. OF
 THE 6TH P.M. FORD COUNTY
 DODGE CITY, KANSAS.

United Village Dodge City, KS Street Lighting Plan

| | |
|----------|-----------|
| SCALE | N.T.S. |
| REV | B |
| REV DATE | Dec. 2023 |
| SHEET | |

SURVEY & DRAWING BY:
 KEVIN W. NOLL LS
 A TO Z LAND SURVEYING
 23499 SW D ROAD
 JETMORE, KANSAS 67854
 PHONE: (M) 620-339-6635
 JOB # 22-22
 PAGE 1 OF 2



Memorandum

To: Nick Hernandez, City Manager and City Commissioners

From: Nicole May, Finance Director

Date: January 5, 2024

Subject: Audit Engagement Letter

Agenda Item: New Business

Purpose: All municipalities of our size are required to have an annual audit.

Recommendation: I recommend approval of the audit engagement letter with Kennedy McKee & Company for the year ending December 31, 2023.

Background: This proposal from Kennedy McKee & Company LLP is to audit the City of Dodge City's financial statement for the year ending December 31, 2023. The fees for these services will be based on actual time spent plus other out-of-pocket costs not to exceed \$29,800 plus the standard hourly rate for the audit of Federal Award Programs. The fee for 2022 was \$35,621.00, which was billed at their actual time spent plus \$6,971 for the audit of Federal Award Programs. The detailed audit objectives, management responsibilities and audit procedures are outlined in the attached audit engagement letter. Kennedy McKee & Company has been conducting the City's audit for the past several years. They have extensive background information on the City of Dodge City, know our organization and the financial policies and procedures, work well with the city employees and have done an excellent job.

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations:

Amount \$: 29,800.00

Fund: 001 Dept: 11200

Expense Code: 420001

Budgeted Expense

Grant

Bonds

Other

Legal Considerations: None

Mission/Values: To promote transparency with residents.

Attachments: Proposed Engagement Letter

Approved for the Agenda by:

Nicole May

Nicole May, Finance Director

Kennedy
McKee & Company LLP Certified Public Accountants

1100 W. Frontview
P. O. Box 1477
Dodge City, Kansas 67801
Tel. (620) 227-3135
Fax (620) 227-2308
www.kmc-cpa.com

JAMES W. KENNEDY, CPA
PATRICK M. FRIESS, CPA
JOHN W. HENDRICKSON, CPA
JEREMY J. APPEL, CPA

December 26, 2023

City Commission
City of Dodge City, Kansas
P.O. Box 880
Dodge City, KS 67801

We are pleased to confirm our understanding of the services we are to provide City of Dodge City, Kansas, a municipality, for the year ended December 31, 2023.

Audit Scope and Objectives

We will audit the financial statement as of and for the year ended December 31, 2023. We have been engaged to report on the regulatory-required supplementary information (RRSI) that accompanies the City's financial statement. We will subject the following RRSI to the auditing procedures applied in our audit of the financial statement and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statement or to the financial statement itself, and other additional procedures in accordance with auditing standards generally accepted in the United States of America (GAAS) and will provide an opinion on it in relation to the financial statement as a whole in a report combined with our auditor's report on the financial statement:

1. Schedule 1, Summary of Regulatory Basis Expenditures – Actual and Budget
2. Schedule 2, Schedules of Regulatory Basis Receipts and Expenditures
3. Schedule 3, Schedule of Regulatory Basis Receipts and Disbursements – Agency Funds

We have also been engaged to report on supplementary information other than RRSI that accompanies the City's financial statement. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statement and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statement or to the financial statement itself, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statement:

1. Schedule of Expenditures of Federal Awards

The objectives of our audit are to obtain reasonable assurance about whether the financial statement as a whole is free from material misstatement, whether due to fraud or error, and issue an auditor's report that includes our opinion about whether your financial statement is fairly presented, in all material respects, in conformity with the *Kansas Municipal Audit and Accounting Guide* (KMAAG) and the accounting practices prescribed by the State of Kansas to demonstrate compliance with the cash basis and budget laws of the State of Kansas, which is a regulatory basis of accounting, the practices of which differ from accounting principles generally accepted in the United States of America (GAAP), and to report on the fairness of the RRSI referred to in the second paragraph and the other supplementary information other than RRSI referred to in the third paragraph when considered in relation to the financial statement as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statement. The objectives also include reporting on:

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statement in accordance with *Government Auditing Standards*.

- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

Auditor's Responsibilities for the Audit of the Financial Statements and Single Audit

We will conduct our audit in accordance with GAAS; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; the provisions of the Uniform Guidance; and the KMAAG, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS and *Government Auditing Standards*, we exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statement, including the disclosures, and determine whether the financial statement represents the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of waste and abuse is subjective, *Government Auditing Standards* do not expect auditors to perform specific procedures to detect waste or abuse in financial audits nor do they expect auditors to provide reasonable assurance of detecting waste or abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements or noncompliance may not be detected by us, even though the audit is properly planned and performed in accordance with GAAS and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statement or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts and direct confirmation of assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorney(s) as part of the engagement, and they may bill you for responding to this inquiry.

We will also be responsible for the following with regard to the audit of the financial statement:

- For complying with all auditing standards generally accepted in the United States of America as relevant to and adapted to the circumstances of the audit of the financial statement;
- For evaluating whether the financial statement is suitably titled, adequately refers to or describes the KMAAG regulatory basis framework, includes a summary of significant accounting policies, adequately describes how the KMAAG regulatory basis framework differs from GAAP in qualitative terms, and includes the appropriate informative disclosures as described in Responsibilities of Management's below;
- For evaluating whether the financial statement achieves fair presentation with regard to the KMAAG regulatory basis framework and forming the appropriate opinion on the financial statement taken as a whole; and
- Because the financial statement is intended for general use, we are responsible for expressing an opinion as to the fair presentation of the financial statement in accordance with GAAP, in addition to expressing an opinion about whether the financial statement is prepared in accordance with the KMAAG regulatory basis framework.

Audit Procedures—Internal Control

We will obtain an understanding of the government and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statement, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statement and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statement. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures – Compliance

As part of obtaining reasonable assurance about whether the financial statement is free of material misstatement, we will perform tests of the City's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance, and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the City's major programs. For federal programs that are included in the Compliance Supplement, our compliance and internal control procedures will relate to the compliance requirements that the Compliance Supplement identifies as being subject to audit. The purpose of these procedures will be to express an opinion on the City's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Other Services

We will also assist in preparing the financial statement, schedule of expenditures of federal awards, and related notes of the City in conformity with the KMAAG and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement, schedule of expenditures of federal awards, and related notes. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

You agree to assume all management responsibilities for the financial statement, schedule of expenditures of federal awards, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statement, the schedule of expenditures of federal awards, and related notes and that you have reviewed and approved the financial statement, the schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Responsibilities of Management for the Financial Statements and Single Audit

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for (1) designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal awards, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statement, schedule of expenditures of federal awards, and all accompanying information in conformity with KMAAG; and for compliance with applicable laws and regulations (including federal statutes), rules, and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

You are also responsible for making (or reviewing) drafts of financial statements, schedule of expenditures of federal awards, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statement, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance; (3) additional information that we may request for the purpose of the audit; and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statement; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and related matters.

Your responsibilities include adjusting the financial statement to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statement as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statement. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. You are also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received, and COVID-19-related concepts, such as lost revenues, if applicable) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains, and indicates that we have reported on, the schedule of expenditures of federal awards. You also agree to include the audited financial statement with any presentation of the schedule of expenditures of federal awards that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are responsible for the preparation (or review) of the RRSI, which we have been engaged to report on, in conformity with the KMAAG. You agree to include our report on the RRSI in any document that contains and indicates that we have reported on the RRSI. You also agree to include the audited financial statement with any presentation of the RRSI that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the RRSI in accordance with the KMAAG; (2) you believe the RRSI, including its form and content, is fairly presented in accordance with the KMAAG; (3) the methods or measurement of presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the RRSI.

Management understands and acknowledges the following with regards to the financial statement:

- The purpose for using the KMAAG regulatory basis framework is to comply with the statutory provisions applicable to the City for preparation of the financial statement on a basis of accounting other than GAAP;
- The financial statement is intended for general use;
- Management has taken appropriate steps to determine that the KMAAG regulatory basis framework is acceptable in the circumstances for meeting its annual financial statement reporting needs;
- Informative disclosures will be included in the financial statement that are appropriate to the KMAAG regulatory basis framework, including;
 - A description of the KMAAG regulatory basis framework, including a summary of significant accounting policies, and how the framework differs from GAAP.
 - Informative disclosures similar to those required by GAAP for items contained in the financial statement that are the same as, or similar to, those in financial statements prepared in accordance with GAAP; and
 - Any additional disclosures beyond those specifically required by the KMAAG regulatory basis framework that may be considered necessary to achieve fair presentation of the financial statement.
 - Management has chosen not to include the financial information of any related municipal entities in this financial statement.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Scope and Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statement, schedule of expenditures of federal awards, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statement, schedule of expenditures of federal awards, and related notes and that you have reviewed and approved the financial statement, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to submit the reporting package (including the financial statement, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors' reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits.

We will provide copies of our reports to the City; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Kennedy McKee & Company LLP and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the cognizant or oversight agency for the audit, or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Kennedy McKee & Company LLP personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

John W. Hendrickson is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. We will begin our audit on a mutually agreed-upon date.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the cognizant agency or the oversight agency for the audit. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We will begin our audit on a mutually agreed-upon date. John W. Hendrickson is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fee for these services will be at our standard hourly rates plus expenses (such as report reproduction, postage, copies, filing fees, etc.) except that we agree that our gross fee will not exceed \$29,800 plus expenses. The fees for the audit of the Federal Award Programs will be charged at our standard hourly rates. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees may be rendered as work progresses up to 75% of the contract amount, and are payable on presentation. The final billing will be sent after the report has been filed with the Director of Accounts and Reports.

The above fees are based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Reporting

We will issue written reports upon completion of our Single Audit. Our reports will be addressed to the City Commission and Management of the City of Dodge City, Kansas. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add a separate section, or add an emphasis-of-matter or other-matter paragraph to our auditor's report, or if necessary, withdraw from this engagement. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will state that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will state that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

We appreciate the opportunity to be of service to City of Dodge City, Kansas, and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

Kennedy McKee & Company LLP



John W. Hendrickson
Partner

RESPONSE:

This letter correctly sets forth the understanding of City of Dodge City, Kansas.

By: _____

Title: _____

Date: _____



Memorandum

To: Nick Hernandez, City Manager and City Commissioners

From: Ray Slattery, PE, Director of Engineering Services

Date: January 16, 2024

Subject: Approve Real Estate Contract and Purchase of a tract of land for future 6th Ave. Right-of-Way

Agenda Item: New Business

Purpose: Acquire additional Right-of-Way (R/W) for the extension of 6th Ave. along Iron Flat's Phase 1.

Recommendation: Approve the Real Estate Contract for the purchase of a tract of land for R/W for the future extension of 6th Ave. along Iron Flat's Phase 1 for \$21,230.00.

Background: The City has been working for the past few months to acquire the necessary R/W for the future extension of 6th Ave. along Iron Flat's Phase 1. The City will acquire 50' of property along the west side of the east ½ section of Section 11, Township 26, Range 25 for 1,685.40 feet north of Iron Rd. With this additional property, 6th Ave. can be extended sometime in the future. This also allows the roadway to be centered on the section line. This will eliminate the need for any jogs in the design and construction of the roadway. We have negotiated with the property owner and are now bringing to the Commission the final real estate contract and purchase price.

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations: The cost of the R/W will be reimbursed by the Iron Flat's RHID.

Amount \$: 21,230.00

Fund: 46230300 - 442004

Budgeted Expense Grant Bonds Other Iron Flat's RHID

Legal Considerations: The City will be bound by the Real Estate Sale Contract.

Mission/Values: This aligns with the City's Core Value of Ongoing Improvement and Working Towards Excellence.

Attachments: Real Estate Sale Contract

Approved for the Agenda by:

Ray Slattery, PE

Ray Slattery, PE, Dir. of Engineering Services

REAL ESTATE SALE CONTRACT

THIS AGREEMENT, made and entered into this ____ day of _____, 2024 by and between, Mike Weber, party of the First Part, hereinafter referred to as "Seller," whether one or more, and City of Dodge City, Kansas, a municipal corporation, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient general warranty deed the following described real property, situated in Ford County, Kansas, with a legal description attached and made part hereof as Exhibit A subject to easements and restrictions of record.
2. Buyer hereby agrees to purchase, and pay to Seller, as consideration for the conveyance to it of the Premises, the sum of eleven thousand dollars (\$11,000.00) per acre for 1.93 acres for a total of twenty thousand nine hundred dollars (\$21,230) in the manner following to-wit: cash at closing.
3. It is understood and agreed that Buyer may use some part or all of the Premises herein described in the construction, improvement, reconstruction, and maintenance of a public right-of-way and other public uses and Buyer hereby agrees to maintain any present or future right-of-way on the Premises, including conducting regular maintenance of any and all vegetation and growth on the right-of-way for the term of Seller's life, after which, the duty to maintain the right-of-way shall be borne by the present owner or owners of the land adjacent to the Premises, as in accordance with City Code.
4. Seller agrees to furnish to Buyer a title insurance company's commitment to insure, to the above-described real property, showing a merchantable title vested in Seller, subject to: easements and restrictions of record. The Title Evidence shall be sent to Buyer for examination by Buyer as promptly and expeditiously as possible, and it is understood and agreed that Seller shall have a reasonable time after said Title Evidence has been examined in which to correct any defects in title.
5. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.
6. Seller further agrees to convey the Premises with all the improvements located thereon and deliver possession of the same in the same condition as they now are (subject to the requirements of paragraph 7 above), reasonable wear and tear excepted.
7. It is agreed by the Parties that the closing of this transaction (the "Closing") shall take place within sixty (60) days from date of execution of this Purchase Agreement during which time Buyer shall conduct such due diligence as it deems necessary and appropriate. The Closing may be extended by mutual agreement of the Parties. At the Closing, Buyer shall pay to Seller the balance of the sale price. Seller shall deliver to Buyer the deed of conveyance, and all other documents and things to which Buyer shall be entitled. Upon the payment of such monies and delivery of such documents, this transaction shall be

deemed closed. The Parties will share the costs of closing and the closing agent will be High Plains Land & Title of Dodge City.

8. Possession to be given to Buyer at closing.
9. In the event an Owner's title insurance policy is furnished, the total cost of the title insurance policy shall be paid one hundred percent (100%) by Buyer and zero percent (0%) by Seller. All other closing agent costs will be shared equally by Buyer and Seller.
10. All fixtures and all personal property remaining on the premises at the time of the Closing shall pass to and become the property of the Buyer (subject to the conditions of paragraph 7 above).
11. Seller will be responsible for and shall pay all taxes and special assessments, if any, assessed against the Premises for the year 2022 and all prior years. The taxes and special assessments for 2023, or if necessary, 2024, will be prorated on the basis of the number of months, or fraction thereof, which each party shall be in possession of the Premises. At the Closing, Seller shall pay to Buyer a sum equal to a prorated share of the 2023, or if necessary, 2024, taxes and special assessments, if any, said prorated share to be based upon the amount of taxes and special assessments assessed for the preceding year. Buyer will be responsible for and shall pay all taxes and special assessments for its prorated share of the 2024 year when the same become due and payable, and all taxes and special assessments for all subsequent years.
12. The parties covenant and agree that except for closing, title insurance and commissions referenced elsewhere herein, each is solely responsible for the payment of any fee for brokerage, technical or other professional services relating to the execution and performance of this Purchase Agreement incurred by such party.
13. Seller makes no warranty or guarantee as to the suitability of the Premises for the intended use of Buyer. Therefore, Buyer covenants and agrees that Buyer at Buyer's own expense, shall examine the real property in order to determine such suitability including but not limited to:
 - A. Soils data and geology, drainage, hydrology and topographical features that would affect any present or future intended use;
 - B. The presence or absence of any contamination by any hazardous substance;
 - C. The nature, extent, and cost of public utilities needed to serve all or a portion of such real property;
 - D. The extent and cost of compliance with subdivision regulations, building codes and other applicable rules and regulations involving public improvements, private improvements, access, building setbacks, public dedications, platting and re-platting requirements of such real property;
 - E. The nature and extent of zoning and subdivision statutes, laws, ordinances and regulations affecting the present use, and the ease or difficulty involved in the zone-change and subdivision approval procedures necessary or desirable to allow for the Buyer's intended use or uses.

SIGNATURE PAGE TO FOLLOW

WITNESS OUR HANDS AND SEALS the day and year first above written.

SELLER

Mike Weber

BUYER

By Direction of the City Commission

Chuck Taylor, Mayor

ATTEST:

Connie Marquez, City Clerk

APPROVED AS TO FORM:

Paige B. Gilmore, City Attorney

EXHIBIT A

Description:

A tract of land in the Southeast Quarter of Section 11, Township 26 South, Range 25 West of the Sixth Principal Meridian, Ford County, Kansas described as follows:

Beginning at the Southwest Corner of the Southeast Quarter of said Section 11; thence

N 00°37'54" E 1685.40 feet; thence

S 88°59'30" E 50.00 feet; thence

S 00°37'54" W 1685.40 feet; thence

N 88°59'30" W 50.00 feet to the point of beginning, containing 1.93 acres.

Tim Sloan, PS-783, November 6, 2023.

Subject to easements and restrictions of record.



Memorandum

To: City Commission
From: City Manager, Nick Hernandez
Date: January 16, 2024
Subject: City Commission Board Appointments
Agenda Item: New Business

Purpose: To appoint members of the City Commission to the following boards:

- Community Facility Advisory Board (CFAB)-ex-officio non-voting member
- Dodge City/Ford County Development Corporation Board-2 voting members
- Dodge City Family YMCA- voting member

Recommendation: Staff recommends that the City Commission appoint members to the boards mentioned above.

Background: By agreement of the Dodge City Family YMCA, the bylaws of the Dodge City/Ford County Development Corporation and the Dodge City-Ford County Interlocal Agreement for the "Why Not Dodge" sales tax projects, representatives are requested to be appointed to serve on these boards.

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations: There are no financial considerations.

Legal Considerations: There are no legal considerations.

Mission/Values: These appointments are consistent with the City's Core Purpose of "Together we serve to make Dodge City the best place to be."

Attachments:

Dodge City/Ford County Development Corporation Letter

January 2, 2024

Good evening,

As we begin the 2024 year, it is time to elect a representative from the City of Dodge City to serve on our Board of Directors.

As stated in our by-laws, we are requesting two members of the City of Dodge City Commissions to serve on our Board of Directors. Our Board of Directors meets on the third Thursday in the months of March, June, September, and November at 12:00 noon.

We greatly appreciate the support and interest the City of Dodge City has shown to our organization. We look forward to continuing the cooperation for the betterment of Ford County.

Please notify us as soon as possible as to whom you have elected to serve on our Board of Directors.

Sincerely,

Mollea Wainscott
Assistant Director of Economic Development
Dodge City/Ford County Development Corporation
101 E. Wyatt Earp



Memorandum

To: City Commission

From: Assistant City Manager, Melissa McCoy & City Attorney Paige Gilmore

Date: January 16, 2024

Subject: Approval of Prime on the Nine Lease Agreement & Alcohol Sales Transfer Agreement

Agenda Item: New Business

Purpose: To renew the Prime on the Nine Lease and Operations Agreement with HHPON, LLC. for a one-year term and establish an alcohol and transfer agreement with HHPON, LLC for the alcohol sales on the Mariah Hills Golf Course (MHGC) and Club House property.

Recommendation: Approve Prime on the Nine Lease and Operations Agreement and Alcohol Sales Transfer Agreement with HHPON, LLC.

Background: This lease is beneficial to the City because it provides additional income to the City's General Fund. The leased space provides an enhanced income stream which offsets a portion of the subsidy currently required for golf course operations. The restaurant and golf course operations mutually benefit from this arrangement. Both entities have enjoyed increased exposure which has helped drive business as well as provide an additional service at the golf course.

Changes: There were minor changes to the existing agreement terms along with some clean up items. However, the changes to note were in the following sections:

- **SECTION 27, PAGE 6-ALCHOLIC BEVERAGES-** HHPON, LLC. has the exclusive right to sell alcoholic beverages in the restaurant as lawfully allowed by City ordinance or state statute. However, alcohol sales in all areas outside the restaurant on the Mariah Hills property, such as the Clubhouse, Pro-Shop and golf course will be the right and responsibility of the City. The City may, in a subsequent agreement, transfer the right of alcohol sales within the Pro-Shop to a third party, which may or may not be Tenant. A copy of this agreement is attached.
- **SECTION 28, PAGE 6-FOOD SALES TO MHGC PATRONS:** HHPON, LLC. will now have the right to sell food to patrons of the MHGC from the Clubhouse or from the Pro-Shop as directed by the City. This provision will not affect HHPON's right to operate its restaurant and determine their menu, pricing, staffing, and all other aspects related to the operation of its restaurant, independent of any direction from the City.

City Commission Options:

1. Approve

2. Disapprove
3. Table for further discussion

Financial Considerations: Monthly rent for the leased space is \$1,732 and is due on the first day of each month. The City's average monthly utility costs for the Mariah Hills Golf Course Clubhouse for the 12 months preceding this lease have been \$1,670.52. Therefore, the utility cost per month for Prime on the Nine will be 835.00.

In addition, the City is responsible for all necessary major repairs of \$500 or more to the basic structure of the leased space, including the foundation, building supports, exterior walls, roof, plumbing, heating and air conditioning, and electrical systems, but excluding, any repairs which must be made as a result of damages caused by HHPON, LLC. HHPON, LLC will pay for minor repairs less than \$500.

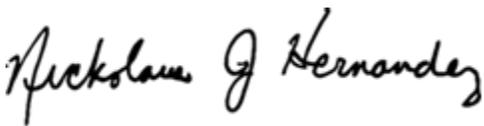
Legal Considerations: The City Attorney updated the existing Prime on the Nine Restaurant lease and operation agreement and developed the alcohol sales transfer agreement. The agreement has been reviewed by the City Manager and the partners of HHPON.

Mission/Values: This project meets our core purpose of making Dodge City the best place to be while matching the core value of ongoing improvement. This arrangement capitalizes on the assets at Mariah Hills and combines to provide a full-service operation that is attractive and desirable to residents and tourists alike. It also improves income generated at the facility to help offset operational expenses and manages taxpayer responsibility for golf course operations.

Attachments:

Prime on the Nine Restaurant Lease and Operations Agreement
Alcohol Sales Transfer Agreement

Approved for the Agenda by:



Nickolaus J. Hernandez
City Manager

January 16, 2024

**PRIME ON THE NINE RESTAURANT
LEASE AND OPERATION AGREEMENT**

THIS LEASE AND OPERATIONS AGREEMENT (this "Lease"), made this ____ day of ____, 20__, by and between the CITY OF DODGE CITY, KANSAS, a municipal corporation (the "City"), and HHPON LLC, (the "Tenant") (collectively the "Parties").

WITNESSETH:

WHEREAS, the City is the owner of improved real property located at 1800 Matt Down Lane, Dodge City, KS 67801 known as the Mariah Hills Golf Course ("MHGC"), Dodge City, Ford County, Kansas on which is constructed a two-level building (hereinafter "the Building") owned by the City known as the MHGC Clubhouse with an upper level (the upper level is referenced herein as "the Clubhouse") and a lower level (the lower level is referenced herein as "the Pro-Shop") ; and,

WHEREAS, the Tenant desires to lease from the City, space in the Clubhouse; and,

WHEREAS, the City and the Tenant desire to enter this Lease setting forth the terms and conditions of the agreement between the parties for lease of space and operation of a restaurant and catering business.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties agree as follows:

1. **PREMISES.** The City does hereby grant, lease and rent to the Tenant for its exclusive use and occupancy as a restaurant and food preparation kitchen, that portion of the building structure referred to herein as the Clubhouse occupying the Main (top) Floor situated at the MHGC, as more particularly detailed as the highlighted area on the map marked Exhibit A, attached hereto and incorporated herein, consisting of approximately three thousand, eight hundred (3800) square feet of occupiable space (hereinafter "the Leased Premises". Further, the City hereby grants to the Tenant the exclusive authorization and right to seek and obtain appropriate licensure for the sale and consumption of cereal malt/alcoholic beverages on the Leased Premises. The Parties acknowledge and agree that the restaurant operated by the Tenant shall be known as Prime on Nine.

The parties agree that parking along the curb bordering the building shall be reserved parking for Prime on the Nine customers only except for the three parking spots along the curb closest to the Building shall be designated as parking for the Pro-Shop. Tenant bears responsibility to provide signage for reserved parking to the restaurant, and to bear the costs of any desired parking enforcement. Signage must be approved by the City prior to installation. The City will bear the responsibility to provide signage for reserved parking for the three spots designated for the Pro-Shop.

2. **TERM/TERMINATION.** The term of this Lease will be for a period of one (1) year (the "Initial Term"). Thereafter, this Lease will automatically renew for one (1) year terms (the "Renewal Terms"), unless either Party gives written notice of termination to the other Party, not less than thirty (30) days prior to the end of the Initial Term or any of the Renewal Terms.

3. **RENT.** The Tenant shall pay to the City as monthly rental for the Leased Premises the amount of One Thousand Seven Hundred Thirty-Two Dollars (\$1,732) on the 1st day of each month beginning on May 1, 2023. Said rent is payable at City Hall.

Tenant shall pay rent to the City by the 10th of each month, for the preceding month, with the first payment due by the 10th day of the month following the month. If Tenant fails to pay rent on or before the 10th day of each month, a late fee of five percent (5%) of the monthly rent shall be assessed by the City and due from the Tenant. All payments shall be made to the City of Dodge City, Kansas.

4. **CONDITION OF PREMISES.** The Tenant has examined and knows the condition of the Leased Premises and accepts the same in its present condition and repair.

5. **USE OF PREMISES.** The Tenant intends to use the Leased Premises for the operation of a restaurant. Lease of the Leased Premises by the City to the Tenant is expressly conditioned upon the requirement that the Tenant maintain a restaurant open to the public in compliance with the terms set forth in the following section (Hours of Operation).

6. **HOURS OF OPERATION.** Tenant agrees to operate the restaurant, open to the public, a minimum of five (5) days and five (5) nights a week.

Tenant shall have the option to operate the restaurant for hours in excess of the hours set forth herein.

7. **TAXES.** The Tenant shall pay all taxes and assessment levied against personal property owned by the Tenant and located on the Leased Premises. The Parties acknowledge that the Leased Premises is currently exempt from ad valorem taxes as the City owns the Leased Premises, however, the Parties agree that if the City is compelled at a later date to pay ad valorem taxes on the Leased Premises, such taxes will be assessed to and paid by the Tenant as determined by the square footage leased by the Tenant compared to the total square footage of the real property subject to ad valorem taxes.

8. **MAINTENANCE.** The City will be responsible for all necessary major repairs (\$500 or more) to the basic structure of the Leased Premises, including the foundation, building supports, exterior walls, roof, plumbing, heating and air conditioning, and electrical systems, but excluding, any repairs which must be made as a result of damages caused by any acts or omissions of the Tenant, its employees or agents. The Tenant shall pay for minor repairs (less than \$500) to the Leased Premises. The Tenant shall provide janitorial services and janitorial supplies for the Leased Premises.

10. **DUTIES AND RESPONSIBILITES OF TENANT.** The Tenant shall not terminate its restaurant business during the term of this Lease. Termination of restaurant business activity by Tenant shall be deemed to be a default and breach of this Lease Agreement, in spite of the fact that Tenant may continue to make rent payments hereunder, and City shall have the right, without notice, to immediately declare this Lease breached by the Tenant if such period of termination exceeds thirty days.

The Tenant further agrees to the following terms and conditions in the renovation and operation of its restaurant and catering businesses:

- (a) Store all trash and refuse in appropriate containers within the leased Premises and to attend to the daily disposal thereof in the manner and place designated by the City. The Tenant shall not burn any trash or rubbish in or from the Leased Premises or anywhere else within the confines of MHGC, nor shall the Tenant operate a garbage grinder without the City's prior written consent. The Tenant will not dispose of any hazardous waste materials on the Leased Premises or use the Leased Premises in any manner that would be in violation of state or federal environmental laws.
- (b) Not erect or maintain, nor permit to be erected or maintained, at its place of business in the MHGC, any signs, advertisements, notices, or other lettering, without obtaining in advance the prior written consent and approval of the City.

- (c) Maintain the Leased Premises in a clean, safe, and sanitary condition and free of insects, rodents, vermin, and other pests. The City agrees to have the Leased Premises serviced by a pest exterminator at such intervals as the City may reasonably require, and the City will be financially responsible for paying for these services.
- (d) Receive and deliver goods and merchandise only in the manner and in such areas as may be designated by the City.
- (e) Not perform any act or carry out any practice that may injure the Leased Premises or any part of the MHGC, or cause any offensive odors or loud noise, or constitute a nuisance to any other tenant or the general public at MHGC.
- (f) Conform to and comply with any and all laws, rules, regulations, and operating standards which have been heretofore, or which may be hereafter adopted, by any governmental authority having jurisdiction, including the City. The Tenant further agrees to procure and maintain all permits and licenses, pay all charges, fees, and taxes, and give all notices required by law.
- (g) Not use the plumbing facilities for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be deposited therein. The expense of any breakage, stoppage, or damage to plumbing facilities or the sewer system, shall be borne by the Tenant, if the Tenant, or its employees, agents, or invitees caused such problem.
- (h) Keep the Leased Premises in such condition and repair so as to enable it to pass any City, Ford County, of Kansas Department of Agriculture, Food Safety and Lodging or restaurant inspection. If the Tenant fails to operate the Prime on the Nine in a commercially reasonable and safe manner so as to fail an inspection two (2) or more times within a twelve (12) month period, the City will have the right to immediately declare this Lease terminated by furnishing written notice to the Tenant.
- (i) Maintain the floor and wall coverings in a clean condition, having the carpet shampooed at such reasonable intervals so as to maintain a safe and hygienic environment. In the event the Tenant fails to perform this duty, the City will have the right to have the Leased Premises cleaned and either have the Tenant charged directly or pay for same, for which the Tenant will be obligated to reimburse City at the time the next rent payment is due. The City will furnish the Tenant a copy of the paid invoice.
- (j) Be responsible for all expenses, including but not limited to, supplies, food preparation and delivery, and personnel, associated with the operation of Tenant's restaurant and catering business.
- (k) Purchase, install, and maintain all equipment, furniture, fixtures, drapes, and/or appliances required by the Tenant in the operation of Tenant's restaurant and catering business.

11. **CASUALTY INSURANCE.** The City agrees to keep the structure where the Leased Premises is located insured against loss or damage for fire or other casualties. The City will not insure any property owned by the Tenant, and the Tenant will not be a loss payee on any insurance policy maintained by the City.

12. **INDEMNIFICATION.** The Tenant shall keep, protect, and save harmless the City from any loss, cost, claim, judgement, or expense of any sort of nature, and from liability to any person, on account of any

injury, damage, or death to any person or property arising out of any use of the Leased Premises by the Tenant, its agents, or employees.

13. **INSURANCE.** The Tenant agrees to procure and maintain a comprehensive liability insurance policy covering bodily injury and property damage in an amount not less than One Million Dollars (\$1,000,000.00) per person and One Million Dollars (\$1,000,000.00) per occurrence, with the City named as an additional loss payee/insured. The Tenant shall also maintain workers compensation insurance for its employees and agents as required by Kansas law. The Tenant acknowledges and agrees that it, its agents, or employees are not employees of the City. The Tenant shall annually provide proof of required insurance to the City.

14. **ALTERATIONS.** The Tenant shall not make any material or substantial alterations or additions to the Leased Premises without the prior written consent of the City. All fixtures, additions, or improvements in or upon the Leased Premises, made by either Party, shall become the property of the City and must remain upon, and be surrendered with, the Leased Premises as a part thereof, at the expiration or sooner termination of this Lease. The Tenant shall pay for all expense of any remodeling or alteration of the Leased Premises required by the intended use of the Leased Premises by the Tenant, subject to prior approval by the City.

15. **LIENS AND ENCUMBRANCES.** The Tenant agrees at all times to keep the Leased Premises free from liens and encumbrances of whatever kind or nature arising from, or predicated upon, materials furnished, or work or labor performed upon the Leased Premises, at the Tenant's request.

16. **UTILITIES.** The Tenant shall pay for its proportional share of all utilities used in the structure known as the MHGC Clubhouse, to include gas and electricity. The calculation of said proportional share is described in the paragraph to follow and said payments are due as described in Paragraph 3 above. The Tenant shall pay for all charges for telephone, cable TV, or internet service used in the restaurant operation.

The City's average monthly utility costs for the MHGC Clubhouse for the twelve (12) months preceding this Lease have been One Thousand Six Hundred Seventy Dollars and Fifty-Two Cents (\$1,670.52.). The Tenant shall pay for utility costs each month to the extent that said total costs are in excess of Eight Hundred Thirty-Five Dollars (835.00).

17. **DAMAGE BY FIRE OR OTHER CASUALTY.** The Tenant shall use every precaution against fire and shall, in case of fire or other casualty for which the Tenant is not under an obligation to repair, immediately notify the City, who shall, unless the Leased Premises be so damaged that the City decides not to repair or rebuild, thereupon cause the damage to be promptly repaired. If the Leased Premises are so destroyed or damaged so that the City decides not to repair or rebuild, either temporarily or permanently, then the term of this Lease shall cease as of the date upon which the casualty occurred, with no further obligation of either Party to recognize this Lease.

18. **CONSTRUCTION PROJECTS.** The Tenant acknowledges that from time-to-time construction projects for improvement of MHGC will be commenced which may interfere with the operation of the Tenant's business. The city agrees to take all reasonable steps to minimize inconvenience and loss of business to the Tenant, but the City will not be financially responsible for the same.

19. **RIGHT TO INSPECT.** The City hereby reserves, and the Tenant hereby accords to the City, the right, personally or through any representative of the City's choice, to enter upon and to inspect the Leased Premises, at any and all reasonable times, for the purpose of inspecting the Leased Premises.

20. **DEFAULT.** This Lease is made upon the express condition that if the Tenant fails to pay the rent specified in paragraph 3 above and/or the utility payments specified in paragraph 15 above, after the same shall become due and such failure shall continue for a period of thirty (30) days after written notice thereof from the City to the Tenant, or if the Tenant fails or neglects to perform or observe any of the Tenant's other

obligations hereunder and such failure and neglect shall continue for thirty (30) days after written notice to the Tenant from the City, the City at any time thereafter, by written notice to the Tenant, may lawfully declare the termination of this Lease and re-enter the Leased Premises or any part thereof. The City shall have the right to remove, at the Tenant's expense, any of the Tenant's property left remaining in or upon the Leased Premises. Should the Tenant be in default the City shall have the right to pursue all available remedies allowed by the law.

21. **TENANT HOLDING OVER.** If the Tenant remains in the Leased Premises after the expiration of the term of this Lease, such holding-over will not constitute a renewal or extension of this Lease. The City may, at its option, elect to treat the Tenant as one who has not been removed at the end of term, and thereupon be entitled to all the remedies against the Tenant provided by law in that situation. In the alternative, the City may elect, at its option, to construe such holding over as a tenancy from month-to-month, subject to all the terms and conditions of this Lease, except as to duration thereof, and in that event the Tenant shall pay rent at the rate provided herein as effective during the last month of this Lease.

22. **SURRENDER AND TERMINATION.** Subject to the holding over period provided in paragraph 20 above, upon expiration of this Lease and Renewal Terms for any reason, whether by reason of expiration of the term hereof or cancellation for default or otherwise, the Tenant shall, and hereby covenants and agrees to peacefully surrender and deliver up possession of the Leased Premises to the City, in as good condition or repair as the same was at the inception of this Lease, market value and damages from the elements excepted, including, but not limited to, the obligation to repair any and all damages caused by the Tenant during the term hereof. In addition, the Tenant agrees to offer for sale to the City upon expiration of this Lease, except for by reason of default by the Tenant, all equipment, furnishing, and other accessories placed by the Tenant upon and within the Leased Premises used by the Tenant in the operation of the restaurant and catering business at the Tenant's depreciated book value of such items. Within thirty (30) days following the Tenant's offer, the City may at its sole option purchase any or all such items by tendering to the Tenant a City check in the total amount of all items the City elects to purchase, in which case said items shall remain in the Leased premises. All items not purchased by the City must be removed from the Leased Premises by Tenant at its sole expense within thirty (30) days following written notice of the City's election. The Tenant shall pay for any and all damage to the Lease Premises resulting from the Tenant's removal of any such items.

23. **ASSIGNMENT OR SUBLEASE.** The Tenant shall not assign or sublet the Leased Premises, in whole or in part, without the prior written consent of the City.

24. **NONDISCRIMINATION.**

- a) The Tenant, as part of the consideration hereof, for itself, its personal representatives, successors in interest, and assigns, does hereby covenant and agree, as a covenant running with the land: (1) that no person on the grounds of race, color, religion, sex, or national origin, shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination by the Tenant, in the use of the Leased Premises hereunder, (2) that in the construction of any improvements on, over, or under such Leased Premises, and the furnishing of services thereon, no person on the grounds of race, color, religion, sex, or national origin, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that the Tenant shall use the Leased Premises hereunder in compliance with all other applicable requirements imposed by Title 49 Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, as said regulations may apply or be amended from time to time.

- b) In the event that the Tenant breaches any of the above nondiscrimination covenants, the City will have the right to terminate this Lease and re-enter and repossess the Leased Premises, and hold the same as if this Lease had never been made or issued.
- c) This Lease is subordinate to the provisions of any existing and future agreements between the City and the United States of America, the State of Kansas, or their boards, agencies, or commissions, relative to the operation or maintenance of the MHGC, the execution of which has been or will be required as a condition to the expenditure of federal, state, or city funds or the issuance of bonds for the development of the MHGC.

25. **ACCESSIBILITY FOR HANDICAPPED.**

- a) The City will be responsible for maintain the MHGC facilities and services in a manner which complies with obligations under the Uniform Federal Accessibility Standards (UFAS), or substantially equivalent standards; under 49 CFR. Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving of Benefitting from Federal Financial Assistance; and under 42 U.S.C.S. §§12101, et seq., The Americans with Disability Act of 1990, or a substantially equivalent standard.
- b) All of the MHGC facilities designed, constructed, or altered shall be accessible to handicapped persons. The City shall pay for the cost of all alterations or improvements necessary to meet the requirements of the statutes and regulations cited above and other relevant Federal, State, or local laws, statutes, and ordinances that relate to handicapped accessibility standards.

26. **NONDISCRIMINATION IN EMPLOYMENT OPPORTUNITES.** The Tenant assures that it will comply with pertinent federal and state statutes, Executive Orders, and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap, be discriminated against in any employment opportunity with the Tenant.

27. **ALCHOLIC BEVERAGES.** The City grants exclusive right to the Tenant to sell alcoholic beverages in the Leased Premises as may be lawfully allowed by City ordinance or state statute, as they may now exist or may exist or may exist in the future. Alcohol sales in all areas outside the Leased Premises, within or upon any other premises of the MHGC, Clubhouse, or Pro-Shop shall be the right and responsibility of the City. The City may, in a subsequent agreement, transfer the right of alcohol sales within the Pro-Shop to a third party, which may or may not be Tenant.

The Tenant will be responsible for obtaining any licenses required to sell and allow consumption of alcoholic beverages on the Leased Premises. Tenant will bear responsibility to provide staffing for all alcohol sales on the Leased Premises.

This Lease is conditioned upon the City passing and maintaining, during the term hereof, an ordinance allowing for the sale and consumption of alcoholic beverages on the Leased Premises. If at any time during any term of this Lease the sale and consumption of alcoholic beverages are prohibited on the Leased Premises, as a result of action taken by the City to repeal or amend said ordinance, the Tenant at its sole option may terminate this Lease and upon thirty (30) days prior written notice to the City vacate the leased premises and thereupon be released from any further obligation, duties and responsibilities hereunder.

28. **FOOD SALES TO MHGC PATRONS:** The City hereby grants the right to the Tenant to sell food to patrons of the MHGC from the Clubhouse or from the Pro-Shop as directed by the City, subject to the terms of this provision. For purposes of this provision, MHGC patrons shall mean patrons of the golf-course, actively golfing or intending to imminently golf on MHGC premises, not intending to eat food within the Leased Premises, but intending to eat food on MHGC premises as shown in Exhibit B. The Tenant's provision of the

sale of food to MHGC patrons shall be subject to the approval of the City, and such approval shall not be unreasonably withheld and may be communicated informally, including orally.

Nothing in this provision shall be construed to interfere with Tenant's right to operate its restaurant business in the Leased Premises as outlined in this Lease Agreement. Tenant retains the right to independently determine its menu, pricing, staffing, and all other aspects related to the operation of its restaurant, independent of any direction from the City. Nothing in this provision shall be construed to interfere with the City's right to provide the sale of food from the Pro-Shop for MHGC patrons.

29. **GENERAL COVENANTS.**

(a) All notices required or which may be given hereunder shall be considered as properly given if delivered in writing, personally, or sent by certified mail, postage prepaid, addressed as follows:

(1) If to City: City Manager
 City of Dodge City
 PO Box 880
 Dodge City, Kansas 67801
 (620) 225-8100

(2) If to Tenant: HHPON, LLC
 1800 Matt Down Ln
 Dodge City, KS 67801

Notices served by mail shall be deemed to be given on the date on which such notice is deposited in the United States mail.

(b) This instrument incorporates all the obligations, agreements, and understandings of the parties hereto and there are no oral agreements or understandings between the parties hereto concerning the property covered by this Lease.

(c) This Lease may be amended, changed, or modified, only upon the written consent of all the Parties.

(d) This Lease shall be binding upon and inure to the benefit of the Parties hereto, their respective heirs, and personal representatives and permitted assigns.

(e) This Lease is to be construed in accordance with the laws of the State of Kansas.

IN WITNESS WHEREOF, the parties have entered this Lease the day and year first above written, in multi-part, each of which shall constitute an original.

CITY OF DODGE CITY,
KANSAS

Chuck Taylor, Mayor

ATTEST:

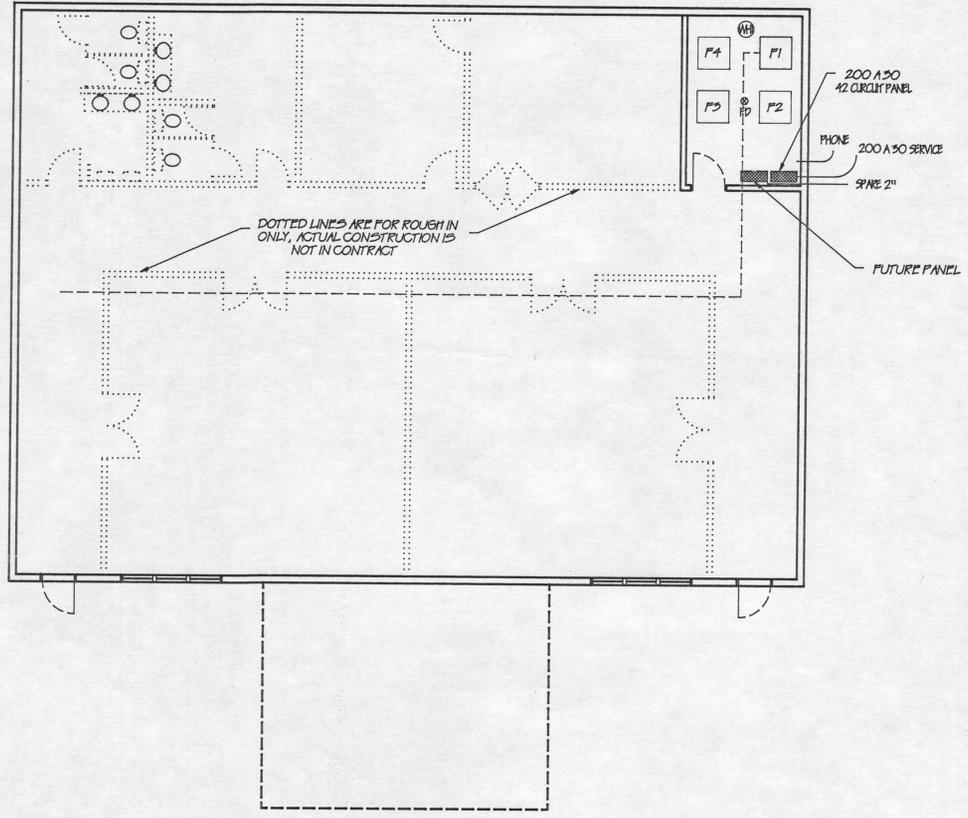
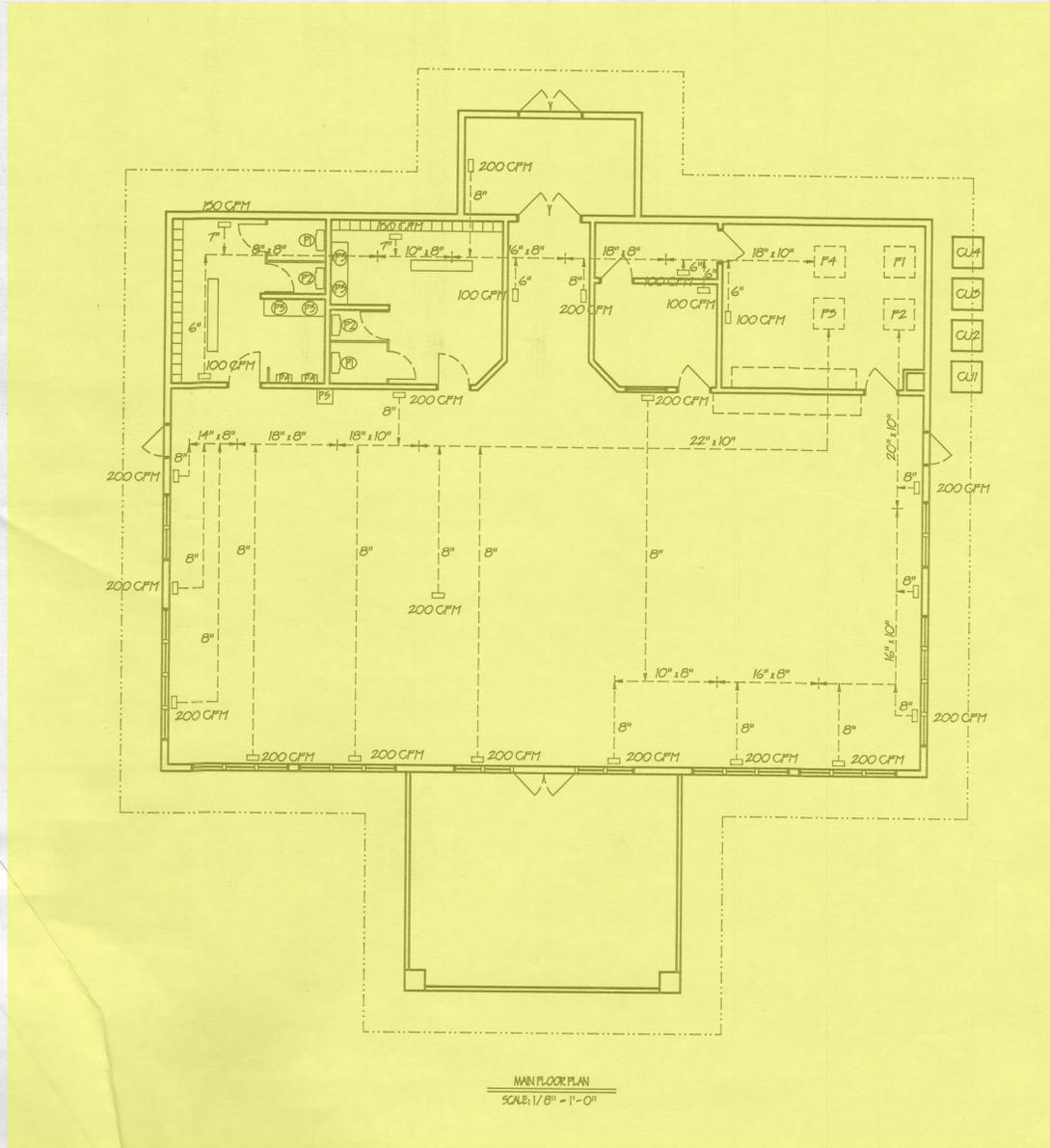
Connie Marquez, City Clerk

HHOPON, LLC.

EXHIBIT
A

THIS DRAWING AND ALL
RELATED DOCUMENTS
ARE PROTECTED BY
COPYRIGHT INFRINGEMENT
AND SHALL NOT BE
USED OR REPRODUCED
WITHOUT WRITTEN
PERMISSION

J-A-G II, INCORPORATED
108 N. 14TH AVENUE, SUITE • 516-225-1199
DODGE CITY, KANSAS 67801



MARIAH HILLS GOLF COURSE
PROPOSED CLUBHOUSE
DODGE CITY, KANSAS

| | |
|--------------|----------|
| DRAWN BY | DAVE T. |
| DATE | 10/21/96 |
| APPROVED BY | |
| DATE | |
| REVISIONS | |
| JOB NUMBER | 9607 |
| SHEET NUMBER | |

M



-100.041 37.770 Degrees

300ft



January 16, 2024

ALCOHOL SALES TRANSFER AGREEMENT

This Alcohol Sales Transfer Agreement (the "Agreement") is entered into on this ____ day of _____, 20____, by and between: the **CITY OF DODGE CITY**, a municipal corporation organized under the laws of the State of Kansas, having its principal place of business at 806 N. 2nd Avenue, Dodge City, Kansas 67801 (hereinafter referred to as the "City"), and **HHPON, LLC**, a Limited Liability Company organized under the laws of the State of Kansas, having its principal place of business at 500 St. Joseph Street, Dodge City, Kansas 67801 (hereinafter referred to as the "Tenant").

BACKGROUND:

WHEREAS, the City is the owner of improved real property located at 1800 Matt Down Lane, Dodge City, KS 67801 encompassing the Mariah Hills Golf Course (“MHGC”) and a two-level building construction (hereinafter the “Building”) (for purposes of this Agreement, the upper-level of the Building is referenced herein as the “Clubhouse” and the lower-level of the Building is referenced herein as the “Pro-Shop”); and,

WHEREAS, the Tenant desires to obtain from the City, the right to sell alcohol beverages in the Pro-Shop; and,

WHEREAS, the City desires to transfer the right of alcohol sales in the Pro-Shop and on the MHGC to the Tenant;

NOW, THEREFORE, in consideration of the covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Tenant agree as follows:

1. TRANSFER OF ALCOHOL SALES RIGHT:

Subject to the terms and conditions of this Agreement, the City hereby transfers to the Tenant, and the Tenant accepts from the City, the exclusive right to sell and serve alcoholic beverages within the Pro-Shop premises located at 1800 Matt Down Ln., Dodge City, Kansas 67801 on the bottom floor of the MHGC Clubhouse, more exactly indicated as the non-highlighted portion on the attached Exhibit A; and on MHGC premises more exactly indicated on the attached Exhibit B, hereto.

2. PROHIBITION ON TRANSFER OF ALCOHOL SALES RIGHT

The Tenant expressly acknowledges and agrees that the right to sell and serve alcoholic beverages as granted by the City in accordance with the terms of this Agreement, is personal to the Tenant and shall not be transferred, assigned, sublicensed, or otherwise conveyed to any third party without the prior written consent of the City.

Any attempted transfer of the right to sell alcoholic beverages without the City's explicit written consent shall be null and void and shall constitute a material breach of this Agreement.

The Tenant further agrees that any approved transfer, if granted by the City, shall be subject to the same terms, conditions, and obligations set forth in this Agreement. The City reserves the right to deny consent to any proposed transfer at its sole discretion.

This prohibition on the transfer of the right to sell alcoholic beverages is a material term of this Agreement and shall survive the termination or expiration of this Agreement.

3. LICENSES AND PERMITS:

The Tenant shall be solely responsible for obtaining and maintaining all necessary licenses and permits required by the Kansas Department of Revenue Alcoholic Beverage Control Act and any other relevant local, state, and federal laws and regulations governing the sale and service of alcoholic beverages.

4. COMPLIANCE WITH LAWS:

The Tenant shall comply with all applicable laws, rules, and regulations governing the sale and service of alcoholic beverages, including but not limited to, those imposed by the Kansas Department of Revenue Alcoholic Beverage Control Division.

5. INDEMNIFICATION:

The Tenant agrees to indemnify and hold the City harmless from any claims, liabilities, damages, or expenses arising out of or in connection with the sale and service of alcoholic beverages by the Tenant under this Agreement.

6. TERM AND TERMINATION:

This Agreement shall commence on the date this agreement is fully executed by both parties and continue for a period of one (1) year (the "Initial Term"). Thereafter, this agreement shall automatically renew for one (1) year terms (the "Renewal Terms") unless either party provides written notice of termination to the other party, not less than thirty days prior to the end of the Initial Term or any of the Renewal Terms.

Either party may terminate this Agreement with written notice to the other party for any reason. Upon termination, the right and responsibility of alcohol sales in the Pro-Shop shall revert immediately to the City.

This Agreement is conditioned upon the City passing and maintaining, during the term(s) hereof, an ordinance allowing for the sale and consumption of alcoholic beverages on the premises described herein and attached hereto. If at any time during any term of this Agreement the sale and consumption of alcoholic beverages are prohibited on the premises described herein and attached hereto, as a result of action taken by the City to repeal or amend said ordinance, the Tenant at its sole option may terminate this Agreement and upon thirty (30) days prior written notice to the City and thereupon be released from any further obligation, duties and responsibilities hereunder.

7. TERMS AND CONDITIONS:

- (a) Tenant shall operate alcohol sales under this Agreement at the direction of the City, i.e., Tenant shall operate alcohol sales according to directions and prohibitions provided by City staff members.
 - a. Tenant shall be obligated to operate the sale of alcohol within the Pro-Shop during the hours of operation of the MHGC on any and all occasions when the MHGC is open during the pendency of this agreement, unless the City communicates otherwise to Tenant in writing, or unless Tenant operates the sale of alcohol under this Agreement from the Clubhouse as described below.
 - b. Tenant understands MHGC will operate any day the temperature shall exceed 40 degrees Fahrenheit.

- c. Tenant shall provide the sale of alcohol under this Agreement from the Pro-Shop during scheduled tournaments and events. The City shall provide Tenant with a schedule of events on February 1st; and shall provide Tenant with notice of updates to the schedule as soon as reasonably practicable. The Tenant and City understand the schedule of events is subject to change, and the parties agree to fulfill the terms of this Agreement to the utmost of their abilities.
 - d. Tenant shall have the right to provide the sale of alcohol from the Clubhouse when approved by City staff. Said approval may be granted informally and/or orally through communication with the City's golf-pro or the City's Director of Parks and Recreation.
 - i. Tenant shall presumptively have the right to provide the sale of alcohol under this Agreement from the Clubhouse from December 1st through March 1st on weekdays during the pendency of this Agreement.
 - ii. Tenant shall verify with City staff whether the City finds it acceptable for Tenant to provide the sale of alcohol under this Agreement from the Clubhouse from December 1st through March 1st on weekend days during the pendency of this Agreement. The City may communicate acceptability informally and/or orally to Tenant.
 - e. No City vehicles, including golf carts, shall be used by Tenant for food or alcohol service purposes without the express consent of the City. Tenant may utilize golf-course appropriate vehicles for alcohol or food sale purposes if the vehicle has been approved by the City in advance.
- (b) Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.
- (c) Entire Agreement: This Agreement constitutes the entire understanding between the parties and supersedes all prior negotiations, understandings, or agreements.
- (d) Contact Information: The parties acknowledge pursuant to this Agreement open communication between the parties is often necessary. For communication pursuant to this Agreement, Tenant understands Tenant shall communicate with the City via the Golf Pro and/or the Director of Parks and Recreation. For communication pursuant to this Agreement, the City understands the City shall communicate with the Tenant via the Manager of Prime on the Nine. The Parties mutually agree to provide one another with accurate and up-to-date contact information and provide prompt notice of any change in contact information.

IN WITNESS WHEREOF, the City and the Tenant, intending to be legally bound, have executed this Alcohol Sales Transfer Agreement as of the date this agreement is fully executed by both parties.

CITY OF DODGE CITY:

Chuck Taylor, Mayor

Date: _____

ATTEST:

Connie Marquez, City Clerk

Date: _____

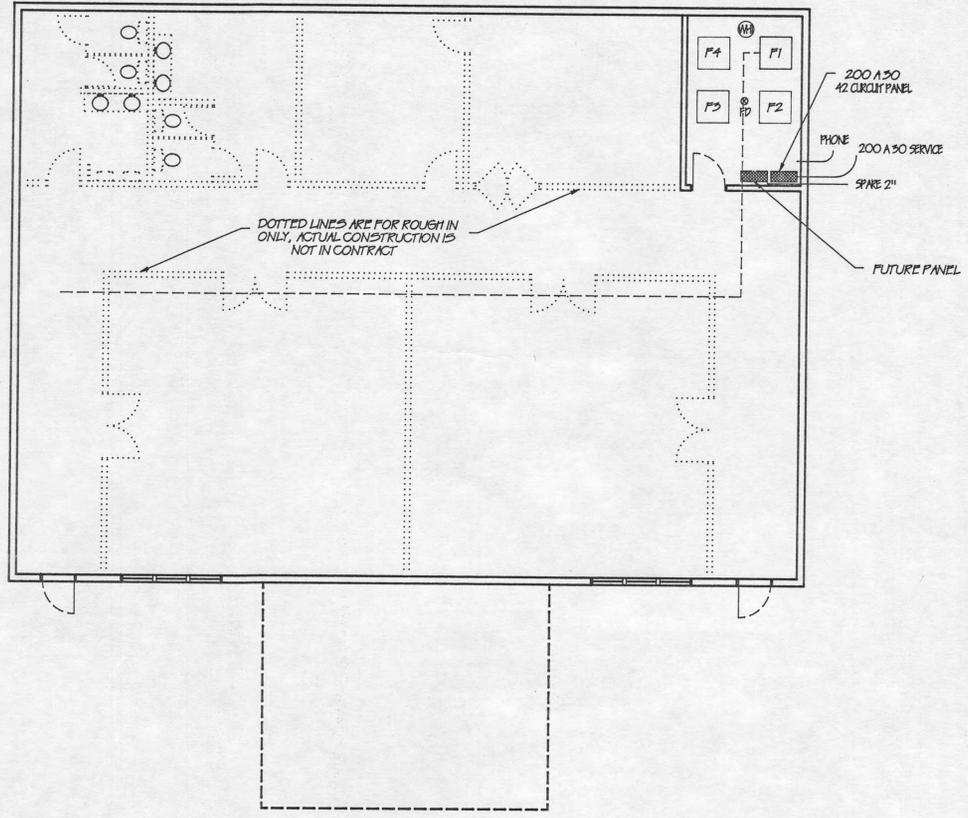
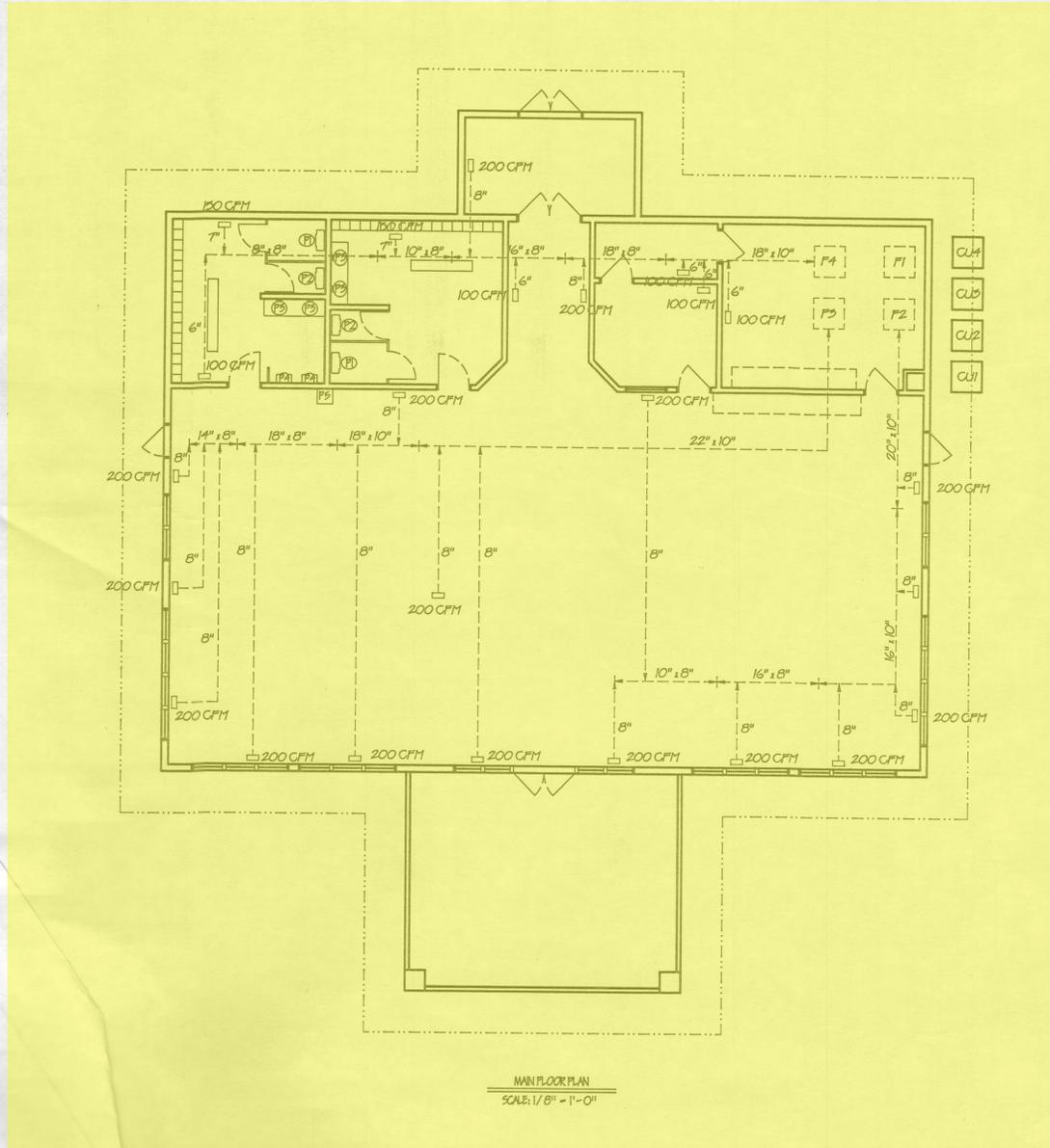
HHPON, LLC:

Date: _____

EXHIBIT
A

THIS DRAWING AND ALL
RELATED DOCUMENTS
ARE PROTECTED BY
COPYRIGHT INFRINGEMENT
AND SHALL NOT BE
USED OR REPRODUCED
WITHOUT WRITTEN
PERMISSION

J-A-G II, INCORPORATED
108 N. 14TH AVENUE, SUITE • 516-225-1199
DODGE CITY, KANSAS 67801



MARIAH HILLS GOLF COURSE
PROPOSED CLUBHOUSE
DODGE CITY, KANSAS

| | |
|--------------|----------|
| DRAWN BY | DAVE T. |
| DATE | 10/21/96 |
| APPROVED BY | |
| DATE | |
| REVISIONS | |
| JOB NUMBER | 9607 |
| SHEET NUMBER | |

M



-100.041 37.770 Degrees

300ft





Memorandum

To: City Commission

From: City Manager, Nick Hernandez

Date: January 15, 2024

Subject: Approval of MOU for City Utility Bill Reimbursement and Waiver

Agenda Item: New Business

Purpose: The purpose of this Memorandum of Understanding (MOU) is to implement the City of Dodge City Utility Bill reimbursement and/or Waiver program for downtown property owners that have had their direct entrance and parking access temporarily affected by the Downtown Streetscape project.

Recommendation: Staff recommends approval of the MOU for the City Utility Bill Reimbursement and/or Waiver.

Background: The downtown streetscape project has temporarily hindered direct parking access downtown businesses thus resulting in negative impacts for these properties. In response to the hindered parking access, staff is proposing the City utility reimbursement/waiver program.

If approved, to receive reimbursement and/or a waiver of City utilities, downtown property owners will be required to sign and submit the attached MOU. Once submitted, the City will evaluate if the property owner qualifies for the reimbursement/waiver. If they do, they will receive a signed copy of the signed MOU and the reimbursement will be issued and/or the waiver for utility billing will be put in place during the time direct parking access is affected.

City Commission Options:

1. Approve
2. Disapprove
3. Table for further discussion

Financial Considerations: The cost to date for Phases 1B and 2 is \$6,954.60. The future cost is difficult to estimate due to unknown starting and ending dates for each phase. The cost will be paid from the Utility Funds, which will result in a reduction in revenues.

Legal Considerations: The City Attorney developed the attached MOU and worked with staff and administration on the changes to this document.

Mission/Values: This program meets with the City's Core Value of *Ongoing Improvement* where together we value progress, growth, and new possibilities by providing and preparing for the community's future.

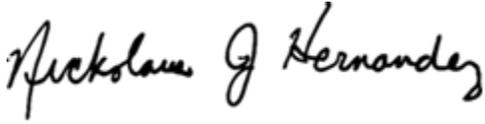
Attachments:

Letter to Downtown Property Owner regarding the program

MOU for City Utility Bill Reimbursement and Waiver

Downtown Streetscape Phasing- (dates subject to change based on construction schedule)

Approved for the Agenda by:

A handwritten signature in black ink that reads "Nickolous J. Hernandez". The signature is written in a cursive style with a large initial "N".

Nickolous J. Hernandez
City Manager



Dear Downtown Property Owner:

Due to the Downtown Streetscape project temporarily affecting the direct entrance and parking access to downtown businesses, the City of Dodge City will reimburse City utility costs for downtown property owners that are directly affected. The City will waive City utilities during the period direct parking is affected for downtown property owners.

To receive reimbursement and/or the waiver for City utilities, property owners are required to sign and submit the attached Memorandum of Understanding (“MOU”). This document should be carefully reviewed as it establishes the terms and restrictions of this agreement.

If you have any questions regarding the MOU, please feel free to contact, Assistant City Manager, Melissa McCoy at (620) 225-8100 Opt. 6 or Main Street Director, Coral Lopez at 620-371-3872.

Please send your signed MOU to:
Att: Melissa McCoy, City of Dodge of Dodge City
806 N. 2nd Avenue
Dodge City, KS. 67801

Once, you have submitted the signed MOU, the City will evaluate if you qualify for the reimbursement/waiver. If so, you will be provided with a copy of the MOU signed by the City and the reimbursement will be issued and/or the waiver of City utility billing will be put in place during the time direct parking access is affected.

Thank you for your consideration and patience during the Downtown Streetscape project as we work together to meet the City’s core value of making Dodge City the best place to be.

Sincerely,

A handwritten signature in black ink that reads "Nickolaus J. Hernandez". The signature is written in a cursive style.

Nickolaus J. Hernandez
City Manager

**(Direct parking access means parking providing access to a business’s entrance utilized by the public in the normal or typical course of business)*

January 16, 2024

MEMORANDUM OF UNDERSTANDING
(City of Dodge City Utility Bill Reimbursement and Waiver-2024)

This Memorandum of Understanding (this “MOU”) is made and entered into by and between _____, a property owner owning a building out of which operates a downtown business with an address of _____, Dodge City, KS 67801 (“Property Owner”), and the City of Dodge City, Kansas (the “City”), and has been approved by the City Commission for the City of Dodge City (the “Commission”) (collectively, the “Parties”). It is the hope of the City that a property owner receiving the benefits of utility reimbursement and waiver under this agreement will pass the relevant savings to downtown businesses operating from its applicable property.

The Parties acknowledge downtown properties provide space for businesses which enrich the culture and experience of downtown Dodge City by providing services, dining, entertainment, and enhancing tourism in Dodge City, among other benefits. Further, Property Owner owns property from which a downtown business operates, and as such, Property Owner enhances the economic development of the City of Dodge City by attracting visitors to the area. The Parties acknowledge the Streetscape Project has temporarily hindered Direct Parking Access to downtown properties. “Direct Parking Access” for purposes of this agreement means parking providing access to a business’s entrance utilized by the public in the normal and customary course of business. Whether Direct Parking Access has been “hindered” shall be determined by the City. The Parties recognize hinderance to Direct Parking Access has negatively impacted downtown businesses. For purposes of this agreement, a “Qualifying Property” is one which is located downtown, which is not owned by a government entity, out of which operates a downtown business, and which the Streetscape Project construction hinders Direct Parking Access.

In response to the existing condition of hindered Direct Parking Access, the City offers to reimburse utility costs for utility bills for which the City of Dodge City is the payee (“City Utilities”) and waive City Utilities moving forward during the period of hindered access to direct parking, subject to the following terms:

1. Utility reimbursement and waiver may only be offered to property owners of Qualified Properties out of which operate businesses in downtown buildings with Direct Parking Access hindered by the Streetscape Project construction, and only during the existence of the condition of hindered Direct Parking Access.
2. Whether Direct Parking Access has been hindered by the Streetscape Project shall be determined by the City.
3. During the following phases of construction, the City may offer the benefit of this utility reimbursement and waiver agreement to property owners of Qualifying Properties during the phases outlined below, excluding properties owned by government entities. The Phases of construction are further illustrated in the attached Exhibit A.
 - a. Phase 1A: Properties on Central Avenue from Spruce Street to Gunsmoke Street
 - b. Phase 1B: Properties on Central Avenue from Gunsmoke Street to Wyatt Earp Boulevard
 - c. Phase 2: Properties on Front Street from 3rd Avenue to 2nd Avenue
 - d. Phase 3: Properties on 3rd Avenue from the north side of Wyatt Earp Blvd. to Gunsmoke Street.
 - e. Phase 4: Properties on Front Street from 1st Avenue to Central Avenue.
 - f. Phase 5: Properties on Gunsmoke Street from 3rd Avenue to 2nd Avenue. Properties on 2nd Avenue from Gunsmoke Street to Front Street.
 - g. Phase 6: Properties on Front Street from 2nd Avenue to 1st Avenue.

- h. Phase 7: Properties on Gunsmoke Street from 2nd Avenue to 1st Avenue.
Properties on 1st Avenue from Gunsmoke Street to Front Street.

4. Utility reimbursement and waiver under this Agreement is made at the discretion of the City, and the City reserves the right to reinstate payment of City Utilities. Resumption of billing practices for City Utilities shall terminate this agreement. However, the City shall not have the right to demand payment of City Utilities reimbursed or waived pursuant to this agreement.
5. Utility reimbursement and waiver are not available to properties outside of the downtown area, properties owned by government entities, or properties without hindered Direct Parking Access.
6. The amount of reimbursement to be provided under this agreement will be determined by the City of Dodge City.
7. Utility reimbursement and waiver may be paid only to the name of record on the utility account with the City and no other entity or person, including any business that may rent property from the Property Owner.
8. The City disclaims any duty to make reimbursement of utility billing or waive utility billing except as outlined in this agreement.
9. This agreement only encompasses utility billings for which the City is the payee, and expressly excludes all other utilities paid to other entities including but not limited to Victory Electric Coop, Inc. and Black Hills Energy, Inc..
10. The City has the authority to determine the complete amount of reimbursed utility expenses to be paid under this agreement, and likewise possesses the authority to determine the amount to be waived.
11. This agreement may be terminated at any time by the City, irregardless of the continued existence of the condition of hindered Direct Parking Access, either by resuming customary billing practices, or by notifying Property Owner in writing.

Property Owner, by signing below, represents it hereby accepts such utility reimbursement and waiver as described above, and subject to the terms and conditions herein and agrees to abide by the terms and conditions as set forth herein.

This Memorandum of Understanding has been entered into and approved by the respective Parties on the dates as set forth below.

Property Owner

By: _____

Printed Name: _____

Dated this ____ day of _____, 2024.

CITY OF DODGE CITY

By: _____
Mayor, Chuck Taylor

ATTEST:

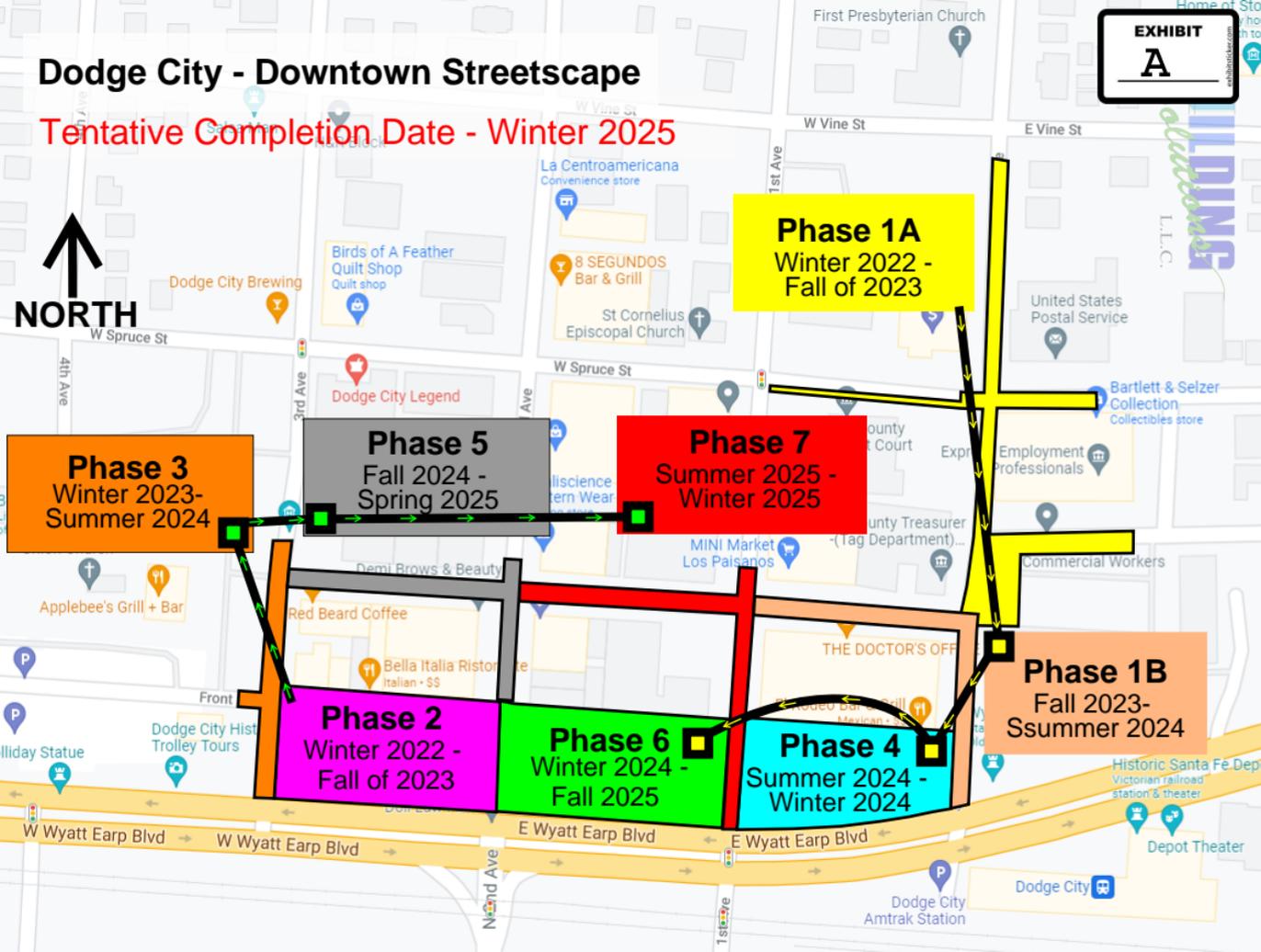
City Clerk, Connie Marquez

Dated this ____ day of _____, 2024.

Dodge City - Downtown Streetscape

Tentative Completion Date - Winter 2025

EXHIBIT
A



Phase 3
Winter 2023-
Summer 2024

Phase 5
Fall 2024 -
Spring 2025

Phase 7
Summer 2025 -
Winter 2025

Phase 1A
Winter 2022 -
Fall of 2023

Phase 2
Winter 2022 -
Fall of 2023

Phase 6
Winter 2024 -
Fall 2025

Phase 4
Summer 2024 -
Winter 2024

Phase 1B
Fall 2023-
Summer 2024