



**Olathe Mayor's Children's Fund check presentations - Council
Chambers 6:00 PM**

- 1. CALL TO ORDER**
- 2. BEGIN TELEVISED SESSION – 7:00 P. M.**
- 3. PLEDGE OF ALLEGIANCE**
- 4. SPECIAL BUSINESS**
 - A. Presentation on the Olathe Mayor’s Children’s Fund 2023 Campaign**
Staff Contact: Tim Danneberg
- 5. PUBLIC HEARINGS**

Persons wanting to speak regarding a public hearing must sign up no later than 30 minutes prior to the beginning of the City Council meeting. A person may sign up by notifying the City Clerk by calling 913-971-8521, emailing CCO@Olatheks.gov or in person at City Hall. Each speaker is allowed up to 5 minutes to address the City Council.

- A. Public Hearing and Consideration of Resolution No. 24-1010 requested by Scannell Properties #717, LLC and assigns for issuance of industrial revenue bonds and tax phase-in for the construction of a 729,120 square foot warehouse facility for General Mills Blue Buffalo brand on 57-acres located west of the northwest of 159th Street and Clare Road (Old 56 Highway).**
Staff Contact: Briana Burrichter and John Page

Action needed: Consider a motion to close the public hearing.

Action needed: Consider a motion to approve or deny Resolution No. 24-1010.

6. CONSENT AGENDA

The items listed below are considered to be routine by the City Council and may be approved in one motion. These may include items that have been reviewed by the City Council in a prior planning session. There will be no separate discussion unless a council member requests that an item be removed from the consent agenda and considered separately.

-
- A. Consideration of approval of the City Council meeting minutes of February 6, 2024.
Staff Contact: Brenda Swearingian
- B. Consideration of renewal license(s) as recommended by the City Clerk.
Staff Contact: Eric Strimple
- C. Request for the acceptance of the dedication of land for public easements and public street right-of-way for a final plat of Heather Ridge South, 5th Plat (FP23-0033), containing 41 lots and six (6) tracts on approximately 14.84 acres, located southwest of W. 169th Terrace and S. Ridgeview Road. Planning Commission approved the plat 8 to 0.
Staff Contact: Chet Belcher and Emily Carrillo
- D. Consideration of Consent Calendar.
Staff Contact: Mary Jaeger and Nate Baldwin
- E. Consideration of Resolution No. 24-1011 authorizing the 119th Street, Woodland to Northgate, Improvements Project, PN 3-C-024-21; and repealing Resolution 22-1019.
Staff Contact: Mary Jaeger and Nate Baldwin
- F. Consideration of contract and quote from Howden USA Company for SCADA upgrades associated with the Water and Wastewater SCADA Security Project, PN 5-C-008-21.
Staff Contact: Mary Jaeger and Nate Baldwin
- G. Consideration of Engineer's Estimate, acceptance of bids and award of contract to McAnany Construction, Inc. for construction of the 2024 Local and Collector Street Mill and Overlay Project - Group A, PN 3-P-006-24.
Staff Contact: Mary Jaeger and Nate Baldwin
- H. Consideration of a Professional Services Agreement with Affinis Corp. for design of the Briarwood Stormwater Improvements Project, PN 2-C-009-24.
Staff Contact: Mary Jaeger and Nate Baldwin
- I. Consideration of an Agreement between the City of Olathe, Kansas and the Board of County Commissioners of Johnson County, Kansas for the funding of the Black Bob Road, 153rd Terrace to 159th Street, Improvements Project, PN 3-C-041-23.
Staff Contact: Mary Jaeger and Nate Baldwin

- J.** Consideration of Supplemental Agreement No. 1 with Olsson, Inc. for design of the Cedar Lake Dam Restoration Project, PN 2-C-021-23.
Staff Contact: Mary Jaeger and Nate Baldwin
- K.** Approval of agreement with EMCOR Fagan for mechanical/HVAC work at 1490 W. Ironwood Street.
Staff Contact: Mary Jaeger and Zach Hardy
- L.** Consideration of renewal of professional services agreement with Surety Systems, Inc. for consulting services to assist with the implementation of Workday.
Staff Contact: Erin Vader and Leslie Fortney
- M.** Consideration of Approval of the 2024 Downtown Outdoor Sculpture Exhibit.
Staff Contact: Renee Rush
- N.** Consideration of renewal of contract to Millgoal Enterprises II, LLC for mowing services.
Staff Contact: Mike Sirna

7. NEW BUSINESS

- A.** Consideration of Ordinance No. 24-05 authorizing issuance of the City's taxable industrial revenue bonds in an amount not to exceed \$70,500,000 for the construction of a 90,000 square foot single-story data center on a 22.44-acre parcel southwest of the K-10 and K-7 Interchange.
Staff Contact: Briana Burrichter and John Page
- Action needed: Consider a motion to approve or deny.
- B.** Consideration of Ordinance No. 24-06 authorizing issuance of the City's taxable industrial revenue bonds in an amount not to exceed \$6,500,000 for the construction of a commercial project near Santa Fe and K-7.
Staff Contact: Briana Burrichter and John Page
- Action needed: Consider a motion to approve or deny.

8. NEW CITY COUNCIL BUSINESS

9. END OF TELEVISED SESSION

10. GENERAL ISSUES AND CONCERNS OF CITIZENS

Persons wanting to speak regarding a general concern must sign up prior to the beginning of the City Council meeting. A person may sign up by notifying the City Clerk by calling 913-971-8521, or emailing CCO@Olatheks.gov by 5:00 PM or in person at City Hall until 30 minutes prior to the start of the meeting. The Council has allocated up to 3 minutes per speaker, and up to 30 minutes total for this portion of the meeting.

11. CONVENE FOR PLANNING SESSION

If report items are present, they have been prepared for informational purposes and will be accepted as presented. There will be no separate discussion unless a Councilmember requests that a report be removed and considered separately.

A. DISCUSSION ITEMS

1. Discussion of naming a new city park; Pioneer Trails Park.

Staff Contact: Mike Sirna and John Brockus

12. ADDITIONAL ITEMS**13. ADJOURNMENT**

The City of Olathe offers public meeting accommodations. Olathe City Hall is wheelchair accessible. Assistive listening devices as well as iPads with closed captioning are available at each meeting. To request an ASL interpreter, or other accommodations, please contact the City Clerk's office at 913-971-8521. Two (2) business days notice is required to ensure availability.



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: City Manager’s Office

STAFF CONTACT: Tim Danneberg

SUBJECT: Presentation on the Olathe Mayor’s Children Fund 2023 Campaign

TITLE:

Presentation on the Olathe Mayor’s Children’s Fund 2023 Campaign

SUMMARY:

The Mayor’s Children’s Fund attained their goal of \$150,000 for the 2024 Campaign. The following Charity Partners are receiving these amounts:

| | |
|-----------------------------------|-----------|
| Kids TLC | \$2,225 |
| Starfish Project Foundation | \$8,900 |
| Boys and Girls Club of Greater KC | \$10,680 |
| Mission Southside | \$17,800 |
| Olathe Public Schools Foundation | \$13,000 |
| Health Partnership Clinic, Inc. | \$10,125 |
| Center of Grace Shoe Fund | \$29,500 |
| Center of Grace Clothing Fune | \$6,000 |
| Angel clothing Foundation | \$2,000 |
| YMCA | \$2,000 |
| Life Journey Foundation | \$2,500 |
| El Centro | \$12,160 |
| Johnson County Christmas Bureau | \$7,600 |
| Catholic Charities | \$12,160 |
| KVC Behavioral Healthcare | \$13,350. |

FINANCIAL IMPACT:

None

ACTION NEEDED:

None

ATTACHMENT(S):

None



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Economy

STAFF CONTACT: Briana Burrichter / John Page

SUBJECT: Public Hearing and Consideration of Resolution No. 24-1010 requested by Scannell Properties #717, LLC and assigns for issuance of industrial revenue bonds and tax phase-in for the construction of a 729,120 square foot warehouse facility for General Mills Blue Buffalo brand on 57-acres located west of the northwest of 159th Street and Clare Road (Old 56 Highway).

TITLE:

Public Hearing and Consideration of Resolution No. 24-1010 requested by Scannell Properties #717, LLC and assigns for issuance of industrial revenue bonds and tax phase-in for the construction of a 729,120 square foot warehouse facility for General Mills Blue Buffalo brand on 57-acres located west of the northwest of 159th Street and Clare Road (Old 56 Highway).

SUMMARY:

The City has received an application for \$71,594,289 in industrial revenue bonds for the construction of a 729,120 square foot industrial warehouse facility. The project is located on 57-acres near the northwest corner 159th Street and Clare Road (Old 56 Highway). This is a single series of bonds to be issued to cover land, the building and furniture, fixtures and equipment costs.

The Applicant requests a 10-year / 50% property tax phase-in in conjunction with the issuance of the City's industrial revenue bonds. This project is applying under the City's tax abatement policy (Policy F-5, Resolution 23-1080).

The single series of bonds for the project requests an amount not to exceed \$71,594,289 in industrial revenue bonds for the construction of 729,120 square feet of commercial space on 57-acres of land.

The single series of industrial revenue bonds consist of:

- \$6,000,000 to acquire land
- \$65,336,390 to construct the building and cover other development costs
- \$257,899 allocated for furniture, fixtures & equipment
- ∇ The single-phase project creates 103 new jobs over the next 10 years
 - Average salaries of the new jobs:
 - \$51,159 in year one, growing to \$64,227 in year ten
 - A total of approximately \$51,649,000 in new wages over the 10 year period
- ∇ Property taxes over the 10-year period with estimated 50% property tax phase-in on this project:
 - All jurisdictions = \$635,500 annually / \$6,355,000 10-year total
 - Olathe = \$127,000 annually / \$1,270,000 10-year total
 - Olathe's current annual property tax revenue from the property is \$11,181

MEETING DATE: 2/20/2024

- Upon retirement of the tax phase-in, the City will receive approximately a total of \$254,000 in annual property tax revenue once the property tax phase-in expires.

The cost benefit ratios of this project:

- ∇ City of Olathe
 - 1.54
 - Payback expected to take 5 years
- ∇ Johnson County
 - 1.61
 - Payback expected to take 6 years
- ∇ State of Kansas
 - 118.89
 - Payback expected during construction period
- ∇ Gardner-Edgerton School District
 - 1.00
 - Payback expected to take 10 years
- ∇ Johnson County Community College
 - 1.11
 - Payback expected to take 9 years

FINANCIAL IMPACT:

See attached materials for more detailed fiscal impact information.

ACTION NEEDED:

Two votes are needed:

- 1) Make a motion and vote to close the public hearing
- 2) Make a motion and vote to consider approval of Resolution No. 24-1010

ATTACHMENT(S):

- A. Executive Summary
- B. Application
- C. Firm Data Sheet
- D. Project Cost Benefit Analysis
- E. Site Aerial
- F. IRB Historical Cost Benefit Ratios
- G. Resolution 24-1010

February 6, 2024

Single Series Bonds Request
Scannell Properties #717, LLC
Industrial Revenue Bond & Tax Phase-In Project
Executive Summary



Located on 78% of the following Parcel:
DF231408-2008

Introduction

The City has received a \$71,594,289 industrial revenue bond application from Scannell Properties #717, LLC and assigns ("Applicant") for construction of industrial space on 57-acres near the northwest corner of 159th Street and Clare Road (Old 56 Highway). The Applicant anticipates construction of approximately 729,120 square feet of space to accommodate a warehouse project for General Mills Blue Buffalo division. The Applicant seeks to have the project receive a 10-year, 50% property tax phase-in in conjunction with the issuance of the City's industrial revenue bonds. This project is applying for and falls under the City's tax abatement policy for a new business abatement, Resolution 23-1080 and Policy F-5 with an investment over \$10 million.

Bonds for this single-phase project are expected to be issued in one series. This series of bonds to be issued would allow the Applicant to construct a 729,120 square foot industrial facility on a 57-acre parcel. The Applicant requests issuance of an amount not to exceed \$71,594,289 of industrial revenue bonds for construction of this building. The proceeds from the bonds would be divided as follows: \$6,000,000 of the bonds would cover costs to acquire the land for the project, \$65,336,390 of the bonds would cover costs to construct the building and other development costs, and \$257,899 in funds would be allocated to cover costs to purchase furniture, fixtures and equipment.

The following information about this request relates to the projected impacts of the building planned for construction and was derived from the attached application materials.

Employment

The project is expected to create 103 new jobs over the next 10 years. The average salaries are expected to be \$51,159 in the first year, growing to \$64,227 in year 10. These jobs would create approximately \$51,649,000 in total new wages to the Olathe economy over the next 10 years.

Machinery & Equipment

The application includes \$257,899 in funds for furniture, fixtures and equipment which would be exempt from sales taxes for purposes of this project.

IRB Request

This series request is to issue industrial revenue bonds in a single series not to exceed \$71,594,289 for the construction of 729,120 square feet of industrial warehouse space. It is anticipated that the bonds will be taxable industrial revenue bonds backed by the revenue generated from the facility. The applicant plans to purchase the bonds.

Tax Abatement Request

The Applicant is requesting an approximate 10-year, 50% property tax-phase in for its project, under the City's Tax Abatement Resolution 23-1080 and Policy F-5. The abatement would be for the new investment in improvements associated with the request to issue bonds for the project. The level of capital investment meets the criteria for a 10-year property tax abatement for a new business under the City's tax abatement policy as the industrial facility will result in a total investment of over \$10 million.

Taxes

Current estimated property taxes generated at this site (all jurisdictions): \$71,750 (city portion of taxes - \$11,181) based on a 2023 appraised value of \$5,114,690 and an assessed value of \$613,763). The future additional property taxes generated by this project have been computed using a targeted level of real property estimated appraised value at build out that is \$43,500,000 (75% of investment in the building only (real property)). This investment will result in approximately \$1.271 million in annual property taxes at full value for all taxing jurisdictions, and \$254,000 in property taxes to the City. With a 50% property tax abatement, the tax revenue will be approximately \$6,355,000 for all jurisdictions over the 10-year abatement period, and \$1,270,000 to the City over the 10-year abatement period.

Sales

The project will increase new annual sales throughout the duration of the project for the tenant and are projected to be \$10 million in year one and ranging from \$30 to \$50 million throughout the 10-year timeframe. A total of \$370 million in additional sales is attributed to this project.

Special Assessments

There are currently no special assessments associated with this property.

Franchise Fees

It is expected that the project will generate \$22,500 in new franchise fees each year of the 10-year period.

Water, Wastewater & Garbage

The applicant anticipates generating an additional \$77,140 in revenue from increased water and sewer service during the 10-year abatement period.

Local Competition

The applicant will not be in competition with other local area companies.

Annual Purchases

The applicant has projected that the project would generate approximately \$5,000,000 in new operating expenditures over the life of the tax phase-in.

Cost-Benefit Analysis

As required by Kansas law, staff completed a cost-benefit analysis of the project on the City of Olathe. The Kansas, Inc. model reflects the impact upon the city, county, school district, and state. A variety of information concerning the firm, the construction, and the community was input into the model.

The cost-benefit model shows that the facility will have a benefit to cost ratio of 1.54 to 1 for the City of Olathe, which translates into an annual rate of return on the City's investment of taxes abated of 153.53%. The payback period for incentives and taxes abated will be approximately 5 years.

County & School District Impact

It is expected that the project will bring approximately 772 total new jobs (direct and in-direct) to the City, with 30 new residents moving into Johnson County over the next 10 years. This project will be located in the Gardner Edgerton School District. Of the new residents, 50% are expected to move into the Gardner Edgerton School District. The impact on the school district would be about 8 new students over the next 10 years. Per Kansas law, the City will provide written information to the County and the School District pertaining to this request.

Performance Agreement

The applicant has been informed that a performance agreement will be required as part of a tax abatement for the project which is locating on parcel DF231408-2008. The minimum targeted expenditures would be approximately 80% of the projected bond issuance for this project, or \$57,275,000.



CITY OF OLATHE, KANSAS
 APPLICATION FOR ISSUANCE OF INDUSTRIAL REVENUE BONDS
 (IRB)
 Master Park Resolution - New Business to Olathe

This application is being submitted under a Master Resolution of Intent approved for Issuance of Industrial Revenue Bonds by the City Council on ~~6,000,000~~ August 5, 2008, amended October 21, 2014

This application is submitted in conformance with the city's tax abatement policy. It is understood that the city may require in lieu payments for property which becomes tax exempt. The attached sheet(s), if any, are submitted as Exhibit A of this application. This application must be submitted within sufficient time to meet procedural requirements of the abatement policy, (refer to the tax abatement calendar).

A non-refundable \$2,000 application / filing fee must accompany this application. If bonds are issued, the City will require an issuance fee of .0025 of the first \$40 million of bonds issued plus .0020 of the amount of bonds issued in excess of \$40 million (issuance fee shall not be less than \$2,500 or more than \$250,000). For warehouse distribution or logistics-type projects the City will require an issuance fee of .0030 of the par amount of bonds being issued (which amount shall not be less than \$2,500 or more than \$250,000). Additionally, the applicant shall be responsible for bond counsel fees, trustee fees and other fees associated with the issuance of the bonds. See Section 6 of Resolution No.21-1074 and contact Bond Counsel for a more detailed explanation of the fees.

Scannell Properties #717, LLC

Applicant's Name

cam.duff@scannellproperties.com

816-217-8181

Applicant's Email Address

Telephone Number

8801 River Crossing Blvd #300, Indianapolis, IN 46240

Applicant's Address

Cam Duff, Director of Development

816-217-8181

Name and Title of Responsible Officer/Contact

Telephone Number

Address (if other than corporate address)

Courtney Kanzinger

Attorney for Applicant

courtneyk@scannellproperties.com

317.979.5841

Attorney's Email Address

Telephone Number

8801 River Crossing Blvd #300, Indianapolis, IN 46240

Attorney's Address

TBD

Bond Purchaser/Underwriter for Applicant

TBD

Bond Purchaser/Underwriter's Address

Telephone Number

TBD

Bond Counsel for Applicant

TBD

Bond Counsel's Address

Telephone Number

I. BUSINESS INFORMATION

A. In what line or lines of business is the applicant engaged?

Real Estate Development & Investment

B. Is the applicant (or its parent) a proprietorship, partnership, or corporation (LLC)?

Corporation (LLC)

C. Year and State of incorporation 2023, Delaware

If proprietorship, partnership, or close corporation, list the names of owners and the approximate amounts owned by each of its principal stockholders.

D. List the names and titles of the officers of the applicant firm:

Marc Pflieger, Manager
David Duncan, Manager
Ralph Shiley, Manager
Douglas Snyder, Manager
Robert Scannell, Manager

E. Are you pursuing an other incentives offered by another government entity? No
If yes, please indicate below what the other incentives are.

II. THE PROJECT

Briefly describe the nature of the proposed project, including information as to the structure itself (size of building, amount of land to be purchased, etc.), whether it is an expansion of an existing facility or the construction of a new facility, and what products or services are to be manufactured or provided there.

A build-to-suit for approx. 729,120 sf warehouse on approx. 57 acres for General Mills. The facility will be used to store and distribute pet food products for General Mill's Blue Buffalo brand.

A. Approximate amount requested for:

| | |
|--|---------------|
| Land (Attach a legal description of property as <u>Exhibit A</u>) | \$ 6,000,000 |
| Building | \$ 58,000,000 |
| Machinery and Equipment | \$ 257889 |
| Pollution Control Facilities | \$ |
| Other Costs* | \$ 7,336,390 |
| Total | \$ 71,594,289 |

* State other costs:

*Soft costs (design, permitting, legal, financing/carry costs, etc.)
Land is \$6,000,000. There is an error in the form.

B. Does the applicant, or its parent, presently have offices or industrial facilities located in Olathe, Kansas?

Yes If yes, please describe below.

We developed Building 3 within I-35 Logistics Park which was leased to Clorox. We recently finished construction on Building 4 within I-35 Logistics Park and have approx. 30% leased to GXO Logistics with the balance being marketed to other tenants. We plan to construct 3 more buildings within the park over the next few years.

C. Will you be relocating from your existing Olathe facilities to new facilities constructed by this project?

No If yes, what will you be doing with your existing facilities after relocating?

This is a new facility. The tenant is not relocating from an existing facility in Olathe.

D. Where is the location of the project?

Within the I-35 Logistics Park (NW corner of Old 56 Hwy & W 159th St)

E. Is the prospective location properly zoned? Yes

If a zoning change is pending, cite application number and present status. If application has not been made, briefly describe what change will be needed and plans for submitting application:

F. Describe the type of buildings to be constructed and type of machinery and equipment to be financed:

A 40' clear height, cross-dock concrete warehouse/distribution facility. The aesthetics of the facility will match Building 1 & 2 in I-35 Logistics Park.

G. Will the applicant be in direct competition with other local firms?

No

If yes, name the firms and describe the nature of the competition:

H. Are adequate public streets and utilities available to the proposed site?

Yes

I. Specify if unusual demands for water and sewer will be made:

Water/Sewer usage is anticipated to be standard for this type of building.

J. Per the City IRB policy, an applicant is required to use City of Olathe solid waste service upon the start of the abatement period. Please indicate that you understand this requirement by answering yes: Yes

If you have a current existing contract with another contractor, please indicate below when that will expire. If you have any extenuating circumstances that would result in the City not being able to adequately serve your needs, please indicate those below:

K. What percentage of usable floor space will be occupied by applicant? 0%

What percentage will be occupied by other occupants? 100% If known, indicate each occupant below:

729,120 sf - General Mills

L. Name and address of construction contractor and/or architect:

Alston Construction Company, Inc., 1901 Butterfield Road, Suite 1020, Downers Grove, IL 60515
Gray Design Group, 9 Sunnen Dr #110, St. Louis, MO 63143

M. How many persons will be employed at the project? 81

Will this project represent an increase in employment opportunities in Olathe, Kansas? Yes

** Please complete Appendix I on page 10.*

N. Briefly describe the approximate number of persons to be employed by the project at all levels.

(e.g. - management, office, skilled and unskilled):

See Appendix I.

O. What dollar amount and percentage of the applicant's total projected annual sales for the next ten (10) years, is expected to be generate by the project?

\$10M to \$50M of sales per year i expected to be generated out to this facility. Total sales in 2023 was \$700M.

P. What percentage of sales will be sold locally? 0% Is this percentage increasing, decreasing, or remaining stable from the current trend? Remaining stable

Q. What is the estimated annual amount of merchandise and services purchased locally by the applicant?

R. Is there likelihood for expansion of the proposed facility within three (3) years? Yes

If such expansion is contemplated, please describe below:

The building is designed to accommodate a 300k sf expansion. Timing of the expansion is TBD.

III. FINANCING

A. Have arrangements been for the marketing of the bonds? No

If yes, please proceed to answer 1 - 7.

If no, please proceed to answer 8 - 12.

1. Describe interest rate structure and term of bonds below:

2. Will the applicant pledge any assets other than the project itself to secure the bonds?
3. Will a bond and interest reserve be provided for? No If yes, state amount and source of funding.
4. Does the applicant have any major contractual arrangements that would tend to assure, or be a detriment to, the successful financing and marketing of the proposed bonds? No If yes, describe below:
5. Has a bond underwriter determined whether or not the bonds are marketable? No
If yes, describe its determination below:
6. Indicate whether bonds will be publicly or privately placed. Publicly
7. Does the applicant, or its parent, intend to purchase all or any part of the proposed bond issue?
8. What portion of the project will be financed from funds other than bond proceeds, and what is the source of such funds?
None, N/A.
9. What will be the applicant's equity investment? Please describe:
TBD, but atleast 15%.
10. Has the applicant considered conventional financing? Yes

11. Indicate name of primary officer, institution name, and address of trustee and/or fiscal agent.

Developer is currently considering multiple institutions for financing this project.

12. Proposed date of issuing bonds: _____

B. List below previous participation in IRB financing:

Building #3 & #4 in I-35 Logistics Park.

Prior to the contractor starting construction on the project, the applicant shall notify the City Clerk whether or not to proceed with an application for a sales tax exemption from the state of Kansas. Prior to, or at completion, of the project, the applicant shall inform the City Clerk to proceed with the issuance of the industrial revenue bonds and filing with the state board of tax appeals for a tax abatement on the project.

V. TAXES

A. What is the requested tax abatement term in years? 10 Percentage requested 50 %

B. If a Fixed PILOT payment is proposed for the project, please outline proposed structure:

TBD

- C. Under normal circumstances, the City will require payment in lieu of payments for property which becomes tax exempt. If tax abatement is requested, please describe special features or benefits of the project, which would justify tax abatements at the requested percentage and term. Include information about other local revenues associated with the project, such as sales taxes and franchise fees.

The proposed project is expected to stimulate growth and development within Olathe by providing a new source of employment and additional tax and utility revenue for the community. Additionally, Developer is planning to perform public infrastructure improvements including road, sewer and utility extensions along 159th Street that will further benefit the community.

VI. CERTIFICATION OF APPLICANT

Applicant understands and agrees to pay all fees described on Page 1 of this application.

Applicant agrees to comply with the provisions of Chapter 2.82 of the Olathe Municipal Code (the "Code") regarding Public Art for the Project, or to pay the necessary payment to the City's Public Art Fund. Applicant agrees to comply with Section 2(D) of Policy No. F-5, Resolution 21-1074.

It is understood that a performance agreement shall be required, as set forth in the City's tax abatement policy, for applications requesting tax abatement. I hereby swear that the foregoing and attached information dated this 16th day of January 2024, is true and correct to the best of my knowledge.

Applicant understands that the City reserves the right to ask for additional financial information, including, but not limited to financial reports, credit ratings, shareholder reports, on-going litigation information and proforma statements.

Signed **Cam Duff**
Digitally signed by Cam Duff
DN: C=US,
E=cam.duff@scannellproperties.com,
O=Scannell Properties, CN=Cam Duff
Date: 2024.01.16 14:33:48-06'00'

Name

By _____
Director of Development
Title of Responsible Officer

APPENDIX I*
EMPLOYMENT INFORMATION
APPLICATION FOR ISSUANCE OF INDUSTRIAL REVENUE BONDS

State law requires a fiscal impact analysis be performed prior to the issuance of a tax abatement. Information provided in sections below of Appendix I is essential in order for the city to meet this requirement.

Current number of employees at firm's present site. _____

| Occupational Classification | Total | Average Starting Wage | Average Maximum Wage | Number By County of Residence * |
|------------------------------------|--------------|------------------------------|-----------------------------|--|
| Management | 6 | \$102,491/yr | | Johnson 4 |
| | | | | Other 3 |
| Office/Clerical | 14 | \$22.30/hr | | Johnson 11 |
| | | | | Other 3 |
| Professional | 3 | \$30.11/hr | | Johnson 2 |
| | | | | Other 1 |
| Skilled | 58 | \$22.67/hr | | Johnson 31 |
| | | | | Other 27 |
| | | | | Johnson |
| | | | | Other |
| | | | | Johnson |
| | | | | Other |

EXHIBIT A

Insert or attach here:

Firm Data Sheet

Information for firm that will occupy the facility and its employees

PLEASE NOTE APPENDIX TWO (BOTTOM TABS)

Use information on firm that will occupy the facility

Name of Firm

General Mills

Description of the firm's location or expansion in the community:

A build-to-suit for approx. 729,120 sf warehouse on approx. 57 acres for General Mills. The facility will be used to store and distribute pet food products for General Mill's Blue Buffalo brand.

Requested tax abatement term in years 10 Abatement percentage requested 50%

Square footage of the facility 729,120

Average of land the project will occupy 57

NAICS or SIC Code 311111

Market Value of the firm's initial new or additional investment in:

| | |
|--|---------------------|
| <i>Land</i> | <u>\$6,000,000</u> |
| <i>Building and Improvements</i> | <u>\$58,000,000</u> |
| <i>Furniture, Fixtures and Equipment</i> | <u>\$257,899</u> |
| <i>Other Costs</i> | <u>\$7,336,390</u> |
| <i>Total</i> | <u>\$71,594,289</u> |

Project expansion (if acceptable):

Year of expansion n/a

Additional investment in:

| | |
|--|------------|
| <i>Land</i> | <u>n/a</u> |
| <i>Building and Improvements</i> | <u>n/a</u> |
| <i>Furniture, Fixtures and Equipment</i> | <u>n/a</u> |

Total Sales (from the most current completed fiscal year):

Year 2023 Sales \$700M

New or additional sales of the firm - as a result of the project:

| | | | |
|------|--------------|----|--------------|
| Year | | | |
| 1 | <u>\$10M</u> | 6 | <u>\$50M</u> |
| 2 | <u>\$40M</u> | 7 | <u>\$40M</u> |
| 3 | <u>\$30M</u> | 8 | <u>\$50M</u> |
| 4 | <u>\$40M</u> | 9 | <u>\$30M</u> |
| 5 | <u>\$40M</u> | 10 | <u>\$40M</u> |

Percent of those sales subject to sales tax in the:

| | |
|-------------------------|-----------|
| <i>City (Olathe)</i> | <u>0%</u> |
| <i>County (Johnson)</i> | <u>0%</u> |
| <i>State (Kansas)</i> | <u>0%</u> |

Annual net taxable income, as a percent of sales, on which state corporate income taxes will be computed: 0%

New or Additional annual purchases of the firm as a result of the project:
(items used in operations of business, not inventory that will be sold)

| | |
|------|-----------------------------|
| Year | |
| 1 | <u> </u> |
| 2 | <u> </u> |
| 3 | <u> </u> |
| 4 | <u>\$2mm</u> |
| 5 | <u> </u> |
| 6 | <u> </u> |
| 7 | <u> </u> |
| 8 | <u>\$3mm</u> |
| 9 | <u> </u> |
| 10 | <u> </u> |

Percent of those purchases subject to sales taxes in the:

| | |
|-------------------------|-----------|
| <i>City (Olathe)</i> | <u>0%</u> |
| <i>County (Johnson)</i> | <u>0%</u> |

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| <p>A Tax Abatement Cost-Benefit Analysis of Scannell Properties #717, LLC</p> |
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City or County where the firm is or will be located: **City of Olathe**
 Date of Analysis: Tuesday, January 30, 2024

Description of the firm's location or expansion in the community:
 General Mills distribution facility

This report includes an analysis of costs and benefits from the firm for the following taxing entities, where the firm is or will be located. These taxing entities, with the exception of a neighboring school district, if shown, are considering tax abatements or incentives for the firm:

| | |
|---------------------------------------|--|
| City: | Olathe |
| County: | Johnson |
| School District: | Gardner Edgerton Schools |
| A neighboring School District: | Olathe Schools |
| Special Taxing District: | Johnson County Community Colleg |
| Special Taxing District: | School Mills 8 |
| State of Kansas | |

Contents of this report:

| | |
|--|---|
| About this Cost-Benefit Analysis Report | Page 2 |
| Summary of Costs and Benefits for all Taxing Entities | Page 4 |
| The Economic Impact that the Firm will have on the Community | Page 6 |
| Costs and Benefits for: | |
| City: | Olathe Page 7 |
| County: | Johnson Page 9 |
| School District: | Gardner Edgerton Schools Page 11 |
| A neighboring School District: | Olathe Schools Page 13 |
| Special Taxing District: | Johnson County Community College Page 15 |
| Special Taxing District: | School Mills 8 Page 17 |
| State of Kansas | Page 19 |

Data Used in this Analysis, if included , follows the Costs and Benefits for the State of Kansas

About this Cost-Benefit Analysis Report

This cost-benefit analysis report was prepared using the Kansas Tax Abatement Cost-Benefit Model - a computer program that analyzes economic and fiscal impact. The pages that follow, in this report, show the impact that the firm included in this analysis, the firm's employees and workers in spin-off jobs will have on the community and the state.

The economic impact over the next ten years is calculated along with the accompanying public costs and benefits for the State of Kansas and the taxing entities included in this analysis.

This analysis also shows the effect of tax abatements and incentives that may be considered for the firm

Here is how the analysis was performed:

1. Data was entered for the state and community's tax and other rates; the firm and its employees; tax abatements and other incentives being considered for the firm; construction activity; and expected visitors.

2. Using the data entered, as well as some rates built into the computer program, calculations were made of the economic impact of the firm along with the related costs and benefits.

The calculations of impact include direct, indirect and induced impact. Regional economic multipliers, specific to the firm's industry group, were used by the program to calculate the direct and induced or spin-

These are the report sections:

Summary of Costs and Benefits for all Taxing Entities This report page summarizes the costs and benefits for all taxing entities resulting from the firm and from new direct, indirect and induced jobs.

The Economic Impact that the Firm will have on the Community This report page shows the number of direct, indirect and induced jobs that will be created in the community, the number of new residents and additional school children, and increases in local personal income, retail sales, economic activity and the property tax base in the first year and over the next ten years.

Costs and Benefits for Each Taxing Entity These report pages summarize the costs and benefits for the State of Kansas and for each taxing entity as a result of the firm locating or expanding in the Kansas community.

The public benefits include additional revenues from the firm and employees for your taxing entities - - - sales taxes, property taxes, utilities, utility franchise fees, other payments by new residents, payments by the firm and additional school funding. Public costs include the additional costs of public services for new residents and the firm, costs of educating new students that move to the school district, along with tax abatements and incentives provided to the firm.

In addition to a presentation of public costs and benefits, this report also computes the present value of net benefits to be received by each taxing entity; the payback period for incentives and taxes to be abated; the rate of return on investment for each entity and cost-benefit ratios.

Present Value

The present value of the expected cash flow over the next ten years - the excess of benefits over cost - for each entity was computed. Present value is a way of expressing in today's dollars, dollars to be paid or received in the future. Today's dollar and a dollar to be received or paid at differing times in the future are not comparable because of the time value of money. The time value of money is the interest rate or each taxing entity's discount rate. The analysis uses a discount rate that is entered to make the dollars comparable--by expressing them in today's dollars or in present value.

Generally, a positive present value indicates an acceptable investment.

Payback Period

The investment payback period for each taxing entity was computed. This analysis views the financial incentives, including tax abatement, that the taxing entities are considering for the firm as an investment that the public will be making in the company. The payback period, therefore, is the number of years that it will take each taxing entity to recover the cost of incentives from the net annual benefits that they will receive. This payback period also shows the point in time where the cost and benefits are equal for the level and length of tax abatements and incentives being granted.

The payback period is a basis for judging the appropriateness of providing incentives to a firm. Generally, the shorter the payback period the better the investment.

Rate of Return on Investment

The rate of return on investment for each taxing entity was also computed. As with the computation of payback, the rate of return analysis views the incentives that each taxing entity is considering as an investment that the public will be making in the company. The rate of return, therefore, is annual rate of return, over the next ten years, on each taxing entity's investment in the firm.

Generally, a rate of return in excess of the taxing entity's cost of capital is considered desirable.

Cost-Benefit Ratio

The cost-benefit ratio for each taxing entity was also computed. This ratio compares public benefits over a ten year period from the new or expanding firm to public costs during the same period. For example, a cost-benefit ratio of 1.55 (or 1.55 to 1) shows that ten year benefits are 155 percent of public costs. Conversely, a cost-benefit ratio of .75 shows that public benefits are only 75 percent of public costs -- costs exceed benefits.

Generally, a cost-benefit ratio of 1.30 to 1 is considered acceptable for a taxing entity to grant tax abatements and other financial incentives to a firm.

Data Used in this Analysis These report pages, if included, show the data used in this cost-benefit analysis.

Summary of Costs and Benefits for all Taxing Units

Benefits:

| | Sales Taxes | Property Taxes | Utilities and Utility Franchise Fees | Corporate and Personal Income Taxes | Additional School Funding | Other Revenues | Total Benefits |
|------------------------|-------------|----------------|--------------------------------------|-------------------------------------|---------------------------|----------------|----------------|
| City: Olathe | \$619,971 | \$4,777,860 | \$302,140 | | | \$502,691 | \$6,202,662 |
| County: Johnson | \$1,038,485 | \$4,122,257 | | | | \$393,209 | \$5,553,951 |
| S. D: Gardner Edgerton | | \$10,986,271 | | | \$1,005,886 | | \$11,992,156 |
| S. D: Olathe Schools | | \$0 | | | \$0 | | \$0 |
| Johnson County Commu | | \$1,664,419 | | | | \$174,924 | \$1,839,343 |
| School Mills 8 | | \$1,636,454 | | | | \$0 | \$1,636,454 |
| State of Kansas | \$6,423,156 | \$306,762 | | \$11,973,259 | | \$258,522 | \$18,961,699 |

Costs, Incentives and Taxes Abated:

| | Costs of Services for the Firm and New Residents | Costs of Educating New Students | Taxes Abated | Incentives | Total Costs, Incentives and Taxes Abated |
|------------------------|--|---------------------------------|--------------|------------|--|
| City: Olathe | \$401,437 | | \$2,387,543 | \$0 | \$2,788,980 |
| County: Johnson | \$182,457 | | \$2,058,586 | \$0 | \$2,241,043 |
| S. D: Gardner Edgerton | | \$1,005,886 | \$5,491,676 | | \$6,497,562 |
| S. D: Olathe Schools | | \$0 | | | \$0 |
| Johnson County Commu | \$79,790 | | \$831,183 | | \$910,973 |
| School Mills 8 | \$0 | | \$0 | | \$0 |
| State of Kansas | \$222,507 | \$348,676 | \$153,336 | \$0 | \$724,520 |

Net Benefits:

| | Total Benefits | Total Costs Incentives and Taxes Abated | Net Benefits |
|------------------------|----------------|---|--------------|
| City: Olathe | \$6,202,662 | \$2,788,980 | \$3,413,682 |
| County: Johnson | \$5,553,951 | \$2,241,043 | \$3,312,908 |
| S. D: Gardner Edgerton | \$11,992,156 | \$6,497,562 | \$5,494,594 |
| S. D: Olathe Schools | \$0 | \$0 | \$0 |
| Johnson County Commu | \$1,839,343 | \$910,973 | \$928,370 |
| School Mills 8 | \$1,636,454 | \$0 | \$1,636,453 |
| State of Kansas | \$18,961,699 | \$724,520 | \$18,237,179 |

Other:

| | Present Value of Net Benefits to be Received Over the next 10 Years | Present Value of Incentives and Taxes Abated Over the next 10 Years | Payback Period for Incentives and Taxes Abated | Rate of Return over the next 10 years on Investment of Incentives and Taxes Abated | Cost-Benefit Ratio |
|------------------------|---|---|--|--|--------------------|
| City: Olathe | \$2,201,020 | \$1,433,648 | 5 Years | 153.53% | 1.54 |
| County: Johnson | \$1,994,351 | \$1,236,119 | 6 Years | 161.34% | 1.61 |
| S. D: Gardner Edgerton | \$3,299,203 | \$3,297,600 | 10 Years | 100.05% | 1.00 |
| S. D: Olathe Schools | \$0 | | | | |
| Johnson County Commu | \$556,086 | \$499,103 | 9 Years | 111.42% | 1.11 |
| School Mills 8 | \$982,600 | \$0 | N/A | 0.00% | 0.00 |
| State of Kansas | \$10,946,024 | \$92,068 | During construction period. | 11889.06% | 118.89 |

The Economic Impact of the Firm

| | <u>In the first year</u> | <u>Over the next ten years</u> |
|--|--------------------------|--------------------------------|
| Number of jobs to be created | 608 | 772 |
| Number of new residents in the community | 30 | 30 |
| Number of additional students in the local school district | 8 | 8 |
| Increase in local personal income | \$19,890,619 | \$247,913,035 |
| Increase in local retail sales | \$8,950,779 | \$111,560,866 |
| Increase in the community's property tax base | \$71,616,253 | \$93,221,099 |

Costs and Benefits for the City of: Olathe

Benefits to the city from the firm, its employees and spin-off benefits:

| Year | Sales Taxes | Property Taxes | Utilities and Utility Franchise Fees | Other Municipal Revenues | Total |
|---------------------|-------------|----------------|--------------------------------------|--------------------------|-------------|
| Construction Period | \$10,886 | \$0 | \$0 | \$380,391 | \$391,277 |
| 1 | \$49,074 | \$416,592 | \$30,214 | \$10,270 | \$506,150 |
| 2 | \$51,338 | \$429,151 | \$30,214 | \$10,357 | \$521,060 |
| 3 | \$52,403 | \$442,088 | \$30,214 | \$10,497 | \$535,202 |
| 4 | \$54,251 | \$455,415 | \$30,214 | \$10,973 | \$550,853 |
| 5 | \$57,368 | \$469,144 | \$30,214 | \$11,438 | \$568,164 |
| 6 | \$60,871 | \$483,218 | \$30,214 | \$12,295 | \$586,598 |
| 7 | \$64,308 | \$497,715 | \$30,214 | \$12,808 | \$605,044 |
| 8 | \$68,350 | \$512,646 | \$30,214 | \$13,655 | \$624,865 |
| 9 | \$73,213 | \$528,025 | \$30,214 | \$14,541 | \$645,993 |
| 10 | \$77,909 | \$543,866 | \$30,214 | \$15,467 | \$667,456 |
| Total | \$619,971 | \$4,777,860 | \$302,140 | \$502,691 | \$6,202,662 |

The City's costs, property taxes abated and incentives provided to the firm:

| Year | City Costs for the firm and Municipal Services for New Residents | Property Taxes Abated | Incentives | Total |
|---------------------|--|-----------------------|------------|-------------|
| Construction Period | \$0 | \$0 | \$0 | \$0 |
| 1 | \$37,212 | \$208,267 | \$0 | \$245,478 |
| 2 | \$37,578 | \$214,515 | \$0 | \$252,093 |
| 3 | \$37,955 | \$220,950 | \$0 | \$258,905 |
| 4 | \$38,476 | \$227,579 | \$0 | \$266,055 |
| 5 | \$39,290 | \$234,406 | \$0 | \$273,696 |
| 6 | \$40,141 | \$241,438 | \$0 | \$281,579 |
| 7 | \$41,029 | \$248,681 | \$0 | \$289,711 |
| 8 | \$42,107 | \$256,142 | \$0 | \$298,248 |
| 9 | \$43,234 | \$263,826 | \$0 | \$307,060 |
| 10 | \$44,414 | \$271,741 | \$0 | \$316,155 |
| Total | \$401,437 | \$2,387,543 | \$0 | \$2,788,980 |

Net Costs and Benefits for the City of: Olathe

| Year | Public Benefits | Public Costs, Property Taxes Abated and Incentives | Net Benefits or (Costs) | Present Value of Net Benefits | Present Value of taxes abated and incentives |
|---------------------|-----------------|--|-------------------------|-------------------------------|--|
| Construction Period | \$391,277 | \$0 | \$391,276 | \$391,276 | \$0 |
| 1 | \$506,150 | \$245,478 | \$260,672 | \$236,974 | \$189,333 |
| 2 | \$521,060 | \$252,093 | \$268,967 | \$222,286 | \$177,284 |
| 3 | \$535,202 | \$258,905 | \$276,296 | \$207,585 | \$166,003 |
| 4 | \$550,853 | \$266,055 | \$284,797 | \$194,520 | \$155,439 |
| 5 | \$568,164 | \$273,696 | \$294,467 | \$182,840 | \$145,547 |
| 6 | \$586,598 | \$281,579 | \$305,019 | \$172,175 | \$136,285 |
| 7 | \$605,044 | \$289,711 | \$315,333 | \$161,815 | \$127,612 |
| 8 | \$624,865 | \$298,248 | \$326,616 | \$152,368 | \$119,491 |
| 9 | \$645,993 | \$307,060 | \$338,932 | \$143,740 | \$111,887 |
| 10 | \$667,456 | \$316,155 | \$351,301 | \$135,441 | \$104,767 |
| Total | \$6,202,662 | \$2,788,980 | \$3,413,682 | \$2,201,020 | \$1,433,648 |

Discounted payback period for taxes abated and incentives 5 Years

Average annual rate of return over the next ten years on the city's investment of taxes abated and incentives for the firm 153.53%

Cost-Benefit Ratio 1.54

Costs and Benefits for Johnson County

Benefits to the county from the firm, its employees and spin-off benefits:

| Year | Sales Taxes | Property Taxes | Other County Revenues | Total |
|---------------------|-------------|----------------|-----------------------|-------------|
| Construction Period | \$42,818 | \$0 | \$0 | \$42,818 |
| 1 | \$80,009 | \$359,251 | \$32,505 | \$471,766 |
| 2 | \$83,822 | \$370,140 | \$33,480 | \$487,443 |
| 3 | \$85,647 | \$381,359 | \$34,485 | \$501,491 |
| 4 | \$88,638 | \$392,918 | \$35,757 | \$517,313 |
| 5 | \$93,832 | \$404,827 | \$37,566 | \$536,225 |
| 6 | \$99,471 | \$416,972 | \$39,451 | \$555,895 |
| 7 | \$105,194 | \$429,481 | \$41,416 | \$576,091 |
| 8 | \$111,813 | \$442,366 | \$43,731 | \$597,910 |
| 9 | \$119,776 | \$455,637 | \$46,147 | \$621,560 |
| 10 | \$127,466 | \$469,306 | \$48,670 | \$645,441 |
| Total | \$1,038,485 | \$4,122,257 | \$393,209 | \$5,553,951 |

The County's costs, property taxes abated and incentives provided to the firm:

| Year | County Costs for the firm and County Services for New Residents | Property Taxes Abated | Incentives | Total |
|---------------------|---|-----------------------|------------|-------------|
| Construction Period | \$0 | \$0 | \$0 | \$0 |
| 1 | \$14,920 | \$179,572 | \$0 | \$194,491 |
| 2 | \$15,367 | \$184,959 | \$0 | \$200,326 |
| 3 | \$15,828 | \$190,507 | \$0 | \$206,336 |
| 4 | \$16,435 | \$196,223 | \$0 | \$212,658 |
| 5 | \$17,337 | \$202,109 | \$0 | \$219,446 |
| 6 | \$18,278 | \$208,173 | \$0 | \$226,451 |
| 7 | \$19,260 | \$214,418 | \$0 | \$233,677 |
| 8 | \$20,433 | \$220,850 | \$0 | \$241,283 |
| 9 | \$21,659 | \$227,476 | \$0 | \$249,135 |
| 10 | \$22,940 | \$234,300 | \$0 | \$257,240 |
| Total | \$182,457 | \$2,058,586 | \$0 | \$2,241,043 |

Net Costs and Benefits for Johnson County

| Year | Public Benefits | Public Costs, Property Taxes Abated and Incentives | Net Benefits or (Costs) | Present Value of Net Benefits | Present Value of taxes abated and incentives |
|---------------------|-----------------|--|-------------------------|-------------------------------|--|
| Construction Period | \$42,818 | \$0 | \$42,817 | \$42,817 | \$0 |
| 1 | \$471,766 | \$194,491 | \$277,274 | \$252,067 | \$163,246 |
| 2 | \$487,443 | \$200,326 | \$287,116 | \$237,285 | \$152,858 |
| 3 | \$501,491 | \$206,336 | \$295,154 | \$221,753 | \$143,131 |
| 4 | \$517,313 | \$212,658 | \$304,654 | \$208,082 | \$134,022 |
| 5 | \$536,225 | \$219,446 | \$316,778 | \$196,694 | \$125,493 |
| 6 | \$555,895 | \$226,451 | \$329,444 | \$185,962 | \$117,508 |
| 7 | \$576,091 | \$233,677 | \$342,413 | \$175,712 | \$110,030 |
| 8 | \$597,910 | \$241,283 | \$356,626 | \$166,368 | \$103,028 |
| 9 | \$621,560 | \$249,135 | \$372,425 | \$157,944 | \$96,471 |
| 10 | \$645,441 | \$257,240 | \$388,200 | \$149,667 | \$90,332 |
| Total | \$5,553,951 | \$2,241,043 | \$3,312,908 | \$1,994,351 | \$1,236,119 |

Discounted payback period for taxes abated and incentives 6 Years

Average annual rate of return over the next ten years on the county's investment of taxes abated and incentives for the firm 161.34%

Cost-Benefit Ratio 1.61

Costs and Benefits for the School District where the firm is or will be located: Gardner Edgerto

Benefits to the school district from the firm, its employees and spin-off benefits:

| Year | Property Taxes | Additional State, Federal and Other School Funding | Total |
|-------|----------------|--|--------------|
| 1 | \$958,145 | \$87,744 | \$1,045,889 |
| 2 | \$986,954 | \$90,376 | \$1,077,330 |
| 3 | \$1,016,628 | \$93,088 | \$1,109,716 |
| 4 | \$1,047,195 | \$95,880 | \$1,143,075 |
| 5 | \$1,078,681 | \$98,757 | \$1,177,437 |
| 6 | \$1,111,041 | \$101,719 | \$1,212,760 |
| 7 | \$1,144,372 | \$104,771 | \$1,249,143 |
| 8 | \$1,178,703 | \$107,914 | \$1,286,617 |
| 9 | \$1,214,065 | \$111,151 | \$1,325,216 |
| 10 | \$1,250,487 | \$114,486 | \$1,364,972 |
| Total | \$10,986,271 | \$1,005,886 | \$11,992,156 |

Total costs for the School District:

| Year | Additional Costs | Property Taxes Abated | Total |
|-------|------------------|-----------------------|-------------|
| 1 | \$87,744 | \$479,042 | \$566,786 |
| 2 | \$90,376 | \$493,413 | \$583,789 |
| 3 | \$93,088 | \$508,215 | \$601,303 |
| 4 | \$95,880 | \$523,462 | \$619,342 |
| 5 | \$98,757 | \$539,166 | \$637,922 |
| 6 | \$101,719 | \$555,341 | \$657,060 |
| 7 | \$104,771 | \$572,001 | \$676,772 |
| 8 | \$107,914 | \$589,161 | \$697,075 |
| 9 | \$111,151 | \$606,836 | \$717,987 |
| 10 | \$114,486 | \$625,041 | \$739,527 |
| Total | \$1,005,886 | \$5,491,676 | \$6,497,562 |

Net Costs and Benefits for the School District: Gardner Edgerton Schools

| Year | Public Benefits | Total Costs and Property Taxes Abated | Net Benefits or (Costs) | Present Value of Net Benefits | Present Value of Taxes Abated |
|-------|-----------------|---------------------------------------|-------------------------|-------------------------------|-------------------------------|
| 1 | \$1,045,889 | \$566,786 | \$479,103 | \$435,548 | \$435,492 |
| 2 | \$1,077,330 | \$583,789 | \$493,540 | \$407,884 | \$407,779 |
| 3 | \$1,109,716 | \$601,303 | \$508,412 | \$381,977 | \$381,830 |
| 4 | \$1,143,075 | \$619,342 | \$523,733 | \$357,717 | \$357,531 |
| 5 | \$1,177,437 | \$637,922 | \$539,514 | \$334,996 | \$334,779 |
| 6 | \$1,212,760 | \$657,060 | \$555,700 | \$313,678 | \$313,475 |
| 7 | \$1,249,143 | \$676,772 | \$572,371 | \$293,717 | \$293,527 |
| 8 | \$1,286,617 | \$697,075 | \$589,542 | \$275,026 | \$274,848 |
| 9 | \$1,325,216 | \$717,987 | \$607,228 | \$257,524 | \$257,358 |
| 10 | \$1,364,972 | \$739,527 | \$625,445 | \$241,136 | \$240,980 |
| Total | \$11,992,156 | \$6,497,562 | \$5,494,594 | \$3,299,203 | \$3,297,600 |

Discounted payback period for taxes abated and incentives 10 Years

Average annual rate of return over the next ten years on the school district's investment of taxes abated and incentives for the firm 100.05%

Cost-Benefit Ratio 1.00

Costs and Benefits for a neighboring School District: Olathe Schools

Benefits to the school district from the firm, its employees and spin-off benefits:

| Year | Property Taxes | Additional State, Federal and Other School Funding | Total |
|-------|----------------|--|-------|
| 1 | \$0 | \$0 | \$0 |
| 2 | \$0 | \$0 | \$0 |
| 3 | \$0 | \$0 | \$0 |
| 4 | \$0 | \$0 | \$0 |
| 5 | \$0 | \$0 | \$0 |
| 6 | \$0 | \$0 | \$0 |
| 7 | \$0 | \$0 | \$0 |
| 8 | \$0 | \$0 | \$0 |
| 9 | \$0 | \$0 | \$0 |
| 10 | \$0 | \$0 | \$0 |
| Total | \$0 | \$0 | \$0 |

Total costs for the School District:

| Year | Additional Costs |
|-------|------------------|
| 1 | \$0 |
| 2 | \$0 |
| 3 | \$0 |
| 4 | \$0 |
| 5 | \$0 |
| 6 | \$0 |
| 7 | \$0 |
| 8 | \$0 |
| 9 | \$0 |
| 10 | \$0 |
| Total | \$0 |

Net Costs and Benefits for the School District: Olathe Schools

| Year | Public Benefits | Total Costs | Net Benefits or (Costs) | Present Value of Net Benefits |
|-------|-----------------|-------------|-------------------------|-------------------------------|
| 1 | \$0 | \$0 | \$0 | \$0 |
| 2 | \$0 | \$0 | \$0 | \$0 |
| 3 | \$0 | \$0 | \$0 | \$0 |
| 4 | \$0 | \$0 | \$0 | \$0 |
| 5 | \$0 | \$0 | \$0 | \$0 |
| 6 | \$0 | \$0 | \$0 | \$0 |
| 7 | \$0 | \$0 | \$0 | \$0 |
| 8 | \$0 | \$0 | \$0 | \$0 |
| 9 | \$0 | \$0 | \$0 | \$0 |
| 10 | \$0 | \$0 | \$0 | \$0 |
| Total | \$0 | \$0 | \$0 | \$0 |

Discounted payback period for taxes abated and incentives N/A

Average annual rate of return over the next ten years on the school district's investment of taxes abated and incentives for the firm N/A

Cost-Benefit Ratio N/A

Costs and Benefits for Special Taxing District: Johnson County Community College

Benefits to the special taxing district from the firm, its employees and spin-off benefits:

| Year | Property Taxes | Additional Revenues | Total |
|-------|----------------|---------------------|-------------|
| 1 | \$145,053 | \$13,851 | \$158,904 |
| 2 | \$149,449 | \$14,267 | \$163,716 |
| 3 | \$153,979 | \$14,695 | \$168,674 |
| 4 | \$158,646 | \$15,322 | \$173,968 |
| 5 | \$163,455 | \$16,359 | \$179,814 |
| 6 | \$168,358 | \$17,445 | \$185,803 |
| 7 | \$173,409 | \$18,581 | \$191,990 |
| 8 | \$178,611 | \$19,979 | \$198,591 |
| 9 | \$183,970 | \$21,445 | \$205,415 |
| 10 | \$189,489 | \$22,981 | \$212,470 |
| Total | \$1,664,419 | \$174,924 | \$1,839,343 |

Total costs for the Special Taxing District:

| Year | Additional Costs | Property Taxes Abated | Total |
|-------|------------------|-----------------------|-----------|
| 1 | \$6,318 | \$72,505 | \$78,823 |
| 2 | \$6,508 | \$74,680 | \$81,187 |
| 3 | \$6,703 | \$76,920 | \$83,623 |
| 4 | \$6,989 | \$79,228 | \$86,217 |
| 5 | \$7,462 | \$81,604 | \$89,067 |
| 6 | \$7,957 | \$84,053 | \$92,010 |
| 7 | \$8,475 | \$86,574 | \$95,050 |
| 8 | \$9,113 | \$89,171 | \$98,285 |
| 9 | \$9,782 | \$91,847 | \$101,629 |
| 10 | \$10,483 | \$94,602 | \$105,085 |
| Total | \$79,790 | \$831,183 | \$910,973 |

Net Costs and Benefits for Special Taxing District: Johnson County Community College

| Year | Public Benefits | Total Costs and Property Taxes Abated | Net Benefits or (Costs) | Present Value of Net Benefits | Present Value of Taxes Abated |
|-------|-----------------|---------------------------------------|-------------------------|-------------------------------|-------------------------------|
| 1 | \$158,904 | \$78,823 | \$80,081 | \$72,801 | \$65,913 |
| 2 | \$163,716 | \$81,187 | \$82,528 | \$68,205 | \$61,719 |
| 3 | \$168,674 | \$83,623 | \$85,050 | \$63,899 | \$57,791 |
| 4 | \$173,968 | \$86,217 | \$87,751 | \$59,935 | \$54,114 |
| 5 | \$179,814 | \$89,067 | \$90,747 | \$56,347 | \$50,670 |
| 6 | \$185,803 | \$92,010 | \$93,793 | \$52,944 | \$47,446 |
| 7 | \$191,990 | \$95,050 | \$96,940 | \$49,746 | \$44,426 |
| 8 | \$198,591 | \$98,285 | \$100,305 | \$46,793 | \$41,599 |
| 9 | \$205,415 | \$101,629 | \$103,786 | \$44,015 | \$38,952 |
| 10 | \$212,470 | \$105,085 | \$107,385 | \$41,402 | \$36,473 |
| Total | \$1,839,343 | \$910,973 | \$928,370 | \$556,086 | \$499,103 |

Discounted payback period for taxes abated and incentives 9 Years

Average annual rate of return over the next ten years on the taxing district's investment of taxes abated and incentives for the firm 111.42%

Cost-Benefit Ratio 1.11

Costs and Benefits for Special Taxing District: School Mills 8

Benefits to the special taxing district from the firm, its employees and spin-off benefits:

| Year | Property Taxes | Additional Revenues | Total |
|-------|----------------|---------------------|-------------|
| 1 | \$142,691 | \$0 | \$142,691 |
| 2 | \$146,991 | \$0 | \$146,991 |
| 3 | \$151,420 | \$0 | \$151,420 |
| 4 | \$155,983 | \$0 | \$155,983 |
| 5 | \$160,684 | \$0 | \$160,684 |
| 6 | \$165,504 | \$0 | \$165,504 |
| 7 | \$170,469 | \$0 | \$170,469 |
| 8 | \$175,583 | \$0 | \$175,583 |
| 9 | \$180,851 | \$0 | \$180,851 |
| 10 | \$186,276 | \$0 | \$186,276 |
| Total | \$1,636,454 | \$0 | \$1,636,454 |

Total costs for the Special Taxing District:

| Year | Additional Costs | Property Taxes Abated | Total |
|-------|------------------|-----------------------|-------|
| 1 | \$0 | \$0 | \$0 |
| 2 | \$0 | \$0 | \$0 |
| 3 | \$0 | \$0 | \$0 |
| 4 | \$0 | \$0 | \$0 |
| 5 | \$0 | \$0 | \$0 |
| 6 | \$0 | \$0 | \$0 |
| 7 | \$0 | \$0 | \$0 |
| 8 | \$0 | \$0 | \$0 |
| 9 | \$0 | \$0 | \$0 |
| 10 | \$0 | \$0 | \$0 |
| Total | \$0 | \$0 | \$0 |

Net Costs and Benefits for Special Taxing District: School Mills 8

| Year | Public Benefits | Total Costs and Property Taxes Abated | Net Benefits or (Costs) | Present Value of Net Benefits | Present Value of Taxes Abated |
|-------|-----------------|---------------------------------------|-------------------------|-------------------------------|-------------------------------|
| 1 | \$142,691 | \$0 | \$142,691 | \$129,719 | \$0 |
| 2 | \$146,991 | \$0 | \$146,991 | \$121,480 | \$0 |
| 3 | \$151,420 | \$0 | \$151,420 | \$113,764 | \$0 |
| 4 | \$155,983 | \$0 | \$155,983 | \$106,538 | \$0 |
| 5 | \$160,684 | \$0 | \$160,683 | \$99,772 | \$0 |
| 6 | \$165,504 | \$0 | \$165,504 | \$93,423 | \$0 |
| 7 | \$170,469 | \$0 | \$170,469 | \$87,478 | \$0 |
| 8 | \$175,583 | \$0 | \$175,583 | \$81,911 | \$0 |
| 9 | \$180,851 | \$0 | \$180,850 | \$76,698 | \$0 |
| 10 | \$186,276 | \$0 | \$186,276 | \$71,817 | \$0 |
| Total | \$1,636,454 | \$0 | \$1,636,453 | \$982,600 | \$0 |

Discounted payback period for taxes abated and incentives N/A

Average annual rate of return over the next ten years on the taxing district's investment of taxes abated and incentives for the firm 0.00%

Cost-Benefit Ratio 0.00

Costs and Benefits for the State of Kansas

Benefits to the State from the firm, its employees and spin-off benefits:

| Year | Sales Taxes | Property Taxes | Corporate and Personal Income Taxes | Other State Revenues | Total |
|---------------------|-------------|----------------|-------------------------------------|----------------------|--------------|
| Construction Period | \$283,032 | \$0 | \$292,406 | \$0 | \$575,439 |
| 1 | \$493,185 | \$26,753 | \$891,905 | \$20,806 | \$1,432,649 |
| 2 | \$516,815 | \$27,558 | \$953,172 | \$21,430 | \$1,518,974 |
| 3 | \$528,153 | \$28,386 | \$982,769 | \$22,073 | \$1,561,382 |
| 4 | \$546,566 | \$29,240 | \$1,025,165 | \$22,967 | \$1,623,937 |
| 5 | \$578,700 | \$30,119 | \$1,094,429 | \$24,371 | \$1,727,620 |
| 6 | \$613,386 | \$31,023 | \$1,168,989 | \$25,840 | \$1,839,238 |
| 7 | \$648,788 | \$31,954 | \$1,246,664 | \$27,375 | \$1,954,780 |
| 8 | \$689,618 | \$32,912 | \$1,333,052 | \$29,239 | \$2,084,821 |
| 9 | \$738,741 | \$33,900 | \$1,440,699 | \$31,190 | \$2,244,529 |
| 10 | \$786,172 | \$34,917 | \$1,544,009 | \$33,232 | \$2,398,331 |
| Total | \$6,423,156 | \$306,762 | \$11,973,259 | \$258,522 | \$18,961,699 |

The State's costs, property taxes abated and incentives provided to the firm:

| Year | State Costs for the firm and Services for New Residents | Cost of Educating New Students | Property Taxes Abated | Incentives | Total |
|---------------------|---|--------------------------------|-----------------------|------------|-----------|
| Construction Period | \$0 | \$0 | \$0 | \$0 | \$0 |
| 1 | \$17,928 | \$30,415 | \$13,376 | \$0 | \$61,718 |
| 2 | \$18,465 | \$31,328 | \$13,777 | \$0 | \$63,570 |
| 3 | \$19,019 | \$32,267 | \$14,190 | \$0 | \$65,477 |
| 4 | \$19,787 | \$33,236 | \$14,616 | \$0 | \$67,638 |
| 5 | \$20,988 | \$34,233 | \$15,054 | \$0 | \$70,275 |
| 6 | \$22,244 | \$35,260 | \$15,506 | \$0 | \$73,009 |
| 7 | \$23,556 | \$36,317 | \$15,971 | \$0 | \$75,844 |
| 8 | \$25,148 | \$37,407 | \$16,450 | \$0 | \$79,005 |
| 9 | \$26,814 | \$38,529 | \$16,944 | \$0 | \$82,287 |
| 10 | \$28,558 | \$39,685 | \$17,452 | \$0 | \$85,695 |
| Total | \$222,507 | \$348,676 | \$153,336 | \$0 | \$724,520 |

Net costs and benefits for the State of Kansas:

| Year | Public Benefits | Public Costs, Property Taxes Abated and Incentives | Net Benefits or (Costs) | Present Value of Net Benefits | Present Value of taxes abated and incentives |
|---------------------|-----------------|--|-------------------------|-------------------------------|--|
| Construction Period | \$575,439 | \$0 | \$575,438 | \$575,438 | \$0 |
| 1 | \$1,432,649 | \$61,718 | \$1,370,930 | \$1,246,300 | \$12,159 |
| 2 | \$1,518,974 | \$63,570 | \$1,455,404 | \$1,202,813 | \$11,385 |
| 3 | \$1,561,382 | \$65,477 | \$1,495,904 | \$1,123,894 | \$10,661 |
| 4 | \$1,623,937 | \$67,638 | \$1,556,298 | \$1,062,972 | \$9,982 |
| 5 | \$1,727,620 | \$70,275 | \$1,657,344 | \$1,029,080 | \$9,347 |
| 6 | \$1,839,238 | \$73,009 | \$1,766,228 | \$996,989 | \$8,752 |
| 7 | \$1,954,780 | \$75,844 | \$1,878,935 | \$964,190 | \$8,195 |
| 8 | \$2,084,821 | \$79,005 | \$2,005,815 | \$935,727 | \$7,674 |
| 9 | \$2,244,529 | \$82,287 | \$2,162,241 | \$917,001 | \$7,185 |
| 10 | \$2,398,331 | \$85,695 | \$2,312,635 | \$891,620 | \$6,728 |
| Total | \$18,961,699 | \$724,520 | \$18,237,179 | \$10,946,024 | \$92,068 |

Discounted payback period for taxes abated and incentives During construction period.

Average annual rate of return over the next ten years on the state's investment of taxes abated and incentives for the firm 11889.06%

Cost-Benefit Ratio 118.89

Local rates and constants used in the Analysis of Scannell Properties #717, LLC

City:

| | |
|-----------|---|
| Olathe | City name |
| 23.356 | City mill levy |
| \$380,000 | Average market value of new residential property in the city |
| 1.500% | City sales tax rate |
| 6.000% | City transient guest tax rate |
| \$103 | Annual net revenues per household for city owned utilities |
| \$303 | Average annual utility franchise fees collected per household |
| \$103 | Annual revenues per resident, in addition to property, transient guest and sales taxes, utilities and utility franchise fees |
| \$133 | The city's annual marginal cost of providing municipal services, excluding utilities, to each new resident |
| \$94 | Annual per worker revenues for the city from businesses -- in addition to property, transient guest and sales taxes and utilities |
| \$121 | Annual marginal cost, per worker, of providing city services, excluding utilities, to businesses |

County:

| | |
|-----------|---|
| Johnson | Name of county |
| 20.1380 | County mill levy |
| \$484,895 | Average market value of new residential property in the county |
| 1.475% | County sales tax rate |
| 0.000% | County transient guest tax rate |
| \$496 | The county's annual revenues per resident, excluding property; transient guest and sales taxes |
| \$171 | The county's annual marginal cost of providing municipal services to each new resident |
| 1.00 | Regional economic multiplier adjustment for the County |
| \$218 | Annual per worker revenues for the county from businesses -- in addition to property, transient guest and sales taxes and utilities |
| \$121 | The county's annual marginal cost, per worker, of providing services to businesses |

School District 1 -- Where the firm is or will be located

| | |
|--------------------------|---|
| Gardner Edgerton Schools | Name of school district |
| 53.722 | School district 1's local option mill levy |
| \$208,904 | Average market value of new residential property in school district 1 |
| \$12,155 | School district 1's estimated marginal cost per child |
| \$8,816 | State funding per child in school district 1 |
| \$3,339.00 | Federal and other annual funding per child in school district 1 |

School District 2 -- A neighboring school district where some of the firms's new employees will live

| | |
|----------------|-------------------------|
| Olathe Schools | Name of school district |
|----------------|-------------------------|

| | |
|-----------|---|
| 55.482 | School district 2's local option mill levy |
| \$395,300 | Average market value of new residential property in school district 2 |
| \$11,928 | School district 2's estimated marginal cost per child |
| \$11,287 | State funding per child in school district 2 |
| \$640.00 | Federal and other annual funding per child in school district 2 |

Special Taxing District 1 -- Where the firm is or will be located:

| | |
|----------------------------------|--|
| Johnson County Community College | Special tax district 1 |
| 8.131 | Special tax district 1's mill levy |
| \$484,895 | Average market value of new residential property in special tax district 1 |
| \$0.00 | Special tax district 1's cost per resident |
| \$0.00 | Special tax district 1's annual addl. revenues (excl prop taxes) from each new resident |
| \$78 | The district's annual marginal cost, per worker, of providing services to businesses |
| \$171 | Annual per worker revenues for the district from businesses -- in addition to property sales taxes and utilities |

Special Taxing District 2 -- Where the firm is or will be located:

| | |
|----------------|--|
| School Mills 8 | Special tax district 2 |
| 8 | Special tax district 2's mill levy |
| \$208,904 | Average market value of new residential property in special tax district 2 |
| \$0.00 | Special tax district 2's cost per resident |
| \$0.00 | Special tax district 2's annual addl. revenues (excl prop taxes) from each new resident |
| \$0 | The district's annual marginal cost, per worker, of providing services to businesses |
| \$0 | Annual per worker revenues for the district from businesses -- in addition to property sales taxes and utilities |

State of Kansas:

| | |
|----------|---|
| 1.5 | State mill levy |
| 0.065 | State sales tax rate |
| \$508.00 | State's annual marginal revenues per new resident (excl property, income and sales taxes) |
| \$468.00 | State's annual marginal cost of providing services to each new resident |
| 0.115 | State tax classification for residential real property |
| 0.25 | State tax classification for commercial and industrial real property |
| 0 | State tax classification for commercial and industrial machinery and equipment (7 years or more life) |
| 0.3 | State tax classification for all other tangible personal property: |
| 7 | Economic life, in years for straight line depreciation of commercial and industrial machinery & equipment |
| 0 | Minimum taxable value as a percent of retail cost of commercial and industrial machinery & equipment |
| \$180 | The state's annual marginal cost, per worker, of providing services to businesses |
| \$212 | Annual per worker revenues for the state from businesses, excluding property, income and sales taxes |
| 45.00% | Percent of gross salary that a typical Kansas worker spends on taxable goods and services |

Personal Income Taxes:

| Income > | Over | But Not Over | = | Tax | + | Tax Rate |
|----------|----------|--------------|---|-----|---|----------|
| | \$0 | \$30,000 | | \$0 | | 3.50% |
| | \$30,000 | \$60,000 | | \$0 | | 5.25% |
| | \$60,000 | | | \$0 | | 5.70% |
| | | | | | | |
| | | | | | | |

| | |
|--------------------------------------|---------|
| Standard Deduction > | \$8,000 |
| Allowance per: Exemption > | \$2,250 |

Corporate Income Taxes:

| | |
|--|-------------|
| Corporate Income Tax Rate > | 4.00% |
| Surtax Rate > | 3.00% |
| Amount Over Which Surtax Applies > | \$50,000.00 |

Other Rates:

| | |
|--------|---|
| 3.00% | Inflation |
| 10.00% | Discount rate for calculating the present value of costs and benefits |

Comments:

UPDATED 10/23 Updated 8/17 to account for the now excluded prorated 8 mills from the general school fund at

Market or retail value of the firm's initial new or additional investment in: 1

| | | |
|-----------------------------|-----------------------------------|---|
| \$6,000,000 | Land | Sum of the firm's initial new or additional investment |
| \$65,336,390 | Building and improvements | |
| \$257,899 | Furniture, Fixtures and Equipment | |
| | | \$71,594,289 |
| Projected Expansions | | |
| 0 | Year of 2nd Expansion | |
| \$0 | Land | Sum of the firm's second expansion investment |
| \$0 | Building and improvements | |
| \$0 | Furniture, Fixtures and Equipment | |
| | | \$0 |
| 0 | Year of 3rd Expansion | |
| \$0 | Land | Sum of the firm's third expansion investment |
| \$0 | Building and improvements | |
| \$0 | Furniture, Fixtures and Equipment | |
| | | \$0 |
| 0 | Year of 4th Expansion | |
| \$0 | Land | Sum of the firm's fourth expansion investment |
| \$0 | Building and improvements | |
| \$0 | Furniture, Fixtures and Equipment | |
| | | \$0 |

Sales and Purchases

2

| | |
|---|--|
| New or additional sales of the firm: | Annual operating expenditures by the firm subject to sales taxes: |
| Year 1: \$10,000,000 | Year 1: \$0 |
| Year 2: \$40,000,000 | Year 2: \$0 |
| Year 3: \$30,000,000 | Year 3: \$0 |
| Year 4: \$40,000,000 | Year 4: \$2,000,000 |
| Year 5: \$40,000,000 | Year 5: \$0 |
| Year 6: \$50,000,000 | Year 6: \$0 |
| Year 7: \$40,000,000 | Year 7: \$0 |
| Year 8: \$50,000,000 | Year 8: \$3,000,000 |
| Year 9: \$30,000,000 | Year 9: \$0 |
| Year 10: \$40,000,000 | Year 10: \$0 |
| Total: \$370,000,000 | Total: \$5,000,000 |

| | | |
|--|---|--|
| Percent of sales subject to sales taxes in the: | Percent of annual taxable operating expenditures in the: | % of sales on which state corporate income taxes will be computed (ie: Annual net taxable income) |
| City: 0.00% | City: 0.00% | 0.00% |
| County: 0.00% | County: 0.00% | |
| State: 0.00% | State: 0.00% | |

Property taxes

3

Will the Firm be located within City property tax jurisdiction ? (Y or N): Y

Revenues from utilities and franchise fees

Net revenues from city-owned utilities provided to the firm

City utility franchise fees to be collected on the firm's utility usage

| | |
|---------------------|----------|
| Construction period | \$0 |
| Year 1: | \$7,714 |
| Year 2: | \$7,714 |
| Year 3: | \$7,714 |
| Year 4: | \$7,714 |
| Year 5: | \$7,714 |
| Year 6: | \$7,714 |
| Year 7: | \$7,714 |
| Year 8: | \$7,714 |
| Year 9: | \$7,714 |
| Year 10: | \$7,714 |
| Total: | \$77,140 |

| | |
|---------------------|-----------|
| Construction period | \$0 |
| Year 1: | \$22,500 |
| Year 2: | \$22,500 |
| Year 3: | \$22,500 |
| Year 4: | \$22,500 |
| Year 5: | \$22,500 |
| Year 6: | \$22,500 |
| Year 7: | \$22,500 |
| Year 8: | \$22,500 |
| Year 9: | \$22,500 |
| Year 10: | \$22,500 |
| Total: | \$225,000 |

Payments by the firm and the cost of providing other services to the firm 4

Extra payments that the firm will make to the city, county and state -- those payments over and above property, sales and income taxes and utilities and other on-going payments made by all firms

| | City | County | State |
|----------------------|-----------|--------|-------|
| Construction period: | \$380,391 | \$0 | \$0 |
| Year 1: | \$0 | \$0 | \$0 |
| Year 2: | \$0 | \$0 | \$0 |
| Year 3: | \$0 | \$0 | \$0 |
| Year 4: | \$0 | \$0 | \$0 |
| Year 5: | \$0 | \$0 | \$0 |
| Year 6: | \$0 | \$0 | \$0 |
| Year 7: | \$0 | \$0 | \$0 |
| Year 8: | \$0 | \$0 | \$0 |
| Year 9: | \$0 | \$0 | \$0 |
| Year 10: | \$0 | \$0 | \$0 |
| Total: | \$0 | \$0 | \$0 |

Extra cost of providing public services to the firm -- those services that are over and above incentives, utilities and typical services provided to all firms in the city, county and

| | City | County | State |
|----------------------|-----------|--------|-------|
| Construction period: | \$0 | \$0 | \$0 |
| Year 1: | \$25,000 | \$0 | \$0 |
| Year 2: | \$25,000 | \$0 | \$0 |
| Year 3: | \$25,000 | \$0 | \$0 |
| Year 4: | \$25,000 | \$0 | \$0 |
| Year 5: | \$25,000 | \$0 | \$0 |
| Year 6: | \$25,000 | \$0 | \$0 |
| Year 7: | \$25,000 | \$0 | \$0 |
| Year 8: | \$25,000 | \$0 | \$0 |
| Year 9: | \$25,000 | \$0 | \$0 |
| Year 10: | \$25,000 | \$0 | \$0 |
| Total: | \$250,000 | \$0 | \$0 |

Employee information

5

Number of new employees to be hired each year

| | |
|----------|-----|
| Year 1: | 81 |
| Year 2: | 0 |
| Year 3: | 0 |
| Year 4: | 1 |
| Year 5: | 3 |
| Year 6: | 3 |
| Year 7: | 3 |
| Year 8: | 4 |
| Year 9: | 4 |
| Year 10: | 4 |
| Total: | 103 |

Number of new employees moving to the county each year from out of state

| | |
|----------|---|
| Year 1: | 2 |
| Year 2: | 0 |
| Year 3: | 0 |
| Year 4: | 0 |
| Year 5: | 0 |
| Year 6: | 0 |
| Year 7: | 0 |
| Year 8: | 0 |
| Year 9: | 0 |
| Year 10: | 0 |
| Total: | 2 |

Total number of new employees moving to the county each year

| | |
|----------|---|
| Year 1: | 7 |
| Year 2: | 0 |
| Year 3: | 0 |
| Year 4: | 0 |
| Year 5: | 0 |
| Year 6: | 0 |
| Year 7: | 0 |
| Year 8: | 0 |
| Year 9: | 0 |
| Year 10: | 0 |
| Total: | 7 |

New indirect employees who will be moving to the county, as a per cent of new direct employees:

From out-of-State:

Total moving to the county:

Employee salary and household information

6

Average annual salaries of employees

| | |
|----------|-----------|
| Year 1: | \$51,159 |
| Year 2: | \$53,643 |
| Year 3: | \$54,843 |
| Year 4: | \$56,055 |
| Year 5: | \$57,282 |
| Year 6: | \$58,623 |
| Year 7: | \$59,988 |
| Year 8: | \$61,080 |
| Year 9: | \$62,789 |
| Year 10: | \$64,227 |
| Total: | \$579,689 |

Where new employees moving to the county will live

| |
|--------------------------------------|
| <input type="text" value="60.00%"/> |
| <input type="text" value="50.00%"/> |
| <input type="text" value="0.00%"/> |
| <input type="text" value="100.00%"/> |
| <input type="text" value="100.00%"/> |

In the City.
 In the school district where the firm is located.
 In school district 2
 In special taxing district 1.
 In special taxing district 2.

Where employees will shop, as a percent of their total shopping:

| |
|-------------------------------------|
| <input type="text" value="70.00%"/> |
| <input type="text" value="50.00%"/> |
| <input type="text" value="30.00%"/> |

In Kansas.
 Within the County.
 In the City.

Household size of a typical new worker at the firm.

Number of school age children in the household of a typical new worker at the firm.

Percent of new workers who move to the community that will
 (1) buy new homes or mobile homes within the first five years or
 (2) require the building of new residential units.

Construction

| | Initial construction or expansion | 2nd Expansion | 3rd Expansion | 4th Expansion |
|--|-----------------------------------|---------------|---------------|---------------|
| Construction Cost | \$58,000,000 | \$0 | \$0 | \$0 |
| Construction Profit Percentage | 4.00% | 0.00% | 0.00% | 0.00% |
| Taxable materials purchased in: | | | | |
| Kansas | \$0 | \$0 | \$0 | \$0 |
| The County | \$0 | \$0 | \$0 | \$0 |
| The City | \$0 | \$0 | \$0 | \$0 |
| Taxable FFE purchased in: | | | | |
| Kansas | \$0 | \$0 | \$0 | \$0 |
| The County | \$0 | \$0 | \$0 | \$0 |
| The City | \$0 | \$0 | \$0 | \$0 |
| Total Construction Salaries: | \$7,257,240 | \$0 | \$0 | \$0 |
| Construction Salaries spent in: | | | | |
| Kansas | \$4,354,344 | \$0 | \$0 | \$0 |
| The County | \$2,902,896 | \$0 | \$0 | \$0 |
| The City | \$725,724 | \$0 | \$0 | \$0 |
| Amt. paid to avg. cons. worker | \$25,919 | \$0 | \$0 | \$0 |
| HH size - avg. cons. worker: | 2 | 0 | 0 | 0 |
| Nr. cons. workers: | 280 | 0 | 0 | 0 |

Visitors

Number of out-of-town visitors expected at the firm each year

| | |
|---------------|-----|
| Year 1: | 30 |
| Year 2: | 22 |
| Year 3: | 16 |
| Year 4: | 18 |
| Year 5: | 12 |
| Year 6: | 18 |
| Year 7: | 12 |
| Year 8: | 12 |
| Year 9: | 12 |
| Year 10: | 12 |
| Total: | 164 |

Average number of days that each visitor will stay in the city

Daily retail spending by a visitor, excluding lodging:

In the City

Anywhere in the County

The number of nights that a typical visitor will stay in a local hotel or motel:

In the City

Anywhere in the County

Average daily hotel / motel room rates:

In the City

Anywhere in the County



A product of Johnson County AIMS, 111 S Cherry, Ste 3100, Olathe KS 66061 - 913-715-1600 - <https://aims.jocogov.org> - mapper@jocogov.org

Johnson Co AIMS Map

LEGEND



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| Date Approved by Council | Company and Location | CBA Ratio |
|--------------------------|---|-----------|
| 2/1/2022 | BPG Olathe 1 LLC located near the northeast corner of 159th Street and Lone Elm Road, south of I-35 | 1.56 |
| 4/19/2022 | Griswold Industries located at 15410 S Mahaffie Street | 2.58 |
| 9/6/2022 | Scannell Properties #542 in the I-35 Logistics Park development | 1.58 |
| 10/4/2022 | Garmin constructing and renovating the company's warehouse space to office and lab uses at 151st Street and Ridgeview Road | 1.13 |
| 10/18/2022 | LECC Building 3, LLC at 167th Street and Lone Elm Road | 1.47 |
| 10/18/2022 | LECC Building 4, LLC at 167th Street and Lone Elm Road | 1.49 |
| 12/6/2022 | BCB Holdings, LLC, at the northwest corner of Fountain Drive and Frontier Lane in the Southpark Olathe Industrial Phase II area development | 1.71 |
| 6/20/2023 | OZN Chanute (Multi), LLC at 801 W. Old 56 Highway | 3.54 |
| 9/19/2023 | AP Multifamily Investors, LLC at the northwest corner of Black Bob Road and Indian Creek Parkway | 0.26 |
| 9/19/2023 | Scannell Properties #634 in the I-35 Logistics Park development | 1.47 |
| 9/19/2023 | ArcBest Property Management, LLC at the Olathe Commerce Park | 1.59 |
| 10/3/2023 | 175 Commerce Center One, LLC at the northwest corner of 175th Street and Hedge Lane | 1.93 |
| 11/21/2023 | BPG Olathe 1 LLC at the northeast corner of 159th Street and Lone Elm Road, south of I-35 | 1.54 |

RESOLUTION NO. 24-1010

RESOLUTION DETERMINING THE INTENT OF THE CITY OF OLATHE, KANSAS TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN THE AMOUNT NOT TO EXCEED \$71,594,289 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING AND EQUIPPING AN INDUSTRIAL FACILITY FOR THE BENEFIT OF SCANNELL PROPERTIES #717, LLC AND ITS SUCCESSORS AND ASSIGNS.

WHEREAS, the City of Olathe, Kansas (the “Issuer”), desires to promote, stimulate and develop the general welfare and economic prosperity of the Issuer and its inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

WHEREAS, the Issuer is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the “Act”), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act, and to lease such facilities to private persons, firms or corporations; and

WHEREAS, Scannell Properties #717, LLC (the “Company”) has submitted to the Issuer an application for the issuance of industrial revenue bonds (the “Application”) requesting that the Issuer finance the cost of acquiring, constructing and equipping an approximately 729,120 square foot industrial facility, as more fully described in the Application (the “Project”) through the issuance of its industrial revenue bonds in the principal amount not to exceed \$71,594,289 (the “Bonds”), and to lease the Project to the Company and its successors and assigns in accordance with the Act; and

WHEREAS, it is hereby found and determined to be advisable and in the interest and for the welfare of the Issuer and its inhabitants that the Issuer finance the costs of the Project by the issuance of the Bonds under the Act, the principal amount of the Bonds not to exceed \$71,594,289, each series of Bonds to be payable solely out of rentals, revenues and receipts derived from the lease of the Project by the Issuer to the Company.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS, AS FOLLOWS:

Section 1. Approval of Project. The governing body of the Issuer hereby finds and determines that the acquiring, constructing and equipping of the Project will promote the general welfare and economic prosperity of the Issuer and the issuance of the Bonds to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act. The Project shall be located at the I-35 Logistics Park in the City of Olathe, Kansas, as further described in the Application.

Section 2. Intent to Issue Bonds. The governing body of the Issuer hereby determines and declares the intent of the Issuer to acquire, construct and equip the Project out of the proceeds of the Bonds of the Issuer in the principal amount not to exceed \$71,594,289, to be issued pursuant to the Act.

Section 3. Ad Valorem Tax Abatement. In consideration of the Company’s decision to acquire, construct and equip the Project, the Issuer hereby agrees to take all appropriate action to request the Kansas Board of Tax Appeals to approve a 100% ad valorem property tax abatement (not including special assessments and taxes that may not be abated by the Issuer under Kansas law) for all property (including real property, building improvements, machinery and equipment) financed with the proceeds of the Bonds.

In consideration of the Issuer’s agreement to request such 100% abatement, the Company will agree to make payments in lieu of tax as follows:

| <u>Year</u> ¹ | <u>Approximate Percentage of Payments in Lieu</u> ² |
|--------------------------|--|
| 1 | 50% |
| 2 | 50% |
| 3 | 50% |
| 4 | 50% |
| 5 | 50% |
| 6 | 50% |
| 7 | 50% |
| 8 | 50% |
| 9 | 50% |
| 10 | 50% |

¹ Year refers to the first full calendar year following the issuance of the applicable series of Bonds.

² Excludes school district capital outlay levy that cannot be abated under Kansas law.

provided, however, any agreed upon valuation for determining the amount of such payment in lieu of tax and any property for which the Issuer shall determine the payment in lieu of tax shall be in excess of that shown above, shall be set forth in the performance based tax agreement executed by the Issuer and the Company. The Project shall be entitled to a 10-year tax abatement, with the first year of the abatement being the year beginning on the January 1 following the year the Bonds are issued. The foregoing percentages are subject to adjustment in accordance with the performance based tax abatement agreement for the Project.

Section 4. Provision for the Bonds. Subject to the conditions of this Resolution, the Issuer expresses its intent to (i) issue the Bonds in one or more series to pay the costs of acquiring, constructing and equipping the Project, with such maturities, interest rates, redemption terms and other provisions as may be determined by ordinance of the Issuer; (ii) provide for the lease (with an option to purchase) of the Project to the Company; and (iii) to effect the foregoing, adopt such resolutions and ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of each series of Bonds by the Issuer and take or cause to be taken such other action as may be required to implement the aforesaid.

Section 5. Conditions to Issuance. The issuance of the Bonds and the execution and delivery of any documents related to the Bonds are subject to: (i) obtaining any necessary governmental approvals (including, but not limited to, approval of a final site development plan in accordance with the City’s Unified Development Ordinance); (ii) agreement by the Issuer, the Company and the purchaser of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof, and (b) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project; (iii) the Company’s compliance with the Issuer’s policies relating to the issuance of industrial revenue bonds and ad valorem tax abatement (including, but not limited to, Section 2.B. of City Council Policy F-5 (Industrial Revenue Bond and Tax Abatement Policy), which section provides, in part, that “[p]rojects must utilize construction materials and provide an architectural design that exceeds the minimum requirements set forth in the City’s Unified Development Ordinance”); (iv) the passage and publication of an Ordinance authorizing the issuance of the Bonds; and (v) Company’s payment of all of the costs of issuance related to the issuance of the Bonds.

Section 6. Sale of the Bonds. The sale of each series of Bonds shall be the sole responsibility of the Company; provided, however, arrangements for the sale of each series of Bonds shall be acceptable to the Issuer.

Section 7. Limited Obligations of the Issuer. Each series of Bonds and the interest thereon shall be special, limited obligations of the Issuer payable solely out of the amounts derived by the Issuer under a Lease Agreement with respect to such series of Bonds and as provided herein and are secured by a transfer, pledge and assignment of and a grant of a security interest in the trust estate to the bond trustee for such series of Bonds and in favor of the owners of such series of Bonds, all as provided in the respective Bond Indenture. Each series of Bonds shall not constitute a general obligation of the Issuer, the State or of any other political subdivision thereof within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the Issuer, the State or of any other political subdivision thereof and shall not be payable in any manner by taxation, but shall be payable solely from the funds provided for as provided in the respective Bond Indenture. The issuance of each series of Bonds shall not, directly, indirectly or contingently, obligate the Issuer, the State or any other political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment.

Section 8. Authorization to Proceed. The Company is hereby authorized to proceed with the acquiring, constructing and equipping of the Project, including the necessary planning and engineering for the Project and entering into of contracts and purchase orders in connection therewith, and to advance such funds as may be necessary to accomplish such purposes, and, to the extent permitted by law and upon compliance with the other requirements of this Resolution, the Issuer will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

Section 9. No Reliance on Resolution. Kansas law provides that the Issuer may only issue the Bonds by passage of an Ordinance and compliance with other state law requirements. The Issuer has not yet passed an Ordinance for the Bonds. This Resolution only evidences the intent of the current governing body to issue the Bonds for the Project. The Company should not construe the adoption of this Resolution as a promise or guarantee that the Ordinance for the Bonds will be passed or that the Project will be approved.

Section 10. Termination of Resolution. This Resolution shall terminate three years from the date of the adoption of this Resolution unless (i) the Bonds have been issued for the Project or (ii) a building permit has been issued by the Issuer for the Project. The Issuer, upon the written request of the Company, may extend this time period.

Section 11. Benefit of Resolution. This Resolution will inure to the benefit of the Issuer and the Company. The Issuer may, at the prior written request of the Company, assign all or a portion of the Company's interest in this Resolution to another entity, and such assignee will be entitled to the benefits of the portion of this Resolution assigned and the proceedings related hereto.

Section 12. Further Action. Counsel to the Issuer and Gilmore & Bell, P.C., Bond Counsel for the Issuer, together with the officers and employees of the Issuer, are hereby authorized to work with the purchaser of each series of Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the Issuer all documents necessary to effect the authorization, issuance and sale of each series of Bonds and other actions contemplated hereunder.

Section 13. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the Issuer.

ADOPTED this 20th day of February 2024.

CITY OF OLATHE, KANSAS

[SEAL]

By: _____
John Bacon, Mayor

ATTEST:

Brenda Swearingian, City Clerk

Resolution
Scannell Properties #717, LLC



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Exceptional Services

STAFF CONTACT: Brenda Swearingian

SUBJECT: Consideration of approval of the City Council meeting minutes of February 6, 2024.

TITLE:

Consideration of approval of the City Council meeting minutes of February 6, 2024.

SUMMARY:

Attached are the City Council meeting minutes of February 6, 2024, for Council consideration of approval.

FINANCIAL IMPACT:

None

ACTION NEEDED:

Approval of the City Council meeting minutes of February 6, 2024.

ATTACHMENT(S):

- A. 02-06-2024 Council Minutes



1. CALL TO ORDER

Present: Bacon, Vogt, Gilmore, Felter, Essex, Vakas, and Schoonover

Others in attendance were City Manager, Michael Wilkes, Deputy City Manager, Susan Sherman, and City Attorney, Ron Shaver.

2. BEGIN TELEVISED SESSION – 7:00 P. M.

3. PLEDGE OF ALLEGIANCE

4. SPECIAL BUSINESS

A. Black History Month Proclamation

Mayor Bacon presented the proclamation to Greg Mosley, a local Farmers Insurance agent and the newest recipient of the Chamber of Commerce's Dana Ketterling volunteer of the year award. Mr. Mosley thanked the Mayor for the presentation.

5. CONSENT AGENDA

Approval of the Consent Agenda

Councilmember Essex asked for item H to be removed from the consent agenda and considered separately.

Motion by Vogt, seconded by Gilmore, to approve the Consent Agenda with the exception of item H. The motion carried with the following vote:

Yes: Bacon, Vogt, Gilmore, Felter, Essex, Vakas, and Schoonover

A. Consideration of approval of the City Council meeting minutes of January 23, 2024.
approved.

B. Consideration of renewal license(s) as recommended by the City Clerk.
approved.

C. Consideration of Travel Request Authorization for City Manager Michael Wilkes and Councilmembers LeEtta Felter, Matthew Schoonover and

Dean Vakas to attend the National League of Cities conference in Washington, DC from March 10 to March 13.
approved.

- D.** Consideration of business expense statement for the City Manager Michael Wilkes to attend a League of Kansas Municipalities conference in Washington, DC on Jan. 29 to January 31, 2024.
approved.

- E.** Consideration of business expense statement for the City Manager Michael Wilkes to attend a Strategic Government Resources conference in Dallas on Jan. 24 and 25, 2024.
approved.

- F.** Consideration of Consent Calendar.
approved.

- G.** Consideration of an Agreement with the Kansas Department of Transportation, Johnson County, Douglas County, DeSoto, Edgerton, and Gardner for the Southwest Metro Area Transportation Connection Plan.
approved.

- H.** Consideration of renewal of contract with Clarence M. Kelley & Associates of Kansas City, Inc. to provide screening personnel for the security checkpoint at the Municipal Court.
Councilmember Essex asked for item H to be considered separately so she could highlight the service the vendor provides for the Municipal Court.

Motion by Vogt, seconded by Gilmore, to approve item H. The motion carried with the following vote:

Yes: Bacon, Vogt, Gilmore, Felter, Essex, Vakas, and Schoonover

6. NEW BUSINESS

- A.** Consideration of Ordinance No. 24-03, RZ23-0012, requesting approval of a rezoning from the CTY RUR (County Rural) District to the R-1 (Residential Single-Family) District, a preliminary plat and preliminary site development plan for Heritage Ranch on approximately 128.98 acres; located southwest of 159th Street and Black Bob Road. Planning Commission recommends approval 9-0.
Planner II, Taylor Vande Velde, provided the Council with a presentation regarding the project.

Councilmember Felter asked if the traffic concerns on 159th street

had been addressed. Nate Baldwin, City Engineer, said it is included in the CIP.

Mayor Bacon asked what that project would include and Mr. Baldwin said it would be a full arterial improvement.

Councilmember Gilmore asked about the connection to Heritage Park and Mr. Baldwin explained how future improvements would change the entrances.

Councilmember Schoonover asked about the surrounding school capacities. Ms. Vande Velde said she knew the school district continued to evaluate growth. Councilmember Felter said she knew from her time serving on the school board that they would make adjustments for growth.

Motion by Vogt, seconded by Gilmore, to approve Ordinance No. 24-03, RZ23-0012. The motion carried with the following vote:

Yes: Bacon, Vogt, Gilmore, Felter, Essex, Vakas, and Schoonover

- B.** Consideration of Ordinance No. 24-04, RZ23-0014, requesting approval of a rezoning from the C-2 (Community Center) District to the D (Downtown, Mixed Use) District and a preliminary site development plan for The Olathe Group addition on approximately 0.16 acres; located at 222 S. Kansas Avenue. Planning Commission recommended approval 9 to 0.

Motion by Vogt, seconded by Gilmore, to approve Ordinance 24-04, RZ23-0014. The motion carried with the following vote:

Yes: Bacon, Vogt, Gilmore, Felter, Essex, Vakas, and Schoonover

7. NEW CITY COUNCIL BUSINESS

Councilmember Felter said the Chamber's annual meeting was great. She mentioned that Honeywell had announced an expansion. She also expressed her condolences to the family of Starfish Project founder for their recent loss.

Councilmember Vogt also acknowledged the Chamber's annual meeting as well as the Honeywell expansion.

Councilmember Schoonover gave a shout out to Damien Denmark, Downtown

Development Coordinator and said he was excited to hear about upcoming plans.

Mayor Bacon mentioned that Toby Keith had passed away and shared the lyrics to one of his songs that had meant a lot to him.

8. END OF TELEVISED SESSION

9. GENERAL ISSUES AND CONCERNS OF CITIZENS

Gregory Betzen, 19998 W. 122nd Terrace, asked the Council to allow the Woodland Road railroad crossing to remain open.

Debra Wallace, 20279 W 122nd Terrace, asked the Council to allow the Woodland Road railroad crossing to remain open.

10. CONVENE FOR PLANNING SESSION

If report items are present, they have been prepared for informational purposes and will be accepted as presented. There will be no separate discussion unless a Councilmember requests that a report be removed and considered separately.

A. REPORTS

1. Report on a request by Scannell Properties #717, LLC and assigns for an issuance request for industrial revenue bonds and tax phase-in for the construction of a 729,120 square foot warehouse facility for General Mills Blue Buffalo brand on 57-acres located west of the northwest of 159th Street and Clare Road (Old 56 Highway).
Report Accepted.

B. DISCUSSION ITEMS

1. Discussion on the status of the K-10 Corridor Project.
Infrastructure Deputy Director, Beth Wright, introduced Cameron McGown, Vice President of HNTB and Steven Cross from KDOT. Mr. McGown gave an update on the K-10 corridor project.

Councilmembers had questions regarding the IKE Program funding and future funding of the K-10 Corridor project. They also wanted to know how the project would be prioritized. Questions were asked regarding the possible additional interchanges and the effect they will have on traffic flow and

intensity. They wanted to know if options besides traffic flow are being considered. Mr. McGown and Mr. Cross answered their questions and said there would be more community engagement in the near future.

2. Discussion of the 2024 Downtown Outdoor Sculpture Exhibit. Renee Rush, Event and Rentals Manager, introduced Chelsy Walker, Chair of the Olathe Public Arts Committee. Ms. Walker provided a presentation with pictures of the proposed art for the coming year.

Councilmembers expressed their thanks for a great program and asked questions about expanding the locations of where the art will be placed. They also had questions about how the program worked. Ms. Walker explained they are working to find additional locations to display art and that the pieces are leased from the artists.

3. Update on the 119th Street, Woodland to Northgate, Improvements Project, PN 3-C-024-21. Nate Baldwin, City Engineer, gave an update on the 119th Street and Woodland project, specifically regarding the railroad crossing on Woodland. The update included staff's proposal to not accept grant funding from the Federal Railroad Administration due to a variety of issues that had surfaced.

Councilmembers thanked staff for their work on this project and acknowledged the challenges. They asked additional questions about the change in funding, timelines and future use of grant funding for other projects.

11. ADDITIONAL ITEMS

None.

12. ADJOURNMENT

The meeting was adjourned at 8:54 P.M.

Brenda D. Swearingian

City Clerk



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Exceptional Services

STAFF CONTACT: Eric Strimple

SUBJECT: Consideration of renewal license(s) as recommended by the City Clerk.

TITLE:

Consideration of renewal license(s) as recommended by the City Clerk.

SUMMARY:

The application(s) for the following business(es) meets the necessary requirements for the issuance of licenses.

The application(s) are available for review in the City Clerk’s Office.

Renewal Drinking Establishment License(s)

| | | |
|------------------------------|---------|------------------------------|
| Hira’s Steak & Sushi | 24-0029 | 15202 W 119 th St |
| Red Robin | 24-0035 | 20155 W 153 rd St |
| La Fiesta Mexican Restaurant | 24-0039 | 806 W Old 56 Hwy Unit B |

FINANCIAL IMPACT:

The applicant(s) have paid the license fees in accordance with the Olathe Municipal Code.

ACTION NEEDED:

Approve the application(s) for issuance of a license as part of the consent agenda.

ATTACHMENT(S):

None



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Economy, Community Development

STAFF CONTACT: Emily Carrillo, Senior Planner

SUBJECT: FP23-0033: Final Plat for Heather Ridge South, 5th Plat; Applicant: Philip Martens, Martens Family Enterprises, Inc.

TITLE:

Request for the acceptance of the dedication of land for public easements and public street right-of-way for a final plat of Heather Ridge South, 5th Plat (FP23-0033), containing 41 lots and six (6) tracts on approximately 14.84 acres, located southwest of W. 169th Terrace and S. Ridgeview Road. Planning Commission approved the plat 8 to 0.

SUMMARY:

This is a request to accept the dedication of land for public easements and public street right-of-way for the final plat of Heather Ridge South, 5th Plat. The final plat establishes lot lines for 41 lots and six (6) tracts to accommodate the construction of 41 new single-family residential homes. This plat will dedicate public utility easements (U/E), sanitary sewer easements (SS/E), drainage easements (D/E), waterline easements (WL/E) and a public recreation easement (PR/E). New right-of-way for 170th Place, 170th Terrace, Skyview Lane and a portion of S. Warwick Street is being dedicated with this plat that will connect to W. 167th Street.

This final plat is the fifth phase of six (6) total phases approved on the preliminary plat for Heather Ridge South and is consistent with the approved preliminary plat. The unplatted area is subject to a street excise tax of \$0.215 per square foot of land area and a traffic signal excise tax of \$0.0037 per square foot of residential land area.

FINANCIAL IMPACT:

None

ACTION NEEDED:

1. Accept the dedication of land for public easements and public street right-of-way for the final plat of Heather Ridge South, 5th Plat (FP23-0033) (majority vote of the Councilmembers present required).
 2. Reject the dedication of land for public easements and public street right-of-way and return the plat to the Planning Commission for further consideration with a statement specifying the basis for the Governing Body's failure to accept the dedication (majority vote of the Councilmembers present required).
-

ATTACHMENT(S):

MEETING DATE: 2/20/2024

- A. Planning Commission Packet
- B. Planning Commission Minutes



STAFF REPORT

Planning Commission Meeting: February 12, 2024

| | |
|---------------------------|--|
| Application | FP23-0033: Final Plat for Heather Ridge South, Fifth Plat |
| Location | Southwest of W. 169 th Terrace and S. Ridgeview Road |
| Owner | Phil Martens, Martens Family Enterprises |
| Applicant/Engineer | Todd Allenbrand, Payne & Brockway |
| Staff Contact | Emily Carrillo, Senior Planner |

| | | | |
|-------------------|---------------------|-------------------------|-------------------------------------|
| Site Area: | <u>14.84± acres</u> | Proposed Use: | <u>Single-Family Residences</u> |
| Lots: | <u>41</u> | Existing Zoning: | <u>R-1 (Single Family) District</u> |
| Tracts: | <u>6</u> | Existing Plat: | <u>Unplatted</u> |

1. Introduction

The following application is a final plat for Heather Ridge South, Fifth Plat, which will establish lot lines, dedicate public easements and right-of-way for 41 lots and six (6) tracts within the Heather Ridge South residential development.

The subject property was rezoned from County CTY-RUR to R-1 with a preliminary plat for 78.99 acres in June 2006 (RZ-06-012). Due expiration of the approved preliminary plat, a new preliminary plat application was submitted and approved in December 2015 (P-15-050). This final plat is the fifth phase of six total phases approved on the preliminary plat for Heather Ridge South and is consistent with the approved preliminary plat.

2. Plat Review

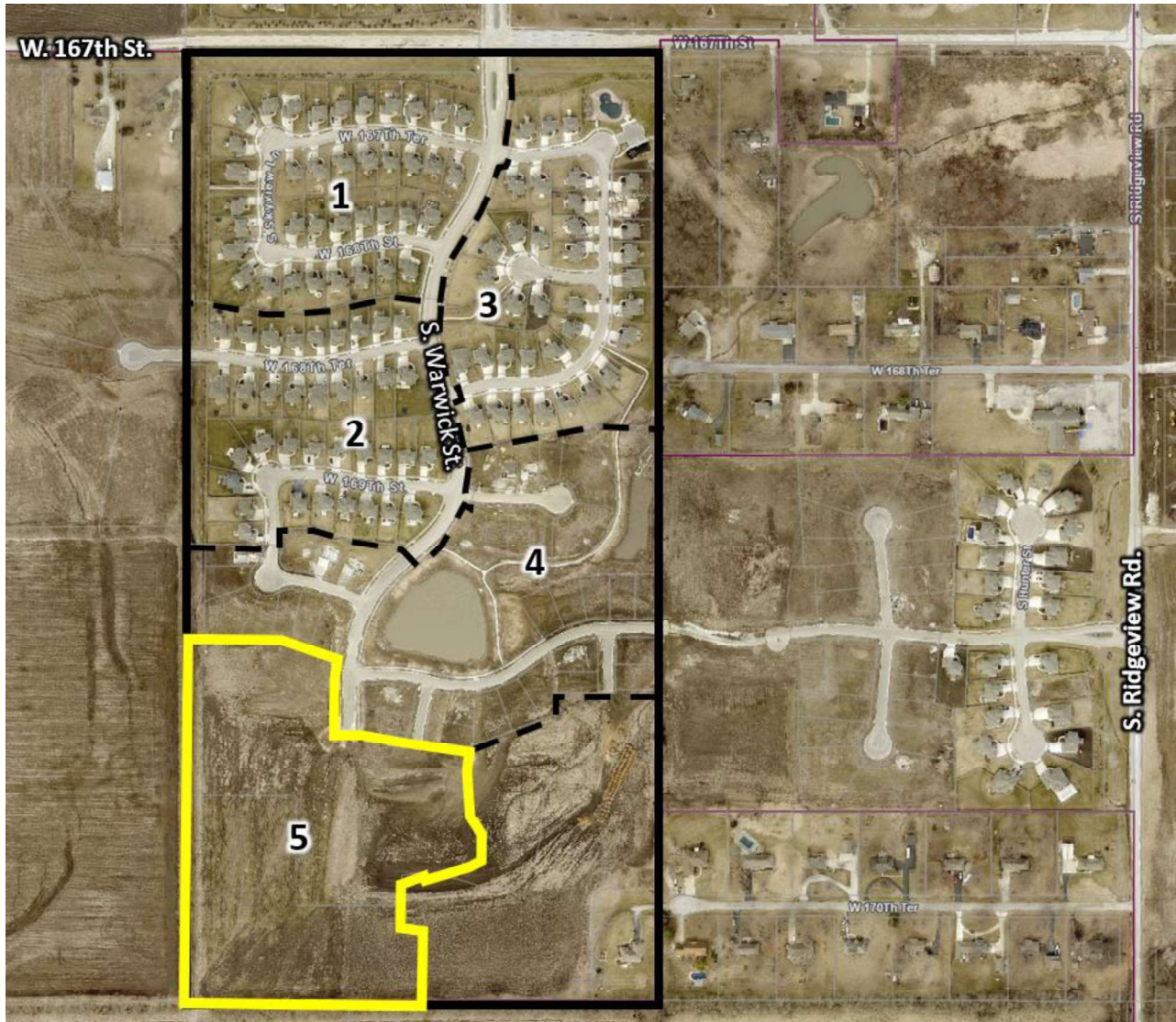
- a. **Lots/Tracts** – The final plat includes thirty-eight (38) single-family residential lots and three (3) common tracts. Common tracts are intended to be used for landscaping, monuments, private open space, stormwater drainage and detention amenities such as trail connections. All three tracts are intended to be owned and maintained by the Heather Ridge South/Estates Homes Association.

All lots in the proposed subdivision meet or exceed the R-1 standards for minimum lot size (7,200 square feet) and minimum lot widths (60 feet). Lot sizes in this plat range on from 7,880 square feet to 14,933 square feet with an average lot size of 10,831 square feet.

- b. **Public Utilities** – The property is in the City of Olathe sewer and WaterOne service areas. Public Utility Easements (U/E), Sanitary Sewer Easements (SS/E), Drainage Easements

(D/E), Waterline Easements (WL/E) and a Public Recreation Easement (PR/E) are being dedicated with this final plat.

- c. **Streets/Right-of-Way** – Roadways within the subdivision are being dedicated with this plat. The lots will have street access from S Warwick Street, south from W. 167th Street.



Aerial view of overall Heather Ridge South development, and subject property in yellow.

3. Staff Recommendation

Staff recommends approval of final plat (FP23-0033) with no stipulations.



MINUTES

Planning Commission Meeting: February 12, 2024

| | |
|---------------------|---|
| Application: | <u>FP23-0033</u> : Request for approval of a final plat of Heather Ridge South, 5 th Plat, containing 41 lots and six (6) tracts on approximately 14.84 acres, located southwest of W. 169th Terrace and S. Ridgeview Road. |
|---------------------|---|

A motion to approve FP23-0033 was made by **Commissioner Breen** and seconded by **Commissioner Bergida**. The motion passed with a vote of 8 to 0 with no stipulations.



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Infrastructure (Engineering)
STAFF CONTACT: Mary Jaeger / Nate Baldwin
SUBJECT: Consideration of Consent Calendar

TITLE:
Consideration of Consent Calendar.

SUMMARY:
Consent Calendar consists of Project Completion Certificates for Infrastructure (Engineering) projects.

FINANCIAL IMPACT:
N/A

ACTION NEEDED:
Approve Consent Calendar for February 20, 2024.

ATTACHMENT(S):
A. Consent Calendar

ISSUE: Consent Calendar for: February 20, 2024

FOCUS AREA: Infrastructure (Engineering)

SUMMARY:

1) **PROJECT COMPLETION CERTIFICATES**

- a) Hidden Lakes Estates 4th Plat – 3-D-041-20 – Storm Sewers
- b) Benton House of Olathe – 5-D-022-22 – Waterlines
- c) Executive Plaza 2nd Plat – 5-D-033-22 – Waterlines
- d) College Ridge Apartments, Lot 1 – 5-D-051-21 – Waterlines

2) **CHANGE ORDERS**

- a) None

3) **FINAL PAYMENT TO CONTRACTORS**

- a) None



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Infrastructure (Engineering)

STAFF CONTACT: Mary Jaeger / Nate Baldwin

SUBJECT: Authorization of the 119th Street, Woodland to Northgate, Improvements Project, PN 3-C-024-21.

TITLE:

Consideration of Resolution No. 24-1011 authorizing the 119th Street, Woodland to Northgate, Improvements Project, PN 3-C-024-21; and repealing Resolution 22-1019.

SUMMARY:

This project is needed to provide a missing link of 119th Street between Woodland Road and Northgate, giving total transportation connectivity of 119th Street from K-7 Highway to I-35, reducing congestion on adjacent arterials, and promoting commercial growth and development along the 119th Street corridor. The Project will include a new 4-lane divided arterial section of 119th Street between Woodland and Northgate, as well as intersection improvements at Lone Elm Road and 119th Street, Iowa and 119th Street, Woodland Road and 119th Street, with a new roundabout at 119th Street and Northgate Street. The Project will also include a bridge that spans the BNSF Railroad and Mill Creek. The Project will provide pedestrian accommodations and a connection from 119th Street to the Gary Haller Trail.

On February 1, 2022, Council authorized the 119th Street, Woodland to Northgate, Improvements Project in the amount of \$43,335,000. In the 2024-2028 CIP, the project amount was increased to \$55,690,000. The increase was due to an escalation of the estimated bridge construction cost due to inflation and the addition of intersection improvements to 119th and Iowa and 119th and Lone Elm to the scope of the project. Additionally, the City has been awarded an additional \$2,350,000 in CARS funding since the 2022 authorization.

The estimated cost for these improvements is \$55,690,000 including preliminary and final design, utility relocations, staff time, land acquisition, permitting, construction and inspection.

This project is tentatively scheduled to begin construction in Summer 2024 with completion anticipated by the end of 2026.

FINANCIAL IMPACT:

Funding for the 119th Street, Woodland to Northgate, Improvements Project, includes:

| | |
|---------------------|---------------------|
| Johnson County CARS | \$ 4,350,000 |
| <u>GO Bonds</u> | <u>\$51,340,000</u> |
| Total | \$55,690,000 |

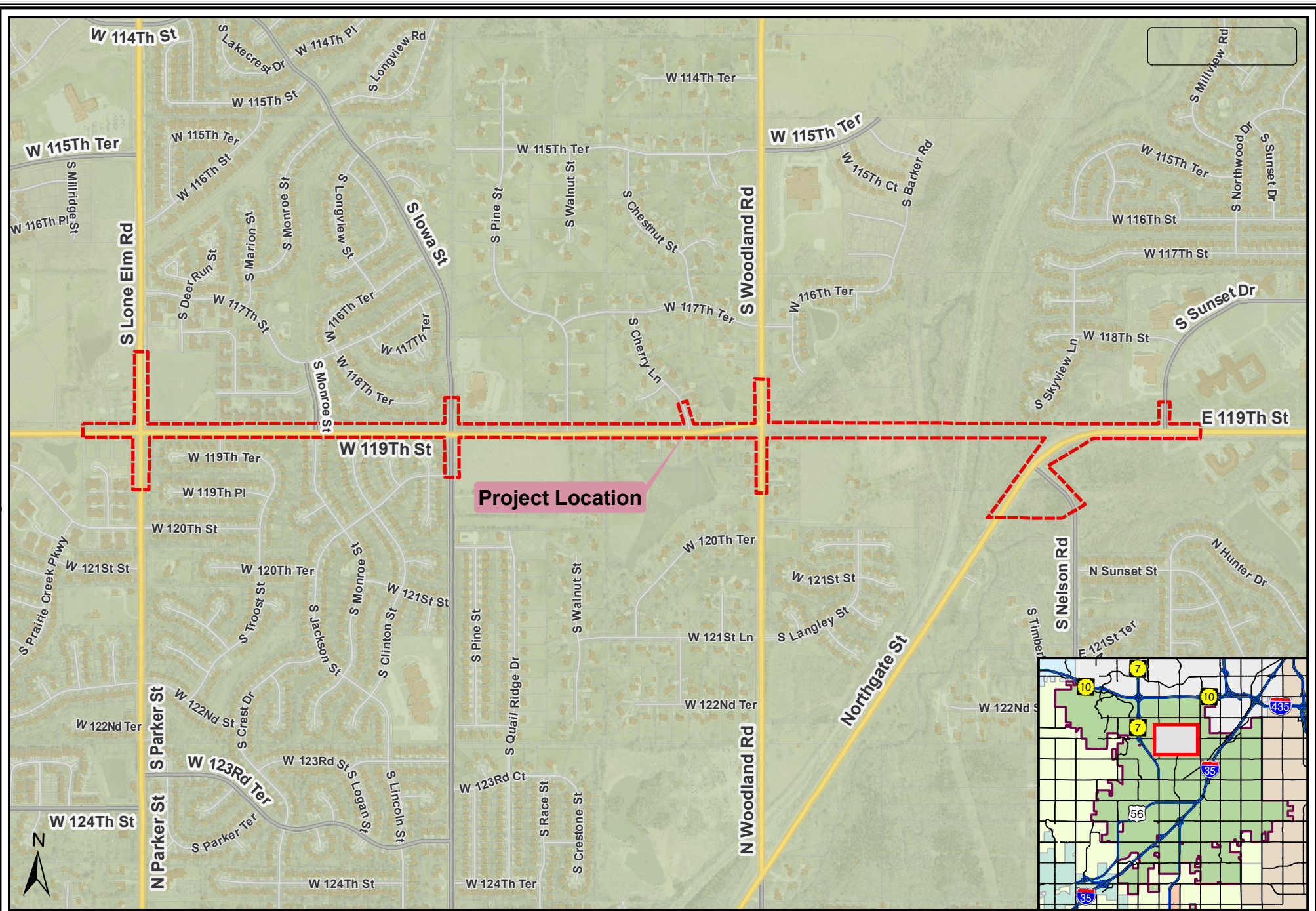
ACTION NEEDED:

MEETING DATE: 2/20/2024

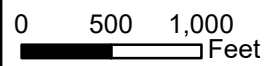
Approval of Resolution No. 24-1011 authorizing the 119th Street, Woodland to Northgate, Improvements Project, PN 3-C-024-21; and repealing Resolution 22-1019.

ATTACHMENT(S):

- A. Project Location Map
- B. Project Fact Sheet
- C. Resolution



119th Street, Woodland to Northgate
PN 3-C-024-21
Project Location Map





Project Fact Sheet
119th Street, Woodland to Northgate
PN 3-C-024-21
February 20, 2024

Project Manager: Nate Baldwin / Neil Meredith

Description: This project will include an extension of 119th Street from Woodland Road to Northgate Street. The project will include a new 4-lane divided arterial section along with intersection improvements at Lone Elm and 119th, Iowa and 119th, Woodland Road and 119th, Nelson and Northgate, with a roundabout at 119th and Northgate. Also included in the scope of the project will be a bridge that spans the BNSF railroad and Mill Creek.

Justification: This project has been identified as a near term priority project in the Transportation Master Plan. The project is also a high priority for the development community based on stakeholder meetings since it will promote commercial growth along the 119th Street corridor and connectivity between I-35 and K-7 Highway. According to DirectionFinder Survey, the top priority of citizens is traffic flow and congestion management, with ease of east-west travel being one of the most important transportation measures.

| Schedule: | Item | Date |
|----------------------------------|----------------------|------------------------|
| Design: | RFQ | 10/19/2020 |
| | Consultant Selection | 02/02/2021 |
| Land Acquisition: | | Fall 2022 – Ongoing |
| Utility Relocation: | | Fall 2022 – Ongoing |
| Construction: | Bid Award | Summer 2024 – Estimate |
| | Completion | Fall 2026 – Estimate |
| | | |
| Council Actions: | Date | Amount |
| Approved in CIP | 2021 – 2025 | \$43,335,000 |
| Project Authorization Report | 01/19/2021 | N/A |
| Project Authorization | 02/02/2021 | \$ 1,800,000 |
| Professional Service Agreement | 02/02/2021 | \$ 1,115,796 |
| Project Authorization | 02/01/2022 | \$43,335,000 |
| Supplemental No 1 with HDR | 02/01/2022 | \$ 3,504,922 |
| Resolution of Support of Funding | 10/04/2022 | N/A |
| CARS Agreement | 11/01/2022 | \$ 4,350,000 |
| Supplemental No 2 with HDR | 03/07/2023 | \$ 195,739 |
| Relocation Agreement (ATMOS) | 06/06/2023 | \$ 163,060 |
| Supplemental No 3 with HDR | 09/05/2023 | \$ 788,768 |
| Approved in CIP | 2024 – 2028 | \$55,690,000 |
| Project Authorization | 02/20/2024 | \$55,690,000 |
| Relocation Agreement (WaterOne) | | |
| Accept Bid/Award Contract | | |

| Funding Sources: | Amount | CIP Year |
|-------------------------|---------------------|-----------------------|
| GO Bonds | \$51,340,000 | 2026 |
| CARS | \$ 4,350,000 | 2024 |
| | | |
| Expenditures: | Budget | Amount to Date |
| Design | \$ 6,010,000 | \$4,975,000 |
| Land Acquisition | \$ 800,000 | \$ 540,000 |
| Utilities | \$ 800,000 | \$ 280,000 |
| Construction | \$44,000,000 | \$ 0 |
| Inspection | \$ 1,500,000 | \$ 0 |
| Staff | \$ 305,000 | \$ 150,000 |
| Contingency | \$ 2,275,000 | \$ 0 |
| Total | \$55,690,000 | \$5,945,000 |

RESOLUTION NO. 24-1011

A RESOLUTION AUTHORIZING THE 119TH STREET, WOODLAND TO NORTHGATE IMPROVEMENTS PROJECT, PN 3-C-024-21, AND FURTHER REPEALING RESOLUTION NO 22-1019.

WHEREAS, the City of Olathe, Kansas (“City”) has by appropriate proceedings hereto had, designated and established certain streets in the City as main trafficways under the authority of K.S.A. 12-685 *et seq.* (the “Act”); and

WHEREAS, the City has the authority under the Act to improve main trafficways located in the City and issue its general obligation bonds to pay the costs thereof; and

WHEREAS, 119th Street in the City has been designated as a main trafficway pursuant to Section 10.10.010 of the Olathe Municipal Code and the Act; and

WHEREAS, the Governing Body of the City deems it necessary to authorize the improvements to 119th Street from Woodland and Northgate in the City.

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

SECTION ONE: Pursuant to the Act, the Governing Body hereby authorizes the 119th Street, Woodland to Northgate Improvements Project (the “Project”). Said Project will include construction of a missing section of 119th Street between Woodland Road and Northgate. The Project will include a 4-lane divided arterial along with a bridge spanning Mill Creek and the BNSF railroad tracks; intersection improvements at 119th and Northgate, 119th and Woodland, 119th and Iowa and 119th and Lone Elm; and all other work necessary to complete the project.

SECTION TWO: The cost of the Project shall not exceed \$55,690,000, exclusive of issuance and interest costs for temporary financing. The funds to pay for the Project shall come from the following source:

| | |
|--------------------------|---------------------|
| Johnson County CARS | \$ 4,350,000 |
| General Obligation Bonds | <u>\$51,340,000</u> |
| TOTAL | \$55,690,000 |

Included in the Project costs are preliminary and final design, land acquisition, utility coordination and relocation, staff time, construction, construction inspection, and such other necessary work as is needed to complete the project.

SECTION THREE: The City intends to reimburse itself for capital expenditures made on or after the date which is 60 days before the date of this Resolution in connection with the Project, pursuant to Treasury Regulation § 1.150-2, with the proceeds of bonds and/or notes in the maximum principal amount of \$51,340,000 exclusive of issuance costs and any interest costs for temporary financing.

SECTION FOUR: This Resolution shall take effect immediately.

SECTION FIVE: Resolution No. 22-1019 is hereby repealed.

ADOPTED by the Governing Body this 20th day of February 2024.

SIGNED by the Mayor this 20th day of February 2024.

Mayor

ATTEST:

City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Infrastructure (Engineering)

STAFF CONTACT: Mary Jaeger / Nate Baldwin

SUBJECT: Consideration of contract and quote from Howden USA Company for SCADA upgrades associated with the blower equipment and panels at Cedar Creek Wastewater Treatment Plant.

TITLE:

Consideration of contract and quote from Howden USA Company for SCADA upgrades associated with the Water and Wastewater SCADA Security Project, PN 5-C-008-21.

SUMMARY:

The City's water and wastewater treatment plants utilize an electronic Supervisory Control and Data Acquisition (SCADA) system that allows staff to control all aspects of system operation from a centralized location at the facility. Each major process of the treatment train additionally has a local control panel (LCP) that communicates back to central controls within SCADA. The network design that supports SCADA function is antiquated and vulnerable to cyber-attacks.

The LCP's and associated software associated with the blowers at the Cedar Creek Wastewater Treatment Plant were originally installed in 2010 with the plant expansion. This equipment is obsolete and replacement parts are no longer available. By upgrading the LCP's and associated appurtenances, this will mitigate the risk of a cyber-attack at our treatment plant.

The City has reached out directly to the equipment supplier for pricing associated with the purchase and installation of new LCP's directly associated and proprietary to this equipment for installation. This quote is \$251,085.30.

Work is anticipated to be complete by Summer 2025.

FINANCIAL IMPACT:

Funding for the Water and Wastewater SCADA Security Project, includes:

| | |
|---------------|--------------------|
| <u>ARPA</u> | <u>\$2,002,000</u> |
| Total: | \$2,002,000 |

ACTION NEEDED:

Approval of contract and quote from Howden USA Company for SCADA upgrades associated with the Water and Wastewater SCADA Security Project, PN 5-C-008-21.

ATTACHMENT(S):

- A. Contract

AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is dated as of the _____ day of _____, 20____ (“Effective Date”), by and between the City of Olathe, Kansas (“Owner”) and Howden USA Company (“Contractor”). Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Water and Wastewater SCADA Security Project, PN 5-C-008-21. Project work shall consist of upgrades to the Howden Equipment PLC panels and controls at Cedar Creek Wastewater Treatment Plant. Work will be outlined in the Vendor Quote attached.

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Water and Wastewater SCADA Security Project, PN 5-C-008-21.

ARTICLE 3 – ENGINEER

3.01 The Owner shall assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Days*

A. The Work will be substantially completed within 500 days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 530 days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of

requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$ 500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$ 500.00 for each day that expires after such time until the Work is completed and ready for final payment.
3. Liquidated damages for failing to timely attain Substantial Completion and Final Completion are not additive and will not be imposed concurrently.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents in current funds the amount that follows, subject to adjustment under the Contract:

\$ 251,085.30

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Payment Schedule*

- A. Payments shall be made to Contractor in accordance with milestone schedule identified within Contractor's Bid contained within the Contract Documents.

ARTICLE 7 – INTEREST

7.01 All amounts not paid when due shall bear interest at the rate prescribed under K.S.A. 16-1901 et seq., and any amendments thereto.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the

Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, if any.

- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs, if any such reports and drawings are so identified.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 1 to ____, inclusive).
 - 2. Performance & Maintenance bond (pages ____ to ____, inclusive).
 - 3. Statutory bond (pages ____ to ____, inclusive).
 - 4. Appointment of Process Agent.
 - 5. Non-collusive Affidavit of Prime Bidder.
 - 6. ARPA Contractual Agreement
 - 7. General Conditions (pages ____ to ____, inclusive).
 - 8. Supplementary Conditions (pages ____ to ____, inclusive).
 - 9. Specifications as listed in the table of contents of the Project Manual.

10. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages ___ to ___, inclusive).
 - b. Bid Documents (Notice to Bidders, Instructions to Bidders, Questionnaire of Personnel Practices Bid Bond, Bid Form).
 - c. Certificates (Compliance with Personnel Practices, Good Standing to Conduct Business in Kansas, Insurance).
 - d. Federal Funds Project Documents (if applicable) (Standard General Conditions Division 100, General Specifications Division 200, Required Contract Specifications, General Wage Decision).
 - e. Submittals.

11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.

- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

- C. There are no Contract Documents other than those listed above in this Article 9.

- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Owner and Contractor each represent that they are duly authorized to enter into the Contract, and binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor in the Supplementary Conditions.

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IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

OWNER:

City of Olathe, Kansas

By: _____

Title: Mayor

Attest: _____

Title: _____

Address for giving notices:

P.O. Box 768
Olathe, KS 66051-0768

CONTRACTOR:

Howden USA Company

By: Jim Trace

Title: Environmental Sales Manager

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Title: _____

Address for giving notices:

2475 George Urban Blvd

Depew, NW 14043

Contractor's Phone Number

License No.: _____

(where applicable)

Agent for service of process:

If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Approved as to form:

City Attorney/Deputy City Attorney/
Assistant City Attorney

**CITY OF OLATHE, KANSAS
PERFORMANCE & MAINTENANCE BOND**

_____, as surety (“Surety”), and _____, as principal (“Contractor”), enter into and execute this Bond (“Performance Bond”), and bind themselves in favor of the City of Olathe, Kansas as obligee (“Owner”), in the initial amount of \$_____, which amount is one hundred percent (100%) of the Contract Sum, or such greater amount as the Contract Sum may be adjusted from time to time in accordance with the Contract between the Contractor and Owner, (the “Penal Sum”).

WHEREAS, the Contractor has executed a contract with the Owner dated _____ under City Project No. _____ to timely and fully provide all labor, tools, equipment and materials or supplies in conformance with generally accepted standards for quality, skill and construction of similar projects in a workmanlike manner, as designated, described and required by the Instruction to Bidders, Bid Proposal, the Contract Documents, General and Technical or Special Specifications of the Contract, Plans, and any Written Addendum’s or Change Orders, (hereinafter collectively referred to as the “Contract”), as may be necessary to ensure the timely completion of the _____ Project in the City of Olathe, Johnson County, Kansas (the “Project”);

WHEREAS, the Owner has required the Contractor to furnish this Performance and Maintenance Bond as a condition to executing the Contract with the Contractor, and has further required the Contractor to guarantee and maintain the Project work in accordance with the Contract for a period of two (2) years from the date of final payment.

It is agreed if the Contractor shall in all particulars promptly and faithfully perform each and every covenant, condition, and part of the Contract, according to the true intent and meaning in each case, and the Project improvements shall be constructed in accordance with the Contract so as to endure without defect and need of repair for a period of two (2) years from the date of final payment, then this obligation shall be and become null and void; otherwise it shall remain in full force and effect.

The Surety and the Contractor, both jointly and severally, and for themselves, their heirs, administrators, executors, successors and assigns agree:

- 1) The Contract is incorporated by reference and made a part of this Bond. The Surety and the Contractor are bound for the full performance of the Contract including without exception all of the Contract Documents as designated, defined and described in the Contract, and in accordance with the Olathe Technical Specifications and Design Criteria Manual) and all terms and conditions, both express and implied.
- 2) If the Owner shall provide to Surety the written notice of the Owner stating that the Contractor is in breach or default of the Contract, and that such breach or default remains uncured by the Contractor, then upon delivery of such notice to the Surety in the method for providing notices as set forth in Paragraph 7 below, Surety must promptly notify the Owner in writing which action it will take as permitted in Paragraph 3.

- 3) Upon the delivery of the Owner's written notice of breach or default by the Contractor as provided in Paragraph 2 above, the Surety may promptly remedy the breach or default or must, within ten (10) days, proceed to take one of the following courses of action:
- a. **Proceed Itself.** Complete performance of the Contract including correction of defective and nonconforming Work through its own contractors or employees, approved as being acceptable to the Owner, in the Owner's sole discretion, provided, however, that Contractor will not be retained, and provided further that Owner's discretion to approve Surety's contractor will not be unreasonably withheld as to any contractor who would have qualified to offer a proposal on the Contract and is not affiliated with the Contractor. During this performance by the Surety the Owner will pay the Surety from its own funds only those sums as would have been due and payable to the Contractor under the Contract as and when they would have been due and payable to the Contractor in the absence of the breach or default not to exceed the amount of the remaining Contract balance less any sums due the Owner under the Contract. During this performance Surety's payment and performance bond must remain in full force and effect; or
 - b. **Tender a completing contractor acceptable to Owner.** Tender a contractor, approved as being acceptable to the Owner (in the Owner's sole discretion), together with a contract for fulfillment and completion of the Contract executed by the completing contractor, to the Owner for the Owner's execution. Owner's discretion to approve Surety's completing contractor will not be unreasonably withheld as to any contractor who would have qualified to offer a proposal on the Contract and is not affiliated (as defined in the General Conditions of Contract) with the Contractor. Owner's discretion to approve Contractor as the completing contractor, however, shall be in Owner's sole subjective discretion. Upon execution by the Owner of the contract for fulfillment and completion of the Contract, the completing contractor must furnish to the Owner a performance and maintenance bond and a separate statutory payment bond, each in the form of those bonds previously furnished to the Owner for the Project by the Contractor. Each such bond must be in the Penal Sum of the full cost to complete the Contract. The Owner will pay the completing contractor from its own funds only those sums as would have been due and payable to the Contractor under the Contract as and when they would have been due and payable to the Contractor in the absence of the breach or default not to exceed the amount of the remaining Contract balance less any sums due the Owner under the Contract. To the extent that the Owner is obligated to pay the completing contractor sums which would not have then been due and payable to the Contractor under the Contract (any sums in excess of the then remaining Contract balance less any sums due the Owner under the Contract), the Surety must pay to the Owner the full amount of those sums at the time the completing Contractor is tendered to the Owner so that the Owner can utilize those sums in making timely payment to the completing contractor; or
 - c. **Tender the Full Penal Sum.** Tender to the Owner the full Penal Sum of the surety bond. The Owner will refund to the Surety without interest any unused portion not spent by the Owner procuring and paying a completing contractor or completing the construction contract itself, plus the cost allowed under Section 4, after completion of the contract

for fulfillment and completion of the Contract and the expiration of any applicable warranties; or

- d. **Other Acts.** Take any other acts mutually agreed upon in writing by the Owner and the Surety.
- e. **IT SHALL BE NO DEFENSE TO SURETY'S OBLIGATION TO UNDERTAKE ONE OF THE PRECEDING COURSES OF ACTION THAT THE CONTRACTOR CONTENDS THAT IT IS NOT IN BREACH OR DEFAULT OF THE CONTRACT, OR THAT THE NOTICE OF BREACH OR DEFAULT WAS DEFECTIVE, OR THAT THE CONTRACTOR HAS RAISED ANY OTHER CLAIM OF DEFENSE OR OFFSET, PROVIDED ONLY THAT SURETY HAS RECEIVED THE WRITTEN NOTICE OF THE OWNER AS SPECIFIED IN PARAGRAPH 2.**

- 4) In addition to those duties set forth herein above, the Surety must promptly pay the Owner (i) all losses, costs and expenses resulting from the Contractor's breach(es) or default(s), including, without limitation, fees, expenses and costs for architects, engineers, consultants, testing, surveying and attorneys, plus (ii) liquidated or actual damages, whichever may be provided for in the contract, for lost use of the Project, plus (iii) re-procurement costs and fees and expenses, plus (iv) costs incurred at the direction, request, or as a result of the acts or omissions of the Surety; provided that in no event shall Surety's liability exceed the Penal Sum of this Bond.
- 5) The Surety waives notice of any Modifications to the Contract, including changes in the Contract Time, the Contract Sum, the amount of liquidated damages, or the Work to be performed. The parties expressly agree that this Bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the Contract Sum more than 25 percent (25%), so as to bind the Contractor and the Surety to the full and faithful performance of the Agreement so amended. The term "*amendment*" or "*modification*" wherever used in this Bond, and whether referring to this Bond or the Contract, shall include any alteration, addition, extension, or modification of any character whatsoever.
- 6) The Surety provides this Performance and Maintenance Bond for the sole and exclusive benefit of the Owner and, if applicable, any dual obligee designated by attached rider, together with their heirs, administrators, executors, successors, and assigns. No other party, person or entity has any rights against the Surety.
- 7) All notices to the Surety, the Contractor or the Owner must be given by Certified Mail, Return Receipt Requested, to the address set forth for each party below:

SURETY

Name: _____
Attention: _____
Street: _____
City, State, _____
ZIP: _____

CONTRACTOR

Name: _____
Attention: _____
Street: _____
City, State,
ZIP: _____

OWNER

City of Olathe, Kansas
Attn: Sabrina Parker, Project Manager
P.O. Box 768
Olathe, KS 66051-0768

with a copy to:

City Attorney's Office
P.O. Box 768
Olathe, KS 66051-0768

- 8) The recitals contained in this Performance and Maintenance Bond are incorporated by reference herein and are expressly made part of this Performance and Maintenance Bond.
- 9) This Performance and Maintenance Bond shall be governed by, and construed in accordance with, the laws of the State of Kansas without regard to its conflict of laws provisions.
- 10) In the event any legal action shall be filed upon this Performance and Maintenance Bond, venue shall lie exclusively in the District Court of Johnson County, Kansas.

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IN TESTIMONY WHEREOF, said Contractor has hereunto set his/her hand, and said Surety has caused these presents to be executed in its name; and its corporate seal to be hereunto affixed by its attorney-in-fact duly authorized thereunto so to do at

_____ ,

on this, the _____ day of _____, 20__.

Contractor

Surety

(Typed Firm Name)

(Typed Firm Name)

(Seal)

(Seal)

By:

By:

(Signature)

(Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

(Address)

(Address)

(Phone Number)

(Phone Number)

(Date of Execution)

(Date of Execution)

(Accompany this bond with Attorney-in-Fact's authority from the Surety Company certified to include the date of the bond.)

STAFF NOTES:

1. Date of bond must not be prior to date of contract.
2. If Contractor is partnership, all partners should execute bond.
3. Surety companies executing bonds must appear on the Treasury Departments most current list (Circular 570 as amended) and be authorized to transact business in the state of Kansas.
4. Accompany this bond with Attorney-in-Facts Authority from the surety company certified to include the date of the bond.

**CITY OF OLATHE, KANSAS
STATUTORY BOND**

_____, a _____, organized under the laws of the state of _____, and authorized to do business in the state of Kansas, as surety (“Surety”), and _____, as principal (“Contractor”), enter into and execute this Bond (“Statutory Bond”), and bind themselves unto the City of Olathe, Kansas and any Beneficiary of this Statutory Bond, in the initial amount of \$_____, which amount is one hundred percent (100%) of the Contract Sum, or such greater amount as the Contract Sum may be adjusted from time to time in accordance with the Contract between the Contractor and the City of Olathe as Owner, (the “Penal Sum”).

WHEREAS, the Contractor has executed a contract with the Owner dated _____ under City Project No. _____ to timely and fully provide all labor, tools, equipment and materials or supplies in conformance with generally accepted standards for quality, skill and construction of similar projects, in a workmanlike manner, designated, described and required by the Instruction to Bidders, Bid Proposal, the Contract, General and Technical or Special Specifications of the Contract, and any Written Addendum’s or Change Orders, (the “Contract”), used or consumed in connection with or in or about the _____ Project in the City of Olathe, Johnson County, Kansas (the “Project”);

WHEREAS, the Owner has required the Contractor to guarantee payment of all labor, materials, tools, equipment or supplies furnished pursuant to the Contract for the Project that were used or consumed in connection with or in or about the Project, and all indebtedness incurred for labor furnished, materials, tools, equipment or supplies, used or consumed in connection with or in or about the Project, and

WHEREAS, the Owner has required the Contractor to furnish this Statutory Bond as a condition to awarding and executing the Contract with the Contractor, to guarantee the stated obligations.

NOW THEREFORE, if the Contractor and the subcontractors of the Contractor shall pay all indebtedness incurred for labor furnished, materials, tools, equipment or supplies, used or consumed in connection with or in or about the Project, or the making of the Project improvements described in the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect;

The Surety and the Contractor, both jointly and severally, and for themselves, their heirs, administrators, executors, successors and assigns agree:

- 1) The Contract is incorporated by reference and made a part of this Bond. The Surety and the Contractor are bound for the full performance of the Contract and all of the terms and conditions, both express and implied, and, without limitation, specifically including the Contractor’s obligation to pay all indebtedness incurred for labor furnished, materials, tools, equipment or supplies, used or consumed in connection with or in or about the Project.

- 2) For purposes of this Statutory Bond, “Beneficiary” is defined as any person or entity to whom there is due any sum for labor, materials, tools, equipment or supplies furnished pursuant to the Contract for the Project that were used or consumed in connection with or in or about the Project, or whom otherwise incurred indebtedness for labor furnished, materials, tools, equipment or supplies, used or consumed in connection with or in or about the Project, and any such person or entity’s assigns.

- 3) In no event is the Surety obligated hereunder for sums in excess of the Contract Sum or such greater amount as the Contract Sum may be adjusted from time to time in accordance with the Contract between the Contractor and Owner.
- 4) Upon receipt of a claim from a Beneficiary hereunder, the Surety must promptly, and in no event later than thirty (30) days after receipt of such claim, respond to such claim in writing (furnishing a copy of such response to the Owner) by:
 - a. making payment of all sums not in dispute; and
 - b. stating the basis for disputing any sums not paid.
- 5) The Surety waives notice of any Modifications to the Contract, including changes in the Contract Time, the Contract Sum, the amount of liquidated damages, or the Work to be performed in connection with the Project. The parties expressly agree that this Bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the Contract Sum more than 25 percent (25%), so as to bind the Contractor and the Surety to the full and faithful performance of the Contract so amended. The term "*amendment*" or "*modification*" wherever used in this Bond, and whether referring to this Bond or the Contract, shall include any alteration, addition, extension, or modification of any character whatsoever.
- 6) METHOD OF NOTICE. All notices to the Surety, the Contractor or the Owner must be given by Certified Mail, Return Receipt Requested, to the address set forth for each party below:

SURETY

Name: _____
 Attention: _____
 Street: _____
 City, State, _____
 ZIP: _____

CONTRACTOR

Name: _____
 Attention: _____
 Street: _____
 City, State, _____
 ZIP: _____

OWNER

City of Olathe, Kansas
 Attn: Sabrina Parker, Project Manager
 P.O. Box 768
 Olathe, Kansas 66051-0768

with a copy to:

City Attorney's Office
P.O. Box 768
Olathe, KS 66051-0768

- 7) The recitals contained in this Statutory Bond are expressly made part of this Statutory Bond.
- 8) This Statutory Bond shall be governed by, and construed in accordance with, the laws of the State of Kansas without regard to its conflict of laws provisions.
- 9) In the event any legal action shall be filed upon this Statutory Bond, venue shall lie exclusively in the District Court of Johnson County, Kansas.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN TESTIMONY WHEREOF, said Contractor has hereunto set his/her hand, and said Surety has caused these presents to be executed in its name; and its corporate seal to be hereunto affixed by its attorney-in-fact duly authorized thereunto so to do at

_____ ,

on this, the _____ day of _____, 20__.

Contractor

Surety

(Typed Firm Name)

(Typed Firm Name)

(Seal)

(Seal)

By:

By:

(Signature)

(Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

(Address)

(Address)

(Phone Number)

(Phone Number)

(Date of Execution)

(Date of Execution)

NONCOLLUSIVE AFFIDAVIT OF PRIME BIDDER

STATE OF New York.

COUNTY OF Erie)

Matt Mosier , being first duly sworn, deposes and states that:

(1) He/she is representative (owner, partner, officer, representative or agent) of Howden USA Company, (company) the bidder having submitted the attached bid:

(2) He/she is fully informed of the contents of the attached bid and of all the circumstances surrounding the preparation of such bid;

(3) Such bid is genuine and is not a collusive or sham bid;

(4) Neither the said bidder nor any of its officers, partners, owners, representatives, employees, or parties interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other bidder, firm, or person to:

(a) submit a collusive or sham bid in connection with the contract for which the attached bid has been submitted;

(b) refrain from bidding in connection with such contract;

(c) fix the price or prices in the attached bid, or the price or prices of any other bidder;

(d) fix any overhead, profit, or cost element of the bid price, or the bid prices of any other bid;

(e) secure an unlawful advantage against the City of Olathe, Kansas, or any person interested in the proposed contract.

(5) The price or prices quoted in the attached bid are fair and proper and not tainted by collusion, conspiracy, connivance, or unlawful agreement on the part of the bidder or any of its agents, representatives, owners, employees, or parties interest, including this affiant.

Matt Mosier

By Matt Mosier

Title Sales Manager

Subscribed to and sworn to before me, the undersigned, a Notary Public, this 24th day of January, 2024.

(Seal)

LYNN M. DOLEGALA
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01DO4915871
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES FEB. 28, 2026

Lynn M. Dolegala
Notary Public

My Commission Expires: FEB. 28, 2026

(Accompany this bond with Attorney-in-Fact's authority from the Surety Company certified to include the date of the bond.)

STAFF NOTES:

1. A Statutory Bond is required only in connection with a Contract exceeding One Hundred Thousand dollars (\$100,000.00) in accordance with K.S.A. 60-1111 as amended.
2. **Contractor** shall be responsible for ensuring this Statutory Bond is filed with the Clerk of the District Court for Johnson County, Kansas.
3. Date on bond must not be prior to date of contract.
4. If Contractor is partnership, all partners should execute bond.
5. Surety companies executing bonds must appear on the Treasury Departments most current list (Circular 570 as amended) and be authorized to transact business in the state of Kansas.
6. Accompany this bond with Attorney-in-Facts Authority from the surety company certified to include the date of the bond.

APPOINTMENT OF PROCESS AGENT

KNOW ALL MEN BY THESE PRESENTS:

That pursuant to K.S.A. 16-113, as amended, _____ (“Contractor”) does hereby appoint and designate _____, a resident of the State of Kansas, as and for their process agent, and hereby consents, without power of revocation, that actions may be commenced against said Contractor in any court of competent jurisdiction in Johnson County, Kansas, which might arise out of a contractual relationship with the State of Kansas or any political or taxing subdivision or unit thereof by service of process on said Contractor, and said Contractor stipulates and agrees that such service shall be taken and held in all courts to be as valid and binding as if service of process had been made upon the President or any other chief official of said corporation.

IN WITNESS WHEREOF the above named Contractor has caused these presents to be executed by its president and its secretary, and authenticated by its corporate seal at _____, in said State of _____, this _____ day of _____, 20____.

CORPORATE NAME _____

By _____

President _____

SEAL

ATTEST:

Secretary

Aftermarket Proposal



From: Jessica Forbus
Direct Tel: 417-380-5756
Email: Jessica.Forbus@howden.com
Your Sales Contact: Matthew Mosier - matt.mosier@howden.com

Web: www.howden.com

To: Floyd Koder **Date:** 08/25/2023
Company: Cedar Creek WWTP - Olathe, KS **Page No:** Page 1 of 7
Ref: Cedar Creek WWTP - Olathe, KS
Quote No: HUSANS.D.AFM.012888/A
Regarding: QUO S439 Cedar Creek LCP and MCP Upgrades

Thank you for your enquiry submitted to Howden Aftermarket.

We are happy to present below quotation for Howden Retrofit Solution, based upon your requirements for improved ratings of your equipment:

Howden COVID disclaimer:

Any delays or additional cost, including but not limited to COVID site specific requirements, testing, travel circumstances, or delays caused by overall Supply Chain challenges, are not included.

Additional charges related to Service & Supervision will be invoiced at the rates indicated on the rate sheet.

!!! Please carefully review PAYMENT & DELIVERY TERMS that apply to this proposal.

As we look forward to receiving and shipping your order, agreement on terms is important to secure quick and timely processing of your order.

| Line | Part No. | Product Description | Delivery time | Qty | Unit Price USD | Total Item USD |
|------|----------|---------------------|---------------|------|----------------|----------------|
| 1 | Spec | LCPs (3) upgrades | 32 Week(s) | 3.00 | 30,900.00 | 92,700.00 |

Howden is pleased to offer the following budget proposal for upgrading the blower control systems on the Howden (Turblex) compressors installed at Cedar Creek WWTP (Model KA5-SV-GK200, S/N: 8666-68). Howden recommends upgrading the Local Control Panels (LCP) and Master Control Panel (MCP) to our latest control standards for continued blower operation performance.

This budget proposal is based on the panel wiring diagrams from the original project (5681T) performed by Howden. This proposal assumes all other instruments and process equipment integrated with the control panels are in good operating condition.

For firm quotations, please provide pictures of the inside & outside of the panel enclosure, and a picture of the operational transmitter display located on the HMI.

Please notify Howden of any past or future changes that may have occurred regarding electrical components, process changes, system upgrades, etc...

We look forward to our continued relationship and are pleased to offer this quotation for your consideration.

Control Upgrades to the Local Control Panels (LCP):

Programmable Logic Controller (PLC):

Quantity (3) upgrading existing Allen-Bradley SLC 5/05 PLC to Allen-Bradley CompactLogix PLC includes digital and analog I/O, RTD cards as required, power supplies and circuit breakers as required, wiring as required and latest PLC functionality including Stand-by/Ready for start conditions, start sequence, variable diffuser remote/local operation, PRC-4 vane control algorithm, stop sequence, alarm and shutdowns, drive motor high current warning/alarm operation, restart blocking, auxiliary oil Pump operation if equipped, "Normal Mode," "Service Mode" or "Test Mode" control modes, automatic vane exercise, loss of signal for analog signals, loss of signal for digital signals and alarm history with date-time stamp.

Human-Machine Interface (HMI):

Quantity (3) upgrading existing Allen Bradley PanelView Plus 1250 to Allen Bradley 10.4" PanelVIEW Plus 7 (please note this is not an equal to current outdoor HMIs) includes adapter plate as required and latest Howden graphics and control screens (actual screens may vary based on individual plant process) including operation screen display, compressor transmitter display, motor transmitter display, compressor device display, ancillary devices display, Alarm/Trip display, alarm history display and configuration display.

Communications available protocol will be Ethernet based on PLC system.

Software Factory Testing is included and performed prior to shipping

Documentation includes updated electrical diagrams included for installation and O&M records, controls philosophy and updated O&M component cutsheets and complete reference tag database.

Engineering Documents for customer information will be in 10-12 weeks after acceptance of the order by Howden. Estimated shipment will be 26-32 weeks (subject to material availability) after receipt of release of engineering documents by Howden.

Additional Considerations:

Any significant wear or abnormalities identified requiring parts shall be billed. Howden will provide an estimate of additional materials required.

Electrical connections between Howden's equipment and the main power source is not included.

Communication cable to be provided and installed by the customer.

Main power supply is required by customer.

Wiring between existing skid components and skid-mounted control panel is provided by Howden.

Rewiring, if required, between remote components and/or remote control panel is provided by the customer.

Items Not Included: taxes or bonds, special programming, mapping to DCS, disposal of old components, communication cable, hardware (fittings, bolts, nuts, gaskets), additional wiring, field service and any other items not specifically listed above

| | | | | | | |
|---|------|--------------|------------|------|-----------|-----------|
| 2 | Spec | MCP Upgrades | 32 Week(s) | 1.00 | 53,382.00 | 53,382.00 |
|---|------|--------------|------------|------|-----------|-----------|

| | | | | | | |
|---|--|---|--|--|--|-----------|
| 3 | | HOWDEN TO INSTALL PANEL UPGRADE ON (3) LCP AND (1) MCP FROM SLC 5/05 TO CONTROLLOGIX FOR (3) KA5SV-GK200 BLOWERS SN 8666-8668 | | | | 50,050.00 |
|---|--|---|--|--|--|-----------|

| | | | | | | |
|---|--|-------|--|--|--|----------|
| 4 | | BONDS | | | | 4,903.30 |
|---|--|-------|--|--|--|----------|

Control Upgrades to the Master Control Panel (MCP):

Programmable Logic Controller (PLC):

Quantity (1) upgrading existing Allen Bradley SLC 5/05 PLC to Allen Bradley CompactLogix PLC includes digital and analog I/O cards as required, power supplies and circuit breakers as required, wiring as required, Edge Gateway compatible with Howden Uptime, Basin tuning service required (not included) and latest PLC functionality based on individual plant process.

Human Machine Interface (HMI):

Quantity (1) upgrading existing Allen Bradley PanelView Plus 1250 to Allen Bradley 10.4" PanelVIEW Plus 7 (please note this is not an equal to current outdoor HMIs) includes adapter plate as required and latest Howden graphics and control screens (actual screens may vary based on individual plant) including process overview display, zone tuning display, blower operations display, blower timing display, MOV configuration flow display, MOV configuration pressure display, header blow-off valve display if applicable and signal fault detection display.

Communications available protocol will be Ethernet based on PLC system.

Remote Monitoring with Howden Uptime:

Quantity (1) edge gateway devices for Howden Uptime connectivity includes remote user onboarding and training, Uptime Basic subscription for one year, including: high resolution data capture, cloud aggregation and storage, Cloud-based real-time monitoring and trending dashboards, advanced anomaly detection with configurable real-time email alerts and expert equipment health and recommendation reports.

Documentation includes electrical diagrams included for installation and O&M references, controls philosophy and updated O&M cutsheets and complete reference tag database.

Software Factory Testing is included and performed prior to shipping.

Engineering Documents for customer information will be in 10-12 weeks after acceptance of the order by Howden. Estimated shipment will be 26-32 weeks (subject to material availability) after receipt of release of engineering documents by Howden.

Additional Considerations:

All downstream process control instrumentation will need to be in working order before arrival such that Howden can verify effective and stable process control with the Master Control Panel.

Any significant wear or abnormalities identified requiring parts shall be billed. Howden will provide an estimate of additional materials required.

Electrical connections between Howden's equipment and the main power source is not included.

Communication cable to be provided and installed by the customer.

Main power supply is required by customer.

Wiring between existing skid components and skid-mounted control panel is provided by Howden.

Rewiring, if required, between remote components and/or remote control panel is provided by

the customer.

Items Not Included: taxes or bonds, special programming, mapping to DCS, disposal of old components, communication cable, hardware (fittings, bolts, nuts, gaskets), additional wiring, field service and any other items not specifically listed above

| | |
|--------------|------------|
| Total | 201,035.30 |
|--------------|------------|

Any estimates of delivery dates are based on our current backlog of orders and may therefore differ from the achievable delivery dates at the time of the actual order being placed.

Howden will seek to consolidate shipments as much as possible.

We ask that you clearly state on your Purchase order, if and when partial delivery is desired.

Price and estimated delivery schedule is based upon material price and availability and factory loading at the time of the proposal, and may be subject to adjustment at the time of order placement and acknowledgement.

For any Service & Supervision offered, an estimation was calculated using current rate sheet as a guide. Cost is approximate and a final invoiced amount will present actual cost based on actual hours as required/requested by site personnel.

Typically, our service advisors will travel with diagnostic equipment only and will advise a mechanic/millwright with tools.

Howden standard inspection, packaging and documentation apply to content of this proposal, unless specified above. Additional requirements will be quoted upon request.

For Service & Supervision – additional Labor charge may apply to base rate, overtime rate and double time rate depending on actual hours on workday(s), weekend(s) and Howden locally observed holiday(s).

Howden will supply equipment from Howden workshops/manufacturing sites and via Howden Supply chain approved suppliers sourced worldwide, optimized to give our customers the best value option.

Non Inventory parts are non returnable; returned inventory parts are subject to restocking fee, and will not be accepted without agreement with Howden.

In the event an account has an overdue balance with Howden, Howden reserves the right to hold shipment until payments are received, and the account is current.

Terms and Conditions: This offer is made expressly subject to and conditioned upon acceptance of Seller's Standard Terms for Sale of Goods (available at: www.Howden.Com/Terms). Unless otherwise negotiated and agreed to by Seller in writing, no other terms shall apply regardless of any statement on Buyer's documents to the contrary.

Purchase Order Submission:

A purchase order or a letter of acceptance is required as written notification of acceptance of this Proposal. Please ensure that your purchase order clearly states the Proposal number and is issued to:

Howden USA Company

Emailed to: Orderdesk.USA@Howden.com

Howden minimum order value is \$500.

For any failure to pick up or direct shipment of goods within 10 Business days after written notice of availability, Howden will invoice a storage fee of \$500 per week for the duration of the storage.

For Prepay and Charge Orders, there will be a 10% charge of the net selling price applied to the order to cover the standard transportation and handling expenses to the first North American or Canadian destination.

This will be added as a separate item or an invoice will be issued separately to the Buyer. This does not apply to overseas or expedited shipments. In addition, any expenses incurred by Seller because of special delivery arrangements requested by Buyer shall be billed to Buyer. Howden does not provide copies of freight invoices.

For Credit Card Payments a 2% surcharge will be added onto orders over \$3,000 when a credit card is the method of payment. The order value, including the surcharge, will be payable at the time of order placement and shall not be accepted at any point hereafter. Please note that your purchase order is still required as part of the new policy.

Delivery Terms: INCOTERMS 2020
EX Works - Origin

Seller is responsible for having the goods packed and made available at the Sellers's premises. The Buyer bears the full risk and cost from there to the destination, including the loading of the cargo.

Payment Terms: Progress Billing milestones are:

30% upon receipt of order
30% upon halfway of delivery
40% at readiness to ship
made payable 30 Days Net.

Warranty: Twelve (12) months from installation or eighteen (18) months after date of shipment, which ever occurs first.

Price Validity: This proposal expires in 30 days

General: This Proposal and acceptance of any Purchase Order is subject to credit approval from Coface. Pricing does not include Federal, State or Export taxes or duties.

In order to schedule a Service or Supervision to your site, your acknowledgement requesting the dispatch of a Service or Supervision technician and a copy of an approved purchase order is required.

Please note that in case the Steel Price Index changes more than +/- 3% from the time of the proposal to the time of receiving the Purchase Order from Buyer, Howden reserves the right to adjust the price accordingly.

Upon submittal of orders to Howden, Buyer acknowledges its name will be added to a confidential list of customers that purchased Howden product(s), and agrees that from time to time, Seller, in its discretion, may provide its name as a reference for these products to new customers or to contractors to demonstrate where these products have been sold.

Howden is ISO 9001:2015 Certified.

Regards,

Jessica Forbus

Howden Aftermarket



See how Howden can help you minimise unplanned downtime and maximise efficiencies in your equipment through our Uptime solution.

Tap into remote assistance:

Augmented Reality live annotation technology with real-time communications to connect remote product experts to on-site field technicians.

Get Remote Support 

From: Calvin Kelly
Direct Tel: +14173805699
Email: Calvin.Kelly@howden.com
Your Sales Contact: Matthew Mosier - matt.mosier@howden.com

| | | | |
|-------------------|---|-----------------|-------------|
| To: | | Date: | 08/25/2023 |
| Company: | | Page No: | Page 1 of 4 |
| Ref: | Cedar Creek WWTP - Olathe, KS | | |
| Quote No: | HUSAJYM.AFM.001526/A | | |
| Regarding: | SITE 439 CEDAR CREEK WWTP OLATHE KS KA5SV-GK200 8666-8668 | | |

Thank you for your enquiry submitted to Howden Aftermarket.
 We are happy to present below quotation for Howden Service & Supervision:

!!! Please carefully review PAYMENT & DELIVERY TERMS that apply to this proposal
 As we look forward to receiving and shipping your order, agreement on terms is important to secure quick and timely processing of your order.

| Line | Part No. | Product Description | Delivery time | Qty | Unit Price USD | Total Item USD |
|------|----------|---|---------------|------|----------------|----------------|
| 1 | | HOWDEN TO PREFORM PANEL UPGRADE ON (3) LCP AND (1) MCP FROM SLC 5/05 TO CONTROLLOGIX FOR (3) KA5SV-GK200 BLOWERS SN 8666-8668 | 0 Day(s) | 1.00 | 50,050.00 | 50,050.00 |

Quote Contains Estimated Time, Expenses & Toolbox Fee for above Services

NOTE: This quote is based on technician working 10 hrs. MON-FRI and 8 hrs. Sat. If your site schedule differs from these hrs, additional expenses WILL occur. please contact Calvin Kelly @ 417-380-5699 Or Calvin.Kelly@Howden.com asap if your site does not work 10 hrs. MON-FRI and 8 hrs. Sat. Site internal delays will also be billed per rate sheet.

(2) 10-hour Travel Days
(14) 10-hour Work Day(s) (Mon-Fri)
(2) 8-hour Work Day(s) (Sat)
(2 8-hour Standby Day(s) (Sun)

Contact:
Floyd Koder
913-971-5142
fkoder@olatheks.org

Total 50,050.00

Any estimates of delivery dates are based on our current backlog of orders and may therefore differ from the achievable delivery dates at the time of the actual order being placed. Howden will seek to consolidate shipments as much as possible.

We ask that you clearly state on your Purchase order, if and when partial delivery is desired.

Price and estimated delivery schedule is based upon material price and availability and factory loading at the time of the proposal, and may be subject to adjustment at the time of order placement and acknowledgement.

For any Service & Supervision offered, an estimation was calculated using current rate sheet as a guide. Cost is approximate and a final invoiced amount will present actual cost based on actual hours as required/requested by site personnel.

Typically, our service advisors will travel with diagnostic equipment only and will advise a mechanic/millwright with tools.

Howden standard inspection, packaging and documentation apply to content of this proposal, unless specified above. Additional requirements will be quoted upon request.

For Service & Supervision – additional Labor charge may apply to base rate, overtime rate and double time rate depending on actual hours on workday(s), weekend(s) and Howden locally observed holiday(s).

Howden will supply equipment from Howden workshops/manufacturing sites and via Howden Supply chain approved suppliers sourced worldwide, optimized to give our customers the best value option.

Non Inventory parts are non returnable; returned inventory parts are subject to restocking fee, and will not be accepted without agreement with Howden.

In the event an account has an overdue balance with Howden, Howden reserves the right to hold shipment until payer are received, and the account is current.

Terms and Conditions: This offer is made expressly subject to and conditioned upon acceptance of Seller's Standard Terms for Sale of Goods (available at: www.Howden.Com/Terms). Unless otherwise negotiated and agreed to by Seller in writing, no other terms shall apply regardless of any statement on Buyer's documents to the contrary.

Purchase Order Submission:

A purchase order or a letter of acceptance is required as written notification of acceptance of this Proposal. Please ensure that your purchase order clearly states the Proposal number and is issued to:

Howden USA Company

Emailed to: Orderdesk.USA@Howden.com

Howden minimum order value is \$500.

For any failure to pick up or direct shipment of goods within 10 Business days after written notice of availability, Howden will invoice a storage fee of \$500 per week for the duration of the storage.

For Prepay and Charge Orders, there will be a 10% charge of the net selling price applied to the order to cover the standard transportation and handling expenses to the first North American or Canadian destination.

This will be added as a separate item or an invoice will be issued separately to the Buyer. This does not apply to overseas or expedited shipments. In addition, any expenses incurred by Seller because of special delivery arrangements requested by Buyer shall be billed to Buyer. Howden does

not provide copies of freight invoices.

For Credit Card Payments a 2% surcharge will be added onto orders over \$3,000 when a credit card is the method of payment. The order value, including the surcharge, will be payable at the time of order placement and shall not be accepted at any point hereafter. Please note that your purchase order is still required as part of the new policy.

Delivery Terms:

INCOTERMS 2020
EX Works - Origin

Seller is responsible for having the goods packed and made available at the Sellers's premises. The Buyer bears the full risk and cost from there to the destination, including the loading of the cargo.

Payment Terms:

Payment Terms are Net 30 days from invoice date: Invoice will be issued for the full amount upon receipt of Order.

Warranty:

Twelve (12) months from installation or eighteen (18) months after date of shipment, whichever ever occurs first.

Price Validity:

This proposal expires in 15 days

General:

This Proposal and acceptance of any Purchase Order is subject to credit approval from Coface. Pricing does not include Federal, State or Export taxes or duties.

In order to schedule a Service or Supervision to your site, your acknowledgement requesting the dispatch of a Service or Supervision technician and a copy of an approved purchase order is required.

Please note that in case the Steel Price Index changes more than +/- 3% from the time of the proposal to the time of receiving the Purchase Order from Buyer, Howden reserves the right to adjust the price accordingly.

Upon submittal of orders to Howden, Buyer acknowledges its name will be added to a confidential list of customers that purchased Howden product(s), and agrees that from time to time, Seller, in its discretion, may provide its name as a reference for these products to new customers or to contractors to demonstrate where these products have been sold.

Howden is ISO 9001:2015 Certified.

Regards,

Calvin Kelly

Howden Aftermarket



See how Howden can help you minimise unplanned downtime and maximise efficiencies in your equipment through our Uptime solution.

Tap into remote assistance:

Augmented Reality live annotation technology with real-time communications to connect remote product experts to on-site field technicians.

Get Remote Support 

CITY OF OLATHE
AMERICAN RESCUE PLAN ACT (ARPA) CONTRACT ADDENDUM

In accordance with laws, regulations, and provisions related to the use of the funds received under the federal American Rescue Plan Act (“ARPA”), Contractor agrees to comply with the applicable provisions of this Addendum. The terms used have the meaning specified in the applicable statute, law, or regulation.

A. Documentation of Compliance and Eligibility, Cooperation with Audits or Reviews, Document Retention, and Other Requirements.

1. Contractor agrees that, upon City request, Contractor will document compliance with any terms and conditions set forth by the federal government (including but not limited to the Department of Treasury) related to use of ARPA funds.
2. Contractor agrees that, upon City request, Contractor will report detailed costs and provide supporting documentation to confirm eligibility for ARPA funds.
3. Contractor agrees to cooperate with any local, state, or federal review, audit, or investigation related to this Contract including but not limited to: 1) producing documents and making individuals available for interviews, and 2) allowing access by local, state, or federal agencies to audit the Contractor’s books and records related to ARPA funds.
4. Contractor hereby agrees to maintain records and financial documents related to this Contract for five (5) years after all ARPA funds used for this Contract have been expended, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit, or other inquiry involving the Contract.

B. Assurances of Compliance with Title VI of the Civil Rights Act of 1964, 31 C.F.R. Part 22 (U.S. Department of Treasury Regulations).

1. Contractor and any Subcontractor, or the successor, transferee, or assignee of Contractor or any Subcontractor, shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin, 42 U.S.C. §§ 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 C.F.R. Part 22, which are herein incorporated by reference and made a part of this Contract. Title VI also provides protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S.C. §§ 2000d et seq., as implemented by Treasury’s Title VI regulations, 31 C.F.R. Part 22, and herein incorporated by reference and made a part of this Contract.
2. *Contractor agrees to include the preceding paragraph in all subcontracts under this Contract.*

C. Equal Employment Opportunity, 2 C.F.R. Part 200 Appendix II(C).

If this Contract is a Federally Assisted Construction Contract (as defined in 41 C.F.R. 60-1.3) exceeding \$10,000, during the performance of this Contract, Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
4. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary

of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

7. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The City further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. Provided, that if the City so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract.
9. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and Subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
10. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and Subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the

Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

B. Copeland “Anti-Kickback” Act, 2 C.F.R. Part 200 Appendix II(D).

For Construction Contracts in excess of \$2,000: Contractor and Subcontractors shall comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145; 18 U.S.C. 874) as supplemented by Department of Labor regulations (29 C.F.R. part 3). The Act provides that each Contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

C. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), 2 C.F.R. Part 200 Appendix II(E).

For Contracts in excess of \$100,000 that involve employment of mechanics or laborers: Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each Contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

D. Rights to Inventions Made Under a Contract or Agreement, 2 C.F.R. Part 200 Appendix II(F).

If the Federal award meets the definition of “funding agreement” under 37 C.F.R. 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

E. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), 2 C.F.R. Part 200 Appendix II(G).

For Contracts in excess of \$150,000: Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

F. Debarment and Suspension (Executive Orders 12549 and 12689), 2 C.F.R. Part 200 Appendix II(H) and U.S. Department of Treasury Local Fiscal Recovery Fund Award Terms and Conditions § 9(b)(iv).

Contractor hereby certifies they are not debarred, suspended or otherwise excluded from holding contracts involving federal funds, and is not listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. Part 180 that implement Executive Orders 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

1. Due to its receipt of Fiscal Recovery Funds, City is a participant in a nonprocurement transaction (defined at 2 C.F.R. 180.970) that is a covered transaction pursuant to 2 C.F.R. 180.210 and 31 C.F.R. 19.210. Therefore, this Contract is a lower-Tier covered transaction for purposes of 2 C.F.R. Part 180 and 31 C.F.R. Part 19 if (1) the amount of this Contract is greater than or equal to \$25,000 (2 C.F.R. 180.220(b)(1); 31 C.F.R. 19.220(b)(1)); (2) the Contract requires the consent of an official of the Department of the Treasury (2 C.F.R. 180.220(b)(2); 31 C.F.R. 19.220(b)(2)); or (3) this Contract is for federally required audit services (2 C.F.R. 180.220(b)(3); 31 C.F.R. 19.220(b)(3)).
2. If this Contract is a covered transaction as set forth in the paragraph above, Contractor hereby certifies as of the date hereof that Contractor, Contractor's principals (defined at 2 C.F.R. 180.995), and the affiliates (defined at 2 C.F.R. 180.905) of both Contractor and Contractor's principals are not excluded (defined at 2 C.F.R. 180.935) and are not disqualified (defined at 2 C.F.R. 180.935). If any of the foregoing persons are excluded or disqualified and the Secretary of the Treasury has not granted an exception pursuant to 31 C.F.R. 19.120(a), (1) this Contract shall be void, (2) City shall not make any payments of federal financial assistance to Contractor, and (3) City shall have no obligations to Contractor under this Contract.
3. ***Contractor must comply with 2 C.F.R. Part 180, Subpart C and 31 C.F.R. Part 19 and must include a requirement to comply with these regulations in any lower-Tier covered transaction into which it enters.*** This certification is a material representation of fact relied upon by the City, and all liability arising from an erroneous representation shall be borne solely by Contractor.

4. If it is later determined that Contractor did not comply with 2 C.F.R. Part 180, Subpart C and 31 C.F.R. Part 19, in addition to remedies available to the City, the Government may pursue available remedies, including but not limited to suspension and/or debarment.

G. Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352), 2 C.F.R. Part 200 Appendix II(I).

1. Contractor hereby certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor has disclosed and will disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.
2. *Contractors that bid or apply for a Contract exceeding \$100,000 (including this Contract, if applicable) must file with the City the attached certification form, and must also cause any Subcontractor (at any Tier) exceeding \$100,000 to file with the Tier above it the attached certification (Attachment 1).*
3. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

H. Procurement of Recovered Materials, 2 C.F.R. Part 200 Appendix II(J), 2 C.F.R. 200.323, and 40 C.F.R. Part 247.

1. This section applies if (1) this Contract involves the purchase of an item designated by the Environmental Protection Agency (“EPA”) in 40 C.F.R. Part 247 that exceeds \$10,000 or (2) the total value of such designated items acquired during the City’s preceding fiscal year exceeded \$10,000.
2. In the performance of the Contract, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items, unless the product cannot (1) be acquired competitively within a timeframe providing for compliance with the Contract performance schedule, (2) meet Contract performance requirements, or (3) be acquired at a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available on EPA’s [Comprehensive Procurement Guideline Program website](#). Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

I. Prohibition on certain telecommunications and video surveillance services or equipment, 2 C.F.R. Part 200 Appendix II(K), 2 C.F.R. 200.216, and Public Law 115-232 Section 889.

1. Contractor is prohibited from obligating or expending loan or grant funds to: (a) procure or obtain; (b) extend or renew a contract to procure or obtain; or (c) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
2. As described in Public Law 115–232, section 889, covered telecommunications equipment is: (a) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (b) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); (c) telecommunications or video surveillance services provided by such entities or using such equipment; (d) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

J. Domestic Preferences for Procurements, 2 C.F.R. Part 200 Appendix II(L), 2 C.F.R. 200.322.

1. For the purposes of this Section, the terms below are defined as:
 - a. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - b. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
2. As appropriate and to the extent consistent with law, the Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this Section must be included in all subawards including all contracts and purchase orders for work or products under this award.

K. Other Applicable Federal Statutes, Laws, and Regulations Prohibiting Discrimination.

Contractor agrees to comply with:

1. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
2. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
3. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance;
4. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

L. Other Applicable Federal Statutes, Laws, Regulations and Provisions.

1. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
2. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor is encouraged to adopt and enforce policies that ban text messaging while driving, and Contractor is encouraged to establish workplace safety policies to decrease accidents caused by distracted drivers.
3. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury.”

**ATTACHMENT 1 TO CITY OF OLATHE ARPA CONTRACTUAL ADDENDUM
BYRD ANTI-LOBBYING CERTIFICATION – 31 C.F.R. PART 21**

The undersigned certifies, to the best of the undersigned’s knowledge and belief, that:

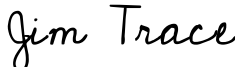
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit [Standard Form - LLL, “Disclosure Form to Report Lobbying,”](#) in accordance with its instructions.
CHECK BOX IF SUBMITTING STANDARD FORM – LLL:

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, Howden USA Company, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



Signature of Contractor’s Authorized Official

Jim Trace, Environmental Sales Manager
Name and Title of Contractor’s Authorized Official

1-30-2024
Date



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Infrastructure (Engineering)

STAFF CONTACT: Mary Jaeger / Nate Baldwin

SUBJECT: Contract with McAnany Construction, Inc. for construction of the 2024 Local and Collector Street Mill and Overlay Project - Group A, PN 3-P-006-24.

TITLE:

Consideration of Engineer’s Estimate, acceptance of bids and award of contract to McAnany Construction, Inc. for construction of the 2024 Local and Collector Street Mill and Overlay Project - Group A, PN 3-P-006-24.

SUMMARY:

On February 6, 2024, four (4) bids were received and opened for the above referenced project. The bids ranged from \$3,528,833.56 to \$4,206,123.82 with the Engineer’s Estimate at \$3,747,606.00. McAnany Construction, Inc. submitted the low and responsible bid in the amount of \$3,528,833.56. The following is a tabulation of the bids received:

| | |
|------------------------------------|-----------------|
| McAnany Construction, Inc. | \$ 3,528,833.56 |
| Phoenix Concrete, LLC | \$ 3,541,967.09 |
| Engineer’s Estimate | \$ 3,747,606.00 |
| Freeman Concrete Construction, LLC | \$ 3,754,381.98 |
| Amino Brothers Co., Inc. | \$ 4,206,123.82 |

This Street Preservation project will provide a 2” depth mill and asphalt overlay, spot replacement of concrete curb and sidewalk, installation of ADA sidewalk ramps and replacement of pavement markings on forty-four (44) local and collector streets.

Construction is tentatively scheduled to begin in Spring 2024 and tentatively scheduled to be completed in Fall 2024.

FINANCIAL IMPACT:

This project is funded from the City of Olathe’s 2024 Street Preservation Program. Funding for the 2024 Street Preservation Program, as approved in the 2024-2028 Capital Improvement Plan, includes:

| | |
|-------------------------------------|----------------------|
| CIP Fund (Cash) | \$ 2,800,000 |
| <u>Street Maintenance Sales Tax</u> | <u>\$ 20,160,000</u> |
| Total | \$ 22,960,000 |

ACTION NEEDED:

Approval of Engineer’s Estimate, acceptance of bids and award of contract to McAnany Construction,

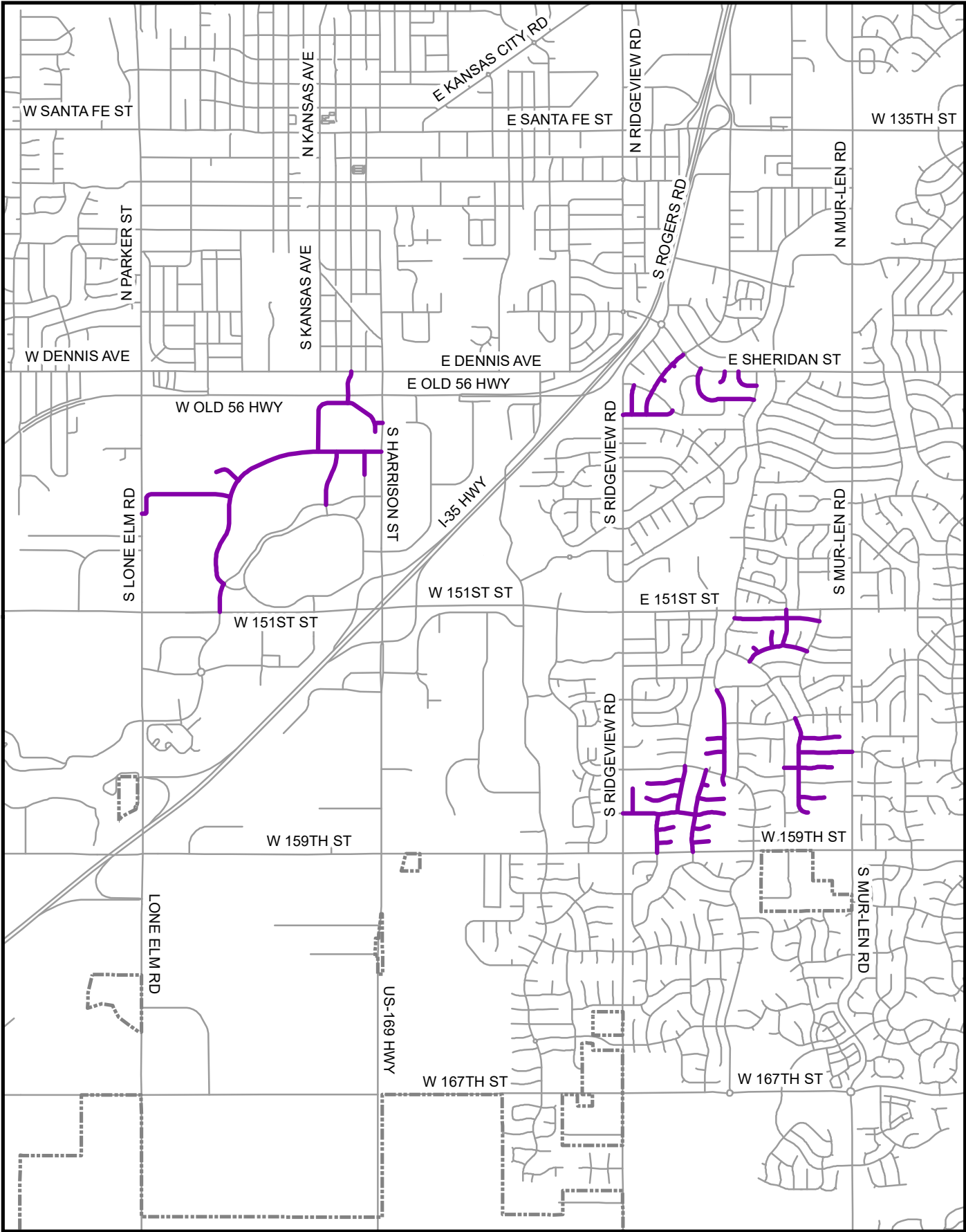
MEETING DATE: 2/20/2024

Inc. for construction of the 2024 Local and Collector Street Mill and Overlay Project - Group A, PN 3-P-006-24.

ATTACHMENT(S):

- A. Project Location Map
- B. Project Fact Sheet
- C. Construction Agreement
- D. Engineer's Estimate and Affidavit of Estimate

2024 Local and Collector Street Mill and Overlay Project - Group A Project Location Map





Project Fact Sheet
2024 Local and Collector Street Mill and
Overlay Project - Group A
PN 3-P-006-24
February 20, 2024

Project Manager: Nate Baldwin / Austin Lamparter

Description: The 2024 Local and Collector Street Mill and Overlay Project - Group A will provide a 2" depth mill and asphalt overlay, spot replacement of concrete curb and sidewalk, installation of ADA sidewalk ramps and replacement of pavement markings on forty-four (44) local and collector streets.

Justification: This Street Preservation project will replace the asphalt surface pavement on streets which have fallen below our target condition index.

| Schedule: | Item | Date |
|---|---------------------|-----------------------|
| Construction: | Bid Award | 02/20/2024 |
| | Completion | Fall 2024 - Estimate |
| Council Actions: | | |
| | Date | Amount |
| Approved in CIP (Street Preservation Program) | 2024-2028 | \$110,600,000 |
| Project Report (2024 Street Preservation Program) | 01/09/2024 | \$22,960,000 |
| Accept Bid/Award Contract | 02/20/2024 | \$3,528,833.56 |
| Funding Sources: | | |
| | Amount | CIP Year |
| 2024 Street Preservation Program | \$4,500,000 | 2024 |
| Expenditures: | | |
| | Budget | Amount to Date |
| Staff | \$ 100,000 | \$ 1,499 |
| Base Repair Asphalt | \$ 800,000 | \$ 0 |
| Construction | \$ 3,529,000 | \$ 0 |
| Other Project Costs | \$ 21,000 | \$ 0 |
| Contingency | \$ 50,000 | \$ 0 |
| Total | \$ 4,500,000 | \$ 1,499 |

BID FORM
P.N. 3-P-006-24
CITY OF OLATHE, KANSAS

The following table is a list of bid items, estimated quantities, and the unit prices submitted by the bidder for the 2024 Local and Collector Street Mill and Overlay Project - Group A, PN 3-P-006-24.

Schedule of Values

| | ITEM | UNITS | APPROX. | UNIT PRICE | | AMOUNT |
|---------------------------------------|--|-------|----------|------------|-------|-----------------------|
| | | | QUANTITY | DOLLARS | CENTS | DOLLARS |
| 1 | Remove and Replace Concrete Curb & Gutter (< 15 LF) | LF | 1,760 | 49 | 42 | \$86,979.20 |
| 2 | Remove and Replace Concrete Curb & Gutter (≥ 15 LF) | LF | 31,102 | 31 | 83 | \$989,976.66 |
| 3 | Remove and Replace 30" Wide Concrete Curb & Gutter | LF | 900 | 46 | 78 | \$42,102.00 |
| 4 | Remove 6" Concrete Driveway (optional as directed by Engineer) | SY | 250 | 30 | 48 | \$7,620.00 |
| 5 | Install 6" Concrete Driveway (optional as directed by Engineer) | SY | 250 | 77 | 93 | \$19,482.50 |
| 6 | Remove 4' Concrete Sidewalk | LF | 3,906 | 13 | 58 | \$53,043.48 |
| 7 | Install 4' Concrete Sidewalk | LF | 2,946 | 31 | 81 | \$93,712.26 |
| 8 | Excavation and Grading for New 5' Concrete Sidewalk | LF | 490 | 15 | 84 | \$7,761.60 |
| 9 | Install 5' Concrete Sidewalk | LF | 490 | 35 | 09 | \$17,194.10 |
| 10 | Install Type I ADA Sidewalk Ramp | EA | 33 | 2,058 | 84 | \$67,941.72 |
| 11 | Install Type II ADA Sidewalk Ramp | EA | 12 | 2,434 | 77 | \$29,217.24 |
| 12 | Install Mid-Block ADA Sidewalk Ramp | EA | 11 | 2,136 | 12 | \$23,497.32 |
| 13 | Remove Monolithic Concrete Radius and Valley Gutter | SY | 469 | 36 | 26 | \$17,005.94 |
| 14 | Install 8" Concrete Street Patch | SY | 342 | 87 | 62 | \$29,966.04 |
| 15 | Full Width Milling 2" Depth | SY | 147,000 | 1 | 99 | \$292,530.00 |
| 16 | 6" Depth Asphalt Crack Repair (optional as directed by Engineer) | SY | 500 | 83 | 73 | \$41,865.00 |
| 17 | 4" Depth Asphalt Base Repair (optional as directed by Engineer) | SY | 2,500 | 55 | 87 | \$139,675.00 |
| 18 | Install 2" BM-2FR Asphaltic Concrete Surface | Tons | 16,776 | 79 | 95 | \$1,341,241.20 |
| 19 | Install 4" Yellow Solid Line Painted Pavement Marking | LF | 7,400 | 0 | 32 | \$2,368.00 |
| 20 | Install 6" White Solid Line Painted Pavement Marking | LF | 1,260 | 0 | 43 | \$541.80 |
| 21 | Install 12" Yellow Solid Line Painted Pavement Marking | LF | 48 | 0 | 65 | \$31.20 |
| 22 | Install 24" White Solid Line Painted Pavement Marking | LF | 42 | 0 | 65 | \$27.30 |
| 23 | Install Arrow Painted Pavement Marking | EA | 11 | 54 | 50 | \$599.50 |
| 24 | Install School Crosswalk Pavement Marking | EA | 1 | 54 | 50 | \$54.50 |
| 25 | Remove and Replace Curb Inlet (optional as directed by Engineer) | EA | 2 | 10,028 | 00 | \$20,056.00 |
| 26 | Remove and Replace Curb Inlet Top (optional as directed by Engineer) | EA | 4 | 3,542 | 50 | \$14,170.00 |
| 27 | Adjust Existing Manhole (optional as directed by Engineer) | EA | 2 | 2,725 | 00 | \$5,450.00 |
| 28 | Adjust Existing Water Valve (optional as directed by Engineer) | EA | 4 | 1,362 | 50 | \$5,450.00 |
| 29 | Install and Remove Street Maintenance Sales Tax Signs | EA | 8 | 81 | 75 | \$654.00 |
| 30 | Concrete Driveway Patch (optional as directed by Engineer) | SF | 300 | 19 | 62 | \$5,886.00 |
| 31 | Sodding (optional as directed by Engineer) | SY | 350 | 21 | 80 | \$7,630.00 |
| 32 | Mobilization | LS | 1 | 92,977 | 00 | \$92,977.00 |
| 33 | Traffic Control | LS | 1 | 22,127 | 00 | \$22,127.00 |
| BID TOTAL: | | | | | | \$3,478,833.56 |
| OWNER'S CONTINGENCY ALLOWANCE: | | | | | | \$50,000.00 |
| GRAND TOTAL: | | | | | | \$3,528,833.56 |

ASPHALT MATERIAL INDEX:

The price included for Asphaltic Concrete Surface will be based on the computed monthly Asphalt Material Index for February 2024, as listed at the following web site, <http://www.ksdot.org/burconsmain/ppreq/asphaltpriceindex.asp>. The bid unit price for Asphaltic Concrete Surface shall be adjusted in subsequent months based on specification number 15-01009, Asphalt Price Adjustment, in the 2015 Edition of Kansas Department of Transportation Special Provisions for the Standard Specification.

The undersigned successfully completed the bid process online at app.negometrix.com and affirms that the schedule of values table above matches the unit prices, line item amounts, and bid total amount submitted electronically.

McMANN CONSTRUCTION, INC.

Contractor

ZACHARY TINCHER

By

PROJECT MANAGER

Title

2/6/2024

Date

913-631-5440

Telephone Number

ZACHARY TINCHER

Contact Person

AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is dated as of the _____ day of _____, 20__ (“Effective Date”), by and between the City of Olathe, Kansas (“Owner”) and McANAMY CONSTRUCTION, INC (“Contractor”). Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Milling and resurfacing of forty-four (44) local and collector asphalt streets in three (3) areas including approximately 147,000 square yards of full width milling, 16,700 tons of asphalt surface replacement, asphalt base repairs as needed, replacement of pavement markings, installation of 56 ADA sidewalk ramps, 3,400 linear feet of sidewalk removal and replacement along with 33,700 linear feet of spot curb replacement.

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: 2024 Local and Collector Street Mill and Overlay Project - Group A, Project No. 3-P-006-24.

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by City of Olathe, Kansas, Infrastructure Department, Engineering Division.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Days*

A. The Work will be substantially completed within 100 days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions

B. The Notice to Proceed will be given no later than May 1, 2024

C. The Work will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions by October 11, 2024.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed

and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$1,500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500.00 for each day that expires after such time until the Work is completed and ready for final payment.
3. Liquidated damages for failing to timely attain Substantial Completion and Final Completion are not additive and will not be imposed concurrently.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents in current funds the amount that follows, subject to adjustment under the Contract:

§ 3,528,833.56

[Here insert a lump sum, unit prices or both, if necessary attach exhibits and list them in Article 8.]

[CONTRACTOR's Bid may be attached as an exhibit to avoid lengthy retyping of unit price schedules, formulae for escalation of prices, information as to alternatives, etc.]

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the first day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 95% percent of Work completed (with the balance being retainage) and
 - b. 95% percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 97% of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200% of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

NOTE(S) TO USER:

6.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

- 7.01 All amounts not paid when due shall bear interest at the rate prescribed under K.S.A. 16-1901 et seq., and any amendments thereto.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, if any.
 - E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and

observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs, if any such reports and drawings are so identified.

- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages EJCDC C-520-1 to EJCDC C-520-7, inclusive).
 - 2. Performance & Maintenance bond (pages to EJCDC C-520-8 to EJCDC C-520-13, inclusive).
 - 3. Statutory bond (pages to EJCDC C-520-14 to EJCDC C-520-18, inclusive).
 - 4. Appointment of Process Agent (page to EJCDC C-520-19, inclusive).
 - 5. Non-collusive Affidavit of Prime Bidder (page to EJCDC C-520-20, inclusive).
 - 6. General Conditions (page to EJCDC C-700-1, to EJCDC C-700-65, inclusive).
 - 7. Supplementary Conditions (pages SC- 1 to SC- 34, inclusive).
 - 8. Specifications as listed in the table of contents of the Project Manual.
 - 9. Drawings (not attached but incorporated by reference) consisting of sheets with each sheet bearing the following general title: 2023 Local and Collector Street Mill and Overlay Project - Group A.
 - 10. Addenda (numbers ___ to ___, inclusive).
 - 11. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages ___ to ___, inclusive).

- b. Bid Documents (Notice to Bidders, Instructions to Bidders, Questionnaire of Personnel Practices Bid Bond, Bid Form).
 - c. Certificates (Compliance with Personnel Practices, Good Standing to Conduct Business in Kansas, Insurance).
 - d. Federal Funds Project Documents (if applicable) (Standard General Conditions Division 100, General Specifications Division 200, Required Contract Specifications, General Wage Decision).
 - e. Project Requirements.
 - f. Temporary Facilities.
 - g. Submittals.
 - h. Technical Specifications.
 - i. General Special Conditions.
 - j. Measurements and Payments.
12. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
- a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each represent that they are duly authorized to enter into the Contract, and binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor in the Supplementary Conditions.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

OWNER:

City of Olathe, Kansas

By:

Title: Mayor

Attest:

Title:

Address for giving notices:

P.O. Box 768

Olathe, KS 66051-0768

CONTRACTOR:

McANANY CONSTRUCTION, INC

By:

Title: CORPORATION

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

Title:

Address for giving notices:

15320 MIDLAND DR

SHAWNEE KS 66217

Contractor's Phone Number

License No.:

(where applicable)

Agent for service of process:

If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Approved as to form:

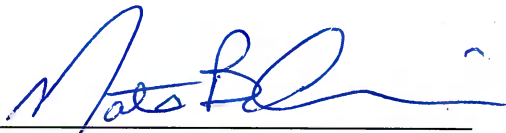
City Attorney/Deputy City Attorney/
Assistant City Attorney

AFFIDAVIT OF ESTIMATE OF COST

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

Nathan Baldwin, P.E., of lawful age, being first duly sworn upon his oath, states:

1. I am the City Engineer for the City of Olathe, Kansas.
2. The attached detailed estimate of the cost for the 2024 Local and Collector Street Mill and Overlay Project – Group A, PN 3-P-006-24 is attached and I am providing the estimate of the cost under oath (Exhibit A).



Nathan Baldwin

Subscribed in my presence and sworn under oath before me this 8th
day of February, 2024.



Notary Public

My Appointment Expires
August 19, 2024

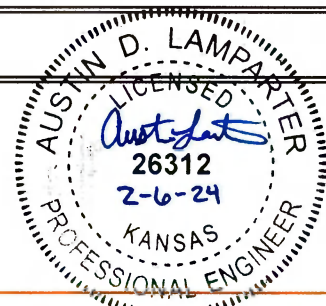




ENGINEERS ESTIMATE
2024 Local and Collector Street Mill and Overlay Project - Group A
Project Number 3-P-006-24
February 6, 2024

| ITEM | DESCRIPTION | UNITS | QUANT. | UNIT/PRICE | TOTAL |
|--------------------------------------|--|-------|---------|--------------|-----------------------|
| 1. | Remove and Replace Concrete Curb & Gutter (< 15 LF) | LF | 1,760 | \$54.00 | \$95,040.00 |
| 2. | Remove and Replace Concrete Curb & Gutter (≥ 15 LF) | LF | 31,102 | \$32.00 | \$995,264.00 |
| 3. | Remove and Replace 30" Wide Concrete Curb & Gutter | LF | 900 | \$40.00 | \$36,000.00 |
| 4. | Remove 6" Concrete Driveway (optional as directed by Engineer) | SY | 250 | \$30.00 | \$7,500.00 |
| 5. | Install 6" Concrete Driveway (optional as directed by Engineer) | SY | 250 | \$67.00 | \$16,750.00 |
| 6. | Remove 4' Concrete Sidewalk | LF | 3,906 | \$18.00 | \$70,308.00 |
| 7. | Install 4' Concrete Sidewalk | LF | 2,946 | \$31.00 | \$91,326.00 |
| 8. | Excavation and Grading for New 5' Concrete Sidewalk | LF | 490 | \$26.00 | \$12,740.00 |
| 9. | Install 5' Concrete Sidewalk | LF | 490 | \$45.00 | \$22,050.00 |
| 10. | Install Type I ADA Sidewalk Ramp | EA | 33 | \$1,900.00 | \$62,700.00 |
| 11. | Install Type II ADA Sidewalk Ramp | EA | 12 | \$2,400.00 | \$28,800.00 |
| 12. | Install Mid-Block ADA Sidewalk Ramp | EA | 11 | \$2,100.00 | \$23,100.00 |
| 13. | Remove Monolithic Concrete Radius and Valley Gutter | SY | 469 | \$58.00 | \$27,202.00 |
| 14. | Install 8" Concrete Street Patch | SY | 342 | \$81.00 | \$27,702.00 |
| 15. | Full Width Milling 2" Depth | SY | 147,000 | \$2.00 | \$294,000.00 |
| 16. | 6" Depth Asphalt Crack Repair (optional as directed by Engineer) | SY | 500 | \$86.00 | \$43,000.00 |
| 17. | 4" Depth Asphalt Base Repair (optional as directed by Engineer) | SY | 2,500 | \$58.00 | \$145,000.00 |
| 18. | Install 2" BM-2FR Asphaltic Concrete Surface | Tons | 16,776 | \$89.00 | \$1,493,064.00 |
| 19. | Install 4" Yellow Solid Line Painted Pavement Marking | LF | 7,400 | \$1.50 | \$11,100.00 |
| 20. | Install 6" White Solid Line Painted Pavement Marking | LF | 1,260 | \$2.50 | \$3,150.00 |
| 21. | Install 12" Yellow Solid Line Painted Pavement Marking | LF | 48 | \$6.00 | \$288.00 |
| 22. | Install 24" White Solid Line Painted Pavement Marking | LF | 42 | \$11.00 | \$462.00 |
| 23. | Install Arrow Painted Pavement Marking | EA | 11 | \$110.00 | \$1,210.00 |
| 24. | Install School Crosswalk Pavement Marking | EA | 1 | \$1,000.00 | \$1,000.00 |
| 25. | Remove and Replace Curb Inlet (optional as directed by Engineer) | EA | 2 | \$8,500.00 | \$17,000.00 |
| 26. | Remove and Replace Curb Inlet Top (optional as directed by Engineer) | EA | 4 | \$3,800.00 | \$15,200.00 |
| 27. | Adjust Existing Manhole (optional as directed by Engineer) | EA | 2 | \$3,000.00 | \$6,000.00 |
| 28. | Adjust Existing Water Valve (optional as directed by Engineer) | EA | 4 | \$800.00 | \$3,200.00 |
| 29. | Install and Remove Street Maintenance Sales Tax Signs | EA | 8 | \$450.00 | \$3,600.00 |
| 30. | Concrete Driveway Patch (optional as directed by Engineer) | SF | 300 | \$17.00 | \$5,100.00 |
| 31. | Sodding (optional as directed by Engineer) | SY | 350 | \$25.00 | \$8,750.00 |
| 32. | Mobilization | LS | 1 | \$100,000.00 | \$100,000.00 |
| 33. | Traffic Control | LS | 1 | \$30,000.00 | \$30,000.00 |
| TOTAL BID | | | | | \$3,697,606.00 |
| OWNER'S CONTINGENCY ALLOWANCE | | | | | \$50,000.00 |
| GRAND TOTAL | | | | | \$3,747,606.00 |

Submitted by: *Austin Lamparter*
Austin Lamparter, P.E., Project Manager



2-6-24
Date



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Infrastructure (Engineering)

STAFF CONTACT: Mary Jaeger / Nate Baldwin

SUBJECT: Professional Services Agreement with Affinis Corp. for design of the Briarwood Stormwater Improvements Project, PN 2-C-009-24.

TITLE:

Consideration of a Professional Services Agreement with Affinis Corp. for design of the Briarwood Stormwater Improvements Project, PN 2-C-009-24.

SUMMARY:

This project is in place to address street and structure flooding in the vicinity of Briarwood subdivision and Tomahawk Elementary School, northwest of 139th Street and Brougham Drive.

A Preliminary Engineering Study (PES) was conducted in 2018 and identified six (6) homes that flood during the 100-year (1% chance) flood event, along with street flooding at locations on Brougham Drive, Sycamore Street, and Edinburgh Street. To address the flooding, this project will include replacing corrugated metal pipe (CMP) along the main trunkline with larger concrete or plastic pipe, adding additional stormwater inlets, and upsizing existing inlets in the project area.

A Request for Qualifications for this project was issued on November 9, 2023. Four (4) firms responded to this request with Affinis Corp. (Affinis) selected based on submitted qualifications. The proposed agreement with Affinis includes survey of existing conditions, utility coordination, public meetings, cost estimates, hydraulic modeling, permitting, development of construction plans in accordance with Olathe specifications, assistance with bidding of project for construction, and assistance as needed throughout construction. The total cost of this agreement is \$471,800.

This is the fourth of six identified neighborhood flood control projects located outside the FEMA regulated floodplain.

The project is scheduled to begin design in Spring 2024, with construction tentatively scheduled to begin in late Fall 2025.

FINANCIAL IMPACT:

Funding for the Briarwood Stormwater Improvements Project, as approved in the 2024-2028 Capital Improvement Plan, includes:

| | |
|-------------------------------|-------------------|
| Revenue Bonds | \$ 1,500,000 |
| JoCo SMAC Funding | \$ 1,310,000 |
| <u>Olathe Stormwater Fund</u> | <u>\$ 640,000</u> |
| Total | \$ 3,450,000 |

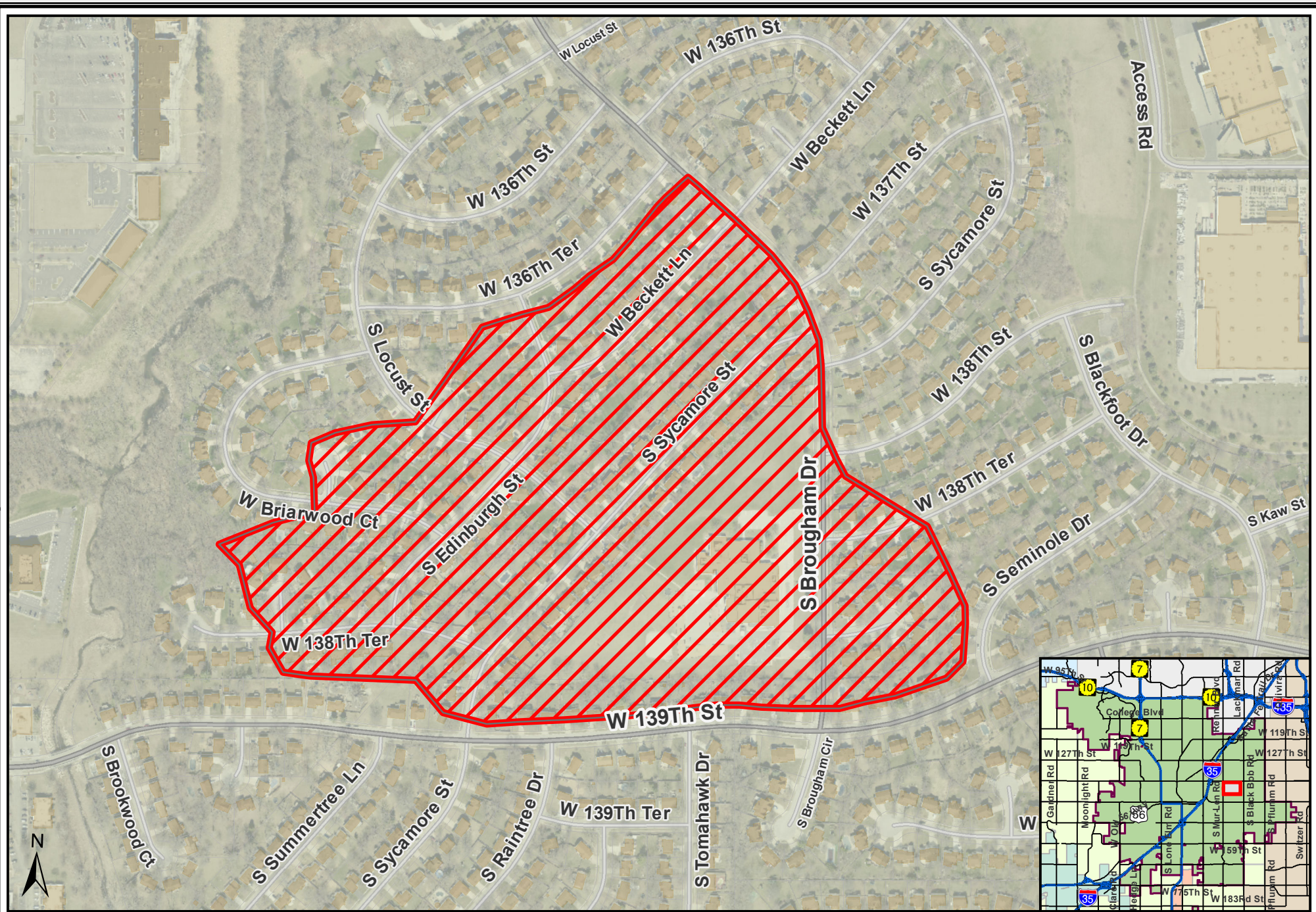
MEETING DATE: 2/20/2024

ACTION NEEDED:

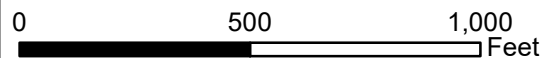
Approval of a Professional Services Agreement with Affinis Corp. for design of the Briarwood Stormwater Improvements Project, PN 2-C-009-24.

ATTACHMENT(S):

- A. Project Location Map
- B. Project Fact Sheet
- C. Professional Services Agreement



**Briarwood Drainage Improvements
PN 2-C-009-24
Project Location Map**





Project Fact Sheet
Briarwood Stormwater Improvements
2-C-009-24
February 20, 2024

Project Manager: Nate Baldwin / Matt Kapfer

Description: This project includes the replacement of corrugated metal pipe (CMP) along the main trunkline with larger concrete or plastic pipe, adding additional stormwater inlets, and upsizing existing inlets in the project area.

Justification: The project will reduce the risk of flooding for six (6) homes and street flooding at three (3) locations in the project area.

Comments: This project will receive reimbursement from Johnson County SMAC Program funds to provide for 50% of design and construction costs up to \$1,310,000.

| Schedule: | Item | Date |
|---|----------------------|------------------------|
| Design: | RFQ | 12/12/2023 |
| | Consultant Selection | 2/20/2024 |
| Land Acquisition: | | Fall 2024 |
| Utility Relocation: | | Spring 2025 |
| Construction: | Bid Award | Fall 2025 – Estimate |
| | Completion | Summer 2026 - Estimate |
| Council Actions: | | |
| | Date | Amount |
| Approved in CIP | 2024-2028 | \$3,450,000 |
| Professional Service Agreement | 02/20/2024 | \$ 471,800 |
| Agreement (SMAC - Design) | | |
| Utility Relocation and Reimbursement Agreements | | |
| Accept Bid/Award Contract | | |
| Agreement (SMAC - Construction) | | |
| Funding Sources: | | |
| | Amount | CIP Year |
| Revenue Bonds | \$1,500,000 | 2026 |
| JoCo SMAC Funds | \$1,310,000 | 2024-2026 |
| Stormwater Funds | \$ 640,000 | 2024-2026 |
| Expenditures: | | |
| | Budget | Amount to Date |
| Design | \$ 475,000 | \$0 |
| Land Acquisition | \$ 125,000 | \$0 |
| Staff | \$ 55,000 | \$0 |
| Inspection | \$ 40,000 | \$0 |
| Utilities | \$ 200,000 | \$0 |
| Construction | \$2,200,000 | \$0 |
| Contingency | \$ 355,000 | \$0 |
| Total | \$3,450,000 | \$0 |

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made in Johnson County, Kansas, by and between the City of Olathe, Kansas, hereinafter "City," and Affinis Corp , hereinafter "Consultant" (collectively, the "Parties").

City intends to construct an improvement project (hereinafter called the "Project") in Olathe, Kansas, described as follows:

Briarwood Stormwater Improvements Project No. 2-C-009-24

The Project is more fully described in **Exhibit A** (attached hereto and incorporated herein by reference).

By executing this Agreement, Consultant represents to City that Consultant is professionally qualified to perform services on this Project and is licensed to practice engineering by all public entities having jurisdiction over Consultant and the Project.

SECTION I - DEFINITIONS

As used in this Agreement, the following terms will have the following meanings unless otherwise stated or reasonably required by the Agreement, and other forms of any defined words will have a meaning parallel thereto. All terms defined in the most recent version of the Engineers Joint Contract Documents Committee (EJCDC) Standard General Conditions of the Construction Contract (the "General Conditions") adopted by City will have the same meaning when used in this Agreement unless otherwise specifically stated or in the case of a conflict in which case the definition used in this Agreement will prevail in the interpretation of this Agreement.

"Additional Services" means services in addition to those listed in **Exhibit B**.

"City" means the City of Olathe, Kansas, a municipal corporation duly organized under the laws of the State of Kansas, its employees, appointees, and officers.

"Consultant" means the company or individual identified above, herein, and its affiliates, subsidiaries, employees, agents, and assigns.

"Construction Cost" means and includes but is not limited to the cost of the entire construction of the Project, including all supervision, materials, supplies, labor, tools, equipment, transportation and/or other facilities furnished, used or consumed in connection with the Project, without deduction on account of penalties, liquidated damages or other amounts withheld from payment to a construction contractor or contractors, but such cost will not include Consultant's fee, or any other payments to Consultant as set forth herein, and will not include cost of land or rights-of-way and easement acquisition.

"Contract Documents" means those documents so identified in the Agreement for Construction of this Project including all Consultant Documents.

"Consultant Documents" means all documents required or reasonably implied by the

nature of the scope of services to be performed by Consultant hereunder, including, but not limited to, plans, specifications, drawings, tracings, designs, calculations, sketches, models and reports.

"Professional Services" means the professional services, labor, materials, supplies, testing, surveying, title work, inspection, if applicable, and all other acts, duties, and services required of Consultant under this Agreement including any Additional Services.

"Project" is as above described.

"Project Manager" means the person employed and designated by City to act as the City's representative for the Project.

"Right-of-Way" and "Easements" means and includes the public street, highway, or road right-of-way and any other land dedicated to or otherwise subject to public use.

"Subsurface Borings and Testing" means borings, probings and subsurface explorations, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all the foregoing.

"Traffic Control Plan" means a specific plan that includes but is not limited to signing; application and removal of pavement markings; construction sequencing and scheduling; methods and devices for delineation and channelization; placement and maintenance of devices; traffic regulation; and inspection made in accordance with the City's technical specifications.

SECTION II - COMPENSATION

A. FEES & EXPENSES

1. Total Fee: City agrees to pay Consultant an amount not to exceed Four undred seventy-one thousand eight hundred dollars (\$471,800), including reimbursable expenses as described herein. The fee is based on the performance of the scope of services outlined in this Agreement, including **Exhibit B** attached hereto and incorporated by reference, and will be billed by Consultant using hourly rates and equipment charges as set forth in **Exhibit C** attached hereto and incorporated by reference, plus reimbursable expenses as set forth below. All bills will be submitted to City monthly as provided herein.
2. Reimbursable Expenses: Consultant will be reimbursed at the actual cost, not to exceed a total expense of Nineteen thousand four hundred ninety dollars (\$19,490) for the following expenses related only to the Project: (a) expense of transportation in connection with the Project; (b) expenses in connection with authorized out-of-town travel; (c) long-distance communications; (d) expenses of printing and reproductions; (e) postage and facsimile transmissions; (f) expenses of renderings and models requested by City, and (g) other costs as authorized by City in writing as set forth herein.

B. SERVICES BEYOND THE SCOPE OF SERVICES

1. Change in Scope: For substantial modifications in authorized Project scope, substantial

modifications of drawings, or substantial modifications to specifications previously accepted by City, when requested by City and through no fault of Consultant, Consultant will be compensated for time and expense required to incorporate such modifications at Consultant's standard hourly rates per **Exhibit C**; provided, however, that any increase in fee or extension of time for Consultant to complete the services must be approved by City in writing. Consultant will correct or revise any errors or deficiencies in its designs, drawings or specifications without additional compensation when due to Consultant's negligence or other actionable fault.

2. Additional Services: Consultant will provide Additional Services authorized by a supplemental agreement executed in writing by the Parties. Prior to commencing any Additional Services, Consultant must submit a proposal outlining the Additional Services to be provided, estimation of total hours, completion date, and a maximum fee based upon the hourly rate schedule attached hereto as **Exhibit C**. Such Additional Services may include, but are not limited to, making computations and determinations of special assessments, making special trips requested by City other than those required by Section III, preparing changes in plans ordered by City or made necessary by causes beyond the control of Consultant, providing services necessitated in the event the Professional Services are suspended or abandoned, if such suspension or abandonment is not the result of a breach of this Agreement by Consultant, and providing any other special services not otherwise covered by this Agreement which may be requested by City to complete the Project. Payment to Consultant as compensation for Additional Services will be in accordance with the hourly rate schedule attached as **Exhibit C**.
3. Special Services: Consultant may be called on to serve as a consultant or witness in any litigation, arbitration, legal or administrative proceeding arising out of this Project. If Consultant is requested, in writing, by City, to appear as a witness, it will be paid its hourly fee as reflected on the hourly rate schedule attached hereto as **Exhibit C**. Consultant will not be paid extra by City if Consultant's appearance is to defend its Professional Services.

C. BILLING & PAYMENT

1. Billing: Consultant may bill City monthly for completed Professional Services, including reimbursable expenses. The bill submitted by Consultant must itemize the Professional Services and reimbursable expenses for which payment is requested. City agrees to pay Consultant within thirty (30) days of approval by the Governing Body or other agent of City in accordance with the City's Procurement Policy.
2. City's Right to Withhold Payment: In the event City becomes credibly informed that any representations of Consultant provided in its monthly billing are wholly or partially inaccurate, City may withhold payment of sums then or in the future otherwise due to Consultant until the inaccuracy and the cause thereof is corrected to City's reasonable satisfaction. In the event City questions some element of an invoice, that fact will be made known to Consultant immediately. Consultant will help effect resolution and transmit a revised invoice, if necessary. Amounts not questioned by City will be paid to Consultant in accordance with the contract payment procedures.
3. Progress Reports: A progress report must be submitted with each monthly pay request

indicating the percentage of Professional Services completed to date. This report will serve as support for payment to Consultant.

D. SCHEDULE

All services must be completed on or before October 2026.

SECTION III - RESPONSIBILITIES OF CONSULTANT

Consultant will perform the Professional Services in all phases of the Project to which this Agreement applies as herein provided and which are required for the construction of the Project as described below:

A. PRELIMINARY DESIGN PHASE

1. Services: The Professional Services to be provided during this phase are set out in **Exhibits B, D, and E**, attached hereto and incorporated by reference.
2. Preliminary Design Documents: Consultant will furnish City copies of the above preliminary design documents per the City of Olathe Technical Specifications and Design Criteria for Public Improvements, unless otherwise noted in **Exhibit B**.
3. Preliminary Cost Estimate: Consultant will furnish City an estimate of probable Construction Cost based on the preliminary design and at subsequent design review submittals as specifically requested by City. Consultant's estimate of probable Construction Cost is to be made based on Consultant's experience and qualifications and represent Consultant's best judgment as an experienced and qualified design professional, familiar with the construction industry.
4. Budget: Consultant will immediately advise City if, in its opinion, the amount budgeted for construction is not sufficient to adequately design and construct the improvement as requested.
5. Permits and Right-of-Way: These Professional Services will include preparation of plans, exhibits and applications required for securing approvals, licenses, or permits from governmental or corporate agencies or authorities, and providing City with documents for right-of-way and/or easement acquisition necessary for the construction of the improvement, unless eminent domain proceedings are required to secure the right-of-way and/or easements. Consultant will comply with the conditions set out in the Land Acquisition Checklist for Consultant Projects as in **Exhibit D**. City will be responsible for acquiring the necessary Right-of-Way or Easements, unless otherwise agreed upon between City and Consultant. A property map of the areas needed to be acquired, and other necessary information related to such acquisition, will be provided by Consultant with copies of the preliminary construction plans to the Project Manager. It is recognized that such information cannot be provided for some tracts until the completion of the final construction plans. Consultant will also provide any necessary ownership and encumbrance (O&E) documents.

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B. FINAL DESIGN PHASE

1. Services: The Professional Services to be provided during this phase are set out in **Exhibits B and E**, attached hereto and incorporated by reference.
2. Final Design Documents: Consultant will furnish City copies of the final design plans per the City of Olathe Technical Specifications and Design Criteria for Public Improvements unless otherwise noted in **Exhibit B**.
3. Contract Documents: Consultant will prepare for City all Project contract agreement forms, final design plans, general conditions and supplementary conditions, bid forms, invitations to bid and instructions to bidders, and assist in the preparation of other related documents requested by City, unless such documents are provided by City.
4. Final Cost Estimate: Consultant will furnish City an estimate of probable Construction Cost based on final design. This estimate is commonly known as the "Engineer's Estimate" and will be used as the basis for construction contract award. The Engineer's Estimate must be sealed and provided by a professional engineer licensed by the State of Kansas. Since Consultant has no control over the cost of labor, materials, or equipment furnished by others not under contract to Consultant, or over the resources provided by others not under contract to Consultant to meet Project schedules, Consultant's opinion of probable costs and of Project schedules for construction may be made based on experience and qualifications as a professional engineer. Consultant does not guarantee that proposals, bids, or actual Project costs will not vary from Consultant's opinions of probable cost or that actual schedules will not vary from Consultant's projected schedules.
5. Budget: Consultant will immediately advise City if, in its opinion, the amount budgeted for the Project is not sufficient to cover all Project costs, including but not limited to, construction, right-of-way and easement acquisition, inspection, and testing.

C. BIDDING PHASE

1. Services: The Professional Services to be provided during this phase are set out in **Exhibit B**, attached hereto and incorporated by reference.
2. Bids Exceeding Cost Estimate: If all bids exceed Consultant's Final Cost Estimate,

Consultant, at the request of City and for no additional cost, will prepare a report for City identifying why all the bids exceed the estimate. City has four (4) options if all bids exceed Consultant's estimate. City may: (1) give written approval of an increase in the Project cost up to a maximum of 7% above the authorized total; (2) authorize rebidding of the Project; (3) terminate the Project and this Agreement; or (4) cooperate in revising the Project scope or specifications, or both, as necessary to reduce the construction cost.

D. CONSTRUCTION PHASE

1. In-House Administration and Inspection: It is understood that City will provide full-time, in-house administration and inspection of the construction Project and the work of the construction contractor at City's expense, unless otherwise agreed upon in writing by the Parties. Consultant will assist City by providing general administration and inspection of the work of the construction contractor as requested by City by conducting periodic inspections of the construction contractor's work during construction and will assist City in a final inspection of the construction Project after completion of the work by the construction contractor. Consultant will also check shop drawings and assist City in making interpretation of plans and specifications and reviewing pay estimates for making payments to the construction contractor.
2. Services: The Professional Services provided during this phase are set out in **Exhibits B and E**, both attached hereto and incorporated by reference.
3. Additional Drawings: If during construction, situations arise which require additional drawings or details, Consultant agrees to provide such additional drawings or details at no cost to City when the additional drawings or details are required to correct Consultant's errors or omissions or clarify Consultant's intent in the original design and preparation of construction drawings. If such situations occur through no fault of Consultant, or are beyond Consultant's control, both Parties agree to negotiate an equitable payment to Consultant for Consultant's Professional Services rendered, which will be accomplished through a Change Order.
4. Staking: Unless otherwise provided, staking must be included in the bid specifications to be performed by the construction contractor.
5. Notice of Defects: If, based on Consultant's involvement during the construction phase, Consultant observes or otherwise becomes aware of any defect in the work, Consultant will give prompt written notice to City of such defects and their approximate location on the Project. However, Consultant will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions, inspections and programs in connection with the work, since these are solely the construction contractor's responsibility under the contract for construction to be entered into with City. Consultant will not be responsible for the construction contractor's schedules or failure to carry out the work in accordance with the Contract Documents. Consultant will not have control over or charge of acts or omissions of any construction contractor, any of a construction contractor's subcontractors, or any of the agents or employees of a construction contractor selected by City to construct the Project.

6. Shop Drawings: Consultant will review and take appropriate action on the chosen construction contractor's shop drawings and samples, and the results of tests and inspections and other data which each construction contractor is required to submit for the purposes of reviewing for compliance with the design concept and conformance with the requirements of the Contract Documents and the City of Olathe Technical Specifications and Design Criteria for Public Improvements.

E. GENERAL DUTIES AND RESPONSIBILITIES

1. Personnel: Consultant will assign only qualified personnel to perform any service concerning the Project as identified in Consultant's response to the Request for Proposals. At the time of execution of this Agreement, the Parties anticipate that the following individual will perform as the principal on this Project: Michael McKenna, P.E., PTOE. As principal on this Project, this person will be the primary contact with the City's Project Manager and will have authority to bind Consultant. So long as the individual named above remains actively employed or retained by Consultant, such individual will perform the function of principal on this Project. For the Professional Services rendered hereunder, Consultant, and any of its subcontractors, will employ engineers, architects, landscape architects, and surveyors licensed by the Kansas State Board of Technical Professions.
2. Subsurface Borings & Material Testing: If tests, additional to those provided for in **Exhibit B**, are required for design, Consultant will prepare specifications for the taking of the additional borings. Such subsurface borings and testing, as defined herein, will be provided by the City's contracted testing consultant or its subcontractors.
3. Utility Coordination: Consultant will comply with the conditions set out in the Utility Coordination Checklist as in **Exhibit E**. The services required of Consultant by this checklist are expected to usually occur during the Preliminary Design, Final Design, and Construction phases; however, Consultant's responsibilities under this checklist may sometimes occur at other times.
4. Service By and Payment to Others: Any services authorized in writing by City and performed by any party other than Consultant or its subcontractors (a "Third Party") in connection with the proposed Project will be contracted for and paid for by City. In addition to payments for the Third Party's professional services, this may also include necessary permits, licenses, ownership certifications, materials testing, advertising costs, and other special tests or other services required or requested by City or Consultant which are not defined within the scope of services of Consultant as set forth herein. Fees for such extra services will be subject to negotiation between City and the Third Party. Fees will be approved by City in writing prior to the execution of any extra services. Although Consultant may assist City in procuring such services of Third Parties, Consultant will in no way be liable to either City or such Third Parties in any manner whatsoever for such services or for payment thereof.
5. Subcontracting or Assignment of Services: Consultant may not subcontract or assign any of the Professional Services to be performed under this Agreement without first obtaining the written approval of City. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge Consultant from any obligation under

this Agreement. Any person or firm proposed for subcontracting Professional Services under this Agreement will maintain throughout the duration of the Agreement, insurance as provided in Section V.D.2. herein, and will additionally maintain Professional Liability insurance in a minimum amount of \$1,000,000 per claim and in the aggregate and provide City with an insurance certificate showing the insurance limits provided by Consultant's subconsultant. Any services completed by a City-approved subcontractor of Consultant pursuant to this Agreement may not be increased more than ten percent (10%) over the actual cost of the services.

6. Endorsement: Consultant must sign and seal all final plans, specifications, estimates and engineering data furnished by Consultant. Any review or approval by City of any documents prepared by Consultant, including but not limited to the plans and specifications, will be solely for determining whether such documents are consistent with the City of Olathe Technical Specifications and Design Criteria for Public Improvements and may not be construed as City assuming responsibility for the accuracy, adequacy, fitness, suitability and coordination of Consultant's services and deliverables. No review of such documents will relieve Consultant of its responsibility for the accuracy, adequacy, fitness, suitability and coordination of its services and deliverables.
7. Inspection of Documents: Consultant must maintain all Project records for inspection by City at reasonable times and places upon written request during the contract period and for three (3) years from the date of final payment.
8. Standard of Care: Consultant will exercise the same degree of care, skill, and diligence in the performance of the Professional Services as is ordinarily possessed and exercised by a professional engineer under similar circumstances. If Consultant fails to meet the foregoing standard, Consultant will perform at its own cost, and without reimbursement from City, the Professional Services necessary to correct errors and omissions which are caused by Consultant's negligence.

SECTION IV - CITY OF OLATHE'S RESPONSIBILITIES

A. COMMUNICATION

City will provide to Consultant information and criteria regarding City's requirements for the Project; examine and timely respond to Consultant's submissions; and give written notice to Consultant, who will respond promptly, whenever City observes or otherwise becomes aware of any defect in the Professional Services.

B. ACCESS

City will provide access for Consultant to enter public and private property related to the Project and performance of Consultant's obligations under this Agreement.

C. DUTIES

City will perform the various duties and services in all phases of the Project which are outlined and designated in **Exhibit B** as City's responsibility.

D. PROGRAM AND BUDGET

City will provide all relevant information reasonably required for Consultant to perform its obligations herein, including but not limited to City's objectives, schedule, constraints, budget with reasonable contingencies, and other necessary design criteria for the Project.

E. ADMINISTRATIVE SERVICES

City will furnish all City-related legal, accounting, insurance and audit services as may be necessary at any time for completion of the Project. However, in no event will any City-related legal, accounting, insurance and or audit services be provided on behalf of Consultant, nor will Consultant serve any other role than as an independent contractor of City.

F. BOND FORMS

City will furnish all bond forms required for the Project.

G. PROJECT REPRESENTATIVE

City will designate a Project Manager to represent City in coordinating this Project with Consultant. The City's Project Manager will have the authority to transmit instructions and decisions of City.

SECTION V - GENERAL PROVISIONS

A. TERMINATION

1. Notice: City reserves the right to terminate this Agreement for either cause (due to Consultant's failure to substantially perform its obligations hereunder) or for its convenience and without cause or default on the part of Consultant, by providing fifteen (15) days' written notice of such termination to Consultant. Upon receipt of such notice from City, Consultant will, at City's option as contained in the notice: (1) immediately cease all Professional Services; or (2) meet with City and, subject to City's approval, determine what Professional Services will be required of Consultant in order to bring the Project to a reasonable termination in accordance with the request of City. Consultant will also provide to City copies of all drawings and documents completed or partially completed at the date of termination for which Consultant has been fully paid. If City defaults on its obligations under this Agreement, (due to City's failure to substantially perform its obligations under this Agreement), Consultant must notify City by written notice of its intent to terminate and City will have fifteen (15) days from the date of the notice to cure or to submit a plan for cure acceptable to Consultant. In no event may Consultant terminate the contract solely for its convenience without cause.

Address for Notice:

City of Olathe
Attn: Matthew Kapfer
100 E. Santa Fe
P.O. Box 768
Olathe, KS 66051-0768

Affinis Corp
Attn: Michael McKenna, P.E., PTOE
8900 Indian Creek Parkway
Suite 450
Overland Park, KS 66210

2. Compensation for Convenience Termination: If City terminates for its convenience as provided herein, City will compensate Consultant for all Professional Services completed and accepted and reimbursable expenses incurred to the date of its receipt of the termination notice and any additional Professional Services and reimbursable expenses requested by City to bring the Project to reasonable termination. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed.
3. Compensation for Cause Termination: If City terminates for cause or default on the part of Consultant, City will compensate Consultant for the reasonable cost of Professional Services and reimbursable expenses completed and accepted to date of its receipt of the termination notice. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed. City also retains all its rights and remedies against Consultant including but not limited to its rights to sue for damages, interest and attorney fees.
4. Incomplete Documents: Neither Consultant nor its subcontractors will be responsible for errors or omissions in documents which are incomplete because of an early termination under this Section, or Consultant having been deprived of the opportunity to complete such documents and prepare them to be ready for construction.
5. Termination for Lack of Funds: If, for whatever reason, adequate funding is not made available to City to support or justify continuation of the level of Professional Services to be provided by Consultant under this Agreement, City may terminate or reduce the amount of Professional Services to be provided by Consultant under this Agreement. In such event, City will notify Consultant in writing at least thirty (30) days in advance of such termination or reduction of Professional Services for lack of funds.

B. DISPUTE RESOLUTION

City and Consultant agree that disputes relative to the Project will first be addressed by negotiations between the Parties. If direct negotiations fail to resolve the dispute, the Party initiating the claim that is the basis for the dispute may take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute, Consultant will proceed with the Professional Services as per this Agreement as if no dispute existed, and City will continue to make payment for Consultant's completed Professional Services; and provided further that no dispute will be submitted to arbitration without both Parties' express written consent.

C. OWNERSHIP OF CONSULTANT DOCUMENTS

Consultant will provide City a copy of all final Consultant Documents, including but not limited to prints, reproductions, reports, plans, specifications and related documents, which will become the property of City, provided that Consultant's copyrighted instruments will remain in the ownership of Consultant if Consultant, at Consultant's sole discretion, may so identify them by appropriate markings. If Consultant is paid in full for its Professional Services, then City may subsequently reuse these final documents without any additional compensation or agreement of Consultant. However, such reuse without written verification or adaptation by Consultant for the specific purpose intended by City will be at City's sole risk and without liability or legal exposure to Consultant. City does not take any responsibility for the reuse of documents by others.

D. INSURANCE

1. General: Consultant will maintain, throughout the duration of this Agreement, insurance (on an occurrence basis unless otherwise agreed to) of such types and in such amounts as required in **Exhibit F (City of Olathe Insurance Requirements)**. Professional Liability may be written on a "claims made" basis. Consultant will provide certificates of insurance and renewals thereof on forms acceptable to City (**Exhibit G – Certificate of Insurance**). Consultant is required to promptly notify City of a material change or cancellation of any policy listed on the Certificate.
2. Subcontractor's Insurance: If a part of the Professional Services under this Agreement is to be sublet, Consultant will either (a) cover all subcontractors in its insurance policies, or (b) require each subcontractor not so covered to secure insurance which will protect subcontractor against all applicable hazards or risks of loss in the minimum amounts designated herein. If Consultant selects option (b), then Consultant agrees to provide the City's Risk Manager a certificate of insurance acceptable to the Risk Manager at least seven (7) days prior to allowing the subcontractor to perform any services on this Project. Consultant agrees that any subcontractor providing services on said Project without providing a certificate of insurance acceptable to the City's Risk Manager will immediately cease all services on said Project and will assume all financial risk associated with such failure thereto.

E. INDEMNITY

1. Loss: For purposes of indemnification requirements, the term "Loss" means any and all loss, damage, liability or expense, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorney's fees and the cost of defense), in connection with any action, proceeding, demand or claim for injury, including death, to any person or persons or damages to or loss of, or loss of the use of, property of any person, firm or corporation, including the parties hereto, which arise out of or are connected with the performance of this Agreement.
2. Indemnification and Hold Harmless: For purposes of this Agreement, Consultant agrees to indemnify, defend and hold harmless City and its agents from any and all Loss where Loss is caused or incurred as a result of the intentional misconduct, recklessness, negligence, or other actionable fault of Consultant or its subcontractors. Neither acceptance of

completed work nor payment therefor nor termination or expiration of this Agreement releases Consultant of its obligations under this paragraph.

3. Comparative Fault & Contributory Negligence: It is a specific element of consideration of this Agreement that the indemnity in Section V.E.2 will apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of City or any Third Party and, further notwithstanding any theory of law including, but not limited to, a characterization of City's or any Third Party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature; provided, however, that Consultant's obligation hereunder will not include amounts attributable to the fault or negligence of City or any Third Party for whom Consultant is not responsible.
4. Damage Limitations: The indemnification obligation contained in this Agreement will not be limited by any limitation on amount or type of damages, compensation or benefits payable by or for Consultant or its subcontractors, by the minimum insurance required by this Agreement, nor under workers' compensation acts, disability benefit acts, or other employee benefit acts.
5. Negligence by the City: Consultant is not required hereunder to defend City or its agents from assertions that they were negligent, nor to indemnify and hold them harmless from liability based on City's negligence.

F. AFFIRMATIVE ACTION/OTHER LAWS

1. Kansas Act Against Discrimination: During the performance of this Agreement, Consultant agrees that:
 - a. Consultant will observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and will not discriminate against any person in the performance of work under the present contract because of race, religion, color, gender, disability, national origin, ancestry, or age;
 - b. in all solicitations or advertisements for employees, Consultant will include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("commission");
 - c. if Consultant fails to comply with the way Consultant reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Consultant will be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by City without penalty;
 - d. if Consultant is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, Consultant will be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and
 - e. Consultant will include the provisions of subsections a. through d. in every subcontract or purchase order so that such provisions will be binding upon such

subcontractor or vendor.

2. Exceptions to Applicability: The provisions of this Section will not apply to a contract entered into by City with Consultant if (a) Consultant employs fewer than four (4) employees during the term of such contract; or (b) Consultant's contract with City totals Ten Thousand Dollars (\$10,000) or less in aggregate.
3. Kansas Age Discrimination in Employment Act: Consultant further agrees and acknowledges that it will abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this Project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.
4. Kansas Fairness in Public Construction Contract Act: The Parties agree and acknowledge that the services provided under this Agreement are within the scope of the Kansas Fairness in Public Construction Contract Act (K.S.A. 16-1901 et seq.) and that no provision of this Agreement waives, alters, or supersedes any provisions of said Act.

G. ENTIRE AGREEMENT

This Agreement, including all documents and exhibits included by reference herein, constitutes the entire Agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both Parties to this Agreement.

H. APPLICABLE LAW, JURISDICTION, AND VENUE

Interpretation of this Agreement and disputes arising out of or related to this Agreement will be subject to and governed by the laws of the State of Kansas, excluding Kansas' choice-of-law principles. Jurisdiction and venue for any suit arising out of or related to this Agreement will be in the District Court of Johnson County, Kansas.

I. NO THIRD-PARTY BENEFICIARIES

Nothing contained herein will create a contractual relationship with, or any rights in favor of, any Third Party.

J. INDEPENDENT CONTRACTOR

Consultant is an independent contractor and not an agent or employee of City.

K. DELIVERABLES

1. Project Drawings: Project drawings which are developed by Consultant using a Computer Aided Drafting (CAD) System will be made available to City per the City of Olathe Technical Specifications and Design Criteria for Public Improvements. However, due to the potential that the information set forth on the electronic media could be modified by City, or other

City consultants, unintentionally or otherwise, Consultant will remove all indices of its ownership, professional corporation name, seal, and/or involvement from each electronic display. If City provides such electronic media to others for any purpose, City will require the electronic media to be returned to City upon completion of such use. City recognizes that use of such electronic media will be at City's sole risk and without any liability risk or legal exposure by Consultant.

2. Project Documentation: All documentation provided City other than Project drawings will be furnished in either Microsoft Word file format or pdf format.
3. Conformed To Construction Drawings ("As Built" Drawings): Following construction, City and/or construction contractor will provide copies of changes and alterations made in the field during construction to Consultant to provide Conformed To Construction Drawings per the City of Olathe Technical Specifications and Design Criteria for Public Improvements. Consultant may rely on the information provided by City in preparing such documents, subject to the professional standard of care required by this Agreement.

L. COVENANT AGAINST CONTINGENT FEES

Consultant represents that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this representation, City may terminate this Agreement without liability or may, in its discretion, deduct from the Total Fee or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

M. NO SOLICITATION TO HIRE CITY EMPLOYEES

1. No Solicitation to Hire: Except as otherwise provided in this section, during the term of this Agreement and for one year after the Agreement's expiration or termination, Consultant must not solicit to hire and then hire, or solicit to contract with and then contract with, any of the City's current employees involved with the oversight or implementation of this Agreement, including but not limited to the Project Manager.
2. No Restriction on City Employees: The foregoing restrictions shall not prevent City employees from affirmatively seeking employment elsewhere.
3. Liquidated Damages: The Parties agree that in the event of a breach of this provision that damages would be uncertain and difficult to accurately estimate. Therefore, if Consultant breaches this provision, Consultant agrees to pay City liquidated damages to the City equal to the annual salary of the applicable employee hired by or contracting with Consultant.

N. COMPLIANCE WITH LAWS

Consultant will abide by all applicable federal, state and local laws, ordinances and

regulations applicable to the performance of Professional Services at the time the Professional Services are performed. Consultant will secure all occupational and professional licenses and permits from public and private sources necessary for the fulfillment of the obligations under this Agreement, and will provide City a copy of its certificate of good standing to conduct business in the State of Kansas with this Agreement (**Exhibit H**).

O. TITLES, SUBHEADS AND CAPITALIZATION

Titles and subheadings as used herein are provided only as a matter of convenience and will have no legal bearing on the interpretation of any provision of this Agreement. Some terms are capitalized throughout this Agreement but the use of or failure to use capitals has no legal bearing on the interpretation of such terms.

P. SEVERABILITY CLAUSE

If any provision of this Agreement is determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) will be null and void; provided, however, that the remaining provisions of this Agreement will be unaffected and will continue to be valid and enforceable.

Q. AMBIGUITY CLAUSE AND HIERARCHY OF INTERPRETATION

If any ambiguity, inconsistency or conflict arises in the interpretation of this Agreement, the same will be resolved by reference first to the terms and conditions of this Agreement, and any exhibits attached hereto or incorporated by reference as noted below. In the event of any conflict or inconsistency between this Agreement and its exhibits, the following hierarchy of interpretation will apply:

1. This Agreement;
2. Scope of Services (Exhibit B);
3. City's Request for Proposals/Request for Qualifications (incorporated by reference);
4. Consultant's Response to RFP/RFQ (incorporated by reference).

[The remainder of this page is intentionally left blank.]

S. EXECUTION OF CONTRACT

The parties hereto have caused this Agreement to be executed this ____ day of _____ 2024.

CITY OF OLATHE, KANSAS

By: _____
Mayor

ATTEST:


City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney or Deputy/Assistant City Attorney

AFFINIS CORP

By: 

Michael McKenna, P.E., PTOE
Vice President
8900 Indian Creek Parkway
Suite 450
Overland Park, KS 66210

**TABLE OF CONTENTS
OF EXHIBITS**

| | |
|------------------|---|
| Exhibit A | Description of Project & Map |
| Exhibit B | Scope of Services |
| Exhibit C | Fee & Rate Schedule |
| Exhibit D | Land Acquisition Checklist for Consultant Projects |
| Exhibit E | Utility Coordination Checklist |
| Exhibit F | City of Olathe Insurance Requirements |
| Exhibit G | Certificate of Insurance |
| Exhibit H | Certificate of Good Standing to Conduct Business in Kansas |

EXHIBIT A
Description of Project & Map

Briarwood Stormwater Improvements
PN 2-C-009-24

The general project location is bounded by Indian Creek on the west, Sycamore Drive. on the north, 138th St. on the south, and Brougham Dr. on the east; and it is within the Indian Creek Watershed. A map illustrating the drainage area and existing storm sewer system is shown below.

EXHIBIT A – PROJECT LOCATION MAP



This project is anticipated to include replacing, upsizing, and improving a portion of the existing CMP storm sewer system to convey the 100-yr storm event without surcharge, to alleviate flooding in areas identified in the Preliminary Engineering Study (PES) for Briarwood Drainage Improvements, SMP Project No. IC-09-055, January 15, 2019.

The project will include survey of existing conditions, utility coordination, cost estimates, acquisition documentation (title reports, surveyed exhibits, easement documents) needed for any right-of-way or easements (if needed), traffic control, developing construction plans and specifications in accordance with City of Olathe Technical Specification and Design Criteria, coordination with utilities, assistance with bidding of the project for construction, and construction services.

Exhibit B: Basic Scope of Services

Briarwood Stormwater Improvements (PN 2-C-009-24)

I. Introduction

The basic scope of services (“scope”) for this project, identified as Exhibit B, for the Briarwood Stormwater Improvements (“project”) includes preliminary design, final design, construction documents, project bidding, and construction services.

The project includes the following general improvements:

- Improve existing corrugated metal pipe (CMP) between the Brougham Dr cul-de-sac and the outlet to Indian Creek between Briarwood Court and 138th Terrace. The improvements could include in-kind replacement with reinforced concrete pipe (RCP), upsized RCP, or upsized reinforced concrete box (RCB).
- A possible secondary storm sewer alignment along Locust Street, between Edinburgh Street and Sycamore Street may provide additional storm sewer capacity in the project area.
- A possible new detention basin at Tomahawk Elementary School.
- Address the street and building flooding in the project area by increasing the storm sewer system and inlet capture capacity to meet Johnson County Stormwater Management Program (SMP) design requirements.

The work tasks will be performed by Affinis Corp (“Consultant”) for the City of Olathe, Kansas.

II. General Design Requirements

The Consultant shall furnish and perform the various professional duties and services required for the construction of the project as outlined in this scope. All plan development stages shall be completed no later than the current project's schedule, exclusive of delays beyond the Consultant’s control.

The Consultant shall design the project in conformity with the most current version of the following criteria:

- City’s Design Criteria for Public Improvement Projects
- Johnson County stormwater management program (SMP) requirements.
- The current version of the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by the city.

The design plans shall be signed and sealed by the licensed professional engineer responsible for the preparation of the design plans. Right-of-way and easement descriptions shall be signed and sealed by the licensed land surveyor responsible for the preparation of these descriptions.

III. General Survey Requirements

Vertical Control: Elevations for plans must be obtained from a benchmark on the Johnson County Vertical Control Network. Show the datum benchmark and elevation of the datum benchmark on the plans.

Horizontal Control: Section Corner and quarter section corner locations must be referenced to the Johnson County Horizontal Control Network. As part of the design survey all section corners and quarter section corners within the project area and others used for project control must be located,

reference and state plane coordinates determined with GPS equipment. The coordinates and referenced ties shall be shown on the plans and the standard corner reference report submitted to the Kansas State Historical Society, the County Engineer, and cities project engineer within 30 days of the survey as required by state law. If a Johnson County Horizontal Control marker may be damaged by construction the County public works department should be notified prior to the bid letting.

Plan Notes - Johnson County Control Bench Marks: Any Johnson County benchmarks, Johnson County horizontal control monuments and any section corner and quarter section corners within the area surveyed for the project must be conspicuously indicated on the plans. All bench marks and section and quarter section corners and property pins within the construction limits shall include a note for the re-establishment of the monuments.

IV. Basic Scope of Services

The scope associated with this project is broken out by phase, task, and sub-task, and is described in detail below. Within each phase, all tasks will be completed by the Consultant or by a subconsultant of the Consultant, unless otherwise noted.

Phase 1: Preliminary Design

This phase involves the data collection and analysis for the development of preliminary plans. The following tasks are associated with Phase 1: Preliminary Design.

Task 1.1: Project Management and Coordination

This task involves project coordination through the entirety of the project (Phases 1-4) and includes the following elements:

- A. Project kickoff meeting (3 Affinis staff to attend).
- B. Develop detailed design schedule for the entire project and discuss at the project kickoff meeting. Provide schedule updates at project progress communications. Include at least the following benchmarks in the schedule:
 - 1. Survey complete.
 - 2. Concept layouts.
 - 3. Utility coordination meetings.
 - 4. Public involvement meetings.
 - 5. Agency permit applications submitted.
 - 6. Preliminary plans complete.
 - 7. Easement/Right-of-way documents to city.
 - 8. Final plans submitted for review.
 - 9. Project ready for bid.
- C. Prepare design memorandum to be reviewed and approved prior to development of preliminary plans.
- D. Prepare monthly project progress reports and invoices.

Task 1.2: Data Collection

- A. Survey Data Collection – Perform design and cadastral surveys as required to prepare plan and profile sheets in order to provide sufficient control, location, and land information necessary to prepare a complete set of construction plans and to prepare any legal descriptions required for easement acquisition. All surveys and point coordinates for the project must tie into and be in the Kansas State Plane (North Zone). Cadastral surveys shall include locating the position of pertinent PLSS corners (including quarter and sixteenth corners) pertaining to the project and shall conform to the accuracy standards as set forth by the Kansas State Board of Technical Professions. All survey data must be provided to city in digital format allowing insertion into AutoCad environment using standard field book format (PNEZD comma delimited).

It is assumed that private property access will be granted so that field survey data can be collected. The Consultant will be responsible for notifying private property owners about field survey activities. Specific survey work items included in this scope is as follows:

1. Establish land corners, and horizontal and vertical control.
 2. Topographic survey including shots at pavement tie-in locations, back of curb, edge of pavement, pavement markings, storm sewer and sanitary sewer, fences, trees (species and size), landscape plantings, building corners, and other unique features in the project area to create project mapping.
 3. Field locate all utilities in the project areas.
 4. Survey existing visible property corners and include in mapping.
 5. Field locate irrigation systems that are visible.
 6. Prepare and submit to governmental agencies a certified land corner record for each section corner recovered and used on this project.
- B. Capture the inside of each existing storm structure in the project area using a 360-degree camera photo. One photo per structure will be provided to the city. (27 storm structures assumed)
- C. Ownership and abutting property information:
1. Secure plats.
 2. Obtain ownership information. The Consultant shall obtain ownership information from Johnson County's records. The Consultant will contract with a city approved title company for ownership information investigations and obtain full ownership and encumbrance reports for each property where easements are required by this project (ownership and encumbrance reports for 23 properties are assumed). The costs associated with ownership information investigations shall be included in the total compensation fee for this project.

- a. Provide spreadsheet related to ownership including:
 - (1) Owner Name.
 - (2) Address.
 - (3) Site Address.
 - (4) Easements.
 - (5) Square Footage.
 - a. Title information will be provided in electronic format..
 - 3. Record drawings for previous projects in the vicinity of this project will be provided by the city.
- D. Prepare base map at a scale of 1:20 showing contours at 2-foot intervals, property lines, owner information, existing utility information (from locates), and visible features.
- E. Geotechnical Investigation – the Consultant shall contract with a city approved geotechnical subconsultant for subsurface investigations (i.e. soil properties and depth to bedrock) and foundation recommendations for the entire project. The costs associated with the work shall be paid by the Consultant to the geotechnical subconsultant. This cost shall be included in the total compensation fee as outlined in Exhibit C. Specific work tasks to be performed by the geotechnical subconsultant include:
 - 1. Four (4) boring locations within City of Olathe right-of-way that extend down to a depth of 15 feet or refusal, whichever comes first. Rock coring is not planned.
 - 2. Augers will be used to penetrate the pavement. Pavement coring is not planned.
 - 3. Traffic control for borings will consist of signs and cones. Use of a flagging crew is not planned nor budgeted.
 - 4. Soil samples will be taken using split-spoon sampling techniques at 2.5-foot intervals in the upper 10 feet followed by 5-foot intervals thereafter.
 - 5. Three borings on pavement are planned. Each boring will be backfilled with hand-mixed concrete and patched with a thickness of Aquaphalt equal to the thickness of the pavement. This technique will allow the roadway to be opened immediately after drilling.
 - 6. Auger cuttings will be removed from the site and disposed of offsite.
 - 7. The borings will be logged by a field engineer or field geologist.
 - 8. Laboratory testing will include moisture content and Atterberg limits.
 - 9. A report will be prepared by a professional engineer registered in the State of Kansas. The report will include a boring location plan; boring logs; results of the laboratory tests; trench backfilling recommendations, and considerations for temporary excavations.
- F. Flooding Questionnaire - It is assumed that the city will prepare the flooding questionnaire and provide it to Affinis. Affinis will mail the questionnaire to all address within the project area. Affinis will log and categorize the flooding questionnaires that were returned in the project area. It is assumed that a total of 200 questionnaires will be sent out. Complaints in proximity to one another will be noted and summarized. Discuss findings with the city.

Task 1.3: Storm Sewer System Design and Alternative Analysis

- A. Preliminarily design the storm sewer system to meet SMP design requirements with available survey data, minimize utility conflicts, and provide the desired capacity. The following three (3) alternatives will be evaluated:
 - 1. The alignment recommendations presented in the PES. This includes upsizing existing storm sewer between Brougham Drive and the outlet to Indian Creek, with new storm sewer at the Brougham Drive cul-de-sac. Replace CMP and deteriorated inlets in the project vicinity.
 - 2. New detention behind Tomahawk Elementary to decrease capacity needed, upsizing existing storm sewer between Brougham Drive and the outlet to Indian Creek, with new storm sewer at the Brougham Drive cul-de-sac. Replace CMP and deteriorated inlets in the project vicinity.
 - 3. New detention behind Tomahawk Elementary to decrease storm sewer capacity needed, new secondary storm alignment along Locust St from Tomahawk Elementary to S Edinburgh St, and new storm sewer at the Brougham Drive cul-de-sac. Replace CMP and deteriorated inlets in the project vicinity.
- B. Prepare a stormwater hydrologic and hydraulic model using PC-SWMM with sufficient detail to perform necessary detention calculations, calculate hydraulic gradelines in the storm sewer system, and confirm that the building and street flooding identified in the PES has been addressed to SMP design standards. Models will be developed for the following:
 - 1. Existing Conditions. Model will be calibrated with Stormwatch data.
 - 2. The three (3) alternatives listed above.
- C. Prepare concept layouts for each alternative sufficient to convey the intent of the design for discussion with SMP.
- D. Prepare preliminary cost estimates for the three (3) alternatives studied.
- E. Meet with SMP staff to discuss the project, the scope of the improvements, and the preliminary cost compared to the PES cost estimate. The intent of this meeting would be to confirm agreement with the selected alternative and the associated cost. (2 Affinis staff to attend this virtual meeting)

Task 1.4: Preliminary (30%) Plans

This task includes the preparation of preliminary check plans that include the following plan elements:

- A. Cover sheet.
- B. General notes and Legend.
- C. Survey references.

- D. Easement layout to include property lines and owner information, subdivision names, lots and sites address.
- E. Utility plan sheets.
- F. Plan and profile sheets:
 - 1. Plan scale = 1:20.
 - 2. Profile scale H = 1:20; V = 1:5.
 - 3. Property lines and owner information.
 - 4. Display location of existing utilities and underground facilities in the base map. Reference station location of existing utilities to the base line of the proposed improvements in the plan and profiles.
 - 5. Landmark items to be protected or removed by project (fences, sprinklers, trees, shrubs, landscape beds, etc.
 - 6. Preliminary permanent drainage easement and temporary construction easement limits.
- G. Detention basin layout (Horizontal only)
- H. Quality control review of office check plans.

Task 1.5: Preliminary Plans Opinion of Probable Construction Cost

This task includes the development of a preliminary opinion of probable construction cost (OPCC). This cost will be itemized by unit of work and including a 15% construction contingency.

Task 1.6: Field Check

Meeting for office check design: Following the city review of the preliminary plans, two (3) Affinis staff will attend one (1) field check review meeting with the appropriate city staff at the project site to review the preliminary plans.

Task 1.7: Easement Documents

- A. Describe easements necessary to complete project.
 - 1. Furnish legal descriptions sealed by an RLS licensed in the state of Kansas. Legal descriptions are also to be provided in a digital format compatible with Microsoft Word.
 - 2. Furnish an ownership and easement spreadsheet to include Owner Name; Owner Address; Site Address and proposed easements to include type and square footage.
 - 3. Prepare the city's easement documents/forms.

4. Maps and sketches as follows:
 - a. Prepare tract maps (23 tract maps assumed).
 - b. Plan and profile pages showing all proposed takings.
 - c. Individual drawings of takings for each ownership, including:
 - d. Title block, including a graphical scale and north arrow.
 - e. Ownership boundaries and information.
 - f. Existing landmarks items protected or removed by the project (trees, buildings, fences, shrubs, landscape beds, etc.).
 - g. Existing rights-of-way and easements.
 - h. Proposed takings identified with text and graphically.
 - i. Legend for taking type.
 - j. Legal description of all takings.
5. Submit 8 1/2 x 11-inch exhibits and legal descriptions of each property required for easement acquisition to the city. Up to twenty-three (23) properties are included in the scope.
6. Revise legal descriptions, tract maps and/or easement descriptions prior to acquisition and construction as requested by the city. Assume five (5) of the tracts change ownership.

B. School Easement Meeting: Affinis staff will attend up to two (2) meeting with Tomahawk Elementary School. These will be scheduled by the city and attendance will be at the request of city.

C. The Consultant shall contract with a city approved landscape architecture subconsultant for detention pond vegetation design and renderings. The costs associated with the work shall be paid by the Consultant to the landscape architecture subconsultant. This cost shall be included in the total compensation fee as outlined in Exhibit C. Specific work tasks to be performed by the landscape architecture subconsultant include:

1. Two (2) separate Detention Pond renderings for two meetings with Tomahawk School. Exhibits will consist of a color-rendered plan with plant images for reference.
2. Attendance at one (1) meeting with Tomahawk School.

Task 1.8: Permitting and Approvals

Prepare the necessary applications, exhibits, drawings, and specifications for the city's execution and submittal. Permit fees for the permits identified above shall be paid for by the Consultant and the fee amount shall be included in the total compensation fee as outlined in Exhibit C. Permit fee amounts are based on our understanding of the permits required on this project. Permit fee amounts do not include costs associated with mitigation measures as required by a specific permit. Permit submittals assumed are as follows:

- A. Kansas Department of Health and Environment – NPDES Construction Permit Notice of Intent (NOI) and a Stormwater Pollution Prevention Plan (SWPPP) for the project. Two (2) hard copies of the SWPPP will be provided to the city.
- B. Olathe Land Disturbance Permit.
- C. SMP preliminary and final submittals.

Task 1.9: Utility Coordination

- A. Mapping Request: Request mapping and contact information for all utilities on the project site.
- B. Field Locates: Requesting the 811 locates and following up with locators and the utility companies to get locates completed during the topographic survey.
- C. Following the completion of the preliminary plans, this task includes the submittal of information, coordination with utilities, and tracking utility relocation progress throughout the duration of the project.
 - 1. Submit the preliminary plan information to utilities in the project area and coordination with utilities once the preliminary plan information has been reviewed. This would include correspondence and phone conversations with utilities.
 - 2. Tracking the progress of utility relocations and communicating this progress with the city.
 - 3. Preparation of a colored utility scroll to be used during coordination efforts.
- D. Utility Coordination Meetings: Meet with utility companies to coordinate relocations during project design. Seven (7) utility coordination meetings with Affinis staff are assumed in this task. These include three (3) joint utility meetings, one after conceptual layout, one after preliminary plans and another after final plans submittals. There will also be up to four (4) one-on-one meetings, scheduled as needed. This effort includes meeting preparation (including the necessary exhibits) and communication, attendance at meetings, and preparation and distribution of meeting minutes, as appropriate. These meetings are assumed to be virtual meetings.

Task 1.10: Public Information Meetings

- A. Prepare Exhibits: This task includes preparing exhibit(s) with aerial background to show project improvements.
- B. Attend three (3) public meetings: The first to present preliminary plans and explain the project to property owners in the project area, the second meeting is to discuss the final plans, and the third meeting is to introduce the contractor before construction begins. It is assumed that these meetings will be virtual and coordinated by the city. The city will prepare and send the meeting notifications to property owners.

Phase 2: Office Check Design

Following the completion of the Phase 1 elements, the city review process, and the field check review, Phase 2 involves the preparation of office plans. The following tasks are associated with Phase 2: Office Check Design.

Task 2.1: Office Check (60%) Plans

Prepare office check (60%) plans, incorporating all field check comments from city staff. At a minimum, the office check plans shall include all information from the preliminary plans plus the following detailed design additions:

- A. Update cover sheet, general notes and legend, and survey references.
- B. Summary of quantities.
- C. Property restoration schedule.
- D. Easement layout updates.
- E. Utility plan updates.
- F. Plan and profile sheet updates.
- G. Detention basin layout.
 - 1. Detention Basin Layout will include typical section, stations and offsets, elevations, and drainage arrows.
- H. Underdrain plans.
- I. Detention basin planting plan.
 - 1. Plans will follow best management practices as provide by the City and/or MARC.
- J. Intersection details (up to 3 intersections)
 - 1. Intersection details will include horizontal dimensions only.
- K. ADA ramp details (up to 5 ramps)
 - 1. ADA ramp details will include horizontal dimensions only.
- L. Driveway details – horizontal only.
- M. Erosion control plans and details.
- N. Traffic control plan including construction phasing (staging plan), Brougham Drive detour plan, and sidewalk detour.
- O. Pavement marking plan for Brougham Drive.

- P. Olathe Standard details.
- Q. Drainage area map and calculations.
- R. SMP project sign details.
- S. Quality control review and submittal of final plans, project manual, and final opinion of probable construction cost. No hard copies of the final plans or project manual will be provided.

Task 2.2: Preliminary Plans Opinion of Probable Construction Cost

This task includes the development of a preliminary opinion of probable construction cost (OPCC). This cost will be itemized by unit of work and including a 10% construction contingency.

Phase 3: Final Design

Following the completion of the Phase 2 elements, the city review process, Phase 3 involves the preparation of final plans and a project manual. The following tasks are associated with Phase 3: Final Design.

Task 3.1: Final (95%) Plans

Prepare final plans, incorporating all office check comments from city staff. At a minimum, the final plans shall include all information from the office check plans plus the following detailed design additions:

- A. Update cover sheet, general notes and legend, and survey references.
- B. Summary of quantities updates.
- C. Property restoration schedule updates.
- D. Easement layout updates.
- E. Utility plan updates.
- F. Plan and profile sheet updates.
- G. Detention basin layout updates.
- H. Underdrain plan updates.
- I. Detention basin planting plan.
 - 1. Final planting plan will be prepared for competitive bidding and will include notes and details. Specifications are not included.

- J. Intersection details (up to 3 intersections)
 - 1. Intersection details will include pavement dimensions, stations and offsets, curb return stations, elevations, curb type (wet/dry), drainage arrows, and grid of final surface elevations for major intersections and gutter control for minor intersections on critically flat slopes.
- K. ADA ramp details (up to 5 ramps)
 - 1. ADA ramp details will include ramp dimensions, stations and offsets, grades, and elevations.
- L. Driveway details – full design.
- M. Erosion control plans and detail updates.
- N. Traffic control plan including construction phasing (staging plan), Brougham Drive detour plan, and sidewalk detour updates.
- O. Pavement marking plan for Brougham Drive updates.
- P. Olathe Standard details updates.
- Q. Drainage area map and calculations.
- R. SMP project sign details.
- S. Quality control review and submittal of final plans, project manual, and final opinion of probable construction cost. No hard copies of the final plans or project manual will be provided.

Task 3.2: Project Manual

- A. Review the schedule of values (bid form), measurement and payment, and special conditions provided by the city and modify as needed to address specific elements of this project.
- B. Incorporate the front-end documents provided by the city into a single and complete project manual PDF.

Task 3.3: Final Opinion of Probable Construction Cost

Prepare and submit a final opinion of probable construction cost for the project along with the final plans to the city for review.

Task 3.4: Project Bid Plans

- A. After all comments from the city on the final plans are received, the final plans will be updated to address all remaining outstanding review comments. Signed and sealed bid plans will be prepared.

- B. Submit a PDF file of the complete set of signed and sealed bid plans and project manual. No hard copies of the bid plans or project manual will be provided. AutoCAD drawing files of the final plans will be supplied to the city upon request.

Phase 4: Bidding Services

Following the completion of the project bid plans (Phase 3), Phase 4 involves the project bidding process. The following task is associated with Phase 4: Bidding Services.

Task 4.1: Bidding Services

- A. Provide the city with the electronic information of the plans, specifications, and contract documents needed to bid the project.
- B. Respond to questions from contractors regarding the bid plans.
- C. Prepare up to two (2) written addenda to the bidding documents as required and or requested.
- D. Prepare for and attend pre-bid meeting (virtual meeting assumed)
- E. Prepare for and attend bid opening (in-person meeting assumed).
- F. Assist city in analyzing bids and making recommendations for award of the construction contract.

Phase 5: Construction Services

Following the completion of the project bidding (Phase 4), Phase 5 involves services provided during project construction. The following task is associated with Phase 5: Construction Services.

Task 5.1: General Construction Services

- A. Prepare for and attend a pre-construction conference with city representatives, the successful bidder, and utility companies (in-person meeting assumed).
- B. Provide plans for city and contractor. Assumed three (3) full size plans, ten (10) half size plans, and ten (10) project manuals.
- C. Be available for discussion and consultation during the construction phase, as needed by the city. Answer questions regarding the design and interpretation of the plans. Provide consultation concerning conditions encountered during construction that conflict with or were not addressed by the bid plans. Construction observation services are not part of this contract.
- D. Review up to ten (10) shop drawings.
- E. Participate in final walk-through inspection.
- F. Prepare plan revisions as necessitated by conditions encountered in the field during construction.

- G. Provide city with a complete set of record drawings for the Project. The record drawings shall be provided as a digital copy. The city's construction representative shall provide the Consultant with documentation of plan revisions, field modifications, or information necessary to prepare the record drawings. The final record drawings will include
1. All change orders.
 2. Minor design changes.
 3. Changes made in the field by city representatives and are marked on the construction plan set.
 4. Submit updated PDF files of the revised sheets.

Phase 6: Optional Services

Depending on the alternative selected during the concept analysis, the following items in Phase 6 are optional services to be completed upon the direction of the city.

Task 6.1: Structural Design

A. Box culvert plans.

1. Analysis and design of four (4) reinforced concrete box culvert (RCB). Includes the structural calculations, design, and structural detailing.
2. RCB plans for Office Check Plan submittal. Structure plans and details to include structure geometry (wall and bottom and top slab thickness). RCB dimension and sizing. Reinforcement provided for 95% submittal.
3. RCB plans for Final Plan submittal. Structure plans and reinforcement details.
4. Quality control review of the calculations and details for each submittal.

B. Cast-in-place structure plans

1. Analysis and design of up to eleven (11) specially designed non-standard cast-in-place structures (junction boxes, area inlets, curb inlets) and an end section to accommodate the proposed RCB/adjacent culverts. Includes the structural calculations, design, and structural detailing.
2. Structure plans for Office Check Plan submittal. Structure plans and details to include structure geometry (wall and bottom and top slab thickness). Structure dimension and sizing. Reinforcement provided for 95% submittal.
3. Structure plans for Final Plan submittal. Structure plans and reinforcement details.
4. Quality control review of the calculations and details for each submittal.

Task 6.2: Easements

- A. Obtain additional ownership information for easements based on alternate alignment. The Consultant shall obtain ownership information from Johnson County's records. The Consultant will contract with a city approved title company for ownership information investigations and obtain full ownership and encumbrance reports for each property where easements are required by this project (ownership and encumbrance reports for 10 properties are assumed). The costs associated with ownership information investigations shall be included in the total compensation fee for this project.
- B. Describe easements for additional properties as required based on alternate alignment.
1. Furnish legal descriptions sealed by an RLS licensed in the state of Kansas. Legal descriptions are also to be provided in a digital format compatible with Microsoft Word.
 2. Furnish an ownership and easement spreadsheet to include Owner Name; Owner Address; Site Address and proposed easements to include type and square footage.
 3. Prepare the city's easement documents/forms.
 4. Maps and sketches as follows:
 - a. Prepare tract maps (10 tract maps assumed).
 - b. Plan and profile pages showing all proposed takings.
 - c. Individual drawings of takings for each ownership, including:
 - d. Title block, including a graphical scale and north arrow.
 - e. Ownership boundaries and information.
 - f. Existing landmarks items protected or removed by the project (trees, buildings, fences, shrubs, landscape beds, etc.).
 - g. Existing rights-of-way and easements.
 - h. Proposed takings identified with text and graphically.
 - i. Legend for taking type.
 - j. Legal description of all takings.
 5. Submit 8 1/2 x 11-inch exhibits and legal descriptions of each property required for easement acquisition to the city. Up to ten (10) properties are included in this task.
- C. Affinis shall stake in the field the location of easements prior to acquisition and construction as requested by the city. Staking for up to five (5) properties has been included in the fee for the project. Additional staking shall be compensated as additional services.

- D. Individual Easement Meeting: Following the field check meeting, Affinis staff will attend up to five (5) individual property owner meetings to discuss project improvements and easements. These will be scheduled by the city and attendance will be at the request of city.

Task 6.3: Sanitary Sewer Repair

- A. Sanitary sewer relocation plans – adjust and protect sanitary sewer as necessary to accommodate storm sewer improvements, including the preparation of sanitary sewer relocation plans and submittal to city for review.
 - 1. Sanitary sewer plans for Office Check Plan submittal.
 - 2. Sanitary sewer plans for Final Plan submittal.
 - 3. Quality control review for each submittal.

V. Additional Services

Additional services would be items not included in the detailed scope above and could be added to the scope via a supplemental services contract.

VI. Schedule

Assuming notice to proceed with the project by March 1, 2024, the Consultant hereby agrees to submit Preliminary (30%) plans by June 2024. Office Check (60%) Plans will be submitted by November 2024. Final (95%) Plans will be submitted by March 2025. A more detailed project schedule will be provided at the project kickoff meeting.

EXHIBIT C - Fee and Rate Schedule


|  | Briarwood Stormwater Improvements PN 2-C-009-24 City of Olathe, Kansas | | | | | | | | | | | Date: 2/2/2024 | | | | | | |
|---|---|-----------|----------|------------|-----------|-----------|-----------|-----------|-----------|----------|-------------|--------------------------|------------|-------|------------|-------------------|-------------|------------|
| | | | | | | | | | | | | Client: Olathe, KS | | | | | | |
| | | | | | | | | | | | | Project: Briarwood Storm | | | | | | |
| | | | | | | | | | | | | Made By: JLF/MEC | | | | | | |
| | Principal | Project | Senior | Engineer I | Intern | Design | Utility | CADD | CADD | Land | Survey Crew | Survey Crew | Proj. Rel. | LABOR | LABOR | DIRECT EXPENSES & | | TOTAL |
| Tasks | \$315.00 | \$230.00 | \$250.00 | \$170.00 | \$145.00 | \$200.00 | \$130.00 | \$130.00 | \$110.00 | \$165.00 | \$130.00 | \$110.00 | \$100.00 | HOURS | COSTS | ITEM | COST | FEE |
| PHASE 1: PRELIMINARY DESIGN | | | | | | | | | | | | | | | | | | |
| 1.1 Project Management and Coordination | | | | | | | | | | | | | | | | | | |
| A | | 2 | | 2 | 3 | | | | | | | | | 7 | \$ 1,235 | Mileage | \$ 20 | \$ 1,255 |
| B | | 1 | | 1 | | | | | | | | | | 2 | \$ 400 | | | \$ 400 |
| C | | 2 | | 4 | | | | | | | | | | 6 | \$ 1,140 | | | \$ 1,140 |
| D | | 15 | | | | | | | | | | | 6 | 21 | \$ 4,050 | | | \$ 4,050 |
| 1.2 Data Collection | | | | | | | | | | | | | | | | | | |
| A | | | | | | | | 8 | | | 160 | 160 | 16 | 344 | \$ 41,040 | Mileage | \$ 600.00 | \$ 41,640 |
| B | | | | | | | | 16 | | | | 16 | | 32 | \$ 3,840 | Mileage | \$ 60.00 | \$ 3,900 |
| C | | | | | | | | 32 | | 16 | | | | 48 | \$ 6,800 | O&E Reports | \$ 7,400.00 | \$ 14,200 |
| D | | | | | | | | 60 | | 20 | 8 | | | 88 | \$ 12,140 | Mileage | \$ 60.00 | \$ 12,200 |
| E | | 2 | | 4 | | | | | | | 4 | 4 | | 14 | \$ 2,100 | Geotech Sub | \$ 6,900.00 | \$ 9,000 |
| F | | 4 | | 8 | 24 | | | | | | | | 6 | 42 | \$ 6,360 | Postage | \$ 150 | \$ 6,510 |
| 1.3 Storm Sewer System Design and Alternative Analysis | | | | | | | | | | | | | | | | | | |
| A | | 4 | | 18 | 2 | 16 | | | 16 | | | | | 56 | \$ 9,230 | | | \$ 9,230 |
| B | | 4 | | 12 | 2 | 8 | | | 8 | | | | | 34 | \$ 5,730 | | | \$ 5,730 |
| C | | 4 | | 28 | 66 | | | | | | | | | 98 | \$ 15,250 | | | \$ 15,250 |
| D | | 3 | | 12 | 6 | 5 | | | | | | | | 26 | \$ 4,600 | | | \$ 4,600 |
| E | | 2 | | 4 | | | | | | | | | | 6 | \$ 1,140 | | | \$ 1,140 |
| 1.4 Preliminary (30%) Plans | | | | | | | | | | | | | | | | | | |
| A | | 1 | | | | 2 | | | 3 | | | | | 6 | \$ 960 | | | \$ 960 |
| B | | 1 | | 2 | | | | | 4 | | | | | 7 | \$ 1,010 | | | \$ 1,010 |
| C | | 2 | | | | 2 | | | 6 | | | | | 10 | \$ 1,520 | | | \$ 1,520 |
| D | | 4 | | 8 | | 8 | | | 7 | | | | | 27 | \$ 4,650 | | | \$ 4,650 |
| E | | 2 | | 8 | | 10 | | | 9 | | | | | 29 | \$ 4,810 | | | \$ 4,810 |
| F | | 9 | | 40 | | 40 | | | 40 | | | | | 129 | \$ 21,270 | | | \$ 21,270 |
| G | | 1 | | 8 | | 40 | | | 10 | | | | | 59 | \$ 10,690 | | | \$ 10,690 |
| H | 4 | 2 | | 4 | 6 | 8 | | | | | | | | 24 | \$ 4,870 | | | \$ 4,870 |
| 1.5 Preliminary Plans Opinion of Probable Construction Cost | | | | | | | | | | | | | | | | | | |
| | | 4 | | 8 | 6 | 2 | | | | | | | | 20 | \$ 3,550 | | | \$ 3,550 |
| 1.6 Field check meeting (3 coworkers) | | | | | | | | | | | | | | | | | | |
| | | 4 | | 4 | 6 | | | | | | | | | 14 | \$ 2,470 | Mileage | 20 | \$ 2,490 |
| 1.7 Easement Documents | | | | | | | | | | | | | | | | | | |
| A | | | | | | | | 24 | | 24 | | | | 48 | \$ 7,080 | | | \$ 7,080 |
| B | | 4 | | 6 | | 8 | | | | | | | | 18 | \$ 3,540 | Mileage | \$ 40 | \$ 3,580 |
| C | | 2 | | 4 | | | | | | | | | | 6 | \$ 1,140 | Landworks | \$ 3,930 | \$ 5,070 |
| 1.8 Permitting and Approvals | | | | | | | | | | | | | | | | | | |
| A | | 2 | | 4 | 8 | | | | | | | | 1 | 15 | \$ 2,400 | Permit | \$ 60 | \$ 2,460 |
| B | | 2 | | 6 | | | | | | | | | | 8 | \$ 1,480 | | | \$ 1,480 |
| C | | 4 | | 12 | | | | | | | | | | 16 | \$ 2,960 | | | \$ 2,960 |
| 1.9 Utility Coordination | | | | | | | | | | | | | | | | | | |
| A | | | | | | | 4 | | | | | | | 4 | \$ 520 | | | \$ 520 |
| B | | | | | | | 4 | | | | | | | 4 | \$ 520 | | | \$ 520 |
| C | | 4 | | 8 | | | 80 | | | | | | | 92 | \$ 12,680 | | | \$ 12,680 |
| D | | | | 7 | | | 21 | | | | | | | 28 | \$ 3,920 | | | \$ 3,920 |
| 1.10 Public Information Meetings | | | | | | | | | | | | | | | | | | |
| A | | | | 2 | | 8 | | | | | | | | 10 | \$ 1,940 | Drexel | \$ 200 | \$ 2,140 |
| B | | 8 | | 4 | | | | | | | | | | 12 | \$ 2,520 | | | \$ 2,520 |
| | | | | | | | | | | | | | | | | Printing | \$ 55 | \$ 55 |
| | | | | | | | | | | | | | | | | Mileage | | \$ - |
| Subtotal Phase 1 - Hours | 4 | 99 | 0 | 228 | 129 | 157 | 109 | 140 | 103 | 60 | 172 | 180 | 29 | 1410 | | | | |
| Subtotal Phase 1 - Cost | \$ 1,260 | \$ 22,770 | \$ - | \$ 38,760 | \$ 18,705 | \$ 31,400 | \$ 14,170 | \$ 18,200 | \$ 11,330 | \$ 9,900 | \$ 22,360 | \$ 19,800 | \$ 2,900 | | \$ 211,555 | | \$ 19,495 | \$ 231,050 |

EXHIBIT C - Fee and Rate Schedule


|  | | Briarwood Stormwater Improvements PN 2-C-009-24 City of Olathe, Kansas | | | | | | | | | | | Date: | 2/2/2024 | | | | | | | |
|---|--|---|-----------|-------------|------------|-------------|-----------|-------------|---------------|--------------|-------------|-------------|-------------|-----------------|-------|-----------|-------------------|-----------|-----------|--|--|
| | | | | | | | | | | | | | Client: | Olathe, KS | | | | | | | |
| | | | | | | | | | | | | | Project: | Briarwood Storm | | | | | | | |
| | | | | | | | | | | | | | Made By: | JLF/MEC | | | | | | | |
| | | Principal | Project | Senior | Engineer I | Intern | Design | Utility | CADD | CADD | Land | Survey Crew | Survey Crew | Proj. Rel. | LABOR | LABOR | DIRECT EXPENSES & | | TOTAL | | |
| | | | Manager I | Engineer II | | Engineer II | Tech. II | Coordinator | Technician II | Technician I | Surveyor II | Member II | Member I | Support | HOURS | COSTS | REIMBURSABLES | | FEE | | |
| Tasks | | \$315.00 | \$230.00 | \$250.00 | \$170.00 | \$145.00 | \$200.00 | \$130.00 | \$130.00 | \$110.00 | \$165.00 | \$130.00 | \$110.00 | \$100.00 | | | ITEM | COST | | | |
| PHASE 2: OFFICE CHECK DESIGN | | | | | | | | | | | | | | | | | | | | | |
| 2.1 Office Check (60%) Design | | | | | | | | | | | | | | | | | | | | | |
| A | Updated cover sheet, gen notes/legend and survey ref | | 1 | | | | | | | | | | | | 2 | \$ 340 | | | \$ 340 | | |
| B | Summary of quantities | | 1 | | 2 | | | | | | | | | | 4 | \$ 680 | | | \$ 680 | | |
| C | Property restoration schedule | | 1 | | 2 | 8 | | | | | | | | | 11 | \$ 1,730 | | | \$ 1,730 | | |
| D | Easement layout updates | | 1 | | 4 | | 4 | | | | | | | | 9 | \$ 1,710 | | | \$ 1,710 | | |
| E | Utility plan updates | | 1 | | 4 | | 4 | | | | | | | | 15 | \$ 2,370 | | | \$ 2,370 | | |
| F | Plan and profile sheet updates | | 8 | | 20 | | 30 | | | | | | | | 82 | \$ 13,880 | | | \$ 13,880 | | |
| G | Detention basin layout | | 2 | | 4 | | 20 | | | | | | | | 26 | \$ 5,140 | | | \$ 5,140 | | |
| H | Underdrain plan | | 2 | | 12 | | 20 | | | | | | | | 64 | \$ 9,800 | | | \$ 9,800 | | |
| I | Detention basin planting plan | | | | 4 | | | | | | | | | | 4 | \$ 680 | Landworks | \$ 1,500 | \$ 2,180 | | |
| J | Intersection (up to 3) | | 2 | | 4 | | 2 | | | | | | | | 14 | \$ 2,200 | | | \$ 2,200 | | |
| K | ADA ramp details (up to 5) | | 2 | | 6 | | 2 | | | | | | | | 16 | \$ 2,540 | | | \$ 2,540 | | |
| L | Driveway details (up to 5 driveways) | | 2 | | | | | | | | | | | | 2 | \$ 460 | | | \$ 460 | | |
| M | Erosion control plans (8 sheets) | | 4 | | | 16 | 16 | | | | | | | | 50 | \$ 7,980 | | | \$ 7,980 | | |
| N | Traffic control plan and construction phasing | | 8 | | | | | | | | | | | | 20 | \$ 3,160 | | | \$ 3,160 | | |
| O | Pavement marking plans | | 1 | | | | | | | | | | | | 5 | \$ 670 | | | \$ 670 | | |
| P | Olathe standard details | | 2 | | | 8 | 4 | | | | | | | | 34 | \$ 4,620 | | | \$ 4,620 | | |
| Q | Drainage Area Map and Calculations | | 1 | | 8 | | 8 | | | | | | | | 17 | \$ 3,190 | | | \$ 3,190 | | |
| R | SMP Sign Detail | | | | 1 | | | | | | | | | | 3 | \$ 390 | | | \$ 390 | | |
| S | Quality control review and submittal | 4 | 2 | | 4 | 6 | 8 | | | | | | | 4 | 28 | \$ 5,270 | | | \$ 5,270 | | |
| 2.2 Office Check Opinion of Probable Construction Cost | | | | | | | | | | | | | | | | | | | | | |
| A | Prepare office check OPCC | | 4 | | 8 | 6 | | | | | | | | | 18 | \$ 3,150 | | | \$ 3,150 | | |
| | | | | | | | | | | | | | | | | | Printing | \$ 40 | \$ 40 | | |
| | | | | | | | | | | | | | | | | | Mileage | | \$ - | | |
| Subtotal Phase 2 - Hours | | 4 | 45 | 0 | 83 | 44 | 118 | 0 | 0 | 126 | 0 | 0 | 0 | 4 | 424 | | | | | | |
| Subtotal Phase 2 - Cost | | \$ 1,260 | \$ 10,350 | \$ - | \$ 14,110 | \$ 6,380 | \$ 23,600 | \$ - | \$ - | \$ 13,860 | \$ - | \$ - | \$ - | \$ 400 | | \$ 69,960 | \$ 1,540.00 | \$ 71,500 | | | |

EXHIBIT C - Fee and Rate Schedule


|  | | Briarwood Stormwater Improvements PN 2-C-009-24 City of Olathe, Kansas | | | | | | | | | | | Date: | 2/2/2024 | | | | | | | |
|---|---|---|-----------|-------------|------------|-------------|-----------|-------------|---------------|--------------|-------------|-------------|--------------|-----------------|-----------|----------|-------------------|-----------|----------|--|--|
| | | | | | | | | | | | | | Client: | Olathe, KS | | | | | | | |
| | | | | | | | | | | | | | Project: | Briarwood Storm | | | | | | | |
| | | | | | | | | | | | | | Survey Crew: | JLF/MEC | | | | | | | |
| | | Principal | Project | Senior | Engineer I | Intern | Design | Utility | CADD | CADD | Land | Survey Crew | Survey Crew | Proj. Rel. | LABOR | LABOR | DIRECT EXPENSES & | | TOTAL | | |
| | | | Manager I | Engineer II | | Engineer II | Tech. II | Coordinator | Technician II | Technician I | Surveyor II | Member II | Member I | Support | HOURS | COSTS | REIMBURSABLES | | FEE | | |
| Tasks | | \$315.00 | \$230.00 | \$250.00 | \$170.00 | \$145.00 | \$200.00 | \$130.00 | \$130.00 | \$110.00 | \$165.00 | \$130.00 | \$110.00 | \$100.00 | | | ITEM | COST | | | |
| PHASE 3: FINAL DESIGN | | | | | | | | | | | | | | | | | | | | | |
| 3.1 Final (95%) plans | | | | | | | | | | | | | | | | | | | | | |
| A | Cover sheet, gen notes/legend and survey ref | | 1 | | 1 | | | | | | | | | | 3 | \$ 510 | | | \$ 510 | | |
| B | Summary of quantities | | 2 | | 2 | | | | | | | | | | 5 | \$ 910 | | | \$ 910 | | |
| C | Property restoration schedule | | 1 | | 2 | 2 | | | | | | | | | 5 | \$ 860 | | | \$ 860 | | |
| D | Easement layout | | 1 | | 2 | | 1 | | | | | | | | 6 | \$ 990 | | | \$ 990 | | |
| E | Utility plan | | 1 | | 4 | | 4 | | | | | | | | 13 | \$ 2,150 | | | \$ 2,150 | | |
| F | Plan and profile sheet | | 4 | | 8 | | 16 | | | | | | | | 40 | \$ 6,800 | | | \$ 6,800 | | |
| G | Detention basin layout | | 2 | | 4 | | 6 | | | | | | | | 20 | \$ 3,220 | | | \$ 3,220 | | |
| H | Underdrain plan | | 2 | | 4 | | 8 | | | | | | | | 34 | \$ 4,940 | | | \$ 4,940 | | |
| I | Detention basin planting plan | | | | 4 | | | | | | | | | | 4 | \$ 680 | Landworks | \$ 4,140 | \$ 4,820 | | |
| J | Intersection (up to 3) | | 2 | | 4 | | 30 | | | | | | | | 36 | \$ 7,140 | | | \$ 7,140 | | |
| K | ADA ramp details (up to 5) | | 2 | | 4 | | 30 | | | | | | | | 36 | \$ 7,140 | | | \$ 7,140 | | |
| L | Driveway details - full design | | 1 | | 2 | | 20 | | | | | | | | 23 | \$ 4,570 | | | \$ 4,570 | | |
| M | Erosion control plans | | 2 | | | 4 | 2 | | | | | | | | 18 | \$ 2,540 | | | \$ 2,540 | | |
| N | Traffic control plan and construction phasing | | 4 | | | | | | | | | | | | 10 | \$ 1,580 | | | \$ 1,580 | | |
| O | Pavement marking plans | | 1 | | | | | | | | | | | | 3 | \$ 450 | | | \$ 450 | | |
| P | Olathe standard details | | 1 | | | | | | | | | | | | 3 | \$ 450 | | | \$ 450 | | |
| Q | Drainage Area Map and Calculations | | 1 | | 4 | | 4 | | | | | | | | 9 | \$ 1,710 | | | \$ 1,710 | | |
| R | SMP Sign Detail | | 1 | | | | | | | | | | | | 2 | \$ 340 | | | \$ 340 | | |
| S | Quality control review and submittal | 4 | 2 | | 4 | 6 | 8 | | | | | | | | 24 | \$ 4,870 | | | \$ 4,870 | | |
| 3.2 Project Manual | | | | | | | | | | | | | | | | | | | | | |
| A | Schedule of values, M&P, special conditions | 1 | 16 | | 8 | | | | | | | | | | 25 | \$ 5,355 | | | \$ 5,355 | | |
| A | Prepare project manual | | 4 | | 8 | | | | | | | | | | 12 | \$ 2,280 | | | \$ 2,280 | | |
| 3.3 Final Opinion of Probable Construction Cost | | | | | | | | | | | | | | | | | | | | | |
| A | Prepare final OPCC | | 4 | | 6 | 4 | | | | | | | | | 14 | \$ 2,520 | | | \$ 2,520 | | |
| 3.4 Project Bid Plans | | | | | | | | | | | | | | | | | | | | | |
| A | Prepare bid plans | | 4 | | 8 | | 29 | | | | | | | | 41 | \$ 8,080 | | | \$ 8,080 | | |
| B | Submit bid plans and project manual | | 2 | | 2 | | | | | | | | | | 4 | \$ 800 | | | \$ 800 | | |
| | | | | | | | | | | | | | | | | | Printing | \$ 25 | \$ 25 | | |
| | | | | | | | | | | | | | | | | | Mileage | | \$ - | | |
| Subtotal Phase 2 - Hours | | 5 | 61 | 0 | 81 | 16 | 158 | 0 | 0 | 69 | 0 | 0 | 0 | 0 | 390 | | | | | | |
| Subtotal Phase 2 - Cost | | \$ 1,575 | \$ 14,030 | \$ - | \$ 13,770 | \$ 2,320 | \$ 31,600 | \$ - | \$ - | \$ 7,590 | \$ - | \$ - | \$ - | \$ - | \$ 70,885 | | \$ 4,165.00 | \$ 75,050 | | | |
| PHASE 4: BIDDING SERVICES | | | | | | | | | | | | | | | | | | | | | |
| 4.1 Bidding Services | | | | | | | | | | | | | | | | | | | | | |
| A | Electronic file transmittal | | | | 2 | | 2 | | | | | | | | 4 | \$ 740 | | | \$ 740 | | |
| B | Respond to questions during the bid process | | 4 | | 4 | | | | | | | | | | 8 | \$ 1,600 | | | \$ 1,600 | | |
| C | Prepare written addenda | | 4 | | 12 | | | | | | | | | | 16 | \$ 2,960 | | | \$ 2,960 | | |
| D | Pre-bid meeting (virtual meeting) | | 4 | | 4 | | | | | | | | | | 8 | \$ 1,600 | | | \$ 1,600 | | |
| E | Bid opening (in-person meeting) | | 4 | | 4 | | | | | | | | | | 8 | \$ 1,600 | Mileage | \$ 20 | \$ 1,620 | | |
| F | Assistance with analyzing bids | | 2 | | 8 | | | | | | | | | | 10 | \$ 1,820 | | | \$ 1,820 | | |
| | | | | | | | | | | | | | | | | | Printing | \$ 10 | \$ 10 | | |
| | | | | | | | | | | | | | | | | | Mileage | | \$ - | | |
| Subtotal Phase 3 - Hours | | 0 | 18 | 0 | 34 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 54 | | | | | | |
| Subtotal Phase 3 - Cost | | \$ - | \$ 4,140 | \$ - | \$ 5,780 | \$ - | \$ 400 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 10,320 | | \$ 30 | \$ 10,350 | | | |

EXHIBIT C - Fee and Rate Schedule


|  | | Briarwood Stormwater Improvements | | | | | | | | | | | Date: | 2/2/2024 | | | | | | | |
|---|--|-----------------------------------|-------------------|--------------------|------------|--------------------|-----------------|---------------------|--------------------|-------------------|------------------|-----------------------|----------------------|--------------------|-------------|-------------|---------------------------------|-------------|-----------|--|--|
| | | PN 2-C-009-24 | | | | | | | | | | | Client: | Olathe, KS | | | | | | | |
| | | City of Olathe, Kansas | | | | | | | | | | | Project: | Briarwood Storm | | | | | | | |
| | | | | | | | | | | | | | Made By: | JLF/MEC | | | | | | | |
| Tasks | | Principal | Project Manager I | Senior Engineer II | Engineer I | Intern Engineer II | Design Tech. II | Utility Coordinator | CADD Technician II | CADD Technician I | Land Surveyor II | Survey Crew Member II | Survey Crew Member I | Proj. Rel. Support | LABOR HOURS | LABOR COSTS | DIRECT EXPENSES & REIMBURSABLES | | TOTAL FEE | | |
| | | | | | | | | | | | | | | | | | ITEM | COST | | | |
| PHASE 5: CONSTRUCTION SERVICES | | | | | | | | | | | | | | | | | | | | | |
| 5.1 General Construction Services | | | | | | | | | | | | | | | | | | | | | |
| A | Attend pre-construction conference (in-person meeting) | | 4 | | 6 | | | | | | | | | | 10 | \$ 1,940 | Mileage | \$ 20 | \$ 1,960 | | |
| B | Construction plan sets | | | | 4 | | | | | | | | 2 | 6 | \$ 880 | Drexel | \$ 600 | \$ 1,480 | | | |
| C | Construction consultation | | 40 | | 60 | | | | | | | | | 100 | \$ 19,400 | Mileage | \$ 60 | \$ 19,460 | | | |
| D | Review shop drawings (10 shop drawings) | | | | 8 | 20 | | | | | | | | 28 | \$ 4,260 | | | \$ 4,260 | | | |
| E | Final walk-through inspection | | 4 | | 6 | | | | | | | | | 10 | \$ 1,940 | Mileage | \$ 20 | \$ 1,960 | | | |
| F | Plan revisions to address field conditions | | 4 | | 8 | 16 | | | | | | | | 28 | \$ 5,480 | | | \$ 5,480 | | | |
| G | Prepare record drawings (pdf only) | | 2 | | 4 | 8 | | | | | | | | 14 | \$ 2,300 | | | \$ 2,300 | | | |
| Reimbursables | | | | | | | | | | | | | | | | | Printing | | \$ - | | |
| | | | | | | | | | | | | | | | | | Mileage | | \$ - | | |
| Subtotal Phase 4 - Hours | | 0 | 54 | 0 | 96 | 28 | 16 | 0 | 0 | 0 | 0 | 0 | 2 | 196 | | | | | | | |
| Subtotal Phase 4 - Cost | | \$0 | \$12,420 | \$0 | \$16,320 | \$4,060 | \$3,200 | \$0 | \$0 | \$0 | \$0 | \$0 | \$200 | | \$ 36,200 | | \$ 700 | \$ 36,900 | | | |
| PHASE 6: OPTIONAL SERVICES | | | | | | | | | | | | | | | | | | | | | |
| 6.1 Structural Design | | | | | | | | | | | | | | | | | | | | | |
| A | Box culvert plans (4 box culvert) | | | 30 | | 68 | | | | 54 | | | | 152 | \$ 23,300 | | | \$ 23,300 | | | |
| B | Cast-in-place structure plans (11 structures) | | | 77 | | 120 | | | | 86 | | | | 283 | \$ 46,110 | | | \$ 46,110 | | | |
| 1.4 G | Preliminary Plans Detention basin layout (Deduction) | | -1 | | -8 | | -50 | | | | | | | -59 | \$ (11,590) | | | \$ (11,590) | | | |
| 1.7 C | Detention basin renderings for school meetings (Deduction) | | -2 | | -4 | | | | | | | | | -6 | \$ (1,140) | Landworks | \$ (3,930) | \$ (5,070) | | | |
| 2.1 G | Office Check Plans - Detention basin layout (Deduction) | | -2 | | -4 | | -20 | | | | | | | -26 | \$ (5,140) | | | \$ (5,140) | | | |
| 2.1 H | Office Check Plans - Underdrain plan (Deduction) | | -2 | | -12 | | -40 | | | | | | | -54 | \$ (10,500) | | | \$ (10,500) | | | |
| 2.1 I | Detention basin planting plan | | | | -4 | | | | | | | | | -4 | \$ (680) | Landworks | \$ (1,500) | \$ (2,180) | | | |
| 3.1 G | Final Plans - Detention basin layout (Deduction) | | -2 | | -4 | | -10 | | | | | | | -16 | \$ (3,140) | | | \$ (3,140) | | | |
| 3.1 H | Final Plans - Underdrain plan (Deduction) | | -2 | | -4 | | -20 | | | | | | | -26 | \$ (5,140) | | | \$ (5,140) | | | |
| 3.1 I | Detention basin planting plan | | | | -4 | | | | | | | | | -4 | \$ (680) | Landworks | \$ (4,140) | \$ (4,820) | | | |
| 6.2 Easements | | | | | | | | | | | | | | | | | | | | | |
| A | Ownership and abutting property info (10 properties) | | | | | | | | 8 | | 4 | | | 12 | \$ 1,700 | O&E Reports | \$ 3,000.00 | \$ 4,700 | | | |
| B | Easement descriptions and tract maps (10 tract maps) | | | | | | | | 16 | | 16 | | | 32 | \$ 4,720 | | | \$ 4,720 | | | |
| C | Stake easement locations in field (5 properties) | | | | | | | | 4 | | | 8 | 8 | 20 | \$ 2,440 | Mileage | \$ 30.00 | \$ 2,470 | | | |
| D | Individual easement meetings (5 in-person meetings) | | 10 | | | | 5 | | | | | | | 15 | \$ 3,300 | Mileage | \$ 100 | \$ 3,400 | | | |
| 6.3 Sanitary Sewer Repair | | | | | | | | | | | | | | | | | | | | | |
| A | Sanitary Sewer Plans | 2 | 8 | | 8 | 30 | | | | | | | | 48 | \$ 9,830 | | | \$ 9,830 | | | |
| Reimbursables | | | | | | | | | | | | | | | | | Printing | | \$ - | | |
| | | | | | | | | | | | | | | | | | Mileage | | \$ - | | |
| Subtotal Phase 5 - Hours | | 2 | 7 | 107 | -36 | 188 | -105 | 0 | 28 | 140 | 20 | 8 | 8 | 0 | 367 | | | | | | |
| Subtotal Phase 5 - Cost | | \$630 | \$1,610 | \$26,750 | -\$6,120 | \$27,260 | -\$21,000 | \$0 | \$3,640 | \$15,400 | \$3,300 | \$1,040 | \$880 | \$0 | \$ 53,390 | | \$ (6,440) | \$ 46,950 | | | |
| GRAND TOTAL HOURS | | 15 | 284 | 107 | 486 | 405 | 346 | 109 | 168 | 438 | 80 | 180 | 188 | 35 | 2841 | | | | | | |
| GRAND TOTAL FEE | | \$4,725 | \$65,320 | \$26,750 | \$82,620 | \$58,725 | \$69,200 | \$14,170 | \$21,840 | \$48,180 | \$13,200 | \$23,400 | \$20,680 | \$3,500 | \$452,310 | | \$19,490 | \$471,800 | | | |

EXHIBIT D

LAND ACQUISITION CHECKLIST FOR CONSULTANT PROJECTS

Complete submittal of these documents is required 7 months prior to bid opening.

- ___ Determine what types of easements are required for each tract:
 - i.e. Street Dedication; Permanent Street Easement; Temporary Construction Easement; Permanent Utility Easement; Permanent Drainage Easement; Permanent Sanitary Sewer Easement; Permanent Waterline Easement; Permanent Sidewalk & Utility Easement; Permanent Wall Easement; Permanent Bike Trail, Utility & Recreational Easement.

- ___ REQUIRED INFORMATION:
 - a) City Project No. and Project Name
 - b) Current Ownership (both husband and wife's name, even if only owned by one spouse)
 - 1) If a trust, the name and date of the trust
 - 2) If a corporation or LLC, state of incorporation or formation
 - 3) If partnership, full name of partnership
 - c) Johnson County Parcel ID number
 - d) Number the tracts in the project (up one side and down the other) (Tract No. __)
 - e) Situs Address
 - f) Mailing Address
 - g) Legal description of the new taking, including total square footage
 - h) Tract map
 - i) Ownership & Encumbrance (O&E) title report, not more than 9 months since certification, showing current ownership, liens, mortgages, existing easements, leases (if recorded) and any other encumbrances upon the property. This requirement also includes tracts where only a temporary construction easement is needed.
 - j) Copy of last deed(s) of record. If an undivided interest is conveyed in the deed, provide copies of all deeds which comprise the whole interest. (If undivided one-half is conveyed to husband's trust and undivided one-half interest is conveyed to wife's trust, provide copies of both deeds.
 - k) Common errors to avoid – verify marital status. *BEFORE SUBMITTING DOCUMENTS TO CITY OF OLATHE VERIFY THE O&E'S TO ENSURE OWNERSHIP HAS NOT CHANGED.*

___ Tract Map will be considered complete when it contains the following information (example available upon request):

- a) Map of entire property (May not be possible on large parcels and still showing legible taking) showing location of the proposed easement(s) and existing easements. Any trees to be removed, fences to be moved, monument signs, and irrigation systems should be noted on the plans. Outlines of buildings are to be shown on the plans so that it is evident how close the easements are to the existing building. Dimensions/bearings for easements to be clearly shown on map. It is acceptable to place all easements on one exhibit as long as each easement is easily identified. If the exhibit is too cluttered, then the easements should be placed on separate exhibits with permanent easements on one exhibit and temporary easements on a separate exhibit. **EASEMENT SHALL BE CLEARLY VISIBLE ON DRAWING.** Johnson County Register of Deeds scans the recorded easement in black and white, so be aware of this when drawing the easement on the tract map. Make sure easement area can easily be seen in black and white.
- b) Property owner's names, mailing address, situs address (if different from mailing address), Johnson County Parcel ID number, and tract number.
- c) Map of tract should show dimensions of tract and property lines clearly marked.
- d) Common errors to avoid: North arrow pointing in the wrong direction, verification that the easement legal description closes upon itself.

___ Legal description and tract maps shall be signed by a Registered Land Surveyor stating that the ownership, easement legal descriptions, description in the deed for the entire tract only when a total property taking is occurring, and surveys for the easement area have been personally reviewed and determined to be accurate in accordance with the plans for the project. The consultant shall make corrections, at no cost to the City, to fix errors determined by the City or the Johnson County Register of Deeds that are the responsibility of the Registered Land Surveyor. These errors may include but are not limited to clerical errors, inconsistencies between the easement legal description and tract map, easement legal description not closing upon itself, or other errors in requirements on this checklist. **Both legal description and tract map(s) shall be marked Exhibit "A" as referenced in the easement documents.**

___ Appropriate easement document in Word (sometimes referred to as "front end" document). PDF's are available on the City's website (<http://www.olatheks.org/government/public-works/dedications-easements>).

Word copies can be obtained by contacting the Olathe Public Works Department Project Manager.

___ Submit Documents to Public Works staff in electronic format:

- Word copy of legal description
- PDF of signed and sealed legal description
- Tract map signed and sealed

- Word copy of easement (“front end”) document
- O&E title report
- Last deed of record

EXHIBIT E

Utility Coordination Olathe CIP projects

Each project is unique and can be expected to have varying degrees of impact to utilities ranging from minor adjustments to complex and lengthy relocations. A successful utility coordination process has three main facets simplified to:

- What is in conflict
- Where it will be moved
- How long it will take to move it

The checklist below is a tool to help with this process.

The city's project design firm will have primary responsibility for Coordination and Design phases with participation from the city staff. The city staff will have primary responsibility for Construction (utility relocate) phases. City staff may consult with the project design firm if changes or issues arise during the construction phase.

Please also reference APWA Section 5900 – Best Management Practices: Utility Coordination for CIP

- Design Firm/Surveyor call in locates early in the project design phases**
 - Note – often utilities will be labeled clear or fail to mark lines as part of a design ticket. Non-response tickets may be required. Additional issues shall be reported to the City for assistance.

- Project notice to utilities as soon as utilities in the project footprint have been identified (notify all utilities listed on KS One Call tickets)**
 - Describe project improvements
 - Request detailed existing mapping
 - Request documentation of any private easements and claims for reimbursement
 - Provide a general schedule and include a response by date
 - Copy Project Manager and Utility Coordinator

- Survey locates (as much detail as possible) once all utilities have been marked as per locate requests**
 - Survey locate marks by provider
 - Survey utility boxes, vaults, and other structures (make note of provider)
 - Make note of overhead infrastructure in addition to each power pole.
 - Transformers, COM attachers, power or COM risers, guy wires, etc.

- Incorporate survey into project plans for 30% submittal**

(Any utility line work on plans shall only be from survey of utility marks or pothole points. Small gaps can be filled by mapping info and needs to be noted as such)

 - Label lines and facilities **by provider**
 - Include boxes, vaults, and other structures (by provider)
 - Note overhead infrastructure in addition to each power pole
 - Transformers, COM attachers, power or COM risers, guy wires, etc...
 - See **EXHIBIT E.1** for examples of how information will need to be captured.

- Some providers may only be labeled by CATV and will require further coordination to confirm ownership of lines.
 - Review existing mapping to help identify any lines or other infrastructure that may have been missed during locates and survey.
 - Utility lines shall NOT be added to project plans based on mapping or as-built info only.
 - Utilize utility information obtained to minimize utility impacts when possible during project design.
- **Project design firm to generate a master utility plan (may not apply to all projects)**
- Utilities labeled by provider and in applicable colors.
 - Denote utilities that are to be abandoned or vacated.
 - Recommend alternate routes to avoid points of conflict such as proposed storm crossing or conflicts with other utility relocations when possible.
 - Continue to update sheets as utility relocate plans are received.
- **Conflict analysis based on survey, mapping, and other info**
- X-Y locations that may be impacted by Z axis improvements (pothole recommendations)
 - Consider not only project improvements but also constructability.
 - Over dig for walls, storm sewers, etc.
 - Additional depth for rock
 - *Potholing is the responsibility of each individual utility*
 - The City's project team may elect to also pothole private utilities when it is determined beneficial to the project.
 - The project design firm shall make a list of potential conflict points for discussion at the utility meetings. (Individual utility companies should also be doing the same)
 - When making a list, keep in mind utility locates are not always accurate so infrastructure near proposed improvements may need to be added to the list for discussion (share this list for comment by the City).
- **Project design firm to help prioritize location of utilities when overlapping potential relocate paths are identified (ongoing throughout project).**
- Identify opportunities for joint trenches when possible or in tight areas of the project.
- **Design Firm to notify all parties when project plans change (ongoing throughout project).**
- Reevaluate/conflict analysis in areas of change
- **Pre-utility meeting – “plan of attack discussion” prior to utility meeting #1 (city and design team)**
- What is the utility due date?
 - What are the utility schedule milestones?
 - Start to develop overall utility schedule.
 - Are there project pinch points?
 - Identify any utilities claiming private easement/ reimbursement.
 - Is there project phasing that should be prioritized by utilities too?
 - How are utility meetings to be setup for the project? Joint meetings then individual?
 - Other?

- **Utility Meeting #1 around 30% plan submittal**
 - Schedule
 - Request any existing mapping or private easement information not yet collected.
 - Early project overview and potential opportunity to adjust project improvements around utilities.
 - Distribute meeting minutes.

- **Individual Meetings ongoing as needed**
 - Schedule
 - Overall review of any likely points of conflict or other concern.
 - Discussion of where/how utilities will relocate.
 - *Example: if a proposed relocate is navigating storm sewers and grade cuts, is there a different path to simplify the relocate and setup the project for success?*
 - Distribute meeting minutes.

- **Utility Meeting #2 before 60% plans**
 - Schedule
 - Discussing progression of relocate plans
 - Distribute meeting minutes.

- **Utility providers to generate relocate plans on a timeframe agreed upon during coordination meetings.**
 - The design firm and City shall review relocate plans.
 - Consider including relocate plans in master utility plans
 - The design firm will gather any comments and respond accordingly to the utility.
 - Further review of revisions shall continue until the project team has no additional comments to relocate plans.
 - The design firm will incorporate relocate plans in to project plans and master utility plan sheets.

HANDOFF POINT WHERE PRIMARY DUTIES SHIFT TO THE CITY UTILITY COORDINATOR (*Design firm may have incidental involvement as needed*). A FEW OF THESE DUTIES ARE NOTED BELOW:

- **Utility Company and/or contractor to obtain a ROW permit prior to starting.**
 - The city will review the permit to confirm it matches previously reviewed relocate plans.

- **Utility Coordinator will check on utility construction, progress, and compliance with relocate plans.**

- **Utility Coordinator to look for potential oversights or other points of conflict not covered in the relocate plans.**
 - Minor issues may be addressed in the field by the City Utility Coordinator.
 - The City Utility Coordinator will reengage the project team and utility provider with any issues found requiring additional coordination.

- **Utility Coordinator to provide design firm and PM periodic updates on progress.**

EXHIBIT F

CITY OF OLATHE INSURANCE REQUIREMENTS

A. Insurance. Consultant agrees to secure and maintain throughout the duration of this Agreement insurance of such types and in at least such amounts as set forth below from a Kansas authorized insurance company which carries a Best's Policyholder rating of "A-" or better and carries at least a Class "VII" financial rating or better, unless otherwise agreed to by City:

1. Commercial General Liability: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any commercial general liability policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

Limits: Per Occurrence, including Personal & Advertising Injury and Products/Completed Operations: \$1,000,000; General Aggregate: \$2,000,000.

2. Business Automobile Insurance: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any automobile policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

Limits: Any Auto; OR All Owned Autos; Hired Autos; and Non-Owned Autos: Per occurrence, combined single limit: \$500,000
Notwithstanding the foregoing, if Consultant does not own any automobiles, then Consultant must maintain Hired and Non-Owned Auto insurance.

3. Worker's Compensation and Employer's Liability: Workers compensation insurance must protect Consultant against all claims under applicable state Worker's Compensation laws at the statutory limits, and employer's liability with the following limits.

Limits: \$500,000 Each Accident/\$500,000 Policy Limit/\$500,000 Each Employee

4. Professional Liability: Consultant must maintain throughout the duration of this Agreement and for a period of three (3) years after the termination of this Agreement, Professional Liability Insurance.

Limits: Each Claim: \$1,000,000; General Aggregate: \$1,000,000

5. Cyber Insurance: If Consultant will have access to the City's network or City's data, Consultant must maintain throughout the duration of this Agreement and for a period of three (3) years after the termination of this Agreement. Coverage must

include: Cyber Incident/Breach Response and Remediation Expenses, Digital Data Recovery, Privacy and Network Security Liability, and Notification Expense.

Limits: Per claim, each insuring agreement: \$1,000,000; Aggregate: \$1,000,000

- B. Exposure Limits.** The above are minimum acceptable coverage limits and do not infer or place a limit on the liability of Consultant nor has City assessed the risk that may be applicable to Consultant. Consultant must assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverage. The Consultant's insurance must be primary, and any insurance or self-insurance maintained by the City will not contribute to, or substitute for, the coverage maintained by Consultant.
- C. Waiver of Subrogation.** All liability policies will provide a waiver of subrogation in favor of the City.
- D. Costs.** The cost of insurance will be included in the Consultant's bid or proposal and must be at Consultant's expense. Any and all deductibles or self-insurance in the above described coverages will be the responsibility and at the sole risk of the Consultant.
- E. Verification of Coverage**
1. Consultant must provide a certificate of insurance on ISO form or equivalent, listing the City as the certificate holder, and additional insured endorsements for the requested coverages.
 2. Any self-insurance must be approved in advance by the City and specified on the certificate of insurance. Additionally, when self-insured, the name, address, and telephone number of the claim's office must be noted on the certificate or attached in a separate document.
 3. When any of the insurance coverages are required to remain in force after final payment, additional certificates with appropriate endorsements evidencing continuation of such coverage must be submitted along with the application for final payment.
 4. For cyber insurance, the certificate of insurance confirming the required protection must confirm the required coverages in the "Additional Comments" section or provide a copy of the declarations page confirming the details of the cyber insurance policy.
- F. Cancellation.** No required coverage may be suspended, voided, or canceled, except after Consultant has provided thirty (30) days' advance written notice to the City.

G. Subconsultant's Insurance: If a part of this Agreement is to be sublet, Consultant must either cover all subconsultants under its insurance policies; OR require each subconsultant not so covered to meet the standards stated herein.

EXHIBIT G
Certificate of Insurance

(The rest of this page is intentionally blank, see next page for actual Certificate of Insurance)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/5/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | | |
|--|---|-----------------------|
| PRODUCER Holmes Murphy & Associates 2727 Grand Prairie Parkway Waukee IA 50263 | CONTACT NAME: Monica Wilks | |
| | PHONE (A/C. No. Ext): 816-857-7820 | FAX (A/C. No): |
| E-MAIL ADDRESS: mwilks@holmesmurphy.com | | |
| INSURER(S) AFFORDING COVERAGE | | NAIC # |
| INSURER A : Travelers Indemnity Co of America | | 25666 |
| INSURER B : Travelers Property Casualty Co. America | | 25674 |
| INSURER C : Travelers Casualty & Surety Company | | 19038 |
| INSURER D : XL Specialty Insurance | | 37885 |
| INSURER E : Charter Oak Fire Insurance Company | | 25615 |
| INSURER F : | | |

COVERAGES

CERTIFICATE NUMBER: 1972781003

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|--|-----------|----------|---------------|-------------------------|-------------------------|---|
| E | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: | | | 6805G548660 | 1/22/2024 | 1/22/2025 | EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$ |
| A | <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY | | | BA3R814633 | 1/22/2024 | 1/22/2025 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ |
| B | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000 | | | CUP5G552071 | 1/22/2024 | 1/22/2025 | EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$ |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | | N/A | UB0N43901A | 1/22/2024 | 1/22/2025 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 |
| D | Professional Liability Claims Made | | | DPR5022938 | 1/22/2024 | 1/22/2025 | Per Claim 3,000,000 Annual Aggregate 3,000,000 |

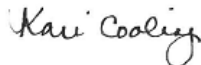
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project Reference: Briarwood Stormwater Improvements, Project No. 2-C-009-24

Additional Insured only if required by written contract with respect to General Liability and Automobile Liability applies on a primary basis and the insurance of the additional insured shall be non-contributory: City of Olathe, Kansas

The policies listed above include an endorsement providing 30 days' notice of cancellation will be furnished to the certificate holder.

CERTIFICATE HOLDER**CANCELLATION**

| | |
|--|---|
| City of Olathe, Kansas 100 E. Santa Fe P.O. Box 768 Olathe KS 66051-0768 USA | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE  |
|--|---|

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STATE OF KANSAS
OFFICE OF
SECRETARY OF STATE
SCOTT SCHWAB

EXHIBIT H
Certificate of Good Standing to Conduct Business in Kansas

I, SCOTT SCHWAB, Secretary of State of the state of Kansas, do hereby certify, that according to the records of this office.

Business Entity ID Number: 2966885

Entity Name: AFFINIS CORP.

Entity Type: FOREIGN FOR PROFIT

State of Organization: MO

was filed in this office on January 04, 2001, and is in good standing, having fully complied with all requirements of this office.

No information is available from this office regarding the financial condition, business activity or practices of this entity.



In testimony whereof I execute this certificate and affix the seal of the Secretary of State of the state of Kansas on this day of January 03, 2024

A handwritten signature in cursive script that reads "Scott Schwab".

SCOTT SCHWAB
SECRETARY OF STATE

Certificate ID: 1291142 - To verify the validity of this certificate please visit <https://www.kansas.gov/bess/flow/validate> and enter the certificate ID number.



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Infrastructure (Engineering)

STAFF CONTACT: Mary Jaeger / Nate Baldwin

SUBJECT: Agreement with Johnson County Board of County Commissioners (BoCC) for funding of the Black Bob Road, 153rd Terrace to 159th Street, Improvements Project, PN 3-C-041-23.

TITLE:

Consideration of an Agreement between the City of Olathe, Kansas and the Board of County Commissioners of Johnson County, Kansas for the funding of the Black Bob Road, 153rd Terrace to 159th Street, Improvements Project, PN 3-C-041-23.

SUMMARY:

This project is needed to address safety and capacity concerns in the area. The project will improve Black Bob Road from 153rd Terrace to 159th Street from a 2-lane roadway to a 4-lane divided arterial section. Improvements will include pavement construction, curb and gutter, medians, streetlights, sidewalk and sidepath and storm sewers.

This Agreement defines the responsibilities of both the City of Olathe and Johnson County in connection with the design and construction of the Black Bob Road, 153rd Terrace to 159th Street, Improvements Project. Under this agreement Johnson County will be fully responsible for land acquisition within the unincorporated limits of the project.

The project is tentatively scheduled for completion of final design in 2024, completion of land acquisition in 2024 and utility relocations in 2025, followed by construction in 2025/2026.

FINANCIAL IMPACT:

Funding for the Black Bob Road, 153rd Terrace to 159th Street, Improvements Project, as approved in the 2023-2027 Capital Improvement Plan, includes:

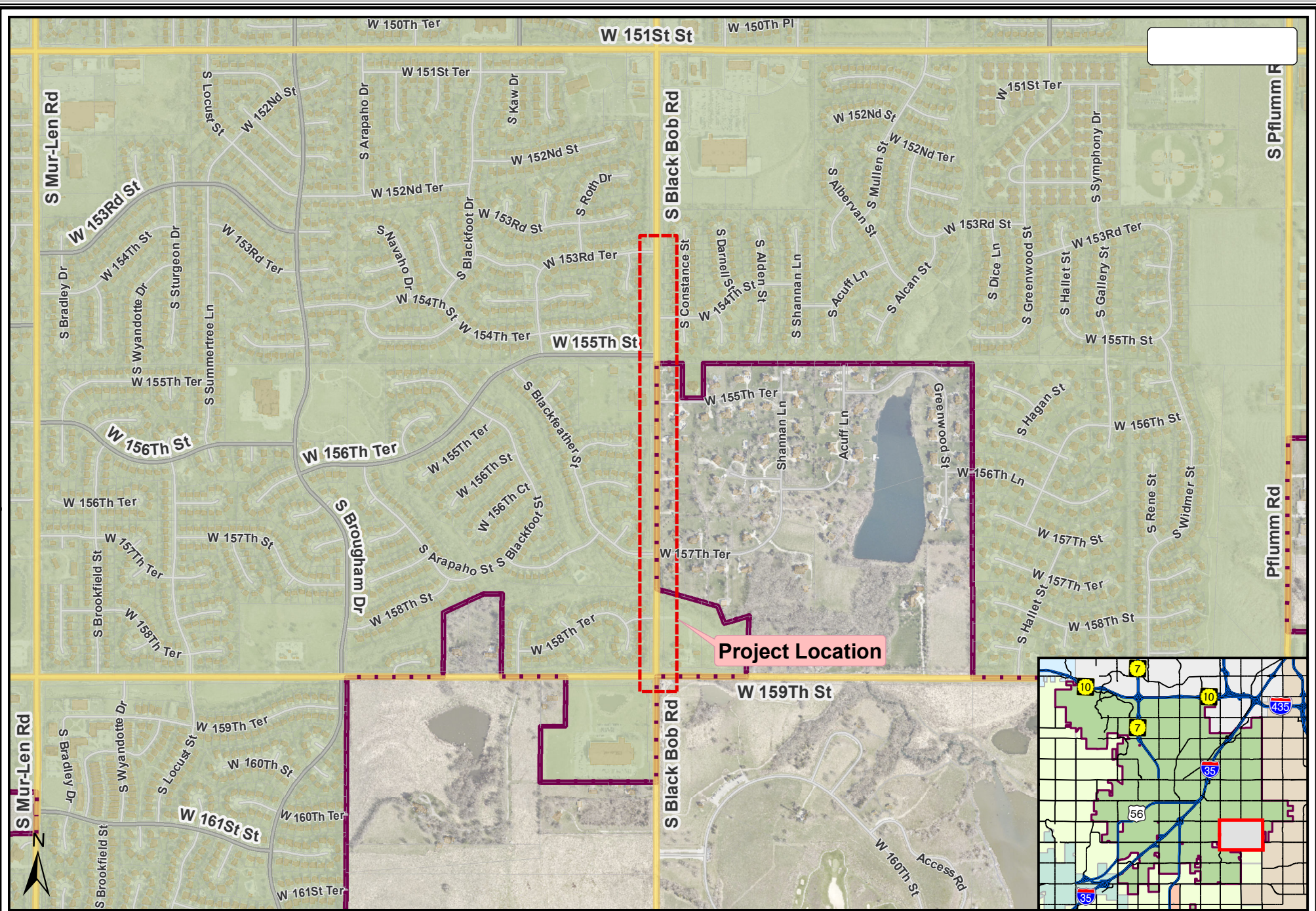
| | |
|-----------------|---------------------|
| <u>GO Bonds</u> | \$13,595,700 |
| Total | \$13,595,700 |

ACTION NEEDED:

Approval of an Agreement between the City of Olathe, Kansas and the Board of County Commissioners of Johnson County, Kansas for the funding of the Black Bob Road, 153rd Terrace to 159th Street, Improvements Project, PN 3-C-041-23.

ATTACHMENT(S):

- A. Project Location Map
- B. Project Fact Sheet
- C. Agreement



Black Bob Road, 153rd Ter to 159th St, Improvements Project
PN 3-C-041-23
Project Location Map





Project Fact Sheet
Black Bob, 153rd Terrace to 159th Street
3-C-041-23
February 20, 2024

Project Manager: Nate Baldwin / Scott Ward

Description: This project will improve Black Bob Road from 153rd Terrace to 159th Street from a 2-lane roadway to a 4-lane divided arterial section. Improvements will include pavement construction, curb and gutter, medians, streetlights, sidewalk and sidepath and storm sewers.

Justification: This project is needed to address safety and capacity concerns in the area. This project has been identified as a near term priority project in the Transportation Master Plan.

| Schedule: | Item | Date |
|--------------------------------|----------------------|------------------------|
| Design: | RFQ | 12/14/2022 |
| | Consultant Selection | 03/21/2023 |
| Land Acquisition: | | Spring 2024 – Estimate |
| Utility Relocation: | | Spring 2025 – Estimate |
| Construction: | Bid Award | Fall 2025 – Estimate |
| | Completion | Fall 2026 – Estimate |
| | | |
| Council Actions: | Date | Amount |
| Approved in CIP | 2023-2027 | \$ 13,595,700 |
| Project Authorization Report | 03/07/2023 | N/A |
| Project Authorization | 03/21/2023 | \$13,595,700 |
| Professional Service Agreement | 03/21/2023 | \$1,088,409 |
| Supplemental Agreement No. 2 | 10/17/2023 | \$128,452 |
| Agreement with JoCo | 02/20/2024 | N/A |
| Land Acquisition | | |
| Utility Relocation Agreements | | |
| Accept Bid/Award Contract | | |
| | | |
| Funding Sources: | Amount | CIP Year |
| GO Bonds | \$13,595,700 | 2026 |
| | | |
| Expenditures: | Budget | Amount to Date |
| Design | \$ 1,125,000 | \$446,704 |
| Land Acquisition | \$ 500,000 | \$ 0 |
| Utilities | \$ 500,000 | \$ 0 |
| Construction | \$ 9,310,700 | \$ 0 |
| Inspection | \$ 125,000 | \$ 0 |
| Staff | \$ 135,000 | \$ 1,486 |
| Contingency | \$ 1,900,000 | \$ 0 |
| Total | \$13,595,700 | \$448,190 |

**Agreement between Johnson County, Kansas
and the City of Olathe, Kansas
for Black Bob Road from 153rd Terrace to 159th Street**

THIS AGREEMENT is made and entered into this 4th day of January, 2024, by and between the Board of County Commissioners of Johnson County, Kansas (“Board”) and the City of Olathe, Kansas (“City”), hereinafter Board and City may be referred to singularly as the “Party” and collectively as the “Parties”.

Recitals

WHEREAS, the City of Olathe has determined that Black Bob Road (Black Bob) from 153rd Terrace to 159th Street needs to be reconstructed to improve safety and for additional capacity (the “Project”) and has requested the County to participate in funding the public right-of-way and easement acquisition for the Project; and

WHEREAS, the Project straddles the boundary between the corporate boundary of the City and the unincorporated area of Johnson County, Kansas.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, and for other good and valuable consideration, the Parties agree as follows:

Agreement

1. **Purpose of Agreement.** The Parties enter into this Agreement for the purpose of facilitating the completion of the Project to assure a more adequate, safe, and integrated roadway network in Johnson County, Kansas.
2. **Description of the Project Scope.** The Project shall consist of survey, design, right-of-way and easement acquisition, utility relocation, construction and construction inspection of Black Bob Road from 153rd Terrace to 159th Street. The road will be designed as a four-lane road and designed to City of Olathe standards.
3. **Administration of the Project:** The City shall be responsible for administering the Project.
 - a. Responsibilities of the City:
 - i. Selection of a consultant if the Project is surveyed and designed by a design professional other than City staff.

- ii. Provide preliminary construction documents (at approximately 30% complete, hereinafter referred to as “Preliminary Design Plans”) and draft final construction documents (at approximately 95% complete, hereinafter referred to as “Draft Final”) to Johnson County Public Works (hereinafter “JCPW”) in PDF format for a maximum of fourteen (14) days review. Final construction documents (at 100% complete, hereinafter referred to as “Final”) to JCPW in PDF format for a maximum of fourteen (14) days review.
 - iii. Selection of a contractor to construct the Project, and management and inspection of the work of such contractor.
 - iv. Acquire the necessary public right-of-way and easements in the City’s jurisdiction required for construction of the Project.
- b. Responsibilities of JCPW:
- i. Acquire the necessary public right-of-way and easements in unincorporated county jurisdiction required for construction of the Project.
 - ii. Complete review of the Preliminary Design Plans, Draft Final and Final construction documents for each phase of the Project and provide any comments to the City within fourteen (14) days from the date JCPW receives such documents. Failure to respond within fourteen (14) days will cause the City to deem the documents approved by JCPW.
 - iii. Submit regular updates to the City on the status of right-of-way and easement acquisition in unincorporated county jurisdiction for the Project.

4. **Project Costs.** Under this Agreement, each Party shall split the costs of the Project as follows:

| Task | Johnson County (%) | City of Olathe (%) |
|---------------------------|---------------------------|---------------------------|
| Survey and Design | 0% | 100% |
| Right-of-Way & Easements | Jurisdictional | Jurisdictional |
| Utility Relocations | 0% | 100% |
| Construction & Inspection | 0% | 100% |


The estimated total costs of the Project combined for both jurisdictions are \$13.5 Million and with a 2024 construction letting. The City will pay the costs of Survey and Design, Utility Relocations, and Construction & Inspection. Right-of-way and easement acquisition in the City's jurisdiction will be paid for by the City. Right-of-way and easement acquisition in unincorporated County jurisdiction will be paid for by JCPW at the time of the acquisition.

5. The City will be responsible for maintenance of the Project after completion of the Project.
6. The City and County shall be named as additional insured on all applicable certificates of insurance issued by the consultant for this Project.
6. The City shall include in contracts for design or survey a requirement that the consultant defend, indemnify, and save County and City harmless from and against all liability for damages, costs, and expenses arising out of any claim, suit or action for injuries or damages sustained to persons or property by reason of the act or omissions of the consultant and the performance of his or her contract.
7. Duration and Termination of this Agreement. The Parties hereto agree that this Agreement shall terminate upon the completion of the Project.
8. Amendments. This Agreement cannot be modified or changed by any verbal statement, promise or agreement, and no modification, change or amendment shall be binding on the Parties unless it shall have been agreed to in writing and signed by both Parties.

IN WITNESS WHEREOF, the above and foregoing Agreement has been executed by each of the Parties hereto and made effective on the day and year first above written.

Board of County Commissioners of
Johnson County, Kansas

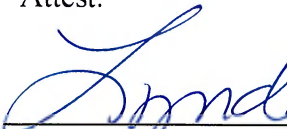
City of Olathe, Kansas



Mike Kelly
Chairman

Mayor

Attest:

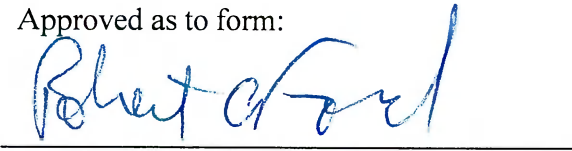


Lynda Sader
Deputy County Clerk

Attest:

Brenda Swearingian
City Clerk

Approved as to form:



Robert A. Ford
Assistant County Counselor

Approved as to form:

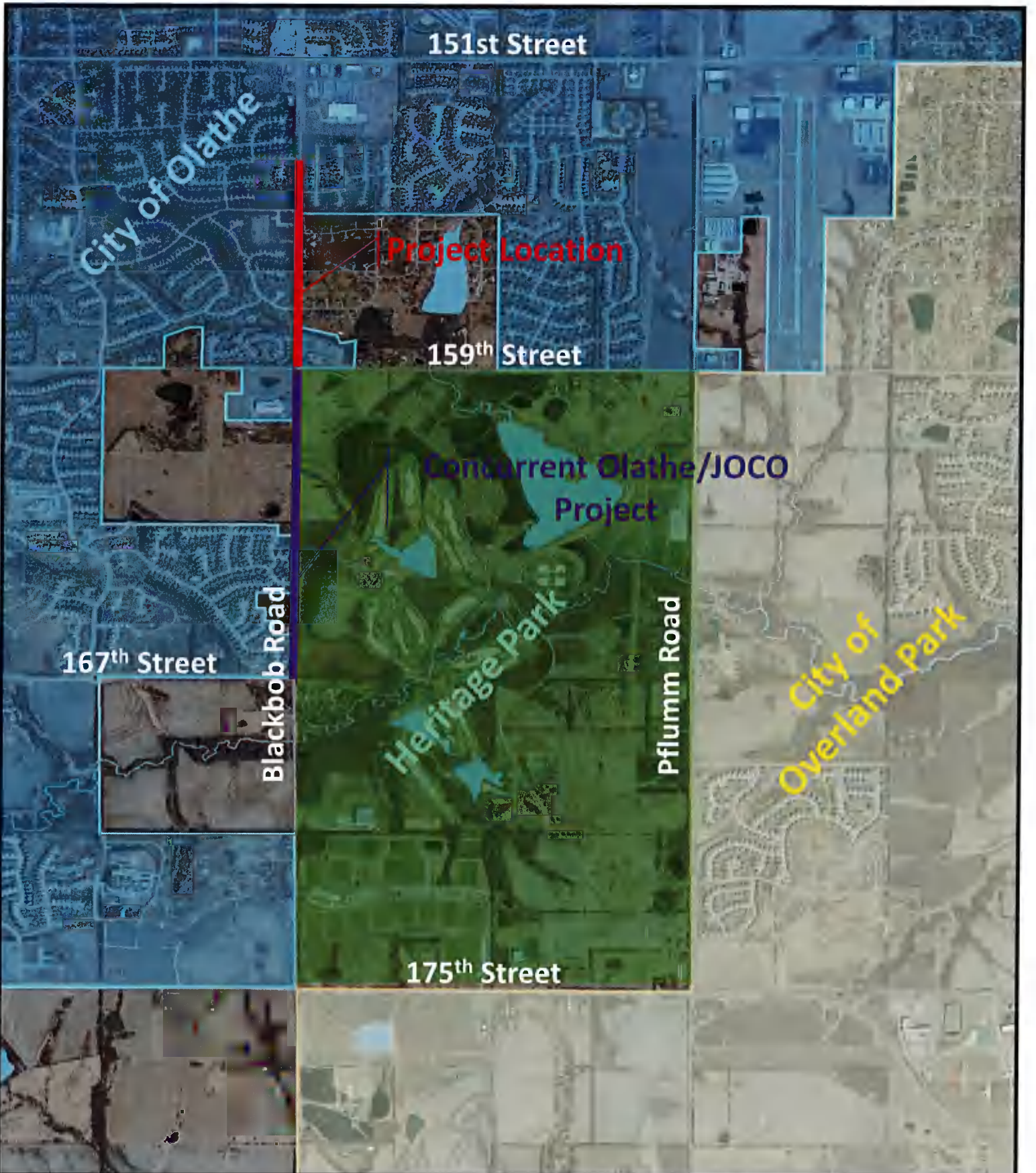
Ronald R. Shaver
City Attorney

Approved 7-0

FILED

JAN 04 2024

DEPUTY COUNTY CLERK
JOHNSON COUNTY KANSAS



Project Location

Project Location Map

Blackbob Road
153rd Terrace to 159th Street



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Infrastructure (Engineering)

STAFF CONTACT: Mary Jaeger / Nate Baldwin

SUBJECT: Supplemental Agreement No. 1 with Olsson, Inc. for the design of the Cedar Lake Dam Restoration Project, PN 2-C-021-23.

TITLE:

Consideration of Supplemental Agreement No. 1 with Olsson, Inc. for design of the Cedar Lake Dam Restoration Project, PN 2-C-021-23.

SUMMARY:

State regulations for high hazard dams require regular dam inspections and maintenance for both spillways and dams. The Cedar Lake Dam is classified as a high hazard dam and falls under State Regulation.

To comply with State requirements, the spillway and dam of Cedar Lake must be improved. This project will remove and replace the existing spillway, and the dam embankment will be raised a minimum of three (3') feet to meet current State requirements.

On March 7, 2023, Council approved a Professional Services Agreement with Olsson, Inc. for design of this project. This Supplemental Agreement No. 1 will provide additional engineering services including bathymetric survey and sediment sample collection. This additional data will be used to better identify design options and construction costs in preparation of the dam improvements. This data will also help determine possible water quality improvements and dredging options that may occur with construction of the dam improvements. This data can be used for the City to be better prepared to apply for additional Johnson County Stormwater Management Advisory Council (SMAC) funds for potential water quality improvements to Cedar Lake.

The total fee for the additional services provided under this Supplemental Agreement is \$53,620, raising the total fee for all services provided under the Agreement from \$830,380 to \$884,000.

This project is currently under design and tentatively schedule to begin construction in early 2025.

FINANCIAL IMPACT:

Funding for the Cedar Lake Dam Restoration Project, as approved in the 2024-2028 Capital Improvement Plan, includes:

| | |
|------------------------|---------------------|
| Federal HUD | \$ 750,000 |
| Revenue Bonds | \$ 2,144,140 |
| Johnson County SMAC | \$ 1,675,360 |
| <u>Stormwater Fund</u> | <u>\$ 730,500</u> |
| Total | \$ 5,300,000 |

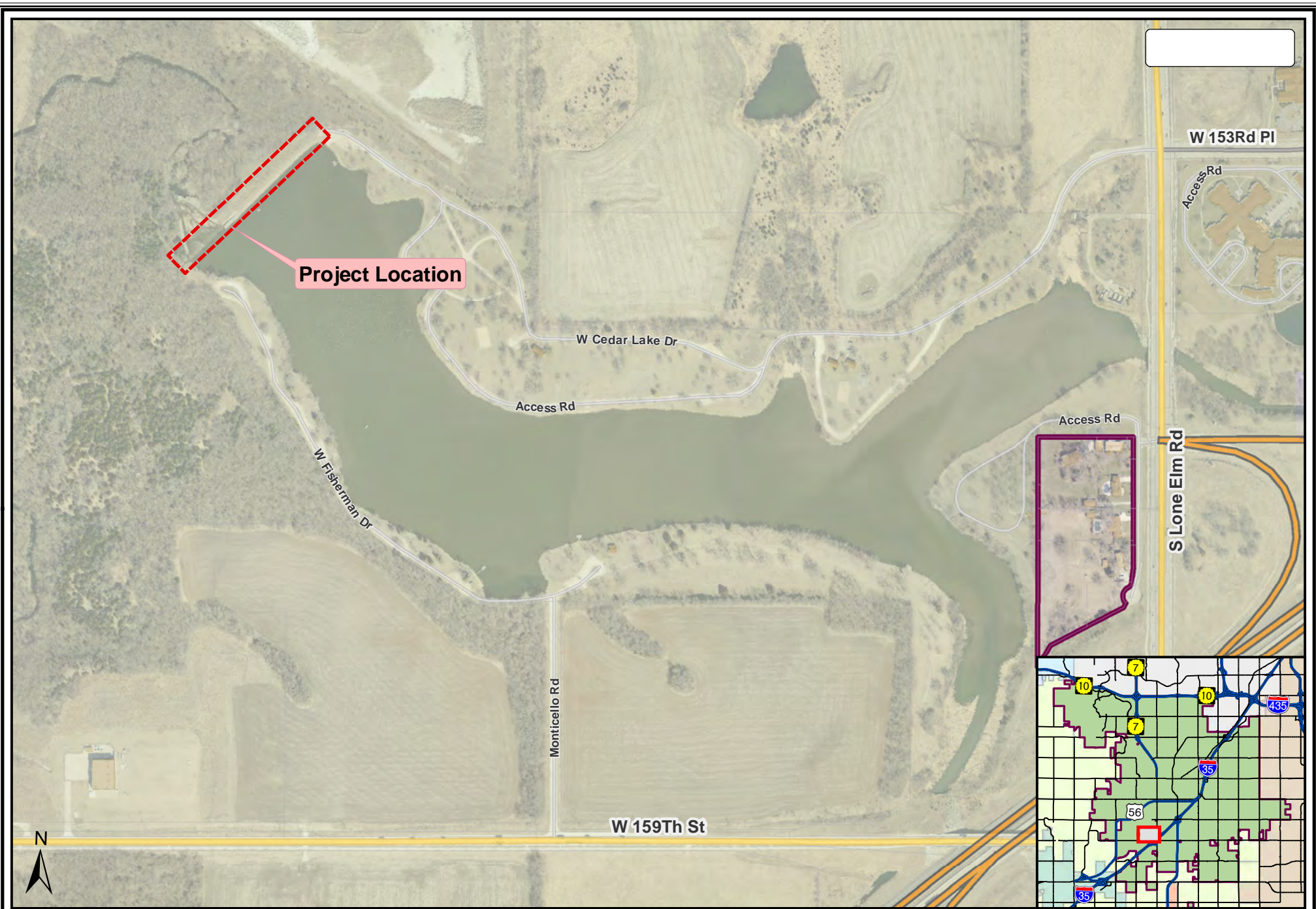
MEETING DATE: 2/20/2024

ACTION NEEDED:

Approval of Supplemental Agreement No. 1 with Olsson, Inc. for design of the Cedar Lake Dam Restoration Project, PN 2-C-021-23.

ATTACHMENT(S):

- A. Project Location Map
- B. Project Fact Sheet
- C. Supplemental Agreement No. 1



Project Location

W 153Rd PI

Access Rd

W Cedar Lake Dr

Access Rd

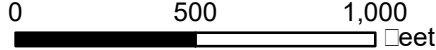
W Fisherman Dr

Access Rd

S Lone Elm Rd

Monticello Rd

W 159Th St



**Cedar Lake Dam Restoration
PN 2-C-021-23
Project Location Map**





Project Fact Sheet
Cedar Lake Dam Restoration
PN 2-C-021-23
February 20, 2024

Project Manager: Nate Baldwin / Neil Meredith

Description: Lake improvements will include spillway replacement and dam restoration. The existing spillway will be removed and replaced in place. The dam will be raised three feet to meet current State freeboard requirements.

Justification: Lakes and ponds are vital part of the City's stormwater infrastructure. Failure to maintain related infrastructure could result in dam failure and downstream flooding. Additionally, Olathe's high hazard dams are regulated by the Kansas Division of Water Resources. State regulations for high hazard dams require regular dam inspections and maintenance for spillways and dams. Cedar Lake is classified as a high hazard dam and falls under State regulation. The spillway must be replaced, and the dam embankment raised 3 feet to meet current State requirements.

| Schedule: | Item | Date |
|---------------------------------|----------------------|------------------------|
| Design: | Consultant Selection | 03/07/2023 |
| Land Acquisition: | | Summer 2024 – estimate |
| Construction: | Bid Award | Winter 2024 – estimate |
| | Completion | Fall 2025 – estimate |
| Council Actions: | | |
| | Date | Amount |
| Approved in CIP | 2023-2027 | \$4,660,000 |
| Professional Services Agreement | 03/07/2023 | \$ 830,380 |
| Approved in CIP | 2024-2028 | \$5,300,000 |
| Supplemental Agreement No. 1 | 02/20/2024 | \$ 53,620 |
| Interlocal Agreement (SMAC) | | |
| Land Acquisition | | |
| Accept Bid/Award Contract | | |
| Funding Sources: | | |
| | Amount | CIP Year |
| Johnson County SMAC | \$1,675,360 | 2025 |
| Federal HUD | \$ 750,000 | 2023, 2024 |
| Revenue Bonds | \$2,144,140 | 2024, 2025 |
| Stormwater Fund | \$ 730,500 | 2024, 2025 |
| Expenditures: | | |
| | Budget | Amount to Date |
| Design | \$ 885,000 | \$125,000 |
| Land Acquisition | \$ 50,000 | \$ 0 |
| Staff | \$ 100,000 | \$ 15,000 |
| Inspection | \$ 50,000 | \$ 0 |
| Construction | \$3,915,000 | \$ 0 |
| Contingency | \$ 300,000 | \$ 0 |
| Total | \$5,300,000 | \$140,000 |

**SUPPLEMENTAL AGREEMENT NO. 01
FOR PROFESSIONAL SERVICES
City of Olathe, Kansas**

This Supplemental Agreement made this _____ day of _____, 2024, by and between the City of Olathe (“City”) and Olsson, Inc. (“Consultant”) (collectively, the “Parties”).

WHEREAS, the City and Consultant have previously entered into an Agreement, dated March 8th, 2023 (“the Agreement”), FOR Professional Services for the Cedar Lake Dam Restoration Improvement Project Project; PN 2-C-021-23 (“Project”); and

WHEREAS, Section II.B.2 of the Agreement provides that Consultant will provide, with City’s concurrence, services in addition to those listed in the Agreement when such services are requested or authorized in writing by the City; and

WHEREAS, this Supplemental Agreement between the Parties is to provide bathymetric survey and sediment sample collection and testing for the Project as outlined in **Exhibit A** of this Supplemental Agreement, attached hereto and incorporated herein by reference; and

WHEREAS, the City is desirous of entering into this Supplemental Agreement to pay the Consultant for additional services rendered to the City related to the Project; and

WHEREAS, the City is authorized and empowered to contract with the Consultant for the necessary additional services in this Supplemental Agreement.

NOW THEREFORE, the Parties hereby agree as follows:

- A. The Agreement is hereby amended as follows: The scope of services now includes Exhibit A of this Supplemental Agreement.
- B. The total fee for the additional professional services provided pursuant to this Supplemental Agreement is \$53,620, which raises the total fee for all services provided under the Agreement from \$830,380.00 to \$884,000.

IN ALL OTHER RESPECTS, the terms and conditions of the Agreement will remain in full force and effect, except as specifically modified by any prior written Supplemental Agreement approved by the Parties and by this Supplemental Agreement, including all policies of insurance which will cover the work authorized by this Supplemental Agreement.

IN WITNESS WHEREOF, the Parties have caused this Supplemental Agreement to be executed as of the day and year first above written.

CITY OF OLATHE, KANSAS

By: _____
John Bacon, Mayor

ATTEST:

City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney or Deputy/Assistant City Attorney

Olsson, Inc.

By: _____
Brent Johnson, PE – Vice President
7301 W 133rd Street, Ste 200
Overland Park, KS 66213

By: _____
Tony Stanton, PE – Senior Vice President
7301 W 133rd Street, Ste 200
Overland Park, KS 66213

Exhibit A

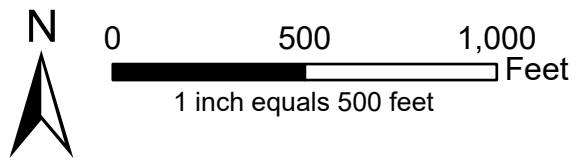
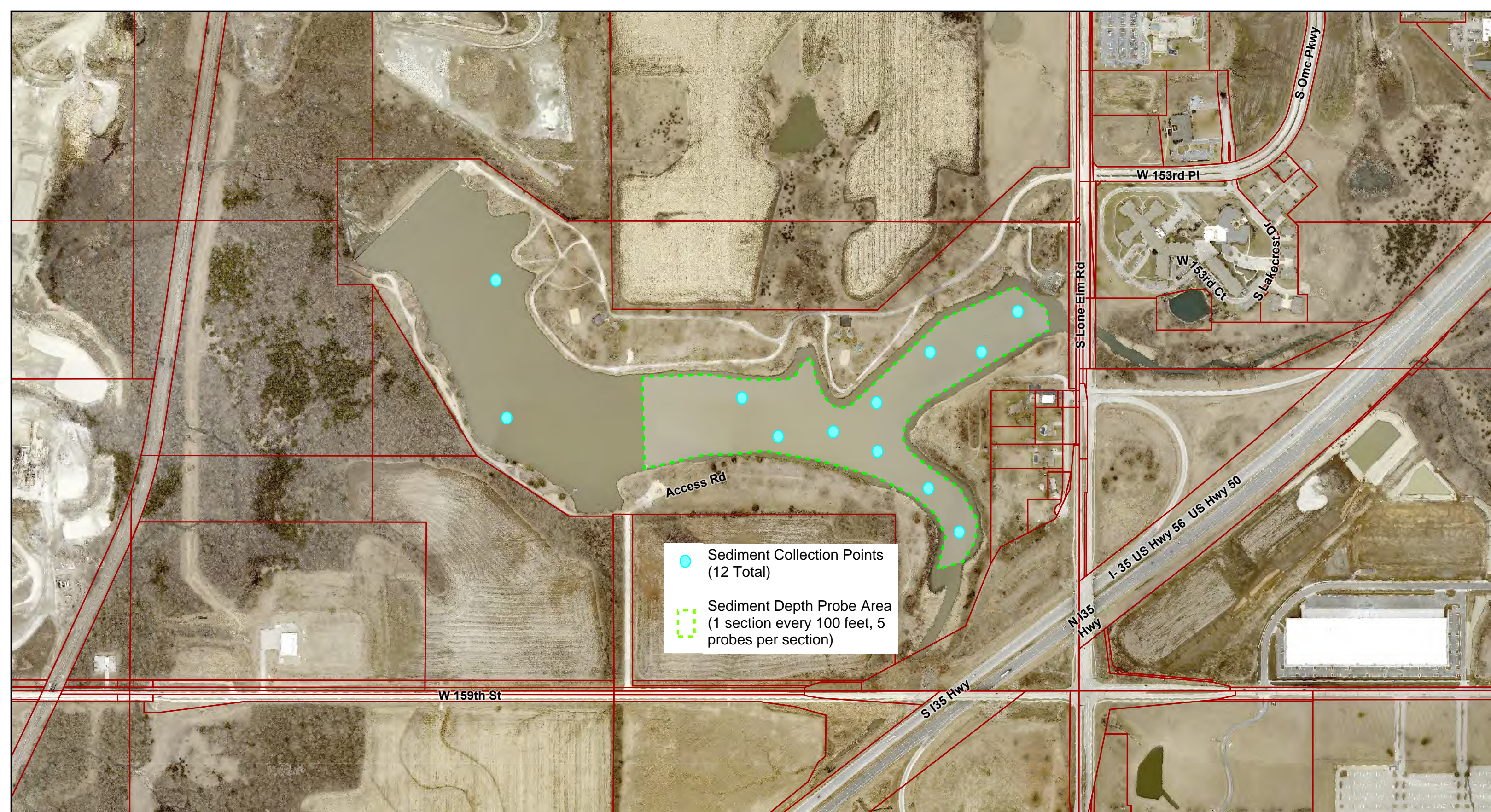
Task 205: Bathymetric Survey. Olsson will provide a Bathymetric Survey of the 61-acre Cedar Lake. This survey shall depict existing contours at one-foot intervals representing the existing bottom of the lake. Soil depth probes will be taken on the upper half of the lake only to measure the amount of siltation. Five (5) depth probes will be measured per 100 ft intervals comprising of approximately 35 sections and 175 probe locations. Probes will be pushed down to point of refusal to measure the approximate depth of siltation present. Olsson will provide Four (4) horizontal control points referenced to Johnson County Horizontal and Vertical Control and Kansas Coordinate System 1983 *North* Zone. Four (4) benchmarks tied to NAVD 1988 elevation datum will be established for use during construction activities and future retracement surveys or studies.

Fee \$38,620

Task 210: Sediment Sampling: Olsson will obtain sediment samples at twelve locations within Cedar Lake. Samples will be taken to Olsson's laboratory for visual soil classification, hydrometer analysis, and gradation test. The samples will then be prepped and shipped to Midwest Labs for a soil composition analysis. Results will be returned to Olsson for review and inclusion into a project report that will be submitted to the city.

Fee \$15,000

| City of Olathe, KS | | | | | | | | | | | | | | | | |
|------------------------------|---------------------------------------|-------|-------|-------|-------|--------|----------|-------|-------------|-------|-------------|----------|-------------|----------|-----------------------|----------|
| Cedar Creek Dam Improvements | | | | | | | | | | | | | | | | |
| Olsson /RJH | | | | | | | | | | | | | | | | |
| Olsson | | | | | | | | | | | Olsson Fees | RJH Fees | Total hours | Expenses | Total Fees & Expenses | |
| Phase/Task | Phase/Task Name | PM | SE | PE | AE | EN SCI | CAD Tech | PLS | Survey Crew | Admin | | | | | | |
| | Rates: | \$240 | \$210 | \$160 | \$140 | \$145 | \$130 | \$170 | \$170 | \$90 | | | | | | |
| 100 | Project Management and Administration | | | | | | | | | | | \$0 | \$0 | 0 | | \$0 |
| 200 | Data Collection | | | | | | | | | | | \$37,420 | \$0 | 242 | \$16,200 | \$53,620 |
| 205 | Bathymetric Survey | | | | | | 60 | 40 | 100 | | | \$31,600 | | 200 | \$7,020 | \$38,620 |
| 210 | Sediment Sampling | | | 12 | | | 30 | | | | | \$5,820 | | 42 | \$9,180 | \$15,000 |
| 300 | Preliminary Design | | | | | | | | | | | \$0 | \$0 | 0 | \$0 | \$0 |
| 400 | Final Design | | | | | | | | | | | \$0 | \$0 | 0 | \$ - | \$0 |
| 500 | Bidding | | | | | | | | | | | \$0 | \$0 | 0 | | \$0 |
| 600 | Additional Services | | | | | | | | | | | \$0 | \$0 | 0 | | \$0 |
| Totals: | | 0 | 0 | 12 | 0 | 0 | 90 | 40 | 100 | 0 | | \$37,420 | \$0 | 242 | \$16,200 | \$53,620 |



Parcel Boundary

Cedar Lake



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Infrastructure

STAFF CONTACT: Mary Jaeger/Zach Hardy

SUBJECT: Approval of agreement with EMCOR Fagan for mechanical/HVAC work at 1490 W. Ironwood Street.

TITLE:

Approval of agreement with EMCOR Fagan for mechanical/HVAC work at 1490 W. Ironwood Street.

SUMMARY:

The City of Olathe is currently remodeling the property at 1490 W. Ironwood for use as an upfitting and weld shop space for the Fire Department. This project also includes office and shop modifications for the Facilities Division and Parks Construction/Infrastructure Sections of the Infrastructure Focus Area.

Additional mechanical/HVAC work is required to meet code and ensure the safety and comfort of those working within the building. This work includes the installation of a new natural gas heater, relocation of an existing natural gas heater, relocation of a wall mounted exhaust fan and damper, the installation of new ventilation systems, duct work and natural gas piping.

EMCOR Fagan has provided a proposal for the needed mechanical and HVAC work in the amount of \$77,469. The City of Olathe has a price agreement for HVAC work with EMCOR Fagan and they have successfully provided these services, and maintenance work, within city facilities.

City staff recommends accepting the proposal from EMCOR Fagan for the required mechanical and HVAC work at 1490 W. Ironwood Street.

FINANCIAL IMPACT:

\$77,469.00 to be paid from project 8-C-002-21

ACTION NEEDED:

Approval of agreement with EMCOR Fagan for mechanical/HVAC work at 1490 W. Ironwood St.

ATTACHMENT(S):

A. Contract

CITY OF OLATHE AGREEMENT

THIS AGREEMENT is made in Johnson County, Kansas, by and between the City of Olathe, Kansas, hereinafter "City," and EMCOR Fagan, hereinafter "Vendor" (each individually a "Party" and collectively, the "Parties"). City needs mechanical/HVAC work at 1490 W. Ironwood Street, and contracts with Vendor for the work described in Vendor's proposal in **Exhibit A**.

1. FEES, EXPENSES. City agrees to pay Vendor an amount not to exceed \$77469.00 for the work described in **Exhibit A**. If provided for in **Exhibit A**, Vendor will be reimbursed at the actual cost of the specified expenses. All work must be completed on or before June 31, 2024, and time is of the essence for completion of the work

2. ADDITIONAL SERVICES. Vendor may provide services in addition to those listed **Exhibit A** when authorized in writing by City.

3. BILLING. Vendor may bill City monthly for all completed work and reimbursable expenses. Vendor must submit a bill which itemizes the work and reimbursable expenses.

4. PAYMENT. City agrees to pay Vendor within thirty (30) days of approval by the Governing Body or other agent of City in accordance with the City's Procurement Policy. If City becomes credibly informed that any representations of Vendor provided in its billing are wholly or partially inaccurate, City may withhold payment of sums then or in the future due to Vendor until the inaccuracy and the cause thereof is corrected to City's reasonable satisfaction.

5. STANDARD OF CARE. Vendor will exercise the same degree of care, skill, and diligence in the performance of the work as is ordinarily possessed and exercised by a professional under similar circumstances. If Vendor fails to meet the foregoing standard, Vendor will perform at its own cost, and without reimbursement, any work necessary to correct errors and omissions which are caused by Vendor's negligence.

6. TERMINATION FOR CONVENIENCE. City may terminate this Agreement for convenience by providing fifteen (15) days' written notice to Vendor. City will compensate Vendor for all work completed and accepted and reimbursable expenses incurred to the date of its receipt of the termination notice. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed.

7. TERMINATION FOR LACK OF FUNDS. If, for whatever reason, adequate funding is not made available by City to support or justify continuation of the level of work to be provided by Vendor under this Agreement, City may terminate or reduce the amount of work to be provided by Vendor under this Agreement. In such event, City will notify Vendor in writing at least thirty (30) days in advance of such termination or reduction of work for lack of funds.

8. DISPUTE RESOLUTION. The Parties agree that disputes regarding the work will first be addressed by negotiations between the Parties. If negotiations fail to resolve the dispute, the Party initiating the claim that is the basis for the dispute may take such steps as it deems necessary to protect its interests. Notwithstanding any such dispute, Vendor will proceed with undisputed work as if no dispute existed, and City will continue to pay for Vendor's completed undisputed work. No dispute will be submitted to arbitration without both Parties' written approval.

9. SUBCONTRACTING. Vendor may not subcontract or assign any of the work to be

performed under this Agreement without first obtaining the written approval of City. Unless stated in the written approval to an assignment, no assignment will release or discharge Vendor from any obligation under this Agreement. Any person or entity providing subcontracted work under this Agreement must comply with **Section 11 (Insurance)**.

10. OWNERSHIP OF DOCUMENTS. All final documents provided to City as part of the work provided under this Agreement, including but not limited to reports, plans, and related documents, will become City's property except that Vendor's copyrighted documents will remain owned by Vendor. Such documents must be clearly marked and identified as copyrighted by Vendor.

11. INSURANCE. Vendor and any subcontractor will maintain for the term of this Agreement insurance as provided in **Exhibit B**.

12. INDEMNIFICATION AND HOLD HARMLESS. For purposes of this Agreement, Vendor agrees to indemnify, defend, and hold harmless City, its officers, appointees, employees, and agents from any and all loss, damage, liability or expense, of any nature whatsoever caused or incurred as a result of the negligence or other actionable fault of Vendor, its affiliates, subsidiaries, employees, agents, assignees, and subcontractors and their respective employees and agents. Vendor is not required hereunder to defend City, its officers, appointees, employees, or agents from assertions that they were negligent, nor to indemnify and hold them harmless from liability based on City's negligence. City does not indemnify Vendor.

13. LIMITATION OF LIABILITY FOR BREACH OF CONTRACT OR NEGLIGENT PERFORMANCE. Any attempt to limit liability for breach of contract or negligent performance to the amount of the payment to Vendor by City is void. Any attempt to limit Vendor's liability to City for consequential, exemplary, or punitive damages, or any other measure of damages permitted by law, in any action against Vendor for breach of contract is void.

14. KANSAS ACT AGAINST DISCRIMINATION. *Unless* Vendor employs fewer than four (4) employees during the term of this Agreement, or *unless* the total of all agreements (including this Agreement) between Vendor and City during a calendar year are cumulatively less than \$5,000, *then* during the performance of this Agreement, Vendor agrees that:

- a. Vendor will observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and will not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, or ancestry;
- b. in all solicitations or advertisements for employees, Vendor will include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("commission");
- c. if Vendor fails to comply with the way Vendor reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Vendor will be deemed to have breached the present contract and it may be canceled, terminated, or suspended, in whole or in part, by City without penalty;
- d. if Vendor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, Vendor will be deemed to have breached the present contract and it may be canceled,

terminated, or suspended, in whole or in part, by the contracting agency; and

- e. Vendor will include the provisions of subsections a. through d. in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

15. ENTIRE AGREEMENT. This Agreement, including all documents and exhibits included by reference herein, constitutes the entire Agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to by both Parties.

16. NO THIRD-PARTY BENEFICIARIES. Nothing contained herein will create a contractual relationship with, or any rights in favor of, any Third Party.

17. INDEPENDENT CONTRACTOR STATUS. Vendor is an independent contractor and not an agent or employee of City.

18. COMPLIANCE WITH LAWS. Vendor will abide by all applicable federal, state, and local laws, ordinances, and regulations.

19. FORCE MAJEURE CLAUSE. Neither Party will be considered in default under this Contract because of any delays in performance of obligations hereunder due to causes beyond the control and without fault or negligence on the part of the delayed Party, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, tornado, epidemic, quarantine restrictions, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the delayed Party must notify the other Party in writing of the cause of delay and its probable extent within ten (10) days from the beginning of such delay. Such notification will not be the basis for a claim for additional compensation. The delayed Party must make all reasonable efforts to remove or eliminate the cause of delay and must, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

20. APPLICABLE LAW, JURISDICTION, VENUE. Interpretation of this Agreement and disputes arising out of or related to this Agreement will be subject to and governed by the laws of the State of Kansas, excluding Kansas' choice-of-law principles. Jurisdiction and venue for any suit arising out of or related to this Agreement will be in the District Court of Johnson County, Kansas.

21. SEVERABILITY. If any provision of this Agreement is determined to be void, invalid, unenforceable, or illegal for whatever reason, such provision(s) will be null and void; provided, however, that the remaining provisions of this Agreement will be unaffected and will continue to be valid and enforceable.

22. ORDER OF PRECEDENCE. If there is any conflict between the terms of this Agreement, excluding exhibits, and anything contained in the exhibits referenced herein or attached hereto, the terms and provisions of this Agreement, excluding exhibits, shall control.

[The remainder of this page is intentionally left blank.]

The Parties hereto have caused this Agreement to be executed this _____ day of
_____ 20____.

CITY OF OLATHE, KANSAS

By: _____
Mayor

ATTEST:

City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney or Deputy/Assistant City Attorney

EMCOR Fagan

By: _____
NAME & TITLE
3125 Brinkerhoff Road
Kansas City, KS 66115

Exhibit A
Vendor's Proposal

June 13, 2023
November 20, 2023, Revised

Approved 69027
MG 12/1/2023
Michael Green

Michael Green
City of Olathe

RE: Ironwood Building
Lot 1&2 ERL Industrial Park
1490 West Ironwood Street Olathe KS 66061

Dear Michael:

We offer the following proposal for the Mechanical HVAC work for 1490 West Ironwood Street per Smith & Boucher Drawings Dated 5-24-2023.

1. PRICE:

| | |
|---|--------------|
| A. HVAC Unit Heater Relocation and Ventilation Modifications | \$ 77,469.00 |
| Sheet Metal Labor (including fabrication) 270 hours @ \$114/hr..... | \$30,780.00. |
| Piping Labor 166 hours @ \$114/hr..... | \$18,924.00 |
| Material..... | \$24,790.00 |
| Material markup 12%..... | \$2,975.00 |

2. SCOPE OF WORK: HVAC Unit Heater Relocation and Ventilation Modifications

- A. Provide and install Qty 1 Unit Heater Natural Gas
- B. Relocate existing Qty 1 Unit Heater Natural Gas
- C. Relocate existing Wall Mounted exhaust fan with associated Damper.
- D. Provide and install new ventilation for Fire Truck Bay.
- E. Duct Fabrication is included.
- F. Natural Gas Piping is included.
- G. See Scope Matrix for items included and excluded in our proposal.
- H. See Attachment A Standard Terms and Conditions.

3. SPECIAL CLARIFICATIONS/ EXCLUSIONS

The following are special clarifications to this proposal.

- 1. Electrical is Excluded
- 2. Carpentry Work is excluded.
- 3. This quote is valid for thirty (30) days. At the end of this time, EMCOR Services Fagan reserves the right to review its pricing for validity.

Thank you for the opportunity to offer this proposal. If we can be of any assistance, or if you require further clarification, please do not hesitate to call.

This proposal, including but not limited to pricing and schedule, is made contingent upon the work addressed herein not being adversely affected, either directly or indirectly, by the COVID-19 pandemic and/or the Corona virus. This proposal is further conditioned upon the parties agreeing, prior to beginning of any work and in writing as part of any
On Call Service | Design Build | Chillers | Boilers | Hydronic Piping | Sheet Metal | Industrial Piping | Industrial Duct | Plumbing

contract/subcontract, that any (i) schedule issues (including, but not limited to, delay, acceleration, compression, interference, hindrance), (ii) overtime hours or added resources to perform work, (iii) shortages (whether as to labor, subcontracted services, materials, or supplies), (iv) change orders, extra work, or extra costs, or (v) inefficiency and impacts relating to the foregoing, that arise as a result of the COVID-19 pandemic or Corona virus will entitle contractor to a change order equitably addressing impacts to its time for performance and costs.

This proposal is valid for the scope of work based on material prices at time of bid. Since commodity prices have escalated dramatically in recent months, sometimes changing daily. EMCOR Services Fagan reserves the right to increase our cost for performing this work, if, at the time of full contract execution, material prices have increased.

Sincerely,
EMCOR Services Fagan

Jason Hicklin
Account Representative

SCOPE MATRIX

The following matrix defines which items are included in the current scope of work and which items are excluded. This matrix is not intended to be all inclusive but is intended to address general scope and standard coordination issues.

| <i>ITEM</i> | <i>INCLUDED</i> | <i>EXCLUDED</i> | <i>Notes</i> |
|---|-----------------|-----------------|--------------|
| 1. Mechanical Systems | | | |
| 1.1. Sheet Metal | | | |
| 1.1.1. Sheet Metal Ductwork per SMACNA 2005 Edition | X | | |
| 1.2. Plumbing | | | |
| 1.2.1. Natural Gas Piping | | | |
| 2. Mechanical Equipment | | | |
| 2.1. Exhaust Fans | X | | |
| 2.2. Unit Heaters | X | | |
| 3. Municipality Items | | | |
| 3.1. Permits and Fees | | X | |
| 3.2. Taxes | | X | |

Attachment "A"

Standard Bid Terms and Conditions

- **PAYMENT.** Payments Terms are net 30 days unless specifically approved otherwise. Interest for late payment shall accrue at a rate of 18% per annum. If Progress Payments and/or Retentions are agreed upon, they will be paid to us in the amount equal to the percentage of completion approved by the Owner and Retentions shall be released within 60 days of completion of Fagan's work. Retention percentage no greater than the lesser of what the law allows or is withheld from you. We will be entitled to substitute securities for retention applicable to our work. Pay-if-Paid terms or conditions, and joint checks are not acceptable. If you direct us to proceed on changed work but have not issued a change order including the agreed price for the changed work, we have the right to include a reasonable amount for such work in our billing and to be paid therefore as part of the payment.
- **SUBCONTRACT FORM.** This proposal is predicated upon mutual acceptance of the terms and conditions of the AIA standard form agreement between Contractor and Subcontract, AIA Document No. A401 - 1997.
- **CHANGES.** Change orders will be based on a lump sum derived from an estimate or actual time and actual material evidenced by supporting documents. We will grant you the right to audit the documents supporting time and material work, but will not grant audit documents on which lump sum work is based.
- **LAW, CODES, DESIGN.** We will perform our work in accordance with the law and codes but will not be required to identify and report violations of the law and codes contained in the design except as we become aware of them in the course of our work. Our duty to find and report or be responsible for the errors and defects in the work of others will be limited to those errors and defects as are sufficiently evident as to be found and reported by a contractor of ordinary skill and expertise for the type of work that is subject of this proposal.
- **SCHEDULE.** We will provide a detailed schedule of our activities, their logic with respect to other activities, their access requirements, and their durations, for incorporation in a mutually agreed upon construction schedule that is to be prepared in advance of construction. Such schedule will provide for completion of work precedent to our work by the dates set forth in the Construction Documents. Fagan's pricing is predicated upon our being allowed reasonable and adequate time to install our work. Overhead rough-in activities shall be allowed a reasonable duration prior to the commencement of any stud-wall erection. Other analysis services, including data processing, if required, are to be provided by others without cost to Fagan.
- **INSURANCE.** We will provide comprehensive general liability insurance including bodily injury, property damage and completed operations with combined single limits not to exceed \$10,000,000. Fagan excludes the cost of Builders Risk and appropriate related property insurance coverage. We would expect to a named incurred under such policies that may be provided by the Owner or General Contractor. This exclusion contemplates that the contract will contain a mutual waiver of subrogation rights as they relate to Builders Risk and/or other appropriate property insurance coverage for insurable losses which may be covered by such insurance programs.
- **CLEAN-UP / STORAGE.** We will clean up our own trash and debris on the job site. On site trash containers and removal of the trash from the job site shall be provided by others without cost to Fagan. General Contractor to provide a clean, clear, accessible and safe work area. General Contractor will provide an adequate staging area within the construction job site for use by Fagan for job site trailers and to store materials.
- **LIEN RELEASES.** Fagan's monthly Conditional Lien Releases (if required) shall be acceptable for all progress payments. We will provide an Unconditional Lien Release from Fagan and any Conditional or Unconditional releases from lower-tier vendors and subcontractors only upon final payment.
- **BOND PREMIUMS.** Premiums for Performance and Payment Bonds, if required, shall be added to our contract amount, unless otherwise noted as included in bid amount. If a Bond is required, it must be requested prior to Notice to Proceed. If the request is not received timely, Fagan may elect to not provide the Bond.
- **TEMPORARY FACILITIES.** We have assumed that electrical power, lighting, water, toilet facilities, watchmen, temporary heat, and ventilation will be provided without cost to Fagan. We also require that on-site space for our job site office and storage of equipment and materials will be provided by others without cost to Fagan.
- **HAZARDOUS MATERIALS.** We have not included any costs associated with discovery, abatement, monitoring, or removal of any hazardous materials that may be encountered during the construction of this project. ***We assume that each trade, including Fagan, will provide temporary ventilation as may be required to eliminate and/or mitigate respiratory hazards that may develop as a result of their construction operations.*** We exclude all costs associated with any medial treatment or monitoring required because of exposure of our personnel to hazardous materials.
- **LABOR.** Our work will be performed by union craftsmen. Bid is based on work being performed during normal working hours at straight time rates. Cost of additional overtime, if directed, shall be reimbursed to Fagan.
- **INDEMNIFICATION.** Fagan will not indemnify anyone against their own negligence. Any indemnification required shall be predicated on a pro-rata basis with those entities who contribute to any action requiring such indemnification.
- **DELAY DAMAGES, BACK CHARGES, AND CLAIMS.** Each of us will be responsible to the other for unexcused delays due to our respective fault or within our respective reasonable control to avoid. Neither of us will assert or assess delay damages, back charges or claims against the other unless prompt written notice has been given to the other party of its default, and the default is not corrected within five (5) working days following receipt of written notice.
- **DISPUTES.** We will agree to be bound only by proceedings to which we have been a participating party. We will have the right to make claim against any entity that causes us damages during the course of the prosecution of our work. We will not be required to pay fees or back charges for events that are reasonably part of the contracting process such as missing meetings and re-submittals.
- **WARRANTY.** The warranty start dates will be established by system, area, and/or phase as Owner receives beneficial use of work.
- **BLOCK-OUTS.** Fagan will provide necessary block-out drawings for all HVAC penetrations for use by others to provide required block-outs. Structural reinforcement for all openings required is excluded.
- **EXCAVATION AND/OR DEWATERING.** We exclude costs associated with excavation, backfilling, dewatering, rock excavation, blasting, drilling or any other associated activities, unless, specifically noted elsewhere in this proposal.
- **GENERAL CONSTRUCTION.** We exclude costs associated with general construction work such as concrete, painting, structural steel, and fireproofing.

Exhibit B

CITY OF OLATHE INSURANCE REQUIREMENTS

These requirements apply to the vendor or contractor ("Vendor") entering into an Agreement with the City of Olathe ("City").

A. Insurance. Secure and maintain for the term of the Agreement insurance of such types and in at least such amounts as set forth below from a Kansas authorized insurance company which carries a Best's Policyholder rating of "A-" or better and carries at least a Class "VII" financial rating or better, unless otherwise agreed to by City:

1. Commercial General Liability: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any commercial general liability policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

Limits: Per Occurrence, including Personal & Advertising Injury and Products/Completed Operations: \$1,000,000; General Aggregate: \$2,000,000.

2. Business Auto Insurance: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any automobile policy of insurance. Insurance must apply separately to each insured against whom claim is made or suit is brought, subject to liability limits.

Limits: All Owned Autos; Hired Autos; and Non-Owned Autos: Per occurrence, combined single limit: \$500,000.

Notwithstanding the foregoing, if Vendor does not own any automobiles, then Vendor must maintain Hired and Non-Owned Auto insurance.

3. Worker's Compensation and Employer's Liability: Workers compensation insurance must protect Vendor against all claims under applicable state Worker's Compensation laws at the statutory limits, and employer's liability with the following limits.

Limits: \$500,000 Each Accident/\$500,000 Policy Limit/\$500,000 Each Employee

4. Professional Liability (if applicable): **Unless excused by the Agreement with the City**, Vendor must maintain for the term of this Agreement and for a period of three (3) years after the termination of this Agreement, Professional Liability Insurance.

Limits: Each Claim: \$1,000,000; General Aggregate: \$1,000,000.

5. Cyber Insurance (if applicable): **IF** accessing the City's network or City's data, **THEN** maintain the following coverages throughout for the term of this Agreement and for a period of three (3) years after the termination of this

Agreement: Cyber Incident/Breach Response and Remediation Expenses, Digital Data Recovery, Privacy and Network Security Liability, and Notification Expense.

Limits: Per claim, each insuring agreement: \$1,000,000; Aggregate: \$1,000,000.

- B. Exposure Limits.** Above are minimum acceptable coverage limits and do not imply or place a liability limit nor imply that the City has assessed the risk that may be applicable to Vendor. Vendor must assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverage. The Vendor's insurance must be primary, and any insurance or self-insurance maintained by the City will not contribute to, or substitute for, the coverage maintained by Vendor.
- C. Waiver of Subrogation.** All liability policies will provide a waiver of subrogation in favor of the City.
- D. Costs.** Insurance costs must be at Vendor's expense and accounted for in Vendor's bid or proposal. Any deductibles or self-insurance in the above-described coverages will be the responsibility and at the sole risk of the Vendor.
- E. Verification of Coverage**
1. Must provide certificate of insurance on ISO form or equivalent, listing the City as certificate holder, and additional insured endorsements for requested coverages.
 2. Any self-insurance must be approved in advance by the City and specified on the certificate of insurance. Additionally, when self-insured, the name, address, and telephone number of the claim's office must be noted on the certificate or attached in a separate document.
 3. When any of the insurance coverages are required to remain in force after final payment, additional certificates with appropriate endorsements evidencing continuation of such coverage must be submitted along with the application for final payment.
 4. For cyber insurance, the certificate of insurance confirming the required protection must confirm the required coverages in the "Additional Comments" section or provide a copy of the declarations page confirming the details of the cyber insurance policy.
- F. Cancellation.** No required coverage may be suspended, voided, or canceled, except after Vendor has provided thirty (30) days' advance written notice to the City.
- G. Subcontractor's Insurance:** If a part of this Agreement is to be sublet, Vendor must either cover all subcontractors under its insurance policies; **OR** require each subcontractor not so covered to meet the standards stated herein.



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Exceptional Services

STAFF CONTACT: Leslie Fortney/Erin Vader

SUBJECT: Consideration of renewal of professional services agreement with Surety Systems, Inc. for consulting services to assist with the implementation of Workday

TITLE:

Consideration of renewal of professional services agreement with Surety Systems, Inc. for consulting services to assist with the implementation of Workday.

SUMMARY:

Surety Systems Inc. provides the City of Olathe with a consultant to support with Workday including existing configurations, updating reports, and providing expertise in the transfer process from JD Edwards to Workday.

In January 2023, the City awarded a short term contract to Surety Systems Inc. for \$40,000 for a consultant for 3 months to assist with the initial transfer process of information from JD Edwards to Workday. Though the transfer process is complete, the overarching amount of new processes require the additional assistance and expertise of the consultant for a full year which will also aid in supporting skill development for the HR team in managing the new processes.

FINANCIAL IMPACT:

Estimated annual expenditures are \$80,000 and will be charged to HR's budget

ACTION NEEDED:

Renewal of contract to Surety Systems for a Workday consultant

ATTACHMENT(S):

- A. Contract
- B. CER

CITY OF OLATHE AGREEMENT FOR ADDITIONAL SERVICES

This Agreement for Additional Services is made this 29th day of January 2024, by and between the City of Olathe ("City") and Surety Systems, Inc. ("Vendor") (collectively, the "Parties").

WHEREAS, the City and Vendor have previously entered into an Agreement, dated January 21, 2023 ("the Agreement"), for Workday application consulting services; and

WHEREAS, Section 2 of the Agreement provides that Vendor may provide services in addition to those listed in Exhibit A to the Agreement when authorized in writing by City; and

WHEREAS, City desires to authorize and the Parties desire to enter into an agreement for Vendor to provide additional services;

NOW THEREFORE, the Parties hereby agree as follows:

City agrees to pay Vendor an amount not to exceed \$80,000 for the work described in Exhibit A to this Agreement for Additional Services. All such work must be completed on or before March 1, 2025.

IN ALL OTHER RESPECTS, the terms and conditions of the Agreement will apply to this Agreement for Additional Services and remain in full force and effect, except as specifically modified by any prior written amendment and by this Agreement for Additional Services.

IN WITNESS WHEREOF, the Parties have caused this Agreement for Additional Services to be executed as of the day and year first above written.

CITY OF OLATHE, KANSAS

By: _____
Mayor

ATTEST:

City Clerk

(SEAL)

APPROVED AS TO FORM:

Robert S. Gallimore
City Attorney or Deputy/Assistant City Attorney

SURETY SYSTEMS, INC.

DocuSigned by:

Steve Logue

FB8EBDCD6145446

By:

Steve Logue
Surety Systems, Inc.
Associate Partner
8020 Arco Corporate Dr Suite 116
Raleigh, NC 27617

**Exhibit A
Vendor's Proposal**

| | |
|-----------------------------|--------------------------------|
| CONTRACTOR NAME: | Irene Berkovsky |
| START DATE: | TBD |
| HOURLY BILLING RATE: | \$177/HR |
| ASSIGNMENT JOB DESCRIPTION: | Workday Application Consultant |

* All work will be performed on a remote basis.
The terms and conditions of the Agreement entered into between Surety Systems and City of Olathe, Kansas shall govern this contract assignment.

SOW DETAILS:

Consultant to provide production support, including updates to configuration, troubleshooting issues, and implementing new configuration. All work will be completed in a manner that supports internal team learning and knowledge retention with the hope that new skills are developed for internal team members to equip them to better support the system in the future

Tasks to include but not limited to:

- Participate in discovery meetings.
- Review existing configuration and identify updates in configuration to optimize processes.
- Develop and update reports to improve HR user experience in obtaining required data.
- Provide testing and EIB support for work completed.
- Provide recommendations for changes to consider, including as it pertains to Workday releases.
- Provide expertise to internal employees and provide structure to the knowledge transfer including support with process documentation and job aids.

BILLING:

The Client, on a weekly basis, shall approve each Contractor's weekly time sheet. The total hours on each Contractor's time sheet, as approved by both the Contractor and a representative of the Client, shall constitute a full and complete acceptance of Services provided by such Contractor for the period identified on the time sheet. Any objection to the Services' quality must be made prior to approval of the time sheet.

The Client will be invoiced by RKPS, Surety's back-office staffing partner, weekly for all amounts payable by the Client pursuant to the terms hereof. Invoices are payable to:

RK Payroll Solutions, Inc. c/o
Surety Systems, Inc.
8020 Arco Corporate Drive, Suite
116
Raleigh, NC 27617

FOR SURETY SYSTEMS, INC:

FOR CITY OF OLATHE, KANSAS:

Name: _____

Name: Ronni Decker

Title: _____

Title: Customer Experience Officer

Signature: _____

Signature:  _____

Date : _____

Date : 2/15/24

Exhibit B
CITY OF OLATHE INSURANCE REQUIREMENTS

These requirements apply to the vendor or contractor ("Vendor") entering into an Agreement with the City of Olathe ("City").

A. Insurance. Secure and maintain for the term of the Agreement insurance of such types and in at least such amounts as set forth below from a Kansas authorized insurance company which carries a Best's Policyholder rating of "A-" or better and carries at least a Class "VII" financial rating or better, unless otherwise agreed to by City:

1. Commercial General Liability: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any commercial general liability policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

Limits: Per Occurrence, including Personal & Advertising Injury and Products/Completed Operations: \$1,000,000; General Aggregate: \$2,000,000.

2. Business Auto Insurance: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any automobile policy of insurance. Insurance must apply separately to each insured against whom claim is made or suit is brought, subject to liability limits.

Limits: All Owned Autos; Hired Autos; and Non-Owned Autos: Per occurrence, combined single limit: \$500,000.

Notwithstanding the foregoing, if Vendor does not own any automobiles, then Vendor must maintain Hired and Non-Owned Auto insurance.

3. Worker's Compensation and Employer's Liability: Workers compensation insurance must protect Vendor against all claims under applicable state Worker's Compensation laws at the statutory limits, and employer's liability with the following limits.

Limits: \$500,000 Each Accident/\$500,000 Policy Limit/\$500,000 Each Employee

4. Professional Liability (if applicable): **Unless excused by the Agreement with the City**, Vendor must maintain for the term of this Agreement and for a period of three (3) years after the termination of this Agreement, Professional Liability Insurance.

Limits: Each Claim: \$1,000,000; General Aggregate: \$1,000,000.

5. Cyber Insurance (if applicable): **IF** accessing the City's network or City's data, **THEN** maintain the following coverages throughout for the term of this Agreement and for a period of three (3) years after the termination of this Agreement: Cyber Incident/Breach Response and Remediation Expenses, Digital Data Recovery, Privacy and Network Security Liability, and Notification Expense.
- Limits:** Per claim, each insuring agreement: \$1,000,000; Aggregate: \$1,000,000.

B. Exposure Limits. Above are minimum acceptable coverage limits and do not imply or place a liability limit nor imply that the City has assessed the risk that may be applicable to Vendor. Vendor must assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverage. The Vendor's insurance must be primary, and any insurance or self-insurance maintained by the City will not contribute to, or substitute for, the coverage maintained by Vendor.

C. Waiver of Subrogation. All liability policies will provide a waiver of subrogation in favor of the City.

D. Costs. Insurance costs must be at Vendor's expense and accounted for in Vendor's bid or proposal. Any deductibles or self-insurance in the above-described coverages will be the responsibility and at the sole risk of the Vendor.

E. Verification of Coverage

1. Must provide certificate of insurance on ISO form or equivalent, listing the City as certificate holder, and additional insured endorsements for requested coverages.
2. Any self-insurance must be approved in advance by the City and specified on the certificate of insurance. Additionally, when self-insured, the name, address, and telephone number of the claim's office must be noted on the certificate or attached in a separate document.
3. When any of the insurance coverages are required to remain in force after final payment, additional certificates with appropriate endorsements evidencing continuation of such coverage must be submitted along with the application for final payment.
4. For cyber insurance, the certificate of insurance confirming the required protection must confirm the required coverages in the "Additional Comments" section or provide a copy of the declarations page confirming the details of the cyber insurance policy.

F. Cancellation. No required coverage may be suspended, voided, or canceled, except after Vendor has provided thirty (30) days' advance written notice to the City.

G. Subcontractor's Insurance: If a part of this Agreement is to be sublet, Vendor must either cover all subcontractors under its insurance policies; **OR** require each subcontractor not so covered to meet the standards stated herein.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/07/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | | | |
|--|--|--|----------------|
| PRODUCER APEX CARY INSURANCE/PHS 22271803 The Hartford Business Service Center 3600 Wiseman Blvd San Antonio, TX 78251 | CONTACT NAME: PHONE (A/C, No, Ext): (866) 467-8730 | | FAX (A/C, No): |
| | E-MAIL: | | |
| | INSURER(S) AFFORDING COVERAGE | | NAIC# |
| INSURED SURETY SYSTEMS INC 8020 ARCO CORPORATE DR STE 116 RALEIGH NC 27617-2037 | INSURER A: Hartford Casualty Insurance Company | | 29424 |
| | INSURER B: Hartford Fire and Its P&C Affiliates | | 00914 |
| | INSURER C: | | |
| | INSURER D: | | |
| | INSURER E: | | |
| | INSURER F: | | |


COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/Y YYYY) | LIMITS | | | |
|----------|--|-----------------------------|-----------|----------|---------------|-------------------------|---------------------------|---|---------------------------------|------------------------------|--|
| A | COMMERCIAL GENERAL LIABILITY | | X | X | 22 SBA IE5996 | 10/01/2023 | 10/01/2024 | EACH OCCURRENCE | \$2,000,000 | | |
| | <input checked="" type="checkbox"/> | CLAIMS-MADE OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | \$300,000 | | |
| | General Liability | | | | | | | MED EXP (Any one person) | \$10,000 | | |
| | GENL AGGRGATE LIMIT APPLS PER POLICY PROJECT <input type="checkbox"/> LOG <input type="checkbox"/> OTHER: | | | | | | | PERSONAL & ADV INJURY | \$2,000,000 | | |
| A | AUTOMOBILE LIABILITY | | | | 22 SBA IE5996 | 10/01/2023 | 10/01/2024 | COMBINED SINGLE LIMIT (Ea accident) | \$2,000,000 | | |
| | <input type="checkbox"/> | ANY AUTO | | | | | | BODILY INJURY (Per person) | | | |
| | <input checked="" type="checkbox"/> | ALL OWNED AUTOS HIRED AUTOS | | | | | | <input checked="" type="checkbox"/> | SCHEDULED AUTOS NON-OWNED AUTOS | BODILY INJURY (Per accident) | |
| | | | | | | | | PROPERTY DAMAGE (Per accident) | | | |
| A | <input checked="" type="checkbox"/> UMBRELLA LIAB EXCESS LIAB | | | | 22 SBA IE5996 | 10/01/2023 | 10/01/2024 | EACH OCCURRENCE | \$1,000,000 | | |
| | <input checked="" type="checkbox"/> | RETENTIONS \$ 10,000 | | | | | | AGGREGATE | \$1,000,000 | | |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | YIN | NIA | 22 WEC AB3JBG | 06/19/2023 | 06/19/2024 | <input checked="" type="checkbox"/> PER STATUTE | <input type="checkbox"/> OTHER | | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | | E.L. EACH ACCIDENT | \$1,000,000 | | |
| | | | | | | | | E.L. DISEASE -EA EMPLOYEE | \$1,000,000 | | |
| A | EMPLOYMENT PRACTICES LIABILITY | | | | 22 SBA IE5996 | 10/01/2023 | 10/01/2024 | Each Claim Limit | \$5,000 | | |
| | | | | | | | | Aggregate Limit | \$5,000 | | |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Those usual to the Insured's Operations.

| | |
|--|--|
| CERTIFICATE HOLDER CITY OF OLATHE PO Box 768 OLATHE KS 66051 | CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE  |
|--|--|



ADDITIONAL REMARKS SCHEDULE

| | | | |
|--|-----------|---|--|
| AGENCY APEX CARY INSURANCE/PHS | | NAMED INSURED SURETY SYSTEMS INC | |
| POLICY NUMBER SEE ACORD 25 | | 8020 ARCO CORPORATE DR STE 116 RALEIGH NC 27617-2037 | |
| CARRIER SEE ACORD 25 | NAIC CODE | EFFECTIVE DATE: SEE ACORD 25 | |

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM

FORM NUMBER: ACORD 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

Certificate holder is an additional insured per the Business Liability Coverage Form SS0008 attached to this policy. Waiver of Subrogation applies in favor of the Certificate Holder per the Business Liability Coverage Form SS0008, attached to this policy. Coverage is primary and noncontributory per the Business Liability Coverage Form SS0008, attached to this policy.

Date: 1/31/2023



COMPETITION EXCEPTION REPORT



Competition exception is the decision to purchase without competition through the use of bidding, formal solicitation, request for qualification, or a request for proposal when competition is available.

SOLE SOURCE



Only one vendor possesses the unique and singularly available capability to meet the requirement such as technical qualifications, ability to deliver based on distribution restrictions, or services from a public utility. See the Purchasing Manual Section 40.2 for examples.

Procurement Contact: Allie Wadsworth

Total Cost: \$80,000

Department Contact: Leslie Fortney

VENDOR NAME:

Surety Systems, Inc.

COMMODITY/SERVICE DESCRIPTION:

Surety Systems Inc. provides the City of Olathe with a consultant to support with Workday including existing configurations, updating reports, and providing expertise in the transfer process from JD Edwards to Workday.

JUSTIFICATION:

In January 2023, the City awarded a short term contract to Surety Systems Inc. for \$40,000 for a consultant for 3 months to assist with the initial transfer process of information from JD Edwards to Workday. Though the transfer process is complete, the overarching amount of new processes require the additional assistance and expertise of the consultant for a full year.

Erin Vader (Feb 1, 2024 16:13 CST)

Department Director

Director of Economy or Designee

Michael Wilkes (Feb 12, 2024 13:13 CST)

City Manager
(Required over \$25,000)



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Quality of Life

STAFF CONTACT: Renee Rush

SUBJECT: Consideration of Approval of the 2024 Downtown Outdoor Sculpture Exhibit

TITLE:

Consideration of Approval of the 2024 Downtown Outdoor Sculpture Exhibit.

SUMMARY:

Eight sculpture and three alternates were recommended by the Olathe Public Art Committee for the 2024 Downtown Outdoor Sculpture Exhibit. The sculptures were reviewed by Council at the February 6 meeting.

The sculptures recommended for the exhibit are:

| <u>Artist</u> | <u>Sculpture Title</u> |
|------------------|------------------------|
| Nick Willett | Sprianthes |
| Jacquelynn Gould | Entropy |
| Harold Linke | Spiral Dance |
| Isaac Kidder | A Circle of Fifths |
| James Haire | A Book for Everyone |
| Justin Deister | Say Cheese |
| Andrew Arvanetes | Two Wings & a Prayer |
| James Mages | Wonderful Winter Wheat |

Alternates:

| | |
|-------------|-------------------|
| Tim Adams | Purple Coneflower |
| Ben Pierce | Crystalline |
| Steve Feren | Timekeeper |

The sculptures will be leased by the City for one year. City staff will determine site location considering size, traffic, and public safety

FINANCIAL IMPACT:

The cost of the 2024 sculpture leases is \$20,000

ACTION NEEDED:

Authorize the selection of sculpture for the 2024 Downtown Outdoor Sculpture Exhibit

ATTACHMENT(S):

MEETING DATE: 2/20/2024

A. 2024 Downtown Outdoor Sculpture Exhibit

2024 Downtown Outdoor Sculpture Exhibit

Chelsy Walker, Chair
Olathe Public Art Committee



Spiranthes



Artist: Nick Willett- Springfield, MO

Material: Steel

Size: 10'x5'x5' 400 lbs



Entropy



Artist: Jacquelynn Sullivan Gould- Lansing MI

Material: Rubber, Aluminum, Steel

Size: 7'x5'x5' 170 lbs



Spiral Dance



Artist: Harold Linke- Lake Oswego, OR

Material: Carbon Fiber, Polychrome Finish

Size: 12'x3'x4' 70 lbs



A Circle of Fifths

Artist: Isaac Kidder- Saint Paul, MN

Material: Stainless Steel, White Oak, Aluminum

Size: 4'x6'x6' 250 lbs



A Book for Everyone



Artist: James Haire- Fort Collins, CO

Material: Bronze

Size: 4'x3'x2' 150 lbs



Say Cheese



Artist: Justin Deister- Louisville, CO

Material: Metal, Fiberglass

Size: 6'x1'x1' 190 lbs



Two Wings & a Prayer

Artist: Andrew Arvanetes- Kankakee, IL

Material: Painted Aluminum

Size: 6'x5'x6' 200 lbs



Wonderful Winter Wheat



Artist: James Mages- Hays, KS

Material: Steel, Brass, Silver

Size: 14'x6'x2' 300 lbs



Alternates

Purple Coneflower



Artist: Tim Adams- Webster City, IA

Material: Painted & Weathered Steel

Size: 12'x7'x7' 300 lbs



Crystalline



Artist: Ben Pierce- Cape Girardeau, MO

Material: Stainless Steel

Size: 12'x8'x7' 850 lbs



Timekeeper



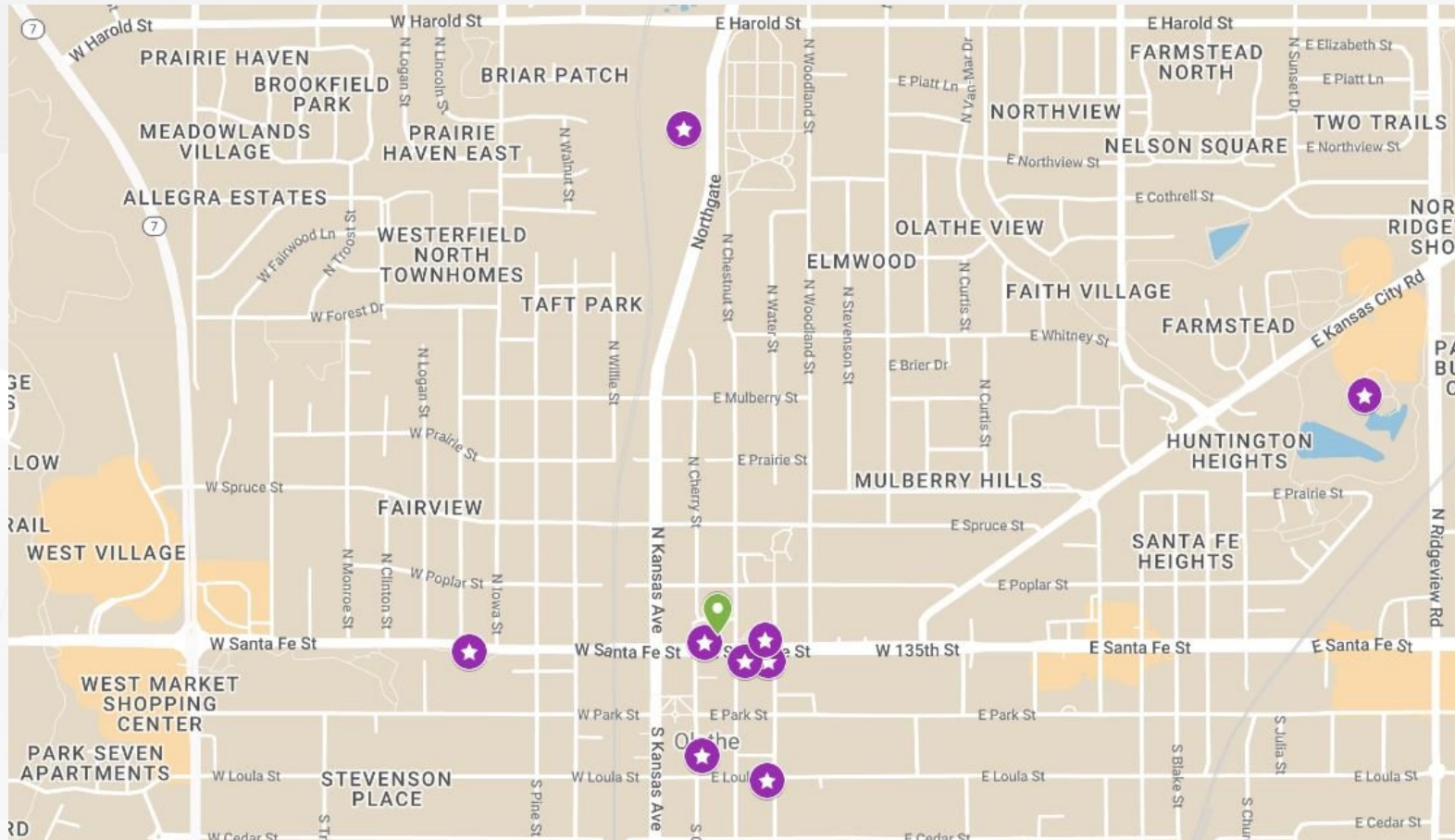
Artist: Steve Feren- Fitchburg, WI

Material: Concrete, Aluminum, Reflective Glass

Size: 7'x2'x2' 275 lbs



Map- Downtown Outdoor Exhibit



City Hall



Sculpture Sites



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Quality of Life

STAFF CONTACT: Mike Sirna

SUBJECT: Consideration of renewal of contract to Millgoal Enterprises II, LLC for mowing services.

TITLE:

Consideration of renewal of contract to Millgoal Enterprises II, LLC for mowing services.

SUMMARY:

The City of Olathe contracts with Millgoal Enterprises II, LLC for highway mowing. This contract with most recently renewed on December 7th, 2021 with an ending date of March 31st, 2024.

Staff are recommending the extension of this contract for a one (1) year period with the option to renew. The department is currently accessing the mowing boundaries and have need to utilize the current contractor's knowledge base due to the amount of time they have contracted with the City. Once the necessary knowledge is obtained, the City tentatively plans to execute a formal bid process.

FINANCIAL IMPACT:

Estimated annual expenditures are \$90,000 and will be charged to the operating budget of Parks Maintenance.

ACTION NEEDED:

Renewal of contract to Millgoal Enterprises II, LLC for mowing services.

ATTACHMENT(S):

- A. Contract
- B. CER

CITY OF OLATHE PRICE AGREEMENT

THIS AGREEMENT is made in Johnson County, Kansas, by and between the City of Olathe, Kansas, hereinafter "City," and Millgoal Enterprises II, LLC, hereinafter "Vendor" (each individually a "Party" and collectively, the "Parties"). City mowing services, and contracts with Vendor to supply the goods or services described in **Exhibit A**, as needed and as requested by City.

1. PRICE AGREEMENT, ORDERS, AND TERM. City agrees to pay Vendor at the prices listed in **Exhibit A** to supply the goods or services described in **Exhibit A**, as needed and as requested by City. City will have no financial obligation under this Agreement until an order has been placed. Any order placed under this Agreement remains subject to any applicable procurement policies of City, including approval by the appropriate authority based on the dollar amount of the order. Any order placed pursuant to this Agreement is subject to all terms and provisions of this Agreement. This contract will be a one (1)-year contract with the option to renew for up to (3) additional one (1)-year periods upon the written agreement of both parties.

2. ADDITIONAL SERVICES. Vendor may provide services in addition to those listed **Exhibit A** when authorized in writing by City.

3. BILLING. Vendor may bill City monthly for all completed work and reimbursable expenses. Vendor must submit a bill which itemizes the work and reimbursable expenses. City agrees to pay Vendor within thirty (30) days of approval by the Governing Body or other agent of City in accordance with the City's Procurement Policy.

4. PAYMENT. If City becomes credibly informed that any representations of Vendor provided in its billing are wholly or partially inaccurate, City may withhold payment of sums then or in the future due to Vendor until the inaccuracy and the cause thereof is corrected to City's reasonable satisfaction.

5. STANDARD OF CARE. Vendor will exercise the same degree of care, skill, and diligence in the performance of the work as is ordinarily possessed and exercised by a professional under similar circumstances. If Vendor fails to meet the foregoing standard, Vendor will perform at its own cost, and without reimbursement, any work necessary to correct errors and omissions which are caused by Vendor's negligence.

6. TERMINATION FOR CONVENIENCE. City may terminate this Agreement for convenience by providing fifteen (15) days' written notice to Vendor. City will compensate Vendor for all work completed and accepted and reimbursable expenses incurred to the date of its receipt of the termination notice. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed.

7. TERMINATION FOR LACK OF FUNDS. If, for whatever reason, adequate funding is not made available by City to support or justify continuation of the level of work to be provided by Vendor under this Agreement, City may terminate or reduce the amount of work to be provided by Vendor under this Agreement. In such event, City will notify Vendor in writing at least thirty (30) days in advance of such termination or reduction of work for lack of funds.

8. DISPUTE RESOLUTION. The Parties agree that disputes regarding the work will first be addressed by negotiations between the Parties. If negotiations fail to resolve the dispute, the

Party initiating the claim that is the basis for the dispute may take such steps as it deems necessary to protect its interests. Notwithstanding any such dispute, Vendor will proceed with undisputed work as if no dispute existed, and City will continue to pay for Vendor's completed undisputed work. No dispute will be submitted to arbitration without both Parties' written approval.

9. SUBCONTRACTING. Vendor may not subcontract or assign any of the work to be performed under this Agreement without first obtaining the written approval of City. Unless stated in the written approval to an assignment, no assignment will release or discharge Vendor from any obligation under this Agreement. Any person or entity providing subcontracted work under this Agreement must comply with **Section 11 (Insurance)**.

10. OWNERSHIP OF DOCUMENTS. All final documents provided to City as part of the work provided under this Agreement, including but not limited to reports, plans, and related documents, will become City's property except that Vendor's copyrighted documents will remain owned by Vendor. Such documents must be clearly marked and identified as copyrighted by Vendor.

11. INSURANCE. Vendor and any subcontractor will maintain for the term of this Agreement insurance as provided in **Exhibit B**.

12. INDEMNIFICATION AND HOLD HARMLESS. For purposes of this Agreement, Vendor agrees to indemnify, defend, and hold harmless City, its officers, appointees, employees, and agents from any and all loss, damage, liability or expense, of any nature whatsoever caused or incurred as a result of the negligence or other actionable fault of Vendor, its affiliates, subsidiaries, employees, agents, assignees, and subcontractors and their respective employees and agents. Vendor is not required hereunder to defend City, its officers, appointees, employees, or agents from assertions that they were negligent, nor to indemnify and hold them harmless from liability based on City's negligence. City does not indemnify Vendor.

13. LIMITATION OF LIABILITY FOR BREACH OF CONTRACT OR NEGLIGENT PERFORMANCE. Any attempt to limit liability for breach of contract or negligent performance to the amount of the payment to Vendor by City is void. Any attempt to limit Vendor's liability to City for consequential, exemplary, or punitive damages, or any other measure of damages permitted by law, in any action against Vendor for breach of contract is void.

14. KANSAS ACT AGAINST DISCRIMINATION. *Unless* Vendor employs fewer than four (4) employees during the term of this Agreement, or *unless* the total of all agreements (including this Agreement) between Vendor and City during a calendar year are cumulatively less than \$5,000, *then* during the performance of this Agreement, Vendor agrees that:

- a. Vendor will observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and will not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, or ancestry;
- b. in all solicitations or advertisements for employees, Vendor will include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("commission");
- c. if Vendor fails to comply with the way Vendor reports to the commission in

accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Vendor will be deemed to have breached the present contract and it may be canceled, terminated, or suspended, in whole or in part, by City without penalty;

- d. if Vendor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, Vendor will be deemed to have breached the present contract and it may be canceled, terminated, or suspended, in whole or in part, by the contracting agency; and
- e. Vendor will include the provisions of subsections a. through d. in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

15. ENTIRE AGREEMENT. This Agreement, including all documents and exhibits included by reference herein, constitutes the entire Agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to by both Parties.

16. NO THIRD-PARTY BENEFICIARIES. Nothing contained herein will create a contractual relationship with, or any rights in favor of, any Third Party.

17. INDEPENDENT CONTRACTOR STATUS. Vendor is an independent contractor and not an agent or employee of City.

18. COMPLIANCE WITH LAWS. Vendor will abide by all applicable federal, state, and local laws, ordinances, and regulations.

19. FORCE MAJEURE CLAUSE. Neither Party will be considered in default under this Contract because of any delays in performance of obligations hereunder due to causes beyond the control and without fault or negligence on the part of the delayed Party, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, tornado, epidemic, quarantine restrictions, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the delayed Party must notify the other Party in writing of the cause of delay and its probable extent within ten (10) days from the beginning of such delay. Such notification will not be the basis for a claim for additional compensation. The delayed Party must make all reasonable efforts to remove or eliminate the cause of delay and must, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

20. APPLICABLE LAW, JURISDICTION, VENUE. Interpretation of this Agreement and disputes arising out of or related to this Agreement will be subject to and governed by the laws of the State of Kansas, excluding Kansas' choice-of-law principles. Jurisdiction and venue for any suit arising out of or related to this Agreement will be in the District Court of Johnson County, Kansas.

21. SEVERABILITY. If any provision of this Agreement is determined to be void, invalid, unenforceable, or illegal for whatever reason, such provision(s) will be null and void; provided, however, that the remaining provisions of this Agreement will be unaffected and will continue to be valid and enforceable.

22. ORDER OF PRECEDENCE. If there is any conflict between the terms of this Agreement, excluding exhibits, and anything contained in the exhibits referenced herein or attached hereto,

the terms and provisions of this Agreement, excluding exhibits, shall control.

[The remainder of this page is intentionally left blank.]

The Parties hereto have caused this Agreement to be executed this ____ day of

_____ 20__.

CITY OF OLATHE, KANSAS

By: _____
Mayor

ATTEST:

City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney or Deputy/Assistant City Attorney

(Millgoal Enterprises II, LLC)

By: Chad Member
(INSERT NAME & TITLE)
PO Box 1213
Platte City, Mo 64079

Exhibit A
Vendor's Proposal

| Description | QTY | UNIT | Unit price 2024 | Total Price 2024 |
|---|-----|------|-----------------|------------------|
| 119th Street. All four on and off ramps - includes guard rail areas on top of bridge. 27.5 Acres - Price Per Mowing | 5 | each | \$2,641.59 | \$13,207.95 |
| 135th Street or Santa Fe. All four on and off ramps - includes guard rail areas on top of bridge. 12.8 Acres - Price Per Mowing | 5 | each | \$865.66 | \$4,328.31 |
| Old 56 Highway. Under and around bridge East and West sides. 16.9 Acres - Price Per Mowing | 5 | each | \$2,533.45 | \$12,667.25 |
| K-7 Highway from Spruce going North to College Blvd. East & West sides. 23.1 Acres - Price Per Mowing | 3 | each | \$7,048.41 | \$21,145.23 |
| K-7 Wall to Wall twice Annually | 2 | each | \$9,665.01 | \$19,330.02 |
| 151st Street. All four on and off ramps - includes guard rail areas on top of bridge. 40 Acres - Price Per Mowing | 5 | each | \$3,078.89 | \$15,394.47 |
| Addon Per Mayor's Request from 135th St to Old 56 Southbound - Price Per mowing | 5 | each | \$297.68 | \$1,488.38 |

Exhibit B

CITY OF OLATHE INSURANCE REQUIREMENTS

These requirements apply to the vendor or contractor ("Vendor") entering into an Agreement with the City of Olathe ("City").

A. Insurance. Secure and maintain for the term of the Agreement insurance of such types and in at least such amounts as set forth below from a Kansas authorized insurance company which carries a Best's Policyholder rating of "A-" or better and carries at least a Class "VII" financial rating or better, unless otherwise agreed to by City:

1. Commercial General Liability: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any commercial general liability policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

Limits: Per Occurrence, including Personal & Advertising Injury and Products/Completed Operations: \$1,000,000; General Aggregate: \$2,000,000.

2. Business Auto Insurance: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any automobile policy of insurance. Insurance must apply separately to each insured against whom claim is made or suit is brought, subject to liability limits.

Limits: All Owned Autos; Hired Autos; and Non-Owned Autos: Per occurrence, combined single limit: \$500,000.

Notwithstanding the foregoing, if Vendor does not own any automobiles, then Vendor must maintain Hired and Non-Owned Auto insurance.

3. Worker's Compensation and Employer's Liability: Workers compensation insurance must protect Vendor against all claims under applicable state Worker's Compensation laws at the statutory limits, and employer's liability with the following limits.

Limits: \$500,000 Each Accident/\$500,000 Policy Limit/\$500,000 Each Employee

4. Professional Liability (if applicable): **Unless excused by the Agreement with the City**, Vendor must maintain for the term of this Agreement and for a period of three (3) years after the termination of this Agreement, Professional Liability Insurance.

Limits: Each Claim: \$1,000,000; General Aggregate: \$1,000,000.

5. Cyber Insurance (if applicable): **IF** accessing the City's network or City's data, **THEN** maintain the following coverages throughout for the term of this Agreement and for a period of three (3) years after the termination of this

Agreement: Cyber Incident/Breach Response and Remediation Expenses, Digital Data Recovery, Privacy and Network Security Liability, and Notification Expense.

Limits: Per claim, each insuring agreement: \$1,000,000; Aggregate: \$1,000,000.

B. Exposure Limits. Above are minimum acceptable coverage limits and do not imply or place a liability limit nor imply that the City has assessed the risk that may be applicable to Vendor. Vendor must assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverage. The Vendor's insurance must be primary, and any insurance or self-insurance maintained by the City will not contribute to, or substitute for, the coverage maintained by Vendor.

C. Costs. Insurance costs must be at Vendor's expense and accounted for in Vendor's bid or proposal. Any deductibles or self-insurance in the above-described coverages will be the responsibility and at the sole risk of the Vendor.

D. Verification of Coverage

1. Must provide certificate of insurance on ISO form or equivalent, listing the City as certificate holder, and additional insured endorsements for requested coverages.
2. Any self-insurance must be approved in advance by the City and specified on the certificate of insurance. Additionally, when self-insured, the name, address, and telephone number of the claim's office must be noted on the certificate or attached in a separate document.
3. When any of the insurance coverages are required to remain in force after final payment, additional certificates with appropriate endorsements evidencing continuation of such coverage must be submitted along with the application for final payment.
4. For cyber insurance, the certificate of insurance confirming the required protection must confirm the required coverages in the "Additional Comments" section or provide a copy of the declarations page confirming the details of the cyber insurance policy.

E. Cancellation. No required coverage may be suspended, voided, or canceled, except after Vendor has provided thirty (30) days' advance written notice to the City.

F. Subcontractor's Insurance: If a part of this Agreement is to be sublet, Vendor must either cover all subcontractors under its insurance policies; **OR** require each subcontractor not so covered to meet the standards stated herein.

Date: 12/8/23



COMPETITION EXCEPTION REPORT



Competition exception is the decision to purchase without competition through the use of bidding, formal solicitation, request for qualification, or a request for proposal when competition is available.

SOLE SOURCE



Only one vendor possesses the unique and singularly available capability to meet the requirement such as technical qualifications, ability to deliver based on distribution restrictions, or services from a public utility. See the Purchasing Manual Section 40.2 for examples.

Procurement Contact: John Page

Total Cost: \$90,000

Department Contact: John Brockus

VENDOR NAME:

Millgoal Enterprises II, LLC

COMMODITY/SERVICE DESCRIPTION:

Mowing Contractor for highway areas along K-10 and I-35.

JUSTIFICATION:

We are requesting an extension of the Millgoal highway mowing contract for another year, with the option to add 3 years on an annual basis. Millgoal cleans debris and trash along our highways before mowing to our citizens standards. Millgoal was the only contractor to bid on the original highway mowing contract.

Mike Sirna

Department Director

John Page

Director of Economy or Designee

Michael Wilkes
Michael Wilkes (Feb 13, 2024 13:33 CST)

City Manager
(Required over \$25,000)






Millgoal enterprises cer

Final Audit Report

2024-02-13

| | |
|-----------------|--|
| Created: | 2024-02-13 |
| By: | Cathy Marks (CMMarks@OLATHEKS.ORG) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAWIRL80cmTW4KpPsPfBv_CAmSuQfX7a1A |

"Millgoal enterprises cer" History

-  Document created by Cathy Marks (CMMarks@OLATHEKS.ORG)
2024-02-13 - 7:32:17 PM GMT- IP address: 204.89.192.11
-  Document emailed to Michael Wilkes (jmwilkes@olatheks.org) for signature
2024-02-13 - 7:32:20 PM GMT
-  Email viewed by Michael Wilkes (jmwilkes@olatheks.org)
2024-02-13 - 7:33:05 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Michael Wilkes (jmwilkes@olatheks.org)
Signature Date: 2024-02-13 - 7:33:20 PM GMT - Time Source: server- IP address: 204.89.192.11
-  Agreement completed.
2024-02-13 - 7:33:20 PM GMT



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Economy

STAFF CONTACT: Briana Burrichter / John Page

SUBJECT: Consideration of Ordinance No. 24-05 authorizing issuance of the City's taxable industrial revenue bonds in an amount not to exceed \$70,500,000 for the construction of a 90,000 square foot single-story data center on a 22.44-acre parcel southwest of the K-10 and K-7 Interchange.

TITLE:

Consideration of Ordinance No. 24-05 authorizing issuance of the City's taxable industrial revenue bonds in an amount not to exceed \$70,500,000 for the construction of a 90,000 square foot single-story data center on a 22.44-acre parcel southwest of the K-10 and K-7 Interchange.

SUMMARY:

On May 16, 2023, the City Council adopted Resolution No. 23-1032 (Attachment A) expressing the intent to issue an amount not to exceed \$70,500,000 of the City's taxable industrial revenue bonds ("bonds") for the construction of an approximately 90,000 square foot single-story data center on a 22.44-acre parcel southwest of the K-10 and K-7 Interchange.

The project will receive a 10 year, 50% tax phase-in in conjunction with the reissuance of the City's revenue bonds up to \$70,500,000.

The Ordinance (Attachment B), prepared by the City's Bond Counsel, Gilmore & Bell, P.C., will authorize the issuance of bonds not to exceed \$70,500,000 for the Project. The bonds are a special obligation of the City, paid solely by revenues generated by the Project. The Ordinance also authorizes the approval and execution of various documents required to facilitate the transaction under Kansas law, including a bond indenture and lease agreement.

FINANCIAL IMPACT:

All costs related to the issuance of the bonds will be paid by CLOP Olathe KS LLC.

ACTION NEEDED:

Consider approval of Ordinance No. 24-05.

ATTACHMENT(S):

A. Resolution No. 23-1032

B. Ordinance No. 24-05

RESOLUTION NO. 23-1032

RESOLUTION DETERMINING THE INTENT OF THE CITY OF OLATHE, KANSAS, TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN ONE OR MORE SERIES IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$70,500,000 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING AND EQUIPPING A COMMERCIAL FACILITY FOR THE BENEFIT OF OPPIDAN INVESTMENT COMPANY, AND ITS SUCCESSORS AND ASSIGNS.

WHEREAS, the City of Olathe, Kansas (the “City”), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

WHEREAS, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the “Act”), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act, and to lease such facilities to private persons, firms or corporations; and

WHEREAS, Oppidan Investment Company, a Minnesota corporation, has submitted to the City an Application for the Issuance of Industrial Revenue Bonds (the “Application”) requesting that the City finance the cost of acquiring land and acquiring, constructing and equipping an approximately 90,000 square foot commercial facility, as more fully described in the Application (the “Project”) through the issuance of its industrial revenue bonds in the principal amount of not to exceed \$70,500,000 (the “Bonds”), and to lease the Project to the Company and its successors and assigns (the “Company”), in accordance with the Act; and

WHEREAS, it is hereby found and determined to be advisable and in the interest and for the welfare of the City and its inhabitants that the City finance the costs of the Project by the issuance of the Bonds under the Act in the principal amount not to exceed \$70,500,000, such Bonds to be payable solely out of rentals, revenues and receipts derived from the lease of the Project by the City to the Company.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS, AS FOLLOWS:

Section 1. Approval of Project. The City Council (the “Governing Body”) of the City hereby finds and determines that the acquiring, constructing and equipping of the Project will promote the general welfare and economic prosperity of the City of Olathe, Kansas, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas, and the issuance of the Bonds to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act. The Project shall be located between West Valley Parkway to the south, West 103rd Terrace to the north, Church of the Resurrection West to the west and Honeywell Building Solutions to the east in the City of Olathe, Kansas, as further described in the Application.

Section 2. Intent to Issue Bonds. The Governing Body hereby determines and declares the intent of the City to acquire, construct and equip the Project out of the proceeds of the Bonds of the City in the principal amount not to exceed \$70,500,000 to be issued pursuant to the Act.

Section 3. Ad Valorem Tax Abatement. Subject to the conditions contained herein and compliance with the Act, in consideration of the Company’s decision to acquire, construct and equip the Project, the City hereby agrees to take all appropriate action to request the Kansas Board of Tax Appeals to approve a 100%

ad valorem property tax abatement (not including special assessments and taxes that may not be abated by the City under Kansas law) for all property (including real property, building improvements, machinery and equipment) financed with the proceeds of the Bonds.

In consideration of the City’s agreement to request such 100% ad valorem property tax abatement, the Company will agree to make payments in lieu of tax for the Project as follows:

| <u>Year</u> ¹ | <u>Approximate Percentage of Payments in Lieu</u> ² |
|--------------------------|--|
| 1 | 50% |
| 2 | 50% |
| 3 | 50% |
| 4 | 50% |
| 5 | 50% |
| 6 | 50% |
| 7 | 50% |
| 8 | 50% |
| 9 | 50% |
| 10 | 50% |

¹Year refers to the first full calendar year following the issuance of the Bonds.

²Excludes the school district’s capital outlay levy that cannot be abated under state law.

provided, however, any agreed upon valuation for determining the amount of such payment in lieu of tax and any property for which the City shall determine the payment in lieu of tax shall be in excess of that shown above, shall be set forth in the performance-based tax agreement executed by the City and the Company. The Project financed with the Bonds shall be entitled to a 10-year tax abatement, with the first year of the abatement being the year beginning on the January 1 following the year the Bonds are issued. The foregoing percentages are subject to adjustment in accordance with the performance-based tax abatement agreement for the Project.

Section 4. Provision for the Bonds. Subject to the conditions of this Resolution, the City expresses its intent to (i) issue its Bonds to pay the costs of acquiring, constructing and equipping the Project, with such maturities, interest rates, redemption terms and other provisions as may be determined by ordinance of the City; (ii) provide for the lease (with an option to purchase) of the Project to the Company; and (iii) to effect the foregoing, adopt such resolutions and ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of the Bonds by the City and take or cause to be taken such other action as may be required to implement the aforesaid.

Section 5. Conditions to Issuance. The issuance of the Bonds and the execution and delivery of any documents related to such Bonds are subject to: (i) obtaining any necessary governmental approvals (including, but not limited to, approval of a final site development plan in accordance with the City’s Unified Development Ordinance); (ii) agreement by the City, the Company and the purchaser of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof, and (b) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project; (iii) the Company’s compliance with the City’s policies relating to the issuance of industrial revenue bonds and ad valorem tax abatement (including, but not limited to, Section 2.B. of City Council Policy F-5 (Industrial Revenue Bond and Tax Abatement Policy), which section provides, in part, that “[p]rojects must utilize construction materials and provide an architectural design that exceeds the minimum requirements

set forth in the City's Unified Development Ordinance"); (iv) the passage and publication of an Ordinance authorizing the issuance of the Bonds; and (v) Company's payment of all of the costs of issuance related to the issuance of the Bonds.

Section 6. Sale of the Bonds. The sale of the Bonds shall be the responsibility of the Company; provided, however, arrangements for the sale of the Bonds shall be acceptable to the City.

Section 7. Limited Obligations of the City. The Bonds and the interest thereon shall be special, limited obligations of the City payable solely out of the amounts derived by the City under a Lease Agreement with respect to the Bonds and as provided herein and are secured by a transfer, pledge and assignment of and a grant of a security interest in the trust estate to the bond trustee for the Bonds and in favor of the owners of the Bonds, all as provided in the Bond Indenture. The Bonds shall not constitute a general obligation of the City, the State or of any other political subdivision thereof within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the City, the State or of any other political subdivision thereof and shall not be payable in any manner by taxation, but shall be payable solely from the funds provided for as provided in the Bond Indenture. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the City, the State or any other political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment.

Section 8. Required Disclosure. Any disclosure document prepared in connection with the placement or offering of any series of Bonds shall contain substantially the following disclaimer:

NONE OF THE INFORMATION IN THIS OFFICIAL STATEMENT, OTHER THAN WITH RESPECT TO INFORMATION CONCERNING THE CITY CONTAINED UNDER THE CAPTIONS "THE CITY" AND "LITIGATION - THE CITY" HEREIN, HAS BEEN SUPPLIED OR VERIFIED BY THE CITY, AND THE CITY MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

Section 9. Authorization to Proceed. The Company is hereby authorized to proceed with the acquiring, constructing and equipping of the Project, including the necessary planning and engineering for the Project and entering into of contracts and purchase orders in connection therewith, and to advance such funds as may be necessary to accomplish such purposes, and, to the extent permitted by law and upon compliance with the other requirements of this Resolution, the City will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

Section 10. No Reliance on Resolution. Kansas law provides that the City may only issue the Bonds by passage of an Ordinance and compliance with other state law requirements. The City has not yet passed an Ordinance for the Bonds. This Resolution only evidences the intent of the current Governing Body to issue such Bonds for the Project. The Company should not construe the adoption of this Resolution as a promise or guarantee that the Ordinance for the Bonds will be passed or that the Project will be approved.

Section 11. Termination of Resolution. This Resolution shall terminate three years from the date of the adoption of this Resolution unless (i) the Bonds have been issued for the Project or (ii) a building permit has been issued by the City for the Project. The City, upon the written request of the Company, may extend this time period.

Section 12. Benefit of Resolution. This Resolution will inure to the benefit of the City and the Company. The City may, at the request of the Company, assign all or a portion of the Company's interest in this Resolution to another entity, and such assignee will be entitled to the benefits of the portion of this Resolution assigned and the proceedings related hereto.


Section 13. Further Action. Counsel to the City and Gilmore & Bell, P.C., Bond Counsel for the City, together with the officers and employees of the City, are hereby authorized to work with the purchaser of the Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the City all documents necessary to effect the authorization, issuance and sale of the Bonds and other actions contemplated hereunder.

Section 14. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

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ADOPTED this 16th day of May 2023.

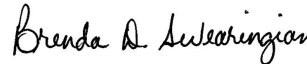
CITY OF OLATHE, KANSAS

By: 
John W Bacon (May 18, 2023 16:25 CDT)

John Bacon, Mayor

[SEAL]

ATTEST:



Brenda Swearingian, City Clerk



Resolution of Intent
Oppidan Investment Company

ORDINANCE NO. 24-05

AN ORDINANCE AUTHORIZING THE CITY OF OLATHE, KANSAS, TO ISSUE TAXABLE INDUSTRIAL REVENUE BONDS (CLOP OLATHE KS LLC), SERIES 2024, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$70,500,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF ACQUIRING, PURCHASING, CONSTRUCTING, INSTALLING AND EQUIPPING A COMMERCIAL FACILITY, INCLUDING LAND, BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES, MACHINERY AND EQUIPMENT; AUTHORIZING THE ISSUER TO ENTER INTO CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION WITH THE ISSUANCE OF SAID BONDS.

WHEREAS, the City of Olathe, Kansas (the “Issuer”), is authorized pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), to acquire, purchase, construct, install and equip certain commercial and industrial facilities, and to issue industrial revenue bonds for the purpose of paying the cost of such facilities, and to lease such facilities to private persons, firms or corporations; and

WHEREAS, the governing body of the Issuer has heretofore and does now find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its Taxable Industrial Revenue Bonds (CLOP Olathe KS LLC), Series 2024 (the “Bonds”), in a principal amount not to exceed \$70,500,000, for the purpose of acquiring, purchasing, constructing, installing, furnishing and equipping an commercial facility of approximately 90,000 square feet and associated infrastructure and site work for CLOP Olathe KS LLC, a Delaware limited liability company or permitted assigns (the “Company”), including land, buildings, structures, improvements, fixtures, furnishings, machinery and equipment (the “Project”); and

WHEREAS, the Bonds will be issued under a Bond Trust Indenture dated as of the date set forth therein (the “Indenture”), by and between the Issuer and Security Bank of Kansas City, as Trustee (the “Trustee”); and

WHEREAS, the Company will lease the Project to the Issuer pursuant to the Base Lease Agreement dated as of the date set forth therein (the “Base Lease Agreement”) between the Company and the Issuer; and

WHEREAS, simultaneously with the execution and delivery of the Indenture, the Issuer will enter into a Lease Agreement dated as of the date set forth therein (the “Lease Agreement”), by and between the Issuer, as lessor, and the Company, as lessee, pursuant to which the Project will be acquired, constructed, furnished and equipped, and pursuant to which the Issuer will lease the Project to the Company, and the Company will agree to pay the rental payments due under the Lease Agreement sufficient to pay the principal of and premium, if any, and interest on, the Bonds; and

WHEREAS, the governing body of the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of these bonds that the Issuer enter into certain agreements, and that the Issuer take certain other actions and approve the execution of certain other documents as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS, AS FOLLOWS:

Section 1. Authorization for the Acquisition, Purchase, Construction, Installation and Equipping of the Project. The Issuer is hereby authorized to provide for the acquisition, purchase,

construction, installation, furnishing and equipping of the Project, all in the manner and as more particularly described in the Indenture and the Lease hereinafter authorized. The Issuer hereby approved the assignment to the Company of all of Oppidan Investment Company's interest in Resolution No. 23-1032.

Section 2. Authorization of and Security for the Bonds. The Issuer is hereby authorized to issue and sell the Bonds in a principal amount not to exceed \$70,500,000 (the "Bonds"), for the purpose of providing funds to pay the cost of acquiring, purchasing, constructing, installing, furnishing, and equipping the Project. The Bonds shall be issued and secured pursuant to the herein authorized Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rates, shall be in such form, shall be subject to redemption and other terms and conditions, and shall be issued in such manner, subject to such provisions, covenants and agreements, as are set forth in the Indenture. The Bonds shall be payable solely out of the rents, revenues and receipts derived by the Issuer from the Project, and the Project and the net earnings derived by the Issuer from the Project shall be pledged and assigned to the Trustee as security for payment of the Bonds as provided in the Indenture.

Section 3. Authorization of Documents. The Issuer is hereby authorized to enter into the following documents, in substantially the forms presented to and reviewed by the governing body of the Issuer (copies of which documents, upon execution thereof, shall be filed in the office of the Clerk of the Issuer), with such changes therein as shall be approved by the officers of the Issuer executing such documents (the "Bond Documents"), such officers' signatures thereon being conclusive evidence of their approval thereof:

- (a) Trust Indenture, between the Issuer and the Trustee;
- (b) Base Lease Agreement, between the Company and the Issuer;
- (c) Lease Agreement, between the Issuer and the Company;
- (d) Bond Purchase Agreement dated the date set forth therein, among the Issuer, the Company and CLOP Olathe KS LLC, as Purchaser; and
- (e) Performance Agreement, between the Issuer and the Company.

Section 4. Execution of Bond and Documents. The Mayor of the Issuer is hereby authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the Issuer in the manner provided in the Indenture. The Mayor (or, in the Mayor's absence, the Mayor Pro Tem) of the Issuer is hereby authorized and directed to execute the Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the Issuer. The Clerk of the Issuer is hereby authorized and directed to attest to and affix the seal of the Issuer to the Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary.

Section 5. Pledge of the Project and Net Lease Rentals. The Issuer hereby pledges the Project and the net rentals generated under the Lease Agreement to the payment of the Bonds in accordance with K.S.A. 12-1744. The lien created by the pledge will be discharged when all of the Bonds are paid or deemed to have been paid under the Indenture

Section 6. Further Authority. The Issuer shall, and the officers, employees and agents of the Issuer and the Issuer's Bond Counsel, Gilmore & Bell, P.C. are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the Bonds and the Bond Documents.

Section 7. Electronic Transactions. The issuance of the Bonds and the transactions related thereto and described herein may be conducted and documents may be stored by electronic means. All closing documents, certificates, and related instruments may be executed by electronic transmission. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents (or documents executed by electronic transmission) shall be deemed to be authentic and valid counterparts of such documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 8. Effective Date. This Ordinance shall take effect and be in force from and after its passage by the governing body, approval by the Mayor and publication of the Ordinance or a summary thereof in the official Issuer newspaper.

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PASSED by the governing body of the City of Olathe, Kansas on February 20, 2024 and **APPROVED AND SIGNED** by the Mayor.

John Bacon, Mayor

[SEAL]

ATTEST:

Brenda Swearingian, City Clerk

(Published in *The Legal Record* on February 27, 2024)

SUMMARY OF ORDINANCE NO. 24-05

On February 20, 2024, the governing body of the City of Olathe, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF OLATHE, KANSAS, TO ISSUE TAXABLE INDUSTRIAL REVENUE BONDS (CLOP OLATHE KS LLC), SERIES 2024, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$70,500,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF ACQUIRING, PURCHASING, CONSTRUCTING, INSTALLING AND EQUIPPING A COMMERCIAL FACILITY, INCLUDING LAND, BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES, MACHINERY AND EQUIPMENT; AUTHORIZING THE ISSUER TO ENTER INTO CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION WITH THE ISSUANCE OF SAID BONDS.

The Bonds approved by the Ordinance are being issued in the maximum principal amount of \$70,500,000, for the purpose of acquiring, constructing, furnishing and equipping a commercial facility for CLOP Olathe KS LLC, a Delaware limited liability company, and constitute limited obligations of the City payable solely from the sources and in the manner as provided in the Indenture, and shall be secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate (as defined in the Indenture) to the Trustee and in favor of the owners of the Series 2024 Bonds, as provided in the Indenture. In connection with the issuance of the Bonds, the Issuer approves a 10-year exemption from ad valorem property taxes for the Project, subject to certain payments in lieu of taxes. A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 100 E. Santa Fe St., Olathe, Kansas 66061. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <http://www.olatheks.org/government/city-clerk/public-notices>.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: February 20, 2024.

Ron Shaver, City Attorney



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Economy

STAFF CONTACT: Briana Burrichter / John Page

SUBJECT: Consideration of Ordinance No. 24-06 authorizing issuance of the City's taxable industrial revenue bonds in an amount not to exceed \$6,500,000 for the construction of a commercial project near Santa Fe and K-7.

TITLE:

Consideration of Ordinance No. 24-06 authorizing issuance of the City's taxable industrial revenue bonds in an amount not to exceed \$6,500,000 for the construction of a commercial project near Santa Fe and K-7.

SUMMARY:

On June 4, 2019, the City Council approved Resolution No. 19-1041 (Attachment A), authorizing the issuance of industrial revenue bonds in an amount not to exceed \$15,000,000 for the benefit of Stag's Ridge, LLC to finance the costs of acquiring, constructing and equipping a commercial project near Santa Fe and K-7. The bonds were authorized to be issued to obtain a sales tax exemption on construction materials used for the project.

On June 21, 2022, the city Council Approved Resolution No. 22-1044 (Attachment B), to assign up to \$6,500,000 of Stag's Ridge LLC's interest to Olathe Stage Self Storage LLC, a Kansas limited liability company. Olathe Stag Self Storage LLC has indicated its intent to construct a self-storage facility generally located northwest of K-7 and Spruce Street.

The Ordinance (Attachment C), prepared by the City's Bond Counsel, Gilmore & Bell, P.C., will authorize the issuance of bonds not to exceed \$6,500,000 for the Project. The bonds are a special obligation of the City, paid solely by revenues generated by the Project. The Ordinance also authorizes the approval and execution of various documents required to facilitate the transaction under Kansas law, including a bond indenture and lease agreement.

FINANCIAL IMPACT:

All costs related to the issuance of the bonds will be paid by Olathe Stag Self Storage LLC Project.

ACTION NEEDED:

Approve Ordinance No. 24-06.

ATTACHMENT(S):

- A. Resolution 19-1041
 - B. Resolution 22-1044
 - C. Ordinance 24-06
-

RESOLUTION NO. 19-1041

RESOLUTION DETERMINING THE INTENT OF THE CITY OF OLATHE, KANSAS, TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN THE AMOUNT NOT TO EXCEED \$15,000,000 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING AND EQUIPPING A COMMERCIAL PROJECT FOR THE BENEFIT OF STAG'S RIDGE LLC OR ITS SUCCESSORS AND ASSIGNS (SALES TAX EXEMPTION ONLY)

WHEREAS, the City of Olathe, Kansas (the "Issuer"), desires to promote, stimulate and develop the general welfare and economic prosperity of the Issuer and its inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

WHEREAS, the Issuer is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act, and to lease such facilities to private persons, firms or corporations; and

WHEREAS, Stag's Ridge LLC, a Kansas limited liability company (the "Company") has submitted to the Issuer an Application for the Issuance of Industrial Revenue Bonds (the "Application") requesting that the Issuer finance the cost of acquiring, constructing and equipping an approximately 24-acre development consisting of commercial and multifamily facilities within the Issuer, as more fully described in the Application (the "Project") through the issuance of its industrial revenue bonds in the principal amount not to exceed \$15,000,000 (the "Bonds"), and to lease the Project to the Company and its successors or assigns in accordance with the Act; and

WHEREAS, it is hereby found and determined to be advisable and in the interest and for the welfare of the Issuer and its inhabitants that the Issuer finance the costs of the Project by the issuance of the Bonds under the Act, the principal amount of the Bonds not to exceed \$15,000,000, the Bonds to be payable solely out of rentals, revenues and receipts derived from the lease of the Project by the Issuer to the Company.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS, AS FOLLOWS:

Section 1. Approval of Project. The governing body of the Issuer hereby finds and determines that the acquiring, constructing and equipping of the Project will promote the general welfare and economic prosperity of the Issuer and the issuance of the Bonds to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act. The Project shall be located approximately at the northwest corner of Spruce Street and K7 in the Issuer, as further described in the Application.

Section 2. Intent to Issue Bonds. The governing body of the Issuer hereby determines and declares the intent of the Issuer to acquire, construct and equip the Project out of the proceeds of the Bonds of the Issuer in the principal amount not to exceed \$15,000,000, to be issued pursuant to the Act.

Section 3. Provision for the Bonds. Subject to the conditions of this Resolution, the Issuer expresses its intent to (i) issue the Bonds to pay the costs of acquiring, constructing and equipping the Project, with such maturities, interest rates, redemption terms and other provisions as may be determined by ordinance of the Issuer; (ii) provide for the lease (with an option to purchase) of the Project to the Company; and (iii) to effect the foregoing, adopt such resolutions and ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of the Bonds by the Issuer and take or cause to be taken such other action as may be required to implement the aforesaid.

Section 4. Conditions to Issuance. The issuance of the Bonds and the execution and delivery of any documents related to the Bonds are subject to: (i) obtaining any necessary governmental approvals; (ii) agreement by the Issuer, the Company and the purchaser of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof, and (b) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project; (iii) the Company's compliance with the Issuer's policies relating to the issuance of industrial revenue bonds; (iv) the passage and publication of an Ordinance authorizing the issuance of the Bonds; and (v) Company's payment of all of the costs of issuance related to the issuance of the Bonds.

Section 5. Sale of the Bonds. The sale of the Bonds shall be the sole responsibility of the Company; provided, however, arrangements for the sale of the Bonds shall be acceptable to the Issuer.

Section 6. Limited Obligations of the Issuer. The Bonds and the interest thereon shall be special, limited obligations of the Issuer payable solely out of the amounts derived by the Issuer under a Lease Agreement with respect to the Bonds and as provided herein and are secured by a transfer, pledge and assignment of and a grant of a security interest in the trust estate to the bond trustee for the Bonds and in favor of the owners of the Bonds, all as provided in the Bond Indenture. The Bonds shall not constitute a general obligation of the Issuer, the State or of any other political subdivision thereof within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the Issuer, the State or of any other political subdivision thereof and shall not be payable in any manner by taxation, but shall be payable solely from the funds provided for as provided in the Bond Indenture. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the Issuer, the State or any other political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment.

Section 7. Required Disclosure. Any disclosure document prepared in connection with the placement or offering of any the Bonds shall contain substantially the following disclaimer:

NONE OF THE INFORMATION IN THIS OFFICIAL STATEMENT, OTHER THAN WITH RESPECT TO INFORMATION CONCERNING THE ISSUER CONTAINED UNDER THE CAPTIONS "THE ISSUER" AND "LITIGATION - THE ISSUER" HEREIN, HAS BEEN SUPPLIED OR VERIFIED BY THE ISSUER, AND THE ISSUER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

Section 8. Authorization to Proceed. The Company is hereby authorized to proceed with the acquiring, constructing and equipping of the Project, including the necessary planning and engineering for the Project and entering into of contracts and purchase orders in connection therewith, and to advance such funds as may be necessary to accomplish such purposes, and, to the extent permitted by law and upon compliance with the other requirements of this Resolution, the Issuer will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

Section 10. No Reliance on Resolution. Kansas law provides that the Issuer may only issue the Bonds by adoption of an Ordinance and compliance with other state law requirements. The Issuer has not yet adopted an Ordinance for the Bonds. This Resolution only evidences the intent of the current governing body to issue the Bonds for the Project. The Company should not construe the adoption of this Resolution as a promise or guarantee that the Ordinance for the Bonds will be issued or that the Project will be approved.

Section 11. Termination of Resolution. This Resolution shall terminate three years from the date of the adoption of this Resolution unless (i) the Bonds have been issued for the Project or (ii) a building permit has been issued by the Issuer for the Project. The Issuer, upon the written request of the Company, may extend this time period.

Section 12. Benefit of Resolution. This Resolution will inure to the benefit of the Issuer and the Company. The Issuer may, at the prior written request of the Company, assign all or a portion of the Company's interest in this Resolution to another entity, and such assignee will be entitled to the benefits of the portion of this Resolution assigned and the proceedings related hereto.

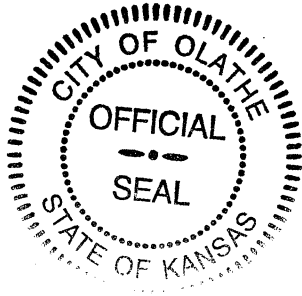
Section 13. Further Action. Counsel to the Issuer and Gilmore & Bell, P.C., Bond Counsel for the Issuer, together with the officers and employees of the Issuer, are hereby authorized to work with the purchaser of the Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the Issuer all documents necessary to effect the authorization, issuance and sale of the bonds and other actions contemplated hereunder.

Section 14. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the Issuer.

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ADOPTED on June 04, 2019.

CITY OF OLATHE, KANSAS



[SEAL]

ATTEST:

By: _____

Mayor

Emily Vincent
Issuer Clerk

Resolution of Intent
Stag's Ridge LLC

RESOLUTION NO. 22-1044

RESOLUTION CONSENTING TO THE ASSIGNMENT OF A PORTION OF THE BENEFITS OF RESOLUTION NO. 19-1041 FROM STAG'S RIDGE LLC TO OLATHE STAG SELF STORAGE LLC.

WHEREAS, the City of Olathe, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

WHEREAS, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons, firms or corporations; and

WHEREAS, the City has previously adopted Resolution No. 19-1041 (the "Resolution of Intent") determining the intent of the City to issue its Industrial Revenue Bonds, in one or more series, the aggregate amount of all series not to exceed \$15,000,000 (the "Bonds"), to finance the costs of acquiring, constructing, reconstructing, improving and equipping one or more facilities for the benefit of Stag's Ridge LLC, a Kansas limited liability company (the "Company"); and

WHEREAS, Section 12 of the Resolution of Intent permits the Company, with the prior written consent of the City, to assign its interest in the Resolution of Intent to another entity, thereby conferring on such entity the benefits of the Resolution of Intent and the proceedings related thereto; and

WHEREAS, the Company desires to assign up to \$6,500,000 of its interest in the Resolution of Intent to Olathe Stag Self Storage LLC, a Kansas limited liability company (the "Assignee"); and

WHEREAS, the Assignee has submitted a letter to the City indicating its intent to construct a self-storage facility generally located northwest of K-7 and Spruce Street (the "Project"); and

WHEREAS, the City desires to consent to such assignment of the Resolution of Intent to the Assignee.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS, AS FOLLOWS:

Section 1. Assignment of Resolution of Intent. The Governing Body of the City hereby consents to the assignment by the Company of up to \$6,500,000 of the Company's interest in the Resolution of Intent to the Assignee. The City agrees that the Assignee will now be entitled to the benefits of the Resolution of Intent to the same extent and on the same terms as the Company.

Section 2. Authorization to Proceed. The Assignee is hereby authorized to proceed with the acquiring, constructing, reconstructing, improving and equipping of the Project, and to advance such funds as may be necessary to accomplish such purposes, and, to the extent permitted by law, the City will reimburse the Assignee for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

Section 3. Benefit of Resolution. This Resolution will inure to the benefit of the City and the Assignee. The Assignee may, with the prior written consent of the City, assign its interest in this Resolution

and the Resolution of Intent to another entity, and such assignee will be entitled to the benefits of this Resolution, the Resolution of Intent and the proceedings related hereto.

Section 4. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

ADOPTED this 21st day of June, 2022.

CITY OF OLATHE, KANSAS

By: 
By: John W Bacon (Jun 22, 2022 09:44 CDT)

Mayor

[SEAL]

ATTEST:



City Clerk



ORDINANCE NO. 24-06

AN ORDINANCE AUTHORIZING THE CITY OF OLATHE, KANSAS, TO ISSUE TAXABLE INDUSTRIAL REVENUE BONDS (OLATHE STAG SELF STORAGE LLC PROJECT), SERIES 2024, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$6,500,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF ACQUIRING, PURCHASING, CONSTRUCTING, INSTALLING, FURNISHING AND EQUIPPING A COMMERCIAL FACILITY, INCLUDING LAND, BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES, MACHINERY AND EQUIPMENT; AUTHORIZING THE ISSUER TO ENTER INTO CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION WITH THE ISSUANCE OF SAID BONDS (SALES TAX EXEMPTION ONLY).

WHEREAS, the City of Olathe, Kansas, the “Issuer”), is authorized pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), to acquire, purchase, construct, install, furnish and equip certain commercial and industrial facilities, and to issue industrial revenue bonds for the purpose of paying the cost of such facilities, and to lease such facilities to private persons, firms or corporations; and

WHEREAS, the governing body of the Issuer has heretofore and does now find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its Taxable Industrial Revenue Bonds (Olathe Stag Self Storage LLC Project), Series 2024 (the “Bonds”), in a principal amount not to exceed \$6,500,000, for the purpose of acquiring, purchasing, constructing, installing, furnishing and equipping a commercial self-storage facility for Olathe Stag Self Storage LLC, a Kansas limited liability company (and its permitted successors and assigns, the “Company”), including land, buildings, structures, improvements, fixtures, furnishings, machinery and equipment to be generally located at 601 N. Millridge Street in Olathe, Kansas (the “Project”); and

WHEREAS, the Bonds will be issued under a Bond Trust Indenture dated as of the date set forth therein (the “Indenture”), by and between the Issuer and Security Bank of Kansas City, as Trustee (the “Trustee”); and

WHEREAS, the Company will lease the Project to the Issuer pursuant to the Base Lease Agreement dated as of the date set forth therein (the “Base Lease Agreement”) between the Company and the Issuer; and

WHEREAS, simultaneously with the execution and delivery of the Indenture, the Issuer will enter into a Lease Agreement dated as of the date set forth therein (the “Lease Agreement”), by and between the Issuer, as lessor, and the Company, as lessee, pursuant to which the Project will be acquired, constructed, furnished and equipped and pursuant to which the Issuer will lease the Project to the Company, and the Company will agree to pay the rental payments due under the Lease Agreement sufficient to pay the principal of and premium, if any, and interest on, the Bonds; and

WHEREAS, the governing body of the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of these bonds that the Issuer enter into certain agreements, and that the Issuer take certain other actions and approve the execution of certain other documents as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS, AS FOLLOWS:

Section 1. Authorization for the Acquisition, Purchase, Construction, Installation, Furnishing and Equipping of the Project. The Issuer is hereby authorized to provide for the acquisition, purchase, construction, installation, furnishing and equipping of the Project, all in the manner and as more particularly described in the Indenture and the Lease hereinafter authorized.

Section 2. Authorization of and Security for the Bonds. The Issuer is hereby authorized to issue and sell the Bonds in a principal amount not to exceed \$6,500,000 (the “Bonds”), for the purpose of providing funds to pay the cost of acquiring, purchasing, constructing, installing, furnishing and equipping the Project. The Bonds shall be issued and secured pursuant to the herein authorized Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rates, shall be in such form, shall be subject to redemption and other terms and conditions, and shall be issued in such manner, subject to such provisions, covenants and agreements, as are set forth in the Indenture. The Bonds shall be payable solely out of the rents, revenues and receipts derived by the Issuer from the Project, and the Project and the net earnings derived by the Issuer from the Project shall be pledged and assigned to the Trustee as security for payment of the Bonds as provided in the Indenture.

Section 3. Authorization of Documents. The Issuer is hereby authorized to enter into the following documents, in substantially the forms presented to and reviewed by the governing body of the Issuer (copies of which documents, upon execution thereof, shall be filed in the office of the Clerk of the Issuer), with such changes therein as shall be approved by the officers of the Issuer executing such documents (the “Bond Documents”), such officers’ signatures thereon being conclusive evidence of their approval thereof:

- (a) Trust Indenture, between the Issuer and the Trustee;
- (b) Base Lease Agreement, between the Company and the Issuer;
- (c) Lease Agreement, between the Issuer and the Company; and
- (d) Bond Purchase Agreement dated the date set forth therein, among the Issuer, the Company and Olathe Stag Self Storage LLC, as Purchaser.

Section 4. Execution of Bond and Documents. The Mayor of the Issuer is hereby authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the Issuer in the manner provided in the Indenture. The Mayor (or, in the Mayor’s absence, the Mayor Pro Tem) of the Issuer is hereby authorized and directed to execute the Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the Issuer. The Clerk of the Issuer is hereby authorized and directed to attest to and affix the seal of the Issuer to the Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary.

Section 5. Pledge of the Project and Net Lease Rentals. The Issuer hereby pledges the Project and the net rentals generated under the Lease Agreement to the payment of the Bonds in accordance with K.S.A. 12-1744. The lien created by the pledge will be discharged when all of the Bonds are paid or deemed to have been paid under the Indenture

Section 6. Further Authority. The Issuer shall, and the officers, employees and agents of the Issuer and the Issuer's Bond Counsel, Gilmore & Bell, P.C. are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the Bonds and the Bond Documents.

Section 7. Electronic Transactions. The issuance of the Bonds and the transactions related thereto and described herein may be conducted and documents may be stored by electronic means. All closing documents, certificates, and related instruments may be executed by electronic transmission. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents (or documents executed by electronic transmission) shall be deemed to be authentic and valid counterparts of such documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 8. Effective Date. This Ordinance shall take effect and be in force from and after its passage by the governing body, approval by the Mayor and publication of the Ordinance or a summary thereof in the official Issuer newspaper.

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PASSED by the governing body of the City of Olathe, Kansas on February 20, 2024 and **APPROVED AND SIGNED** by the Mayor.

John Bacon, Mayor

[SEAL]

ATTEST:

Brenda Swearingian, City Clerk

(Published in *The Legal Record* on February 27, 2024)

SUMMARY OF ORDINANCE NO. 24-06

On February 20, 2024, the governing body of the City of Olathe, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF OLATHE, KANSAS, TO ISSUE TAXABLE INDUSTRIAL REVENUE BONDS (OLATHE STAG SELF STORAGE LLC PROJECT), SERIES 2024, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$6,500,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF ACQUIRING, PURCHASING, CONSTRUCTING, INSTALLING, FURNISHING AND EQUIPPING A COMMERCIAL FACILITY, INCLUDING LAND, BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES, MACHINERY AND EQUIPMENT; AUTHORIZING THE ISSUER TO ENTER INTO CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION WITH THE ISSUANCE OF SAID BONDS (SALES TAX EXEMPTION ONLY).

The Bonds approved by the Ordinance are being issued in the maximum principal amount of \$6,500,000, for the purpose of acquiring, constructing, furnishing and equipping a commercial facility for Olathe Stag Self Storage LLC, a Kansas limited liability company, and constitute limited obligations of the City payable solely from the sources and in the manner as provided in the Indenture, and shall be secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate (as defined in the Indenture) to the Trustee and in favor of the owners of the Bonds, as provided in the Indenture. A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 100 E. Santa Fe St., Olathe, Kansas 66061. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <http://www.olatheks.org/government/city-clerk/public-notice>.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: February 20, 2024.

Ron Shaver, City Attorney



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 2/20/2024

FOCUS AREA: Quality of Life

STAFF CONTACT: Mike Sirna, John Brockus

SUBJECT: Discussion of naming a new city park; Pioneer Trails Park.

TITLE:

Discussion of naming a new city park; Pioneer Trails Park.

SUMMARY:

The Parks and Recreation Foundation recommends naming the property donated to the City by the Hoff family, Parcel ID DF231311-4019, Pioneer Trails Park, per O.M.C. 2.40.060, Resolution No. 07-1030 (City Council Policy A-5).

This property is rich in Olathe history, as the Hoff family had farmed here since before the Civil War. Thomas Hoff, a graduate of Olathe High School, was a farmer in Olathe his entire life, and built a home on the farmland in the late 1970s. The Hoff family opened Stone Pillar Vineyard and Winery so they could continue to keep the farm productive even as the neighboring land was being developed. To this day, this is one of Kansas' oldest family farms on record.

In 2019 the Hoff family donated 16.70 acres of land to the City of Olathe for the development of a neighborhood park and a fire station. The park design will be natural design with a pond, walking trails and a small activity area, landscaped with native trees, prairie grasses and flowers.

The Parks and Recreation Foundation recommends naming this property Pioneer Trails Park because the Hoff family were original Pioneers to this area, and the abundant trails that run through historic Olathe are what brought them here.

The Park Planning is currently in the design stage for this park and it is slated to start construction in late 2024.

FINANCIAL IMPACT:

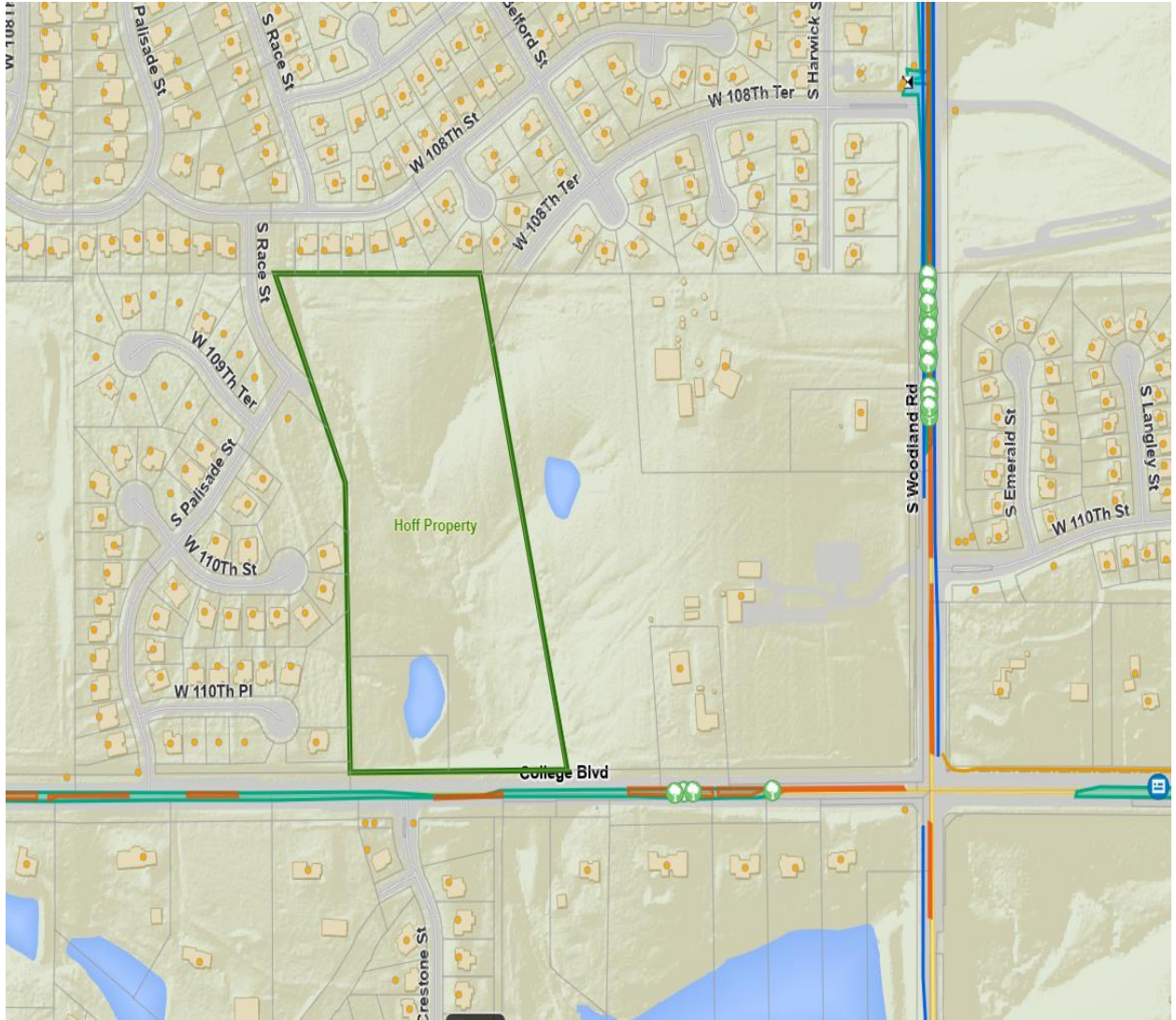
None

ACTION NEEDED:

The discussion of the naming of "Pioneer Trails Park" for the park under development at Parcel ID DF231211-4019 is for informational purposes.

ATTACHMENT(S):

- A. Pioneer Trails Park Map
-



Park Property is outlined in green. It is near the intersection of College Blvd and Woodland Rd.