



In an effort to follow social distancing guidelines during the COVID-19 pandemic, this meeting of the City of Olathe City Council will be conducted as a virtual meeting. Members of the public are encouraged to watch the meeting live online at OlatheKS.org/OGN, or at their own convenience once the meeting video is archived within hours of its conclusion. The City Council agenda is available at OlatheKS.org/CouncilAgenda.

The public is free to submit written comments via email to CCO@OlatheKS.org regarding any item on the April 7 agenda, and those comments will be shared with the City Council.

1. CALL TO ORDER

- A. Roll Call
- B. Meeting Remarks

2. PLEDGE OF ALLEGIANCE

3. SPECIAL BUSINESS

- A. Update on Coronavirus by Fire Chief DeGraffenreid.

4. 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 Councilmember requests that an item be removed from the consent agenda and considered separately.

- A. Consideration of approval of the City Council meeting minutes of March 17, 2020.

Staff Contact: Ron Shaver and Brenda Long

- B. Consideration of drinking establishment renewal applications for Smashburger #1083, located at 15241 W. 119th Street, Asian Pearl Restaurant, located at 18138 W. 119th Street and a new application for Kansas City Concessions, LLC, (Residence Inn) located at 12215 S. Strang Line Road.

Staff Contact: Ron Shaver and Brenda Long

- C. Consideration of a cereal malt beverage license application for Corner Market, 1020 S. Hamilton, for calendar year 2020.
Staff Contact: Ron Shaver and Brenda Long
- D. Consideration of business expense statements for Mayor Copeland and Councilmember, Wes McCoy, for expenses incurred to attend the National League of Cities Congressional Cities Conference in Washington, D.C. March 7 - 12, 2020.
Staff Contact: Liz Ruback
- E. Consideration of Consent Calendar.
Staff Contact: Mary Jaeger and Beth Wright
- F. Consideration of Supplemental Agreement No. 1 with Black & Veatch Corporation for construction management services of the Harold Street Wastewater Treatment Plant Generator Replacement Project, PN 1-C-021-18.
Staff Contact: Mary Jaeger and Beth Wright
- G. Consideration of Engineer's Estimate, acceptance of bids and award of contract to Mega Industries Corporation for construction of the Harold Street Wastewater Treatment Plant Generator Replacement Project, PN 1-C-021-18.
Staff Contact: Mary Jaeger and Beth Wright
- H. Consideration of an Agreement with Crossland Heavy Contractors, Inc. for pre-construction services for the Vertical Well Field Improvements Project, PN 5-C-031-18.
Staff Contact: Mary Jaeger and Beth Wright
- I. Consideration of an Agreement with Johnson County for construction of the Lake Side Acres Street Reconstruction Project, PN 3-R-002-20; the Lake Side Acres Sanitary Sewer Rehabilitation Project, PN 1-R-104-17; and the Stevenson Street Stormwater Improvements Project, PN 2-C-014-18.
Staff Contact: Mary Jaeger and Beth Wright
- J. Consideration of a Mitigation Credit Reservation and Purchase Agreement with Swallow Tail LLC for the construction of the Lake Side Acres Street Reconstruction Project, PN 3-R-002-20; the Lake Side Acres Sanitary Sewer Rehabilitation Project, PN 1-R-104-17; and the Stevenson Street Stormwater Improvements Project, PN 2-C-014-18.
Staff Contact: Mary Jaeger and Beth Wright

- K.** Consideration of a Mitigation Credit Reservation and Purchase Agreement with Swallow Tail LLC, for the Brougham Drive Regional Detention Basin Project, PN 2-C-002-16.
Staff Contact: Mary Jaeger and Beth Wright
- L.** Consideration of Resolution No. 20-1027 authorizing the public sale of Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2020.
Staff Contact: Dianna Wright, Mary Jaeger and Amy Tharnish
- M.** Consideration of renewal of contract with Tyler Technologies to provide Permitting Software for the City.
Staff Contact: Mike Sirna and Amy Tharnish
- N.** Consideration of renewal of contract with Burtin & Associates, Inc. for Janitorial Services. .
Staff Contact: Michael Meadors and Amy Tharnish
- O.** Acceptance of proposal and consideration of award of contract to Play & Park Structures for the purchase and installation of playground equipment and surfacing at Indian Creek Library Park for the Parks and Recreation Department.
Staff Contact: Michael Meadors and Amy Tharnish
- P.** Acceptance of bid and consideration of award of contract to National Catastrophe Restoration, Inc. (NCRI) for City of Olathe facility restoration and remediation services.
Staff Contact: Michael Meadors and Amy Tharnish
- Q.** Acceptance of bid and consideration of award of contracts to E Edwards, Inc., Nigros Western Store, and Sid Boedeker Safety Shoe Service for the provision of workboots to the Public Works Department.
Staff Contact: Mary Jaeger and Amy Tharnish

5. NEW BUSINESS-PUBLIC WORKS

- A.** Consideration of Ordinance No. 20-08, RZ19-0023, requesting approval for a rezoning from BP (Business Park) District to C-2 (Community Center) District and preliminary site development plan for Chinmaya Mission on 16.13 ± acres; located southwest of 153rd Street and Pflumm Road. Planning Commission recommends approval 7 to 0.
Staff Contact: Aimee Nassif and Kim Hollingsworth

Action needed: Motion to approve (4 positive votes), deny (5 positive

- B.** Consideration of Ordinance No. 20-09, requesting approval for a rezoning from the R-1 to the R-3 District and a related preliminary site development plan on 27.65± acres; located southwest of the intersection of W. 167th Street and future Brougham Drive. Planning Commission recommends approval of the rezoning 8-0 and recommends approval of the preliminary site development plan 6-2, as amended.

Staff Contact: Aimee Nassif and Zach Moore

Action needed: Motion to approve (4 positive votes), deny (5 positive

- C.** Consideration of Ordinance No. 20-10, RZ19-0022, requesting approval for a rezoning from R-1 and RP-1 to the R-1 (Residential Single-Family) District and a preliminary plat for Stonebridge Village containing 168 lots and 8 common tracts on 57.54± acres; located in the vicinity of West 165th Street and South Lindenwood Drive. Planning Commission recommends approval 9-0.

Staff Contact: Aimee Nassif and Kim Hollingsworth

Action needed: Motion to approve (4 positive votes), deny (5 positive

6. NEW CITY COUNCIL BUSINESS

7. CONVENE FOR PLANNING SESSION

Reports are 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

- A.** IRB Report on a request by Lineage Logistics, LLC for the construction of a 400,000 sq. ft. warehouse facility to be located at Lone Elm Commerce Center northwest of W. 167th St. and Lone Elm Rd.

Staff Contact: Dianna Wright and Emily Vincent

- B.** Report regarding an investigation pertaining to an ethics complaint.

Staff Contact: Ron Shaver

8. EXECUTIVE SESSION

Consideration of motion to recess into an executive session to discuss the following items:

- A. For consultation with the City's attorneys which would be deemed privileged in the attorney-client relationship pursuant to the exception provided in K.S.A. 75-4319(b)(2) regarding a real estate contract and development agreement.
Staff Contact: Ron Shaver
- B. For preliminary discussions related to acquisition of property pursuant to the exception provided in K.S.A. 75-4319(b)(6) regarding the I-35 & 119th Street Interchange Improvements Project, PN 3-C-026-16.
Staff Contact: Ron Shaver

9. RECONVENE FROM EXECUTIVE SESSION

10. ADDITIONAL ITEMS

11. 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: 4/7/2020

DEPARTMENT: Legal

STAFF CONTACT: Ron Shaver and Brenda Long

SUBJECT: Consideration of approval of the City Council meeting minutes of March 17, 2020.

ITEM DESCRIPTION:

Consideration of approval of the City Council meeting minutes of March 17, 2020.

SUMMARY:

Attached are the City Council meeting minutes of March 17, 2020 for Council consideration of approval.

FINANCIAL IMPACT:

None

ACTION NEEDED:

Approval of the City Council meeting minutes of March 17, 2020.

ATTACHMENT(S):

- A. 03-17-2020 Council Minutes



TRAFFIC OPERATIONS FACILITY TOUR, 309 N. ROGERS ROAD, 5:30 - 6:30 P.M.

1. CALL TO ORDER

Present: Brownlee, Mickelson, McCoy, Bacon, and Vogt
Absent: Campbell, and Copeland

Also present were City Manager Wilkes, Assistant City Manager Sherman and City Attorney Shaver.

2. EXECUTIVE SESSION

Consideration of motion at 6:45 p.m. to recess into an executive session for 10 minutes to discuss the following items. The meeting will resume in the City Council Chambers.

- A.** For preliminary discussions related to the acquisition of property pursuant to the exception provided in K.S.A. 75-4319(b)(6) regarding the acquisition of property for the I-35 & 119th Street Interchange Improvements Project, PN 3-C-026-16.

Motion by McCoy seconded by Brownlee to recess into an executive session for 10 minutes for preliminary discussions related to the acquisition of property pursuant to the exception provided in K.S.A. 75-4319(b)(6) regarding the acquisition of property for the I-35 & 119th Street Interchange Improvements Project, PN 3-C-026-16.

Yes: Brownlee, Mickelson, McCoy, and Bacon

Absent: Campbell, Vogt, and Copeland

3. RECONVENE FROM EXECUTIVE SESSION

The meeting reconvened at 6:55 p.m. in the Council Chambers.

Executive Session item A - Motion by Vogt, seconded by McCoy, to authorize staff to proceed with the strategies as discussed with and directed by the Governing Body. Motion passed 5-0.

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

5. PLEDGE OF ALLEGIANCE

Mayor Pro Tem Bacon announced item C under New Business Public Works concerning a rezoning request for Stonebridge Village was being continued to a future Council meeting date at the applicants request.

6. SPECIAL PRESENTATION

- A.** Update on Coronavirus by Fire Chief DeGraffenreid.
Jeff DeGraffenreid, Fire Chief and Coronavirus task force leader, completed an update to Council on the Coronavirus.

Mayor Pro Tem Bacon read the following statement from Mayor Copeland regarding the current pandemic:

"Nothing is more important to the City Council than the well-being of our residents. The current situation is unprecedented, and we must consider new strategies to continue to conduct business while also protecting our community's health. In light of recommendations from the CDC to limit gatherings to no more than 10 people, at the end of the meeting I've asked the Council and staff to consider the safest way to hold both our City Council meetings and our board and committee meetings for the foreseeable future."

7. PUBLIC HEARINGS

- A.** Consideration of a Public Hearing on a request by BCB Olathe Holdings LLC for issuance of industrial revenue bonds and tax phase in under a master resolution for the development of a headquarters facility and three front out parcels on a total of 17.3 acres located at 11730 Kansas City Road and the first phase project under this master resolution for the construction of the headquarters facility.

Mayor Pro Tem Bacon opened the public hearing and invited comments.

Hearing no public comments, Mayor Pro Tem Bacon entertained a motion to close the public hearing.

Motion by Vogt, seconded by Brownlee, to close the public hearing. The motion carried by the following vote:

Yes: Brownlee, Mickelson, McCoy, Bacon, and Vogt

Absent: Campbell, and Copeland

- B.** Consideration of Master Resolution No. 20-1022 on a request by BCB Olathe Holdings LLC for issuance of industrial revenue bonds and tax phase in for multiple projects.
- Councilmember Vogt stated in the report at the last Council meeting it stated there are currently 160 employees, the company is adding another 164 employees and they have only have 99 parking spots. Ms. Vogt asked how does that work?

Mary Jaeger, Public Works Director, stated the applicant indicated they stagger the people onsite and since their business is construction that many only come in to pick up what they need before heading off to job sites.

Dianna Wright, Resource Management Director, clarified the 160 employees in the application is over a 10 year tax abatement period and not all in the first year.

Councilmember Vogt stated she had concerns over what we put in and what we actually receive.

Councilmember Mickelson commented that he does not believe this fully complies with our IRB and tax abatement policy and does not support this at this time.

Councilmember Brownlee asked if the employees possibly work more than one shift and not sure if we know that. Ms. Brownlee pointed out the cost benefit analysis for this is very positive stating it shows 1.55 to 1 and definitely better than our ratio target of 1.3.

Councilmember McCoy stated he concurs with Councilmember Brownlee regarding the rate of return on this and the total projected wages over the next 10 years of \$98 million, which is a good economic impact for the City of Olathe. Mr. McCoy stated even with the fifty percent abatements over the next 10 years we have \$845,000 with \$160,390 to the City. Mr. McCoy stated he believes this will be a good headquarters and he supports this IRB.

Councilmember Vogt inquired about City clawback policies and what

if they do not meet what they say they will produce.

Ron Shaver, City Attorney, stated the Council has taken the position in the past with clawbacks not to use when a business is struggling and proceeded to read the clawback policy language. Mr. Shaver stated if the business is violating the law then we would not continue the abatement for a lawbreaker.

Councilmember Brownlee believes the property is currently collecting approximately \$250 in property taxes. Ms. Brownlee stated even with half of this abated the increase is substantial and has a very positive impact on our City.

Hearing no other comments Mayor Pro Tem Bacon called for a motion.

Motion by Vogt, seconded by McCoy, to approve Master Resolution No. 20-1022 on a request by BCB Olathe Holdings, LLC for issuance of industrial revenue bonds and tax phase in for multiple projects. The motion carried by the following vote:

Yes: Brownlee, McCoy, and Bacon

No: Mickelson, and Vogt

Absent: Campbell, and Copeland

- C.** Consideration of Resolution No. 20-1023 on a request by BCB Olathe Holdings, LLC for issuance of industrial revenue bonds and tax phase in for the construction of a 70,000 sq. ft. headquarters facility located at 11730 Kansas City Road.

Motion by Vogt, seconded by McCoy, to approve Resolution No. 20-1023 on a request by BCB Olathe Holdings, LLC for issuance of industrial revenue bonds and tax phase in for the construction of a 70,000 sq. ft. headquarters facility located at 11730 Kansas City Road. The motion carried by the following vote:

Yes: Brownlee, McCoy, and Bacon

No: Mickelson, and Vogt

Absent: Campbell, and Copeland

8. CONSENT AGENDA

Councilmember Brownlee requested item N be removed for separate

consideration and vote.

Motion by Vogt, seconded by McCoy to approve the consent agenda with the exception of item N. The motion carried by the following vote:

Yes: Brownlee, Mickelson, McCoy, Bacon, and Vogt

Absent: Campbell, and Copeland

- A.** Consideration of approval of the City Council meeting minutes of March 3, 2020.
Approved
- B.** Consideration of a cereal malt beverage license application for Aldi #7 located at 600 N. Millridge St. for calendar year 2020.
Approved
- C.** Consideration of a new drinking establishment application for HyVee Market Grille #1464, located at 18101 W. 119th Street.
Approved
- D.** Consideration of business expense statement for City Manager, Michael Wilkes, for expenses incurred to attend the National League of Cities Congressional Cities Conference in Washington, D.C. March 7- 10, 2020.
Approved
- E.** Consideration of Resolution No. 20-1024 regarding Time Allocations and Rules of Conduct at City Council Meetings.
Approved
- F.** Consideration of Resolution No. 20-1025 authorizing various improvements to the Water and Sewer System of the City and setting forth the intent to issue Water and Sewer Revenue Bonds.
Approved
- G.** Request for the acceptance of the dedication of vacation of right-of-way and public easements for a final plat for Reserve at Ravenwood (FP20-0002) containing one (1) residential lot and three (3) common tracts on approximately 1.65± acres; Located at the Northeast corner W. 120th Terrace and Iowa Street. Planning Commission recommends approval 7 to 0.
Approved
- H.** Consideration of renewal of contract to AdventHealth Centra Care: Corporate Care to provide pre-employment physicals and workers compensation services.
Approved
- I.** Consideration of Consent Calendar.

Approved

- J.** Consideration of a Professional Services Agreement with HDR Engineering, Inc. for design of the Lift Station Replacements Project, PN 1-C-020-15.

Approved

- K.** Consideration of Engineer's Estimate, acceptance of bids and award of contract to Kansas Heavy Construction, LLC for construction of the Cedar Street Improvements Project, PN 3-R-001-20, and the Cedar Street Sanitary Sewer Rehabilitation Project, PN 1-R-001-19.

Approved

- L.** Consideration of a Professional Services Agreement with Brungardt Honomichl & Company, P.A. for design of the Troost Street Improvements Project, PN 3-R-002-21.

Approved

- M.** Consideration of a Professional Services Agreement with George Butler Associates, Inc. for design of the Stevenson Street Improvements Project, PN 3-R-003-21.

Approved

- N.** Consideration of Supplemental Agreement No. 4 with HNTB Corporation for design of the I-35 and 119th Street Interchange Improvements Project, PN 3-C-026-16.

Councilmember Brownlee commented that she hopes we would put initial targets on the contractors for as little total closure time as possible and be open as much as possible.

Mary Jaeger, Public Works Director, stated we are looking at bidding alternatives. Ms. Jaeger stated staff will be coming back to Council with alternatives for this interchange.

Councilmember Vogt asked about incentives for early completion and if working at night is being considered.

Ms. Jaeger said we are doing a lot of things and alternative bidding is paramount to this project.

Motion by Vogt, seconded by McCoy to approve consent agenda item N. The motion carried by the following vote:

Yes: Brownlee, Mickelson, McCoy, Bacon, and Vogt

Absent: Campbell, and Copeland

- O.** Consideration of renewal of contract to Denovo, for JD Edwards EnterpriseOne Hosting and CNC Managed Services.
Approved
- P.** Acceptance of bid and consideration of award of contract to Custom Cut Metals for custom manufactured lattices, brackets, and fasteners for trellises for the new Indian Creek Library Park.
Approved
- Q.** Acceptance of bids and considartion of award of contracts to Roberts Chevrolet Buick and Shawnee Mission Ford for the purchase and replacement of vehicles for the Police Department.
Approved

9. NEW BUSINESS-PUBLIC WORKS

- A.** Consideration of Resolution 20-1026 authorizing the 135th Street and Pflumm Road Geometric Improvements Project, PN 3-C-110-20.
Councilmember Brownlee commented that it seems this is not the most critical project on our list. Ms. Brownlee stated as we try to address the issue of the railroad tracks on the west side of our community, do we keep doing things like this, or do we apply the benefits that go with this towards the railroad project. Ms. Brownlee asked if we get the funding for the project if we are not allowed to apply it to the railroad project.

Mary Jaeger, Public Works Director, stated that is correct. Ms. Jaeger stated the grant funds Mid-America Regional Council provide cannot be transferred to another project. Ms. Jaeger stated this is really a great return on investment for what we will be getting as this is a congestion issue.

Councilmember Brownlee asked for clarification about the congestion mitigation as the traffic accidents are average as she understood from the packet.

Ms. Jaeger stated the funds for this project will enhance the air quality, which is what the congestion mitigation part is about. Ms. Jaeger stated the project itself is very much a congestion project and cited the turning events.

Councilmember Brownlee asked if we could not consider the bigger

question of every time we do these projects does that put us further away from completing the railroad project. Ms. Brownlee stated that is what she is trying to communicate, how do we hit that bigger project.

Michael Wilkes, City Manager, stated that is absolutely a conversation to have as we look at the CIP for the next 5 years, but it is hard for us to pivot on projects as a lot of the projects have been in the works for 3 - 5 years.

Councilmember Brownlee stated the conversation needs to occur at the upcoming CIP discussions, and Mr. Wilkes agreed.

Councilmember McCoy stated he was listening to a two hour conversation by Mid-America Regional Council on transportation and it hit exactly on this. Mr. McCoy stated the process and grants took place years ago and did not just happen the next day. Mr. McCoy stated this will be a good investment in the future.

Councilmember Mickelson commented to Councilmember Brownlee that if this were 100 percent our dollars this would be a good conversation to have, but since we are not even at 50 percent that this is a project that should continue on and we take advantage of the Federal funds and Overland Park's partnership on this.

Motion by Vogt, seconded by McCoy, to approve Resolution 20-1026 authorizing the 135th Street and Pflumm Road Geometric Improvements Project, PN 3-C-110-20. The motion carried by the following vote:

Yes: Brownlee, Mickelson, McCoy, Bacon, and Vogt

Absent: Campbell, and Copeland

- B.** Consideration of a Professional Services Agreement with Alfred Benesch & Company for design of the 135th Street and Pflumm Road Geometric Improvements Project, PN 3-C-110-20.

Motion by Vogt, seconded by McCoy, to approve a Professional Services Agreement with Alfred Benesch & Company for design of the 135th Street and Pflumm Road Geometric Improvements Project, PN 3-C-110-20. The motion carried by the following vote:

Yes: Brownlee, Mickelson, McCoy, Bacon, and Vogt

Absent: Campbell, and Copeland

- C. Consideration of Ordinance No. 20-07, RZ19-0022, requesting approval for a rezoning from R-1 and RP-1 to the R-1 (Residential Single-Family) District and a preliminary plat for Stonebridge Village containing 168 lots and 8 common tracts on 57.54± acres; located in the vicinity of West 165th Street and South Lindenwood Drive. Planning Commission recommends approval 9-0.
- Action needed: Motion to approve (4 positive votes), deny (5 positive votes required), or return to Planning Commission.
- Mayor Pro Tem Bacon stated this item has been continued to the April 7 City Council meeting at the applicants request.

10. NEW CITY COUNCIL BUSINESS

Councilmember Brownlee stated concerning item C (New Business Public Works) that there are some misunderstandings that need to be worked on. Ms. Brownlee stated she is not sure what the best way is to do that going forward, but she is beginning to hear things, and not with just one developer. Ms. Brownlee stated we need to make sure we are covering the issues that are arising with our developers and our Planning department. Ms. Brownlee stated we need to thoroughly address some of these things that are being brought to her attention.

Mayor Pro Tem Bacon asked that staff send out a communication to the Council concerning Ms. Brownlee's concerns prior to the next Council meeting.

Councilmember Vogt thanked staff for all they are doing to keep our City moving forward.

Councilmember McCoy commented on their visit to Washington last week and interactions with Senators Moran and Roberts. Mr. McCoy thanked the senators for going to bat for us in providing funding for a lot of our projects.

Councilmember Mickelson echoed Ms. Vogt's statements and thanked our frontline staff. Mr. Mickelson stated he has heard from citizens about train horns on the south side and asked for conversations on this.

Mayor Pro Tem Bacon stated with all that is going on currently how often are we updating our website.

Michael Wilkes, City Manager, stated changes are almost occurring hourly and

we are trying to keep the website up to date as those changes come in.

Tim Danneberg, Communications and Customer Service Director, stated we are partnered with the County and sharing a unified voice so the message is consistent.

11. END OF TELEVISED SESSION

12. ADDITIONAL ITEMS

Mayor Pro Tem Bacon stated they would discuss future City Council, Board and Committee meeting plans.

Ron Shaver, City Attorney, presented staff recommendations and asked for Council direction for the following:

1. Whether the City Council, Planning Commission and other boards and committees should continue to be held in person, or virtual only meetings.
2. Whether Council would like to suspend, or continue public hearings for the time being, or find other ways for the hearings to take place to protect the safety and well being of all involved. Mr. Shaver stated this would not pertain to new business items on the agenda, or general issues and concerns of citizens. Mr. Shaver indicated the general issues and concerns was suspended from tonight's meeting and proposes suspending that for the time being. Residents would be encouraged to submit issues and concerns electronically, or as Councilmember Bacon read at the beginning of the meeting.

Councilmembers voiced their opinions and consensus was to continue to hold meetings in person as long as practical and for Council meetings that they still be held twice a month. Concerning the public hearings Council consensus was to continue holding.

13. ADJOURNMENT

The meeting adjourned at 8:05 p.m.

David F. Bryant III, MMC
Deputy City Clerk



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Legal

STAFF CONTACT: Ron Shaver and Brenda Long

SUBJECT: Consideration of drinking establishment renewal applications for Smashburger #1083, located at 15241 W. 119th Street, Asian Pearl Restaurant, located at 18138 W. 119th Street and a new application for Kansas City Concessions, LLC, (Residence Inn) located at 12215 S. Strang Line Road.

ITEM DESCRIPTION:

Consideration of drinking establishment renewal applications for Smashburger #1083, located at 15241 W. 119th Street, Asian Pearl Restaurant, located at 18138 W. 119th Street and a new application for Kansas City Concessions, LLC, (Residence Inn) located at 12215 S. Strang Line Road.

SUMMARY:

The applications for the businesses noted below have been submitted for drinking establishment licenses in accordance with Title 7, Liquor Laws, of the Olathe Municipal Code (OMC). The applications are available in the City Clerk's office for review.

Smashburger #1083
15241 W. 119th Street
Olathe, KS 66062

Asian Pearl Restaurant
18138 W. 119th Street
Olathe, KS 66061

Kansas City Concessions, LLC
Residence Inn
12215 S. Strang Line Road
Olathe, KS 66062

FINANCIAL IMPACT:

The license fee as established in Title 7 of the Olathe Municipal Code in the amount of \$500.00 for drinking establishments have been collected for these license applications.

ACTION NEEDED:

Approve these applications for a license as part of the consent agenda.

ATTACHMENT(S):

MEETING DATE: 4/7/2020

A: Smashburger #1083 Staff Recommendations

B: Asian Pearl Restaurant Staff Recommendations

C: Kansas City Concessions, LLC (Residence Inn) Staff Recommendations

Brenda Long

From: Brenda Long
Sent: Thursday, March 5, 2020 8:22 AM
To: Carl Anderson; David Bryant; Dennis Pine; Dianna Wright; GIS Shared; James Gorham; Rachelle Breckenridge; Timothy Linot
Subject: DEL - Smashburger 03-03-20
Attachments: DEL - Smashburger 03-03-20.pdf

Tracking:	Recipient	Response
	Carl Anderson	Approve: 3/27/2020 4:33 PM
	Dianna Wright	Approve: 3/5/2020 8:53 AM
	GIS Shared	Approve: 3/10/2020 8:32 AM
	James Gorham	Approve: 3/5/2020 8:31 AM
	Rachelle Breckenridge	Approve: 3/29/2020 4:40 AM
	Timothy Linot	Approve: 3/9/2020 3:05 PM

Please use the voting tab to make comments and recommendations for the attached renewal drinking establishment license application by March 12.

[Brenda Long](#), Assistant City Clerk

(913) 971-8675 | OlatheKS.org

Resource Mgmt | City of Olathe, Kansas

Setting the Standard for Excellence in Public Service





To: Brenda Long, Assistant City Clerk
From: Dianna Wright, Director of Resource Management
Subject: Liquor License Renewal
Date: March 5, 2020

Resource Management is in receipt of Smashburger Acquisition – Kansas LLC (dba Smashburger #1083) liquor license renewal application.

In accordance with Title 7 section 7.06.020 and in reviewing the Statement of Gross Receipts for of Smashburger Acquisition – Kansas LLC (dba Smashburger #1083), I hereby determine that the application meets the requirements as set forth by the above reference section.

Should you require any additional information please do not hesitate to let me know.

CITY OF OLATHE

DRINKING ESTABLISHMENT LICENSE APPLICATION



RECEIVED

Date: _____ Business Phone: 913-747-4552

Name of Establishment: Smashburger Acquisition - Kansas LLC

MAR - 3 2020

Name of Applicant: Smashburger #1083

**CITY OF OLATHE
CITY CLERK OFFICE**

Business Address of Applicant: 15241 West 119th Street, Olathe KS 66062
City State Zip

E-mail Address of Applicant (optional): Licensing@Smashburger.com

Legal description of premises: Fast-Casual Restaurant

Owner of premises (if different than applicant): Passco Property Management Inc.

Address of owner of premises: PO Box 60370 Los Angeles CA 0060-0370
City State Zip

Items required that must accompany this application:

- no changes*
- A. Site Plan: Attach a drawing of the premises showing the location in relation to other buildings, structures, parking areas, public or private streets, and sidewalks within 200 feet. The site plan should include the number of parking spaces, seating capacity and number of employees servicing the largest shift.**
 - B. Copy of Kansas Liquor License Application**
 - C. Copy of renewed State of Kansas drinking establishment license (May be submitted separately after issuance by the state)**
 - D. License Fee (\$500.00 – 2 year licensing period)**

The biennial fee for Drinking Establishments authorized by K.S.A. Supp. 41-2622 is hereby established and fixed at **FIVE HUNDRED DOLLARS (\$500.00)**. All applications for new or renewal city licenses shall be submitted to the City Clerk for consideration by the Governing Body. No license fee shall be refunded for any reason.

TO THE BEST OF MY KNOWLEDGE, THE ABOVE INFORMATION IS CORRECT AND TRUTHFUL.

Ty Lufman

Name of Applicant (Print Please)

State of Colorado

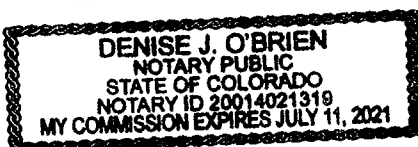
Signature

County of Denver

Senior Vice-President

Title

Notary



SEAL

Sworn and subscribed before me this

This 16th day of January, 2020

Cash Receipt



Receipt #: 50235
User: BRENDADL
Dept: CC
Date: 03/03/2020
Time: 14:33:06

CITY OF OLATHE - CITY CLERK CASH RECEIPT
PO BOX 768
OLATHE KS 66061

Customer: Smashburgers

THANK YOU FOR YOUR PAYMENT

ON BEHALF OF CITY TREASURER, DIANNA WRIGHT _____

Item	Description	Notes	Amount
DRINKING ESTAB	Smashburger	16038	\$500.00
		Final	
		Total Received	\$500.00

Brenda Long

From: Brenda Long
Sent: Friday, March 13, 2020 8:14 AM
To: Carl Anderson; David Bryant; Dennis Pine; Dianna Wright; GIS Shared; James Gorham; Rachelle Breckenridge; Timothy Linot
Subject: DEL - Asian Pearl 03-12-20
Attachments: DEL - Asian Pearl 03-12-20.pdf

Tracking:	Recipient	Response
	Carl Anderson	Approve: 3/27/2020 4:33 PM
	Dianna Wright	Approve: 3/13/2020 9:56 AM
	GIS Shared	Approve: 3/13/2020 3:02 PM
	James Gorham	Approve: 3/16/2020 3:37 PM
	Rachelle Breckenridge	Approve: 3/29/2020 4:34 AM
	Timothy Linot	Approve: 3/13/2020 9:38 AM

Please use the voting tab to make comments and recommendations for the attached renewal drinking establishment license application by March 20.

[Brenda Long](#), Assistant City Clerk

(913) 971-8675 | OlatheKS.org

Resource Mgmt | City of Olathe, Kansas

Setting the Standard for Excellence in Public Service





To: Brenda Long, Assistant City Clerk
From: Dianna Wright, Director of Resource Management
Subject: Liquor License Renewal
Date: March 13, 2020

Resource Management is in receipt of Asian Pearl, Inc liquor license renewal application.

In accordance with Title 7 section 7.06.020 and in reviewing the Statement of Gross Receipts for Asian Pearl, Inc, I hereby determine that the application meets the requirements as set forth by the above reference section.

Should you require any additional information please do not hesitate to let me know.

CITY OF OLATHE

DRINKING ESTABLISHMENT LICENSE APPLICATION

Date: 3/9/2020 Business Phone: (913) 541-8885

Name of Establishment: ~~DRAGON~~ ASIAN PEARL RESTAURANT

Name of Applicant: SHU-WEN YE

Business Address of Applicant: 18138 W. 119th ST., OLATHE, KS 66061
City State Zip

E-mail Address of Applicant (optional): _____

Legal description of premises: _____

Owner of premises (if different than applicant): RIDGEVIEW FALLS, LLC

Address of owner of premises: 1100 WALNUT ST., #200 KC MO 64106
City State Zip

Items required that must accompany this application:

- A. **Site Plan: Attach a drawing of the premises showing the location in relation to other buildings, structures, parking areas, public or private streets, and sidewalks within 200 feet. The site plan should include the number of parking spaces, seating capacity and number of employees servicing the largest shift.**
- B. **Copy of Kansas Liquor License Application**
- C. **Copy of renewed State of Kansas drinking establishment license (May be submitted separately after issuance by the state)**
- D. **License Fee (\$500.00 – 2 year licensing period)**

The biennial fee for Drinking Establishments authorized by K.S.A. Supp. 41-2622 is hereby established and fixed at **FIVE HUNDRED DOLLARS (\$500.00)**. All applications for new or renewal city licenses shall be submitted to the City Clerk for consideration by the Governing Body. No license fee shall be refunded for any reason.

TO THE BEST OF MY KNOWLEDGE, THE ABOVE INFORMATION IS CORRECT AND TRUTHFUL.

SHU-WEN YE
Name of Applicant (Print Please)

[Signature]
Signature

Title

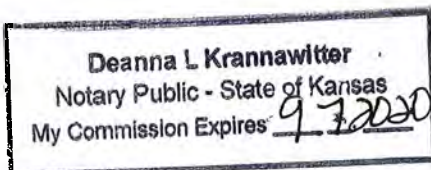
State of Kansas

County of Johnson

[Signature]
Notary

Sworn and subscribed before me this

This 3 day of 11, 2020



SEAL

Cash Receipt



Receipt #: 50282
User: BRENDADL
Dept: CC
Date: 03/12/2020
Time: 13:07:12

CITY OF OLATHE - CITY CLERK CASH RECEIPT
PO BOX 768
OLATHE KS 66061

Customer: Asian Pearl

THANK YOU FOR YOUR PAYMENT

ON BEHALF OF CITY TREASURER, DIANNA WRIGHT _____

Item	Description	Notes	Amount
DRINKING ESTAB	Asian Pearl	6316	\$500.00
		Final	
		Total Received	\$500.00

Brenda Long

From: Brenda Long
Sent: Thursday, January 23, 2020 4:06 PM
To: Benjamin Laxton; Carl Anderson; Dennis Pine; GIS Shared; James Gorham; Rachelle Breckenridge
Subject: DEL - Residence Inn 01-21-20
Attachments: DEL - Residence Inn 01-21-20.pdf

Tracking:	Recipient	Response
	Tim Linot	Approve: 3/17/2020 8:19 AM
	Carl Anderson	Approve: 1/28/2020 1:30 PM
	GIS Shared	Approve: 1/27/2020 9:23 AM
	James Gorham	Approve: 1/27/2020 4:24 PM
	Rachelle Breckenridge	Approve: 3/26/2020 12:20 PM

Please use the voting tab to make comments and recommendations for the attached new drinking establishment license application by, January 30.

[Brenda Long](#), Assistant City Clerk

(913) 971-8675 | OlatheKS.org

Resource Mgmt | City of Olathe, Kansas

Setting the Standard for Excellence in Public Service



RECEIVED

JAN 21 2020

CITY OF OLATHE



**CITY OF OLATHE DRINKING ESTABLISHMENT LICENSE APPLICATION
CITY CLERK OFFICE**

Date: 1/15/2020 Business Phone: (913) 829-6700

Name of Establishment: Residence Inn Kansas City

Name of Applicant: Kansas City Concessions LLC

Business Address of Applicant: 12215 S. Strang Line Rd., Olathe, KS 66062
City State Zip

E-mail Address of Applicant (optional): sskene@skenelawfirm.com

Legal description of premises: Hotel and related improvements located at 12215 S. Strang Line Road, Olathe, KS 66062

Owner of premises (if different than applicant): Hersha Hospitality Management, L.P.

Address of owner of premises: 510 Walnut Street, 9th FL, Philadelphia, PA 19106
City State Zip

Items required that must accompany this application:

- A. Site Plan: Attach a drawing of the premises showing the location in relation to other buildings, structures, parking areas, public or private streets, and sidewalks within 200 feet. The site plan should include the number of parking spaces, seating capacity and number of employees servicing the largest shift.**
- B. Copy of Kansas Liquor License Application**
- C. Copy of renewed State of Kansas drinking establishment license (May be submitted separately after issuance by the state)**
- D. License Fee (\$500.00 – 2 year licensing period)**

The biennial fee for Drinking Establishments authorized by K.S.A. Supp. 41-2622 is hereby established and fixed at **FIVE HUNDRED DOLLARS (\$500.00)**. All applications for new or renewal city licenses shall be submitted to the City Clerk for consideration by the Governing Body. No license fee shall be refunded for any reason.

TO THE BEST OF MY KNOWLEDGE, THE ABOVE INFORMATION IS CORRECT AND TRUTHFUL.

Naveen Kakarla
Name of Applicant (Print Please)

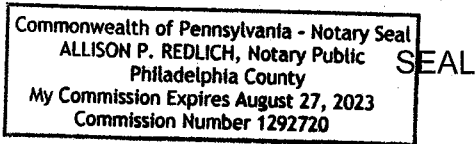
[Signature]
Signature

President
Title

State of Pennsylvania

County of Philadelphia

Allison P Redlich
Notary



Sworn and subscribed before me this

This 16th day of January, 2020

Cash Receipt



Receipt #: 49981
User: JOLENEP
Dept: CC
Date: 01/21/2020
Time: 10:50:22

CITY OF OLATHE - CITY CLERK CASH RECEIPT
PO BOX 768
OLATHE KS 66061

Customer: Kansas City Concessions

THANK YOU FOR YOUR PAYMENT

ON BEHALF OF CITY TREASURER, DIANNA WRIGHT _____

Item	Description	Notes	Amount
DRINKING ESTAB	Residence Inn KC RENEW	14214	\$500.00
Final Total Received			\$500.00



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Legal

STAFF CONTACT: Ron Shaver and Brenda Long

SUBJECT: Consideration of a cereal malt beverage license application for Corner Market, 1020 S. Harrison, for calendar year 2020.

ITEM DESCRIPTION:

Consideration of a cereal malt beverage license application for Corner Market, 1020 S. Harrison, for calendar year 2020.

SUMMARY:

The application for the following business has met the necessary requirements for the issuance of a cereal malt beverage license and is recommended for approval by staff. This application is available for review in the City Clerk's Office.

Name	License #	Site
Corner Market	20-73	1020 S. Harrison

FINANCIAL IMPACT:

License fee as established in Title 7 of the Olathe Municipal Code in the amount of \$50 for sale at retail and separate \$25 stamp fee for the State of Kansas has been collected for the license application.

ACTION NEEDED:

Approve the application for a license as part of the consent agenda.

ATTACHMENT(S):

None



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: City Manager's Office

STAFF CONTACT: Liz Ruback

SUBJECT: Consideration of business expenses statements for Mayor Copeland and Councilmember, Wes McCoy, for expenses incurred to attend the National League of Cities Congressional Cities Conference in Washington, D.C. March 7 - 12, 2020.

ITEM DESCRIPTION:

Consideration of business expense statements for Mayor Copeland and Councilmember, Wes McCoy, for expenses incurred to attend the National League of Cities Congressional Cities Conference in Washington, D.C. March 7 - 12, 2020.

SUMMARY:

Expense statements are presented for Council review and approval in accordance with Administrative Guidelines F-01, which requires that all travel expenses for the City Council and City Manager be placed on the Council agenda for approval.

FINANCIAL IMPACT:

Funding is included in the 2020 budget.

ACTION NEEDED:

Approve the attached business expense statements as part of the Consent Agenda.

ATTACHMENT(S):

A: BES McCoy

B: BES Mayor



Complete the yellow cells

Business Expense Statement (BES)

Statement to be completed according to Admin. Reg. F-01

Form must be submitted by the 15th of the following month. Attach a memo to the Approving Authority with their approval if late or grand total exceeds 10% of Travel Authorized.

BES expenses must be within 10% of Travel Request Authorization (TRA).

Name:	Wes McCoy	Employee #	185737	Department:	CMO
Business Expense Purpose:	NLC Congressional City Conference			Destination:	Washington, D.C.
Departure Date:	3/7/20	Return Date:	3/12/20		
Comments:	0			E1 Budgeted Acct #	1001020.62220
Sharing hotel room? Whom with:				0	

Total Expenses from TRA		BES			Include all cost & fees - Itemized receipt for Lodging required		
		Paid with City P-Card	Paid to Vendor	Paid by Employee			
Registration:	615.00	Registration:	615.00	✓			
Airfare:	428.96	Airfare:	428.96	✓			
Lodging:	2,063.10	Lodging:	1,718.50	✓			
Car Rental:		Car Rental:					
KCI Airport parking:	70.00	KCI Airport parking:					
		Meals Overnight Travel			Per Diem: Rate # of days		
		Search for City - GSA.gov website			76.00 6.0 456.00		
		M&IE Meal breakdown will auto populate			Meals Provided will deduct from per diem:		
		No receipts required			Breakfast 18.00 -		
					Lunch 19.00 -		
					Dinner 34.00 -		
Per Diem for Meals:	456.00	Per Diem for Meals:	456.00	✓			
STOP Go to Page 2 Now and complete then RETURN here to allocate expense & complete the BES							
Allocate Page 2 Totals to yellow cells		Totals from page 2					
Private Vehicle Mileage:	46.00	Mileage:	46.00	✓	46.00	Comments:	
Cab/Shuttle fares/		Cab/Shuttle fares/					
Tolls/Baggage fees:	250.00	Tolls/Baggage fees:	55.00	✓	139.92		
Fuel - City Vehicle:	-	Fuel - City Vehicle:					
		Business Meeting:					
Miscellaneous Expense:	-	Miscellaneous Expense:	35.00	✓	35.00		
TOTAL TRA ESTIMATED EXPENSES	3,929.06	TOTAL EXPENSES	3,494.38	✓			

REVIEWED

By Tracy Fiorini at 1:14 pm, Mar 18, 2020

I certify that I have incurred all of the expenses listed above on behalf of the City and that they are directly related to the active conduct of the City's business.

Total Expensed paid by employee 676.92 ✓
 Travel Advance issued to Employee 502.00 ✓
 Amount owed Employee/ (owed to City) 174.92 ✓

ACH direct deposit rather than a check can be provided. Complete and submit AP ACH form

Page 1 of 2

Employee Signature _____ Date _____ Division Manager Signature _____ Date _____ Department Manager _____ Date _____ City Manager Signature (if required) _____ Date _____

Business Expense Statement continued

Name: Wes McCoy
Business Expense Purpose: Washington, D.C.

Department: CMO

Mileage log may be used for detail

Rate	\$0.575
------	---------

Mileage Calculation:

Date	Destination	Miles	Amount
3/12/20	Home from Airport (Wife picked him up from Airport)	80	46.00
		-	-
		-	-
		-	-
		-	-
		Total	46.00

Cab/Shuttle fares/Tolls:

Date	Description	Amount
3/7/20	Lyft to Airport	55.00
3/9/20	Lyft Expenses for the day	15.60
3/10/20	Lyft Expenses for the day	65.72
3/11/20	Lyft Expenses for the day	30.92
3/12/20	Lyft Expenses for the day	27.68
	Total	194.92

Fuel - City Vehicle:

Date	Amount
Total	-

Meals Local:

Date	Breakfast	Lunch	Dinner
Total	-		

Maximum allowed:	
Breakfast	15.00
Lunch	16.00
Dinner	28.00

Receipts are required

Business Meeting & Guests:

Date	Purpose	Firm & Persons Present	Amount
Total			-

Total	-
-------	---

Miscellaneous Expense:

Date	Description	Amount
3/11/20	Cash Tips	35.00
	Total	35.00

Page 2 of 2



Complete the yellow cells

Business Expense Statement (BES)

Statement to be completed according to Admin. Reg. F-01

Form must be submitted by the 15th of the following month. Attach a memo to the Approving Authority with their approval if late or grand total exceeds 10% of Travel Authorized.

BES expenses must be within 10% of Travel Request Authorization (TRA).

Name:	Michael Copeland	Employee #	125633	Department:	Council
Business Expense Purpose:	NLC Congressional City Conference	Destination:	Washington, D.C.		
Departure Date:	3/7/20	Return Date:	3/12/20		
Comments:	0	E1 Budgeted Acct #	1001010.62220		
Sharing hotel room? Whom with:	0				

Total Expenses from TRA		BES		Paid with card		Paid by Employee	
Registration:	505.00	Registration:	505.00	✓			
Airfare:	450.00	Airfare:				552.06	✓
Lodging:	2,063.10	Lodging:				1,593.21	✓
Car Rental:	-	Car Rental:					
KCI Airport parking:	70.00	KCI Airport parking:					
		Meals/Overnight Travel		Per Diem:		Rate	# of days
		Search for City: GSA.gov website				76.00	5.0
							380.00
				Meals Provided will deduct from per diem:			
				Breakfast		18.00	-
				Lunch		19.00	-
				Dinner		34.00	-
Per Diem for Meals:	456.00	M&IE Meal breakdown will auto-populate					
		Per Diem for Meals:		380.00		✓	
		STOP		Go to Page 2 Now and complete then RETURN here to allocate expense & complete the BES			
		Allocate Page 2 totals to yellow cells		Totals from page 2			
Private Vehicle Mileage:	46.00	Mileage:					
Cab/Shuttle fares/		Cab/Shuttle fares/					
Tolls/Baggage fees:	250.00	Tolls/Baggage fees:			301.60	✓	301.60
Fuel - City Vehicle:	-	Fuel - City Vehicle:					
		Business Meeting:					
Miscellaneous Expense:	-	Miscellaneous Expense:					
TOTAL TRA ESTIMATED EXPENSES	3,840.10	TOTAL EXPENSES	3,331.87	✓			

REVIEWED

By Tracy Fiorini at 3:51 pm, Mar 19, 2020

Total Expensed paid by employee 2,826.87 ✓

Travel Advance issued to Employee

Amount owed Employee/ (owed to City) 2,826.87 ✓

ACH direct deposit rather than a check can be provided. Complete and submit AP ACH form

Page 1 of 2

I certify that I have incurred all of the expenses listed above on behalf of the City and that they are directly related to the active conduct of the City's business.

Employee Signature	Date	Division Manager Signature	Date	Department Manager	Date	City Manager Signature (if required)	Date
--------------------	------	----------------------------	------	--------------------	------	--------------------------------------	------

Business Expense Statement continued

Name: Michael Copeland
Business Expense Purpose: Washington, D.C.

Department: Council

[illegible]

Rate	\$0.575
------	---------

Date	Destination	Miles	Amount
			-
			-
			-
			-
		Total	-

Total	-
-------	---

Cab/Shuttle fares/Tolls:

Date	Description	Amount
3/8/20	Uber Trips for the Day	46.29
3/9/20	Uber Trips for the Day	91.77
3/10/20	Uber Trips for the Day	64.61
3/11/20	Uber Trips for the Day	80.53
3/7/20	Uber	18.40
	Total	301.60

Total	301.60
-------	--------

Fuel - City Vehicle:

Date	Amount
Total	-

Total	-
-------	---

Meals Local:

Date	Breakfast	Lunch	Dinner
Total	-		

Total	-
-------	---

Breakfast	15.00
Lunch	16.00
Dinner	28.00

Receipts are required

Business Meeting & Guests:

Date	Purpose	Firm & Persons Present	Amount

Total	-
-------	---

Miscellaneous Expense:

Date	Description	Amount

Total	-
-------	---



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Public Works
STAFF CONTACT: Mary Jaeger / Beth Wright
SUBJECT: Consideration of Consent Calendar

ITEM DESCRIPTION:
Consideration of Consent Calendar.

SUMMARY:
Consent Calendar consists of Project Completion Certificates for Public Works projects.

FINANCIAL IMPACT:
N/A

ACTION NEEDED:
Approve Consent Calendar for April 7, 2020.

ATTACHMENT(S):
A. Consent Calendar

City Council Information Sheet

Date: April 7, 2020

ISSUE: Consent Calendar for: April 7, 2020

DEPARTMENT: Public Works

SUMMARY:

1) PROJECT COMPLETION CERTIFICATES

- a) Woodland Hills 1st Plat – 3-D-048-18 – Storm Sewers
- b) Woodland Hills 1st Plat – 3-D-048-18 – Street
- c) Woodland Hills 2nd Plat – 3-D-059-18 – Street
- d) Willow Crossing 1st Plat Public Waterline – 5-D-006-19 – Waterlines
- e) Willow Crossing 2nd Plat Public Waterline – 5-D-008-19 – Waterlines

2) CHANGE ORDERS

- a) None

3) FINAL PAYMENT TO CONTRACTORS

- a) None

Submitted by: Mary Jaeger, Director / Beth Wright, Deputy Director



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Public Works

STAFF CONTACT: Mary Jaeger / Beth Wright

SUBJECT: Supplemental Agreement No. 1 with Black & Veatch Corporation for construction management services of the Harold Street Wastewater Treatment Plant Generator Replacement Project, PN 1-C-021-18.

ITEM DESCRIPTION:

Consideration of Supplemental Agreement No. 1 with Black & Veatch Corporation for construction management services of the Harold Street Wastewater Treatment Plant Generator Replacement Project, PN 1-C-021-18.

SUMMARY:

The Harold Street Wastewater Treatment Plant, located at Harold Street and Northgate Street, treats wastewater flows from the center of Olathe. Standby power is currently provided by a diesel generator installed in the 1980s. The unit installed was a previously salvaged generator with over 20 years of service at the time of installation. With the generator being over 50 years old, this asset has surpassed its useful life. This project will replace this generator and associated electrical components to provide reliable standby power to allow operation of the wastewater treatment plant during utility power outages to ensure permit compliance.

This original Professional Services Agreement with Black & Veatch Corporation was approved by the City Council on February 5, 2019, and provided for engineering design and bidding services, including an electrical load study to determine the equipment to be powered by the generator and the generator size.

The Supplemental Agreement No.1 provides for construction management services, including review of all construction shop drawings, construction inspections, shutdown sequencing and coordination, and instrumentation and controller troubleshooting. The total fee for these additional professional services provided under Supplemental Agreement No.1 is \$80,956, which raises the total fee for all services provided under the Agreement from \$205,129 to \$286,085.

Construction is scheduled to begin in Fall 2020 with completion over the Winter of 2020/2021.

FINANCIAL IMPACT:

The funding for the Harold Street Wastewater Treatment Plant Generator Replacement Project includes:

Water & Sewer Funds	\$957,129
Total	\$957,129

ACTION NEEDED: Approval of Supplemental Agreement No. 1 with Black & Veatch Corporation for

MEETING DATE: 4/7/2020

construction management services of the Harold Street Wastewater Treatment Plant Generator Replacement Project, PN 1-C-021-18.

ATTACHMENT(S):

- A. Project Location Map
- B. Project Fact Sheet
- C. Supplemental Agreement No. 1

Harold St. WWTP Generator Replacement Project PN 1-C-021-18 Project Location Map





Project Fact Sheet
Harold St. WWTP Generator Replacement
1-C-021-18
April 7, 2020

Project Manager: Beth Wright / Sabrina Parker

Description: This project will replace this generator and associated electrical components with the purpose of providing reliable standby power to operate the wastewater treatment plant during utility power outages.

Justification: The existing generator is over 50 years old and has surpassed its useful life. Replacement of the generator and associated electrical components will provide reliable standby power to allow operation of the wastewater treatment plant during utility power outages to ensure permit compliance.

Schedule:	Item	Date
Design:	RFQ	10/18/2018
	Consultant Selection	02/05/2019
	Design Completion	01/21/2020
Construction:	Bid Award	04/07/2020
	Completion	Winter 2020/21 - estimate
Council Actions:	Date	Amount
Professional Service Agreement	02/05/2019	\$205,129
Accept Bid/Award Contract	04/07/2020	\$658,000
Supplemental Agreement - Engineering	04/07/2020	\$80,956
Funding Sources:	Amount	CIP Year
Water and Sewer Funds	\$ 205,129	2019
Water and Sewer Funds	\$ 752,000	2020
Expenditures:	Budget	Amount to Date
Design	\$208,173	\$187,614
Staff	\$ 10,000	\$ 0
Inspection	\$ 80,956	\$ 0
Construction	\$658,000	\$ 0
Total	\$957,129	\$187,614

**SUPPLEMENTAL AGREEMENT NO. 1
FOR PROFESSIONAL SERVICES
City of Olathe, Kansas**

This Supplemental Agreement made this _____ day of _____, 2020, by and between the City of Olathe, hereinafter referred to as the "City", and Black & Veatch Corporation, hereinafter referred to as the "Consultant".

WITNESSETH:

WHEREAS, the City and Consultant have previously entered into an Agreement, dated February 5, 2019 ("the Agreement"), for the Standby Generator Replacement Projects; PN 1-C-021-18 and 5-C-042-18 hereinafter referred to as the "Project"; and

WHEREAS, SECTION II, Paragraph B of the Agreement provides that Consultant will provide, with City's concurrence, services in addition to those listed in the Professional Services Agreement, when such services are requested or authorized in writing by the City.

WHEREAS, this Supplemental Agreement No. 1 between the parties heretofore is to provide construction phase administration services for the Project as outlined in **Exhibit A** of this Supplemental Agreement No. 1, attached hereto and incorporated herein by reference; and

WHEREAS, the City is desirous of entering into Supplemental Agreement No. 1 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 professional services under the Agreement, and necessary funds for the payment of said services related to the Project are available and authorized under the Agreement.

NOW THEREFORE, the parties hereby agree as follows:

- A. Exhibit B of the Agreement is hereby amended as follows: Add scope of services as outlined in Exhibit A of this Supplemental Agreement No. 1.
- B. Exhibit C of the Agreement is hereby amended as follows: Replace with revised rate schedule for 2020 as outlined in Exhibit B of this Supplemental Agreement No. 1.

- C. The total fee for the aforementioned additional professional services provided pursuant to this Supplemental Agreement No. 1 is \$80,956 which raises the total fee for all services provided under the Agreement from \$205,129 to \$286,085.

IN ALL OTHER RESPECTS, the terms and conditions of the Agreement will remain in full force and effect, except as specifically modified by this Supplemental Agreement No. 1, including all policies of insurance which will cover the work authorized by this Supplemental Agreement No. 1.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement No. 1 to be executed as of the day and year first above written.

CITY OF OLATHE, KANSAS

By: _____
Michael E. Copeland, Mayor

ATTEST:

City Clerk

(Seal)

APPROVED AS TO FORM:

City Attorney/Deputy City Attorney/
Assistant City Attorney



Black & Veatch Corporation
By: Derek L. Cambridge
Associate Vice President

EXHIBIT A

Scope of Services

This scope describes additional engineering services the Consultant will provide the City in connection with the Standby Generator Replacement Project.

PHASE V. CONSTRUCTION PHASE SERVICES

PHASE V. CONSTRUCTION PHASE SERVICES

A. Construction Phase Project Management

1. Manage Consultant's administration of Construction Phase Services including timely review of shop drawings, interpretation of documents, and submittal of invoices. Monitor construction progress by the Contractor including status of submittals and construction schedule. Anticipated duration of Construction is 8 months.

B. Preconstruction Conference

1. At the date and time selected by the City, and at facilities provided by the City, conduct preconstruction conference. The Consultant shall prepare an agenda for the conference and prepare and distribute minutes. The preconstruction conference will include a discussion of the Contractor's tentative schedule, procedures for transmittal and review of the Contractor's submittal, critical work sequencing, requests for information, record documents, and the Contractor's responsibilities for safety and first aid.

C. Periodic Inspections

1. Provide periodic inspections of the construction activities to monitor construction activities and provide feedback concerning conformance of the work to the Contract Documents. It is anticipated that the Consultant will provide on average two inspections per month for the duration of the project

D. Attend Facility Shutdown Sequencing Meetings

1. Attend scheduled facility shutdown sequencing and coordination meetings to be conducted by Contractor. The number of meetings anticipated for the project is one (1) meeting.

E. Review Shop Drawings

1. Review drawings and other data submitted by the Contractor as required by the construction contract documents. The Engineer shall review up to 40 submittals

for general conformity to the construction contract drawings and specifications for the Contract. This review shall not relieve the Contractor of any of his contractual responsibilities. Such reviews shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Additional or excessive reviews as required by incomplete submittals from the Construction Contractor can be provided as a supplemental service.

F. Process Requests for Information (RFI's)

1. Provide documentation and administer the processing of requests for information. Items involving any delays to the project will be documented. Act as initial negotiator on all claims of the City and Contractor relating to the interpretation of the requirements of the contract documents pertaining to the execution and progress of the work. Evaluate the cost and scheduling aspects of all change orders and, when necessary, assist the City in the negotiations with the Contractor to obtain a fair price for the work. Said negotiation shall be subject to the approval of the City.
4. For budgeting purposes, four (4) request for information are anticipated for the project. Unusually numerous requests shall be provided as Supplemental Services.

G. Commissioning Support

1. During equipment checkout and startup, provide support to the City to resolve operational issues, instrumentation and control troubleshooting, and process support.
2. Develop P&IDs for the generators at each project site. P&IDs will be unsigned, and sent to the City.

H. Substantial and Final Completion

1. Upon substantial completion, inspect the construction work and prepare a tentative punch list of the items to be completed or corrected before final completion of the contract. Submit results of the inspection to City and Contractor. The substantial completion review will be conducted by the Consultant's project engineer during one trip of not more than one-day duration.
3. Upon completion or correction of the items of work on the punch list, conduct a final inspection to determine if the work is completed. The Consultant shall provide written recommendations concerning final payment to the City, including a list of items, if any, to be completed prior to making such payment.

I. Prepare Record Drawings

1. Upon completion of the project, revise the construction contract drawings to conform to the construction records furnished by the RPR and the Contractor. Provide City six (6) sets of half size drawings and a CD with electronic images (DWG and PDF).

EXHIBIT B
Fee & Rate Schedule

For the services covered by this Contract, the City agrees to pay the Consultant as follows:

1. Compensation for engineering services shall be in accordance with the following hourly billing rates:

<u>Black & Veatch Classification</u>	<u>2020 Hourly Billing Rates</u>
Project Director	\$273
Project Manager	\$245
Project Secretary	\$107
Sr. Engineering Manager	\$224
Engineering Manager	\$196
Design Engineer – Level 4	\$174
Design Engineer – Level 3	\$162
Design Engineer – Level 2	\$138
Design Engineer – Level 1	\$116
CAD Administrator	\$174
Sr. CAD Technician	\$126
CAD Technician	\$106
Project Accountant	\$107
Sr. Process Engineer	\$239
Process Engineer	\$149
QA/QC Engineer	\$251
Estimator	\$194
Project Controls	\$132

2. Compensation for reimbursable expense items and other charges incurred in connection with the performance of the work shall be in accordance with the following schedule:

<u>Expense Item</u>	<u>Unit Cost</u>
Travel, Subsistence, and Incidental Expenses	Net Cost
Automobile/Motor Vehicles – Local Mileage	\$.55/mile
Automobile/Motor Vehicles – Rental	Net Cost
Reproduction of Reports, Drawings & Specifications	Net Cost
Photograph and Video Reproductions	Net Cost
Sub-Consultant Fees	Net Charge x 1.10

3. The Schedule of Hourly Billing Rates and Charges indicated herein is effective for

services through 2020. The Schedule of Hourly Billing Rates and Charges will be revised and re-issued in March of subsequent years.

Owner: Olathe, City of																					
Project: Standby Generator Replacement (Harold Street WWTP)																					
PHASE/Task		Project Director	Project Manager	Project Controls / Accounting	Admin	Engineering Manager	Structural Engineer	Architect	Mech Engineer	Electrical Engineer	I&C Engineer	BIM Technician		SUBTOTAL, hours	SUBTOTAL, Billings \$	Travel/Per Diem Expenses	Major Repro-duction Expenses	Other Expenses	SUBTOTAL, EXPENSES w/o MULTIPLIER	SUBTOTAL, EXPENSES	TOTAL Billings
		\$273.00	\$245.00	\$132.00	\$107.00	\$174.00	\$137.00	\$174.00	\$174.00	\$162.00	\$174.00	\$106.00									
(Billing Rate, \$\$,Hr.)																					
WORK BREAKDOWN STRUCTURE		PHASE																			
PHASE VI - CONSTRUCTION PHASE SERVICES																			\$ -		
Administration			6	12	48	8	-	-	-	-	-	-	-	74	\$ 11,770					\$ 11,770	
Preconstruction Conference			-	2	-	-	4	-	-	-	-	-	-	6	\$ 1,186		\$ -	\$ -	\$ -	\$ -	
Periodic Inspections (RPR work)			-	-	-	-	40	8	-	12	12	8	-	80	\$ 13,480	\$ -	\$ -	\$ -	\$ -	\$ -	
Schedule Review			-	2	-	-	12	-	-	-	-	-	-	14	\$ 2,578	\$ -	\$ -	\$ -	\$ -	\$ -	
Substantial Completion/Final Completion			4	-	-	-	4	-	-	-	4	4	-	16	\$ 3,132	\$ -	\$ -	\$ -		\$ 3,132	
Plant Shutdown/Sequencing Meetings			-	4	-	-	8	-	-	-	-	-	-	12	\$ 2,372	\$ 150	\$ -	\$ -	\$ 150	\$ 2,522	
Shop Drawing Review			-	-	-	50	40	14	4	50	38	6	-	202	\$ 30,824	\$ -	\$ -	\$ -	\$ -	\$ 30,824	
RFI Response			-	4	-	-	12	2	-	4	-	2	-	24	\$ 4,386	\$ -	\$ -	\$ -	\$ -	\$ 4,386	
Generator P&IDs			-	-	-	-	4	-	-	-	2	6	10	22	\$ 3,124	\$ -	\$ -	\$ -		\$ 3,124	
Prepare Record Drawings			-	2	-	-	14	-	-	-	-	2	30	48	\$ 6,454	\$ -	\$ 500	\$ 1,000	\$ 1,500	\$ 1,500	\$ 7,954
DO NOT DELETE ANY OF THE "TOTAL" ROWS BELOW. THESE GENERATE THE TOTALS FOR THE BUDGET																					
Total, Hours			10	26	48	58	138	24	4	66	56	28	40	498							
Total, Billings															\$ 79,306	\$ 150	\$ 500	\$ 1,000		\$ 80,956	



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Public Works

STAFF CONTACT: Mary Jaeger / Beth Wright

SUBJECT: Contract award to Mega Industries Corporation for construction of the Harold Street Wastewater Treatment Plant Generator Replacement Project, PN 1-C-021-18.

ITEM DESCRIPTION:

Consideration of Engineer's Estimate, acceptance of bids and award of contract to Mega Industries Corporation for construction of the Harold Street Wastewater Treatment Plant Generator Replacement Project, PN 1-C-021-18.

SUMMARY:

On March 4, 2020, four (4) bids were received and opened for the above referenced project. The bids ranged from \$658,000 to \$1,030,000 with the Engineer's Estimate at \$888,000. Mega Industries Corporation submitted the low and responsible bid in the amount of \$658,000. The following is a tabulation of the bids received:

Mega Industries Corp.	\$ 658,000
Crossland Heavy	\$ 721,000
Engineer's Estimate	\$ 888,000
Vazquez Commercial	\$ 915,069
Rand Construction Company	\$1,030,000

This project will replace the existing generator that is over 50 years old and has surpassed its useful life. Work will include the installation of a new facility generator and associated electrical components to provide reliable standby power to allow operation of the wastewater treatment plant during utility power outages to ensure permit compliance.

Construction is scheduled to begin in Fall 2020 with completion over the Winter of 2020/2021.

FINANCIAL IMPACT:

The funding for the Harold Street Wastewater Treatment Plant Generator Replacement Project includes:

<u>Water & Sewer Funds</u>	<u>\$957,129</u>
Total	\$957,129

ACTION NEEDED:

Approval of Engineer's Estimate, acceptance of bids and award of contract to Mega Industries Corporation for construction of the Harold Street Wastewater Treatment Plant Generator Replacement Project, PN 1-C-021-18.

MEETING DATE: 4/7/2020

ATTACHMENT(S):

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

Harold St. WWTP Generator Replacement Project PN 1-C-021-18 Project Location Map





Project Fact Sheet
Harold St. WWTP Generator Replacement
1-C-021-18
April 7, 2020

Project Manager: Beth Wright / Sabrina Parker

Description: This project will replace this generator and associated electrical components with the purpose of providing reliable standby power to operate the wastewater treatment plant during utility power outages.

Justification: The existing generator is over 50 years old and has surpassed its useful life. Replacement of the generator and associated electrical components will provide reliable standby power to allow operation of the wastewater treatment plant during utility power outages to ensure permit compliance.

Schedule:	Item	Date
Design:	RFQ	10/18/2018
	Consultant Selection	02/05/2019
	Design Completion	01/21/2020
Construction:	Bid Award	04/07/2020
	Completion	Winter 2020/21 - estimate
Council Actions:	Date	Amount
Professional Service Agreement	02/05/2019	\$205,129
Accept Bid/Award Contract	04/07/2020	\$658,000
Supplemental Agreement - Engineering	04/07/2020	\$80,956
Funding Sources:	Amount	CIP Year
Water and Sewer Funds	\$ 205,129	2019
Water and Sewer Funds	\$ 752,000	2020
Expenditures:	Budget	Amount to Date
Design	\$208,173	\$187,614
Staff	\$ 10,000	\$ 0
Inspection	\$ 80,956	\$ 0
Construction	\$658,000	\$ 0
Total	\$957,129	\$187,614

AFFIDAVIT OF ESTIMATE OF COST

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

Beth Wright, P.E., of lawful age, being first duly sworn upon her oath,
states:

1. I am the City Engineer for the City of Olathe, Kansas.
2. The attached detailed estimate of the cost for the Harold St. Wastewater Treatment Plant Generator Replacement Project, PN 1-C-021-18, is attached and I am providing the estimate of the cost under oath (Exhibit A).

Beth Wright
Beth Wright, Deputy Director

Subscribed in my presence and sworn under oath before me this 12th
day of March, 2020.



Linda M Wollschlager
Notary Public

My Appointment Expires

January 3, 2023



BLACK & VEATCH
Building a world of difference.®

B&V Project 401680

8400 Ward Parkway, P.O. Box 8405, Kansas City, Missouri 64114

100% Design

**City of Olathe, Kansas
Standby Generators Replacement
Harold St. WWTP & Renner Pump Station**

**OPINION OF
PROBABLE PROJECT COST
Feb-20**

SUMMARY

Base Bid - Harold Street WWTP Generator

1	Engine-Generator Enclosure and Appurtenances	\$262,547
2	All Other Work at Harold Street	\$560,453
3	Subtotal	\$823,000

Additive Alternate - Renner Pump Station

4	Skid Mounted Engine-Generator and Appurtenances	\$93,102
5	All Other Work at Renner Road Pump Station	\$290,898
6	Subtotal	\$384,000

7	Owner's Contingency Allowance	\$65,000
---	-------------------------------	----------

COMBINED PROBABLE CONSTRUCTION COST	\$1,272,000
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BID FORM
P.N. 1-C-021-18
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 Olathe Standby Generators Replacement

Schedule of Values

	ITEM	UNITS	APPROX. QUANTITY	UNIT PRICE		AMOUNT DOLLARS
				DOLLARS	CENTS	
	P.N.					
1	Harold Street Engine-Generator Enclosure and Appurtenances	LS	1	\$ 348,000	00	\$ 348,000.00
2	All Other Work at Harold Street WWTP	LS	1	\$ 245,000	00	\$ 245,000.00
3	Subtotal, Base Bid - Harold Street WWTP	-	-	-	-	\$ 593,000.00
4	Renner Road Pump Station Skid Mounted Engine-Generator and Appurtenances	LS	1	\$		\$
5	All Other Work at Renner Road Pump Station	LS	1	\$		\$
6	Subtotal, Additive Alternate - Renner Road Pump Station	-	-	-	-	\$
7	Owner's Contingency Allowance					\$65,000
					TOTAL:	\$ 658,000.00

Harold Street Engine-Generator	
Generator Manufacturer:	
Generator Power Rating Capacity:	kW

Renner Road Engine-Generator	
Generator Manufacturer:	
Generator Power Rating Capacity:	kW

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

Contractor

Brian Gordon

By

President

Title

Date

816-472-8722

Telephone Number
Dani Guerrero

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 _____ ("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:

BASE BID

- A. Demolition of existing standby diesel generator, enclosure, generator appurtenances, bubbler cabinet, cable and conduit at Harold Street WWTP.
- B. Installation of diesel fuel engine generator, enclosure, generator appurtenances, modifications to automatic transfer switch, cable, and conduit at Harold Street WWTP.

ADDITIVE ALTERNATIVE

- C. Demolition of existing standby diesel skid mounted generator, generator day tank, automatic transfer switch, concrete and masonry sections, overhead coiling door, cable, and conduit at Renner Road Pump Station.
- D. Installation of diesel fuel engine generator, generator day tank, generator appurtenances, coiling overhead door, service entrance rated automatic transfer switch, louvers, cable and conduit at Renner Road Pump Station.

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Olathe Standby Generators Replacement

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by Black & Veatch Corporation.

3.02 The Owner has retained Black & Veatch ("Engineer") to act as Owner's representative, 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 300 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 340 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 \$1,000 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 \$1,000 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:

\$ 658,000 —

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.

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 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. General Conditions (pages ___ to ___, inclusive).
 - 7. Supplementary Conditions (pages ___ to ___, inclusive).
 - 8. Specifications as listed in the table of contents of the Project Manual.
 - 9. Drawings (not attached but incorporated by reference) consisting of 25 sheets with each sheet bearing the following general title: Bid Set Drawings.
 - 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. Project Requirements.
 - e. Temporary Facilities.
 - f. Submittals.
 - g. Technical Specifications.
 - h. General Special Conditions.
 - i. 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:

CONTRACTOR:

City of Olathe, Kansas

By: _____

By: _____

Title: Mayor

Title: Brian Gordon **President**

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

Attest: _____

Attest: _____

Title: _____

Title: Tyler Wesselman **Vice President**

Address for giving notices:

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

Address for giving notices:

1491 Iron St.
North Kansas City, MO

Contractor's Phone Number

License No.: _____

(where applicable)

Agent for service of process:

CI Corporation

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:

Deputy City Attorney



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Public Works

STAFF CONTACT: Mary Jaeger / Beth Wright

SUBJECT: Contract with Crossland Heavy Contractors, Inc. for pre-construction services on the Vertical Well Field Improvements Project, PN 5-C-031-18.

ITEM DESCRIPTION:

Consideration of an Agreement with Crossland Heavy Contractors, Inc. for pre-construction services for the Vertical Well Field Improvements Project, PN 5-C-031-18.

SUMMARY:

In 2019, a facility plan for the replacement of the City's vertical well field was developed which identified new vertical well locations, provided a prioritized replacement schedule, and created a standard well construction design to be utilized for each replacement well site.

On January 8, 2020, the City advertised a Request for Qualifications (RFQ) to provide Construction Manager At Risk (CMAR) services for construction of this project based on the design information presented in the vertical well facility plan. Crossland Heavy Contractors, Inc. was the only construction manager to respond the RFQ. The selection committee determined that the submittal met the necessary qualifications for this project.

This \$20,000 Agreement provides pre-construction services which include development of an initial cost estimate, value engineering and constructability reviews, construction schedule preparation, and development of the Guaranteed Maximum Price (GMP) for construction of the City's vertical well replacements. The GMP will be presented to City Council for approval as an amendment to this contract in Summer 2020.

FINANCIAL IMPACT:

The funding for the Vertical Well Field Improvements Project, as approved in the 2019 Capital Improvement Plan, includes:

Revenue Bonds	\$4,350,425
SDF Funds	\$1,751,075
Total	\$6,101,500

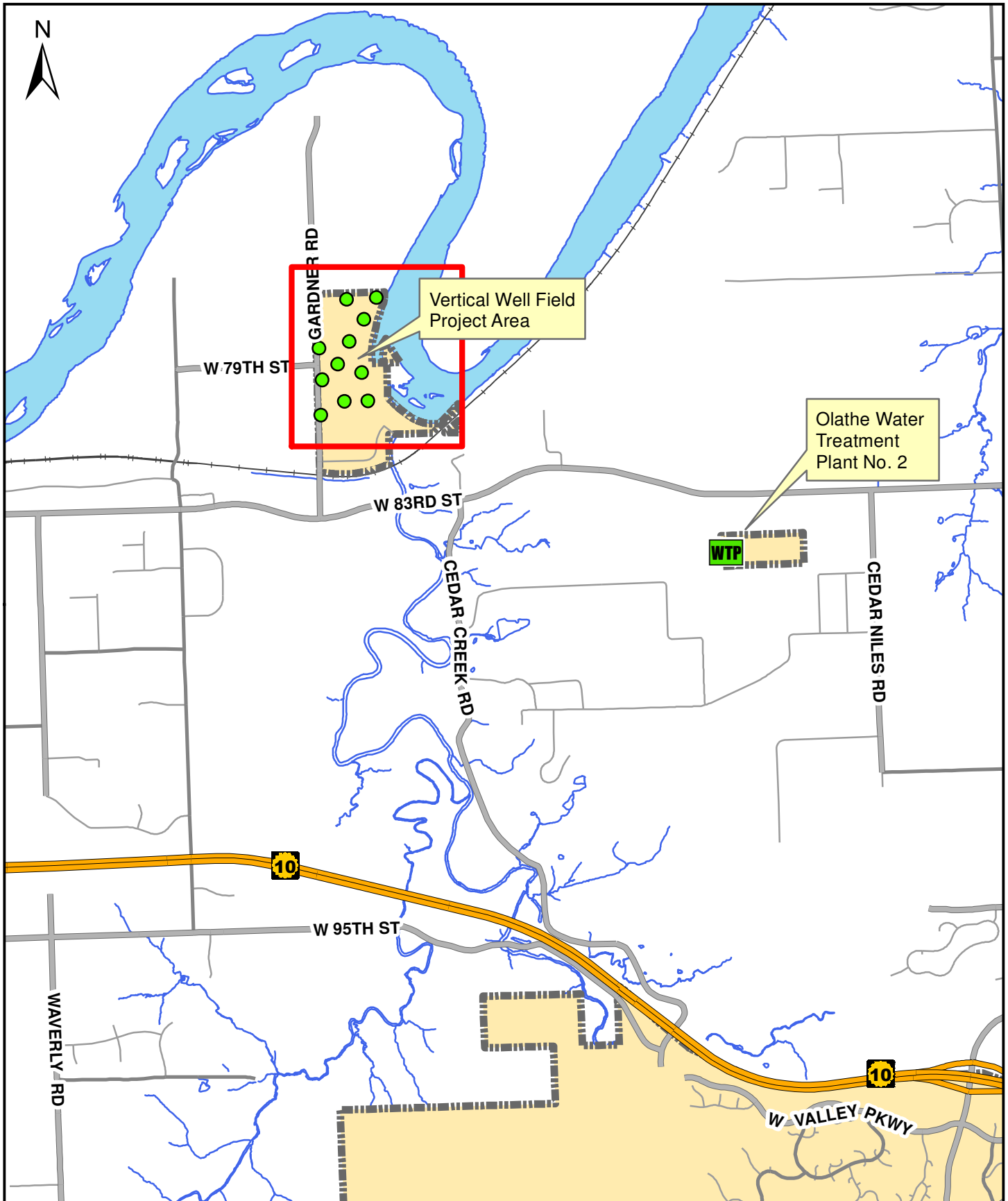
ACTION NEEDED:

Approval of an Agreement with Crossland Heavy Contractors, Inc. for pre-construction services for the Vertical Well Field Improvements Project, PN 5-C-031-18.

ATTACHMENT(S):

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

Project Location Map
Vertical Well Field Improvements Project
PN 5-C-031-18





Project Fact Sheet
Vertical Well Field Improvements Project
5-C-031-18
April 7, 2020

Project Manager: Beth Wright / Nicole Woods

Description: This project will replace the City's remaining active vertical wells and will add one additional well for a total of nine new vertical wells. Design and construction of each well site will be phased to allow for implementation based on demand projections and available funding.

Justification: The 2017 Water Master Plan Update recommended replacing the City's aging vertical well field in order to obtain additional water supply capacity and fully utilize the City's most senior water rights.

Schedule:	Item	Date
Design:	RFQ	07/26/2018
	Consultant Selection	11/06/2018
	Facility Plan Complete	08/09/2019
Construction:	Construction Manager at Risk (CMAR) RFQ	01/08/2020
	Construction Manager Selection	04/07/2020
	Guaranteed Maximum Price (GMP)	Summer 2020 – estimate
Council Actions:	Date	Amount
Approved in CIP	2019-2023	\$17,132,700
Professional Service Agreement	11/06/2018	\$ 407,300
Project Authorization	02/05/2019	\$32,000,000
CMAR Pre-Construction Services	04/07/2020	\$ 20,000
CMAR Guaranteed Max Price		
Funding Sources:	Amount	CIP Year
Revenue Bonds	\$4,350,425	2019-2021
SDF Funds	\$1,751,075	2018, 2020
Expenditures:	Budget	Amount to Date
Design	\$ 700,000	\$222,515
Staff	\$ 100,000	\$ 46,738
Misc. Testing	\$ 50,000	\$ 37,000
Inspection	\$ 90,000	\$ 0
Construction	\$5,000,000	\$ 0
Contingency	\$ 161,500	\$ 0
Total	\$6,101,500	\$306,253

**AGREEMENT
BETWEEN OWNER AND CONSTRUCTION MANAGER AS CONSTRUCTOR
(COST OF THE WORK PLUS A FEE WITH GUARANTEED MAXIMUM PRICE)**

THIS AGREEMENT is dated as of the ____ day of _____, 20__ (“Effective Date”), by and between the City of Olathe, Kansas (“Owner”) and Crossland Heavy Contractors, Inc. (“Construction Manager”). Owner and Construction Manager, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – THE PROJECT

- 1.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Vertical Well Field Improvements Project , PN 5-C-031-18.

ARTICLE 2 – GENERAL PROVISIONS

2.01 *Relationship of the Parties*

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Engineer(s) and exercise the Construction Manager’s skill and judgement in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner’s interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

2.02 *General Conditions*

For the Preconstruction Phase, EJCDC® C-700, Standard General Conditions of the Construction Contract, as amended with Supplementary Conditions, shall apply only as specifically provided in this Agreement. For the Construction Phase, the General Conditions of the Contract shall be as set forth in EJCDC® C-700, as amended with Supplementary Conditions, which documents are incorporated herein by reference. The term “Contractor” as used in EJCDC® C-700 shall mean the Construction Manager. The term “Contract Price” as used in EJCDC® C-700 shall mean the Guaranteed Maximum Price.

- 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 Construction Manager in the Supplementary Conditions.

ARTICLE 3 – CONTRACT DOCUMENTS

3.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 1 to 18, inclusive).
 - 2. General Conditions (pages 1 to 65, inclusive).
 - 3. Supplementary Conditions (pages 1 to 29, inclusive).
 - 4. Addenda issued prior to execution of this Agreement.
 - 5. Any amendments to this Agreement with exhibits.
 - 6. Exhibits to this Agreement (enumerated as follows):
 - a. Exhibit A - Construction Manager's Cost Proposal.
 - b. Exhibit B – Construction Manager's Hourly Rate Schedule.
 - c. Exhibit C – Questionnaire of Personnel Practices and Certificate of Compliance
 - d. Exhibit D – Certificate of Good Standing to Conduct Business in Kansas
 - e. Exhibit E – Insurance Certificate and Endorsements
 - f. Exhibit F – Letter from Surety indicating the bonding capacity of Construction Manager.
 - g. Exhibit G – Non-collusive Affidavit of Prime Bidder.
 - 7. The following which may be identified in the Guaranteed Maximum Price Amendment to this Agreement upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal and are not attached hereto:
 - a. Drawings.
 - b. General Requirements.
 - c. Technical Specifications.
 - d. Addenda issued for development of the Guaranteed Maximum Price.
 - e. Construction Manager's Guaranteed Maximum Price proposal.
 - f. Performance & Maintenance bond.
 - g. Statutory bond.
 - 8. The following which may be issued after the Guaranteed Maximum Price Amendment to this Agreement 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 3.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. The Contract Documents may only be amended, modified, or supplemented by Amendment to this Agreement during the Preconstruction Phase or through a Change Order as provided in the General Conditions during the Construction Phase.

ARTICLE 4 – CONSTRUCTION MANAGER’S RESPONSIBILITIES

4.01 The Construction Manager’s responsibilities are set forth in Paragraphs 4.02 and 4.03 below. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

4.02 *Preconstruction Phase*

The Construction Manager shall provide a preliminary evaluation of the Owner’s program, schedule, and construction budget requirements, each in terms of the other. The Preconstruction Phase shall be complete upon the Owner’s acceptance of the Guaranteed Maximum Price and execution of the Guaranteed Maximum Price Amendment, unless otherwise agreed upon by Owner and Construction Manager.

- A. The Construction Manager shall actively engage with the Owner, Engineer(s), and other design professionals in a manner encouraging and supporting collaboration, cooperation, open communication, and trust.
- B. The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules, and regulations, but the Construction Manager shall promptly report to the Owner and Engineer(s) any nonconformity discovered by or made known to the Construction Manager as Request for Information in such form the Engineer may require.
- C. The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities for inclusion in the Contract Documents.
- D. The Construction Manager shall prepare an initial cost estimate and schedule for the Project based on documents available at the time the cost is prepared. The cost shall be itemized for each division of work and separated by project identified in Article 1, but it shall be assumed the projects will occur concurrently or in immediate sequence for the purposes of developing the costs of general conditions, bonds, insurance, and the Construction Manager’s fee. The Owner and Engineer(s) will review the initial cost estimate and it will serve as a starting point for design development.
- E. As requested and required by the Owner and/or Engineer(s), the Construction Manager shall thoroughly evaluate the design plans and project specifications for completeness, constructability, maintainability, potential conflicts and problems, and errors and shall

provide written comments and discuss the outcome of such reviews with Owner and Engineer(s).

- F. The Construction Manager shall participate in meetings with the Owner and Engineer to discuss such matters as procedures, progress, coordination, scheduling, and value engineering of the Work. The schedule of such meetings shall be determined by the Owner and shall be mutually agreeable with the Construction Manager and Engineer(s). The Construction Manager shall, consistent with the Project requirements, advise the Owner and the Engineer on proposed site use and improvements; selection of materials; building systems, and equipment; constructability; availability of materials and labor; time requirements for procurement installation, and construction; and factors related to construction including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.
 - 1. The Construction Manager shall participate in one (1) kick-off meeting to review communication protocols, preconstruction schedule, and project scopes.
 - 2. The Construction Manager shall participate in three (3) meetings to review the initial cost estimate and to facilitate a value engineering effort to develop and evaluate potential project savings through means of construction, design modifications, alternative materials, and schedule optimization. The Construction Manager shall provide cost evaluations of proposed modifications.
- G. The Construction Manager shall develop a schedule for the construction of the project(s), collaborating with the Owner and Engineer(s) to provide information regarding the availability of materials and labor, procurement of materials and equipment having long-lead times, phased construction, project sequencing, and other factors impacting the time of construction.
- H. The Construction Manager shall identify and evaluate opportunities to accelerate the construction schedule by means of early bid packages or phased construction and determine the benefits and risks of such.
- I. The Construction Manager shall prepare, for the Owner and Engineers' review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager thereafter shall accept responsibility for them.
- J. The Construction Manager shall collaborate with the Owner and Engineers on developing bid packages, subcontractor lists, and subcontractor prequalification criteria for all scopes of work. The Construction Manager shall actively engage the subcontractor market to heighten interest in the project.
- K. The Construction Manager shall, at an agreed upon time, provide the Owner with a Guaranteed Maximum Price proposal for the complete construction of the Project.
 - 1. The Guaranteed Maximum Price shall be the sum of the Construction Manager's estimate of the cost of the Work as described in Article 13 of the General Conditions, except where modified herein. The Guaranteed Maximum Price shall include

contingencies as described in Paragraph 4.02.K.2 below; the costs of general conditions, bonds, and insurance as described in the Construction Manager's Cost Proposal, and the Construction Manager's fee as described in the Construction Manager's Cost Proposal.

2. In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the cost of the Work but not included in a Change Order.
 - a. To the extent that the Drawings and Specifications are anticipated to require further development by the Engineer(s), the Construction Manager shall provide in the contingency for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment all of which, if required, shall be incorporated into a Change Order.
3. Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager.
 - a. Paragraph 7.06 of the General Conditions shall apply to the Preconstruction Phase, except where modified herein.
 - b. The Construction Manager shall submit to Owner a list of pre-qualified subcontractors which the Construction Manager intends to obtain bids. The Construction Manager shall also submit documentation identifying the Construction Manager's subcontractor pre-qualification process.
 - c. If the Construction Manager recommends a specific bidder or subcontractor that may be considered a "related party" according to Paragraph 13.06 of this Agreement, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction according to Paragraph 13.06.
 - d. The Owner may suggest specific subcontractors from whom the Construction Manager shall take bids. If the Construction Manager does not have a reasonable objection to the specific subcontractor, the Construction Manager shall provide the subcontractor with the Construction Manager's pre-qualification documentation in order to provide an opportunity for these subcontractor to become pre-qualified.
 - e. The Construction Manager shall obtain bids from subcontractors and suppliers and after analyzing such bids, shall deliver to the Owner and Engineer(s) a summary of all bids received for review. Additionally, if requested by the Owner, the Construction Manager shall deliver copies of all bids received to the Owner and Engineer(s) for their review. The Owner shall then determine, with the advice of the Construction Manager and Engineer(s), which bids shall be accepted.
 - f. Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a

cost plus a fee basis, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager.

4. The Guaranteed Maximum Price proposal shall be itemized for each division of work and for each project, with subtotals given for each project indicated in Article 1. It shall be assumed for the purposes of development of the Guaranteed Maximum Price that the projects indicated in Article 1 will be sequenced to occur as a single effort.
5. The Construction Manager shall refer to Paragraph SC 7.09 of the Supplementary Conditions regarding the Owner's tax-exempt status.
6. The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:
 - a. A list of the Drawings, Specifications, Addenda, and other Contract Documents used in preparation of the Guaranteed Maximum Price proposal.
 - b. A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Paragraph 4.02.K.2 to supplement the information provided by the Owner and contained in the Drawings and Specifications. All such clarifications and assumptions shall take precedence over the Engineers' documents used to establish the Guaranteed Maximum Price only to the extent they are clearly annotated in writing and submitted to the Owner and Engineer, and subsequently approved in writing by the Owner.
 - c. The anticipated date of Substantial Completion and Final Completion upon which the proposed Guaranteed Maximum Price is based.
 - d. The date by which the Owner must accept the Guaranteed Maximum Price.
7. The Construction Manager shall meet with the Owner and Engineers to review the Guaranteed Maximum Price proposal. In the event that the Owner or Engineer(s) discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.
8. If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which will be provided to the Engineer(s). The Guaranteed Maximum Price Amendment shall set forth the agreed-upon Guaranteed Maximum Price and information and assumptions upon which it is based, including Contract Time.

4.03 *Construction Phase*

The Construction Phase shall commence upon written Notice to Proceed from the Owner following execution of the Guaranteed Maximum Price Amendment. The Construction Manager

shall not incur any costs related to construction of the Work or the Guaranteed Maximum price prior to the Notice to Proceed unless the Owner provides written authorization for such costs.

- A. The Construction Manager shall provide all services required for the complete management and performance of construction of the Project as set forth in Article 7 of the General Conditions and as amended by the Supplementary Conditions.
 - B. The Owner shall authorize the Engineer to provide revisions to the Contract Documents to incorporate the agreed-upon clarifications and assumptions contained in the Guaranteed Maximum Price Amendment and to complete the design as referenced in Paragraph 4.02.K.2.a. The Owner shall promptly furnish the revised Drawings and Specifications to the Construction Manager upon completion.
 - 1. The Construction Manager shall notify the Owner and Engineer of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Contract Documents.
 - 2. If the inconsistencies affect the Guaranteed Maximum Price or the Contract Time, the Construction Manager shall follow Articles 11 and 13 of the General Conditions.
 - C. The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work.
 - 1. Meetings shall be held on-site on a biweekly basis with Owner's representatives, Construction Manager's superintendent, and the Resident Project Representative.
 - 2. Meetings shall be held monthly with Construction Manager's project manager, Construction Manager's superintendent, Owner's representatives, Resident Project Representative, and Engineer's representatives.
 - D. The Construction Manager shall prepare, submit, and maintain a detailed construction schedule as required in Paragraphs SC 2.03.A.1 and 4.04 of the General and Supplementary Conditions identifying sequencing of construction activities and milestones necessary for the completion of the Work within the Contract Times.
 - E. The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner on a monthly basis.
- 4.04 Paragraph 5.06 of the General Conditions, as amended by the Supplementary Conditions, regarding hazardous environmental conditions at the Site shall apply to both the Preconstruction and Construction Phases.
- 4.05 Paragraph 7.18 of the General Conditions as amended by the Supplementary Conditions, regarding indemnification shall apply to both the Preconstruction and Construction Phases.
- 4.06 Paragraph 7.19 of the General Conditions regarding professional design services shall apply to both the Preconstruction and Construction Phases.

ARTICLE 5 – OWNER'S RESPONSIBILITIES

- 5.01 The Owner's responsibilities for the Preconstruction Phase are outlined in Paragraphs 5.02 through 5.04. The Owner's responsibilities for the Construction Phase are as outlined in Article 9 of the General Conditions.

5.02 *Information and Services Required of the Owner*

- A. The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, budget with reasonable contingencies, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.
- B. The Owner shall provide access for the Construction Manager to enter public and private property related to the Project and performance of Construction Manager's obligations under this Agreement.
- C. The Owner shall furnish information identified in Article 5 of the General Conditions that are relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager's reliance on such information is as described in the General Conditions.
- D. The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the cost of the Work as estimated by the Construction Manager, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the cost of the Work, the Owner shall notify the Construction Manager and Engineer. The Owner and the Engineer, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.
- E. Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request evidence of financial arrangement in accordance with Article 9.11 of the General Conditions.

5.03 *Owner's Designated Representative*

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or work of the Construction Manager. Except as otherwise provided in Article 10 of the General Conditions, the Engineer does not have such authority. The authority of the Owner's authorized representative to make decisions on behalf of the Owner shall be limited to those decisions customarily allowed in the capacity of the representative's position. Certain decisions of the Owner may require action or approval by other staff, commissions, or the governing body of the City of Olathe. The Owner's representative shall not be required to make decisions on matters which the representative is not authorized to make. It is the responsibility of the Owner's representative to determine which action or approval can be made by the Owner's representative or is required to be made by others. The Construction Manager is entitled to rely upon the action or approval provided by the Owner's representative as binding and authorized action or approval.

5.04 *Legal Requirements*

The Owner shall furnish all Owner-related legal, accounting, insurance, and auditing services that may be necessary at any time for completion of the Project. However, in no event shall any Owner-related legal, accounting insurance, and auditing services be provided on behalf of the

Construction Manager providing such services to the Owner, nor shall the Construction Manager serve any other role than as an independent contractor of the Owner.

ARTICLE 6 – ENGINEER

- 6.01 The Project has been designed by Burns & McDonnell Engineering, Inc.
- 6.02 The Owner has retained Burns & McDonnell Engineering, Inc. (“Engineer”) to act as Owner’s representatives, 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 of their respective projects in accordance with the Contract Documents.

ARTICLE 7 – COMPENSATION FOR PRECONSTRUCTION PHASE SERVICES

7.01 Compensation

The Owner shall pay the Construction Manager a fixed lump sum amount, including all reimbursable expenses, not to exceed \$20,000.00 for Preconstruction Phase Services.

- A. The fee is based on completion of the Preconstruction Phase services, the services of which are described in Paragraph 4.02 of this Agreement.
- B. Reimbursable expenses must be authorized by the Owner in writing in advance and may include: expense of transportation in connection with the Project; expenses in connection with authorized out-of-town travel, long-distance communications, expenses of printing and reproductions, postage and facsimile transmissions, expenses of renderings and models requested by the Owner, and other costs as authorized by the Owner in writing.
- C. If the Owner authorizes by an amendment to the Agreement, Preconstruction Phase services in addition to the services outlined in Paragraph 4.02 of this Agreement, the Construction Manager’s compensation for Preconstruction Services shall be adjusted by Amendment for any additional services provided by the Construction Manager based upon the actual hours incurred by the Construction Manager’s staff multiplied by the hourly rates for the staff as shown in the Construction Manager’s hourly rate schedule of Exhibit A.

7.02 Payments

- A. The Construction Manager may bill the Owner monthly for completed Preconstruction Services and reimbursable expenses. The invoice submitted by the Construction Manager must itemize the services and reimbursable expenses for which payment is requested.
- B. Owner agrees to pay the Construction Manager within thirty (30) days.

ARTICLE 8 – COMPENSATION FOR CONSTRUCTION PHASE SERVICES

8.01 Contract Price

- A. The Owner shall pay the Construction Manager for completion of the Work as described in Paragraph 4.03 and in accordance with the Contract Documents in current funds. The Owner and Construction Manager agree the amount of the Contract Price will be identified in the Guaranteed Maximum Price amendment.
- B. The Construction Manager guarantees that the Contract Price shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it

is amended from time to time by Change Order. To the extent the cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.

- C. The Guaranteed Maximum Price, Substantial Completion Date, and Final Completion Date are subject to additions and deductions by Change Order as provided in the General Conditions.

8.02 *Construction Manager's Fee*

The Construction Manager's fee shall be computed based upon the cost of the Work, as defined in Article 13 of the General Conditions, multiplied by **5.75 percent (5.75%)**.

- A. The Owner and Construction Manager agree the amount of the Construction Manager's fee will be computed at the time the Guaranteed Maximum Price is developed and the amount will be identified in the Guaranteed Maximum Price Amendment.
- B. The fee shall be identified in the Schedule of Values, earned as work progresses, and billed monthly as part of the Construction Manager's Applications for Payment.

8.03 *General Conditions*

- A. The cost of general conditions shall be computed based upon the cost of the Work, as defined in Article 13 of the General Conditions, multiplied by **8.00 percent (8.00%)**.
 - 1. General conditions cost elements include: payroll costs and other compensation of Construction Manager's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety manager, engineers, architects, estimators, attorneys, auditors, accountants, clerical, purchasing and contracting agents, timekeepers, clerks, information technology, and other principal and branch office staff; expenses of Construction Manager's principal and branch offices other than the Construction Manager's office at the Site; field office and expenses including office furniture, equipment and supplies, temporary utilities, computers, software, telephones, and fax; printing and plan reproduction; postage, express mail, and messenger service; on-Site and off-Site staff vehicles and transportation costs; project staff sustenance cost; job meeting materials; first aid supplies; royalties; general protection and safety; including temporary construction fence, barricades, lights, traffic control, and other devices; winter weather protection and heating; temporary toilets; general light duty tools and supplies of the Construction Manager; general construction photographs; project sign; routine cleanup; final cleanup; operation and maintenance manuals and materials; and warranty inspections and coordination.
 - 2. The Owner and Construction Manager agree the amount of general conditions will be computed at the time the Guaranteed Maximum Price is developed and the amount will be identified in the Guaranteed Maximum Price Amendment.
 - 3. The cost shall be identified in the Schedule of Values, earned as work progresses, and billed monthly as part of the Construction Manager's Application for Payment.

8.04 *Bonds and Insurance*

- A. The cost of bonds and insurance provided by the Construction Manager shall be computed at the following rates: Insurance at **0.5%**; Bonds at **0.8%**.

1. The Owner and Construction Manager agree the amount of bonds and insurance will be computed at the time the Guaranteed Maximum Price is developed and the amount will be identified in the Guaranteed Maximum Price Amendment.
2. The cost shall be identified in the Schedule of Values and may be billed when the cost is incurred as part of the Construction Manager's Application for Payment.

8.05 *Changes in the Work*

- A. The Contract Documents may be amended or supplemented as provided for in the General Conditions.
- B. Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price amendment may be determined in accordance with Articles 11 and 13 of the General Conditions.
- C. For changes in the Work that either increase or decrease the Guaranteed Maximum Price, the Construction Manager's fee shall be equitably adjusted at the rate identified in Paragraph 8.02.
- D. For changes in the Work that either increase or decrease the Guaranteed Maximum Price, the cost of general conditions shall be equitably adjusted at the rate identified in Paragraph 8.03.
- E. For changes in the Work that either increase or decrease the Guaranteed Maximum Price, the cost of bonds and insurance shall be equitably adjusted at the rates identified in Paragraph 8.04.
- F. For changes in the Work of subcontracts that either increase or decrease the Guaranteed Maximum Price, the Subcontractor's fee shall be determined in accordance with Article 11 of the General Conditions and the Construction Manager's fee shall be equitably adjusted at the rate identified in Paragraph 8.02.

8.06 *Progress Payments*

- A. Construction Manager shall submit Applications for Payment in accordance with Article 15 of the General Conditions except where modified herein. Applications for Payment will be processed as provided in the General Conditions.
 1. The format of the progress payments will be as set forth by the Owner.
 2. The period covered by each Application for Payment shall be a minimum of four (4) weeks.
 3. The Owner will provide the Construction Manager with a schedule identifying dates established by the Owner for the issuance of progress payments. The Owner, Engineer, and Construction Manager will review this schedule and develop a project specific schedule identifying dates for the submittal and review of the Construction Manager's Applications for Payment and the Owner's subsequent payment to the Construction Manager.
 4. The Application for Payment shall be deducted by the shortfall, if any, indicated by the Construction Manager in the documentation required by Paragraph 8.08.A to substantiate prior Applications for Payment, or resulting from error subsequently discovered by the Owner's auditors in such documentation.

5. The Owner and Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors.
- B. Owner shall make progress payments on account of the Contract Price on the basis of Construction Manager's Applications for Payment as provided in the schedule referenced in Paragraph 8.06.A.3, 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.
 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).
 - C. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Construction Manager 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.

8.07 *Final Payment*

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

8.08 *Accounting Records and Auditing*

- A. With each Application for Payment, the Construction Manager shall be prepared to make available to the Owner but not submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Engineer to demonstrate that cash disbursements already made by the Construction Manager on account of Cost of the Work equal or exceed progress payments already received by the Construction Manager, less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.
- B. The Construction Manager shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Agreement and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda, and other data relating to the Contract. The

Construction Manager shall preserve these records for a period of three (3) years after final payment, or for such longer period as may be required by law.

- C. The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days of delivery of the final accounting to the Owner by the Construction Manager. Based upon such cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting and provided the conditions of Paragraph SC 15.06.A of the Supplementary Conditions have been met, the Engineer will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate of Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Engineer's reasons for withholding certificate as provided in Paragraph 15.01.C of the General Conditions. The Engineer is not responsible for verifying the accuracy of the Construction Manager's final accounting.
- D. If the Owner's auditors report the cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount pursuant to Paragraph 12.01.D of the General Conditions. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Engineer's final Certificate for Payment. Failure to request mediation within this period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Engineer's final Certificate for Payment.

ARTICLE 9 – INTEREST

- 9.01 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 10 – BONDS AND INSURANCE

10.01 Bonds

- A. The Construction Manager shall furnish a Performance and Maintenance Bond and a Statutory Bond as required in the General Conditions and Supplementary Conditions. The amount of each bond shall be equal to one-hundred percent (100%) of the Guaranteed Maximum Price.
- B. The Construction Manager shall deliver the required bonds to the Owner no later than ten (10) days after the Owner's approval of the Guaranteed Maximum Price Amendment. In no case shall the Construction Manager commence Work at the project site until such time as the bonds have been received and approved by Owner.

10.02 Insurance

- A. The Construction Manager shall be required to maintain and carry in force for all phases of the Contract insurance coverage of the types and meeting or exceeding the minimum coverage amounts identified in the General Conditions and Supplementary Conditions.

ARTICLE 11 – DISPUTE RESOLUTION

11.01 Any Claim between Owner and Construction Manager for all phases of the Contract shall be resolved in accordance with Articles 12 and 17 of the General Conditions.

ARTICLE 12 – TERMINATION OR SUSPENSION

12.01 Article 16 of the General Conditions shall apply to all phases of the Project, except where modified herein.

12.02 *Termination During Preconstruction Phase*

- A. Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven (7) days of written notice to the Construction Manager for the Owner's convenience and without cause.
- B. In the event of a termination of this Agreement pursuant to Paragraph 12.02.A, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Paragraph exceed the compensation set forth in Paragraph 7.01.A of this Agreement.
- C. If the Owner terminates the Contract pursuant to Paragraph 12.02.A and Owner has authorized in writing pursuant to Paragraph 4.03 for Construction Manager to incur costs associated with the cost of the Work prior to the commencement of the Construction Phase, the Owner shall pay to the Construction Manager the cost of the Work incurred by the Construction Manager to the date of termination and the Construction Manager's fee, general conditions, bonds and insurance as outlined in Paragraphs 8.02, 8.03, and 8.04. In this case, all other provisions of Article 16 of the General Conditions shall apply.

12.03 *Termination During Construction Phase*

- A. Following execution of the Guaranteed Maximum Price Amendment, the Contract may be terminated as provided in Article 16 of the General Conditions, subject to the provisions herein.
- B. If the Owner terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager pursuant to Paragraphs 16.02 and 16.03 of the General Conditions, as amended by the Supplementary Conditions, shall not exceed the amount of the Cost of the Work incurred by the Construction Manager to the date of termination and the Construction Manager's fee, general conditions, bonds and insurance as outlined in Paragraphs 8.02, 8.03, and 8.04. In this case, all other provisions of Article 16 of the General Conditions shall apply.

ARTICLE 13 – MISCELLANEOUS

13.01 *Terms*

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

13.02 *Titles, Subheads, and Capitalization*

- A. Title and subheadings as used herein are provided only as a matter of convenience and shall 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 capital shall have no legal bearing on the interpretation of such terms.

13.03 *Ownership and Use of Documents*

- A. The Engineer(s) and their respective subconsultants shall be deemed the authors and owners of their respective technical documents including Drawings and Specifications. Provided all payments have been made to Engineer in accordance with its agreement with Owner, the technical documents are the Owner's exclusive property. The Owner owns all copyrights in and to the technical documents. The Construction Manager, Subcontractors, and material or equipment suppliers shall not own or claim a copyright in the technical documents. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner's reserved rights.

13.04 *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.

13.05 *Successors and Assigns*

- A. Owner and Construction Manager 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.

13.06 *Related Party Transactions*

- A. For the purposes of this paragraph, the term "related party" shall mean a parent, subsidiary, affiliate, or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.
- B. If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or services from the related party, as Subcontractor, according to the terms of the Agreement and General Conditions. If the

Owner fails to authorize the transaction, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of the Agreement and General Conditions.

13.07 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 Construction Manager, 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.

13.08 No Third Party Beneficiaries

- A. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

13.09 Independent Contractor

- A. The Construction Manager is an independent contractor and as such is not an agent or employee of the City of Olathe, Kansas.

13.10 Affirmative Action/Other Laws

- A. Construction Manager shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, ancestry, or age;
- B. During the performance of this Agreement, the Construction Manager agrees that:
 - 1. In all solicitations or advertisements for employees, the Construction Manager shall include the phrase, "equal opportunity employer," or similar phrase to be approved by the commission;
 - 2. If the Construction Manager fails to comply with the manner in which the Construction Manager reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Construction Manager shall be deemed to have breached the present contract and it may be cancelled, terminated, or suspended, in whole or in part, by the Owner without penalty;
 - 3. If the Construction Manager is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, the Construction Manager shall be deemed to have breached the present contract and it may be cancelled, terminated, or suspended, in whole or in part, by the contracting agency; and
 - 4. The Construction Manager shall include the provision of this Paragraph 13.10 in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
- C. The provisions of this paragraph shall not apply to a contract entered into by the Owner with Construction Manager if:

1. Construction Manager employs fewer than four employees during the term of such contract; or
 2. Construction Manager's contract with the Owner totals \$10,000 or less in aggregate.
- D. The Construction Manager further agrees and acknowledges that it shall 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. 1201 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.

13.11 Construction Manager's Certifications

- A. Construction Manager 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 13.11:
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.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Owner and Construction Manager have signed this Agreement.

OWNER:

CONSTRUCTION MANAGER:

City of Olathe, Kansas

By:

By:

Title: City Manager

Title:

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

Attest:

Attest:

Title:

Title:

Address for giving notices:

P.O. Box 768

Olathe, KS 66051-0768

Address for giving notices:

Construction Manager'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:

Deputy City Attorney



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Public Works

STAFF CONTACT: Mary Jaeger / Beth Wright

SUBJECT: Funding agreement with Johnson County for construction of the Lake Side Acres Street Reconstruction Project, PN 3-R-002-20; the Lake Side Acres Sanitary Sewer Rehabilitation Project, PN 1-R-104-17; and the Stevenson Street Stormwater Improvements Project, PN 2-C-014-18.

ITEM DESCRIPTION:

Consideration of an Agreement with Johnson County for construction of the Lake Side Acres Street Reconstruction Project, PN 3-R-002-20; the Lake Side Acres Sanitary Sewer Rehabilitation Project, PN 1-R-104-17; and the Stevenson Street Stormwater Improvements Project, PN 2-C-014-18.

SUMMARY:

On February 18, 2020, City Council awarded a contract to VF Anderson Builders, LLC in the amount of \$3,542,136.85 for construction of Lake Side Acres Street Reconstruction Project; the Lake Side Acres Sanitary Sewer Rehabilitation Project; and the Stevenson Street Stormwater Improvements Project.

This project will provide full street reconstruction of E. Sheridan Street, S. Stevenson Street, E. Oak Street, S. Hamilton Street, S. Hamilton Circle, and S. Curtis Street; rehabilitate structurally failing sanitary sewers in the Lake Side Acres neighborhood which were identified in the Neighborhood Rehabilitation Program as requiring replacement; and address street and house flooding along S. Stevenson Street near E. Sheridan Street, alleviating flood risk to eight (8) homes.

The stormwater portion of this project is the first of six identified neighborhood flood control projects located outside the FEMA regulated floodplain.

The total estimated cost of the project is \$4,503,600. This project was chosen to be funded by the Johnson County Stormwater Management Advisory Council (SMAC) program in the amount of \$1,606,902 for the design and construction of the project. This amount is 75% of the eligible stormwater improvements portion of the project (\$2,142,536). In order to accept this funding, the city must approve an inter-local agreement with the Johnson County SMAC program.

Construction has begun and is tentatively scheduled to be completed in Spring 2021.

FINANCIAL IMPACT:

The design and construction of the Lake Side Acres Street Reconstruction Project, the Lake Side Acres Sanitary Sewer Rehabilitation Project, and the Stevenson Street Stormwater Improvements Project is funded from the following sources:

Street Reconstruction Program	\$1,600,000
Water & Sewer Funds	\$ 526,350
Johnson County SMAC Program	\$1,606,902

MEETING DATE: 4/7/2020

Revenue Bonds (Stormwater)	\$ 659,100
<u>Stormwater Fund</u>	<u>\$ 111,248</u>
Total	\$4,503,600

ACTION NEEDED:

Approval of an Agreement with Johnson County for construction of the Lake Side Acres Street Reconstruction Project, PN 3-R-002-20; the Lake Side Acres Sanitary Sewer Rehabilitation Project, PN 1-R-104-17; and the Stevenson Street Stormwater Improvements Project, PN 2-C-014-18.

ATTACHMENT(S):

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

Lake Side Acres Street Reconstruction (3-R-002-20)
Lake Side Acres Sanitary Sewer Rehabilitation (1-R-104-17)
Stevenson St. Stormwater Improvements (2-C-014-18)
Project Location Map





Project Fact Sheet
Lake Side Acres Street Reconstruction Project, 3-R-002-20
Lake Side Acres Sanitary Sewer Improvements, 1-R-104-17
Stevenson Street Stormwater Improvements, 2-R-014-18
April 7, 2020

Project Manager: Beth Wright / Nicole Woods

Description: This project will include full removal and replacement of current roadway surface along with subgrade improvements, curb and gutter replacement, spot replacement of existing sidewalk, installation of new sidewalks, and replacement of driveway approaches as required. The sanitary sewer improvements will consist of the replacement of existing sanitary sewer pipe and manholes. The stormwater improvements project includes improvements to stormwater infrastructure and existing drainage channel near S. Stevenson Street and E. Sheridan St.

Justification: This project is needed to provide full street reconstruction of E. Sheridan Street, S. Stevenson Street, E. Oak Street, S. Hamilton Street, S. Hamilton Circle, and S. Curtis Street; rehabilitate structurally failing sanitary sewers in the Lake Side Acres neighborhood which were identified in the Neighborhood Rehabilitation Program as requiring replacement; and address street and house flooding along S. Stevenson Street near E. Sheridan Street, alleviating flood risk to eight (8) homes.

Schedule:	Item	Date
Design:	RFQ	10/22/2018
	Consultant Selection	01/22/2019
Construction:	Bid Award	02/18/2020
	Completion	03/31/2021 - Estimate
Council Actions:	Date	Amount
Approved in CIP (Neighborhood Sanitary Sewer Improvements)	2016-2020	\$2,000,000
Approved in CIP (Stevenson Street, Grace Ter. to Oak St.)	2019-2023	\$2,645,000
Approved in CIP (Street Reconstruction Program)	2019-2023	\$25,500,000
Project Authorization (Water and Sewer System Revenue Bonds)	07/07/2015	\$66,500,000
Project Authorization (Storm Water Revenue Bond)	08/21/2018	\$33,995,000
Project Authorization (2020 Street Reconstruction Program)	01/22/2019	\$5,100,000
Professional Service Agreement	01/22/2019	\$440,110
Design Agreement with Johnson County	03/05/2019	\$199,672.50
Accept Bid/Award Contract	02/18/2020	\$3,542,136.85
Construction Agreement with Johnson County	04/07/2020	\$1,606,902
Stream Mitigation Credits Purchase	04/07/2020	\$65,061

Funding Sources:	Amount	CIP Year
Street Reconstruction Program	\$ 1,600,000	2020
Water & Sewer Funds	\$ 526,350	2017
Johnson County SMAC Program	\$ 1,606,902	2020
Revenue Bonds	\$ 659,100	2019
Stormwater Fund	\$ 111,248	2018
Expenditures:	Budget	Amount to Date
Design	\$ 480,000	\$ 370,970
Land Acquisition	\$ 20,000	\$ 19,700
Staff	\$ 120,000	\$ 40,490
Utilities	\$ 50,000	\$ 17,836
Construction	\$ 3,640,000	\$ 2,775
Other Project Costs	\$ 20,000	\$ 6,155
Contingency	\$ 173,600	\$ 0
Total	\$ 4,503,600	\$ 457,926

**Agreement between
Johnson County and the City of Olathe
For Construction of a Stormwater Management Project known as
Stevenson Street – East Oak Street to Grace Terrace Stormwater
Improvements
MC-09-028**

This agreement is entered into by and between the Board of County Commissioners of Johnson County, Kansas (the "County") and the City of Olathe (the "City") pursuant to K.S.A. 12-2908.

Recitals

1. Pursuant to K.S.A. 19-3311, by Resolution No. 38-90, the County has established a county-wide retailer's sales tax for the purpose of providing funds for stormwater management projects, and by Resolution No. 76-90, created a Stormwater Management Advisory Council to identify and recommend projects for inclusion in the Stormwater Management Program.
2. The County has established a Stormwater Management and Flood Control Fund for the purpose of funding Stormwater Management Program projects.
3. The County, by Resolution No. 66-92, as modified by Resolution No. 034-94, adopted the Johnson County Stormwater Management Policy and the Administrative Procedures for the Johnson County Stormwater Management Program ("Policy and Procedures") to promote interlocal cooperation between the County and the participating municipalities in stormwater management activities.
4. The County has established a Five-Year Master Plan consisting of a list of proposed stormwater management projects that meet the established criteria for funding from the Stormwater Management and Flood Control Fund. The County, upon the recommendation of the Stormwater Management Advisory Council, has selected certain projects from the Five Year Master Plan to be included in the County's Project Priority List which contemplates the timely design and construction of those selected projects.
5. In accordance with the Policy and Procedures, the City has requested that the County participate in the funding for the construction of the stormwater management project identified as Stevenson Street – East Oak Street to Grace Terrace Stormwater Improvements (the "Project"), which Project is on the County's Project Priority List, and the County is willing to provide such funding upon the terms and conditions set forth in this agreement.

Agreement

In and for the consideration of the mutual covenants contained in this agreement and the mutual benefits to be derived from the Project, the City and the County agree as follows:

- **Policy and Procedures.** The City acknowledges receipt of the Policy and Procedures. The City and County agree that the Project shall be undertaken, constructed, and administered in accordance with the terms and provisions of the Policy and Procedures provided, however, in the event a conflict exists between any provision of the Policy and Procedures and any provision of this agreement, the terms and conditions of this agreement shall control.
- **Estimated Project Cost.** The parties acknowledge and agree that this agreement obligates the parties to proceed with the construction phase of the Project. For budget and accounting purposes, the total project cost including the design engineering, estimated construction engineering and construction costs of the construction phase of the Project is Two Million One Hundred Forty Two Thousand Five Hundred Thirty Six Dollars (\$2,142,536) based upon engineering and design assumptions which the construction contract bid prices and construction inspection contract prices may or may not confirm.
- **Option to Terminate.** Upon receiving construction bids for the Project, the City shall determine the total engineering and construction costs for the construction phase of the Project based upon contract bid amounts. Within seven days of the construction contract bid date, the City shall notify the County, in writing, of the total engineering and construction costs for the construction phase of the Project. In the event total estimated construction engineering and construction costs for the construction phase of the Project exceed the Stormwater Management Program's estimated construction phase cost of the Project, the City and the County each shall have the option of terminating this agreement as set forth in this Paragraph.

The City agrees to notify the County whether it desires to terminate this agreement within thirty days following the bid date of the contract. Within thirty days after the City gives its notice of intent to terminate this agreement to the County, the County may, at its option, elect to contribute additional funds to the Project in an amount sufficient to cover any and all additional expenditures over and above the design and estimated construction cost of Two Million One Hundred Forty Two Thousand Five Hundred Thirty Six Dollars (\$2,142,536) in which event this agreement shall not terminate but shall continue in full force and effect except that the County's obligation for Project costs shall be increased accordingly.

Should the total engineering and construction costs for the construction phase of the Project exceed the amount of this agreement, the County agrees to either:

- a. Notify the City of the County's intent to terminate this agreement and re-prioritize the Project within thirty days of the receipt of the notification of total

engineering and construction costs for the construction phase of the Project,
or;

- b. Authorize the City to proceed with the construction of the Project.

Within thirty days after the County gives its notice of intent to terminate this agreement to the City, the City may, at its option, elect to contribute additional funds to the Project in an amount sufficient to cover any and all additional expenditures over and above the amount of this agreement in which event this agreement shall not terminate but shall continue in full force and effect except that the City's obligation for the Project costs shall be increased accordingly.

Within sixty days from the date of the termination of this agreement as provided in this Paragraph, the City shall provide the County with a final accounting of Project costs and the County's share of such costs whereupon the County shall reimburse the City subject to the limitations set forth in the Policy and Procedures and in this agreement.

Upon the termination of this agreement as provided in this Paragraph, the Project shall be re-prioritized according to the Policy and Procedures.

- **Project Construction.** The City agrees to select a responsible and qualified contractor or contractors to undertake and complete the construction of the Project according to the Final Plans and Specifications ("Project Contractor"). The parties agree that it shall be the City's obligation to comply with and, to extent reasonably practical, to require the Project Contractor comply with, all applicable laws and regulations governing public contracts, including all applicable non-discrimination laws and regulations.
- **Administration of Project.** It is acknowledged and agreed that the City shall enter into all contracts relating to the Project in its own name and not as the agent of the County. The City agrees to be solely responsible for the administration of all construction and other contracts for the Project. Any contract disputes shall be resolved by the City at the City's sole cost and expense.

The City shall be responsible for requiring adequate performance and payment bonds for the Project from the Project Contractor. The City shall discharge and satisfy any mechanic's or materialman's lien that encumbers the Project and the costs thereof shall not be considered a reimbursable cost under this agreement. Notwithstanding the foregoing, costs and expenses, including reasonable attorneys' fees, incurred by the City to enforce a contract of indemnity under a performance or payment bond shall be reimbursable, subject to any limitations on reimbursement set forth in the Policy and Procedures or this agreement.

The City shall require adequate indemnity covenants and evidence of insurance from contractors and engineering service providers for loss or damage to life or property arising out of the contractor's or engineering service provider's negligent acts or omissions. The required

insurance coverage and limits shall be established by the City but shall not, in any event, be less than \$2,000,000 on a per occurrence basis for general liability coverage for the general contractor and \$1,000,000 professional liability coverage for engineering service providers. The City may, in the exercise of its reasonable judgment, permit any insurance policy required by this agreement to contain a reasonable and customary deductible or co-insurance provision.

The City shall submit to the Finance Director, upon execution of this agreement, a monthly projection of cash flow expenditures for the Project, in substantially the form set out in Exhibit B attached hereto.

- **County Contribution Toward Project Costs.** The County shall reimburse the City from the Stormwater Management and Flood Control Fund for expenditures made by the City for the Project as follows:

Not more than once each calendar month, the City shall submit to the County a request for payment, invoice, or statement satisfactory in form and content to the County Stormwater Engineer detailing total Project costs and expenses, in line-item detail, for the preceding calendar month ("Payment Request") and for year-to-date.

The City's Payment Request shall list, by category, those particular expenditures that are reimbursable according to the Policy and Procedures. The City represents and warrants that each Payment Request shall seek reimbursement for only those expenditures that the City determines, in good faith, to be reimbursable by the County. The County Stormwater Engineer may require the City to supplement the Payment Request as needed to satisfy the County Stormwater Engineer, at his discretion, that the Payment Request accurately reflects properly reimbursable costs and expenses.

The County agrees to make payment to the City within thirty days following the County Stormwater Engineer's approval and acceptance of a properly documented Payment Request in an amount equal to seventy-five percent (75%) of the Payment Request.

Within sixty days from the date of the completion of the Project, the City shall provide the County with a final accounting of Project costs and the County's share of such costs, whereupon the County shall make a final reimbursement to the City as provided in this agreement. For purposes of this agreement, the Project shall be deemed complete on the earliest date upon which any of the following events occur:

- a. The City notifies the County that the Project is complete, subject to usual and customary "punch list" items.
- b. The Project architect or construction engineer issues to the City a certificate of substantial completion for the Project.

- c. The date the County Stormwater Engineer certifies, in good faith, that the Project is substantially complete following an inspection of the Project by the County Stormwater Engineer who shall be accompanied by a City representative.
- **Limitation of Liability.** To the extent permitted by law and subject to the provisions of the Kansas Tort Claims Act, including but not limited to maximum liability and immunity provisions, the City agrees to indemnify and hold the County, its officials, and agents harmless from any cost, expense, or liability not expressly agreed to by the County which result from the negligent acts or omissions of the City or its employees or which result from the City's compliance with the Policy and Procedures.

This agreement to indemnify shall not run in favor of or benefit any liability insurer or third party.

In addition, the City shall, and hereby agrees to, insert as a special provision of its contract with the Project Contractor chosen to undertake the Project construction as contemplated by this Agreement the following paragraphs:

The Project Contractor shall defend, indemnify and save the Board of County Commissioners of Johnson County, Kansas and the City harmless from and against all liability for damages, costs, and expenses arising out of any claim, suit, action or otherwise for injuries and/or damages sustained to persons or property by reason of the negligence or other actionable fault of the Project Contractor, his or her sub-contractors, agents or employees in the performance of this contract.

The Board of County Commissioners of Johnson County, Kansas shall be named as an additional insured on all policies of insurance issued to the Project Contractor and required by the terms of his/her agreement with the City.

- **Notice Addresses.** Any notice required or permitted by this agreement shall be deemed properly given upon deposit in the U.S. mail, postage prepaid and addressed as follows:

If to the County:

Mr. Kent Lage, P.E.
Urban Services Manager
Johnson County Public Works
1800 W. Old 56 Highway
Olathe, KS 66061

If to the City:

Rob Beilfuss
Stormwater Manager
City of Olathe
1385 S. Robinson
Olathe, KS 66061

In addition, any notice required or permitted by this agreement may be sent by telecopier or hand delivered and shall be deemed properly given upon actual receipt by the addressee.

- **Effective Date.** Regardless of the date(s) the parties execute the agreement, the effective date of this agreement shall be _____ provided the agreement has been fully executed by both parties.

**Board of County Commissioners Of
Johnson County, Kansas**

City of Olathe

Ed Eilert, Chairman

Michael Copeland, Mayor

Attest:

Attest:

Lynda Sader
Deputy County Clerk

City Clerk

Approved as to Form:

Approved as to Form:

Robert A. Ford
Assistant County Counselor

City Attorney



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Public Works

STAFF CONTACT: Mary Jaeger / Beth Wright

SUBJECT: Mitigation Credit Reservation and Purchase Agreement for the Lake Side Acres Street Reconstruction Project, PN 3-R-002-20; the Lake Side Acres Sanitary Sewer Rehabilitation Project, PN 1-R-104-17; and the Stevenson Street Stormwater Improvements Project, PN 2-C-014-18.

ITEM DESCRIPTION:

Consideration of a Mitigation Credit Reservation and Purchase Agreement with Swallow Tail LLC for the construction of the Lake Side Acres Street Reconstruction Project, PN 3-R-002-20; the Lake Side Acres Sanitary Sewer Rehabilitation Project, PN 1-R-104-17; and the Stevenson Street Stormwater Improvements Project, PN 2-C-014-18.

SUMMARY:

As part of the federal permitting requirements with the United States Army Corps of Engineers (USACE), the City applied for a permit under Section 404 of the Clean Water Act due to the project impacting an open drainage channel (unnamed tributary to Mill Creek). The USACE conducted a review of the proposed improvements and the condition of the channel and determined the City must purchase stream mitigation credits from an approved mitigation bank. Purchase of the credits is required prior to the USACE release a permit for the modifications to the Mill Creek tributary.

The Mitigation Credit Reservation and Purchase Agreement allows the City to purchase 1301.23 stream credits from Swallow Tail LLC at \$50 per credit for a total of \$65,061. This purchase will allow the project to gain the necessary permit from the USACE. In 2012, the City purchased \$71,155 of mitigation credits from Swallow Tail LLC for the Community Center project, and in 2017, the City purchased \$61,100 of mitigation credits from Swallow Tail LLC for the Indian Creek (Albervan St. to Pflumm Rd.) Stormwater Improvements Project.

This project will provide full street reconstruction of E. Sheridan Street, S. Stevenson Street, E. Oak Street, S. Hamilton Street, S. Hamilton Circle, and S. Curtis Street; rehabilitate structurally failing sanitary sewers in the Lake Side Acres neighborhood which were identified in the Neighborhood Rehabilitation Program as requiring replacement; and address street and house flooding along S. Stevenson Street near E. Sheridan Street, alleviating flood risk to eight (8) homes.

The stormwater portion of this project is the first of six identified neighborhood flood control projects located outside the FEMA regulated floodplain.

Construction has begun and is tentatively scheduled to be completed in Spring 2021.

FINANCIAL IMPACT:

The design and construction of the Lake Side Acres Street Reconstruction Project, the Lake Side Acres Sanitary Sewer Rehabilitation Project, and the Stevenson Street Stormwater Improvements

MEETING DATE: 4/7/2020

Project is funded from the following sources:

Street Reconstruction Program	\$1,600,000
Water & Sewer Funds	\$ 526,350
Johnson County SMAC Program	\$1,606,902
Revenue Bonds (Stormwater)	\$ 659,100
<u>Stormwater Fund</u>	<u>\$ 111,248</u>
Total	\$4,503,600

ACTION NEEDED:

Approval of a Mitigation Credit Reservation and Purchase Agreement with Swallow Tail LLC for the construction of the Lake Side Acres Street Reconstruction Project, PN 3-R-002-20; the Lake Side Acres Sanitary Sewer Rehabilitation Project, PN 1-R-104-17; and the Stevenson Street Stormwater Improvements Project, PN 2-C-014-18.

ATTACHMENT(S):

- A. Project Location Map
- B. Project Fact Sheet
- C. Mitigation Credit Agreement

Lake Side Acres Street Reconstruction (3-R-002-20)
Lake Side Acres Sanitary Sewer Rehabilitation (1-R-104-17)
Stevenson St. Stormwater Improvements (2-C-014-18)
Project Location Map





Project Fact Sheet
Lake Side Acres Street Reconstruction Project, 3-R-002-20
Lake Side Acres Sanitary Sewer Improvements, 1-R-104-17
Stevenson Street Stormwater Improvements, 2-R-014-18
April 7, 2020

Project Manager: Beth Wright / Nicole Woods

Description: This project will include full removal and replacement of current roadway surface along with subgrade improvements, curb and gutter replacement, spot replacement of existing sidewalk, installation of new sidewalks, and replacement of driveway approaches as required. The sanitary sewer improvements will consist of the replacement of existing sanitary sewer pipe and manholes. The stormwater improvements project includes improvements to stormwater infrastructure and existing drainage channel near S. Stevenson Street and E. Sheridan St.

Justification: This project is needed to provide full street reconstruction of E. Sheridan Street, S. Stevenson Street, E. Oak Street, S. Hamilton Street, S. Hamilton Circle, and S. Curtis Street; rehabilitate structurally failing sanitary sewers in the Lake Side Acres neighborhood which were identified in the Neighborhood Rehabilitation Program as requiring replacement; and address street and house flooding along S. Stevenson Street near E. Sheridan Street, alleviating flood risk to eight (8) homes.

Schedule:	Item	Date
Design:	RFQ	10/22/2018
	Consultant Selection	01/22/2019
Construction:	Bid Award	02/18/2020
	Completion	03/31/2021 - Estimate
Council Actions:	Date	Amount
Approved in CIP (Neighborhood Sanitary Sewer Improvements)	2016-2020	\$2,000,000
Approved in CIP (Stevenson Street, Grace Ter. to Oak St.)	2019-2023	\$2,645,000
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Project Authorization (Water and Sewer System Revenue Bonds)	07/07/2015	\$66,500,000
Project Authorization (Storm Water Revenue Bond)	08/21/2018	\$33,995,000
Project Authorization (2020 Street Reconstruction Program)	01/22/2019	\$5,100,000
Professional Service Agreement	01/22/2019	\$440,110
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Stream Mitigation Credits Purchase	04/07/2020	\$65,061

Funding Sources:	Amount	CIP Year
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Revenue Bonds	\$ 659,100	2019
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Expenditures:	Budget	Amount to Date
Design	\$ 480,000	\$ 370,970
Land Acquisition	\$ 20,000	\$ 19,700
Staff	\$ 120,000	\$ 40,490
Utilities	\$ 50,000	\$ 17,836
Construction	\$ 3,640,000	\$ 2,775
Other Project Costs	\$ 20,000	\$ 6,155
Contingency	\$ 173,600	\$ 0
Total	\$ 4,503,600	\$ 457,926

MITIGATION CREDIT RESERVATION AND PURCHASE AGREEMENT

Stevenson Street Stormwater Improvements

This MITIGATION CREDIT RESERVATION AND PURCHASE AGREEMENT (“Agreement”) is made and entered into this 9th day of March, 2020, by and between Swallow Tail, L.L.C. (“Seller”) and the City of Olathe, Kansas (“Purchaser”). Each of Seller and Purchaser is referred to as a “Party” and, collectively, as the “Parties.”

WITNESSETH:

WHEREAS Purchaser has applied to the U.S. Army Corps of Engineers (“USACOE”) for a permit under Section 404 of the Clean Water Act (the “Section 404 Permit”), to allow impacts to regulated surface waters (“Project”). The Project Number assigned by the USACOE is NWK-2019-00986 and the USACOE regulatory project manager is Richard Chong.

WHEREAS, in connection with granting the Section 404 Permit, the USACOE has determined that Purchaser shall be required to create compensatory mitigation due to these proposed impacts resulting from the development of the Project.

WHEREAS, the USACOE has stated in the Section 404 Permit that they concluded that the Project will result in impacts to streams translating to 1,301.23 stream debits.

WHEREAS, as a condition to the issuance of a permit from the USACOE, Purchaser is required to compensate for said impacts, and elects to do so through the purchase of compensatory mitigation from Swallow Tail, L.L.C. for assignment to the

Kansas River and Missouri River Wetland and Stream Umbrella Mitigation Bank (“Mitigation Bank”). Seller retains the right to use a different Mitigation Bank to satisfy some or all of the Purchaser’s compensatory mitigation requirements as long as there is no material effect on the Purchaser and as long as the USACOE does not object to the change. A change in Mitigation Banks will not alter the Purchase Price nor any other provision of this Agreement.

WHEREAS, Purchaser desires to satisfy all 1,301.23 of its required stream debits through the purchase of the corresponding number of credits at the Mitigation Bank from Seller.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, it is agreed by the Parties as follows:

- 1) RECITALS: The recitals are hereby incorporated by this reference.
- 2) COMPENSATION: Purchaser shall, subject to the terms and conditions hereinafter provided, pay to the Seller the sum of **Sixty-Five Thousand Sixty-One DOLLARS (\$65,061)** (“Purchase Price”) for 1,301.23 stream credits at the Mitigation Bank. The Purchase Price is derived from the unit cost of Fifty (\$50) DOLLARS per stream credit. The Purchase Price is to be paid in the manner following:
 - a.) VALIDITY PERIOD: The Purchase Price (\$65,061) is valid until March 9, 2021 and is subject to availability of said credits. If the Purchase Price is not paid in full to Seller by such date, the agreement terminates and the parties shall have no further obligations to each other.

- b.) PAYMENT: Please send payment to Seller at:

Attn: Dan Drake
Swallow Tail, L.L.C.
6240 West 135th Street, Suite 100
Overland Park, KS 66223

- 3) SELLERS WARRANTY: In consideration of the Purchase Price:

- a) Seller affirms that it has sufficient credits today at the Mitigation Bank to satisfy the credits required by Purchaser.
- b) Seller agrees to Reserve and Assign such credits to Purchaser.
- c) Seller represents that the credits purchased pursuant to this Agreement do not expire and last in perpetuity, and such credits satisfy the requirements dictated by the USACOE in the Section 404 Permit.
- d) The parties understand and agree that Purchaser shall have no obligation to perform any responsibility or incur any liability associated with the creation, development, maintenance and/or management of the Mitigation Bank.
- e) Seller shall defend, indemnify and hold harmless the Purchaser for Seller's compliance, and for Seller's failure to comply, and with all Seller's obligations under this Agreement.
- f) Seller shall comply with all applicable law in the performance of this Agreement.

4) NOTICES: Any notices required or permitted hereunder shall be sufficiently given if delivered by overnight courier, by United States mail, return receipt requested, or by facsimile to the Parties hereto as follows:

If to Seller: Swallow Tail, L.L.C.
13610 Barrett Office Drive, Suite 112
St. Louis, MO 63021
Attn: Shane Staten

If to Purchaser: City of Olathe, Kansas
P.O. Box 768
Olathe, KS 66051
Attn: Nicole Woods

Any notice given pursuant hereto by overnight courier shall be effective as of delivery; any notice given pursuant hereto by United States mail, return receipt requested, shall be effective as of the third business day following its posting and any notice given pursuant hereto by facsimile shall be effective as of receipt of confirmation by the sending party.

5) PRIOR AGREEMENTS: This Agreement shall supersede any and all prior understandings and agreements between the Parties hereto, whether written or oral, with respect to the subject matter hereof and may be amended only by a written instrument executed by or on behalf of both Seller and Purchaser.

6) APPLICABLE LAW: Purchaser shall be contractually bound to this Agreement, which shall be governed by the laws of the state of Kansas and subject to the requirements of any applicable federal law or regulation. Changes in federal, state or local laws, however, which might have otherwise impacted this Agreement shall not be enforced retroactively after execution of this Agreement.

7) ATTORNEY'S FEES: In the event any action, suit, or other proceeding at law or in equity is brought to enforce the covenants and agreements contained in this Agreement or to obtain monetary damages for breach thereof, and such action results in an award of judgment for monetary damages, or the granting of any equitable relief in favor of any party hereto, all expenses, including reasonable attorney's fees, of the successful party in such action, suit, or other proceeding shall, upon demand of such party, be paid by the other party.

8) COUNTERPARTS: This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall be deemed one and the same instrument. Furthermore, this Agreement may be executed and delivered by email transmission. The Parties intend that email signatures shall constitute original signatures and that an emailed copy or counterpart of this Agreement containing the signature (original or facsimile) of a Party shall be and is binding upon that Party.

9) SUCCESSORS AND ASSIGNS: This Agreement shall be binding upon the parties and the Purchaser's and Seller's successors and assigns. It is the intention of the parties hereto that this Agreement shall bind all successive owners of any interest in the property subject to this Agreement.

10) CONTRACT ACCEPTANCE: This Agreement is null and void if not executed by December 31, 2020, as stated herein.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on
the day and year first above written.

PURCHASER:

City of Olathe, Kansas

By: _____
Name: Michael Copeland, Mayor

SELLER:

Swallow Tail L.L.C.

By:  _____
James D. Drake, Managing Member

Swallow Tail, LLC

6240 West 135th Street, Suite 100
Overland Park, KS 66223

Invoice

Date	Invoice #
3/9/2020	4664

Bill To
Nicole Woods City of Olathe 1385 South Robinson Drive Olathe KS 66061

Ship To

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
	Per Mitigation Credit ...		3/9/2020			2019-00986 Stevenson St. Sto...
Quantity	Item Code	Description			Price Each	Amount
1,301.23	Hog Creek Stream	Stream credits assigned to the Kansas River and Missouri River Umbrella Mitigation Site #3 in satisfaction of Clean Water Act Section 404 Authorization.			50.00	65,061.50
-1	Job Materials				0.50	-0.50



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Public Works

STAFF CONTACT: Mary Jaeger / Beth Wright

SUBJECT: Mitigation Credit Reservation and Purchase Agreement for the Brougham Drive Regional Detention Basin Project, PN 2-C-002-16.

ITEM DESCRIPTION:

Consideration of a Mitigation Credit Reservation and Purchase Agreement with Swallow Tail LLC, for the Brougham Drive Regional Detention Basin Project, PN 2-C-002-16.

SUMMARY:

As part of the federal permitting requirements with the United States Army Corps of Engineers (USACE), the City applied for a permit under Section 404 of the Clean Water Act due to the project impacting federally defined Waters of the United States. The USACE conducted a review of the proposed improvements and the condition of the channel and determined the City must purchase stream mitigation credits from an approved mitigation bank. Purchase of the credits is required to comply with the USACE Permit NWK-2017-1840.

The Mitigation Credit Reservation and Purchase Agreement allows the City to purchase 0.85 wetland credits at \$55,000 per credit and 5,027 stream credits at \$50 per credit from Swallow Tail LLC for a total of \$298,100. This purchase will allow the project to gain the necessary permit from the USACE. In 2012, the City purchased \$71,155 of mitigation credits from Swallow Tail LLC for the Community Center project, and in 2017, the City purchased \$61,100 of mitigation credits from Swallow Tail LLC for the Indian Creek (Albervan St. to Pflumm Rd.) Stormwater Improvements Project.

This project is in place to meet the stormwater detention needs of properties within the Coffee Creek watershed, to reduce the risk of flooding of four (4) homes and to address flooding on Black Bob Road south of 167th Street. The project includes construction of two (2) earthen embankments and reinforced concrete box culverts on Coffee Creek along the future Brougham Drive alignment south of 167th Street and the future Lindenwood Drive alignment south of 167th Street.

The estimated total cost for this project is \$6,200,000. This includes preliminary and final design, land acquisition, utility relocations, staff time, construction and construction inspection. It is anticipated that Johnson County's total share of the cost will be \$4,600,000 (\$4,225,000 from Johnson County SMAC and \$375,000 from Johnson County Public Works), and the City of Olathe's share of the cost will be \$1,600,000.

The project is tentatively scheduled to be completed by the end of 2020.

FINANCIAL IMPACT:

MEETING DATE: 4/7/2020

Funding for the Brougham Drive Regional Detention Basin Project includes:

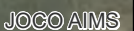
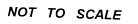
General Obligation Bonds	\$ 1,000,000
Stormwater Fund	\$ 600,000
Johnson County PW	\$ 375,000
<u>Johnson County SMAC</u>	<u>\$ 4,225,000</u>
TOTAL	\$ 6,200,000

ACTION NEEDED:

Approval of a Mitigation Credit Reservation and Purchase Agreement with Swallow Tail LLC, for the Brougham Drive Regional Detention Basin Project, PN 2-C-002-16.

ATTACHMENT(S):

- A. Project Location Map
- B. Project Fact Sheet
- C. Mitigation Credit Agreement





Project Fact Sheet
Brougham Drive Regional Detention
Basin Project
2-C-002-16
April 7, 2020

Attachment B

Project Manager: Beth Wright / Matt Kapfer

Description: This project will include survey, design and construction of two (2) regional detention basins, located on Coffee Creek along the future alignments of Brougham Drive and Lindenwood Drive.

Justification: This project will remove four (4) homes from the floodplain and address flooding on Black Bob Road south of 167th Street. The regional detention basins will also provide detention for approximately 2,000 acres of upstream ground, eliminating the need for on-site detention for future residential developments

Schedule:	Item	Date
Design:	Land Acquisition	02/28/2020
	Final Design	06/24/2019
	Land Acquisition per DWR	04/15/2020
Construction:	Contract Award	07/16/2019
	Completion	12/31/2020 – Estimate
Council Actions:	Date	Amount
Project Authorization	02/21/2017	\$5,200,000
Design Contract Approval	03/21/2017	\$440,648
SMAC Agreement (Design)	06/06/2017	\$330,486
Real Estate Agreements	12/19/2017	\$959,702
Project Authorization	08/07/2018	\$6,200,000
Real Estate Agreements	08/07/2018	\$1,230,000
Real Estate Agreement	11/20/2018	\$205,000
Construction Contract	07/16/2019	\$3,057,556
JoCo PW Agreement	12/03/2019	\$375,000
Mitigation Credit Agreement	04/07/2020	\$298,100
SMAC Agreement (Construction)		
Funding Sources:	Amount	CIP Year
GO Bonds	\$1,000,000	2020
Stormwater Fund	\$ 600,000	2017 and 2018
Johnson County PW	\$ 375,000	2020
Johnson County SMAC	\$4,225,000	2020
Expenditures:	Budget	Amount to Date
Design	\$ 675,000	\$ 617,102
Land Acquisition	\$2,370,000	\$2,370,093
Inspection	\$ 40,000	\$ 0
Staff Time	\$ 55,000	\$ 39,556

<u>Construction</u>	<u>\$3,060,000</u>	<u>\$ 578,910</u>
Total	\$6,200,000	\$3,605,661

MITIGATION CREDIT RESERVATION AND PURCHASE AGREEMENT

City of Olathe: Lindenwood Brougham

This MITIGATION CREDIT RESERVATION AND PURCHASE AGREEMENT (Agreement) is made and entered into this 23rd day of January, 2020, by and between Swallow Tail, L.L.C. (“Seller”) and the City of Olathe, Kansas (“Purchaser”).

WITNESSETH:

WHEREAS Purchaser has applied to the U.S. Army Corps of Engineers (“USACOE”) for a permit under Section 404 of the Clean Water Act (the “Section 404 Permit”), to allow impacts to regulated surface waters (“Project”). The Project Number assigned by the USACOE is NWK-2017-1840 and the USACOE regulatory project manager is Brian Donahue.

WHEREAS, in connection with granting the Section 404 Permit, the USACOE has determined that Purchaser shall be required to create compensatory mitigation due to these proposed impacts resulting from the development of the Project.

WHEREAS, the USACOE has stated in the Section 404 Permit that they concluded that the Project will result in impacts to streams translating to 5,027 stream debits and impacts to wetlands translating to 0.85 wetland debits.

WHEREAS, as a condition to the issuance of a permit from the USACOE, Purchaser is required to compensate for said impacts, and elects to do so through the purchase of compensatory mitigation from Swallow Tail, L.L.C. for assignment to the Kansas River and Missouri River Wetland and Stream Umbrella Mitigation Bank (“Mitigation Bank”). Seller retains the right to use a different Mitigation Bank to satisfy

some or all of the Purchaser's compensatory mitigation requirements as long as there is no material effect on the Purchaser and as long as the USACOE does not object to the change. A change in Mitigation Banks will not alter the Purchase Price nor any other provision of this Agreement.

WHEREAS, Purchaser desires to satisfy all 5,027 of its required stream debits and 0.85 of its wetland debits through the purchase of the corresponding number of credits at the Mitigation Bank from Seller.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, it is agreed as follows:

- 1) RECITALS: The recitals are hereby incorporated by this reference.
- 2) COMPENSATION: Purchaser shall, subject to the terms and conditions hereinafter provided, pay to the Seller the sum of **Two hundred ninety-eight thousand one hundred DOLLARS (\$298,100)** ("Purchase Price") for 0.85 wetland credits and 5,027 stream credits at the Mitigation Bank. The Purchase Price is derived from the unit cost of Fifty-Five Thousand (\$55,000) DOLLARS per wetland credit and Fifty (\$50) DOLLARS per stream credit. The Purchase Price is valid until January 23, 2021 and subject to availability of said credits, and if not paid by such date the agreement terminates and the parties shall have no further obligations to each other. Purchase Price is to be paid in the manner following:

- a.) PURCHASE PRICE: Upon signing this Agreement, Purchaser will pay the total balance due, or \$298,100.

- b.) PAYMENT: Please send payment to Seller at:

Attn: Dan Drake
Swallow Tail, L.L.C.
6240 West 135th Street, Suite 100
Overland Park, KS 66223

- 3) SELLERS WARRANTY: In consideration of the Purchase Price:

- a) Seller affirms that it has sufficient credits today at the Mitigation Bank to satisfy the credits required by Purchaser.
- b) Seller agrees to Reserve and Assign such credits to Purchaser.
- c) Seller represents that the credits purchased pursuant to this Agreement do not expire and last in perpetuity, and such credits satisfy the requirements dictated by the USACOE in the Section 404 Permit.
- d) The parties understand and agree that Purchaser shall have no obligation to perform any responsibility or incur any liability associated with the creation, development, maintenance and/or management of the Mitigation Bank.
- e) Seller shall defend, indemnify and hold harmless the Purchaser for Seller's compliance, and for Seller's failure to comply, and with all Seller's obligations under this Agreement.
- f) Seller shall comply with all applicable law in the performance of this Agreement.

4) NOTICES: Any notices required or permitted hereunder shall be sufficiently given if delivered by overnight courier, by United States mail, return receipt requested, or by facsimile to the parties hereto as follows:

If to Seller: Swallow Tail, L.L.C.
13610 Barrett Office Drive, Suite 112
St. Louis, MO 63021
Attn: Shane C. Staten

If to Purchaser: City of Olathe
1385 South Robinson Drive
Olathe KS 66061
Attn: Chet Belcher

Any notice given pursuant hereto by overnight courier shall be effective as of delivery; any notice given pursuant hereto by United States mail, return receipt requested, shall be effective as of the third business day following its posting and any notice given pursuant hereto by facsimile shall be effective as of receipt of confirmation by the sending party.

5) PRIOR AGREEMENTS: This Agreement shall supersede any and all prior understandings and agreements between the parties hereto, whether written or oral, with respect to the subject matter hereof and may be amended only by a written instrument executed by or on behalf of both Seller and Purchaser.

6) APPLICABLE LAW: Purchaser shall be contractually bound to this Agreement, which shall be governed by the laws of the state of Kansas and subject to the requirements of any applicable federal law or regulation. Changes in federal, state or local laws, however, which might have otherwise impacted this Agreement shall not be enforced retroactively after execution of this Agreement.

7) ATTORNEY'S FEES: In the event any action, suit, or other proceeding at law or in equity is brought to enforce the covenant and agreements contained in this Agreement or to obtain monetary damages for breach thereof, and such action results in an award of judgment for monetary damages, or the granting of any equitable relief in favor

of any party hereto, all expenses, including reasonable attorney's fees, of the successful party in such action, suit, or other proceeding shall, upon demand of such party, be paid by the other party.

8) SUCCESSORS AND ASSIGNS: This Agreement shall be binding upon the parties and the Purchaser's and Seller's successors and assigns. It is the intention of the parties hereto that this Agreement shall bind all successive owners of any interest in the property subject to this Agreement.

9) CONTRACT ACCEPTANCE: This Agreement is null and void if not executed by December 31, 2020, as stated herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

City of Olathe

By: _____

Signature

Swallow Tail, L.L.C.

By: _____

James D. Drake, Managing Member

Swallow Tail LLC

c/o Terra Technologies
6240 West 135th Street Suite 100
Overland Park KS 66223

Invoice

Date	Invoice #
8/6/2018	3640

Bill To
City of Olathe Chet Belcher 1385 South Robinson Drive Olathe KS 66061

Ship To

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
			7/23/2018			2017-1840 Lindenwood Broug...
Quantity	Item Code	Description			Price Each	Amount
5,027	Stranger 201 Stream	Stream credits assigned to the Kansas River and Missouri River Umbrella Mitigation Site #2 in satisfaction of Clean Water Act Section 404 Authorization.			50.00	251,350.00
0.85	Stranger 201 Wetla...	Wetland credits assigned to the Kansas River and Missouri River Umbrella Mitigation Site #2 in satisfaction of Clean Water Act Section 404 Authorization.			55,000.00	46,750.00



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Resource Management

STAFF CONTACT: Dianna Wright/Mary Jaeger/Amy Tharnish

SUBJECT: Consideration of Resolution No. 20-1027 authorizing the public sale of Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2020.

ITEM DESCRIPTION:

Consideration of Resolution No. 20-1027 authorizing the public sale of Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2020.

SUMMARY:

Gilmore & Bell, the City's bond counsel, has prepared Resolution No. 20-1027 authorizing the sale of Water and Sewer System Revenue Bonds, Series 2020 in the approximate amount of \$14,260,000. This proposed revenue bond issuance will provide funding for the following projects and refund a portion of Series 2010A and 2010B.

Project Number	Project Descriptions
5-C-030-20	Fire Hydrant Replacement
1-C-020-15	Lift Station Replacements
1-R-100-20	Sanitary Sewer Rehabilitation
1-R-000-20	Sanitary Sewer I&I
5-R-000-20	Waterline Rehab
5-C-031-18	Vertical Well Field Improvements

Project expenditures funded by this bond issue total \$3,916,125. The remaining amount of issuance covers refunding Series 2010A in the amount of \$3,830,000, refunding Series 2010B in the amount of \$5,850,000, and \$663,875 covers debt service requirements related to debt service reserve fund and costs of issuance. Revenue bonds are secured by future user fee revenues, rather than the City's ability to levy taxes.

Series 2020 has a 20-year term, with the last bonds of the series maturing in 2040. The refunded portion for Series 2010A has a 10-year term with a maturity date of 2030 and the refunded portion for Series 2010B has a 15-year term with a maturity date of 2035. The bond sale is set for Tuesday, May 5, 2020. A tabulation of bids and recommendation of award will be presented at the City Council meeting on the same date.

FINANCIAL IMPACT:

The amount of Water and Sewer Revenue Bonds, Series 2020 is approximately \$14,260,000.

ACTION NEEDED:

Approval of Resolution No. 20-1027 to authorize the sale of Water and Sewer System Improvement

MEETING DATE: 4/7/2020

and Refunding Revenue Bonds, Series 2020.

ATTACHMENT(S):
Resolution No. 20-1027

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
CITY OF OLATHE, KANSAS
HELD ON APRIL 7, 2020**

The City Council (the "Governing Body") met in regular session at the usual meeting place in the City, at 7:00 p.m., the following members being present and participating, to-wit:

Present: _____.

Absent: _____.

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

The matter of authorizing the sale of Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2020, of the City, came on for consideration and was discussed.

Councilmember _____ presented and moved the adoption of a Resolution entitled:

**RESOLUTION AUTHORIZING THE OFFERING FOR SALE OF WATER AND
SEWER SYSTEM IMPROVEMENT AND REFUNDING REVENUE BONDS,
SERIES 2020, OF THE CITY OF OLATHE, KANSAS.**

Councilmember _____ seconded the motion to adopt the Resolution. Thereupon, the Resolution was read and considered, and the question put to a roll call vote, the vote thereon was as follows:

Aye: _____.

Nay: _____.

The Mayor declared the Resolution duly adopted; the Clerk designating the same Resolution No. 20-1027.

* * * * *

(Other Proceedings)

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CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the Governing Body of the City of Olathe, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

City Clerk

RESOLUTION NO. 20-1027

RESOLUTION AUTHORIZING THE OFFERING FOR SALE OF WATER AND SEWER SYSTEM IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 2020, OF THE CITY OF OLATHE, KANSAS.

WHEREAS, the City of Olathe, Kansas (the “Issuer”), owns and operates a water and sewer system (the “System”); and

WHEREAS, the Issuer is authorized under the provisions of K.S.A. 10-1201 *et seq.* (the “Act”) to issue and sell revenue bonds for the purpose of paying all or part of the cost of the acquisition, construction, reconstruction, alteration, repair, improvement, extension or enlargement of the System, provided that the principal of and interest on such revenue bonds shall be payable solely from the Net Revenues derived from the operation of the System; and

WHEREAS, the City Council of the Issuer (the “Governing Body”) has adopted Resolution No. 19-1013 declaring its intention under the Act to acquire, construct, reconstruct, alter, repair, improve, extend or enlarge the System (collectively, the “Project”) and to issue System revenue bonds to finance a portion of the Project; notice of such intention was duly published one time in the official newspaper of the Issuer for each such resolution and no sufficient written protest thereto was filed with the Clerk within fifteen (15) days after each such publication date, all as set forth in the Act; and

WHEREAS, the Governing Body proposes to issue approximately \$4,320,000 of the revenue bonds so authorized to pay a portion of the costs of the Project, plus any costs of issuance and funding a debt service reserve fund; and

WHEREAS, due to the current interest rate environment, the Issuer has the opportunity to issue its refunding bonds in order to achieve an interest cost savings on all or a portion of the debt represented by the following described bonds (collectively, the “Refunded Bonds”):

<u>Description</u>	<u>Series</u>	<u>Dated Date</u>	<u>Years</u>	<u>Amount</u>
Taxable Water and Sewer System Revenue Bonds	2010A	February 23, 2010	2020 to 2030	\$3,830,000
Taxable Water and Sewer System Revenue Bonds	2010B	May 17, 2010	2020 to 2035	\$5,850,000

WHEREAS, the Governing Body has selected the firm of Columbia Capital Management, LLC, Overland Park, Kansas (“Financial Advisor”), as financial advisor for one or more series of System revenue bonds of the Issuer to be issued in order to provide funds to permanently finance the Project and refund the Refunded Bonds; and

WHEREAS, the Issuer desires to authorize the Financial Advisor to proceed with the offering for sale of said System revenue bonds; and

WHEREAS, one of the duties and responsibilities of the Issuer is to prepare and distribute a preliminary official statement relating to said System revenue bonds; and

WHEREAS, the Issuer desires to authorize the Financial Advisor and Gilmore & Bell, P.C., Kansas City, Missouri, the Issuer’s bond counsel (“Bond Counsel”), in conjunction with the Clerk and Director of Resource Management of the Issuer, to proceed with the preparation and distribution of a

preliminary official statement and notice of bond sale and to authorize the distribution thereof and all other preliminary action necessary to sell System revenue bonds.

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

Section 1. There is hereby authorized to be offered for sale the Issuer's Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2020 (the "Series 2020 Bonds") as described in the Notice of Bond Sale, which is to be prepared by Bond Counsel in conjunction with City officials and staff. All proposals for the purchase of the Series 2020 Bonds shall be delivered to the Governing Body at its meeting to be held on the sale date referenced in the Notice of Bond Sale, or at another date to be determined by City staff on consultation with the Financial Advisor and Bond Counsel, at which meeting the Governing Body shall review such bids and award the sale of the Series 2020 Bonds or reject all proposals.

Section 2. The Director of Resource Management and the Clerk, in conjunction with the Financial Advisor and Bond Counsel, are hereby authorized to cause to be prepared a Preliminary Official Statement relating to the Series 2020 Bonds (the "Preliminary Official Statement"), and such officials and other representatives of the Issuer are hereby authorized to use such document in connection with the sale of the Series 2020 Bonds.

Section 3. The Clerk, in conjunction with the Financial Advisor and Bond Counsel, is hereby authorized and directed to give notice of said bond sale by distributing copies of the Notice of Bond Sale and Preliminary Official Statement to prospective purchasers of the Series 2020 Bonds. Proposals for the purchase of the Series 2020 Bonds shall be submitted upon the terms and conditions set forth in the Notice of Bond Sale and awarded or rejected in the manner set forth in the Notice of Bond Sale.

Section 4. For the purpose of enabling the purchaser of the Series 2020 Bonds (the "Purchaser") to comply with the requirements of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), the Mayor and Clerk or other appropriate officers of the Issuer are hereby authorized: (a) to approve the form of the Preliminary Official Statement, and to execute the "Certificate Deeming Preliminary Official Statement Final", in substantially the form attached hereto as *Exhibit A*, as approval of the Preliminary Official Statement, such official's signature thereon being conclusive evidence of such official's and the Issuer's approval thereof; (b) covenant to provide continuous secondary market disclosure by annually transmitting certain financial information and operating data and other information necessary to comply with the Rule to the Municipal Securities Rulemaking Board; and (c) take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary; to enable the Purchaser to comply with the requirement of the Rule.

Section 5. The Issuer agrees to provide to the Purchaser within seven business days of the date of the sale of Series 2020 Bonds or within sufficient time to accompany any confirmation that requests payment from any customer of the Purchaser, whichever is earlier, sufficient copies of the final Official Statement to enable the Purchaser to comply with the requirements of the Rule and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board.

Section 6. The Director of Resource Management, Clerk and the other officers and representatives of the Issuer, the Financial Advisor and Bond Counsel are hereby authorized and directed to take such other action as may be necessary to: (a) carry out the sale of the Series 2020 Bonds; (b) provide for notice of redemption of the Refunded Bonds; and (c) purchase or subscribe for the securities to be deposited in the escrow for the Refunded Bonds.

Section 7. This Resolution shall be in full force and effect from and after its adoption by the Governing Body

ADOPTED by the Governing Body on April 7, 2020.

(SEAL)

ATTEST:

Mayor

City Clerk

EXHIBIT A

**CERTIFICATE DEEMING
PRELIMINARY OFFICIAL STATEMENT FINAL**

_____, 2020

Re: City of Olathe, Kansas, Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2020

The undersigned Director of Resource Management of the City of Olathe, Kansas (the “Issuer”), is authorized to deliver this Certificate to the addressee (the “Purchaser”) on behalf of the Issuer. The Issuer has previously caused to be delivered to the Purchaser copies of the Preliminary Official Statement (the “Preliminary Official Statement”) relating to the above-referenced bonds (the “Series 2020 Bonds”).

For the purpose of enabling the Purchaser to comply with the requirements of Rule 15c2-12(b)(1) of the Securities and Exchange Commission (the “Rule”), the Issuer hereby deems the information regarding the Issuer contained in the Preliminary Official Statement to be final as of its date, except for the omission of such information as is permitted by the Rule, such as offering prices, interest rates, selling compensation, aggregate principal amount, principal per maturity, delivery dates, ratings, identity of the underwriters and other terms of the Series 2020 Bonds depending on such matters.

CITY OF OLATHE, KANSAS

By: _____
Title: Director of Resource Management



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Resource Management
STAFF CONTACT: Mike Sirna/Amy Tharnish
SUBJECT: Consideration of renewal of contract with Tyler Technologies to provide Permitting Software for the City.

ITEM DESCRIPTION:
Consideration of renewal of contract with Tyler Technologies to provide Permitting Software for the City

SUMMARY:
In 2014, a request for proposal process was completed to purchase the permitting software from Tyler Technologies.

This permitting software is state of the art technology, utilizing a web-based application that automates the regulatory processes to generate/submit, route, calculate fees, approve and schedule/track inspections including permitting workflow with the general public/contractors. This software solution allows the City to streamline manual processes and move towards a paperless plan submittal and review. This ensures the ability to conduct an electronic collaborative review and approval process across multiple City Departments. This also allows field inspectors to perform electronic field inspections utilizing mobile devices with the ability to save data in a disconnected mode that minimizes rework/revisits to customer locations.

The City recommends renewal of contract with Tyler Technologies through April 30, 2021.

There are no Olathe vendors that provide permitting software.

FINANCIAL IMPACT:
Annual expenditures will be \$75,569.76. Funding will come from the Fire Department, Public Works, and Information Technology Department budgets.

ACTION NEEDED:
Approval of renewal of contract with Tyler Technologies to provide Permitting Software.

ATTACHMENT(S):
None



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Resource Management

STAFF CONTACT: Michael Meadors/Amy Tharnish

SUBJECT: Consideration of renewal of contract with Burtin & Associates, Inc. for Janitorial Services.

ITEM DESCRIPTION:

Consideration of renewal of contract with Burtin & Associates, Inc. for Janitorial Services.

SUMMARY:

In 2016, a request for proposal process was completed for janitorial services and awarded to Burtin & Associates, Inc.

Services consist of general cleaning such as floor cleaning, waxing, vacuuming, dusting, trash removal, cleaning and disinfecting restrooms, and the restocking of all custodial paper supplies. Performance is reviewed consistently and is based upon ISSA Clean standard and associated inspection criteria.

Staff Recommends renewal of contract with Burtin & Associates, Inc. for a one (1) year contract through January 31, 2021.

FINANCIAL IMPACT:

Expected annual expenditure of \$450,000 will be charged to the Facilities Maintenance Division and Public Works Department.

ACTION NEEDED:

Renewal of contract with Burtin & Associates, Inc.

ATTACHMENT(S):

None



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Resource Management

STAFF CONTACT: Michael Meadors / Amy Tharnish

SUBJECT: Acceptance of proposal and consideration of award of contract to Play & Park Structures for the purchase and installation of playground equipment and surfacing at Indian Creek Library Park for the Parks and Recreation Department.

ITEM DESCRIPTION:

Acceptance of proposal and consideration of award of contract to Play & Park Structures for the purchase and installation of playground equipment and surfacing at Indian Creek Library Park for the Parks and Recreation Department.

SUMMARY:

On March 18, 2020, four (4) proposals were received for the Indian Creek Library Park Playground. Indian Creek Library Park is located immediately adjacent to the new Indian Creek Library at 16104 W. 135th Street and will be the newest neighborhood park to be constructed in the city. Construction of the park began with the City's in-house parks construction crew in 2019 and completion of the park is anticipated for early summer 2020. The proposal is for the purchase and installation of playground equipment and synthetic turf safety surfacing.

In February 2020, the Parks staff conducted an online survey to gather input on the design and development of the playground, receiving over 2,000 responses from Olathe citizens and strong support for an inclusive playground design. The playground design incorporates the desires of the citizens, and will be the City of Olathe's first inclusive playground.

The playground will meet all safety guidelines, ADA accessible requirements, offer inclusive play for children of all abilities, and offer exceptional play value at the park. Playground equipment is appropriate for ages 2-12.

Criteria used in the evaluation of the four proposals included playground system proposed, surfacing performance, experience and qualifications of the respondent, costs, and overall proposal content. Staff recommends award of contract to Play & Park Structures.

The National Intergovernmental Purchasing Alliance (NIPA) competitively issued an RFP and awarded a cooperative purchase contract to Play & Park Structures for playground equipment and surfacing. A competitive quote for the purchase and installation of playground equipment and installation at Indian Creek Library Park was obtained from Playscape Recreation, who is the local authorized installer of Play & Park Structures equipment.

There are no Olathe vendors who can provide this equipment and surfacing.

FINANCIAL IMPACT:

\$241,206. Funding will come from the Park Excise Tax in the amount of \$241,206 for Indian Creek Library

MEETING DATE: 4/7/2020

Park, PN 4-C-006-18.

ACTION NEEDED:

Award of contract to Play & Park Structures for the purchase and installation of playground equipment and surfacing at Indian Creek Library Park for the Parks and Recreation Department.

ATTACHMENT(S):

A: Play & Park Structures Proposal

B: Playground Design

C: Bid Tab

2020 Playground Phase

2020 Playground Phase

REVISÉD 3/31/2020



Description	Number	Unit Cost	Total	Total Project
Large Composite w/ sensory ascend	1	\$ 128,176.67	\$ 128,176.67	\$ 121,901.20
*shipping & install for playground structures included in this number				
			\$ -	
Swings	1	\$ 5,295.52	\$ 5,295.52	\$ 5,295.52
5" OD 3-Bay Arch system w/ADA bay	1	\$ -	\$ -	
Expression by other**	2	\$ 1,423.00	\$ 2,846.00	\$ 2,846.00
belt Seats	3	\$ -	\$ -	
Made For Me	1	\$ -	\$ -	
			\$ -	
Multi User Swing	1	\$ 5,122.56	\$ 5,122.56	\$ 5,122.56
			\$ -	
At-Grade Spinner	1	\$ 11,156.84	\$ 11,156.84	\$ 11,156.84
			\$ -	
Freenotes Starter Kit	1	\$ 9,991.15	\$ 9,991.15	\$ 9,991.15
free upgrade to adaptive mallets				
Hillslide	1	\$ 1,587.36	1587.36	\$ 1,587.36
8x8" Concrete Border - LF Min 300	300	\$ 25.00	\$ 7,500.00	\$ 7,500.00
Under Drains 4" in gravel trench	200	\$ 15.00	\$ 3,000.00	\$ 3,000.00
			\$ -	\$ -
4" Compacted Base	5000	\$ 3.00	\$ 15,000.00	\$ 15,000.00
Shaw Turf by Taylormade		\$ 57,805.11	\$ 57,805.11	\$ 57,805.11
				\$ -
*3.5% upcharge for running through GP-greenbush				
Sub Total Project				\$ 241,205.74
Total Project				\$ 241,205.74

Notes to Bid/Quote

Bid does not including moving of utilities, water lines, cable or any other like obstruction either known or unknown

Project terms per manufacturers

Bid does not include any fees or permits if required.

ATTACHMENT B

City of Olathe
Indian Creek
Olathe, KS 66062

Playscape Recreation

This play equipment is recommended for children ages:
5-12
Minimum Area Required:
Per Site

Scale: 3/32" = 1'-0"
This drawing can be scaled only when in an 11" x 17" format

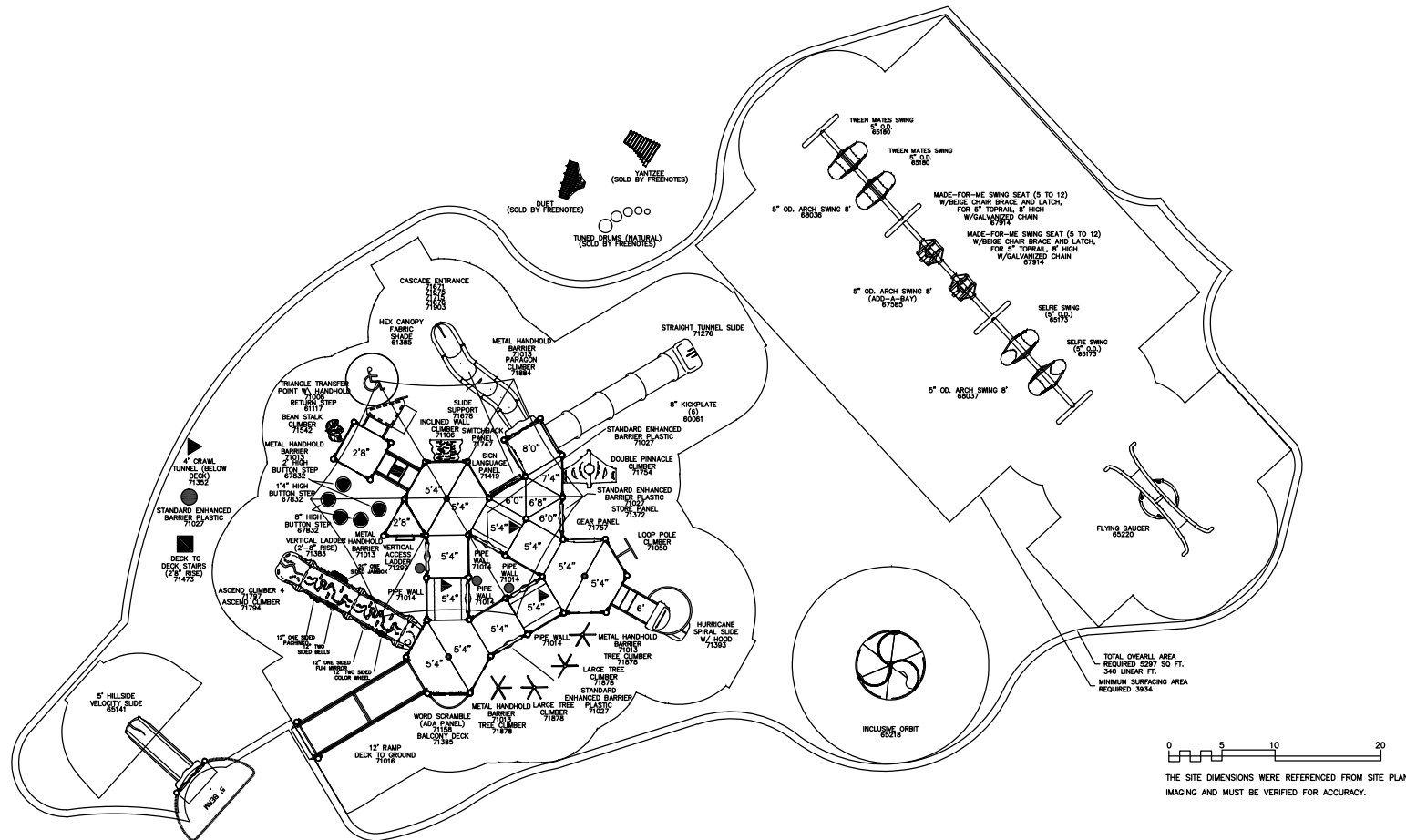
Drawn By:
Kimber Scroggins
Date:
3/18/2020
Quote Number:
801-133251B

play&park structures
544 Chestnut Street
Chattanooga, TN 37402
800-727-1907 / www.playandpark.com



Total Play Components	36		
Elevated Play Components	18		
Elevated Play Components Accessible by Ramp	8	Req.	0
Elevated Components Accessible by Transfer	17	Req.	9
Accessible Ground Level Components Shown	18	Req.	6
Different Types of Ground Level Components	5	Req.	3

<u>User Capacity</u>	125-150
<u>Critical Fall Height</u>	8'-0"



It is the manufacturer's opinion that the structure shown herein complies with current ada standards concerning accessibility if used with proper accessible surfacing and together with other necessary ground level play equipment.

IMPORTANT: Never install play equipment over hard, unresilient surfaces such as asphalt, concrete, or compacted earth. It is the owner's responsibility to ensure the "minimum area required" contains an appropriate amount of resilient material to cushion accidental falls.



UPRIGHT METALLIC

ACCENT BRONZE

DECK GRAY

PLASTIC GREEN/SPR GREEN

HDPE SPRING GREEN

HDPE 2C WHITE

SHADE CLOUD

ROOF N/A

CABLE N/A

MAX/APEX SPRING GREEN

INDIAN CREEK OLATHE, KS

801-133328B



**play&park
structures®**
A PLAYCORE Company

544 CHESTNUT ST.
CHATTANOOGA, TN 37402
800.727.1907
playandpark.com

Indian Creek Library Park Playground

BID TABULATION

3/18/2020

ATTACHMENT C

	Cunningham Recreation	Athco, LLC	Playscape Recreation	Custom Play Systems
Playground Mfr.	GameTime	Landscape Structures	Play & Park Structures	Miracle
Proposal Cost	\$ 308,374	\$ 273,710	\$ 241,206	\$ 259,852



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Resource Management

STAFF CONTACT: Michael Meadors/Mary Jaeger/Amy Tharnish

SUBJECT: Acceptance of bid and consideration of award of contract to National Catastrophe Restoration, Inc. for restoration and remediation services for the City of Olathe.

ITEM DESCRIPTION:

Acceptance of bid and consideration of award of contract to National Catastrophe Restoration, Inc. (NCRI) for City of Olathe facility restoration and remediation services.

SUMMARY:

This Agreement with NCRI proactively establishes an Emergency Services business relationship providing defined cost schedules, mobilization/response factors and vetted provider capabilities, all necessary to support City facility restoration and mitigation activity.

This agreement will be highly effective towards expedited disaster/incident recovery supporting and furthering City business continuity. Services include yet are not limited to fire, smoke, water restoration and mitigation of contaminants mold, asbestos, viral/bacterial, etc.

The City received three responses (3) to the RFP. Proposals were evaluated by City staff based upon the contractors' qualifications and experience, performance capabilities, availability and cost. National Catastrophe Restoration, Inc. was the highest scoring contractor.

Staff recommends award to National Catastrophe Restoration, Inc. for restoration and remediation services until March 31, 2025.

Ninety-four (94) companies were notified of this solicitation; six (6) local Olathe companies were notified, and one (1) Olathe company responded. The other five (5) could not perform the services requested.

FINANCIAL IMPACT:

As nature of emergency services are typically unplanned and largely event/incident based, total costs are not possible to forecast.

ACTION NEEDED:

Award of contract to National Catastrophe Restoration, Inc..

ATTACHMENT(S):

A. Composite Score Sheet

City of Olathe
RFP 19-0054 Restoration & Remediation Services

Proposal Composite Score Sheet

Proposal Average Score	Servpro of Olathe Olathe, KS	Sage Restoration, LLC. Overland Park, KS	National Catastrophe Restoration, Inc. Lenexa, KS
	890	511	906

Recommended award



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Resource Management

STAFF CONTACT: Mary Jaeger/Amy Tharnish

SUBJECT: Acceptance of bid and consideration of award of contracts to E Edwards, Inc., Nigros Western Store, and Sid Boedeker Safety Shoe Service for the provision of workboots to the Public Works Department.

ITEM DESCRIPTION:

Acceptance of bid and consideration of award of contracts to E Edwards, Inc., Nigros Western Store, and Sid Boedeker Safety Shoe Service for the provision of workboots to the Public Works Department.

SUMMARY:

The Public Works Department has had a Safety Shoe Program in place for many years which provides a modest allowance to their employees for safety footwear. To extend the resources allotted, a bid was issued to businesses to obtain more standard rates for discounts.

It is the City's desire to provide as many options to the staff as possible to meet their diverse needs. As a result, staff wishes to award a five-year contract through March 31, 2025, subject to annual review, to each of the following companies: E Edwards, Inc., Nigros Western Store, and Sid Boedeker Safety Shoe Service.

One-hundred-thirty-eight (138) companies were notified of the bid and three (3) responded. Of the 138 notified, eight (8) were local Olathe vendors, of which one (1) responded to the bid.

FINANCIAL IMPACT:

Estimated annual expenditure of \$70,000 to be funded from the Safety Shoe Program.

ACTION NEEDED:

Award of contracts to E Edwards, Inc., Nigros Western Store, and Sid Boedeker Safety Shoe Service.

ATTACHMENT(S):

A. Bid Tabulation

IFB #19-0302 - Workboots
2020-03-11 03:00 PM CDT

		E Edwards Workwear	Nigro's Western Store	Sid Boedekder Safety Shoe Service, Inc.
		Olathe, KS	Shawnee, KS	Lenexa, KS
Item No.	Item Name	% off MSRP	% off MSRP	% off MSRP
1	Discount given off of shoes	10%	20% or better	24% or better
2	Discount given off of boots	10%	20% or better	24% or better
3	Discount off of accessories	10%	20% or better	24% or better

Recommended Award



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Public Works, Planning Division
STAFF CONTACT: Kim Hollingsworth, Senior Planner
SUBJECT: RZ19-0023: Rezoning and a Preliminary Site Development Plan for Chinmaya Mission;
Applicant: Rajasree Prakash, Chinmaya Mission Kansas City

ITEM DESCRIPTION:

Consideration of Ordinance No. 20-08, RZ19-0023, requesting approval for a rezoning from BP (Business Park) District to C-2 (Community Center) District and preliminary site development plan for Chinmaya Mission on 16.13 ± acres; located southwest of 153rd Street and Pflumm Road. Planning Commission recommends approval 7 to 0.

SUMMARY:

The applicant is requesting a rezoning from the BP (Business Park) District to the C-2 (Community Center) District and a preliminary site development plan for Chinmaya Mission located southwest of 153rd Street and Pflumm Road. An assembly space and classroom building totaling 15,612 square feet, pedestrian amenities and parking area are planned within the overall 16.13-acre site.

The proposed development is more compatible with the scale, building height, massing, and open space within the surrounding neighborhood than the character and uses typically developed through the existing BP District. Due to the proximity of the proposed district to the R-1 (Residential Single-Family) District to the west, the applicant and staff have collaborated on several uses which will be prohibited as detailed within the attached Ordinance. These prohibited uses are being excluded from the district because they are incompatible with the character of the surrounding residential neighborhood and the applicant is in agreement.

The applicant met all public notice requirements and a neighborhood meeting was held on February 3, 2020 with 11 individuals in attendance. Topics discussed during the neighborhood meeting included questions regarding future expansion of the buildings, drainage, widening of Pflumm Road and screening along the west property line.

Significant screening is planned along the west property boundary through a 30-foot wide buffer area planted with a double row of evergreen trees on a five-foot tall berm. The building is setback approximately 624 feet from the west property boundary and is separated through a 133-foot-wide gas pipeline easement extending the full length of the property. Additionally, the site plan exceeds Site Design Category 4 requirements and the proposed building contains significant amounts of glass and limestone.

On March 9, 2020, the Planning Commission voted 7-0 to recommend approval of RZ19-0023 as presented with stipulations listed in the meeting minutes. After City Council consideration, the application must be reviewed by the Johnson County Airport Commission and the Board of County

MEETING DATE: 4/7/2020

Commissioners due to the proximity of the Johnson County Executive Airport.

FINANCIAL IMPACT:

None

ACTION NEEDED:

1. Approve Ordinance No. 20-08 for a rezoning from the BP District to the C-2 District as recommended by the Planning Commission.
 2. Deny Ordinance No. 20-08 for a rezoning from the BP District to the C-2 District.
 3. Return the rezoning application to the Planning Commission for further consideration with a statement specifying the basis for the Governing Body's failure to approve or disapprove.
-

ATTACHMENT(S):

A: Planning Commission Packet
B: Planning Commission Minutes
C: Ordinance No. 20-08

STAFF REPORT

Planning Commission Meeting: March 9, 2020

Application:	<u>RZ19-0023:</u> Rezoning from BP (Business Park) District to C-2 (Community Center) District and a revised preliminary site development plan for Chinmaya Mission
Location:	Southwest of 153 rd Street and Pflumm Road
Owner:	Dwight Beachboard; Rew Kansas Properties LLC
Applicant:	Rajasree Prakash; Chinmaya Mission Kansas City
Engineer:	Murali Ramaswami
Staff Contact:	Kim Hollingsworth, AICP, Senior Planner

Site Area:	<u>16.13± acres</u>	Proposed Use:	<u>Religious Institution</u>
Building Square Footage:	<u>15,612 square feet</u>	Plat:	<u>Unplatted</u>
Existing Zoning:	<u>BP (Business Park)</u>	Proposed Zoning:	<u>C-2 (Community Center)</u>

	Plan Olathe Land Use Category	Existing Use	Current Zoning	Site Design Category	Building Design Category
Site	Employment Area	Vacant	BP	4	Office / Civic Building
North	Employment Area/ Secondary Greenway	Vacant / Olathe Girls Softball Complex	C-2 / AG	-	-
South	Employment Area	Vacant	BP	-	-
East	Employment Area	Johnson County Executive Airport	AG	-	-
West	Conventional Neighborhood	Single Family Residential	R-1	-	-

1. Proposal

The applicant is requesting a rezoning from BP (Business Park) District to C-2 (Community Center) District and a preliminary site development plan for Chinmaya Mission. The subject property is located west of Pflumm Road and south of 151st Street.

The applicant is requesting the rezoning to the C-2 District to develop a religious institution on the subject property. Religious institutions are permitted by right in the C-2 District along with lower-intensity commercial, recreational and civic uses. The preliminary site development plan includes an assembly space and classroom building totaling 15,612 square feet.

2. History

The subject property was annexed into the City in March 1985. The subject property and property immediately adjacent to the south were rezoned to the BP District in 2000 (RZ-02-00) with a preliminary site development plan for a business industrial park with six buildings totaling 205,800 square feet. The previously approved plan included two 73,500 square foot buildings along Pflumm Road and four smaller buildings ranging between 10,000 and 18,000 square feet west of the pipeline easement that bisects the property.

3. Existing Conditions

The subject property is currently vacant and has never been developed. The only vegetation that exists on the subject property is native grass and a narrow line of trees along the east side of the property within the Pflumm Road right-of-way. There are also significant gas easements approximately 133 feet in width that extend north to south within the western portion of the property.



View of site looking west from Pflumm Road.



Aerial view of subject property

4. Zoning Requirements

- a. **Uses** – The proposed religious institution use is permitted in the C-2 (Community Center) District. The C-2 District permits a variety of lower-intensity commercial uses that primarily serve surrounding neighborhoods. Due to the proximity of the proposed district to the R-1 (Residential Single-Family) District, the applicant and staff have agreed on a list of a few prohibited uses as detailed within the attached Exhibit A. The described prohibited uses are not as compatible with character of the surrounding neighborhood due to their intensity, hours of operation or auto-oriented nature. The applicant is amenable to all uses listed in Exhibit A and any future modifications would be required to follow the zoning amendment process as prescribed in the UDO.
- b. **Maximum District Size** – The maximum district size in the C-2 District is 18 acres and the 16.13± acre property is compliant with this UDO requirement.
- c. **Building Height** – The maximum building height in the C-2 District is 2 stories or 35 feet. The proposed building has a maximum height of 32 feet which meets the UDO requirement.

- d. **Setbacks** – Parking and paving areas for developments in the C-2 District must be setback a minimum of 15 feet from street right-of-way and a minimum of 10 feet from adjacent property lines. The entry drive along the east side of the property is set back from the right-of-way approximately 19 feet and from the northern property line approximately 49 feet. Table 1 lists the building setbacks required in the C-2 District and proposed on the site plan.

Table 1: Building Setbacks		
	UDO Requirement	Proposed Plan
<i>North</i>	7 ½ feet	170± feet
<i>South</i>	7 ½ feet	396.3± feet
<i>East</i>	15 feet (minimum) 150 feet (maximum)	90.3± feet
<i>West</i>	7 ½ feet	624± feet

5. Site Design Standards

The subject property is subject to **Site Design Category 4** (UDO 18.15.120). The requested zoning district was used to determine the site design category as the proposed land use does not align with the Employment Area future land use designation. The following is a summary of the site design requirements:

- a. **Outdoor Amenity** – An outdoor amenity space for users of the property must cover at least 10% of the site area. A landscaped courtyard and common greenspace with landscaping are planned to meet this requirement.
- b. **Parking Pod Size** – Development subject to Site Design Category 4 permits a maximum of 80 parking spaces in one parking pod. The largest parking pod on the revised preliminary site development plan is 9 stalls, therefore the plan is compliant with parking pod size requirements.
- c. **Pedestrian Connections** – Development in Site Design Category 4 must provide pedestrian connections from surrounding development, parking, and adjacent transit stops. A pedestrian connection will be provided from the sidewalk along the entry drive to Pflumm Road to meet the UDO requirement.
- d. **Drainage Feature** – Open drainage and detention areas visible to the public must be incorporated into the design of the site as an attractive amenity or focal point. A note has been added on the preliminary development plan stating that the drainage feature will comply with this UDO requirement.

- e. **Landscape Buffer** – Buffer standards apply to development in Site Design Category 4 when developments are located adjacent to any residential zoning district. A buffer will be provided adjacent to the R-1 District to fulfill this requirement.

6. Building Design

Religious institutions in nonresidential zoning districts are subject to the “Office and Civic” building design standards provided in UDO, Section 18.15.020.G.8. Conceptual renderings and elevations were provided with the preliminary site development plan that indicate the proposed building materials and architectural style. Significant amounts of glass are proposed along with a limestone veneer to be incorporated on façades of the classroom building. The assembly space is proposed to be clad with glass on all sides, with a wood rainscreen mounted to the exterior of the building. The main entry to the building will be covered with a canopy and a tower feature on the assembly space reaching a total of 31 feet in height to meet façade expression requirements.

The primary south and east façades of the proposed building are required to contain a minimum of two (2) materials from Class 1 or two (2) materials from Classes 1 and 2 on a minimum 70% of the façade, with a minimum of 25% clear glass. The applicant will be incorporating additional vertical and horizontal articulation, increasing the quantity of Class 1 building materials, and decreasing the amount of metal trim provided on the building through the final site development plan.

7. Development Requirements

- a. **Site Access** – Access to the site will be provided through an access drive from Pflumm Road within the northeast portion of the site. This location promotes the greatest distance of stacking for vehicles as they enter and exit the property.
- b. **Landscaping** – The site plan illustrates the proposed landscaping on the subject property. Type 1 buffers will be provided along the northern and southern property lines, and a Type 5A buffer will be provided along the west property line adjacent to the single-family residential properties. To fulfill the Type 5A buffer requirements, a 30-foot wide buffer area will be planted with a double row of evergreen trees on top of a five-foot tall berm. Landscaping will be provided along Pflumm Road to meet the minimum UDO requirements for nonresidential properties adjacent to arterial streets. The applicant will provide landscaped islands throughout the parking lot and will provide a landscaped grove area between the parking lot and the main classroom building.
- c. **Parking** – The required parking is based on the occupancy of the assembly space and size of the classroom spaces. The preliminary site development plan includes a total of 130 parking spaces which is greater than the minimum 126 parking spaces required for the property. The applicant also provided information regarding the number of vehicles typically visiting their current location which is slightly fewer than the number of parking spaces being provided. The proposed parking lot is located approximately 350 feet from the nearest residential property and no parking spaces are designed in a manner that would directly orient headlights of vehicles towards the residential properties.
- d. **Public Utilities** – The property is within the City of Olathe Water and Johnson County Wastewater service areas. An extension of the public waterline will be required to serve the proposed development.

8. Proximity to Airport

The subject property is located within one mile of the Johnson County Executive Airport and within the Johnson County Executive Airport Interest Area, which is identified in the Johnson County Executive Airport Comprehensive Compatibility Plan. The airport future land use map promotes commercial uses and airport compatible businesses in the area southwest of 151st Street and Pflumm Road directly west of the airport. All development applications within one mile of the airport are subject to review by the Johnson County Airport Commission and the Board of County Commissioners. The Johnson County Planning Department has provided preliminary comments and County Staff have no objections regarding the proposed rezoning and preliminary site development plan.

9. Neighborhood Meeting and Public Notice

The applicant held a neighborhood meeting on February 3, 2020 with eleven (11) residents in attendance. Topics of discussion at the meeting included future plans for expansion, funding of the project, buffering and screening provided to the west, drainage, widening of Pflumm Road, and landscaping.

Individuals at the neighborhood meeting expressed concerns with the wall that was originally proposed along the western property boundary with the single-family homes. In response to the discussion with attendees, the applicant revised the plans to include a double row of evergreen trees in addition to the minimum required plantings which is another option to fulfill the buffering requirements.

The applicant mailed the required public notification letters to surrounding properties within 200 feet and posted signs on the subject property per Unified Development Ordinance (UDO) requirements. Staff has received an email and a phone call from the adjacent property owner to the north, who stated they were supportive of the project.

10. Comprehensive Plan Analysis

The future land use map of the PlanOlathe Comprehensive Plan identifies the subject property as "Employment Area". The C-2 (Community Center) District does not align with the Employment Area future land use designation of the property; however, staff has determined that the proposed C-2 District and religious institution are more suitable for the subject property, for the following reasons:

The following are criteria for considering rezoning applications as listed in *Unified Development Ordinance (UDO) Section 18.40.090.G*.

A. The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies.

The comprehensive plan promotes the use of zoning as a tool to avoid conflict between potentially incompatible uses that vary in scale and intensity. The proposed development provides increased cohesiveness with the single-family residential neighborhood to the west and the existing C-2 District to the north. The proposed development increases the compatibility of land uses, as detailed in Policy LUCC-8.2, below:

Policy LUCC-8.2: Compatibility of Adjacent Land Uses. *"Where a mixture of uses is not appropriate or uses are not complementary, use zoning as a tool to*

avoid or minimize conflicts between land uses that vary widely in use, intensity, or other characteristics. This may include buffering, landscaping, transitional uses and densities, and other measures. Protect industry from encroachment by residential development and ensure that the character and livability of established residential neighborhoods will not be undermined by impacts from adjacent non-residential areas or by incremental expansion of business activities into residential areas.”

B. The character of the neighborhood including but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, siting, open space and floor-to-area ratio (commercial and industrial).

The property adjacent to the west is developed with an existing single-family residential neighborhood and the property to the east, across Pflumm Road, is developed with the Johnson County Executive Airport. The Airport property is developed with buildings spaced far apart, and set back significantly from Pflumm Road, with high amounts of open space and low floor-to-area ratios. The homes in the neighborhood to the west are two stories tall and are finished with stucco and siding. The proposed development is more compatible with the scale, building height, massing, and open space with the surrounding neighborhood than the character typically developed through the existing BP District.

C. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning districts and uses.

The vacant property to the north is zoned C-2 (Community Center) District and Olathe Girls Softball Complex is located within the AG (Agricultural) District. The properties to the west are developed with single-family homes zoned R-1 (Residential Single-Family). The property directly east is zoned AG and is developed with the Johnson County Executive Airport. Finally, the property to the south is zoned BP and is currently undeveloped. The proposed C-2 District and development of a religious institution would be harmonious with the zoning and uses on surrounding properties. The district promotes neighborhood-oriented development with a mix of lower-intensity uses that fit the size scale and intensity of a suburban neighborhood setting. The adjacent portion of the BP District to the south does restrict more intense industrial uses and contains specific site and building design requirements which promote compatibility with the proposed district and surrounding zoning districts.

D. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.

The current BP (Business Park) District permits a variety of office, warehousing and light industrial uses. Uses permitted in the BP District are not as compatible with the single-family residential development abutting the property to the west as uses permitted in the proposed C-2 District. Uses permitted in the BP District can generate the potential for increased conflicts with residential properties due to the scale of buildings permitted, possibility of noise, lighting and other factors typically generated by the permitted uses. Additionally, the pipeline easement that bisects the property provides a challenge for the development of uses that would typically be constructed in the BP District. The lower intensity uses permitted in the C-2 District including the

proposed restriction of some commercial uses on the property promotes a more suitable mix of uses that complement surrounding neighborhoods.

E. The length of time the property has remained vacant as zoned.

The subject property was rezoned to the BP District in 2000 and has been vacant since that time. The rezoning in 2000 included a related preliminary site development plan for the property but was never developed. Approximately 61 acres in the general vicinity along Pflumm Road were zoned BP District between 2000 and 2003 and have never been developed for their intended business park uses.

F. The extent to which development under the proposed district would substantially harm the value of nearby properties.

The proposed rezoning to the C-2 District and related preliminary site development plan will not detrimentally affect nearby property values. In addition to the minimum required setbacks and landscaped buffers between C-2 and R-1 Districts, approximately 133 feet of easements provide additional separation from the proposed development to the existing single-family neighborhood.

G. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.

The trips generated by the church will not adversely affect the capacity or safety of the road network in the general vicinity. The parking lot proposed to the south of the church consists of an adequate number of spaces for the proposed use of the building. Trips generated by the proposed use will typically be during off-peak hours which promotes more cohesive traffic patterns with surrounding residential and commercial uses.

H. The extent to which the proposed use would create air pollution, water pollution, noise pollution or other environmental harm.

The proposed development will comply with the requirements of Title 17 of the Olathe Municipal Code, and will not create air pollution, water pollution, noise pollution, or other environmental harm.

I. The economic impact of the proposed use on the community.

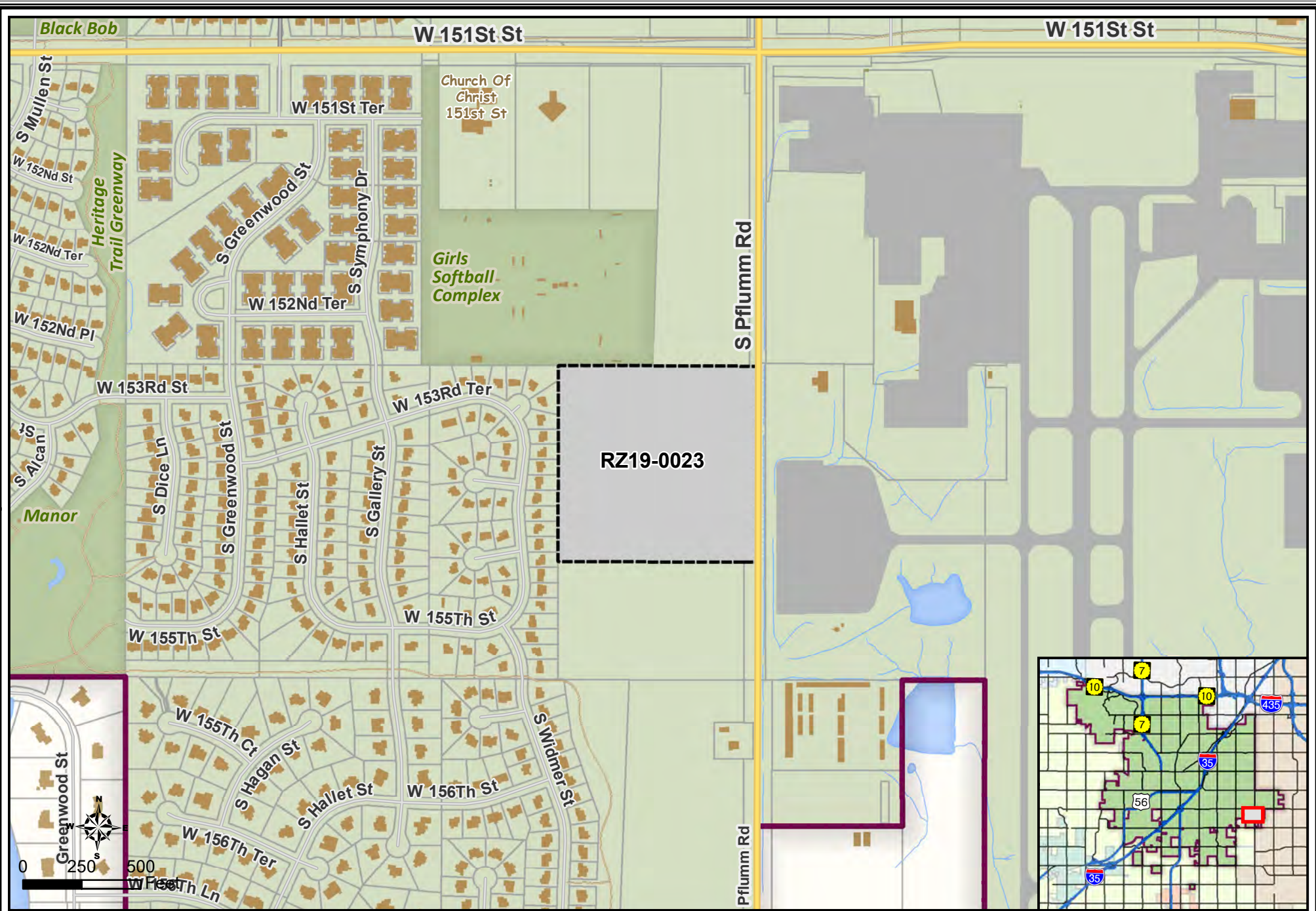
Religious assemblies can add value to the community through social capital, jobs, volunteer opportunities, community services, and physical resources among many other impacts.

J. The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

If the rezoning were denied, the applicant would not be able to develop the proposed use in the existing BP District. The rezoning facilitates the proposed use and adopts a district that is compatible with surrounding neighborhoods. Additionally, the proposed zoning does not negatively impact the public health, safety and welfare as presented.

11. Staff Recommendation

- A. Staff recommends approval of RZ19-0023, Chinmaya Mission for the following reasons:
 - 1. The proposed development complies with the policies and goals of the *Comprehensive Plan* for Land Use (LUCC-6).
 - 2. The requested rezoning to the C-2 district meets the *Unified Development Ordinance (UDO)* criteria for considering zoning applications.
- B. Staff recommends approval of the rezoning to the C-2 District, with the following uses prohibited:
 - 1. Any Distance Restricted Business as provided in Olathe Municipal Code, Chapter 5.43
 - 2. Animal Care, Outdoor Kennel
 - 3. Auto Supply (Parts) Stores
 - 4. Bars, Taverns, and Drinking Establishments
 - 5. Building Materials Sales – Without Lumberyard
 - 6. Convenience Stores, with or without Gas Sales and Gas Stations
 - 7. Entertainment Establishment
 - 8. Hospital
 - 9. Hotel/Motel
 - 10. Liquor Store
 - 11. Pawnshops
 - 12. Vehicle Services
 - 13. Woodworking Shops
- C. The following stipulations apply to the preliminary site development plan:
 - 1. A final site development plan must be approved, and a final plat recorded prior to building permit submittal.
 - 2. Landscaping, parking and paved areas will meet the requirements of the UDO during final site development plan review.
 - 3. As required by the *UDO*, all exterior ground or building mounted equipment, including but not limited to mechanical equipment, utility meter banks and coolers, must be screened from public view with landscaping or an architectural treatment compatible with the building architecture.
 - 4. All new on-site wiring and cables must be placed underground.
 - 5. The fire hydrant and Fire Department Connection (FDC) proposed must be within 3 feet of the curb.



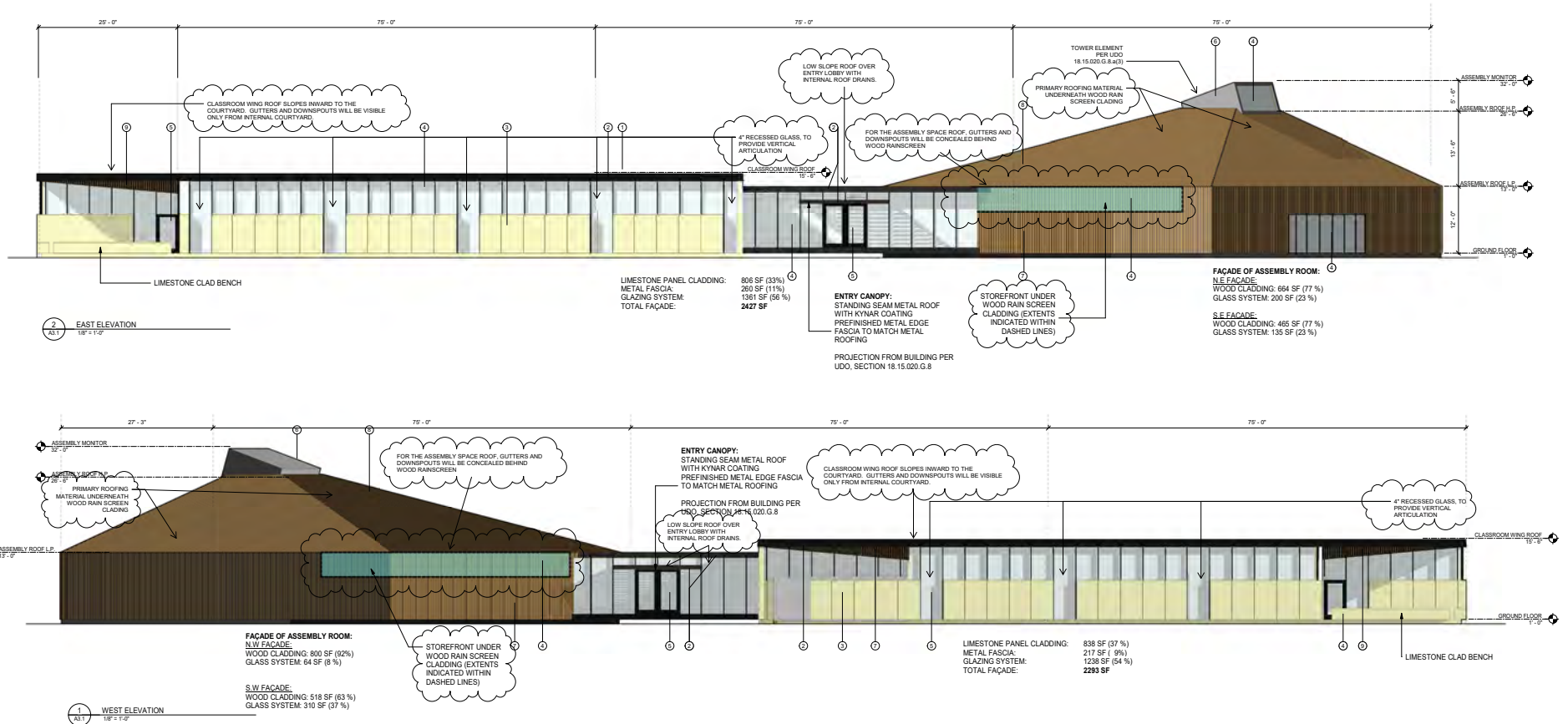
CHINMAYA MISSION
RZ19-0023

ELEVATION NOTES

1. ALL ROOFTOP EQUIPMENT MUST BE SCREENED FROM PUBLIC VIEW WITH AN ARCHITECTURAL TREATMENT WHICH IS COMPATIBLE WITH THE BUILDING ARCHITECTURE AND INTEGRAL TO THE OVERALL APPEARANCE OF THE BUILDING.
2. ALL SOFFITS OR OVERHANGS TO BE PROPORTIONAL, WITH A MINIMUM PROJECTION OF 6".

MATERIAL LEGEND

1. STANDING SEAM METAL ROOF (CLASS 1 ROOF) WITH KYNAR COATING
2. PREFINISHED METAL EDGE FASCIA TO MATCH METAL ROOFING
3. LIMESTONE PANEL CLADDING
4. THERMALLY BROKEN ALUMINUM STORE FRONT SYSTEM WITH 1" INSULATED LOW-E VISION GLASS
5. ALUMINUM ENTRY DOOR SYSTEM TO MATCH STORE FRONT SYSTEM
6. ARCHITECTURAL METAL WALL PANEL 1" WITH KYNAR FINISH
7. WOOD RAIN SCREEN CLADDING SYSTEM
8. ASPHALT SHINGLE OR EQUAL (CLASS 2 ROOF) UNDERNEATH WOOD RAIN SCREEN CLADDING & CONCEALED GUTTER
9. SUPERIOR WOOD SOFFIT



CHINMAYA MISSION

NEW FACILITY

APPLICANT
RAJASREE PRAKASH
CHINMAYA MISSION KANSAS CITY
10711 CEDAR ST
OVERLAND PARK, KS 66224

ARCHITECT
RAMASWAMI ARCHITECTS
340 NORTH LEITHGOW STREET
PHILADELPHIA, PA 19123

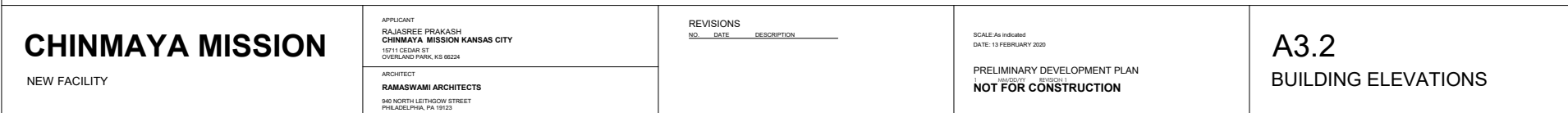
REVISIONS

NO. DATE DESCRIPTION

SCALE: As indicated
DATE: 13 FEBRUARY 2020

PRELIMINARY DEVELOPMENT PLAN
NOT FOR CONSTRUCTION

A3.1
BUILDING ELEVATIONS





PROPOSED KANSAS CITY CHINMAYA MISSION – AERIAL VIEW OF SITE LOOKING NORTH



PROPOSED KANSAS CITY CHINMAYA MISSION – AERIAL VIEW FROM NORTH EAST



PROPOSED KANSAS CITY CHINMAYA MISSION –ENTRY VIEW FROM NORTH EAST

March 3, 2020

To: Zach Moore, City of Olathe

From: Sean Pendley, Johnson County Planning Department

Re: **City of Olathe Application No. RZ19-0023, Rezoning from BP to C-2 and Preliminary Site Development Plan for Chinmaya Mission**

This letter is written on behalf of the Johnson County Planning Department with regard to the above referenced proposed project.

The subject property is within 1 mile of the Johnson County Executive Airport. Pursuant to K.S.A. 3-307e, any changes in existing city zoning must have the approval of the Board of County Commissioners of Johnson County, Kansas (BOCC), to be valid and effective.

The following are preliminary comments from the Johnson County Planning Department staff for the subject rezoning applications and may not necessarily reflect the official views or comments of the Airport Commission or BOCC:

1. The *Executive Airport Comprehensive Compatibility Plan* (Plan) shows this property located within the "Airport Interest Area", and the site is planned for "Airport Compatible Business" (see attached Future Land Use Map). The Airport Compatible Business category is intended to support uses related to the airport or similar uses such as offices, warehouses and commercial buildings. Meeting places, auditoriums, and the like are not recommended.
2. The Plan, generally concludes that nonresidential uses are compatible with airport operations provided there is avoidance of land uses that attract crowds in excess of 500 persons such as hospitals, schools, theaters, stadiums at any one time, or concentrates persons who are unable to respond to emergency situations such as day care establishments (child or handicapped), nursing homes and elder care facilities.
3. The preliminary development plan identifies an assembly space and classroom building with a total building area of 15,612 square feet. The applicant's statement of purpose indicates there would be approximately 150 adults and 225 children for a total of approximately 375 people within the building at the peak time of services on Sundays. In addition, according to the applicant, children in the building must be accompanied by an adult at all times so they would have assistance in the case of emergencies. On other days of the week, there would be a total of approximately 25 people in the building as part of scriptural studies and other activities.
4. Parking, lighting and other site improvements should not conflict with the airport or aircraft operations. Details for lighting, light poles, and other site improvements shall be provided with the final site development plan.
5. Required FAA documents, including Form 7460, shall be submitted to and approved by FAA for all aspects of the development.
6. Acknowledgment of Noise Impact area and noise attenuation/sound proofing construction standards should be considered for the proposed buildings.

7. Affidavits of Interest regarding the Johnson County Executive Airport shall be filed in the chain of title for the subject property and the appropriate language for the Airport Affidavit of Interest shall be included on the final plat.
8. Permanent water features or wet-bottom drainage areas should not be located within the subject property.
9. Final site development plan(s) and final plat(s) for the subject property shall be approved by the BOCC.

Staff has no objections to this application for rezoning to C-2 (Commercial) district and preliminary development plan for a religious organization, subject to the uses, building area and development conditions as cited above.

At the conclusion of the city's actions on this application, all relevant information and documents which were considered by the city regarding the application, should be forwarded to the BOCC, in care of Sean Pendley, Johnson County Planning Department, 111 S. Cherry, Suite 2000, Olathe, Kansas, 66061. Thereafter, the Airport Commission will consider this application and provide a recommendation to the BOCC. Finally, the BOCC will review the proposed request and all information submitted for the record and render its decision on the application.

If you have any questions concerning this letter, please contact me at (913) 715-2205. Thank you for your cooperation in this matter.

Respectfully,



Sean Pendley, AICP
Deputy Director of Planning

Cc: Rajasree Prakash, Chinmaya Mission Kansas City
Larry Peet, Johnson County Airport Commission

Chinmaya Mission Kansas City
15711 Cedar St., Overland Park, KS 66224
chinmayamissionkc@gmail.com

January 21, 2020

VIA REGULAR MAIL

Re: Neighborhood Meeting for Proposed Rezoning of parcel located approximately at 155th St.
and Pflumm Rd., Olathe, KS 66061

Case No. RZ19-0023

Legal Description of the property: A parcel of land located in Section 9, Township 14,
Range 24, Johnson County, Kansas, more particularly described as follows: The East 25
acres of the Southeast Quarter of the Northeast Quarter of said Section 9, EXCEPT the
South 500 feet.

Meeting Date & Time	Monday, February 03, 2020 at 6:00 PM
Meeting Place	Olathe Community Center, Community Room C

Dear Neighbor:

This letter is to inform you that a neighborhood meeting has been scheduled for Monday, February 3rd, 2020 regarding the above-referenced site. We have filed an application to rezone approximately 14.98 acres of the property from BP to C-2 to allow for the development of a Church. The meeting will be held at 6:00 pm at the Olathe Community Center, Room C, 1205 E. Kansas City Road, Olathe, KS 66061

The purpose of the meeting is to establish good communications with area residents/businesses and to present our proposal for this site. Please feel free to attend the meeting for an opportunity to learn more about the project and discuss any questions you may have. A copy of the proposed site plan and building elevations are attached for your information. Some details on the plans may be subject to change, and waivers may be requested from Unified Development Ordinance, Sections 18.15 and/or 18.30

We welcome any questions or comments you may have regarding the proposed development and we look forward to seeing you at the meeting.

Sincerely,



Rajasree Prakash
President

Project: Chinmaya Mission Rezoning
Case #: RZ19-0023
Location: Near 155th St & Pflumm Rd, Olathe KS
Meeting Minutes of Neighborhood Meeting
Held at
Olathe Community Center, Room C, Olathe, KS
on
February 03, 2020 from 6PM to 7PM

Attendee:

Please see the attached sign-up sheet

Presenters: Mrs. Raji Prakash – President, Chinmaya Mission Kansas City

Mr. Murali Ramaswami – Architect, Chinmaya Mission Kansas City

Attached: PowerPoint Presentation

Welcome and Project Presentation:

Mrs. Raji Prakash welcomed the attendees who responded to the notification of the neighborhood meeting. She then presented general information about Chinmaya Mission Kansas City, “Mission Statement” of Chinmaya Mission, the need for Chinmaya Mission Kansas City to have its own property to build a Hindu Church, and why and how the proposed property site meets the organization’s needs.

Then, Mr. Murali Ramaswami, the architect hired by Chinmaya Mission Kansas City to prepare the preliminary design and layout of the proposed Hindu Church, presented the design, preliminary layout of the Hindu church and site plan including the idea behind the design, building layout of the assembly hall and class rooms, parking lot, concept drainage design and landscaping plans.

After the presentations, the meeting was opened for questions and comments.

Questions and Answers and Comments:

Q: Don't know much of your mission. What are your teachings and what is your mission?

Mrs. Prakash: Universal love, brotherhood, and how to work with everyone together. Our teachings are based on scriptures like Bhagavad Gita that teaches how to live a life where one contributes to the community.

Q: Have you purchased the land?

Mrs. Prakash: It is under contract. We will be going to the Planning Commission and the City for rezoning approval prior to closing the contract.

Q: The pipeline that goes through the property that has an easement, is there a conflict?

Mrs. Prakash: No, we have ample space on the east side of the pipeline easement for the building we need at this time.

Q: As the church expands in future, will you push further westward?

Mrs. Prakash: At this time, I don't see a need to expand to the west side of the pipeline as we have ample space on the east side of the easement.

Q: Currently the area is a farmland. What are you planning to do in the open space area?

Mrs. Prakash: Probably put Prairie grass or some plants local to the area. Nature and living in harmony with it, is an important part of our scriptures.

Q: What is the separation considered on the west side of the property?

Mr. Ramaswami: We will follow zoning requirements which requires a wall, berm and trees consisting of a 6 feet high fence, and a 5' high earthen berm and a mix of evergreen and deciduous trees. We will be engaging a team of consultants and landscape architect to prepare the final plans after the Planning Commission's approval.

Q: Is the farmhouse currently on the property a part of the purchase?

Mrs. Prakash: No, the farmhouse is south of the property being bought by Chinmaya Mission Kansas City.

Q: Have concerns about having a wall (on the west side of the property next to the residential area), which is needed because of city zoning requirements. We could be missing the view or put us in a claustrophobic situation.

Mr. Ramaswami: The preliminary design shows what is required to meet City's zoning requirements. We will work with the city on considering variances to the zoning requirements that meet the preferences of the neighborhood. We don't want to promise anything but believe this is something that could be worked out.

Q: Have you followed up with the City regarding the widening of Pflumm Road?

Mrs. Prakash: Yes, we have. Expansion is being considered by the City to widen Pflumm Road from 143rd St to 151st. Eventually, the city would consider expanding Pflumm Road to the south of 151st as well.

Q: Do you have the funding to do the building?

Mrs. Prakash: The project has generated a lot of enthusiasm in our community and we are positive we will get the funding to move forward.

Q: Maintenance of the building and premises can be expensive, and I am concerned whether Chinmaya Mission Kansas City will be able to maintain with a membership of 160 families.

Mrs. Prakash: We have 45 centers in the US. We understand the model that are working there. We have funds from ongoing annual membership and also raise funds from fundraising events. We have committed donors. Other centers have done this and paid off all loans in 10-15 years. So, we are confident that we will meet the maintenance costs.

Q: Will donors have a say with the building design?

Mrs. Prakash: Scriptures tell us to keep some and give the rest to the community. Our community is committed to doing what is right for the common good.

Q: What is Chinmaya Mission Kansas City's revenue per month?

Mrs. Prakash: We have an annual membership apart from fund raising activities. This model is working in 45 other centers and is going to work here. We don't collect money weekly during the Sunday prayers.

Q: Overall, how is having a church going to impact our community and value of our homes?

Mrs. Prakash: The rezoning to C2 is from a land stewardship standpoint. A church at this specific location, we believe, is better for the neighborhood than a business park. A see through (on the west side of the property) is better than a wall is what we seem to be hearing from you. With native grass in the open space to the west, it can be a beautiful facility.

One of the neighborhood attendees: The current zoning is Business and with converting it to C2 is more beneficial as it is better to have a Church than buildings with large parking lots which is more detrimental to property values than having a Church.

Q: How much of the property is the building?

Mr. Ramaswami: Less than half of the land will be used for the building and parking lot.

Q: How far are you with design?

Mr. Ramaswami: We have completed just the preliminary design sufficient enough to obtain Planning Commission's approval.

Q: Currently water flows south-westward from the farmland property towards the residences. With the existing berm constructed by the developer of the subdivision on the property line and the new berm shown in the preliminary plans shown in this meeting, it could create a swale between the berms. Currently storm drain water causes some flooding in the back of houses immediately west of the property being purchased by Chinmaya Mission Kansas City. Will the new construction make the flooding worse?

Mr. Ramaswami: As part of building the facility, we could consider solutions that could improve the grading problem. A drainage engineer hired by Chinmaya Mission Kansas City has performed preliminary drainage study and has proposed a storm water basin as part of this to collect the water from the impervious areas from the developed portion of the Hindu Church. The proposed construction also doesn't intend to disturb the areas west of the pipeline easement areas and will be kept as close to the existing condition as possible thus not changing existing drainage conditions.

Q: What are your plans for the open space in the west of the property?

Mrs. Prakash: Natural grass.

Q: Will the natural grass be planted?

Mrs. Prakash: Yes.

From: Larry Anderson <larry@andersoncoinc.com>
Sent: Wednesday, February 12, 2020 12:13 PM
To: Zach Moore
Cc: larry@andersoncoinc.com
Subject: Zoning Case RZ19-0023

Zach,

Pursuant to our discussion, please be advised that as adjoining property owners, we would be supportive of the zoning case above provided that City of Olathe staff finds the plan to be in accordance with applicable standards.

Best Regards,

Pflumm Road Investors, LLC

Larry Anderson
The Anderson Company, Inc.
U-Stor Houston, LLC
435 N. Broadway, Suite 202
Wichita, Kansas 67202
316-262-2666; 316-706-4187 (cell)
www.u-stor.com
www.lakepointnc.net
www.vitalcorehs.com
larry@andersoncoinc.com

From: Chinmaya Mission KC <chinmayamissionkc@gmail.com>
Sent: Monday, March 02, 2020 7:36 PM
To: Zach Moore
Subject: Fwd: Rezoning of parcel located approx. at 155th St. & Pflumm Rd

----- Forwarded message -----

From: **Jacob Enlow** <jenlow84@gmail.com>
Date: Mon, Mar 2, 2020 at 6:33 PM
Subject: Re: Rezoning of parcel located approx. at 155th St. & Pflumm Rd
To: Chinmaya Mission KC <chinmayamissionkc@gmail.com>

I won't be able to make it but I was very impressed with the presentation. I think the building will look great and better than anything else that could possibly be built in that location. I hope the rezoning is approved.

Jacob Enlow

On Mon, Mar 2, 2020 at 6:16 PM Chinmaya Mission KC <chinmayamissionkc@gmail.com> wrote:

Dear Neighbor,

Re: Case No. RZ19-0023; Rezoning of parcel located approx. at 155th St. & Pflumm Rd., Olathe, KS 66061

This is a courtesy email sent to neighbors who attended the February 3rd neighborhood meeting at Olathe Community Center, to inform that the February 24th planning commission meeting has been rescheduled to March 9th. This public meeting will be held at 7PM at Olathe City Hall Council Meeting Room located at 100 E. Sante Fe, Olathe, Kansas to consider a Rezoning request of application RZ19-0023 from BP (present zoning) to C-2 (proposed zoning).

Sincerely,

Rajasree Prakash

President

Chinmaya Mission Kansas City



MINUTES

Planning Commission Meeting: March 9, 2020

Application:	<u>RZ19-0023:</u> Rezoning from BP (Business Park) District to C-2 (Community Center) District and a revised preliminary site development plan for Chinmaya Mission
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Kim Hollingsworth, Senior Planner, presented an application for rezoning from BP to C-2 and a revised preliminary site development plan for Chinmaya Mission, located southwest of 153rd Street and Pflumm Road. The site is approximately 16.13 acres and is surrounded by C-2 to the north, agriculture to the east, BP to the south, and R-1 single-family to the west. Ms. Hollingsworth noted that this property is near the Johnson County Executive Airport, a residential neighborhood, a softball complex, and other vacant properties to the north and south.

Ms. Hollingsworth highlighted the 2000 preliminary development plan approved for BP District, showing a significant number of buildings throughout the site, all of which are located close to the R-1 zoning district. This application is set back significantly from all property lines. She notes that the site exceeds requirements for site design Category 4, and the site includes about 130 parking spaces. Ms. Hollingsworth also noted a significant berm and double row of evergreens to meet buffer requirements. There is also a 130-foot area dedicated to major gas pipeline easements, creating another significant buffer.

Ms. Hollingworth explained that there is a single access point from Pflumm Road. The long access drive provides stacking of vehicles as they enter and exit the site. She noted areas for loading/unloading, as well as pedestrian connections along the access drive. She said the applicant provided renderings and elevations of the buildings, which are subject to office and civic design requirements. She presented a rendering that reflected the proposed style and building materials, including glass, limestone, and a wood rain screen.

Ms. Hollingsworth stated that PlanOlathe designates this property as employment area, noting that the C-2 district does not typically align with the employment area. However, staff has found that rezoning to a C-2 district is much more compatible with the neighborhood to the west, and would be an extension of the C-2 to the north.

Ms. Hollingsworth presented an aerial that reflected the distance the building will be located from the residential property, and staff finds that this design is more compatible with the scale, building height, massing and open space within the neighborhood, compared to what could be constructed in the BP District. She added that the C-2 district promotes neighborhood development with a mix of lower intensity uses. She added that Johnson County Planning supports this rezoning and plan, and the Johnson County Board of County Commissioners and Airport Commission will be considering this application following City Council.

Ms. Hollingsworth stated that a neighborhood meeting was held on February 3, 2020, and was attended by 11 residents. Subjects discussed included potential plans for expansion of the project, buffer and screening, drainage and landscaping. Residents do not want a wall along the buffer area, and the applicant will instead use trees as a buffer. Staff recommends approval.

Chair Vakas opened the public hearing and asked the applicant to come forward. **Rajasree Prakash, 15711 Cedar Street, Overland Park**, representing Chinmaya Mission, a Hindu religious organization. She gave a brief background about the organization. The organization is renting space and operating out of Harmony Middle School at 143rd and Switzer, but they have limited access to the facility. They feel that rezoning the property to C-2 will allow them to build their religious facility and bring flexibility to their operation. The space is ideal, and if approved, the center will benefit hundreds of families in the area. She asked for a recommendation of approval.

There were no questions of the applicant. **John Sweeney, 8005 West 110th Street**, approached the podium, representing Chinmaya Mission. He believes this is an ideal location for this building because the use will be very light.

Chair Vakas called for a motion to close the public hearing.

Motion by Comm. Allenbrand, seconded by Comm. Sutherland, to close the public hearing.

Motion passed 7-0.

Motion by Comm. Sutherland, seconded by Comm. Youker, that RZ19-0023 be recommended for approval, for the following reasons:

1. The proposed development complies with the policies and goals of the *Comprehensive Plan* for Land Use (LUCC-6).
2. The requested rezoning to the C-2 district meets the *Unified Development Ordinance (UDO)* criteria for considering zoning applications.

Comm. Sutherland's motion included recommending approval of RZ19-0023 subject to staff's stipulation. Said stipulation includes the following use prohibitions:

1. Any Distance Restricted Business as provided in Olathe Municipal Code, Chapter 5.43
2. Animal Care, Outdoor Kennel
3. Auto Supply (Parts) Stores
4. Bars, Taverns, and Drinking Establishments
5. Building Materials Sales – Without Lumberyard
6. Convenience Stores, with or without Gas Sales and Gas Stations
7. Entertainment Establishment
8. Hospital
9. Hotel/Motel
10. Liquor Store
11. Pawnshops

12. Vehicle Services

13. Woodworking Shops

Comm. Sutherland's motion included recommending approval of the associated preliminary site development plan, subject to the following stipulations:

1. A final site development plan must be approved, and a final plat recorded prior to building permit submittal.
2. Landscaping, parking and paved areas will meet the requirements of the UDO during final site development plan review.
3. As required by the *UDO*, all exterior ground or building mounted equipment, including but not limited to mechanical equipment, utility meter banks and coolers, must be screened from public view with landscaping or an architectural treatment compatible with the building architecture.
4. All new on-site wiring and cables must be placed underground.
5. The fire hydrant and Fire Department Connection (FDC) proposed must be within 3 feet of the curb.

Aye: Allenbrand, Sutherland, Nelson, Corcoran, Youker, Breen, Vakas. (7)

No: (0)

Motion was approved 7-0.

ORDINANCE NO. 20-08

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF OLATHE, KANSAS, AS ADOPTED BY REFERENCE IN SECTION 18.20.030 OF THE OLATHE UNIFIED DEVELOPMENT ORDINANCE; FURTHER AMENDING SAID SECTION 18.20.030 BY REINCORPORATING SUCH MAP AS AMENDED.

WHEREAS, Rezoning Application No. RZ19-0023 requesting rezoning from BP District to C-2 District was filed with the City of Olathe, Kansas, on the 3rd day of October 2019; and

WHEREAS, proper notice of such rezoning application was given pursuant to K.S.A. 12-757 and Chapter 18.40 of the Olathe Unified Development Ordinance; and

WHEREAS, a public hearing on such application was held before the Planning Commission of the City of Olathe, Kansas, on the 9th day of March 2020; and

WHEREAS, said Planning Commission has recommended that such rezoning application be approved.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: That the Zoning Map of the City of Olathe, Kansas, is hereby ordered to be amended insofar as the same relates to certain parcels of land legally described as:

A parcel of land located in Section 9, Township 14, Range 24, Johnson County, Kansas, more particularly described as follows: The East 25 acres of the Southeast Quarter of the Northeast Quarter of said Section 9, EXCEPT the South 500 feet.

The above Tract also being described as:

All of the East 25 acres of the Southeast Quarter of the Northeast Quarter of Section 9, Township 14 South, Range 24 East of the 6th P.M., Johnson County, Kansas, LESS AND EXCEPT the South 500 feet thereof, and being more particularly described as follows:

COMMENCING at the Southeast corner of the Northeast Quarter of said Section 9, thence North 01°53'51" West, along the East line of said Northeast Quarter, a distance of 500.00 feet to the POINT OF BEGINNING; thence South 88°18'32" West, along the North line of the South 500 feet of the Northeast Quarter of said Section 9, a distance of 847.51 feet to a point on the East line of the Symphony at the Reserve Subdivision – First Plat, a platted tract of land in Olathe, Johnson County, Kansas; thence North 01°52'53" West, along said East line, a distance of 828.94 feet to the Northeast corner of said Symphony at the Reserve – First Plat, said point being on the North line of the Southeast Quarter of the Northeast Quarter of said Section 9; thence North 88°14'41" East, along said North line, a distance of 847.28 feet to the Northeast corner of the Southeast Quarter of the Northeast Quarter of said Section 9; thence South 01°53'51" East, along the East line of said Quarter-Quarter, a distance of 829.89 feet to the POINT OF

BEGINNING and containing 702,836.82 square feet, or 16.13 acres, more or less.

Said legally described property is hereby rezoned from BP District to C-2 District.

SECTION TWO: That this rezoning to the C-2 District is approved with the following uses prohibited:

1. Any Distance Restricted Business as provided in Olathe Municipal Code, Chapter 5.43
2. Animal Care, Outdoor Kennel
3. Auto Supply (Parts) Stores
4. Bars, Taverns, and Drinking Establishments
5. Building Materials Sales – Without Lumberyard
6. Convenience Stores, with or without Gas Sales and Gas Stations
7. Entertainment Establishment
8. Hospital
9. Hotel/Motel
10. Liquor Store
11. Pawnshops
12. Vehicle Services
13. Woodworking Shops

SECTION THREE: That Section 18.20.030 of the Unified Development Ordinance, which incorporates by reference the Olathe Zoning Map, is hereby amended by reincorporating by reference the said Zoning Map as it has been amended in Section One of the Ordinance.

SECTION FOUR: That this Ordinance shall take effect from and after its passage and publication as provided by law.

PASSED by the City Council this 7th day of April 2020.

SIGNED by the Mayor this 7th day of April 2020.

Mayor

ATTEST:

City Clerk

Ordinance No. 20-08
RZ-0023
Page 3

(Seal)

APPROVED AS TO FORM:

City Attorney



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Public Works, Planning Division

STAFF CONTACT: Zachary Moore, Planner II

SUBJECT: RZ19-0024: Rezoning from R-1 to the R-3 District and a preliminary plat for Stonebridge Village, Applicant: Brian Rodrock, Stonebridge Land & Cattle

ITEM DESCRIPTION:

Consideration of Ordinance No. 20-09, requesting approval for a rezoning from the R-1 to the R-3 District and a related preliminary site development plan on 27.65± acres; located southwest of the intersection of W. 167th Street and future Brougham Drive. Planning Commission recommends approval of the rezoning 8-0 and recommends approval of the preliminary site development plan 6-2, as amended.

SUMMARY:

The applicant is requesting a rezoning from the R-1 (Residential Single-Family) District to the R-3 (Residential Low-Density Multifamily) District and a preliminary site development plan for a new townhome neighborhood known as Stonebridge Courts. The proposed development consists of 126 townhome units on 27.65± acres, for a total of 4.56 units per acre.

The Comprehensive Plan "PlanOlathe" identifies the subject property as "Mixed Density Residential Neighborhood" and "Secondary Greenway." The proposal is appropriate for this area, as residential neighborhoods align with the vision established in PlanOlathe for this area. The proposed townhome development has a similar density and housing type as the existing development adjacent to the west.

A public hearing was held before the Planning Commission for this zoning petition on February 24, 2020, and no members of the general public spoke. Discussion at the public hearing centered around a stipulation requiring that the minimum driveway length to any single townhome unit be increased to 25 feet in lieu of 20 feet as proposed for lots where a sidewalk is not provided. This additional length would ensure vehicles have sufficient room when parked and not encroach into the common drive causing safety issues for pedestrians due to the lack of sidewalks. The applicant requested that this stipulation be removed and after much discussion, the Planning Commission concurred with the applicant's request.

The Planning Commission voted 8-0 to recommend approval of the rezoning to the R-3 District and voted 6-2 to recommend approval of the preliminary site development plan with the stipulation regarding the minimum driveway length stricken.

Additionally, the applicant has provided a narrative to supplement their application and color renderings to supplement the black and white elevations that were included in the Planning Commission packet. These renderings are included as Attachment C.

MEETING DATE: 4/7/2020

FINANCIAL IMPACT:

None

ACTION NEEDED:

1. Approve Ordinance No. 20-09 for a rezoning from the R-1 to the R-3 District as recommended by the Planning Commission.
 2. Deny Ordinance 20-09 for a rezoning from the R-1 District to the R-3 District.
 3. Return the rezoning application to the Planning Commission for further consideration with a statement specifying the basis for the Governing Body's failure to approve or disapprove.
-

ATTACHMENT(S):

- A. Planning Commission Packet
- B. Planning Commission Minutes
- C. Color Architectural Renderings
- D. Applicant Project Description and Narrative
- E. Ordinance No. 20-09



Planning Division

STAFF REPORT**Planning Commission Meeting: February 24, 2020**

Application:	<u>RZ19-0024:</u> Rezoning from R-1 (Residential Single Family) District to R-3 (Residential Low-Density Multifamily) District and a preliminary site development plan for Stonebridge Courts
Location:	South of 167 th Street, west of future Brougham Drive
Owner/Applicant:	Stonebridge Land and Cattle, LLC
Engineer:	Harold Phelps, P.E.; Phelps Engineering, Inc.
Staff Contact:	Zachary Moore, Planner II

Site Area:	<u>27.65± acres</u>	Proposed Use:	<u>Multifamily Residential</u>
Units:	<u>126 (122 multifamily)</u> <u>(4 two-family)</u>	Plat:	<u>Unplatted</u>
Density:	<u>4.56 units/acre</u>	Proposed Zoning:	<u>R-3 (Residential Low-Density Multifamily)</u>
Existing Zoning:	<u>R-1 (Residential Single Family)</u>		

	Plan Olathe Land Use Category	Existing Use	Current Zoning	Site Design Category	Building Design Category
Site	Mixed Density Residential Neighborhood	Vacant	R-1	3	Horizontally Attached Residential
North	Secondary Greenway / Conventional Neighborhood	Single-Family Residential	C-2 / AG	-	-
South	Mixed Density Residential Neighborhood	Vacant	BP	-	-
East	Conventional Neighborhood	Vacant	AG	-	-
West	Community Commercial Center	Multifamily Residential (Townhomes at Fairfield Village)	R-1	-	-

1. Proposal:

The applicant is requesting a rezoning from the R-1 (Residential Single Family) District to the R-3 (Residential Low-Density Multifamily) District and approval of an associated preliminary site development plan for Stonebridge Courts. The subject property is located along the south side of W. 167th Street and west of the future Brougham Drive. The proposed rezoning to the R-3 District is necessary to allow development of a townhome community on the subject property.

2. History:

The subject property was annexed into the City in 2005 and later rezoned to the R-1 (Residential Single-Family) District in 2006 (RZ-06-017). A related preliminary plat was included with the rezoning in 2006 for a single-family residential development. No final plats were filed following the preliminary plat and no other development proposals have been submitted on the subject property since 2006. The site has since remained vacant.

3. Existing Conditions / Site Photos:

The site is currently vacant and has never been developed. There is existing native vegetation along the western and eastern perimeters of the subject property.



Aerial view of subject property outlined in red



View of subject property looking south from W. 167th Street

4. Neighborhood Meeting and Public Notice:

A joint neighborhood meeting for this rezoning, preliminary site development plan, and plat for the property to the southwest, was held on January 29, 2020. Twenty-seven (27) residents attended and topics discussed included traffic on 169th Place, proposed greenspace and amenities, road network extensions, phasing, pricing, and stormwater. The applicant answered all questions asked by the residents and addressed each of their concerns at the meeting. Additional details were provided on the preliminary site development plan following the meeting regarding the amenities to be provided on site. Minutes from the neighborhood meeting are included in this packet.

The applicant mailed the required public notification letters to surrounding property owners within 200 feet and posted signs on the subject property, per UDO requirements.

Staff has not received any phone calls or other correspondence from members of the general public regarding this rezoning and preliminary site development plan.

5. Zoning Requirements:

- a. **Density** – The maximum density allowed in the R-3 District is 17 units per acre. With 126 proposed dwelling units on 27.65 acres, the density of the proposed development is 4.56 units per acre, therefore compliant with the UDO requirement.
- b. **Building Height** – The maximum building height in the R-3 District is 3 stories or 40 feet. The proposed townhomes will have a maximum height of approximately 30 feet, compliant with the UDO requirement.
- c. **Common and Active Open Space** – Developments in the R-3 District are required to provide a minimum of five (5) percent open space within the development, 50

percent of which is required to be active or civic open space. The applicant is providing 12.4 acres of open space, which is in excess of the minimum 1.38 acres of open space required. A total of 1.40 acres of active or civic open space is being provided within the proposed townhome development, exceeding the minimum 0.69 acres required, and is being provided with a pickleball court, a gazebo, benches, and walking paths.

- d. **Setbacks** – Each building included on the preliminary site development plan complies with the setback requirements of the R-3 District. Setbacks in the R-3 District are as follows:

- i. **Front Yard (minimum)** – N/A.
- ii. **Front Yard (maximum)** – 15 feet.
- iii. **Side Yard** – N/A
- iv. **Rear Yard** – 5 feet.

6. **Site Design Standards:** Development proposed in the Mixed Density Residential Neighborhood future land use map designation is subject to Site Design Category 3. The following is a summary of the applicable standards of Site Design Category 3.

- a. **Outdoor Amenity Space** – Development subject to Site Design Category 3 that is greater than 4 acres in size must provide Outdoor Amenity Space on a minimum of 10% of the total site area. A total of 2.76 acres of outdoor amenity space must be provided based on a total of 27.65 acres of total site area. The applicant is providing 1.40 acres of outdoor active amenity space, and an additional 1.3 acres of natural features are provided on site to meet the outdoor amenity space requirement.
- b. **Pedestrian Connectivity** – Development in Site Design Category 3 must provide enhanced pedestrian connections to encourage pedestrian use, integrate with surrounding land uses or connect to regional paths and trails. Cross-property connections and connections to adjacent developments are proposed to comply with UDO requirements.

7. **Building Design Standards:**

Townhome buildings are subject to the “Horizontally Attached Residential” design standards and two-family residential units are subject to the “Two-Family Residential” design standards of the UDO. Table 1, on the next page, lists the architectural requirements of the UDO, and the elements of the proposed plan which are used to meet or exceed these requirements.

Table 1: Building Design Standards	UDO Requirement (Horizontally Attached Residential) Proposed Design
<i>Building Entryway</i>	<p><i>Each unit must have its own front porch or recessed front entryway along one (1) primary façade. Each front porch or recessed entry must be a minimum 4 feet in depth and minimum 6 feet in width.</i></p> <p>Each unit will provide its own front porch on all proposed townhome units meeting the minimum dimensions required.</p>
<i>Garages</i>	<p><i>All street-facing garages must be recessed a minimum of two (2) feet from the front primary façade building line.</i></p> <p>Each street facing façade will be set back a minimum of two (2) feet from the primary building façade line.</p>
<i>Windows</i>	<p><i>Each dwelling unit must provide no less than two (2) separate windows no less than six (6) square feet in size along all primary façades.</i></p> <p>Each individual dwelling unit will provide at least two (2) windows a minimum of six (6) square feet in size.</p>
<i>Vertical Articulation</i>	<p><i>Each individual dwelling unit must provide at least one (1) vertical articulation tool to differentiate individual units along all primary façades along all primary façades.</i></p> <p>The roofline varies between each individual dwelling unit provided on the site development plan.</p>
<i>Horizontal Articulation</i>	<p><i>Each individual dwelling unit must provide at least one (1) horizontal articulation tool to differentiate individual units along all primary façades.</i></p> <p>Each individual dwelling unit will provide a horizontal articulation tool to meet the horizontal articulation requirement.</p>
<i>Exterior Building Materials – Primary Façades</i>	<p><i>Minimum 2 materials from Class 1 or a combination of materials from Classes 1 and 2 required on a minimum of 70% of primary façades.</i></p> <p>Each primary façade on the townhome units and the two-family dwelling units will provide a minimum of three Class 1 building material (stucco, synthetic stone, and clear glass) on greater than 70% of the primary façades.</p>
<i>Exterior Building Materials – Secondary Façades</i>	<p><i>Minimum 2 materials from Class 1 or a combination of materials from Classes 1 and 2 required on a minimum of 50% of secondary façades.</i></p> <p>Each secondary façade provides at least two (2) building materials from Class 1 (stucco, synthetic stone, and glass) on greater than 50%.</p>

8. Streets/Right-of-way:

A collector street is proposed along the southern portion of the proposed development to ultimately connect S. Mur-Len Road to the future Brougham Drive. From this collector street, one cul-de-sac with 25 units on it is proposed on the western side of the development. Another cul-de-sac is provided on the south side of the collector street, to the east, which contains 27 proposed townhome units. North of this cul-de-sac, a local street will loop to the north which individual units will take access from, as well as common drives providing access to between six (6) and nine (9) units. All but two of the proposed common drives provide access to six (6) units, with the two common drives exceeding six (6) units being at the northwest and northeast corners of the loop road, providing seven (7) and nine (9) units each. Each townhome unit in this proposal will either take access from a private drive or a local street. All access drives must be constructed with concrete pavement a minimum of 22 feet wide and with a maximum length of 150 feet.

9. Landscaping:

The applicant has provided a master landscape and screening plan, as well as a preliminary landscape plan depicting the location of street trees along all local streets and the proposed collector street. A 25-foot landscape buffer is provided along the 167th Street right-of-way, as required for residentially zoned properties adjacent to arterial streets. Fifteen (15) foot wide landscape easements are provided along the eastern property line, adjacent to the Brougham Drive right-of-way, as well as along the future collector street through the property. Interior lot trees will be provided at a rate of one (1) tree per each multifamily dwelling unit, and four (4) trees per each two-family dwelling unit.

10. Comprehensive Plan Analysis:

The future land use map of the Comprehensive Plan identifies the subject property as "Mixed Density Residential Neighborhood." The intent for the Mixed Density Residential Neighborhood future land use map designation is intended to provide a mixture of housing styles, types, and densities, and for the mix of housing types to be oriented more toward attached multifamily units rather than detached single-family units.

The following are criteria for considering rezoning applications as listed in *Unified Development Ordinance (UDO) Section 18.40.090.G*.

A. The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies.

The subject property is currently zoned R-1 (Residential Single-Family) and is proposed to be rezoned to R-3 (Residential Low-Density Multifamily). The proposed rezoning aligns with the future land use map designation of Mixed Density Residential Neighborhood. PlanOlathe includes policies to maintain the distinct character and identity of Olathe's neighborhoods and to promote density that can support existing or future commercial development. The proposed townhome development complies with other goals and principles of the PlanOlathe.

- **Principle LUCC-3:** *"Promote adequate residential densities to support existing and future commercial centers."*
- **Principle HN-1:** *"Maintain the character and identity of existing residential neighborhoods."*

B. The character of the neighborhood including but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, siting, open space and floor-to-area ratio (commercial and industrial).

The Townhomes at Fairfield Village is located immediately west of the proposed townhome development and its final phases are currently under construction. The proposed townhome development has a similar density, architectural style, and site design as the Townhomes at Fairfield Village. The proposed development also uses similar building materials as the Townhomes at Fairfield Village, such as stucco and synthetic stone, and the proposed buildings have a similar mass and separation from other buildings as the Townhomes at Fairfield Village provides.

C. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses.

The surrounding properties to both the south of the subject property and to the north, across 167th Street, are zoned R-1 and are either developed with or planned for single-family residential development. The property immediately to the west is currently zoned RP-3 (Planned Residential Low Density Multifamily) and is in the final phases of construction of a townhome development (The Townhomes at Fairfield Village). The proposed R-3 zoning and townhome development on the subject property would be harmonious with the existing zoning and uses in the surrounding area.

D. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.

The subject site is currently zoned R-1 District which allows for the development of single-family homes, group living facilities, and civic uses such as churches and schools. Development of a low-density townhome development on the subject property would provide an appropriate transition from the arterial street to the north (167th Street) to the future single-family development to the south in the existing R-1 zoning.

E. The length of time the property has been vacant as zoned.

The subject property was rezoned to the R-1 District in 2006 and has remained vacant since then. The rezoning in 2006 included a related preliminary plat for the area but no final plats have been submitted and no other developments have been proposed on the subject property.

F. The extent to which approval of the application would detrimentally affect nearby properties.

The proposed development will not have any detrimental effect on surrounding properties. The adjacent property to the west is developed in a similar pattern and the proposed development will provide an appropriate separation from the arterial street (167th Street) to the north and the future single-family residential development on the R-1 zoned property to the south.

G. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.

The addition of the trips generated by the proposed townhome development should not adversely affect capacity or safety of the applicable road network. A collector roadway will be built through the southern portion of the townhome development, as well as on the east side to help traffic flow in the surrounding area. Each dwelling unit will provide parking for residents as required by UDO Section 18.30.160.

H. The extent to which the proposed use would create air pollution, water pollution, noise pollution or other environmental harm.

The proposed development will comply with the requirements of Title 17 of the Olathe Municipal Code, and will not create air pollution, water pollution, noise pollution, or other environmental harm.

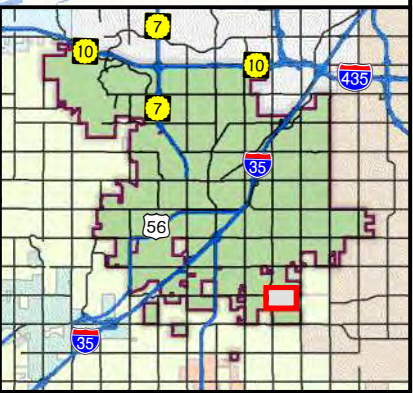
I. The economic impact of the proposed use on the community.

Property taxes will be generated for each individual unit for sale in the proposed subdivision, and construction of the subdivision will provide additional housing opportunities for those relocating to Olathe for employment.

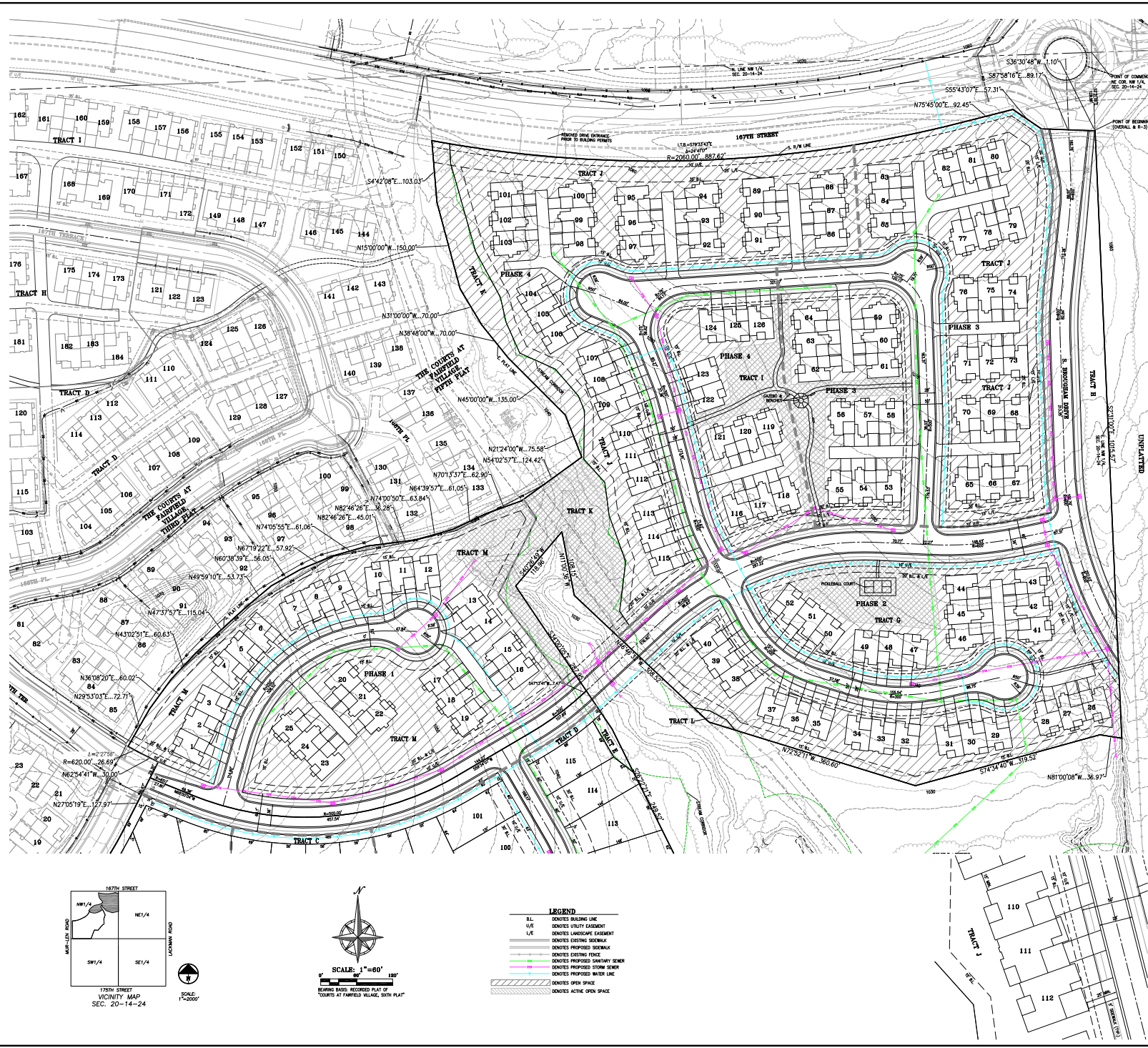
11. Staff Recommendation:

- A. Staff recommends approval of RZ19-0024, Stonebridge Courts for the following reasons:
 - 1. The proposed development complies with the policies and goals of the PlanOlathe for Land Use and Housing (Principle LUCC-3 and HN-1).
 - 2. The requested rezoning to the R-3 district meets the Unified Development Ordinance (UDO) criteria for considering zoning applications.
- B. Staff recommends approval of the rezoning to the R-3 district, as presented.
- C. The following stipulations apply to the preliminary site development plan:
 - 1. A final site development plan must be approved and a final plat recorded prior to issuance of building permits.
 - 2. The minimum driveway length to any single unit is 25 feet.
 - 3. Common drives must be constructed with concrete pavement with a maximum length of 150 feet and a minimum width of 22 feet. The common drives at the northeast and northwest corners of the proposed development may exceed 150 feet in length with turnarounds for the Fire Department provided.
 - 4. A tree survey must be submitted with submittal of the final site development plan.

5. The existing driveway on 167th Street at the northwest corner of the property must be closed prior to the issuance of building permits.



STONEBRIDGE COURTS
RZ19-0024



LEGAL DESCRIPTION: (R-3)

[illegible]

SITE DATA TABLE

GROSS AREA	27.85 ACRES
PROPOSED NUMBER OF UNITS	126
PROPOSED LAND USE DENSITY	MULTI-FAMILY RESIDENTIAL 4.5 LOTS PER ACRE
OPEN SPACE REQUIRED 10%	2.77 ACRES
ACTIVE OPEN SPACE REQUIRED 50%	1.38 ACRES
OPEN SPACE PROVIDED	12.4 ACRES
OPEN SPACE (ACTIVE) PROVIDED	1.40 ACRES

PROJECT NOTE:

1. THE TOPOGRAPHY WAS SUPPLIED BY A.L.M.S. (AUTOMATED INFORMATION MAPPING SYSTEM) BASED ON NAUTICAL DATA.
2. ALL AREAS A, C, D, E, F, G, H, I, K, L, J, AND M AS SHOWN HEREON SHALL BE DESIGNATED AS PRIVATE OPEN SPACE. COMMON AREAS MAY INCLUDE BUT NOT LIMITED TO LANDSCAPING, FENCING, SUBSERVANCE MONUMENTS, STORAGE WATER DETENTION AND AREHETES AND WILL BE OWNED AND MAINTAINED BY THE HOMES AND GARDENS TRACTS. AREAS A, C, D, E, F, G, H, I, K, L, J, AND M AS SHOWN HEREON AS STRUCTURE CONSTRUCTION TRACTS. TRACTS G, I, K, J AND M AS SHOWN ARE TO BE DEVELOPED AS TOWNHOMES AND FUTURE PLATTING OF EACH TRACT TO SEPARATE LOTS.
3. ALL ON-SITE BRICK AND CONCRETE SHALL BE PLACED UNDERGROUND.
4. EXTERIOR GROUND MOUNTED OR BUILDING-MOUNTED EQUIPMENT INCLUDING, BUT NOT LIMITED TO, MECHANICAL EQUIPMENT, UTILITIES WATER TANKS, AND COOLERS SHALL BE SCREENED FROM PUBLIC VIEW BY A WALL OR BY AN ARCHITECTURAL SCREEN COMPATIBLE WITH THE ARCHITECTURE.
5. ABOVE GROUND ELECTRICAL EQUIPMENT AND/OR TELEPHONE CABLES SHALL BE PLACED IN THE REAR YARD.

LOT AREAS		
PARCEL	AREA (S.F.)	AREA (AC.)
OVERALL	1204360.10	27.6483
TRACT G	185231.39	4.2523
TRACT H	24636.33	0.5656
TRACT I	150026.16	3.4441
TRACT J	338623.33	7.7737
TRACT K	549022.83	1.2604
TRACT L	805.60	0.0185
TRACT M	186530.97	4.2822

MINIMUM SETBACK DETAILS
SCALE: 1"=30'

PRELIMINARY PLAT/PLAN/REZONING
STONEBRIDGE COURT
CITY OF OLATHE, JOHNSON COUNTY, KANSAS
167TH STREET & MUR-LEN

PROJECT NO.	10-0115	No.	Date	Revisions	By	Iss.
DATE	12-3-19	1.	12-12-19	ASSED DETAILS	DAG	HAP
SHAWN	DAG	2.	1-29-20	REMOVED PER CITY COMMENTS	DAG	HAP
<p>THIS DRAWING IS THE PROPERTY OF AUTUMN ENGINEERING, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF AUTUMN ENGINEERING, INC.</p>						

GENERAL INFORMATION NOTES

PROPOSED TOWNHOMES ARE SUBJECT TO: UDO, SECTION 18.15.020.G.4

DUPLEXES ARE SUBJECT TO UDO, 18.15.020.G.3

1. PER UDO, SECTION 18.15.020.E.2a (2) STONE VENEER WILL BE RETURNED A MINIMUM OF 12 INCHES AROUND WALL CORNERS
2. PER UDO, SECTION 18.15.020.E.3 ALL TRIM AROUND WINDOW AND DOOR OPENINGS WILL BE A MINIMUM OF 3 INCHES WIDE
3. ALL EAVES, GUTTERS, AND OVERHANGS WILL HAVE A TYPICAL PROJECTION OF NO LESS THAN 6 INCHES
4. TYPICAL BUILDING IS ONE STORY IN HEIGHT WITH 10 FOOT WALLS

5. DECK MATERIAL TO BE LP WEATHERBEST COMPOSITE OR EQUAL W/ METAL SPINDLES

(TABLE 18.15.020.1 UDO) BUILDING MATERIALS FOR HORIZONTALLY ATTACHED RESIDENTIAL

CATEGORY 1 MATERIALS - ON 10% OF SURFACE ON PRIMARY FACADE:
NO LESS THAN 50% ON SECONDARY FACADES
REAL STUCCO, STONE VENEER-SYNTHETIC, BRICK, CLEAR GLASS WINDOWS

CATEGORY 2 MATERIALS: ON NO MORE THAN 30% OF PRIMARY FACADE
FIBER CEMENT SHAKE, LAP SIDING, WOOD
ROOF REQUIRES MIN. CAT. 2 ASPHALT SHINGLES

BUILDINGS FACADES WILL BE CONSTRUCTED OF MATERIALS BELOW, WITH NO MORE THAN 18" OF EXPOSED FOUNDATION

ALL STUCCO TO BE PAINTED
ONE BASE COLOR W/ A CONTRASTING COLOR FOR ALL SMART TRIM AND LAP SIDING.
ON ALL SIDES OF THE BUILDINGS.
4 COLOR COMBINATIONS TO BE USED ON DIFFERENT BUILDINGS USING EARTHTONE COLORS

TABLE 3 WINDOWS

ALL WINDOWS ARE VINYL COVERED WITH INSULATED GLASS AND SCREENS AS REQUIRED. TWO SEPARATE WINDOWS MUST BE PROVIDED FOR EACH DUELLING UNIT ALONG THE PRIMARY FACADE. EACH WINDOW IS A MIN. OF SIX SQ.FT. PRIMARY FACADE MUST HAVE NO LESS THAN TWO WINDOWS EVERY 50 LINEAR FT

PRIMARY FACADES MUST USE NO LESS THAN (2) DIFFERENT CLASS 1 BUILDING FINISH MATERIALS ON NO LESS THAN 10% OF THE SURFACE AREA. E.G. GENUINE STUCCO, SYNTHETIC STONE VENEER, CLEAR GLASS WINDOWS.
SECONDARY FACADES MUST USE NO LESS THAN (2) DIFFERENT CLASS 1 MATERIALS ON NO LESS THAN 50% OF THE SURFACE AREA.

EACH UNIT HAS A FRONT PORCH OR RECESSED ENTRYWAY ON THE PRIMARY FACADE. THESE ARE A MIN. FOUR FT. IN DEPTH AND MIN. SIX FT. WIDE

ALL STREET FACING GARAGES MUST BE RECESSED A MIN. TWO FEET FROM THE PRIMARY FACADE FRONT LINE.

HORIZONTAL ARTICULATION:
ONE OR MORE OF THE FOLLOWING TECHNIQUES ARE USED ON EACH DUELLING ALONG THE PRIMARY FACADE AT THE PARTY WALL PROPERTY LINE.

- I. WALL OFFSET-THE OFFSET OF THE HORIZONTAL WALL PLANE BY AT LEAST FOUR FT. EXTENDING THE FULL HEIGHT OF THE PRIMARY FACADE
- II. WALL NOTCH- A SETBACK OR NOTCH IN THE HORIZONTAL WALL PLANE THAT IS AT LEAST FOUR FT. DEEP AND EIGHT FT. WIDE FOR THE FULL HEIGHT OF THE PRIMARY FACADE
- III. WALL PROJECTION- A PROJECTION OR WALL MOLDING THAT IS AT LEAST FOUR INCHES DEEP AND ONE FOOT WIDE FOR THE FULL HEIGHT OF THE PRIMARY FACADE

TABLE 2: BUILDING FACADE TREATMENT FOR HORIZONTALLY ATTACHED RESIDENTIAL

EACH UNIT HAS A FRONT PORCH OR RECESSED ENTRYWAY ON THE PRIMARY FACADE. THESE ARE A MIN. FOUR FT. IN DEPTH AND MIN. SIX FT. WIDE

ALL STREET FACING GARAGES MUST BE RECESSED A MIN. TWO FEET FROM THE PRIMARY FACADE FRONT LINE.

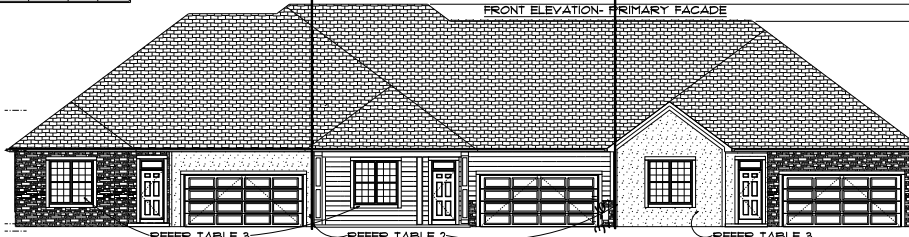
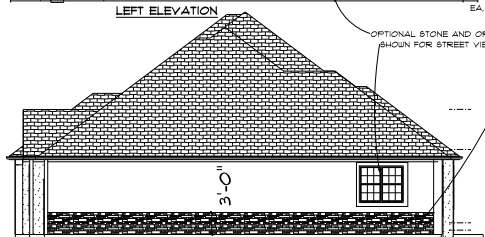
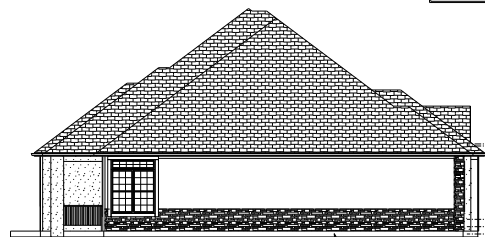
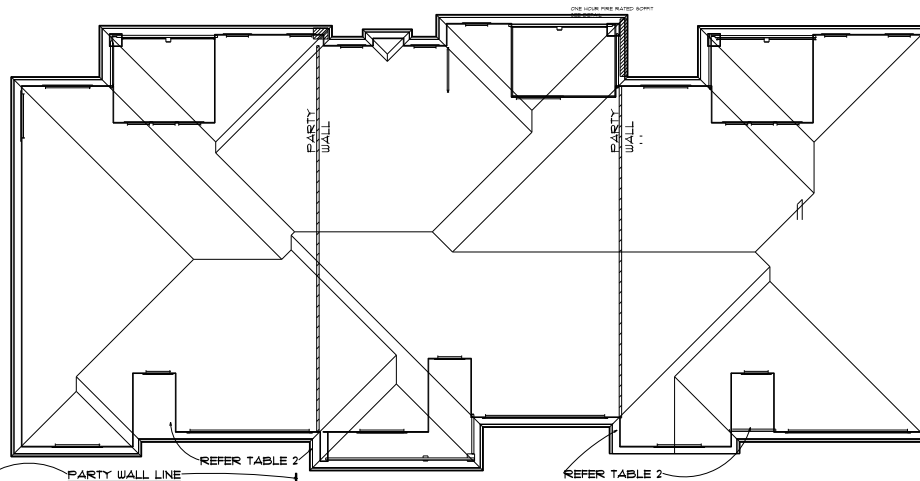
HORIZONTAL ARTICULATION:
ONE OR MORE OF THE FOLLOWING TECHNIQUES ARE USED ON EACH DUELLING ALONG THE PRIMARY FACADE AT THE PARTY WALL PROPERTY LINE.

- I. WALL OFFSET-THE OFFSET OF THE HORIZONTAL WALL PLANE BY AT LEAST FOUR FT. EXTENDING THE FULL HEIGHT OF THE PRIMARY FACADE
- II. WALL NOTCH- A SETBACK OR NOTCH IN THE HORIZONTAL WALL PLANE THAT IS AT LEAST FOUR FT. DEEP AND EIGHT FT. WIDE FOR THE FULL HEIGHT OF THE PRIMARY FACADE
- III. WALL PROJECTION- A PROJECTION OR WALL MOLDING THAT IS AT LEAST FOUR INCHES DEEP AND ONE FOOT WIDE FOR THE FULL HEIGHT OF THE PRIMARY FACADE

MATERIAL	FR %	REAR %	L.S. %	R.S. %
STUCCO	56	80	30	99
STONE FAUX	16	0	2	1
SIDING	21	0	0	0
GLASS	7	20	8	0

MATERIAL	FR %	REAR %	L.S. %	R.S. %
STUCCO	56	80	30	99
STONE FAUX	16	0	2	1
SIDING	21	0	0	0
GLASS	7	20	8	0

GENERAL INFORMATION
PROPOSED TOWNHOMES ARE SUBJECT TO :
UDO, SECTION 18.15.020.G.4.
PROPOSED DUPLEXES ARE SUBJECT TO
UDO, SECTION 18.15.020.G.3



PLANS COPYRIGHT
BY QUALITY DESIGN HOMES LAC
2008 ©

TYPICAL ELEVATION
STONEBRIDGE COURTS
CITY OF OLATHE, JOHNSON COUNTY, K.S.
16TH AND MURLEN
1/8" = 1'-0"
DATE 1-31-20

Planting Notes

1. Location of all existing utilities needs to be done before commencing work.
2. The planting plan practically illustrates overall plant massings. Each plant species massing shall be placed in the field to utilize the greatest coverage of ground plane. The following applies for individual plantings:
a. Cereping groundcover shall be a minimum of 6" from paving edge.
b. All trees shall be a minimum of 2' from paving edge.
c. All plants of the same species shall be equally spaced apart and placed for best aesthetic viewing.
d. All shrubs shall be a minimum of 2' from paved edge.
3. Match all planting bed areas to a minimum depth of 2". Match individual trees to a minimum depth of 4".
4. Note: If plants are not labeled - they are existing and shall remain.
5. In the event of work in or on a JCM sanitary main, any trees or plantings placed within the sewer easement may be removed without replacement or compensation there-of and shall be replaced by the property owner as required by the City.
6. All landscaped areas in ROW shall be sodded and irrigated unless otherwise specified.
7. Grate areas located within R-3 zoned landscape tracts and ROW must be sodded.

Materials:

1. Plant material shall be healthy, vigorous, and free of disease and insects as per AAN standards.
2. Shredded bark mulch installed at trees shall be finely shredded and shredded hardwood chips, consisting of pure wood products and free of all other foreign substances. Five thick compost mulch installed at planting bed areas shall be free of all other foreign substances.

Installation:

1. All planting beds shall be amended with 1 cubic yard of peat moss per 1,000 square feet. 78 peat moss into soil to a 6" depth. A 10-10-10 fertilizer shall be spread over all planting areas prior to planting, at a rate of 50 pounds per 2,000 square feet.
2. After plants have been installed, all planting beds shall be treated with Dacal pre-emergent herbicide prior to mulch application.
3. Plant pit backfill for trees and shrubs shall be 50% peat or well composted manure and 50% topsoil.
4. Plant material shall be maintained and guaranteed for a period of one year after Owner's acceptance of finished job. All dead or damaged plant material shall be replaced at Landscape Contractor's expense.
5. Landscape contractor shall maintain all plant material until final acceptance, at which point the one year guarantee begins.

Landscape Calculations

Street Trees: One tree per 40 feet of public or private street frontage. REQUIREMENTS MET

Buffer Plantings: A minimum for each 100 linear feet or portion thereof of Arterial and Collector Road frontage.

- a) Eight (8) evergreen (conifers) trees with a minimum size of 6 feet in height;
b) Two (2) shade trees with a minimum caliper of 2 inches as measured 6 inches above the ground;
c) One (1) ornamental tree with a minimum size of 10 feet in height.

206 LF of road along Mur-Len Road

(Existing Vegetation to be Preserved)

16 Evergreens Required - 16 Provided

4 Shade trees required - 4 Provided

2 Ornamental trees required - 2 Provided

REQUIREMENTS MET

980 LF of road along 167th Street

78 Evergreens Required - 78 Provided

20 Shade trees required - 20 Provided

10 Ornamental trees required - 10 Provided

REQUIREMENTS MET

Residential Lots: In residential districts, large deciduous shade or evergreen trees are required within the interior of each lot at a ratio of three (3) trees for every single-family dwelling, four (4) trees for every two-family dwelling and one (1) tree for every dwelling unit for multifamily buildings.
40 TRI-PLEX UNITS provided 120 trees required 120 trees provided
3 DUPLEX UNITS provided 12 trees required 12 trees provided
TOTAL interior lot trees provided: 132 REQUIREMENTS MET

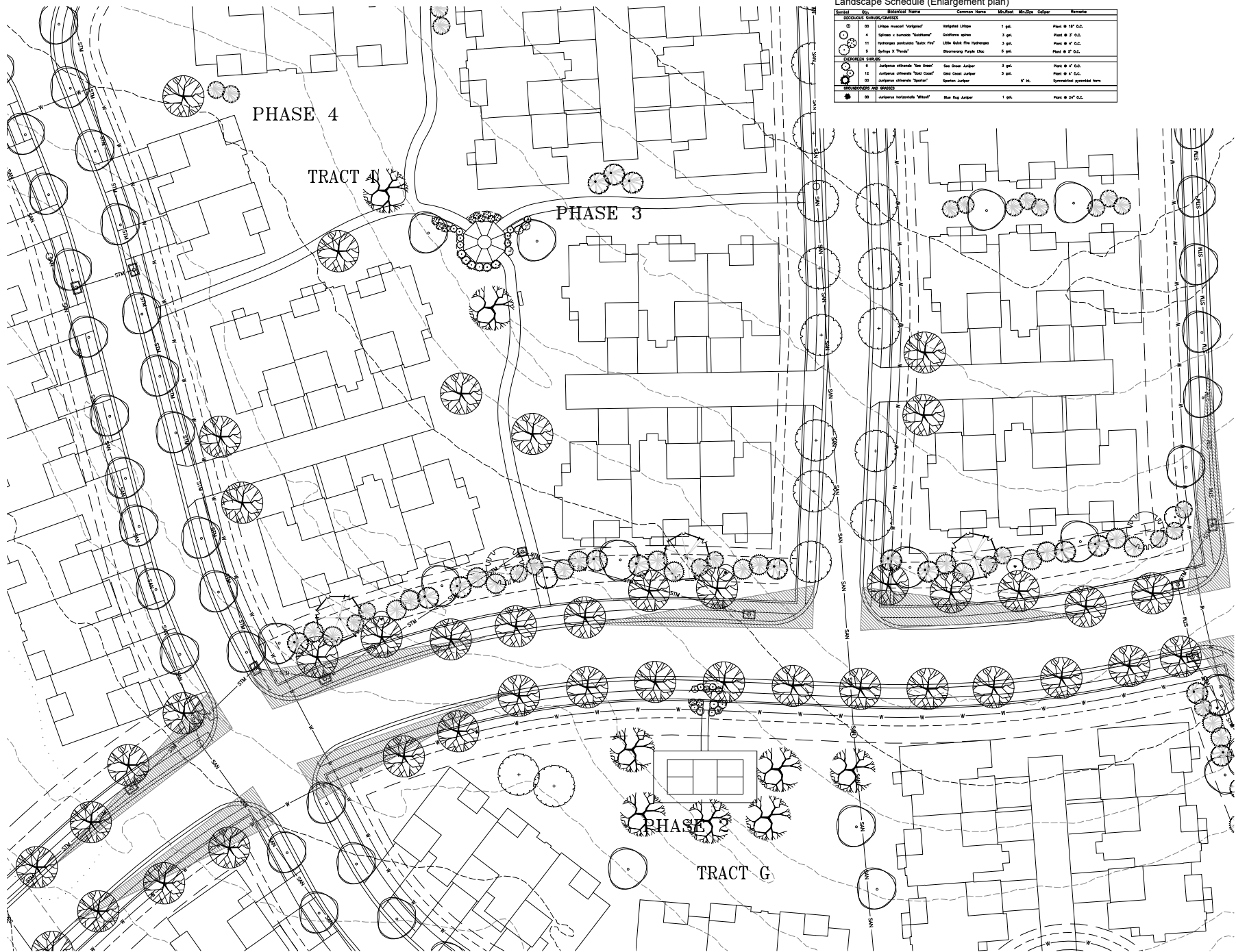
Utility Screening: Exterior ground-mounted or building-mounted equipment, including but not limited to mechanical equipment, utilities' meter banks and coolers must be screened from public view with 3 sided landscaping or with an architectural treatment compatible with the building architecture.

SITE DISTANCE TRIANGLES: Triangles are shown on the plan. There are no shrubs located in these areas. Trees shall be limbed up to 6' height for visibility.

STREET TREE PLANTING LOCATION REQUIREMENTS:

1. Not located in the site distance triangle.
2. 10 feet from box culverts.
3. 15 feet in front of regulatory signs.
4. 10 feet behind regulatory signs.
5. 15 feet from streetlight poles.
6. 10 feet from fire hydrants.
7. At least 6 feet is required between the ROW or sidewalk and Back of Curb for the planting of Street Trees.





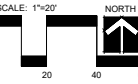
Landscape Schedule (Enlargement plan)

Symbol	Botanical Name	Common Name	Qty./Lot	McHale	Colony	Remarks
PERENNIALS, SHRUBS, TREES						
10	Ulmus minor 'Pendula'	Weeping Elm	1 pc.			Plant @ 10' S.D.
11	Salix v. 'Pendula'	Willow	2 pc.			Plant @ 10' S.D.
12	Hydrangea paniculata 'Van Pelt'	Little Blown Hydrangea	2 pc.			Plant @ 10' S.D.
13	Salix v. 'Pendula'	Willow	2 pc.			Plant @ 10' S.D.
PERENNIALS, SHRUBS						
14	Andromeda obtusifolia 'New Dawn'	Sea Dog Juniper	2 pc.			Plant @ 10' S.D.
15	Andromeda obtusifolia 'New Dawn'	Sea Dog Juniper	2 pc.			Plant @ 10' S.D.
16	Andromeda obtusifolia 'New Dawn'	Sea Dog Juniper	2 pc.			Plant @ 10' S.D.
17	Andromeda obtusifolia 'New Dawn'	Sea Dog Juniper	2 pc.			Plant @ 10' S.D.
PERENNIALS, SHRUBS						
18	Andromeda obtusifolia 'New Dawn'	Sea Dog Juniper	1 pc.			Plant @ 10' S.D.



CLIENT:
Rodrock Homes
9550 Dice Ln.
Lenexa, KS 66215

PROJECT:
Stonebridge Villas and
Courts
167th and Mur-Len Rd.
Olathe, KS



Date: 2.3.2020
Project #: 576
Landscape Plan
Master Screening Plan

L4

Meeting Minutes
Stonebridge Courts and Villa's (Combined Meeting)
January 29, 2020

The Meeting started a 6:00 p.m.

A sign-up sheet was used to record those neighbors in attendance. See attached

Harold Phelps, P.E. and Jeff Gifford represented the applicant.

The initial presentation was presented by Harold Phelps.

Harold informed the neighbors that everyone within 500 feet of the property was invited to this neighborhood meeting. Others within 200 foot would receive an additional notice of the public hearing to be held at the planning commission on February 24th.

Harold explained that Brian Rodrock and Jeff Gifford had purchased the Stonebridge Development and related property from Darol Rodrock in December of 2018. He further explained that the area that we were discussing this evening was south of 167th Street, north of Forest Hills Estates, east of Mur-Len and west of Brougham. He further indicated that Brian and Jeff has made a decision to move the villa product from the planned location north of the new middle school to this location south of 167th and east of Mur-Len and build on the success that Gary Jones had developed in The Courts at Fairfield Village and construct attached 3-plex units north of 169th Place.

It was indicated that these two developments would have access to the existing four community centers and that no new amenity facilities were planned for these areas, including the clubhouse we were meeting in.

The neighbors immediately started asking questions, so we started answering their questions.

What projects have Brian and Jeff been involved with? Arbor Lakes, Arbor Woods, Colton Lakes, Wyngate, Summerwood, Terrybrooke, Mission Ranch, The Willows, Hills of Forest Creek, Herrington Park and Sundance.

What is the difference between the two project areas? The area to the north of 169th Place would be 3-plexes with some 2-plexes and the area south would be detached villas. The attached product would be very similar to The Courts at Fairfield Village that Gary Jones had constructed and were shown the colored renderings and the villas would be free-standing units with landscaping and snow removal provided.

A comment was made that there will be considerably more traffic on 169th Place with these developments. The City's street hierarchy was explained that the local streets would tie into the collector streets (169th Place, Brougham and Kimball Streets) and that the collector streets would tie into

the arterial streets (Mur-Len and 167th Street). The applicant acknowledge that there would be additional traffic but that the City's Street Network was designed for this amount of traffic.

Will Brougham be extended to the south? Yes, Rodrock will construct that portion of Brougham adjacent to the development and the remainder would be constructed when the adjacent Linn property developed.

Who owns the greenspace to the south? There are two ownerships, one being the City of Olathe and the other being the Rodrock group. The City property is going to develop as a regional detention basin and the Rodrock property will be a native preservation area with a trail easement so that the City will be allowed to construct a trail from Mur-Len to Heritage Park.

What would be the difference between the existing Courts of Fairfield and the proposed Stonebridge Courts be? They will be very similar in style as Gary Jones is consulting with Rodrock on the unit design. The City has changed some of their regulations regarding the exterior materials and fire suppression that would be incorporated into the design.

What is the proposed phasing? Rodrock plans to start as soon as approvals can be obtained. We would like to continue the momentum that Gary Jones has developed in his project and provide the additional villa market product to the south. Phases will be added every 12-18 months to keep inventory until the project is fully developed in 6-8 years.

What are the lots going to be priced at? The lots prices have not been set but would expect them to be in the \$120,000 range for the villa product. The sales price of the court units is expected to start in the mid \$300,000 and the villas are expected to start in the \$400,000 range.

What about construction traffic? Initial construction traffic will use 169th Place and Kimball Streets. Brougham construction is most like to start with the second phase of the courts project and construction traffic will enter from Brougham.

Will there be rock blasting? Maybe, we have not performed any rock depth studies to date. The only rock basting we would anticipate would be for the sanitary sewer construction as the start of construction and none for foundation excavation.

Will there be a Home Owner's Association and additional amenities? It was explained that there would be a tiered HOA with a master association for the entire Stonebridge area and an additional association for each of the courts and villa areas. There is a gazebo and pickle ball court planned in the court area but not additional amenities in the villa area. A City trail system was anticipated in the open area to the south and the connections were being allowed for with in the plan.

Will the trees and vegetation remain to the south and in the existing ditch east of The Courts at Fairfield? Yes, a landscape plan has been submitted indicating that the existing vegetation would remain in the open areas.

Is there going to be a walking trail between the Fairfield and Stonebridge projects? At the meeting we were not sure if a walking trail would be constructed. One property owner stated that they thought the County was going to construct the trail.

Who is responsible for maintaining the creek between the Fairfield and Stonebridge projects? Typically the developer is responsible until the property is dedicated to the HOA. We do not know if Fairfield has made this transfer.

What will happen to the existing driveway that is currently constructed into the property along 167th Street? This access drive will be removed as part of the construction project.

One of the neighbors indicated that they lived north of 167th Street and that they understood that this property was going to be constructed as single family residential, why is this changing? The City's Master Plan indicates this property to be "Mixed Density Neighborhood" and with the initiation of the Fairfield project in the early 2000's this property is very suitable to continue the trend and build on that success. Add to this, the planned villa product to the south and this "pocket" of Stonebridge will be the "empty nester" area providing a more carefree living environment for those wanting a different lifestyle.

What is the status of the City's Regional Stormwater Detention Project? It was stated that the contractor has been awarded the contract and the City was wrapping up land acquisition and permitting.

When will Mur-Len and 167th Street be further improved? It was explained that the existing improvements were funded by the adjacent property owners and developers and any further improvements would be facilitated by the City of Olathe. We were not aware of any imminent improvements.

What are the planned square footages of the courts and villa units? The units will be designed with living space on the main floor and the basement areas. One would expect the total square footage of the courts to be in the 2,300-2,400 square foot range and the villa's to be in the 3,000 square foot range.

What builders are going to be allowed to construct the units and will you allow for single builders to build in the villa area? Rodrock intends to construct all of the attached courts units and have not decided whether or not they will build or have 4-5 builders in the villa product. For control and continuity reasons they are not likely to allow one-time builders in the project.

There was a comment/concern about the landscaping maintenance/replacement in the Stonebridge on the Trails areas. It was indicated that the City has specific landscape requirements that we must meet along arterial roadways and when units back up to collector streets. We will meet this requirements in this development.

Will there be any separation or buffer between the Court at Fairfield and the new Stonebridge Court area? Other than the addition of the 132 trees that the developer is required to plant within the court area there would not be a "buffer" area between the similar projects.

What is the detention area that the City is going to be constructing? The City is going to construct the embankment for Brougham that will have a culvert installed that will restrict the flow and create a backwater condition onto the City owned property west of Brougham. This will not be a permanent pond but rather a just a backwater condition and would drain down over time. One of the property owners to the south in the Forest Hills Estates area asked if this would continue to back up into their area? It was stated that there are 100-year floodplain areas designated in that area and that one should expect those areas to continue to flood.

There was one comment about removing the dirt pile at the corner of 167th and Kimball as it was made it difficult to maneuver onto 167th Street.

All were asked to sign the sign-in sheet, if they hadn't already done so.

The formal presentation and questions ended at 7:10 p.m., Harold and Jeff stayed around to answer individuals questions or comments and we left the clubhouse around 7:30 p.m.

SIGN-IN SHEET

<u>Name</u>	<u>Address</u>	<u>Phone Number</u>	<u>Email</u>
Ralph & Amy Thompson	16262 W. 171 st Terr.	913-980-7425	abt75@hotmail.com
Tim & Carrie Ayers	16274 168 th Place	801-541-4098	acw572@icloud.com
Tom Boehm	18185 W 215 th Springfield	913-980-6826	boehmT57@hotmail.com
Kathy Utting	16396 W. 171 st St		return-of-skutt@hotmail
Diana Gragson	16270 W 171 St	913 449 5648	diana.gragson@gmail.com
Dave & Victoria Murphy	16242 W 168 th Pl	913 226 6088	dvmurphy444@gmail.com
Chris & Patti Lenzner	16260 W 170 th Terr	913-827-8222	plenzner@gmail.com
Dona Rude Lewis	16304 W. 167 th Terr	816-289-9322	rude ^{ANN} lewis@aol.com
Gae & Margaret Gammell	16280 W 167 th Terr	913-526-4061	gammell@att.net
Barbara & Riccio Ricciuto	16798 S. Cheshire St.	913-515-4009	Br Br Ricciuto@aol.com

SIGN-IN SHEET

Name	Address	Phone Number	Email
Jim Roffert	16946 S. Bradley Dr	405-520-2371	poetertjim@yahoo.com
STANTON & TERRA WHITE	16958 S. Bradley Dr	913-283-4551	stantonkwhite@gmail.com
DAVID & LINDA MOLZ	16677 So Chasler Dr	913-782-0347	DAMOLINZ@ATT.NET
Gloria Crouch	16829 S Bradley Dr	913-378-3473	gloracrouch11@gmail.com
BENJAMIN LIPSCHUTZ	16361 W 168th L	913-460-0363	BENJIL@AOL.COM
DON LUNBECK	16309 W. 167th CT	913-645-5943	donlunbeck@aol.com
Rick Hastings	16288 W 167th CT	913-488-3284	RHAST89158@ATT.NET
Row Whittecar	16296 W 167th CT	913-302-0525	ECDDT0410@G.MAIL.COM



PLANNING
ENGINEERING
IMPLEMENTATION

January 7, 2020

Re: Neighborhood Meeting for Stonebridge development project located at the SW corner of 167th Street and Brougham Drive, Olathe, Kansas.
Application No. PP19-0007 and RZ19-0024

Dear Neighbor,

On behalf of our client, Stonebridge Partners, LLC., I would like to invite you to an informational meeting that we are hosting for our neighbors regarding the development on the above referenced property. We will be hosting this gathering on **Wednesday, January 29, 2020 at 6 pm, at Stonebridge Trails Clubhouse** located at 16470 W. 165th Street Olathe, KS 66062.

Our proposed project consists of the Stonebridge Villas area with 60-foot-wide single-family lots on the East side of Mur-Len Road and the continuation of Multi-family products from the Townhomes at Fairfield Village on the South side of 167th Street and West of future Brougham Drive. The project is anticipated to begin construction Spring 2020. A copy of the proposed site plan is attached. We have filed application(s) with the City for their approval and we are excited to share this information with you and answer any questions you may have.

Please feel free to attend this meeting for an opportunity to learn more about the project and discuss any questions you might have.

Sincerely,

Harold A. Phelps, P.E.
Phelps Engineering, Inc.,
Agent for Stonebridge Land & Cattle, LLC
hphelps@phelpsengineering.com

PHELPS ENGINEERING, INC.

1270 N. Winchester - Olathe, Kansas 66061 - (913) 393-1155 - Fax (913) 393-1166 - www.phelpsengineering.com



Planning Division

MINUTES

Planning Commission Meeting: February 24, 2020

Application:	<u>RZ19-0024:</u> Rezoning from R-1 (Residential Single Family) District to R-3 (Residential Low-Density Multifamily) District and a preliminary site development plan for Stonebridge Courts
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Zachary Moore, Planner II, presented a request for rezoning from R-1 to R-3, and approve a preliminary site development plan to allow a townhome development. He presented an aerial of the subject property, and the City's Future Land Use Map, noting that a majority of this property is designated as mixed-density residential neighborhood with a small amount of secondary greenway to the east. Further to the east and to the north are Conventional Neighborhood designation, and there is a Community Commercial designation to the west. To the west of the subject property is RP-3 zoned property that was rezoned in 2007 and is being developed with townhomes. Existing single-family is to the north and south.

The R-3 zoning district aligns with the mixed-density residential neighborhood Future Land Use map designation in this area.

Mr. Moore advised that a neighborhood meeting was held on January 29, 2020, and was attended by 27 residents. Topics discussed included traffic, greenspace and amenities, road network extensions, phasing, pricing, and stormwater detention. Staff has not received any communications from residents regarding this development.

Mr. Moore presented the preliminary site development plan, which includes 126 townhome units. Most are triplexes; four units are two-family units. He notes a collector road, known as West 169th Place, and a future collector on the east side, to be known as Brougham Drive. He added that the applicant exceeds the minimum open space required for this development, for a total of 12.4 acres. Active space amenities include a pickleball court, walking trails, and a gazebo and benches. Existing vegetation is being protected throughout the site.

Mr. Moore then addressed the landscape and screening plans. Required landscape buffers are provided to the north along 167th Street, as well as buffers along the collector roadways. He added that street trees will be provided in accordance with the UDO.

Mr. Moore presented proposed elevations, noting that they meet or exceed all minimum UDO requirements. The applicant is providing the minimum Class 1 materials on facades, as well as the minimum of two windows and vertical/horizontal articulation per dwelling unit.

Mr. Moore said staff recommends approval with stipulations, which include a minimum driveway length to promote safety for pedestrians. Staff recommends that common drives be constructed with concrete pavement and a minimum length of 150 feet and minimum width of 22 feet. In conclusion, staff finds this rezoning follows Comprehensive Plan goals for housing and land use and recommends approval of the rezoning as presented. Staff also recommends approval of the preliminary site development plan as stipulated.

Neil Meredith, Development Review Manager, City of Olathe, approached the podium. He added that there have been concerns from residents regarding vehicle and pedestrian congestion on common drives and to promote safety, staff has stipulated the additional 5 feet length for driveways. He said additional parking has been added to single-unit drives, hoping to alleviate some of those concerns.

Comm. Fry asked how the unidentified property to the southeast is zoned. **Mr. Moore** responded that a stream corridor runs through that area, which makes it undevelopable. There is also open space to the south. This property is owned by the City.

Comm. Nelson asked Mr. Moore to talk about walkability of this site. **Mr. Moore** responded that the applicant has shown additional walking trails as part of their amenities. Sidewalks are required on both sides of all public streets in the R-3 District.

Chair Vakas opened the public hearing and asked the applicant to come forward. **Harold Phelps, Phelps Engineering, 1270 Winchester, Olathe**, approached the podium. Mr. Phelps provided a history and overview of this property and the area. He notes how the plan was originally submitted and approved and noting what has changed. The subject property was approved in October, but has changed from a villa product because of its proximity to schools. He believes this is a better use for traditional single-family. **Mr. Phelps** pointed out that most units are three-plexes, and six units are twin units. He stated that they worked hard to meet all the requirements of the UDO. He then addressed the stipulation requiring a 25-foot driveway, he claimed the UDO requirement is 9 x 20 and that 1.5 parking spaces are required per unit. Mr. Phelps said he reviewed maps in Google and AIMS and noted very few cars parked in driveways. He notes that this is an “empty nest” product, with very few children/teenagers living in this development. If they took an additional 10 feet between each buildings, they start losing units. He said if staff wants a 25-foot driveway, the UDO should be modified.

Comm. Fry asked Mr. Phelps if he has considered what the consequences would be for the 25 feet versus 20 feet. **Mr. Phelps** said no, not specifically. However, he noted, as an example, three private drives equals taking out 30 feet, which they cannot accommodate in this area. Two buildings would have to be eliminated at a minimum, which is at least six units. Also, the plan would have to be redesigned.

Aimee Nassif, Chief Planning and Development Officer, clarified that Chapter 18 of the Code dealing with sizes of driveways states that those are minimum standards. Also, they have looked at the density of this development, and noted that as families age into these developments, there is more parking on common drives. Staff wants to promote safety for pedestrians and vehicles, which is why they are asking for the extra five feet. Ms. Nassif added 5 feet was chosen as the appropriate length because there are no sidewalks here and the minimum required width for sidewalk is 5 feet.

Chair Vakas suggested that the UDO be updated with a minimum of 25 feet when considering the size of vehicles. **Comm. Nelson** believes the life cycle of these units should be considered because the use could change in the long term. Chair Vakas agreed that this development could appeal to young couples, as well. **Ms. Nassif** added that there are not very many developments of this design type, where it's a driveway-to-driveway scenario, which is why this specific design style is not identified. Secondly, that is why the UDO standards are minimums and staff recommends the five feet, because typical developments require a sidewalk, which is a minimum of five feet.

Chair Vakas asked Mr. Phelps if, rather than losing lots, if it was possible to redesign the front façade of the building to push the garage back, where five foot could be gained. **Mr. Phelps** said he could not answer the question because he didn't design the units. However, he speculates that by pushing the garage back, the unit itself would become smaller, or some of the back yard would be lost.

Comm. Corcoran asked if everything is measured exactly 20 feet from the curb line. **Mr. Phelps** responded all the interior private drives are, and this requirement is met on all public streets with sidewalks. The internal drives are all 20 feet.

Chair Vakas noted there was no one else wishing to speak on this item. He called for a motion to close the public hearing.

Motion by Comm. Nelson, seconded by Comm. Youker, to close the public hearing.

Motion passed 8-0.

Chair Vakas commented that he appreciates the developer's concern but does not feel this is something to be considered in the future, but now. He believes it is an issue of safety. **Comm. Sutherland** noted that the average car length is 14.5 feet, and allowing five more feet doesn't necessarily allow for another car to be parked. Many vehicles are longer than 20 feet, as noted by **Comm. Corcoran**, meaning the back of the vehicle would possibly hang over into the street. Chair Vakas feels the space will be tight, and safety is an issue. **Comm. Fry** still feels the 5-foot number is arbitrary and does not provide clear direction to developers. He suggests addressing this by possibly modifying the UDO.

Chair Vakas asked staff if one alternative might be to widen the street. **Mr. Meredith** said that could be considered. **Ms. Nassif** said that staff has only reviewed the plans as submitted and alternative designs have not been reviewed thus far. **Comm. Corcoran** believes pedestrian and vehicular movement should be further reviewed, and shorter driveways will encourage street parking, creating a hinderance to pedestrian travel and other hazards.

Ms. Nassif stated that, following this discussion, the applicant has requested that this item move forward with a vote instead of returning at a future meeting. She outlined the appropriate motions that could be made this evening on this item.

Mr. Phelps wanted to make sure commissioners understood that there are no sidewalks. People would walk down their private drives to get down to the sidewalk, and sidewalks will be on both sides of the public street. That said, he does not believe an argument for safety has been made tonight. He said there are about 126 units in this development; roughly half are affected by this issue.

Comm. Nelson He believes UDO standards have been met and they have designed an intentional project that is consistent with the neighborhood. He is in favor of striking the stipulation.

Chair Vakas asked when the developer was made aware of the 25-foot requirement. **Ms. Nassif** said it was last November, during one of the first preapplication meetings.

Comm. Fry had questions regarding possible motions. **Ms. Nassif** explained options for motions and stated two motions can. **Chair Vakas** called for a motion.

Motion by Comm. Fry to recommend approval of the rezoning to the R-3 district, seconded by Comm. Sutherland, that RZ19-0024 be recommended for approval, as stipulated in the report:

Aye: Sutherland, Freeman, Nelson, Fry, Corcoran, Youker, Breen, Vakas. (8)

No: (0)

Motion was approved 8-0.

Motion by Comm. Fry, seconded by Comm. Nelson, that preliminary plan for RZ19-0024 be approved as amended:

That stipulation #2 be removed – The minimum driveway length to any single unit is 25 feet.

Aye: Sutherland, Freeman, Nelson, Fry, Youker, Breen. (6)

No: Corcoran, Vakas (2)

Motion to strike stipulation #2 was approved 6-2.



NSPJ

STONEBRIDGE COURTS – 167TH Street and Brougham Drive

Stonebridge Land and Cattle's (SLC) justification for R-3 zoning at the southwest corner of 167th Street and Future Brougham Street. First and most importantly the applicant, envisions the opportunity to place all the Stonebridge Empty Nester/Maintenance Provided product in close proximity to the existing product being offered and constructed by Gary Jones' development the Courts of Fairfield Village, in contrast to the existing approved plan being adjacent to the Middle and Elementary Schools. Keep in mind that the original masterplan did not account for these two school sites, so a revision to the plan was only considered after Brian Rodrock and Jeff Gifford purchased the property in December of 2018.

The applicant met with staff early in 2019 to discuss the reconfiguration of the Stonebridge Development. The first thing that was discussed was the fact that placing the multifamily product consisting of twin and tri-plex units and maintenance provided villas in the area south of 167th Street met the comprehensive plan designated as Mixed Density Neighborhood.

The City's definition for *Mixed Density Residential Neighborhoods* is: *These neighborhoods feature a carefully integrated mixture of housing of various styles, sizes, and densities. Limited service and commercial uses may also be permitted in conjunction with residential uses as part of a true mixed-use development.*

With the commercial uses approved on the southeast corner of 167th Street and Mur-Len, attached twin and tri-plexes to the south and east and single family detached villas to the south of these, this project is truly a Mix-Density Residential Neighborhood as the comprehensive plan envisioned. The latest Comprehensive Plan for the this area was revised to the Mixed Density Residential Neighborhood in 2010, after the original single family plan was approved in 2007.

In addition, the R-3 project is adjacent to 167th Street and Brougham Street, where 167th Street is an arterial road and Brougham Street is a collector. The R-3 provides a buffer and a transition from this high traffic areas to the maintenance villas to the south and combined they provide a transition to the single-family detached properties south of Coffee Creek. The R-3 area is further separated from the detached villas by 169th Place a collector roadway that is designed to carry the planned traffic volumes.

Community Benefits/Amenities - The proposed development also includes active and common open spaces in excess of what is required by the City. A pickleball court will be included on the south side of 169th Place and walking paths will be provided throughout the development. A centrally located gazebo and benches will also be provided for a community gathering space. In addition to these neighborhood amenities, the following will be provided for additional overall community benefit:

1. Five-foot wide concrete sidewalks on both sides of all public streets.
2. Construction of two new collector roadways through the property (169th Place and Brougham Drive).
3. Preservation of natural features and vegetation along the stream corridor.

Regarding overall density - When the two projects are approved, the combined areas of the Stonebridge Pointe R-1 (19-0022) and Stonebridge Courts R-3 (19-0024) will see a reduction in total number of units. The two areas combined will be reduced by a total of **41 units overall**.

	<u>R1 to R1</u> <u>Stonebridge Pointe</u>	<u>R1 to R3</u> <u>Stonebridge Courts</u>	<u>Combined Total</u>
Previously approved:	248 single family homes 4.31 units per acre 57.54 Acres	88 single family homes 3.18 units per acre 27.76 Acres	336 total units 3.94 units per acre
Proposed 2019/2020:	168 single family homes 2.92 units per acre 57.54 Acres	126 townhome units 4.56 units per acre 27.76 Acres	294 total units 3.45 units per acre 85.19 Acres

These numbers account for the reduction of area and lots that were removed from the original approved plan that were taken for the Coffee Creek Regional Detention basin.

The Stonebridge Courts R-3 is somewhat of an extension of the existing Courts at Fairfield Village originally developed by Gary Jones, which lies immediately to the north and west of this proposed project. The plans and elevations have been modified to address the City's latest code requirements and design guidelines. The density of Mr. Jones' existing Courts at Fairfield Village is 5.06 units per acres and the proposed Stonebridge Courts is 4.56 units per acres for a net reduction of 0.50 units per acre. The applicant intends to build on the success that Mr. Jones has started and continue the tradition of townhome living not otherwise being provided in southern Olathe. The applicant intends to construct this project in 4 phases consisting of 25-41 units per phase, beginning as soon as the project is approved.

ORDINANCE NO. 20-09

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF OLATHE, KANSAS, AS ADOPTED BY REFERENCE IN SECTION 18.20.030 OF THE OLATHE UNIFIED DEVELOPMENT ORDINANCE; FURTHER AMENDING SAID SECTION 18.20.030 BY REINCORPORATING SUCH MAP AS AMENDED.

WHEREAS, Rezoning Application No. RZ19-0024 requesting rezoning from R-1 District to R-3 (Residential Low-Density Multifamily) District was filed with the City of Olathe, Kansas, on the 19th day of December 2019; and

WHEREAS, proper notice of such rezoning application was given pursuant to K.S.A. 12-757 and Chapter 18.40 of the Olathe Unified Development Ordinance; and

WHEREAS, a public hearing on such application was held before the Planning Commission of the City of Olathe, Kansas, on the 24th day of February 2020; and

WHEREAS, said Planning Commission has recommended that such rezoning application be approved.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: That the Zoning Map of the City of Olathe, Kansas, is hereby ordered to be amended insofar as the same relates to certain parcels of land legally described as:

All that part of the Northwest Quarter of Section 20, Township 14 South, Range 24 East, in the City of Olathe, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 20; thence S 2°31'00" E, along the East line of the Northwest Quarter of said Section 20, a distance of 129.96 feet to the point of beginning; thence continuing S 2°31'00" E, along the East line of the Northwest Quarter of said Section 20, a distance of 1015.57 feet; thence N 81°00'08" W, a distance of 36.97 feet; thence S 74°34'40" W, a distance of 319.52 feet; thence N 72°52'11" W, a distance of 360.60 feet; thence N 46°46'32" W, a distance of 308.52 feet; thence N 11°00'36" W, a distance of 108.15 feet; thence S 40°26'49" W, a distance of 118.96 feet; thence S 34°00'05" E, a distance of 210.83 feet; thence S 47°13'41" W, a distance of 7.47 feet; thence Southwesterly on a curve to the right, said curve being tangent to the last described course and having a radius of 500.00 feet, an arc distance of 107.69 feet; thence S 59°34'07" W, a distance of 144.07 feet; thence Westerly on a curve to the right, said curve being tangent to the last described course and having a radius of 500.00 feet, an arc distance of 457.54 feet; thence N 68°00'04" W, a distance of 49.38 feet; thence Westerly on a curve to the right, said curve being tangent to the last described course and having a radius of 650.00 feet, an arc distance of 27.88 feet to a point on the Easterly plat line of THE COURTS AT FAIRFIELD VILLAGE, SECOND PLAT; thence along the Easterly plat line

of said THE COURTS AT FAIRFIELD VILLAGE, SECOND PLAT, for the following three (3) courses; thence N 27°05'16" E, a distance of 29.30 feet; thence N 62°54'41" W, a distance of 30.00 feet; thence Northwesterly on a curve to the right, said curve being tangent to the last described course and having a radius of 620.00 feet, an arc distance of 26.69 feet to the Southerly most corner of THE COURTS AT FAIRFIELD VILLAGE, THIRD PLAT, a platted subdivision of land in the City of Olathe, Johnson County, Kansas; thence along the Southerly plat line of said THE COURTS AT FAIRFIELD VILLAGE, THIRD PLAT, for the following nine (9) courses;; thence N 29°53'03" E, a distance of 72.71 feet; thence N 36°08'20" E, a distance of 60.02 feet; thence N 43°02'51" E, a distance of 60.63 feet; thence N 47°37'57" E, a distance of 115.04 feet; thence N 49°59'10" E, a distance of 53.73 feet; thence N 60°38'39" E, a distance of 56.05 feet; thence N 67°19'22" E, a distance of 57.92 feet; thence N 74°05'55" E, a distance of 61.06 feet; thence N 82°46'26" E, a distance of 45.01 feet to the Southeast plat corner of said THE COURTS AT FAIRFIELD VILLAGE, THIRD PLAT, said point also being the Southwest plat corner of THE COURTS AT FAIRFIELD VILLAGE, FIFTH PLAT; thence along the Southerly plat line of said THE COURTS AT FAIRFIELD VILLAGE, FIFTH PLAT, for the following five (5) courses; thence N 82°46'26" E, a distance of 36.28 feet; thence N 74°00'50" E, a distance of 63.84 feet; thence N 64°39'57" E, a distance of 61.05 feet; thence N 70°13'37" E, a distance of 62.90 feet; thence N 54°02'57" E, a distance of 124.42 feet to the Southeast plat corner of said THE COURTS AT FAIRFIELD VILLAGE, FIFTH PLAT; thence along the Easterly plat line of said THE COURTS AT FAIRFIELD VILLAGE, FIFTH PLAT, for the following six (6) courses; thence N 21°24'00" W, a distance of 75.58 feet; thence N 45°00'00" W, a distance of 135.00 feet; thence N 38°48'00" W, a distance of 70.00 feet; thence N 31°00'00" W, a distance of 70.00 feet; thence N 15°00'00" W, a distance of 150.00 feet; thence N 4°42'08" W, a distance of 103.03 feet to the Northeast corner of Tract G of said THE COURTS AT FAIRFIELD VILLAGE, FIFTH PLAT, said point also being on the Southerly plat line of 167th Street, as now established; thence along the Southerly right-of-way line of said 167th Street, for the following five (5) courses; thence Easterly on a curve to the left, said curve having an initial tangent bearing of S 79°33'43" E and a radius of 2060.00 feet, an arc distance of 887.62 feet; thence N 75°45'00" E, a distance of 92.45 feet; thence S 55°43'07" E, a distance of 57.31 feet; thence S 87°58'16" E, a distance of 89.17 feet; thence N 36°30'48" E, a distance of 1.10 feet to the point of beginning, containing 27.6483 acres, more or less.

Said legally described property is hereby rezoned from R-1 District to R-3 (Residential Low-Density Multifamily) District.

SECTION TWO: That this rezoning is approved with no stipulations.

SECTION THREE: That Section 18.20.030 of the Unified Development Ordinance, which incorporates by reference the Olathe Zoning Map, is hereby amended by reincorporating by reference the said Zoning Map as it has been amended in Section One of the Ordinance.

SECTION FOUR: That this Ordinance shall take effect from and after its passage and publication as provided by law.

PASSED by the City Council this 17th day of March 2020.

SIGNED by the Mayor this 17th day of March 2020.

Mayor

ATTEST:

City Clerk

(Seal)

APPROVED AS TO FORM:

City Attorney



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Public Works, Planning Division

STAFF CONTACT: Kim Hollingsworth, Senior Planner

SUBJECT: RZ19-0022: Rezoning from R-1 and RP-1 to the R-1 (Residential Single-Family) District and a Preliminary Plat for Stonebridge Village; Applicant: Brian Rodrock, Stonebridge Land & Cattle, LLC

ITEM DESCRIPTION:

Consideration of Ordinance No. 20-10, RZ19-0022, requesting approval for a rezoning from R-1 and RP-1 to the R-1 (Residential Single-Family) District and a preliminary plat for Stonebridge Village containing 168 lots and 8 common tracts on 57.54± acres; located in the vicinity of West 165th Street and South Lindenwood Drive. Planning Commission recommends approval 9-0.

SUMMARY:

The applicant is requesting a rezoning from R-1 and RP-1 to the R-1 (Residential Single-Family) District and a preliminary plat for a new residential development known as Stonebridge Village. The proposed development consists of a single-family residential subdivision with 168 lots and 10 common tracts. The proposed subdivision has a density of 2.92 dwelling units per acre, an average lot area of 11,692 square feet, and all lots exceed minimum area requirements. The proposal also meets the transitional lot standards for new residential developments located adjacent to existing neighborhoods.

The PlanOlathe Comprehensive Plan Future Land Use Map identifies the subject property as a Conventional Neighborhood and Secondary Greenway. The proposal is appropriate for this area, as single-family residential neighborhoods align with the vision established in PlanOlathe for this area and are compatible with surrounding neighborhoods in the Arbor Creek and adjacent Stonebridge subdivisions.

A public hearing was held before the Planning Commission on October 28, 2019. During the meeting, discussion was held regarding a sidewalk along 165th Street that would provide a connection from the proposed subdivision to the Woodland Springs Middle School. Staff and the applicant have agreed that, with regard to the development by Stonebridge of the property located adjacent to 165th Street and Britton Street, the sidewalk along 165th Street may be initially constructed by Stonebridge as a temporary asphalt path in accordance with City Standard Detail 21-7 and maintained by Stonebridge; provided that any such temporary asphalt path shall be installed no later than the beginning of the 2020-2021 U.S.D. 230 (Spring Hill) ("SHSD") first day of classes (August 12, 2020), or such other date as classes may begin if rescheduled to a later date by the SHSD, but in no event will the City issue any building permits within Phase 1 of Stonebridge Pointe until the temporary asphalt path is installed by Stonebridge in accordance with the aforementioned requirements. Such temporary asphalt path must be removed and replaced by Stonebridge with a concrete sidewalk that meets all applicable City Standards when, and only when, the phase of development immediately adjacent to

MEETING DATE: 4/7/2020

165th Street is developed.

Additional discussion at the Planning Commission meeting also included the layout of the street network and inclusion of the Spring Hill School District's comments. No members of the general public spoke regarding the application. The Planning Commission voted 9-0 to recommend approval of RZ19-0022 as stipulated in the meeting minutes.

FINANCIAL IMPACT:
None

ACTION NEEDED:

1. Approve Ordinance No. 20-10 for a rezoning from the R-1 and RP-1 Districts to the R-1 District as recommended by the Planning Commission.
 2. Deny Ordinance No. 20-10 for a rezoning from the R-1 and RP-1 Districts to the R-1 District.
 3. Return the rezoning application to the Planning Commission for further consideration with a statement specifying the basis for the Governing Body's failure to approve or disapprove.
-

ATTACHMENT(S):

- A. Planning Commission Packet
- B. Planning Commission Minutes
- C. Ordinance No. 20-10



City of Olathe
Planning Division

STAFF REPORT

Planning Commission Meeting: October 28, 2019

Application:	<u>RZ19-0022:</u> Rezoning from R-1 and RP-1 to the R-1 District and preliminary plat for Stonebridge Village
Location:	In the vicinity of 165 th Street and Lindenwood Road
Owner:	Brian Rodrock; Stonebridge Land & Cattle
Applicant/Engineer:	Harold A. Phelps, P.E.; Phelps Engineering, Inc.
Staff Contact:	Zachary Moore, Planner II

Site Area:	<u>57.54± acres</u>	Proposed Use:	<u>Single-Family Residential</u>
Lots:	<u>168</u>	Plat:	<u>Unplatted</u>
Density:	<u>2.92 units per acre</u>	Proposed Zoning:	<u>R-1</u>
Tracts:	<u>10</u>	Current Zoning:	<u>R-1, RP-1</u>

	Plan Olathe Land Use Category	Existing Use	Current Zoning	Site Design Category	Building Design Category
Site	Conventional Neighborhood/ Secondary Greenway	Vacant	R-1, RP-1	1	N/A
North	Secondary Greenway	City Park (Arbor Landing)	R-1	-	-
South	Conventional Neighborhood	Middle School (Woodland Spring)	R-1	-	-
East	Conventional Neighborhood/ Secondary Greenway	Single-Family Residential	R-1	-	-
West	Conventional Neighborhood/ Secondary Greenway	Single Family Residential	R-1	-	-

1. Proposal:

The applicant is requesting a rezoning from R-1 and RP-1 to the R-1 (Residential Single Family) District and a preliminary plat for Stonebridge Village. The subject property is located east of the future Lindenwood Road, between 163rd Street and 167th Street. The proposed rezoning to the R-1 district will combine two residential zoning districts that were never developed into one district with a new preliminary plat. The proposed development consists of a single-family residential subdivision on 168 lots with 10 common tracts.

This change of zoning is being requested to allow for the entire development to fall under a single, R-1 district zoning ordinance. Previous stipulations have been reviewed and are not necessary for carry-over as they were written from now outdated plans or have already been accomplished by the developer.

2. History:

The subject property and surrounding area were annexed and rezoned to the RP-1 and R-1 Districts in 2005 (ANX-05-008, RZ-05-046, and RZ-05-047). A preliminary plat was approved with the associated rezoning cases that included a mix of housing types and lot sizes, including single-family, two-family, and townhome units. The single-family lots included on the previously approved preliminary plat include lots ranging from 5,000 square feet to approximately 10,000 square feet. Development and platting to the east of the subject site has occurred since 2005 (see image on the next page). Additionally, the Spring Hill School District has a middle school immediately south of the subject property, and an elementary school to the southeast of the subject property, across W. 165th Street. The elementary school to the southeast was included with the original preliminary plat, and the middle school site was previously proposed to be developed as a small-lot single-family residential subdivision.

3. Existing Conditions/ Site Photos:

The site is currently undeveloped and has been since its annexation into the City in 2005.



Aerial view of subject property

4. Neighborhood Meeting/Public Notice:

The applicant mailed the required public notification letters to surrounding properties within 200 feet and posted signs on the subject property per Unified Development Ordinance (UDO) requirements.

In addition, the applicant held a neighborhood meeting on October 7, 2019 in which eight (8) residents attended. Main topics of discussion included street connections, estimated home values, drainage, and tree preservation. The neighborhood meeting minutes are included in the Planning Commission packet.

Staff has since received several phone calls and a letter, which is included in this packet, from the Spring Hill School District regarding concerns with stormwater management on site and a missing sidewalk link along the north side of W. 165th Street. From the onset of this application review, staff requested the sidewalk connection be provided with construction of the first phase of development. The image on the next page shows where there are existing sidewalks in the right-of-way (green) compared to the missing sidewalk

link (red). The missing link in the sidewalk is approximately 430 feet in length and would connect the existing sidewalk that terminates at the school's property line along 165th Street to the west side of Britton Street. On the east side of Britton Street, there is a sidewalk that extends north to 164th Street, and east to Mur-Len Road. The school district was advised that the City would be recommending this sidewalk connection through Tract F of the preliminary plat to provide improved pedestrian access.

This connection is important to provide a safe route for residents and children to feel comfortable walking to and from the schools without crossing the street mid-block. Providing this connection also aligns with Policy M-3.8 of PlanOlathe, the City's Comprehensive Plan, which states, "Pedestrian and bikeway paths should provide connections between residential and employment areas, commercial centers, recreational and open space areas, parks and educational facilities." Staff has had several discussions with the applicant regarding this sidewalk connection and has made them aware of this stipulation, however the applicant is not amenable constructing this connection at this time. Additional information on this is provided later in this report.



View of subject property, existing sidewalks (green) and the missing sidewalk link (red)

The School District has also expressed concern with the potential of stormwater impacts of the proposed development on the Spring Hill Middle School site. At the time that the middle school was constructed, there was not an agreement in place between the School District and the applicant for stormwater improvements to be shared, therefore all stormwater improvements for the school were constructed on the school property, rather than along the property line. Staff has discussed these concerns with the applicant, who has agreed to a stipulation that addresses the School District's concerns regarding stormwater. Additional information on this item is provided later in this report.



View of terminus of existing sidewalk along W. 165th Street

5. Zoning Requirements:

- a. **Lot Dimensions** – The minimum lot width in the R-1 district is 60 feet, and the minimum lot size is 7,200 square feet. All lots in the proposed development meet or exceed the minimum 60-foot lot width requirement, and the smallest lot in the proposed development is 8,227 square feet. The average lot size in this proposed subdivision is 11,692 square feet. The proposed lots also comply with the transitional lot standards, by including parcel size matching, per UDO requirements.
- b. **Building Height** – The maximum building height for residential buildings in R-1 districts are 2 ½ stories or 35 feet.

- c. **Setbacks** – Setbacks in the R-1 District are as follows: Front Yard – 30 feet, Side Yards – 7 feet, and Rear Yards – 25 feet.

6. Common Tracts:

All common tracts included on the preliminary plat are to be owned and maintained by the Homes Association.

7. Transitional Lot Standards:

Transitional Lot Standards apply to subdivisions in the R-1 districts that adjoin existing residential lots. This is applicable in this case as the proposed subdivision is adjacent to an existing R-1 subdivision at the northeast of the subject property (Coffee Creek Meadows, 1st Plat). The lots in the proposed subdivision comply with the City's Transitional Lot Standards by providing parcel size matching in this area, which means that lots along the perimeter of this request match the size or are greater in size, than those existing, adjacent residential lots.

8. Streets/Right-of-way:

All lots within the proposed subdivision will have access from new local streets. The road network for the will have six (6) connections from existing roads: 162nd Street and 165th Street to the future Lindenwood Drive to the west, and 162nd Street, 163rd Terrace, 164th Terrace, and 164th Street to existing local streets to the east. The proposed streets meet UDO requirements for public right-of-way and cul-de-sac size.

9. Sidewalks/Trails:

The preliminary plat identifies sidewalks on one side of all local streets, and along the east side of S. Lindenwood Drive. A note has been added to the preliminary plat stating that sidewalks in cul-de-sacs will terminate at a driveway. The applicant has also provided a sidewalk connection to an existing City park to the north of the proposed development. As stated previously, staff is recommending that the applicant construct a 5-foot wide concrete sidewalk connection within Tract F of the preliminary plat with the first phase of development. This sidewalk connection would complete a missing link between the middle school property and S. Britton Street which ensures safe pedestrian connectivity, follows policies of PlanOlathe, promotes policies of Safe Routes to Schools, and aligns with healthy communities and activity for residents.

10. Landscaping/Tree Preservation:

Street trees are required with an average spacing of 40 linear feet, with at least one tree per lot in residential districts and the applicant has provided a preliminary landscape plan depicting the location of street trees along the residential streets. This preliminary landscape plan does not include street trees on lots 57 or 58, as the right-of-way in front of these lots was included with a previously recorded plat (P-06-034). Therefore, to ensure a tree is planted on all new lots, a stipulation has been added to this effect.

The applicant is providing a 15-foot Tree Preservation Easement (TP/E) along the northern property line to preserve the existing tree line adjacent to Arbor Landing Park.

11. Zoning/ Land Use Analysis:

The future land use map of the Comprehensive Plan identifies the subject property as “Conventional Neighborhood” and “Secondary Greenway”. The proposed R-1 zoning and single-family residential development is appropriate for this area, as single-family residential neighborhoods align with the framework of Conventional Neighborhoods in the Comprehensive Plan.

The following section includes criteria for considering rezoning applications as listed in Unified Development Ordinance (UDO) Section 18.40.090.G.

A. The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies.

The future land use map designation of “Conventional Neighborhood” typically consists of single-family housing on individual building lots. PlanOlathe includes policies to maintain and promote the distinct character and identity of Olathe’s neighborhoods, and encourages neighborhoods that provide a variety of housing types and styles. Existing smaller lot single-family residential and two-family attached residential exists to the east of the proposed subdivision, therefore the large lot single-family subdivision will provide a variety of housing types in this area. Therefore, the proposed R-1 zoning and single-family home subdivision is appropriate for this area.

- **Principle HN-2.2:** *“Support housing development and redevelopment that includes a variety of housing types.”*
- **Principle LUCC-6: Discourage Sprawl.** *“Discourage “leap-frog” or sprawling land use patterns by encouraging growth in serviceable areas. Promote the infill of vacant parcels and reinvestment in buildable areas.”*

B. The character of the neighborhood including but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, siting, open space and floor-to-area ratio (commercial and industrial).

The zoning of the surrounding properties is mostly single-family (R-1 and RP-1), with some smaller pockets of two-family zoning (RP-2) located east of the subject property. The character of the proposed development will be compatible with the existing development nearby as the proposed land use is consistent.

C. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses.

The zoning of surrounding properties includes a mix of lower-density residential districts (R-1, RP-1, and RP-2). The proposed R-1 zoning district would be in harmony with the surrounding zoning districts and lower density residential uses found on nearby properties.

D. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.

Both the RP-1 and R-1 Districts allow for single-family residential development, and the subject property is suitable for development in that manner, as it would be compatible with existing nearby land uses. Single-family residential development in this area is consistent with the framework of the future land use designation of Conventional Neighborhood.

E. The length of time the property has been vacant as zoned.

The subject property has never been developed, despite part of the property being rezoned to the R-1 and RP-1 Districts in 2005.

F. The extent to which approval of the application would detrimentally affect nearby properties.

The subject property maintains R-1 and RP-1 zoning currently, which would allow for development of a single-family residential neighborhood. The proposed R-1 zoning district will not detrimentally affect nearby properties.

G. The extent to which development under the proposed district would substantially harm the value of nearby properties.

Development of the subject property under the R-1 District is will not substantially harm the value of nearby properties.

H. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.

The proposed subdivision includes six (6) new public street connections to existing local or future collector roadways to the east, west, and north of the subject property. All single-family homes are required to have a minimum of two (2) parking spaces provided on-site. The development of a single-family residential neighborhood in this area will not have any adverse impacts on nearby portions of the road network, nor will present any parking problems in the vicinity of the property.

I. The extent to which the proposed use would create air pollution, water pollution, noise pollution or other environmental harm.

A stipulation has been added to the preliminary plat stating that the stormwater runoff rate directed to the adjacent school property must match the existing, undeveloped peak runoff rate after development. The proposed development should not create any air pollution, water pollution, noise pollution, or other environmental harm.

J. The economic impact of the proposed use on the community.

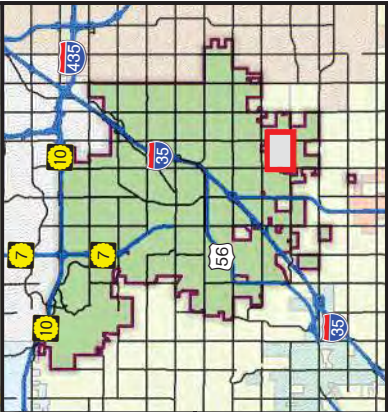
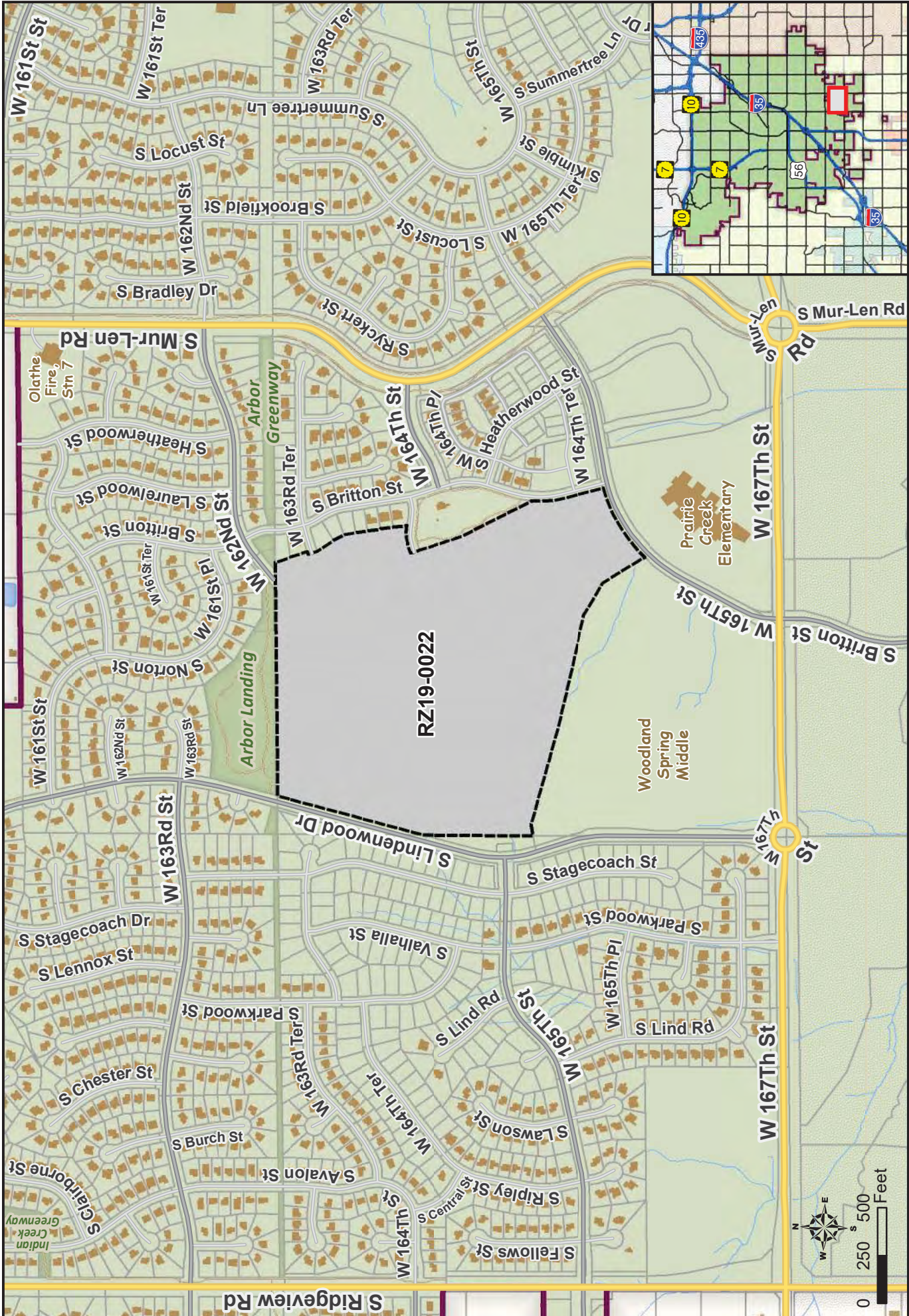
The proposed development would provide an increase in property tax revenues for the City as a result of new homes being constructed.

K. The gain, if any, to the public health, safety and welfare due to the denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

The proposed rezoning to R-1 does not pose a threat to the public health, safety and welfare of the City. There was a previous proposal for single-family residential development on the subject property, but the property has never been developed. Denial of this application could be considered a hardship to the property owner.

12. Staff Recommendation:

- A. Staff recommends approval of RZ19-0022, Stonebridge Village, for the following reasons:
 - 1. The proposed development complies with the policies and goals of the Comprehensive Plan for Housing and Land Use (Principles HN-2.2 and LUCC-6).
 - 2. The requested rezoning to R-1 district meets the Unified Development Ordinance (UDO) criteria for considering zoning applications.
- B. Staff recommends approval of the rezoning to the R-1 district as presented, with no stipulations.
- C. The following stipulations apply to the preliminary plat for the R-1 district:
 - 1. A final plat must be approved and recorded prior to issuance of building permits.
 - 2. The stormwater runoff rate directed to the USD 230 property must match the existing, undeveloped peak runoff rate after the Stonebridge Property is developed. Detailed calculations will be required with the street and storm sewer public improvements.
 - 3. A 5-foot wide concrete sidewalk must be constructed with the first phase in Tract F, along the north side of W. 165th Street, tying into the sidewalk at the adjacent property line of Woodland Spring Middle School and extending northeasterly to S. Britton Street.
 - 4. Landscaping provided in each common tract will be identified on a landscape plan submitted with the final plat for each respective phase of development.
 - 5. Final plats must include a Tree Preservation Easement (TP/E) along the northern property line, as identified on the preliminary plat.
 - 6. As required by the *UDO*, all exterior mechanical equipment or utility cabinets located within front yards or corner lots must be screened from public view with landscaping.
 - 7. Prior to approval of a final plat for Phase 2, a revised street tree plan must be provided showing street trees in front of Lots 57 and 58.
 - 8. Street names must be finalized and provided prior to recording the final plat.

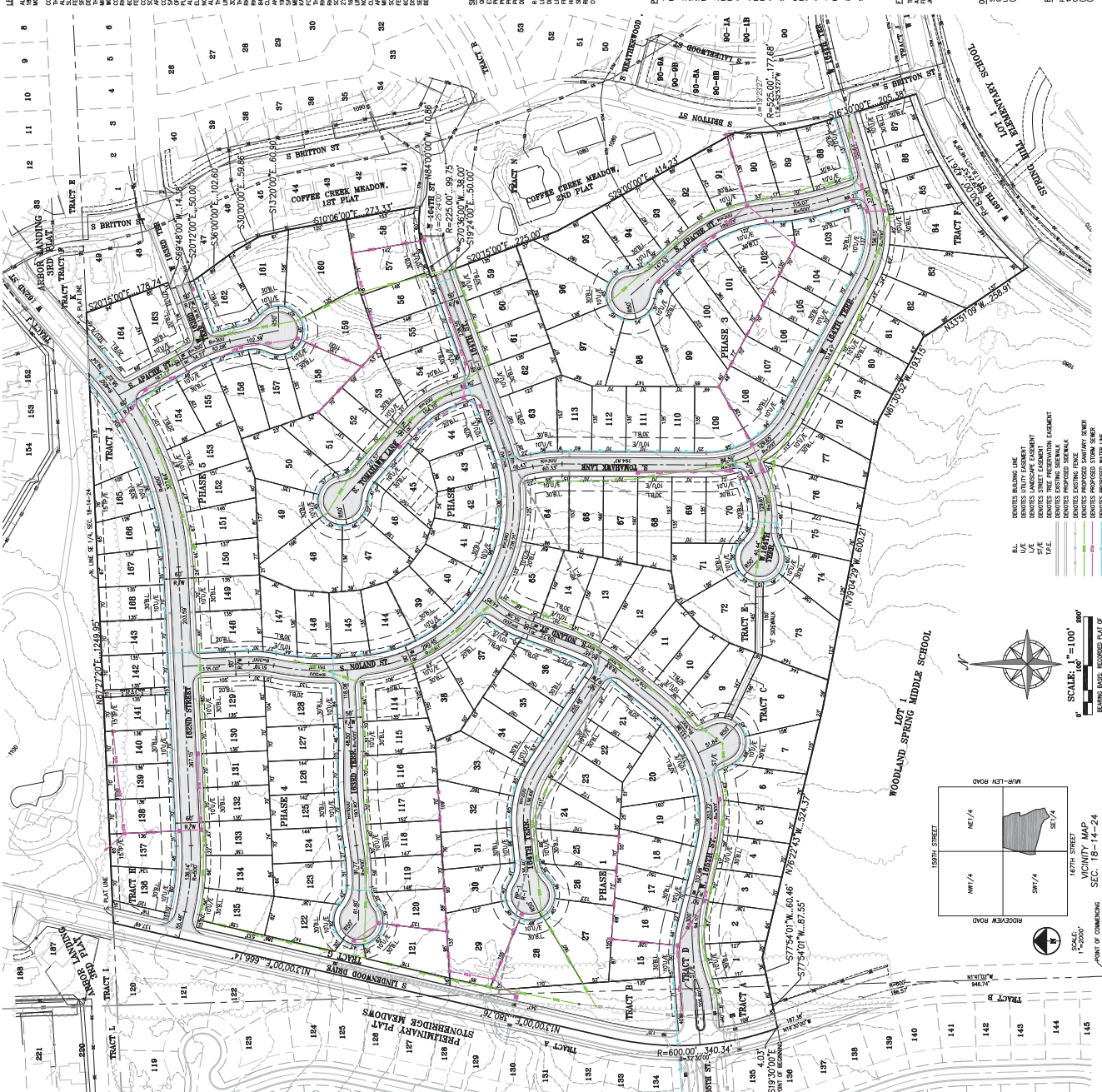


STONEBRIDGE VILLAGE
RZ19-0022



PRELIMINARY PLAT

PLANNING
INNOVATION
www.planninginnovation.com
Tel: (903) 393-1866
(903) 393-8855
Odessa, Kansas 66061
2701 H. Winters

[illegible][illegible]

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PANEL	AREA (AC)	PANEL	AREAS
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68	10014.31	68	10014.31
69	10014.31	69	10014.31
70	10014.31	70	10014.31
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CITY OF OLATHE
Property Owner Notification Letter

Case No. RZ19-0022

Dear Property Owner:

This is to notify you that a public hearing will be held at the Olathe City Hall Council Meeting room at 100 E. Santa Fe, Olathe, Kansas, to consider a **rezoning** request from RP-1 and R-1 (present zoning) to R-1 (proposed zoning) and **Preliminary Plat**, on the following described tract of land:

All that part of the Southeast Quarter and part of the Southwest Quarter of Section 18, Township 14 South, Range 24 East, in the City of Olathe, Johnson County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter of said Section 18; thence N 1°41'02" W, along the West line of the Southeast Quarter of said Section 18 and also along the Westerly plat line of WOODLAND SPRING MIDDLE SCHOOL, a platted subdivision of land in the City of Olathe, Johnson County, Kansas, a distance of 948.74 feet; thence Northwesterly, continuing along the Westerly plat line of said WOODLAND SPRING MIDDLE SCHOOL, on a curve to the left, said curve being tangent to the last described course and having a radius of 600.00 feet, an arc distance of 186.57 feet; thence N 19°30'00" W, continuing along the Westerly plat line of said WOODLAND SPRING MIDDLE SCHOOL, a distance of 187.38 feet to the Northwest plat corner of said WOODLAND SPRING MIDDLE SCHOOL, said point also being the Point of Beginning; thence continuing N 19°30'00" W, a distance of 4.03 feet; thence Northerly, on a curve to the right, said curve being tangent to the last described course and having a radius of 600.00 feet, an arc distance of 340.34 feet; thence N 13°00'00" E, a distance of 380.76 feet to a point on the West line of the Southeast Quarter of said Section 18; thence continuing N 13°00'00" E, a distance of 668.14 feet to a point on the North line of the Southeast Quarter of said Section 18, said point also being on the South plat line of ARBOR RIDGE, 3RD PLAT, a platted subdivision of land in the City of Olathe, Johnson County, Kansas; thence N 87°27'20" E, along the North line of Southeast Quarter of said Section 18 and along the South plat line of said ARBOR RIDGE, 3RD PLAT, a distance of 1,249.95 feet to the Northwest plat corner of COFFEE CREEK MEADOWS, 1ST PLAT, a platted subdivision of land in the City of Olathe, Johnson County, Kansas; thence along the Westerly plat line of said COFFEE CREEK MEADOWS, 1ST PLAT, for the following eleven (11) courses; thence S 20°15'00" E, a distance of 178.74 feet to a point on the Northerly right-of-way line of 163rd Terrace, as now established; thence S 69°48'00" W, along the Northerly right-of-way line of said 163rd Terrace, a distance of 14.38 feet; thence S 20°12'00" E, a distance of 50.00 feet to a point on the Southerly right-of-way line of said 163rd Terrace; thence S 36°00'00" E, a distance of 102.60 feet; thence S 30°00'00" E, a distance of 59.86 feet; thence S 13°20'00" E, a distance of 60.90 feet; thence S 10°06'00" E, a distance of 273.33 feet to a point on the Northerly right-of-way line of 164th street, as now established; thence along the Northerly right-of-way line of said 164th Street, for the following three (3) courses; thence N 84°00'00" W, a distance of 10.86 feet; thence Westerly on a curve to the left, said curve being tangent to the last described course and having a radius of 225.00 feet, an arc distance of 99.75 feet; thence S 70°38'00" W, a distance of 38.00 feet; thence S 19°24'00" E, a distance of 50.00 feet to a point on the Southerly right-of-way line of said 164th Street, said point also being the Northwest plat corner of COFFEE CREEK MEADOWS, 2ND PLAT, a platted subdivision of land in the City of Olathe, Johnson County, Kansas; thence along the Westerly plat line of said COFFEE CREEK MEADOWS, 2ND PLAT, for the following four (4) courses; thence S 20°15'00" E, a distance of 225.00 feet; thence S

Meeting Minutes

Stonebridge Village

October 7, 2019

The Meeting started a 6:05 p.m.

A sign-up sheet was used to record those neighbors in attendance. See attached

Harold Phelps, P.E., Brian Rodrock and Jeff Gifford represented the applicant.

The initial presentation was presented by Harold Phelps.

Harold informed the neighbors that everyone within 500 feet of the property was invited to this neighborhood meeting. Others within 200 foot would receive an additional notice of the public hearing to be held at the planning commission on October 28th.

Harold presented the existing approved plan and indicated that the area consisted of 57 acres that is currently approved for 248 single family homes at a density of 4.31 units per acre. It was explained that Brian and Jeff had purchased the property from Darol Rodrock in December of 2018. Brian and Jeff has made a decision to move the proposed villa product from this location to a location south of 167th and east of Mur-Len and develop this property as "standard residential R-1". Single family residential would provide a more typical residential that would be more conducive to the location of the new Spring Hill middle and elementary schools. This product would provide for more of a school aged, family oriented, environment. The new layout would provide for better connectivity and not have the disconnected street pattern that exist on the approved plan. The revised plan consisted of 168 lots with a density of 2.9 lots per acre.

It was indicated that these lots would have access to the existing four community centers and that no new amenity facilities were planned for this area. It was noted that there is an existing clubhouse and swimming pool immediately adjacent to this proposed project.

The landscape plan was presented indicating street trees that meet the city requirements. Brian noted that we were requesting that the utilities on the north side of the project be allowed to be front yard services to save the trees along the existing Arbor Landing Park.

The five phases of the project were covered with an indication that the project timeline was projected to start in 2020 and be completed in about 5 years.

An explanation of the protest petition was provided. The neighbors were informed that a protest petition does not kill the project but rather requires the City Council to approve with a super majority rather than a simple majority.

Several Questions were asked:

How would the new streets connect to the existing streets? One of the property owners came to the board and Harold indicated the connection to the existing streets.

What will the price of the proposed houses be? Harold responded that we have indicated to the City that the price of the houses will be in \$390-430,000.

There was a specific question about how the drainage would be dealt with behind Lot 43 in Coffee Creek Meadows? Specifically, how would he be assured that they would not have a drainage problem in the future? Harold assured him that when the street and storm sewer plans were prepared that this area would be reviewed. It appears from the existing contour map that there is about a four-foot drop from his property to the undeveloped property. Harold indicated that it is most likely that a swale would be placed in the rear yards of the proposed lots and the that water in this area would actually be reduced by the construction of the proposed streets and stormwater improvements. Brian indicated that this is why an engineer is hired to prepare the plans and obtain approval from the City before construction.

There was also a question about the cottonwood trees that have grown in the existing ditch behind Lot 43 and whether or not they would be saved? It is unlikely that these voluntary trees will be saved as the lots and swales are graded for the proposed stormwater. The neighbor then asked about saving a Mulberry tree that is on the property line. Harold indicated that if it is on the property line it is most likely that it would be preserved. Jeff Gifford indicated that they try to save as many trees as possible.

The presentation ended at 6:40 p.m. and we left the clubhouse at 7:00 p.m.

SIGN-IN SHEET

Email

trunks @ coarcast, not

baosbunch@gmail.com

SEDWYER@CONCAST.WEJ

clay.williams@seaboardhead.com

oconnor.jeff@gmail.com

lauerphillipc@johndeere.com



Spring Hill

SCHOOL DISTRICT

BOARD OF EDUCATION OFFICE
101 E. South Street • Spring Hill, KS 66083-8514
Phone: 913.592.7200 • Fax 913.592.7270
Facebook.com/springhillusd230
Web site: www.usd230.org

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Planning Division

MINUTES**Planning Commission Meeting: October 28, 2019**

Application:	<u>RZ19-0022:</u> Rezoning from R-1 and RP-1 to the R-1 District and preliminary plat for Stonebridge Village
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Zachary Moore, Planner II, presented a request to rezone approximately 57 acres in south Olathe from R-1 and RP-1 District to R-1 District, to allow for a single-family home subdivision. He presented an aerial of the property, noting schools nearby. He further noted right-of-way for the future Lindenwood Drive, and existing subdivisions to the east, and future subdivisions to the west. There is also a city park to the north of the subject property. He then provided a view of the existing zoning of the site and a Future Land Use Map of the subject property. Surrounding areas are identified as Conventional Neighborhood and secondary greenway. The proposed rezoning conforms with the land use map designation as set forth in the Comprehensive Plan.

Mr. Moore reported that a neighborhood meeting was held on October 7th, attended by eight residents. Topics of discussion included street connections, home values, drainage, and tree preservation on site. Staff has received correspondence from the Spring Hill School District, who expressed concern about missing sidewalk links along 165th Street, and concerns with stormwater drainage in the area. Staff has included recommended stipulations that address both concerns.

Mr. Moore presented the preliminary plat proposing 168 lots to be built out in five phases, resulting in a density of approximately three units per acre. The applicant is providing connectivity to future and existing streets in six locations. The preliminary plat complies with the City's Transitional Lot Policy Standards, and sidewalks are provided on one side of all local streets with increased connectivity provided with a west-to-east connection between two lots, to make it easier for students walking to school. The applicant is also providing a 15-foot tree preservation easement at the north of the property. Staff is recommending that the applicant provide a 430-foot long, five-foot wide concrete sidewalk at the time of construction of the Phase 1 to complete a missing sidewalk link. Mr. Moore stated the sidewalk connection is being provided because it further aligns with goals and policies of PlanOlathe, and because it provides safety for students attending nearby schools.

Mr. Moore stated that rezoning to the R-1 follows Comprehensive Plan goals for housing and land use, and staff recommends approval of the rezoning and preliminary plat.

Chair Vakas opened the public hearing and asked the applicant to come forward. **John Duggan, 9101 West 110th Street, Suite 200, Overland Park**, approached the podium, representing Stonebridge Land and Cattle Company, LLC. He said they agree with staff completely, except for one issue with the sidewalk. He stated that the sidewalk was required to be completed upon annexation, as mandated by the City's annexation policy. He said the City annexed the public right-of-way and the school site and did not finish the sidewalk as required. Now, the developer is being asked to fix this problem. The developer said they would install the sidewalk, although they are not financially responsible to do so. He said he contacted the City's attorney prior to tonight's meeting to work the problem out, but was unsuccessful. The applicant

proposes installing a temporary asphalt sidewalk for the next few years, at their expense, until such time as they are ready to build Phase 3. At that time, they will put in the berm, tear out the temporary sidewalk, and install a five-foot wide concrete sidewalk, all at their expense. He said City staff said no. Mr. Duggan is asking that the Planning Commission approve this project with a change in stipulation to reflect that the applicant will immediately install a temporary asphalt sidewalk in the public right-of-way, until such time as they are ready to begin Phase 3 in the adjacent area.

Chair Vakas opened the public hearing. **Comm. Fry** asked staff to address the proposed asphalt sidewalk. **Mr. Moore** said staff does not intend for the applicant to construct a public sidewalk in a private landscape tract. He recommends changing the language to “adjacent to Tract F.” He deferred further comments to Public Works. **Aimee Nassif, Chief Planning and Development Officer** said staff was aware of the problem with the stipulation. Also, when sites don’t meet UDO or Comprehensive Plan requirements or expectations, they wait for opportunities such as this to address the problem. She said maintaining an asphalt trail is more difficult, as well as it’s not as safe for ADA compliance or for children walking to school.

Chet Belcher, Transportation Manager, said that it is common practice to build a sidewalk to property, which is where the mistake was made. He noted that 167th and 165th Streets have 12 children crossing the street during peak hours. There need to be 25 children crossing in order to qualify for a school crossing guard.

Comm. Fry asked about using asphalt versus concrete. **Mr. Belcher** said once the sidewalk goes in, there’s no reason it should be torn out. He does not understand the advantage of using asphalt, which they do not maintain. **Ms. Nassif** added that there is no timeline of when this phase would be developed. If asphalt is allowed, it could be many years before it is removed and replaced. She believes it makes more sense for realizing quality of life initiatives and strategies, and now is the best opportunity for the sidewalk. **Mr. Duggan** feels no one is addressing the fact that this is not the developer’s problem, but rather something that the school district – as the prior property owner – didn’t finish before it was annexed. He again said finishing the sidewalk is not their responsibility. Also, there are no streetlights on this street, which are required on collector roads. He also said there are utilities along that street. **Comm. Fry** asked if asphalt is put in now, is there some way to make sure that it is concreted by the time Phase 3 is developed. **Ms. Nassif** stated that the UDO requires a sidewalk in R-1 District zoning. **Mr. Belcher** agreed with **Ms. Nassif**. **Chair Vakas** asked if it makes sense to allow an asphalt sidewalk with a time limit. **Mr. Belcher** does not think so. Once it is installed, it becomes the City’s property. In his opinion, the cost of installing and removing asphalt is a complete throw-away.

Chair Vakas asked for the status of street lights. **Mr. Belcher** said he could explore that possibility and come back to the Planning Commission in four weeks to talk about that. **Chair Vakas** asked if this matter needs to be continued. **Ms. Nassif** said staff is not stipulating anything about lighting at this time, but they can vet that internally and communicate with the applicant directly.

Comm. Freeman asked if sidewalks have to be concrete per the UDO. **Ms. Nassif** said five-foot wide concrete sidewalks are required.

Comm. Nelson asked **Mr. Moore** to clarify the design of the cul-de-sac on 163rd Terrace and whether there was thought given to putting a home in rather than green space. **Mr. Moore** said the City would prefer to have green space along Lindenwood. Landscaping is required in the tracts along collector roadways. **Comm. Nelson** asked if there is an intent to connect the road to Lindenwood. He is thinking from a safety or future planning perspective what could be located there. **Mr. Moore** does not believe many drivers would want to make that connection, although fencing could be included there, as well, to deter a driver.

Comm. Corcoran asked if all the school district's concerns have been addressed, including the sidewalk connection. **Mr. Moore** said they have, and said the school district is happy with the stipulations staff has recommended. **Chair Vakas** called for a motion to close the public hearing.

Motion to close the public hearing was made by Comm. Nelson and seconded by Comm. Allenbrand.

Motion passed 9-0.

Chair Vakas does not want to put the developer in the position of building a concrete sidewalk that has to be repaired. **Mr. Belcher** agreed. Staff believes this is the best way to move forward.

Mr. Duggan re-approached the podium. He said his client believes that if the City is so confident there will never be any repairs to it, they are happy to put concrete in one time only, and if something happens, the City can repair it.

Mr. Munoz asked if the developer is required to fix the sidewalk if it is damaged. **Mr. Belcher** said that whoever breaks it is responsible to fix it.

Motion to recommend RZ19-0022 for approval as stipulated was made by Comm. Corcoran and seconded by Comm. Allenbrand, for the following reasons:

1. The proposed development complies with the policies and goals of the Comprehensive Plan for Housing and Land Use (Principles HN-2.2 and LUCC-6).
2. The requested rezoning to R-1 district meets the Unified Development Ordinance (UDO) criteria for considering zoning applications.

Comm. Corcoran's motion included recommending approval of the rezoning to the R-1 district as presented, with no stipulations.

Comm. Corcoran's motion included recommending that the following stipulations be addressed with the final plat:

1. A final plat must be approved and recorded prior to issuance of building permits.
2. The stormwater runoff rate directed to the USD 230 property must match the existing, undeveloped peak runoff rate after the Stonebridge Property is developed. Detailed calculations will be required with the street and storm sewer public improvements.
3. A 5-foot wide concrete sidewalk must be constructed with the first phase in **adjacent to** Tract F, along the north side of W. 165th Street, tying into the sidewalk at the adjacent property line of Woodland Spring Middle School and extending northeasterly to S. Britton Street.
4. Landscaping provided in each common tract will be identified on a landscape plan submitted with the final plat for each respective phase of development.
5. Final plats must include a Tree Preservation Easement (TP/E) along the northern property line, as identified on the preliminary plat.
6. As required by the *UDO*, all exterior mechanical equipment or utility cabinets located within front yards or corner lots must be screened from public view with landscaping.
7. Prior to approval of a final plat for Phase 2, a revised street tree plan must be provided showing street trees in front of Lots 57 and 58.

8. Street names must be finalized and provided prior to recording the final plat.

Aye: Youker, Sutherland, Freeman, Nelson, Allenbrand, Fry, Munoz, Corcoran, Vakas (9)

No: (0)

Motion was approved 9-0.

ORDINANCE NO. 20-10

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF OLATHE, KANSAS, AS ADOPTED BY REFERENCE IN SECTION 18.20.030 OF THE OLATHE UNIFIED DEVELOPMENT ORDINANCE; FURTHER AMENDING SAID SECTION 18.20.030 BY REINCORPORATING SUCH MAP AS AMENDED.

WHEREAS, Rezoning Application No. RZ19-0022 requesting rezoning from R-1 and RP-1 to the R-1 (Residential Single-Family) District was filed with the City of Olathe, Kansas, on the 6th day of September 2019; and

WHEREAS, proper notice of such rezoning application was given pursuant to K.S.A. 12-757 and Chapter 18.40 of the Olathe Unified Development Ordinance; and

WHEREAS, a public hearing on such application was held before the Planning Commission of the City of Olathe, Kansas, on the 28th day of October 2019; and

WHEREAS, said Planning Commission has recommended that such rezoning application be approved.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: That the Zoning Map of the City of Olathe, Kansas, is hereby ordered to be amended insofar as the same relates to certain parcels of land legally described as:

All that part of the Southeast Quarter and part of the Southwest Quarter of Section 18, Township 14 South, Range 24 East, in the City of Olathe, Johnson County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter of said Section 18; thence N 1°41'02" W, along the West line of the Southeast Quarter of said Section 18 and also along the Westerly plat line of WOODLAND SPRING MIDDLE SCHOOL, a platted subdivision of land in the City of Olathe, Johnson County, Kansas, a distance of 948.74 feet; thence Northwesterly, continuing along the Westerly plat line of said WOODLAND SPRING MIDDLE SCHOOL, on a curve to the left, said curve being tangent to the last described course and having a radius of 600.00 feet, an arc distance of 186.57 feet; thence N 19°30'00" W, continuing along the Westerly plat line of said WOODLAND SPRING MIDDLE SCHOOL, a distance of 187.38 feet to the Northwest plat corner of said WOODLAND SPRING MIDDLE SCHOOL, said point also being the Point of Beginning; thence continuing N 19°30'00" W, a distance of 4.03 feet; thence Northerly, on a curve to the right, said curve being tangent to the last described course and having a radius of 600.00 feet, an arc distance of 340.34 feet; thence N 13°00'00" E, a distance of 380.76 feet to a point on the West line of the Southeast Quarter of said Section 18; thence continuing N 13°00'00" E, a distance of 668.14 feet to a point on the North line of the Southeast Quarter of said Section 18, said point also being on the South plat line of ARBOR RIDGE, 3RD PLAT, a platted subdivision of land in the City of

Olathe, Johnson County, Kansas; thence N 87°27'20" E, along the North line of Southeast Quarter of said Section 18 and along the South plat line of said ARBOR RIDGE, 3RD PLAT, a distance of 1,249.95 feet to the Northwest plat corner of COFFEE CREEK MEADOWS, 1ST PLAT, a platted subdivision of land in the City of Olathe, Johnson County, Kansas; thence along the Westerly plat line of said COFFEE CREEK MEADOWS, 1ST PLAT, for the following eleven (11) courses; thence S 20°15'00" E, a distance of 178.74 feet to a point on the Northerly right-of-way line of 163rd Terrace, as now established; thence S 69°48'00" W, along the Northerly right-of-way line of said 163rd Terrace, a distance of 14.38 feet; thence S 20°12'00" E, a distance of 50.00 feet to a point on the Southerly right-of-way line of said 163rd Terrace; thence S 36°00'00" E, a distance of 102.60 feet; thence S 30°00'00" E, a distance of 59.86 feet; thence S 13°20'00" E, a distance of 60.90 feet; thence S 10°06'00" E, a distance of 273.33 feet to a point on the Northerly right-of-way line of 164th street, as now established; thence along the Northerly right-of-way line of said 164th Street, for the following three (3) courses; thence N 84°00'00" W, a distance of 10.86 feet; thence Westerly on a curve to the left, said curve being tangent to the last described course and having a radius of 225.00 feet, an arc distance of 99.75 feet; thence S 70°38'00" W, a distance of 38.00 feet; thence S 19°24'00" E, a distance of 50.00 feet to a point on the Southerly right-of-way line of said 164th Street, said point also being the Northwest plat corner of COFFEE CREEK MEADOWS, 2ND PLAT, a platted subdivision of land in the City of Olathe, Johnson County, Kansas; thence along the Westerly plat line of said COFFEE CREEK MEADOWS, 2ND PLAT, for the following four (4) courses; thence S 20°15'00" E, a distance of 225.00 feet; thence S 29°00'00" E, a distance of 414.23 feet to a point on the Westerly right-of-way line of Britton Street, as now established; thence along the Westerly right-of-way line of said Britton Street, for the following two (2) courses; thence Southerly, on a curve to the left, said curve having an initial tangent bearing of S 2°53'27" W and a radius of 525.00 feet, an arc distance of 177.68 feet; thence S 16°30'00" E, a distance of 205.38 feet to a point on the Northwesterly right-of-way line of 165th Street, as now established; thence Southwesterly, along the Northwesterly right-of-way line of said 165th Street, on a curve to the left, said curve having an initial tangent bearing of S 71°46'28" W and a radius of 830.00 feet, an arc distance of 426.11 feet to the Northeast plat corner of said WOODLAND SPRING MIDDLE SCHOOL; thence along the Northerly plat line of said WOODLAND SPRING MIDDLE SCHOOL, for the following six (6) courses; thence N 33°51'08" W, a distance of 256.91 feet; thence N 61°30'52" W, distance of 193.15 feet; thence N 79°04'29" W, a distance of 600.21 feet; thence N 78°22'43" W, a distance of 524.37 feet; thence S 77°54'01" W, a distance of 60.46 feet to a point on the West line of the Southeast Quarter of said Section 18; thence continuing S 77°54'01" W, a distance of 87.55 feet to the point of beginning, containing 57.54054 acres. more or less.

Said legally described property is hereby rezoned from R-1 and RP-1 to the R-1 (Residential Single-Family) District.

SECTION TWO: That this rezoning is approved with no stipulations.

SECTION THREE: That Section 18.20.030 of the Unified Development Ordinance, which incorporates by reference the Olathe Zoning Map, is hereby amended by reincorporating by reference the said Zoning Map as it has been amended in Section One of the Ordinance.

SECTION FOUR: That this Ordinance shall take effect from and after its passage and publication as provided by law.

PASSED by the City Council this 17th day of March 2020.

SIGNED by the Mayor this 17th day of March 2020.

Mayor

ATTEST:

City Clerk

(Seal)

APPROVED AS TO FORM:

City Attorney



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Resource Management

STAFF CONTACT: Dianna Wright/Emily Vincent

SUBJECT: IRB Report on a request by Lineage Logistics, LLC for the construction of a 400,000 sq. ft. warehouse facility to be located at Lone Elm Commerce Center northwest of W. 167th St. and Lone Elm Rd.

ITEM DESCRIPTION:

IRB Report on a request by Lineage Logistics, LLC for the construction of a 400,000 sq. ft. warehouse facility to be located at Lone Elm Commerce Center northwest of W. 167th St. and Lone Elm Rd.

SUMMARY:

The City has received an application for approximately \$110,400,000 in industrial revenue bonds for the development of a 400,000 sq. ft. refrigerated warehouse facility located on 60.44+/- acres northwest of 167th Street & Lone Elm Road in the Lone Elm Commerce Center. This is a single series of bonds to be issues to cover building and FF&E costs associated with the project.

The applicant requests a 10-year, 50% property tax phase in for industrial uses in conjunction with the issuance of the City's industrial revenue bonds.

The capital investment of \$110,400,000 exceeds the City's tax abatement policy requirement of an investment no less than \$10,000,000 for a new business. In addition, this project will be generating new jobs and wages for the community and the cost benefit report illustrates that this project exceeds the targeted cost benefit ratio.

- The project request of \$110,400,000 in industrial revenue bonds consists of;
 - \$6,588,450 to acquire land
 - \$73,811,550 to construct the building and other costs
 - \$30,000,000 for furniture, fixtures & equipment
- The first phase project creates 134 new jobs over the next 10 years.
 - Average salaries of new jobs:
 - Year one = \$49,756
 - Year ten = \$49,142
 - \$6,065,012 approximately in new annual wages in year 1
 - \$60,650,120 approximately in total new wages over the next 10 years
- Property taxes over the 10-year period with 50% property tax phase in on this project:
 - All jurisdictions = \$856,382 annually / \$8,563,825 10-year total
 - Olathe = \$167,908 annually / \$1,679,082 10-year total

MEETING DATE: 4/7/2020

- Olathe's current annual property tax revenue from the property is \$211
 - Upon retirement of the tax phase in, the City will receive approximately a total of \$335,816 in annual property tax revenue
- Overall the project has a positive fiscal/economic impact on the community with a cost benefit ratio of 1.88, which exceeds the target of 1.3 to 1.

FINANCIAL IMPACT:

See attached materials for more detailed fiscal impact information.

ACTION NEEDED:

Accept report. A public hearing and resolution regarding the project will go before the City Council at the April 21st meeting.

ATTACHMENT(S):

Attachment A: Project Application Attachment B: Executive Summary Attachment C: Firm Data Sheet Attachment D: Cost Benefit Report



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

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 sheets, if any, are submitted as Exhibits A-G 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 \$4,000 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. 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). 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.19-1071 and contact Bond Council for a more detailed explanation of the fees.

Lineage Logistics, LLC

Applicant's Name

rsangdahl@lineagelogistics.com (419) 340-3793

Applicant's Email Address**Telephone Number**

46500 Humboldt Drive, Novi, MI 48377

Applicant's Address

Rob Sangdahl, VP, Real Estate (419) 340-3793

Name and Title of Responsible Officer/Contact**Telephone Number**

Same as above.

Address (if other than corporate address)

Korb Maxwell

Attorney for Applicant

kmaxwell@polsinelli.com (816) 360-4327

Attorney's Email Address**Telephone Number**

900 W. 48th Place, Suite 900, Kansas City, MO 64112

Attorney's Address

Applicant or its lender is expected to be the bond purchaser

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?

Lineage Logistics, LLC is an international refrigerated warehousing and logistics company that specializes in storage and transportation of temperature-sensitive products.

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

Corporation (LLC)

- C. Year and State of incorporation 2011 (DE)

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

Please see I(D) below.

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

The applicant is an international refrigerated warehousing and logistics company with numerous offices and projects across the country. Greg Lehmkuhl is the President and CEO. Additional information can be provided upon request.

- E. Are you pursuing an other incentives offered by another government entity? Yes
If yes, please indicate below what the other incentives are.

The Applicant is considering exploring state economic development incentives through the Kansas PEAK program, which potentially allows for the retention of withholding taxes for net new jobs.

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.

Lineage Logistics, LLC (the "Company") is proposing to construct an approx. 400,000 square foot refrigerated warehouse facility for the storage and distribution of cold food products at Lone Elm Commerce Center, northwest of W. 167th St. and Lone Elm Road.

A. Approximate amount requested for:

Land (Attach a legal description of property as <u>Exhibit A</u>)	\$ 6,588,450
Building	\$ 73,411,550
Machinery and Equipment	\$ 30,000,000
Pollution Control Facilities	\$ 0
Other Costs*	\$ 400,000
Total	\$ 110,400,000

* State other costs:

Issuance Costs and Contingency

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

No If yes, please describe below.

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?

N/A

D. Where is the location of the project?

Lone Elm Commerce Center, northwest of W 167th St. and Lone Elm Road

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:

Warehouse/Office.

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:

There are other refrigerated warehousing companies in the area; however, the Project is distinguishable based on its superior design, location, and quality of service.

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:

N/A

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:

N/A

K. What percentage of usable floor space will be occupied by applicant? 100

What percentage will be occupied by other occupants? 0 If known, indicate each occupant below:

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

Architect - RKB Architects, Inc., 0 Campanelli Dr., Braintree, MA 02184

M. How many persons will be employed at the project? 134

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):

Management - 22 Office/Clerical - 12 Professional - 7 Skilled - 8 Unskilled - 85

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?

N/A

P. What percentage of sales will be sold locally? N/A Is this percentage increasing, decreasing, or remaining stable from the current trend? Increasing

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

\$500,000 in consumables, sourced locally.

R. Is there likelihood for expansion of the proposed facility within three (3) years? No

If such expansion is contemplated, please describe below:

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. Privately
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?
TBD
9. What will be the applicant's equity investment? Please describe:
TBD
10. Has the applicant considered conventional financing? Yes

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

12. Proposed date of issuing bonds: 12/31/2021

B. List below previous participation in IRB financing:

Applicant and its consultants, including Polsinelli PC (legal services), have substantial experience with IRB financing.

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.

Expected benefits to be realized by the Project include, but are not limited to:

- An estimated \$100M+ capital investment and increased quality employment opportunities through an estimated 127 new jobs in the City.
- Advanced, high-quality industrial design optimal for the intended location.
- Promotion of innovative technology that works to eliminate waste from supply chains and connect the world to safe, high-quality food.
- Creation of synergies with surrounding businesses and development that will facilitate an environment to help support local business creation, retention, and expansion.
- Increased property tax revenue to the City.
- Other benefits to flow, both directly, and indirectly, from locating an international warehousing and logistics company, and the world's largest refrigerated warehousing company, in Olathe.

VI. CERTIFICATION OF APPLICANT

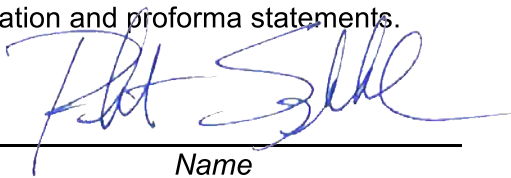
Applicant understands and agrees to pay all fees described on Page 1 of this application.

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.

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 23rd day of March 2020, 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


Name

By

Rob Sangdahl, VP Real Estate

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. ⁰ _____

Occupational Classification	Total	Average Starting Wage	Average Maximum Wage	Number By County of Residence *
N/A	N/A	N/A	N/A	Johnson
				Other
				Johnson
				Other
				Johnson
				Other
				Johnson
				Other
				Johnson
				Other
				Johnson
				Other

EXHIBIT A

Insert or attach here:

EXHIBIT A

Legal Description

TRACT 1:

THE EAST HALF (E/2) OF THE SOUTHWEST QUARTER (SW/4) OF SECTION 15, TOWNSHIP 14, RANGE 23, EXCEPT THE EAST 330 FEET OF THE SOUTH 396 FEET THEREOF, JOHNSON COUNTY, KANSAS AND EXCEPT PARTS IN ROAD AND HIGHWAY, EXCEPT THAT PART PLATTED AS LONE ELM COMMERCE CENTER, A SUBDIVISION IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS, AND EXCEPT THAT PART DESCRIBED AS FOLLOWS:

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 14 SOUTH, RANGE 23 EAST, IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 15; THENCE S 88°15'04" W, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 15, A DISTANCE OF 650.85 FEET TO THE SOUTHEAST PLAT CORNER OF LONE ELM COMMERCE CENTER, A PLATTED SUBDIVISION OF LAND IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS; THENCE N 1°44'54" W, ALONG THE EAST PLAT LINE OF SAID LONE ELM COMMERCE CENTER, A DISTANCE OF 648.00 FEET TO THE NORTHEAST PLAT CORNER OF SAID LONE ELM COMMERCE CENTER, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE S 88°15'04" W, ALONG THE NORTH PLAT LINE OF SAID LONE ELM COMMERCE CENTER, A DISTANCE OF 700.12 FEET; THENCE N 51°50'42" E, A DISTANCE OF 319.99 FEET; THENCE NORTHEASTERLY ON A CURVE TO THE LEFT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 570.00 FEET, AN ARC DISTANCE OF 30.08 FEET; THENCE N 48°49'17" E, A DISTANCE OF 458.18 FEET; THENCE SOUTHERLY ON A CURVE TO THE RIGHT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF S 37°29'04" E AND A RADIUS OF 345.00 FEET, AN ARC DISTANCE OF 215.18 FEET; THENCE S 1°44'56" E, A DISTANCE OF 297.91 FEET TO THE POINT OF BEGINNING.

TRACT 2:

PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 14 SOUTH, RANGE 23 EAST, IN THE CITY OF OLATHE EXCEPT THAT PART PLATTED AS LONE ELM COMMERCE CENTER, A SUBDIVISION IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 500 FEET EAST OF THE SOUTHWEST CORNER OF SECTION 15, TOWNSHIP 14 SOUTH, RANGE 23 EAST, FOR A POINT OF BEGINNING; THENCE EAST ALONG THE SOUTH LINE OF SAID SECTION A DISTANCE OF 855.63 FEET TO THE SOUTHEAST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION; THENCE NORTH 0° 03' 29" EAST, ALONG THE EAST LINE OF SAID WEST HALF A DISTANCE OF 2364.17 FEET TO THE SOUTH RIGHT OF WAY LINE OF I-35 HIGHWAY, SAID POINT BEING 273.4 FEET SOUTH OF THE NORTHEAST CORNER OF SAID WEST HALF; THENCE SOUTH 51° 31' 20" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 1054.90 FEET TO A POINT 933.3 FEET SOUTH OF THE NORTH LINE OF SAID SOUTHWEST QUARTER; THENCE CONTINUING SOUTHWESTERLY ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 11,309.16 FEET FOR A DISTANCE OF 699.06 FEET TO THE WEST LINE OF SAID SECTION; THENCE SOUTH 0° 03' 32" EAST ALONG SAID WEST LINE A DISTANCE OF 41.20 FEET TO A POINT 1215 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SECTION; THENCE EAST 506.50 FEET; THENCE SOUTH 45° 41' 01" WEST A DISTANCE OF 177.32 FEET; THENCE SOUTH 0° 03' 32" EAST A DISTANCE OF 371.12 FEET; THENCE EAST 109.50 FEET; THENCE SOUTH 0° 56' 03" EAST A DISTANCE OF 720.10 FEET TO THE POINT OF BEGINNING, EXCEPT THAT PART IN STREETS AND ROADS;

AND EXCEPT THAT PART PLATTED AS LONE ELM COMMERCE CENTER, A SUBDIVISION IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS.

NOTE:

ALL OF TRACT 2 AND A PORTION OF TRACT 1 ARE TO BE PLATTED AS LONE ELM COMMERCE CENTER, THIRD PLAT, A SUBDIVISION IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS, WITH A PRELIMINARY LEGAL DESCRIPTION DESCRIBED AS FOLLOWS:

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 14 SOUTH, RANGE 23 EAST, IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 15; THENCE N 88°15'04" E, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 15, A DISTANCE OF 500.00 FEET TO THE POINT OF BEGINNING; THENCE N 2°43'03" W, A DISTANCE OF 720.10 FEET; THENCE S 88°15'06" W, A DISTANCE OF 109.50 FEET; THENCE N 1°50'06" W, A DISTANCE OF 371.12 FEET; THENCE N 43°54'27" E, A DISTANCE OF 177.32 FEET; THENCE S 88°15'06" W, A DISTANCE OF 506.50 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 15; THENCE N 1°50'22" W, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 15, A DISTANCE OF 38.76 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY OF INTERSTATE 35, AS NOW ESTABLISHED; THENCE ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID INTERSTATE 35, FOR THE FOLLOWING TWO (2) COURSES; THENCE NORTHEASTERLY ON A CURVE TO THE RIGHT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF N 46°11'21" E AND A RADIUS OF 11,309.16 FEET, AN ARC DISTANCE OF 696.36 FEET; THENCE N 49°43'02" E, A DISTANCE OF 1288.55 FEET; THENCE S 40°51'51" E, A DISTANCE OF 1322.86 FEET; THENCE S 48°49'17" W, A DISTANCE OF 499.38 FEET; THENCE SOUTHEASTERLY ON A CURVE TO THE RIGHT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF S 40°48'31" E AND A RADIUS OF 345.00 FEET, AN ARC DISTANCE OF 20.02 FEET TO THE NORTH MOST CORNER OF LONE ELM COMMERCE CENTER, SECOND PLAT, A PLATTED SUBDIVISION OF LAND IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS; THENCE ALONG THE NORTHWESTERLY PLAT LINE OF SAID LONE ELM COMMERCE CENTER, SECOND PLAT, FOR THE FOLLOWING THREE (3) COURSES; THENCE S 48°49'17" W, A DISTANCE OF 458.18 FEET; THENCE SOUTHWESTERLY ON A CURVE TO THE RIGHT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 570.00 FEET, AN ARC DISTANCE OF 30.08 FEET; THENCE S 51°50'42" W, A DISTANCE OF 319.99 FEET TO THE SOUTHWEST PLAT CORNER OF SAID LONE ELM COMMERCE CENTER, SECOND PLAT, SAID POINT ALSO BEING ON THE NORTHERLY PLAT LINE OF LONE ELM COMMERCE CENTER, A PLATTED SUBDIVISION OF LAND IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS; THENCE ALONG THE NORTHERLY PLAT LINE OF SAID LONE ELM COMMERCE CENTER, FOR THE FOLLOWING TWO (2) COURSES; THENCE S 88°15'04" W, A DISTANCE OF 33.70 FEET TO A POINT OF INTERSECTION ON THE NORTH PLAT LINE OF SAID LONE ELM COMMERCE CENTER AND THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF 163RD STREET, AS NOW ESTABLISHED; THENCE N 38°09'18" W, A DISTANCE OF 60.00 FEET TO THE NORTH MOST PLAT CORNER OF SAID LONE ELM COMMERCE CENTER, SAID POINT ALSO BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAID 163RD STREET; THENCE ALONG THE WESTERLY PLAT LINE OF SAID LONE ELM COMMERCE CENTER AND ALONG THE NORTHWESTERLY AND WESTERLY RIGHT-OF-WAY LINE OF SAID 163RD STREET, FOR THE FOLLOWING FIVE (5) COURSES; THENCE S 51°50'42" W, A DISTANCE OF 549.41 FEET; THENCE SOUTHWESTERLY ON A CURVE TO THE LEFT, SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AND HAVING A RADIUS OF 360.00 FEET, AN ARC DISTANCE OF 41.22 FEET; THENCE S 44°58'44" W, A DISTANCE OF 87.38 FEET; THENCE SOUTHERLY ON A CURVE TO THE LEFT, SAID CURVE HAVING AN INITIAL TANGENT BEARING OF S 31°37'27" W

AND A RADIUS OF 370.00 FEET, AN ARC DISTANCE OF 215.51 FEET; THENCE S $1^{\circ}44'56''$ E, A DISTANCE OF 80.47 FEET TO THE SOUTHWEST PLAT CORNER OF SAID LONE ELM COMMERCE CENTER, SAID POINT ALSO BEING ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 15; THENCE S $88^{\circ}15'04''$ W, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 15, A DISTANCE OF 195.00 FEET TO THE POINT OF BEGINNING.

April 7, 2020

Single Series Bonds
Lineage Logistics, LLC
Industrial Revenue Bond & Tax Phase-In Project
Executive Summary

Located on the following Parcel:
DF231415-2007



Introduction

The City has received an approximately \$110,400,000 industrial revenue bond application from Lineage Logistics, LLC ("Applicant") for construction of a refrigerated warehouse facility on 60.44+/- acres at the northwest corner of 167th Street and Lone Elm Road. The Applicant anticipates construction of approximately 4000,000 square feet of space to accommodate the refrigerated warehouse. The Applicant seeks to have the project, which will be constructed on a 60.44+/- acre parcel, receive a 10-year, 50% property tax abatement 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 stand-alone abatement, Resolution 19-1071 and Policy F-5 with an investment over \$10 million for new businesses.

Bonds for this project are expected to be issued in one series. This series of bonds to be issued would allow the Applicant to construct a 4000,000 square foot of refrigerated warehouse space on a 60.44-acre parcel. The Applicant requests issuance of an amount not to exceed \$110,400,000 of industrial revenue bonds for construction of this building. The proceeds from the bonds would be divided as follows: \$6,588,450 of the bonds would cover costs to acquire the land for the project, \$73,811,550 of the bonds would cover costs to construct the building and other costs, and \$30,000,000 would be allocated to cover costs to purchase machinery and equipment for the building.

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 134 new jobs over the next 10 years. The average salaries are expected to be \$49,756 in the first year and decreasing slightly to \$49,142 in the final year. This decrease is due to the new hires each year. These jobs would create approximately \$60,650,120 in total new wages to the Olathe economy over the next 10 years.

Machinery & Equipment

The application includes a request for \$30,000,000 in bond revenues for furniture, fixtures and equipment to outfit the facility for this first phase project.

IRB Request

This request is for a resolution to be created in an amount not to exceed \$110,400,000. The request is to issue industrial revenue bonds in a single series for the construction of 400,000 square feet of space not to exceed \$110,400,000. 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 a 10-year, 50% property tax abatement for its project, under the City's Tax Abatement Resolution 19-1071 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 new businesses under the City's tax abatement policy, Resolution No. 19-1071, as the industrial park will result in an investment over \$10 million.

Taxes

Current property taxes at this site (all jurisdictions): \$1,066 (\$28,840 appraised value for 2019 and \$8,652 assessed value for 2019). Olathe's current tax revenue from the property is \$211. 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 \$55,058,663 (building only). This investment will result in approximately \$1,712,765 in annual property taxes at full value for all taxing jurisdictions, and \$335,816 in property taxes to the City. With a 50% property tax abatement, the tax revenue will be approximately \$8,563,825 for all jurisdictions over the 10-year abatement period, and \$1,679,082 to the City over the 10-year abatement period.

Sales

The project is not expected to facilitate any direct sales due to the nature of this operation. As stated by the applicant - With respect to the increased capacity and sales tax questions, although the new facility will create approx. 60,000 new pallet positions in the market (and, in turn, increased revenues for Lineage), the company's business model doesn't generally yield sales tax. Instead, they sell space within the facility – in this case, to a single dedicated food producer as contemplated.

Special Assessments

There are currently no special assessments associated with this property.

Franchise Fees

It is expected that the project will generate \$76,000 in new franchise fees the first year and \$760,000 in franchise fees over the 10-year period.

Water, Sewer & Garbage

The applicant anticipates generating an additional \$192,000 in revenue from increased water and sewer service during the 10-year abatement period.

Local Competition

The applicant is not expected to be in competition with any other local firms.

Annual Purchases

The applicant has projected that the project would generate approximately \$500,000 in new operating expenditures to be purchased in the first each year and increasing slightly over the 10-year period to \$597,546 in the final year. Those purchases will total \$5,474,860 over the 10-year period, approximately 75% which will potentially be subject to sales taxes over the abatement period.

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 1.88 to 1 for the City of Olathe, which translates into an annual rate of return on the City's investment of taxes abated of 187.72%. The payback period for incentives and taxes abated will be approximately 3 years.

County & School District Impact

It is expected that the project will bring approximately 174 total new jobs (direct and in-direct) to the City, with 119 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, 30% are expected to move into the Gardner-Edgerton School District. The impact on the school district would be about 41 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 northwest of the 167th Street and Lone Elm Road intersection. The minimum targeted expenditures would be approximately 80% of the projected bond issuance for this project, or \$88,320,000.

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

Lineage Logistics, LLC

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

Lineage Logistics, LLC (the "Company") is proposing to construct an approx. 400,000 square foot refrigerated warehouse facility for the storage and distribution of cold food products at Lone Elm Commerce Center, northwest of W 167th St. and Lone Elm Road.

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

Square footage of the facility Approx. 400,000 sq. ft.

Acreage of land the project will occupy 60.44+/- ac.

NAICS or SIC Code 493120

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

<i>Land</i>	<u>\$6,588,450</u>
<i>Building and Improvements</i>	<u>\$73,411,550</u>
<i>Furniture, Fixtures and Equipment</i>	<u>\$30,000,000</u>
<i>Other Costs</i>	<u>\$400,000</u>
<i>Total</i>	<u>\$110,400,000</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 N/A *Sales* N/A - New Facility

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

<i>Year</i>			
<i>1</i>	<u>N/A</u>	<i>6</i>	<u></u>
<i>2</i>	<u></u>	<i>7</i>	<u></u>
<i>3</i>	<u></u>	<i>8</i>	<u></u>
<i>4</i>	<u></u>	<i>9</i>	<u></u>
<i>5</i>	<u></u>	<i>10</i>	<u></u>

Percent of those sales subject to sales tax in the:

City (Olathe) N/A

<i>County (Johnson)</i>	<u>N/A</u>
<i>State (Kansas)</i>	<u>N/A</u>

Annual net taxable income, as a percent of sales, on which state corporate income taxes will be computed: N/A

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)

<i>Year</i>	
1	<u>\$500,000</u>
2	<u>\$510,000</u>
3	<u>\$520,200</u>
4	<u>\$530,604</u>
5	<u>\$541,216</u>
6	<u>\$552,040</u>
7	<u>\$563,081</u>
8	<u>\$574,343</u>
9	<u>\$585,830</u>
10	<u>\$597,546</u>

Percent of those purchases subject to sales taxes in the:

<i>City (Olathe)</i>	<u>75%</u>
<i>County (Johnson)</i>	<u>75%</u>
<i>State (Kansas)</i>	<u>75%</u>

Additional annual utilities that will be used by the firm as a result of the project

Water	<u>\$120,000</u>
Wastewater	<u>\$60,000</u>
Telephone	<u>\$60,000</u>
Electricity	<u>\$1,400,000</u>
Gas	<u>\$60,000</u>
Garbage	<u>\$60,000</u>
Cable	<u>\$0</u>

Number of new employees to be hired each year (to be used to complete Appendix II)

<i>Year</i>	
1	<u>100</u>
2	<u>20</u>
3	<u>7</u>
4	<u>1</u>
5	<u>1</u>
6	<u>1</u>
7	<u>1</u>
8	<u>1</u>
9	<u>1</u>
10	<u>1</u>

Number of new employees moving to the county each year (use numbers from above):

Year	From Out-of-State	From Another Kansas County	Will not move	Total
1	8	16	76	100
2	1	2	15	18
3	1	2	6	9
4	0	0	1	1
5	0	0	1	1
6	0	0	1	1
7	0	0	1	1
8	0	0	1	1
9	0	0	1	1
10	0	0	1	1
Total	10	20	104	134

Average annual salary of all employees:

Year	
1	\$49,755.91
2	\$49,850.00
3	\$49,755.91
4	\$49,664.06
5	\$49,573.64
6	\$49,484.62
7	\$49,396.95
8	\$49,310.61
9	\$49,225.56
10	\$49,141.79

Household size of a typical new worker 3.5

Number of school age children in the household of a typical new worker 1.5

Construction

Initial construction or expansion

Cost of Construction at the firm's new or expanded facility \$103,411,550

If construction is by an outside contractor, estimate percent profit on the cost of construction: 5.00%

Total construction salaries (A) \$31,023,465

Amount paid to average construction worker during the construction period (B) \$75,117.35 $A \div C = B$

Number of construction workers (C) 413

Household size of an average construction worker 3.5

Expansion II (if applicable):

Cost of Construction at the firm's new or expanded facility	<u>N/A</u>	
If construction is by an outside contractor, estimate percent profit on the cost of construction:	<u>N/A</u>	
Total construction salaries (A)		
Amount paid to average construction worker during the construction period (B)	<u>N/A</u>	$A \div C = B$
Number of construction workers (C)	<u>N/A</u>	
Household size of an average construction worker	<u>N/A</u>	

Visitors

Number of out-of-town visitors expected at the firm:

<i>Year</i>			
1	<u>75</u>	6	<u>75</u>
2	<u>75</u>	7	<u>75</u>
3	<u>75</u>	8	<u>75</u>
4	<u>75</u>	9	<u>75</u>
5	<u>75</u>	10	<u>75</u>

Number of days that each visitor will stay in the area 2

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

<i>In the City of Olathe</i>	<u>1</u>
<i>Anywhere in the county</i>	<u>1</u>

Firm Data Sheet
January 2018

Sales Tax Exemption Certificate

Prior to the contractor starting construction on the project, that applicant shall notify the City Clerk whether or not to proceed with an applicant for a sales tax exemption from the state of Kansas.

Project Completion and Processing of the Tax Abatement

Prior to the completion of the project, the applicant shall inform the City and Bond Counsel to proceed with the state board of tax appeals for a tax abatement on the project.

APPENDIX II (must correspond with above information)														
New jobs to be created in each of the next ten years														
Occupational Classification		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Average Starting Wage (use current pay scale)		
Management		17	4	1								\$90,000		
Office / Clerical		9	2	1								\$40,000		
Professional		6	1	0								\$65,000		
Skilled		6	1	1								\$55,000		
Unskilled		62	12	4	1	1	1	1	1	1	1	\$38,000		
Total		100	20	7	1	1	1	1	1	1	1			
		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10			
Average Starting Wage		\$ 49,660.00	\$ 49,850.00	\$ 49,755.91	\$ 49,664.06	\$ 49,573.64	\$ 49,484.62	\$ 49,396.95	\$ 49,310.61	\$ 49,225.56	\$ 49,141.79			

A Tax Abatement Cost-Benefit Analysis of Lineage Logistics, LLC

City or County where the firm is or will be located: **City of Olathe**

Date of Analysis: Monday, March 30, 2020

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

400,000 sf refrigerated warehouse

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 School District
A neighboring School District:	Olathe Schools
Special Taxing District:	Johnson County Community College
Special Taxing District:	None
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 School District Page 11

A neighboring School District: Olathe Schools Page 13

Special Taxing District: Johnson County Community College Page 15

Special Taxing District: None 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-off jobs and earnings in the community.

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	\$479,275	\$5,306,763	\$952,000			\$1,059,081	\$7,797,119
County: Johnson	\$720,406	\$4,810,648				\$916,335	\$6,447,389
S. D: Gardnder Edgerton		\$12,548,220			\$1,946,778		\$14,494,999
S. D: Olathe Schools		\$14,038			\$3,399,187		\$3,413,225
Johnson County Commu		\$2,017,960				\$234,115	\$2,252,075
None		\$0				\$0	\$0
State of Kansas	\$4,273,485	\$325,853		\$9,877,636		\$481,774	\$14,958,748

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	\$782,006		\$2,649,207	\$0	\$3,431,213
County: Johnson	\$378,677		\$2,400,199	\$0	\$2,778,876
S. D: Gardnder Edgerton		\$1,946,778	\$6,271,324		\$8,218,102
S. D: Olathe Schools		\$3,399,187			\$3,399,187
Johnson County Commu	\$106,789		\$1,005,800		\$1,112,589
None	\$0		\$0		\$0
State of Kansas	\$422,882	\$1,424,490	\$162,821	\$0	\$2,010,194

Net Benefits:

	Total Benefits	Total Costs Incentives and Taxes Abated	Net Benefits
City: Olathe	\$7,797,119	\$3,431,213	\$4,365,906
County: Johnson	\$6,447,389	\$2,778,876	\$3,668,512
S. D: Gardnder Edgerton	\$14,494,999	\$8,218,102	\$6,276,896
S. D: Olathe Schools	\$3,413,225	\$3,399,187	\$14,037
Johnson County Commu	\$2,252,075	\$1,112,589	\$1,139,485
None	\$0	\$0	\$0
State of Kansas	\$14,958,748	\$2,010,194	\$12,948,553

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	\$3,015,952	\$1,606,629	3 Years	187.72%	1.88
County: Johnson	\$2,290,703	\$1,455,615	6 Years	157.37%	1.57
S. D: Gardnder Edgerton	\$3,806,349	\$3,803,297	10 Years	100.08%	1.00
S. D: Olathe Schools	\$7,694				
Johnson County Commu	\$689,374	\$609,976	9 Years	113.02%	1.13
None	\$0	\$0	N/A	0.00%	0.00
State of Kansas	\$9,582,325	\$98,740	During construction period.	9704.60%	97.05

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	130	174
Number of new residents in the community	95	119
Number of additional students in the local school district	32	41
Increase in local personal income	\$4,478,032	\$56,316,452
Increase in local retail sales	\$2,015,114	\$25,342,404
Increase in the community's property tax base	\$110,456,303	\$93,981,177

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	\$93,070	\$0	\$0	\$834,884	\$927,954
1	\$31,484	\$490,719	\$95,200	\$16,770	\$634,173
2	\$36,765	\$499,242	\$95,200	\$19,837	\$651,044
3	\$38,614	\$507,933	\$95,200	\$21,740	\$663,487
4	\$38,932	\$516,776	\$95,200	\$22,208	\$673,116
5	\$39,253	\$525,772	\$95,200	\$22,686	\$682,911
6	\$39,576	\$534,753	\$95,200	\$23,174	\$692,703
7	\$39,901	\$543,866	\$95,200	\$23,672	\$702,639
8	\$40,229	\$553,111	\$95,200	\$24,181	\$712,721
9	\$40,559	\$562,514	\$95,200	\$24,699	\$722,973
10	\$40,892	\$572,077	\$95,200	\$25,228	\$733,398
Total	\$479,275	\$5,306,763	\$952,000	\$1,059,081	\$7,797,119

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	\$70,964	\$245,280	\$0	\$316,244
2	\$74,910	\$249,450	\$0	\$324,361
3	\$77,354	\$253,691	\$0	\$331,045
4	\$77,947	\$258,003	\$0	\$335,951
5	\$78,552	\$262,390	\$0	\$340,941
6	\$79,169	\$266,850	\$0	\$346,019
7	\$79,799	\$271,387	\$0	\$351,186
8	\$80,442	\$276,000	\$0	\$356,442
9	\$81,099	\$280,692	\$0	\$361,791
10	\$81,768	\$285,464	\$0	\$367,232
Total	\$782,006	\$2,649,207	\$0	\$3,431,213

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	\$927,954	\$0	\$927,954	\$927,954	\$0
1	\$634,173	\$316,244	\$317,928	\$289,025	\$222,982
2	\$651,044	\$324,361	\$326,683	\$269,985	\$206,157
3	\$663,487	\$331,045	\$332,442	\$249,768	\$190,601
4	\$673,116	\$335,951	\$337,165	\$230,288	\$176,219
5	\$682,911	\$340,941	\$341,969	\$212,335	\$162,923
6	\$692,703	\$346,019	\$346,683	\$195,693	\$150,629
7	\$702,639	\$351,186	\$351,452	\$180,350	\$139,264
8	\$712,721	\$356,442	\$356,278	\$166,206	\$128,756
9	\$722,973	\$361,791	\$361,182	\$153,176	\$119,040
10	\$733,398	\$367,232	\$366,165	\$141,172	\$110,058
Total	\$7,797,119	\$3,431,213	\$4,365,906	\$3,015,952	\$1,606,629

Discounted payback period for taxes abated and incentives 3 Years

Average annual rate of return over the next ten years on the city's investment of taxes abated and incentives for the firm 187.72%

Cost-Benefit Ratio 1.88

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	\$183,038	\$0	\$0	\$183,038
1	\$43,488	\$444,645	\$68,880	\$557,013
2	\$51,219	\$452,426	\$80,470	\$584,115
3	\$53,887	\$460,368	\$89,504	\$603,759
4	\$54,295	\$468,449	\$91,255	\$613,999
5	\$54,706	\$476,672	\$93,039	\$624,417
6	\$55,119	\$484,829	\$94,858	\$634,805
7	\$55,534	\$493,097	\$96,712	\$645,343
8	\$55,952	\$501,480	\$98,601	\$656,033
9	\$56,373	\$510,005	\$100,527	\$666,905
10	\$56,796	\$518,675	\$102,489	\$677,960
Total	\$720,406	\$4,810,648	\$916,335	\$6,447,389

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	\$28,331	\$222,226	\$0	\$250,557
2	\$33,337	\$226,003	\$0	\$259,341
3	\$36,879	\$229,845	\$0	\$266,724
4	\$37,633	\$233,753	\$0	\$271,386
5	\$38,402	\$237,727	\$0	\$276,129
6	\$39,187	\$241,768	\$0	\$280,955
7	\$39,987	\$245,878	\$0	\$285,865
8	\$40,803	\$250,058	\$0	\$290,861
9	\$41,635	\$254,309	\$0	\$295,944
10	\$42,483	\$258,632	\$0	\$301,116
Total	\$378,677	\$2,400,199	\$0	\$2,778,876

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	\$183,038	\$0	\$183,038	\$183,038	\$0
1	\$557,013	\$250,557	\$306,456	\$278,596	\$202,023
2	\$584,115	\$259,341	\$324,774	\$268,408	\$186,779
3	\$603,759	\$266,724	\$337,034	\$253,218	\$172,686
4	\$613,999	\$271,386	\$342,613	\$234,009	\$159,656
5	\$624,417	\$276,129	\$348,288	\$216,259	\$147,609
6	\$634,805	\$280,955	\$353,850	\$199,739	\$136,471
7	\$645,343	\$285,865	\$359,478	\$184,469	\$126,174
8	\$656,033	\$290,861	\$365,172	\$170,355	\$116,653
9	\$666,905	\$295,944	\$370,960	\$157,323	\$107,851
10	\$677,960	\$301,116	\$376,844	\$145,289	\$99,713
Total	\$6,447,389	\$2,778,876	\$3,668,512	\$2,290,703	\$1,455,615

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 157.37%

Cost-Benefit Ratio 1.57

Costs and Benefits for the School District where the firm is or will be located: Gardnder 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	\$1,161,383	\$148,340	\$1,309,723
2	\$1,181,247	\$169,719	\$1,350,966
3	\$1,201,465	\$191,783	\$1,393,247
4	\$1,222,028	\$195,043	\$1,417,071
5	\$1,242,944	\$198,359	\$1,441,302
6	\$1,264,102	\$201,731	\$1,465,833
7	\$1,285,607	\$205,160	\$1,490,767
8	\$1,307,462	\$208,648	\$1,516,110
9	\$1,329,689	\$212,195	\$1,541,884
10	\$1,352,294	\$215,802	\$1,568,096
Total	\$12,548,220	\$1,946,778	\$14,494,999

Total costs for the School District:

Year	Additional Costs	Property Taxes Abated	Total
1	\$148,340	\$580,639	\$728,978
2	\$169,719	\$590,510	\$760,229
3	\$191,783	\$600,548	\$792,331
4	\$195,043	\$610,758	\$805,800
5	\$198,359	\$621,140	\$819,499
6	\$201,731	\$631,700	\$833,431
7	\$205,160	\$642,439	\$847,599
8	\$208,648	\$653,360	\$862,008
9	\$212,195	\$664,467	\$876,662
10	\$215,802	\$675,763	\$891,565
Total	\$1,946,778	\$6,271,324	\$8,218,102

Net Costs and Benefits for the School District: Gardnder Edgerton School District

Year	Public Benefits	Total Costs and Property Taxes Abated	Net Benefits or (Costs)	Present Value of Net Benefits	Present Value of Taxes Abated
1	\$1,309,723	\$728,978	\$580,744	\$527,949	\$527,853
2	\$1,350,966	\$760,229	\$590,737	\$488,212	\$488,024
3	\$1,393,247	\$792,331	\$600,916	\$451,477	\$451,201
4	\$1,417,071	\$805,800	\$611,270	\$417,506	\$417,156
5	\$1,441,302	\$819,499	\$621,803	\$386,091	\$385,679
6	\$1,465,833	\$833,431	\$632,402	\$356,974	\$356,578
7	\$1,490,767	\$847,599	\$643,168	\$330,047	\$329,673
8	\$1,516,110	\$862,008	\$654,101	\$305,143	\$304,797
9	\$1,541,884	\$876,662	\$665,221	\$282,119	\$281,799
10	\$1,568,096	\$891,565	\$676,530	\$260,832	\$260,536
Total	14,494,999	\$8,218,102	\$6,276,896	\$3,806,349	\$3,803,297

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 100.08%

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	\$266	\$259,010	\$259,275
2	\$574	\$296,339	\$296,913
3	\$927	\$334,863	\$335,791
4	\$1,292	\$340,556	\$341,848
5	\$1,670	\$346,346	\$348,015
6	\$1,770	\$352,233	\$354,004
7	\$1,837	\$358,221	\$360,059
8	\$1,869	\$364,311	\$366,180
9	\$1,900	\$370,504	\$372,405
10	\$1,933	\$376,803	\$378,736
Total	\$14,038	\$3,399,187	\$3,413,225

Total costs for the School District:

Year	Additional Costs
1	\$259,010
2	\$296,339
3	\$334,863
4	\$340,556
5	\$346,346
6	\$352,233
7	\$358,221
8	\$364,311
9	\$370,504
10	\$376,803
Total	\$3,399,187

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	\$259,275	\$259,010	\$265	\$241
2	\$296,913	\$296,339	\$573	\$474
3	\$335,791	\$334,863	\$927	\$696
4	\$341,848	\$340,556	\$1,292	\$882
5	\$348,015	\$346,346	\$1,669	\$1,036
6	\$354,004	\$352,233	\$1,770	\$999
7	\$360,059	\$358,221	\$1,837	\$943
8	\$366,180	\$364,311	\$1,868	\$871
9	\$372,405	\$370,504	\$1,900	\$806
10	\$378,736	\$376,803	\$1,932	\$745
Total	\$3,413,225	\$3,399,187	\$14,037	\$7,694

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	\$186,367	\$17,100	\$203,467
2	\$189,673	\$20,869	\$210,542
3	\$193,053	\$22,462	\$215,515
4	\$196,493	\$23,023	\$219,517
5	\$199,994	\$23,598	\$223,592
6	\$203,427	\$24,185	\$227,612
7	\$206,902	\$24,785	\$231,687
8	\$210,419	\$25,399	\$235,818
9	\$213,996	\$26,026	\$240,023
10	\$217,634	\$26,668	\$244,302
Total	\$2,017,960	\$234,115	\$2,252,075

Total costs for the Special Taxing District:

Year	Additional Costs	Property Taxes Abated	Total
1	\$7,800	\$93,123	\$100,923
2	\$9,519	\$94,706	\$104,226
3	\$10,246	\$96,316	\$106,562
4	\$10,502	\$97,954	\$108,456
5	\$10,764	\$99,619	\$110,383
6	\$11,032	\$101,313	\$112,344
7	\$11,306	\$103,035	\$114,340
8	\$11,586	\$104,786	\$116,372
9	\$11,872	\$106,568	\$118,440
10	\$12,164	\$108,379	\$120,544
Total	\$106,789	\$1,005,800	\$1,112,589

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	\$203,467	\$100,923	\$102,543	\$93,221	\$84,658
2	\$210,542	\$104,226	\$106,316	\$87,864	\$78,270
3	\$215,515	\$106,562	\$108,952	\$81,857	\$72,364
4	\$219,517	\$108,456	\$111,060	\$75,855	\$66,904
5	\$223,592	\$110,383	\$113,209	\$70,294	\$61,856
6	\$227,612	\$112,344	\$115,267	\$65,065	\$57,188
7	\$231,687	\$114,340	\$117,346	\$60,217	\$52,873
8	\$235,818	\$116,372	\$119,446	\$55,722	\$48,884
9	\$240,023	\$118,440	\$121,583	\$51,563	\$45,195
10	\$244,302	\$120,544	\$123,758	\$47,714	\$41,785
Total	\$2,252,075	\$1,112,589	\$1,139,485	\$689,374	\$609,976

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 113.02%

Cost-Benefit Ratio 1.13

Costs and Benefits for Special Taxing District: None

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

Year	Property Taxes	Additional Revenues	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 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: None

Year	Public Benefits	Total Costs and Property Taxes Abated	Net Benefits or (Costs)	Present Value of Net Benefits	Present Value of Taxes Abated
1	\$0	\$0	\$0	\$0	\$0
2	\$0	\$0	\$0	\$0	\$0
3	\$0	\$0	\$0	\$0	\$0
4	\$0	\$0	\$0	\$0	\$0
5	\$0	\$0	\$0	\$0	\$0
6	\$0	\$0	\$0	\$0	\$0
7	\$0	\$0	\$0	\$0	\$0
8	\$0	\$0	\$0	\$0	\$0
9	\$0	\$0	\$0	\$0	\$0
10	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$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 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	\$1,209,915	\$0	\$3,202,430	\$0	\$4,412,345
1	\$246,945	\$30,154	\$531,086	\$35,794	\$843,979
2	\$292,201	\$30,671	\$638,644	\$42,570	\$1,004,085
3	\$307,705	\$31,198	\$674,480	\$46,715	\$1,060,098
4	\$309,924	\$31,733	\$678,393	\$47,732	\$1,067,783
5	\$312,158	\$32,278	\$682,314	\$48,770	\$1,075,520
6	\$314,400	\$32,828	\$686,229	\$49,830	\$1,083,287
7	\$316,651	\$33,387	\$690,139	\$50,912	\$1,091,088
8	\$318,917	\$33,954	\$694,059	\$52,016	\$1,098,946
9	\$321,192	\$34,531	\$697,975	\$53,143	\$1,106,841
10	\$323,478	\$35,118	\$701,886	\$54,293	\$1,114,775
Total	\$4,273,485	\$325,853	\$9,877,636	\$481,774	\$14,958,748

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	\$31,445	\$108,543	\$15,075	\$0	\$155,062
2	\$37,350	\$124,186	\$15,331	\$0	\$176,867
3	\$41,026	\$140,331	\$15,592	\$0	\$196,948
4	\$41,913	\$142,716	\$15,857	\$0	\$200,486
5	\$42,818	\$145,142	\$16,127	\$0	\$204,087
6	\$43,742	\$147,610	\$16,401	\$0	\$207,752
7	\$44,684	\$150,119	\$16,680	\$0	\$211,483
8	\$45,646	\$152,671	\$16,963	\$0	\$215,281
9	\$46,628	\$155,267	\$17,251	\$0	\$219,146
10	\$47,631	\$157,906	\$17,545	\$0	\$223,081
Total	\$422,882	\$1,424,490	\$162,821	\$0	\$2,010,194

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	\$4,412,345	\$0	\$4,412,345	\$4,412,345	\$0
1	\$843,979	\$155,062	\$688,916	\$626,287	\$13,704
2	\$1,004,085	\$176,867	\$827,217	\$683,650	\$12,670
3	\$1,060,098	\$196,948	\$863,149	\$648,496	\$11,714
4	\$1,067,783	\$200,486	\$867,296	\$592,374	\$10,830
5	\$1,075,520	\$204,087	\$871,433	\$541,091	\$10,013
6	\$1,083,287	\$207,752	\$875,535	\$494,216	\$9,257
7	\$1,091,088	\$211,483	\$879,605	\$451,376	\$8,559
8	\$1,098,946	\$215,281	\$883,665	\$412,236	\$7,913
9	\$1,106,841	\$219,146	\$887,694	\$376,468	\$7,316
10	\$1,114,775	\$223,081	\$891,694	\$343,786	\$6,764
Total	\$14,958,748	\$2,010,194	\$12,948,553	\$9,582,325	\$98,740

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 9704.60%

Cost-Benefit Ratio 97.05

Local rates and constants used in the Analysis of Lineage Logistics, LLC

City:

Olathe	City name
24.406	City mill levy
\$296,642	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
\$236	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
22.1120	County mill levy
\$281,260	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 School District	Name of school district
57.775	School district 1's local option mill levy
\$194,904	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 firm's new employees will live

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

62.665	School district 2's local option mill levy
\$271,734	Average market value of new residential property in school district 2
\$12,734	School district 2's estimated marginal cost per child
\$8,361	State funding per child in school district 2
\$4,373.00	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
9.266	Special tax district 1's mill levy
\$416,511	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:

None	Special tax district 2
0	Special tax district 2's mill levy
\$0	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		\$1,050		6.25%
	\$60,000			\$2,925		6.45%
Standard Deduction >		\$6,000				
Allowance per: Exemption >		\$2,250				

Corporate Income Taxes:

Corporate Income Tax Rate >	4.00%
Surtax Rate >	3.05%
Amount Over Which Surtax Applies >	\$50,000.00

Other Rates:

1.70%	Inflation
10.00%	Discount rate for calculating the present value of costs and benefits

Comments:

UPDATED 5/19Updated 8/17 to account for the now excluded prorated 8 mills from the general school fund at th

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

\$6,588,450	Land
\$73,811,550	Building and improvements
\$30,000,000	Furniture, Fixtures and Equipment

Sum of the firm's initial new or additional investment

\$110,400,000

Projected Expansions

0

Year of 2nd Expansion

\$0	Land
\$0	Building and improvements
\$0	Furniture, Fixtures and Equipment

Sum of the firm's second expansion investment

\$0

0

Year of 3rd Expansion

\$0	Land
\$0	Building and improvements
\$0	Furniture, Fixtures and Equipment

Sum of the firm's third expansion investment

\$0

0

Year of 4th Expansion

\$0	Land
\$0	Building and improvements
\$0	Furniture, Fixtures and Equipment

Sum of the firm's fourth expansion investment

\$0

Sales and Purchases**2****New or additional sales of the firm:**

Year 1:	\$0
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:	\$0

Annual operating expenditures by the firm subject to sales taxes:

Year 1:	\$500,000
Year 2:	\$510,000
Year 3:	\$520,200
Year 4:	\$530,604
Year 5:	\$541,216
Year 6:	\$552,040
Year 7:	\$563,081
Year 8:	\$574,343
Year 9:	\$585,830
Year 10:	\$597,546
Total:	\$5,474,860

Percent of sales subject to sales taxes in the:

City:	0.00%
County:	0.00%
State:	0.00%

Percent of annual taxable operating expenditures in the:

City:	75.00%
County:	75.00%
State:	75.00%

% of sales on which state corporate income taxes will be computed (ie: Annual net taxable income)

0.00%

Property taxes

3

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

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:	\$19,200
Year 2:	\$19,200
Year 3:	\$19,200
Year 4:	\$19,200
Year 5:	\$19,200
Year 6:	\$19,200
Year 7:	\$19,200
Year 8:	\$19,200
Year 9:	\$19,200
Year 10:	\$19,200
Total:	\$192,000

Construction period	\$0
Year 1:	\$76,000
Year 2:	\$76,000
Year 3:	\$76,000
Year 4:	\$76,000
Year 5:	\$76,000
Year 6:	\$76,000
Year 7:	\$76,000
Year 8:	\$76,000
Year 9:	\$76,000
Year 10:	\$76,000
Total:	\$760,000

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:	\$834,884	\$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 state

	City	County	State
Construction period:	\$0	\$0	\$0
Year 1:	\$50,000	\$0	\$0
Year 2:	\$50,000	\$0	\$0
Year 3:	\$50,000	\$0	\$0
Year 4:	\$50,000	\$0	\$0
Year 5:	\$50,000	\$0	\$0
Year 6:	\$50,000	\$0	\$0
Year 7:	\$50,000	\$0	\$0
Year 8:	\$50,000	\$0	\$0
Year 9:	\$50,000	\$0	\$0
Year 10:	\$50,000	\$0	\$0
Total:	\$500,000	\$0	\$0

Employee information

5

Number of new employees to
be hired each year

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

Total number of new
employees moving to the
county each year

Year 1:	100
Year 2:	20
Year 3:	7
Year 4:	1
Year 5:	1
Year 6:	1
Year 7:	1
Year 8:	1
Year 9:	1
Year 10:	1
Total:	134

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

Year 1:	24
Year 2:	3
Year 3:	3
Year 4:	0
Year 5:	0
Year 6:	0
Year 7:	0
Year 8:	0
Year 9:	0
Year 10:	0
Total:	30

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:	\$49,756
Year 2:	\$49,850
Year 3:	\$49,756
Year 4:	\$49,664
Year 5:	\$49,574
Year 6:	\$49,485
Year 7:	\$49,397
Year 8:	\$49,311
Year 9:	\$49,226
Year 10:	\$49,142
Total:	\$495,161

Where new employees moving to the county
will live

<input type="text" value="70.00%"/>
<input type="text" value="30.00%"/>
<input type="text" value="50.00%"/>
<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="80.00%"/>
<input type="text" value="60.00%"/>
<input type="text" value="40.00%"/>

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.

Value of incentives being offered to the firm:

	By the City	By the County	By the State
Construction period:	\$0	\$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

Percent of property taxes to be abated on:

	Land	Buildings and Improvements	Furniture, Fixtures & Equipment
Year1	50.00%	50.00%	100.00%
Year2	50.00%	50.00%	100.00%
Year3	50.00%	50.00%	100.00%
Year4	50.00%	50.00%	100.00%
Year5	50.00%	50.00%	100.00%
Year6	50.00%	50.00%	100.00%
Year7	50.00%	50.00%	100.00%
Year8	50.00%	50.00%	100.00%
Year9	50.00%	50.00%	100.00%
Year10	50.00%	50.00%	100.00%

Property taxes to be abated by the following taxing entities:

☒ = Yes - Taxes to be abated

- | | |
|---|---|
| <input checked="" type="checkbox"/> City | <input checked="" type="checkbox"/> Special Taxing District 1 |
| <input checked="" type="checkbox"/> County | <input type="checkbox"/> Special Taxing District 2 |
| <input checked="" type="checkbox"/> School District 1 | <input checked="" type="checkbox"/> The State |

Construction

9

	Initial construction or expansion	2nd Expansion	3rd Expansion	4th Expansion
Construction Cost	\$103,411,550	\$0	\$0	\$0
Construction Profit Percentage	5.00%	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:	\$31,023,465	\$0	\$0	\$0
Construction Salaries spent in:				
Kansas	\$18,614,079	\$0	\$0	\$0
The County	\$12,409,386	\$0	\$0	\$0
The City	\$6,204,693	\$0	\$0	\$0
Amt. paid to avg. cons. worker	\$75,117	\$0	\$0	\$0
HH size - avg. cons. worker:	3.5	0	0	0
Nr. cons. workers:	413	0	0	0

Visitors

10

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

Year 1:	75
Year 2:	75
Year 3:	75
Year 4:	75
Year 5:	75
Year 6:	75
Year 7:	75
Year 8:	75
Year 9:	75
Year 10:	75
Total:	750

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

Daily retail spending by a visitor, excluding lodging:

\$90 In the City
\$90 Anywhere in the County

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

1 In the City
1 Anywhere in the County

Average daily hotel / motel room rates:

117 In the City
98 Anywhere in the County



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 4/7/2020

DEPARTMENT: Legal

STAFF CONTACT: Ron Shaver

SUBJECT: This item involves the report and recommendations related to the ethics complaint filed by Brett Hoedl against Councilmember Brownlee.

ITEM DESCRIPTION:

Report regarding an investigation pertaining to an ethics complaint.

SUMMARY:

On November 20, 2019 a complaint was submitted to the City Attorney's Office by Mr. Brett Hoedl (the "Complaint"). The Complaint made allegations that Councilmember Karin Brownlee violated City Council Policy A-3, the Code of Ethics for elected and appointed officials and employees of the City of Olathe (the "Code of Ethics"). The Complaint was provided to Councilmember Brownlee, the City Manager, and all other members of the City Council. Councilmember Brownlee responded to the Complaint. On December 3, 2019, the City Council reviewed the Complaint and the response, and directed the City Attorney, at the next regularly scheduled City Council meeting, to present a list of qualified applicants for the position of Investigator, and to make a recommendation on who to engage to investigate the ethics complaint against Councilmember Brownlee in accordance with the City of Olathe Code of Ethics, and for such Investigator to submit their report to a retired judge for review, and for that judge to submit findings and recommendations regarding this matter based on the Investigator's report to the City Council.

On December 17, 2019, the Council authorized the Mayor to execute a letter of engagement for investigative services with Angela D. Gupta and with retired Judge Gerald T. Elliott to review the investigation report and make findings and recommendations.

Ms. Gupta's report was submitted to Judge Elliott on March 8, 2020. Judge Elliott's letter making findings and recommendations was submitted to the City Council (not including Councilmember Brownlee) on March 12, 2020. Judge Elliott's letter "provides written findings and recommendations in this matter. They are based on the Investigator's Report of March 8, 2020 and constitute an independent and impartial review of the Report executed with my skill, training and professional experience." Mayor Copeland, on behalf of the Council, has requested that staff place this item on tonight's agenda as a report item.

Judge Elliott adopted the Written Findings contained within the report. Based on his review of the report and adoption of the Written Findings, Judge Elliott concluded and recommended that Councilmember Brownlee's comments to Mr. Hoedl's employer (Clint Robinson) did not constitute a

MEETING DATE: 4/7/2020

violation of the Code of Ethics. Judge Elliott concluded and recommended further that “there are no substantial facts, either direct or circumstantial which justify a conclusion that Brownlee’s contact and conversation with Robinson constitutes a violation of the Olathe Code of Ethics.”

FINANCIAL IMPACT:

The cost of Ms. Gupta’s investigation and Judge Elliott’s findings and recommendations were authorized in the engagement letters.

ACTION NEEDED:

None

ATTACHMENT(S):

- A. Judge Elliott letter making findings and recommendations
- B. Gupta investigative report

Olathe City Council

Attn: Mayor Michael Copeland

100 E. Santa Fe Street

Olathe, Kansas 66061



Re: Council Member Ethics Investigation Regarding Hoedl Complaint

This letter provides written findings and recommendations in this matter. They are based on the Investigator's Report of March 8, 2020 and constitute an independent and impartial review of the Report executed with my skill, training and professional experience. I was not empowered or expected to conduct any investigation beyond that conducted by the investigator. As anticipated and encouraged by the City, I have spoken with the Investigator concerning the Report and the underlying investigation to resolve any questions and make sure I understood the relevant aspects of the Report.

Findings:

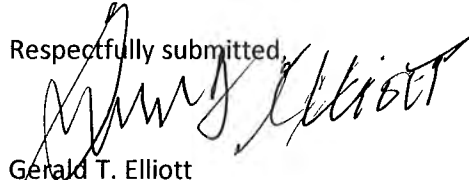
Paragraphs 1 through 11 contained on pages 1-11 of the Investigator's Report of March 8, 2020 together with the referenced footnotes are adopted as the Written Findings for the purpose of this Report.

The Complaint requires the Council to decide whether the statements made by Brownlee to Robinson were a violation of the Olathe Code of Ethics as found in Resolution 98-1068. The statements made were (1) that Hoedl, while speaking to the Council in Public Session identified himself as an employee of Black and Veatch and (2) that Hoedl's actions and conduct at the Council meeting were inappropriate (i.e. notable and very memorable) and unbecoming of a Black and Veatch employee, i.e., it could reflect poorly on the company's image or reputation. It seems that Hoedl is complaining that these statements constituted complaining to his employer about his advocacy efforts before the City Council.

It appears that Hoedl's identification and actions were made while at the Council meeting for the purpose of advocating but they were not advocating or a part of his advocacy. While advocacy can certainly take different forms in addition to words, in this instance (1) identifying his employer in the indicated context, or (2) behavior or words toward the Council or others following his comments in the public comment time seem clearly not to be a part of his advocacy. It follows that Brownlee's commenting on them to Robinson did not constitute complaining about Hoedl's advocacy effort before the City Council. That is the recommendation of this report and it is the further recommendation that therefore Brownlee's comments were not a violation of the Olathe Code of Ethics.

It is also the recommendation that there are no substantial facts, either direct or circumstantial which justify a conclusion that Brownlee's contact and conversation with Robinson constitutes a violation of the Olathe Code of Ethics.

It is also the recommendation that the Council may wish to consider the advisability of a review of the Code with reference to constituent education and enforcement procedures.

Respectfully submitted,

Gerald T. Elliott
District Court Judge, Retired



**Final Investigative Report of
Ethics Complaint by Brett Hoedl**

Prepared for the Olathe City Council

by

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I. Executive Summary.

Olathe resident Brett Hoedl asserts that Olathe City Councilmember Karin Brownlee engaged in unethical conduct by complaining to his employer about his advocacy efforts before the City Council. Hoedl works at Black & Veatch, a large engineering firm based in Overland Park, Kansas. Black & Veatch often has contracts to do business with the City of Olathe. As a Councilmember, Brownlee votes on those contracts.

Over the last couple of years, Hoedl has advocated on behalf of the LGBTQ¹ community and urged the City of Olathe to adopt a non-discrimination ordinance (“NDO”). Hoedl contends that he has always advocated under his own name, or on behalf of Equality Kansas,² and that he has never indicated that he was advocating or speaking on behalf of Black & Veatch. Hoedl asserts that, in November of 2019, Brownlee, who opposed the NDO, complained to his employer about his advocacy efforts in Olathe. Hoedl contends that this was an unethical attempt by Brownlee to silence his advocacy or interfere with his employment.

The focus of Hoedl’s complaint involves a conversation between Brownlee and Clint Robinson, the Director of State and Local Affairs for Black & Veatch, at a fundraising event on November 9, 2019. Brownlee and Robinson have offered differing accounts of what was said in this conversation. In her interview, Brownlee said that she told Robinson something to the effect of: “One of your employees mentioned Black & Veatch’s name; it may have been accidental; he’s been speaking at several meetings.” Brownlee further asserted that, although she believed Hoedl had behaved inappropriately at Council meetings, she *did not* discuss his behavior with Robinson.

Robinson, on the other hand, recalled that Brownlee discussed Hoedl’s behavior and conveyed a message that Hoedl’s conduct could negatively affect Black & Veatch’s image or reputation. Robinson also recalled that Brownlee shared her personal belief in opposition to the NDO. For the reasons discussed in this Report, the undersigned concludes that the preponderance of the evidence supports Robinson’s account of the conversation, *i.e.* that Brownlee *did* discuss Hoedl’s conduct with Robinson.

The following week, on November 14, 2019, Robinson reached out to Hoedl at work by instant message. Thereafter, the two talked over the telephone. Robinson’s first question to Hoedl was whether he was using Black & Veatch’s name when he was advocating in Olathe. Robinson relayed to Hoedl that he had been contacted at an event by Brownlee, who indicated that Hoedl had used Black & Veatch’s name and acted inappropriately at Council meetings and cursed at the

¹ LGBTQ stands for lesbian, gay, bisexual, transgender, and queer or questioning. See USA Today, Nation Now, *What Does the Q in LGBTQ Stand for?* (published June 1, 2015, updated July 22, 2016) (<https://www.usatoday.com/story/news/nation-now/2015/06/01/lgbtq-questioning-queer-meaning/26925563/> (last checked January 10, 2020)).

² Equality Kansas is a group that advocates to end discrimination based on sexual orientation and gender identity. See About Equality Kansas, <https://eqks.org/main-menu/about/> (last checked February 1, 2020).

Council. Hoedl was taken aback and responded that he did not think he had acted inappropriately. They then discussed some of the events of the June 4 Council meeting where Hoedl, in his public comments, appeared to accidentally reveal that he worked at Black & Veatch and then, later in the meeting, became upset and yelled disruptive comments to the Council. The conversation ended with Robinson telling Hoedl that Black & Veatch was perfectly fine with him doing advocacy work on his personal time.

At issue in this investigation is whether Brownlee's conversation with Robinson on November 9 violated the City's Code of Ethics. The provisions of the Code are broadly-worded and provide little guidance as to the specific types of conduct that are prohibited. Faced with these limitations, the undersigned has nevertheless attempted to evaluate whether a violation of the Code occurred. In so doing, the undersigned concludes that one could view Brownlee's conduct as violating the duties to: (1) "avoid the appearance of improper influence" under Section J; (2) "maintain public confidence in the performance of [her] job duties" under Section B; and (3) be "dedicated to the ideals of honor and integrity in all public and personal relationships" under Section A.

In particular, the undersigned notes that, in light of Brownlee's position of power in voting on Black & Veatch's contracts with the City, one could view the November 9 conversation as creating an "appearance" of improper influence over Robinson or Black & Veatch, in an attempt to reign in Hoedl's advocacy efforts. Further, in light of Brownlee's duty as a Councilmember to uphold the public's Constitutional right to petition the government, one could find that her conversation with Robinson could reasonably result in intimidating Hoedl or other members of the public from speaking out at Council meetings, which could be viewed as violating the duties to "maintain public confidence in the performance of [her] job duties" and be "dedicated to the ideals of honor and integrity in all public and personal relationships."

II. Summary of Complaint, Response, and Reply.

A. Hoedl's Complaint.

On November 21, 2019, Brett Hoedl, an Olathe resident, submitted a complaint to the Olathe City Attorney regarding the conduct of Olathe City Councilmember Karin Brownlee. In his complaint, Hoedl asserts as follows.

For over a year, Hoedl worked with the Olathe Human Relations Commission to get a Non-Discrimination Ordinance (“NDO”) protecting the LGBTQ community recommended to the Olathe City Council. Since January of 2019, Hoedl attended almost every Olathe City Council meeting, urging it to pass the NDO Ordinance. Hoedl has never indicated that he was advocating or speaking on behalf of his employer at the City Council meetings.

On November 14, 2019, Hoedl was “pulled out of a work meeting” by Clint Robinson, the Associate Vice President of State and Local Government Affairs of his employer, Black & Veatch. Hoedl Complaint at 1.³ Robinson wanted to inform Hoedl that, at an event where Robinson was representing Black & Veatch, Robinson was contacted by Councilmember Brownlee, who stated that Hoedl was “advocating at city hall under [his] employer’s name.” *Id.* Brownlee also “complained” that Hoedl was “acting inappropriately” to the Council. *Id.* Robinson was concerned and wanted to hear Hoedl’s side of the story. Hoedl told Robinson that Hoedl never claimed to advocate under Black & Veatch’s name and that Hoedl believed he had behaved in a professional manner.

Hoedl states that he is “acutely aware” that Black & Veatch does not want him to advocate on its behalf at a local municipality.⁴ *Id.* Hoedl asserts that having his employer “confronted” by Brownlee “sent a chill down [his] spine.” *Id.* He further states:

My employer was concerned enough about Brownlee’s comments to get me out of a meeting to discuss them. My employer informed me that [it] was not instructing me to cease and desist my advocacy and that I have the right to continue to speak up. I am a lucky one to have a supportive employer. There is no doubt in my mind that others may not be so lucky.

Hoedl Complaint at 2-3.

Hoedl alleges that Brownlee contacted Robinson in an unethical “attempt to silence someone that is advocating for a position that she doesn’t support.” *Id.* at 2. Hoedl further asserts: “You don’t contact the employer of a citizen and complain about them and not expect something

³ Hoedl’s Complaint does not identify Robinson or Black and Veatch; the names are included here for clarity.

⁴ Hoedl states that he previously asked his employer to provide statements of support for local NDOs and learned that the employer’s policy is to not weigh in on local municipal matters.

to happen in return.” *Id.* Hoedl asserts that Brownlee has violated the City of Olathe’s Code of Ethics by using her public office “to intimidate or harm Olathe citizens that are using their [F]irst [A]mendment right to petition the government.” *Id.* at 3.

Hoedl further asserts:

[Councilmember] Brownlee has lost the trust of the public and either needs to resign or be voted out of office by the Olathe Governing body. If [Brownlee] remains on the [C]ouncil, then the public will lose all faith in the Olathe City Council and will no longer feel safe speaking up at the Olathe City Council meetings or in private discussion with the governing body. We cannot allow this abuse of power and completely unethical behavior to stand. Please act swiftly so the Olathe Governing body can start to regain the trust and respect from residents that feel completely violated.”

Hoedl Complaint at 3.

B. Brownlee’s Response.

On December 2, 2019, Councilmember Brownlee submitted a written response to Hoedl’s complaint. In her response, Brownlee states as follows:

At a social event, I saw Mr. [Clint] Robinson, a long-time acquaintance with Black & Veatch. I mentioned to him that Brett Hoedl identified his employer at the podium at an Olathe City Council meeting and that he had been speaking at several of the Council meetings during the year.

I made no request of Mr. Robinson. I certainly did not in any way infer Mr. Hoedl’s job should be threatened. In fact, via text, Mr. Robinson indicated [Hoedl’s] job was not threatened. * * *

Brownlee Response at 1.

Attached to Brownlee’s Response is a screen shot of a text conversation between Brownlee and Robinson, in which Brownlee states as follows:

I sure did not intend to communicate I wanted to threaten Mr. Hoedl in his job. Not my intent. He communicated he worked for B&V on June 4th at City Council. Mr. Hoedl has written extensively on FB about me threatening his job to the point the KC Star has called about this.

Exhibit A to Brownlee Response. Robinson replied as follows:

To my knowledge his job was never threatened and certainly not by me! I am not aware of his FB but will certainly check it out! I reminded Brett this is not a B&V

issue and he should not identify this issue w B&V. I will see if our media team has been contacted.

Id.

In her response, Brownlee states that the June 4th Council meeting was “notable because not only did Mr. Hoedl talk extensively about his employer, later in the meeting, he stormed out of the meeting shouting and cussing at the Council.” Brownlee Response at 1. Brownlee further states: “I could have certainly related these things to Mr. Robinson. However, I did not.” Brownlee Response at 2. Brownlee adds:

Merely reciting publicly available information is not an attack. The June 4th meeting was very memorable due to the inappropriate behavior displayed by Mr. Hoedl. The issue was not the content nor the topic but the conduct.

Id.

Brownlee asserts the information that she conveyed to Robinson was truthful and publicly available. Brownlee asserts she has a First Amendment right to comment on things that are said or done in the public realm. Brownlee contends she did not act inappropriately. Brownlee stresses she was truthful in her discussion with Robinson, and the information that she shared was a matter of public record. Brownlee Response at 3.⁵

C. Hoedl’s Email Reply.

On December 2, 2019, Hoedl submitted an email in reply to Brownlee’s Response. In the email, Hoedl essentially states as follows. The transcript of the June 4th meeting shows that Hoedl went out of his way to not identify his employer. This is contrary to Brownlee’s assertion that Hoedl identified his employer and was advocating on behalf of his employer at the meeting. The issue is whether Brownlee stepped over the line to interfere with his employment.

Hoedl contends that, contrary to Brownlee’s assertion, no “public” record exists of the public comment portion of the June 4th meeting. He asserts that, although the Council keeps audio recordings of public comments, they are not generally available to the public and, similarly, transcripts of the meetings are not publicly available.

⁵ Brownlee also asserts that Hoedl’s Complaint is motivated by political animus in that he was quite disappointed that Alan Marson lost the election to John Bacon. Brownlee Response at 2.

III. Scope of Investigation.

On behalf of the Olathe City Council, the undersigned conducted an independent and impartial investigation into the alleged ethical violations discussed above. The scope of this assignment included making factual and credibility findings regarding the allegations and evaluating whether, based on those findings, the Code of Ethics for Elected and Appointed Officials and Employees of the City has been violated.⁶ Pursuant to the terms of engagement, this investigation did not involve making any legal determination as to whether a violation of any law or statute may have occurred. In conducting the investigation, the undersigned (1) reviewed the documents referenced in this Report; (2) interviewed Brett Hoedl,⁷ Karin Brownlee,⁸ and Clint Robinson;⁹ and (3) listened to portions of the audio recordings of the public comment sessions at the City Council meetings on June 4, 2019 and November 19, 2019.

IV. Findings of Fact.

Based on the investigation described above, the undersigned makes the following findings of fact.

1. Hoedl is an Olathe resident who works at Black & Veatch, a large engineering company based in Overland Park, Kansas. Over the last couple of years, Hoedl has advocated for the City of Olathe to adopt a non-discrimination ordinance (“NDO”) on behalf of the LGBTQ community. From January to June of 2019, Hoedl attended almost every Olathe City Council meeting and urged the Council to put the NDO on the agenda for its next meeting.
2. Karin Brownlee is an Olathe City Councilmember who opposed adopting the NDO that Hoedl supported. Brownlee has had a long career in state politics and currently works as a lobbyist in the state legislature. Over the years, in these capacities, Brownlee has crossed paths with Clint Robinson, the Director of State and Local Government Affairs for Black & Veatch. Robinson thinks of elected officials as

⁶ Resolution No. 98-1068 provides a Code of Ethics for officials and employees of the City of Olathe; Resolution No. 93-1122 sets forth procedures for investigating alleged violations of the Code of Ethics.

⁷ Mr. Hoedl was interviewed in person on January 15, 2020, at the Johnson County Bar Association’s office at 7400 W. 129th St., Suite 201, Overland Park, Kansas.

⁸ Ms. Brownlee was interviewed in person on January 20, 2020, at her attorney’s office at 10740 Nall Avenue, Suite 250, Overland Park, Kansas. Ms. Brownlee’s attorney, Michael J. Kuckelman, attended the interview.

⁹ Mr. Robinson was interviewed over the telephone on January 15, 2020, and in person on January 27, 2020, in the lobby of Black & Veatch, 11401 Lamar Avenue, Overland Park, Kansas.

his “clients.” Black & Veatch has contractual relationships with many local municipalities, including the City of Olathe. As a member of the City Council, Brownlee votes on the City’s contracts with Black & Veatch.

3. During the public comments portion of the Olathe City Council meeting on June 4, 2019, Hoedl spoke to urge the Council to put the NDO on its agenda for the next meeting.¹⁰ In so doing, Hoedl shared a personal anecdote about an incident that happened at his workplace, which he contends demonstrated the need for an NDO. The gist of the story was that, even though his workplace is openly tolerant of LGBTQs, and even though Hoedl is extremely open about his advocacy work, a co-worker whom Hoedl had known for two years was still reluctant to “come out” to Hoedl, because of discrimination the person had experienced by a different employer. In relaying the story, Hoedl stated that the person left the previous employer “and found a career with Black and – well, with my company, sorry.”¹¹ The audience laughed. Hoedl then stated: “I shouldn’t invoke that.” After a brief pause, he added: Black and Decker.” The audience then laughed more. Following Hoedl’s comments, it would be clear to many, if not all, that Hoedl worked at Black & Veatch.¹²
4. Later, in the same meeting, Hoedl became upset when Councilmembers stated they wanted to postpone addressing the NDO until after the upcoming election. Hoedl yelled that it was “ridiculous” and “political cowardice.” The Mayor said something to the effect of: “Brett, we’re not going to have the conversation like this.” Hoedl stormed out of the meeting but then returned and stood in the back of the room to hear the Council’s discussion. At some point in the conversation, Councilmember Marge Vogt asked: “Do people just want us to vote so they see where we stand?” In response, Hoedl yelled: “We deserve to have the God Damn debate so we know where you stand on the issue.” Councilmember Jim Randall said “out” to Hoedl, and a police officer walked Hoedl out of the meeting.

¹⁰ While the public comments session was open to the public, it appears that what occurred during this session would not be readily available to someone who was not physically present at the meeting. The Council televises and posts a video of Council meetings on the City’s website; however, the video portion ends before the public comments begin. The City retains audio recordings of the public comment session. Presumably, those recordings may be available to members of the public who make requests under the open record laws. It appears that a transcript of the June 4 meeting was made at Brownlee’s request. It is unclear whether a member of the public may request such a transcript.

¹¹ After saying the words “Black and,” Hoedl abruptly stopped and then quickly continued on with: “well, with my company, sorry.”

¹² The quoted statements in this paragraph are based on the undersigned’s review of the audio recording of the public comment session at the City Council meeting on June 4, 2019. The undersigned notes that these statements differ slightly from those contained in the transcript attached as Exhibit B to Brownlee’s response.

5. Following the June 4 meeting, Brownlee made a mental note to herself that, sometime when she saw Robinson, she would mention to him that Black & Veatch was named. Brownlee also recorded in her notes that Hoedl had behaved poorly and stormed out of the meeting.
6. Five months later, at a fundraising event on November 9, 2019, Brownlee initiated a conversation with Robinson about Hoedl's advocacy efforts before the Olathe City Council. Brownlee and Robinson have offered differing accounts of what was said during this conversation. In her interview, Brownlee stated that she told Robinson something to the effect of: "One of your employees mentioned Black & Veatch's name; it may have been accidental; he's been speaking at several meetings." Brownlee asserted that she shared this information because Black & Veatch should know when one of its employees is using its name without permission to do so. Although Brownlee believed that Hoedl had behaved inappropriately at Council meetings, she insisted that she did *not* tell Robinson about Hoedl's behavior, *i.e.* she only told Robinson that Hoedl had "named" the company in his advocacy efforts.¹³
7. Robinson, on the other hand, clearly recalled that Brownlee stated that Hoedl had acted inappropriately and was disrespectful to her friend(s) with opposing viewpoints. Specifically, Robinson said that Brownlee relayed the following information: (1) Hoedl identified that he was "with" Black & Veatch; (2) Hoedl used bad language; (3) Hoedl did not represent Black & Veatch well at the meeting, *i.e.* he was a poor reflection on Black & Veatch; and (4) Hoedl was disrespectful to Brownlee's friend at the Council meeting. Robinson also recalled that Brownlee shared her personal belief that the LGBTQ community did not need protected status. Robinson described it as a "purposeful" conversation on Brownlee's part; it was clear to him that this was something that had been bothering her. Robinson understood the gist of Brownlee's message to be out of concern that Hoedl's conduct was unbecoming of a Black & Veatch employee and could negatively affect the company's image or reputation. Robinson told Brownlee that he would talk to Hoedl and make sure Hoedl understood that he could not speak on Black & Veatch's behalf.
8. Faced with differing accounts of the conversation between Brownlee and Robinson, the undersigned finds that the preponderance of the evidence supports Robinson's account, *i.e.* that Brownlee *did* tell Robinson that Hoedl had behaved poorly. First, Brownlee's account seems illogical: if she thought Black & Veatch should know that its employee had used its name at the podium, it follows that it would also want to know that the employee was acting inappropriately, especially if the employee's

¹³ In her interview, Brownlee stated that she told Robinson that Hoedl had "gone after" her friend; but Brownlee said Robinson was busy looking at his phone and did not respond to her comment.

conduct was “notable” and “very memorable” and reflected poorly on the company. Moreover, if her only concern was that Hoedl had “named” the company, this seems relatively minor in light of the fact that the “naming” occurred only one time and even then, as Brownlee herself stated, it may have been accidental. It does not add up that, five months later, Brownlee would make it a point to inform Robinson about the “naming” of the company (that might have been accidental) and not also mention her strong belief that Hoedl had acted inappropriately.¹⁴

9. Robinson’s account, on the other hand, is logical. It makes sense that Brownlee would have mentioned Hoedl’s conduct, particularly when she strongly believed it was inappropriate, *i.e.* “notable” and “very memorable.” Otherwise, the mere fact that Hoedl had named the company once, and perhaps accidentally, is of much less consequence. Robinson consistently and credibly stated that Brownlee conveyed the message that Hoedl’s conduct was unbecoming of a Black & Veatch employee, *i.e.* it could reflect poorly on the company’s image or reputation. Robinson’s credibility is further buttressed by the fact that he is a third-party witness with no stake in the outcome of this investigation. Further, Robinson’s recollection is corroborated by the accounts that both Robinson and Hoedl gave regarding their subsequent conversation (discussed in the next paragraph).
10. The following week, on November 14, 2019, Robinson reached out to Hoedl at work by instant message, asking if he could talk for a minute.¹⁵ It was odd for Robinson to contact Hoedl in this way. Hoedl was in computer training and stepped out of the training to call Robinson.¹⁶ In the telephone conversation, Robinson’s first question to Hoedl was whether he was using Black & Veatch’s name when he was advocating in Olathe. Robinson relayed to Hoedl that he had been contacted by Brownlee at an event, and she indicated that Hoedl had used Black & Veatch’s name and acted inappropriately at Council meetings and cursed at the Council. Hoedl was taken aback and responded that he did not think he had acted inappropriately. They then discussed some of the events of the June 4 meeting. Hoedl’s take-away from the conversation was that Robinson wanted to understand what was said at the meeting. Robinson told Hoedl that Black & Veatch was not

¹⁴ The underlying facts do not seem to support Brownlee’s concern that Black & Veatch should know when an employee is carrying its message without permission to do so. Brownlee has never asserted that Hoedl said he was speaking on behalf of the company. At most, her concern seems to be based on an indirect inference that, in one instance, when Hoedl appeared to “accidentally” name the company, he may have actually done so intentionally to convey an indirect message that Black & Veatch supported the NDO.

¹⁵ In their interviews, Robinson and Hoedl gave similar accounts of their conversation on November 14; the undersigned finds both accounts of the conversation to be credible.

¹⁶ Contrary to some of Hoedl’s assertions, Robinson did not knowingly pull him out of a meeting.

saying he could not to do his advocacy work, and Black & Veatch was perfectly okay with employees advocating on their personal time.

11. Following the November 14 conversation with Robinson, Hoedl filed a complaint with the Olathe City Attorney, asserting that Brownlee violated the City's Code of Conduct by complaining to his employer about his advocacy efforts before the City Council. Hoedl also asserted these allegations on Facebook, at the City Council meeting on November 19, and in articles published in the Kansas City Star.

V. Applicable Sections of the Code of Ethics.

The Code of Ethics provides that:

Officials and employees of the City of Olathe shall:

- A. Be dedicated to the ideals of honor and integrity in all public and personal relationships.
- B. Conduct themselves so as to maintain public confidence in the performance of their job duties. * * *
- J. Avoid the appearance of improper influence . . . and should never lobby or attempt to influence others in the performance of their duties by any means which are not part of his or her authorized duties.

Resolution No. 98-1068.

VI. Analysis.

As noted, Hoedl alleges that Brownlee contacted Robinson in an "attempt to silence [Hoedl from] advocating for a position that she doesn't support." Hoedl Complaint at 2. Hoedl asserts that Brownlee has violated the City of Olathe's Code of Ethics by using her public office "to intimidate or harm Olathe citizens that are using their [F]irst [A]mendment right to petition the government." Hoedl Complaint at 3. Hoedl further asserts that Brownlee "has lost the trust of the public." *Id.*

As a preliminary matter, the undersigned notes that the provisions of the Code are broadly-worded and provide little guidance as to the specific types of conduct that are prohibited. The undersigned is not aware of any caselaw or other precedent that provides guidance on interpreting or applying the Code, and has conducted no independent legal research in this regard. In light of these limitations, the undersigned has attempted to evaluate whether a violation may have occurred based on a plain reading of the language of the Code.

At issue is whether Brownlee's conduct, namely her conversation with Robinson on November 9, violated the Code of Ethics. As discussed, in this conversation, Brownlee told Robinson, a Director of Black & Veatch, that Hoedl, a Black & Veatch employee, had been advocating for LGBTQ rights at City Council meetings. Brownlee told Robinson that Hoedl: (a) identified that he was "with" Black & Veatch; (b) acted inappropriately; (c) used bad language; and (d) disrespected her friend who expressed an opposing viewpoint. In essence, Brownlee conveyed a message that Hoedl's conduct could negatively affect the company's image or reputation. Other relevant facts include: (a) Brownlee shared her personal opinion against the NDO; (b) Black & Veatch does significant business with the City; and (c) as a Councilmember, Brownlee votes on those contracts.

In evaluating these facts in the context of a Councilmember's duties and obligations, as set forth below, it appears that Brownlee's conduct may have violated her ethical duties to: (1) "avoid the appearance of improper influence;" (2) "maintain public confidence in the performance of [her] job duties;" and (3) be "dedicated to the ideals of honor and integrity."

1. Avoid the Appearance of Improper Influence.

Section J requires City Officials to "[a]void the appearance of improper influence . . . [and] never lobby or attempt to influence others in the performance of their duties by any means which are not part of his or her authorized duties." As noted, the facts indicate that Councilmember Brownlee spoke to Robinson, the Director of State and Local Affairs for Black & Veatch, a company over which she had a say in its business contracts with the City, about the advocacy efforts of an employee whose viewpoint she openly disagreed with, and indicated that the employee's behavior reflected poorly on Black & Veatch and could hurt the company's image or reputation. Given her position of power over Black & Veatch's contracts with the City, one could view the conversation as an attempt by Brownlee to influence Robinson in his position as Director at Black & Veatch to reign in Hoedl's advocacy efforts, which was not part of her authorized duties. At the very least, the conversation could be viewed as creating an "appearance" of improper influence. Accordingly, it appears that Brownlee's conduct may have violated Section J of the Code.

2. Maintain Public Confidence in Performance of Job Duties.

Section B of the Code imposes a broad duty for City Officials to "[c]onduct themselves so as to maintain public confidence in the performance of their job duties." As a Councilmember, Brownlee has undertaken an oath and obligation to support the Constitutions of the United States and the State of Kansas, both of which provide the people the right to petition the government.¹⁷

¹⁷ See Video of Oath of Office at City Council Meeting on January 9, 2018, <http://olatheks.swagit.com/play/01092018-1564/3/> (last checked February 2, 2010). The First Amendment to the U.S. Constitution protects the right of the people "to petition the government for a redress of grievances." U.S. Const., 1st Amend. Similarly, the Kansas Constitution provides the people the right "to petition the government, or any department thereof, for the redress of

Here, it appears that Brownlee's conversation with Robinson could reasonably and foreseeably result in intimidating or discouraging Hoedl or other members of the public from speaking out at Council meetings, for fear that she might report their behavior to their employers.¹⁸ One could reasonably conclude that such conduct would detract from the public's confidence in Brownlee's performance of her duty to uphold the Constitutional right to petition the government, which would appear to violate the obligation to "maintain public confidence" under Section B of the Code.¹⁹

3. Be Dedicated to the Ideals of Honor and Integrity.

Section A of the Code imposes a broad duty for City Officials to "[b]e dedicated to the ideals of honor and integrity in all public and personal relationships." For the reasons discussed, to the extent one may view Brownlee's conversation with Robinson as an attempt to improperly influence Robinson or Black & Veatch, it appears such conduct would be contrary to "the ideals of honor and integrity" with respect to her public and/or personal relationships with them. Similarly, to the extent one may view her conduct as an attempt to discourage Hoedl from speaking out at Council meetings, it appears such conduct would be contrary to "the ideals of honor and integrity" with respect to her public relationship with Hoedl, an Olathe resident who petitioned the Council for the redress of grievances.

grievances." Kan. Const. § 3. The scope of this investigation does not include examining or determining whether any constitutional violations may have occurred.

¹⁸ The undersigned makes no determination as to whether Brownlee intended to interfere with Hoedl's employment or whether her actions in fact resulted in any such interference.

¹⁹ Brownlee has attempted to justify her conduct by stating that Black & Veatch had a right to know that its employee had "named" it at the podium, and she merely shared truthful information that occurred in a public forum. In the abstract, these assertions may be true. However, they seem to ignore Brownlee's obligations and duties as a City Councilmember to uphold the public's Constitutional right to petition the government. The undersigned notes that the Council presumably has other ways to control its forum, other than going to advocates' employers. For instance, if it is unclear whether an advocate is speaking on behalf of a company, the Council can ask for clarification and, if needed, for the contact information of someone at the company who can verify that fact. Similarly, the Council has independent means to control disruptive or inappropriate behavior.

VII. Recommendations.

Pursuant to the procedures established by the City Council for this investigation, the undersigned defers to the Honorable Gerald T. Elliott to make recommendations to the Council.

Dated: March 8, 2020.

Submitted by:

s/ Angela D. Gupta

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