

**EDGERTON CITY COUNCIL
MEETING AGENDA
CITY HALL, 404 EAST NELSON STREET
January 23, 2020
7:00 P.M.**

Call to Order

1. **Roll Call** ____ Roberts ____ Longanecker ____ Conus ____ Lewis ____ Smith ____ Beem
2. **Welcome**
3. **Pledge of Allegiance**

Consent Agenda *(Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action)*

4. Approve Minutes for January 9, 2020 Regular City Council Meeting
5. Approve a Right of First Refusal to Purchase Real Estate
6. Consider Agreement between Johnson County, Kansas, and the City of Edgerton, Kansas, for the Public Improvement of 207th Street Overpass at BNSF Railroad
7. Approve Ordinance 2030 Amending Chapter III, Article 1 of the City Code of the City of Edgerton, Kansas, Regulating the Sale of Cereal Malt Beverage or Beer containing Not More Than 6% Alcohol by Volume Within the City of Edgerton, Kansas
8. Approve Resolution No. 01-23-20A Establishing Fees and Rates for Permits, Licenses and Services Within the City of Edgerton, Kansas

Regular Agenda

9. **Public Comments.** Persons who wish to address the City Council regarding items not on the agenda and that are under the jurisdiction of the City Council may do so when called upon by the Mayor. Comments on personnel matters and matters pending before court or other outside tribunals are not permitted. Please notify the City Clerk before the meeting if you wish to speak. Speakers are limited to three (3) minutes. Any presentation is for informational purposes only. No action will be taken.
10. **Declaration.** At this time Council members may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.
11. Introduction of Master Deputy Brad Johnson, Edgerton's Community Officer

Business Requiring Action

12. **CONSIDER RESOLUTION NO. 01-23-20B CONSENTING TO THE ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT AND RELATED BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (MIDWEST GATEWAY VENTURE, LLC PROJECT), SERIES 2017B**

Motion: _____ Second: _____ Vote: _____

13. **PUBLIC HEARING FOR RESOLUTION NO. 01-23-20C CONSENTING TO THE PARTIAL ASSIGNMENT OF A RESOLUTION OF INTENT FROM EDGERTON LAND HOLDING COMPANY, LLC TO ELHC VII, LLC, OR ITS SUCCESSORS IN INTEREST**

14. CONSIDER RESOLUTION NO. 01-23-20C CONSENTING TO THE PARTIAL ASSIGNMENT OF A RESOLUTION OF INTENT FROM EDGERTON LAND HOLDING COMPANY, LLC TO ELHC VII, LLC, OR ITS SUCCESSORS IN INTEREST

Motion: _____ Second: _____ Vote: _____

15. CONSIDER ORDINANCE NO. 2031 AMENDING CHAPTER XIV, ARTICLE 2 OF THE MUNICIPAL CODE OF THE CITY OF EDGERTON, KANSAS TO REPLACE CODE SECTION 14-203 AND REPEAL ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

Motion: _____ Second: _____ Vote: _____

16. CONSIDER ORDINANCE NO. 2032 APPROVING THE DESCRIPTIONS AND SURVEY OF LANDS NECESSARY FOR ACQUISITION OF RIGHT OF WAY AND EASEMENTS NEEDED FOR CONSTRUCTING THE 207TH STREET GRADE SEPARATION PROJECT AND ASSOCIATED IMPROVEMENTS

Motion: _____ Second: _____ Vote: _____

17. Report By The City Administrator

18. Report By the Mayor

19. Future Meeting/Event Reminders:

- February 11th: Planning Commission – 7PM
- February 13th: City Council Meeting – 7PM
- February 27th: City Council Meeting – 7PM

20. CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319(B)(2) FOR CONSULTATION WITH AN ATTORNEY DEEMED PRIVILEGED IN THE ATTORNEY-CLIENT RELATIONSHIP TO INCLUDE CITY ATTORNEY AND PUBLIC WORKS DIRECTOR FOR THE PURPOSES OF CONTRACT NEGOTIATIONS

Motion: _____ Second: _____ Vote: _____

21. Adjourn Motion: _____ Second: _____ Vote: _____

EVENTS

January 24th – Paint Nite

February 1st – Princess Tea Party

February 3rd – Art Class: Hand Sewing

February 10th – Cooking Class: Dinner featuring Chicken, Broccoli, and Potatoes

City of Edgerton, Kansas
Minutes of City Council Regular Session
January 9, 2020

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on January 9, 2020. The meeting convened at 7:00 p.m. with Mayor Roberts presiding.

1. ROLL CALL

Ron Conus	present
Clay Longanecker	present
Josh Lewis	present via phone at 7:03pm
Katee Smith	present
Josh Beem	present

With a quorum present, the meeting commenced.

Staff in attendance:	City Administrator Beth Linn
	City Attorney Lee Hendricks
	City Clerk Rachel James
	Development Services Director Katy Crow
	Finance Director Karen Kindle
	Public Works Director Dan Merkh
	Public Works Superintendent Trey Whittaker
	Marketing and Communications Manager Kara Banks
	Maintenance Tech 1 Peter Cappelatti
	Maintenance Tech 1 Dana Rockers

2. WELCOME

3. PLEDGE OF ALLEGIANCE

CONSENT AGENDA

4. Approve Minutes for December 12, 2019 Regular City Council Meeting
5. Approve Contract with Weather or Not, Inc. To Provide Weather Forecasting Services
6. Approve South I-35 Sanitary Sewer Easements

Motion by Longanecker, Second by Smith to approve the consent agenda.

Motion passed, 4-0.

REGULAR AGENDA

7. **Public Comments.** None.
8. **Declaration.** None.

9. Introduction of New Public Works Employees, Peter Cappelatti and Dana Rockers

Dan Merkh, Public Works Director, introduced the new Public Works Employees that were hired at the end of 2019. Peter Cappelatti, Maintenance Tech 1, stated he was from Edgerton and enjoys the outdoors. Dana Rockers, Maintenance Tech 1, stated he was from Baldwin City and has been in the Sports Turf business for 30 years. Mr. Rockers also said he enjoys fishing. Mayor Roberts welcomed them to the Staff and said it is great when new hires are from the area.

10. Presentation of Holiday Home Decoration Winners by Maddie Becker, Parks & Recreation Coordinator

Kara Banks, Marketing and Communications Manager, announced the top three winners for the Holiday Home Decorating Contest. In Third Place, Barbara Bennett. In Second Place, Eric and Amber Hansen. The First Place winners were the Brewers, who were at Council to accept their prize. Mayor Roberts thanked everyone for their participation in the competition.

Business Requiring Action

Mayor Roberts stated that Executive Session would be moved to Agenda Item 11.

11. CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319(B)(2) FOR CONSULTATION WITH AN ATTORNEY DEEMED PRIVILEGED IN THE ATTORNEY-CLIENT RELATIONSHIP TO INCLUDE CITY ATTORNEY AND CITY ADMINISTRATOR FOR THE PURPOSES OF CONTRACT NEGOTIATIONS

Motion by Conus, Second by Longanecker to recess into executive session pursuant to K.S.A. 75-4319 (b)(2) for the purpose of discussing contract negotiations to include City Attorney, City Administrator, and Public Works Director for fifteen (15) minutes.

Motion was approved, 5-0.

Session recessed at 7:18 pm. Meeting reconvened at 7:33 pm.

Motion by Conus, Second by Longanecker to return to open session.

Motion was approved, 5-0.

Motion by Conus, Second by Longanecker to recess into executive session pursuant to K.S.A. 75-4319 (b)(2) for the purpose of discussing non-elected personnel to include City Attorney, City Administrator, and Public Works Director for ten (10) minutes.

Motion was approved, 5-0.

Session recessed at 7:34 pm. Meeting reconvened at 7:44 pm.

Motion by Conus, Second by Longanecker to return to open session.

Motion was approved, 5-0.

Motion by Conus, Second by Longanecker to recess into executive session pursuant to K.S.A. 75-4319 (b)(2) for the purpose of discussing non-elected personnel to include City Attorney, City Administrator, and Public Works Director for ten (10) minutes.

Motion was approved, 5-0.

Session recessed at 7:45 pm. Meeting reconvened at 7:55 pm.

Motion by Conus, Second by Longanecker to return to open session.

Motion was approved, 5-0.

12. CONSIDER RESOLUTION NO. 01-09-20A PURSUANT TO K.S.A. 26-201 SETTING FORTH THE NECESSITY FOR CONDEMNATION OF PRIVATE PROPERTY AND AUTHORIZING PREPARATION OF A SURVEY AND LEGAL DESCRIPTIONS OF THE PROPERTY TO BE CONDEMNED

Beth Linn, City Administrator, introduced the Resolution and summarized the history of the 207th Street Grade Separation Project. This stage of the project requires acquisition of rights-of-way and easements from several property owners near the 207th Street and Co-op Road intersection. Staff continues to negotiate easements with property owners. However, for those property owners who do not, staff anticipates the need to exercise the use of condemnation for acquiring the remaining easements. Passing that resolution does not prohibit the City from continuing to negotiate and/or acquire the easements.

Ms. Linn emphasized that the 207th Street Grade Separation Project will be fully funded by the Public Infrastructure Fund which is financed through the agreements with BNSF Railway and Edgerton Land Holding Company for Logistics Park Kansas City (LPKC) and no funds will come from the City General Fund.

Motion by Longanecker, Second by Smith to approve Resolution No. 01-09-20A with addition of updated language.

Motion passed, 5-0.

13. Report by the City Administrator

- Kansas Rural Water Association Voting Delegate
- 2021 Budget Calendar

Beth Linn, City Administrator, stated that the Kansas Rural Water Association Conference is quickly approaching and that a voting delegate needs to be selected. Mayor Roberts stated that Council Members should decide by next meeting if they would like to go to the Conference and the voting delegate would be selected from the group attending the Conference.

Ms. Linn stated that the 2021 Budget Calendar was included in the packet.

Dan Merkh, Public Works Director, briefed Council on the upcoming Winter Storm. Mr. Merkh walked through the precautions and preparations the Public Works team is undertaking. Due to the nature of the storm, there are more variables to manage than the average snowstorm.

14. Report by the Mayor

Mayor Roberts extended a big thank you to the Johnson County Sherriff's Department because January 9 is National Law Enforcement Appreciation Day.

Mayor Roberts announced that the Mayor's Christmas Tree Fund was able to help 74 Children, 41 adults, and 50 Seniors. Turkeys for Thanksgiving and Hams for Christmas were also provided at the Edgerton Community Food Pantry. Mayor Robert said this was a pretty good year of helping people and appreciated all of the donations to the Mayor's Christmas Tree Fund.

15. Future Meeting Reminders:

- January 14th: Planning Commission – 7PM
- January 23rd: City Council Meeting – 7PM

16. Adjourn

Motion by Smith, Second by Beem to adjourn.

Motion was approved 5-0. The meeting adjourned at 8:20 pm.

EVENTS

January 13th – Youth Cooking Class: Old-Fashioned Candy

January 21st – Adult Nutrition Class

January 24th – Paint Nite

February 1st – Princess Tea Party

City Council Action Item

Council Meeting Date: January 23, 2020

Department: Administration

Agenda Item: Consider a Right of First Refusal to Purchase Real Estate

Background/Description of Item:

The City of Edgerton owns all of the property on the southside of Nelson Street from East 3rd Street to East 4th Street. This includes the Edgerton Library, the Greenspace and the Community Development Department Offices. As the City prepares to begin the Greenspace project, City Council has identified the property located at 300 E Martin as a potential area for future expansion. To protect the opportunity for future expansion the Property Owner at 300 E Martin has agreed to a Right of First Refusal Agreement.

This Agreement gives the City two opportunities of "first right" to purchase the premises at 300 E Martin during the twenty-year period.

- **At time of listing:** If the Niccums should decide to sell the premises (300 E Martin), they will inform the City in writing of the asking price. The City will have fifteen (15) days to notify the Niccums if they wish to exercise their first right of purchase.
- **At time of contract:** If the City declines to purchase at time of listing, the Niccums will also notify the City at time of having a contract. The City will again have fifteen (15) days to notify the Niccums if they wish to exercise their first right of purchase.

If the City declines to purchase at either time, the City will have no continuing right to purchase.

Related Ordinance(s) or Statue(s):

Funding Source: General Obligations Bonds

Budget Allocated: Greenspace Project Budget: \$4,130,000

Finance Director Approval:

x *Karen P. Kindle*
Karen Kindle, Finance Director

Recommendation: Approve a Right of First Refusal to Purchase Real Estate

Enclosed: Right of First Refusal to Purchase Real Estate

Prepared by: Beth Linn, City Administrator

RIGHT OF FIRST REFUSAL
TO PURCHASE REAL
ESTATE

THIS AGREEMENT entered into on this ____ day of _____, 2020, by and between Calvin S. Niccum and Archie C. Niccum, Jr. (hereinafter "Niccums") and the City of Edgerton, Kansas (hereinafter "City").

WHEREAS, Niccums own property commonly referred to as 300 E. Martin St., Edgerton, Kansas 66021 (hereinafter the "Property"); and

WHEREAS, City has expressed interest in purchasing the Property and has requested of Niccums to be allowed the first opportunity to purchase the Property in the event Niccums decide to sell; and

WHEREAS, the parties have agreed to compensation from the City in the amount of five thousand dollars (\$5,000.00) for that right of first refusal, with said right to last for twenty (20) years from the signing of this Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE SUM OF Five Thousand Dollars (\$5,000.00), the receipt of which is hereby acknowledged, the undersigned do hereby grant to the City of Edgerton, Kansas, a twenty (20) year Right of First Refusal in and to the following described property located in Johnson County, Kansas

Lots 13, 14 and 15, Block 15, CITY OF EDGERTON, a subdivision in the City of Edgerton, Johnson County, Kansas, according to the recorded plat thereof.

subject to easements and restrictions of record and leasehold interests thereon.

In the event Niccums should decide to sell the premises within twenty years of the signing of this Agreement, they will inform the City in writing of the asking price prior to entering into a listing agreement. The City shall have fifteen (15) days to notify Niccums if the City wishes to enter into a contract to purchase said premises at the asking price. Should City not indicate a desire to contract for the purchase of the premises at the asking price, Niccums shall notify the City at such time as Niccums have a contract to purchase the Property and the City shall have fifteen (15) days to submit a contract in accordance with at least the same terms and conditions as the pending contract. Should City not enter into a contract to purchase the Property following the second notification, the City shall have no continuing right to purchase said premises.

The parties understand and acknowledge that the rights contemplated by this Agreement are not assignable or transferrable without the express written consent of both parties.

This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

IN WITNESS WHEREOF, the parties have caused to execute this Agreement on the date first written above.



CALVIN S. NICCUM

State of Kansas)
County of Johnson) ss:

Subscribed and sworn to before me on this 13th day of January 2020 by Calvin S. Niccum.



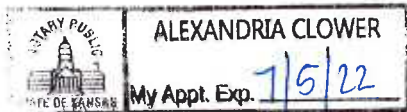
Alexandria Clower
Notary Public

My commission expires: 7/5/2022.

Archie C. Niccum, Jr.
ARCHIE C. NICCUM, JR.

State of Kansas)
County of Johnson) ss:

Subscribed and sworn to before me on this 13th day of January 2020 by Archie C. Niccum, Jr.



Alexandria Clower
Notary Public

My commission expires: 7/5/2022.

RACHEL JAMES, CITY CLERK
THE CITY OF EDGERTON, KANSAS

DONALD ROBERTS, MAYOR
THE CITY OF EDGERTON, KANSAS

State of Kansas)
County of Johnson) ss:

Subscribed and sworn to before me on this _____ day of _____, 2020 by Mayor Donald Roberts and Rachel James, City Clerk.

Notary Public

My commission expires: _____.

City Council Action Item

Council Meeting Date: January 23, 2020

Department: Public Works

Agenda Item: Consider an Agreement between Johnson County, Kansas, and the City of Edgerton, Kansas, for the Public Improvement of 207th Street Overpass at BNSF Railroad

Background/Description of Item:

The City of Edgerton has been awarded \$1,000,000 from the County Assistance Road System (CARS) program for 2020 for the construction of the 207th Street Grade Separation over the BNSF Railway.

The CARS program provides funds to the cities of Johnson County to construct and maintain their major arterials. Each year the cities submit a 5-year road improvement plan to Johnson County. Using a scoring system, Johnson County selects projects and allocates funds. The County pays up to 50% of the project's construction and construction inspection costs. Cities are responsible for design, right-of-way, and utility relocation costs. Types of projects eligible for the CARS program are: Capacity Improvements (additional lanes), Major Maintenance (overlays, patching), System Management (intersection improvements, traffic signals, turn lanes), Bridges (replacement or rehabilitation), and Route Enhancements (sidewalks, bike paths, lights.)

The 207th Street Grade Separation Project (design, construction, inspection, utility relocations, right-of-way acquisition, etc.) is funded entirely from the Public Infrastructure Fund as part of the City's agreements with BNSF Railway and Edgerton Land Holding Company for Logistics Park Kansas City (LPKC). No city general fund dollars will be used for this project.

The Agreement has been reviewed and recommended for approval by the City Attorney.

Related Ordinance(s) or Statue(s):

Funding Source: LPKC Phase I Public Infrastructure Fund

Budget Allocated: \$15,000,000

Finance Director Approval:

x *Karen E. Kindle*
Karen Kindle, Finance Director

Recommendation: Approve Agreement between Johnson County, Kansas, and the City of Edgerton, Kansas, for the Public Improvement of 207th Street Overpass at BNSF Railroad

Enclosed: Draft Agreement

Prepared by: Beth Linn, City Administrator

**Agreement between Johnson County, Kansas,
and the City of Edgerton, Kansas, for the Public Improvement of
207th Street Overpass at BNSF Railroad
(320001315)**

THIS AGREEMENT, made and entered into this _____ day of _____, 2020
by and between the Board of County Commissioners of Johnson County, Kansas ("Board") and the
City of Edgerton, Kansas, ("City").

WITNESSETH:

WHEREAS, the parties have determined that it is in the best interests of the general public in
making certain public improvements to 207th Street Overpass at BNSF Railroad (the "Project"); and

WHEREAS, the laws of the State of Kansas authorize the parties to this Agreement to
cooperate in undertaking the Project; and

WHEREAS, the governing bodies of each of the parties have determined to enter into this
Agreement for the purpose of undertaking the Project, pursuant to K.S.A. 12-2908 and K.S.A. 68-169,
and amendments thereto; and

WHEREAS, the Project has been approved, authorized, and budgeted by the Board as an
eligible project under the County Assistance Road System ("CARS") Program; and

WHEREAS, the Board has, by County Resolution No. 106-90, authorized its Chairman to
execute any and all Agreements for County participation in any CARS Program project which has
been approved and authorized pursuant to the Policies and Guidelines adopted by the Board and for
which funding has been authorized and budgeted therefore; and

WHEREAS, the governing body of the City did approve and authorize its Mayor to execute
this Agreement by official vote on the _____ day of _____, 2020.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, and for other good and valuable consideration, the parties agree as follows:

1. **Purpose of Agreement.** The parties enter into this Agreement for the purpose of undertaking the Project to assure a more adequate, safe and integrated roadway network in the developing and incorporated areas of Johnson County, Kansas.
2. **Estimated Cost and Funding of Project**
 - a. The estimated cost of the Project (“Project Costs”), a portion of which is reimbursable under this Agreement, is Fifteen Million Dollars (\$15,000,000).
 - b. Project Costs include necessary costs and expenses of labor and material used in the construction of the Project and construction inspection and staking for the Project.
 - c. The Project Costs shall be allocated between the parties as follows:
 - i. The Board shall provide financial assistance for the Project in an amount up to but not exceeding Fifty Percent (50%) of the Project Costs. However, the Board's financial obligation under this Agreement shall be limited to an amount not to exceed One Million Dollars (\$1,000,000). For purposes of this Agreement, Project Costs shall not include any portion of costs which are to be paid by or on behalf of any state or federal governmental entity or for which the City may be reimbursed through any source other than the general residents or taxpayers of the City. Further, it is understood and agreed by the parties hereto that the Board shall not participate in, nor pay any portion of, the Costs incurred for or related to the following:
 1. Land acquisition, right-of-way acquisition, or utility relocation;
 2. Legal fees and expenses, design engineering services, Project administration, or financing costs;

3. Taxes, licensing or permit fees, title reports, insurance premiums, exactions, recording fees, or similar charges;
4. Project overruns;
5. Project scope modifications or major change orders which are not separately and specifically approved and authorized by the Board; and;
6. Minor change orders which are not separately and specifically approved and authorized by the Director of Public Works & Infrastructure of Johnson County, Kansas ("Public Works Director"). Minor change orders are those which do not significantly alter the scope of the Project and which are consistent with the CARS Program Policies and Guidelines and administrative procedures thereto adopted by the Board.

It is further understood and agreed that notwithstanding the designated amount of any expenditure authorization or fund appropriation, the Board shall only be obligated to pay for the authorized percentage of actual construction costs incurred or expended for the Project under appropriate, publicly bid, construction contracts. The Board will not be assessed for any improvement district created pursuant to K.S.A. 12-6a01 et seq., and amendments thereto, or any other improvement district created under the laws of the State of Kansas.

- ii. The City shall pay One Hundred Percent (100%) of all Project Costs not expressly the Board's obligation to pay as provided in this Agreement.

3. **Financing**

- a. The Board shall provide financial assistance, as provided in Paragraph 2.c. above, towards the cost of the Project with funds budgeted, authorized, and appropriated by the Board and which are unencumbered revenues that are on-hand in deposits of Johnson County, Kansas. This paragraph shall not be construed as limiting the ability of the Board to finance its portion of the costs and expenses of the Project through the issuance of bonds or any other legally authorized method.
- b. The City shall pay its portion of the Project Costs with funds budgeted, authorized, and appropriated by the governing body of the City.

4. **Administration of Project.** The Project shall be administered by the City, acting by and through its designated representative who shall be the City public official designated as Project Administrator. The Project Administrator shall assume and perform the following duties:

- a. Cause the making of all contracts, duly authorized and approved, for retaining consulting engineers to design and estimate the Project Costs.
- b. Submit a copy of the plans and specifications for the Project to the Johnson County Public Works Director for review, prior to any advertisement for construction bidding, together with a statement of estimated Project Costs which reflects the Board's financial obligation under the terms of this Agreement. The Public Works Director or his designee shall review the copy of the plans and specifications for the Project and may, but shall not be obligated to, suggest changes or revisions to the plans and specifications.
- c. If required by applicable state or federal statutes, solicit bids for the construction of the Project by publication in the official newspaper of the City. In the solicitation of bids, the appropriate combination of best bids shall be determined by the City.
- d. Cause the making of all contracts and appropriate change orders, duly authorized and approved, for the construction of the Project.
- e. Submit to the Public Works Director a statement of actual costs and expenses in the form of a payment request, with attached copies of all invoices and supporting materials, on or before the tenth day of each month following the

month in which costs and expenses have been paid. The Public Works Director shall review the statement or payment request to determine whether the statement or payment request is properly submitted and documented and, upon concurrence with the Finance Director of Johnson County, Kansas, ("Finance Director") cause payment to be made to the City of the Board's portion of the Project Costs within thirty (30) days after receipt of such payment request. In the event federal or state agencies require, as a condition to state or federal participation in the Project, that the Board make payment prior to construction or at times other than set forth in this subsection, the Public Works Director and the Finance Director may authorize such payment.

- f. Except when doing so would violate a state or federal rule or regulation, cause a sign to be erected in the immediate vicinity of the Project upon commencement of construction identifying the Project as part of the CARS Program. The form and location of the sign shall be subject to the review and approval of the Public Works Director.

Upon completion of the construction of the Project, the Project Administrator shall submit to each of the parties a final accounting of all Project Costs incurred in the Project for the purpose of apportioning the same among the parties as provided in this Agreement. It is expressly understood and agreed that in no event shall the final accounting obligate the parties for a greater proportion of financial participation than that set out in Paragraph 2.c. of this Agreement. The final accounting of Project Costs shall be submitted by the Project Administrator no later than sixty (60) days following the completion of the Project construction.

It is further understood and agreed by the City that 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 of Edgerton shall, and hereby agree to, insert as a special provision of its contract with the general contractor ("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 of Edgerton 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.

5. Acquisition of Real Property for the Project

- a. The Board shall not pay any costs for acquisition of real property in connection with the Project.
- b. The City shall be responsible for the acquisition of any real property, together with improvements thereon, located within the City's corporate boundaries, which is required in connection with the Project; such real property acquisition may occur by gift, purchase, or by condemnation as authorized and provided by the Eminent Domain Procedure Act, K.S.A. 26-201 et seq. and K.S.A. 26-501 et seq., and any such acquisition shall comply with all federal and state law requirements.

6. **Duration and Termination of Agreement**

- a. The parties agree that this Agreement shall remain in full force and effect until the completion of the Project, unless otherwise terminated as provided for in Paragraph 6.b. herein below. The Project shall be deemed completed and this Agreement shall be deemed terminated upon written certification to each of the parties by the Project Administrator that the Project has been accepted as constructed. The City shall provide a copy of the Project Administrator's certification to both the Public Works Director and the Finance Director within thirty (30) days of the Project Administrator's determination that the Project is complete.
- b. It is understood and agreed that the Public Works Director shall review the status of the Project annually on the first day of March following the execution of this Agreement to determine whether satisfactory progress is being made on the Project by the City. In the event that the Public Works Director determines that satisfactory progress is not being made on the Project due to the City's breach of this Agreement by not meeting the agreed upon project deadlines or otherwise not complying with the terms of this Agreement, the Public Works Director is authorized to notify the City that it shall have thirty (30) days from receipt of such notification to take steps to cure the breach (the "Cure Period"). It is further understood and agreed that the Board shall have the option and right to revoke funding approval for the Project and terminate this Agreement should the Board find, based upon the determination of the Public Works Director, that satisfactory progress is not being made on the Project and that the City has not taken sufficient steps to cure the breach during the Cure Period. Should the Board exercise its option as provided herein, it shall send written notice of the same to the City and the Board shall have no further liability or obligation under this Agreement.

7. **Placing Agreement in Force.** The attorney for the City shall cause sufficient copies of this Agreement to be executed to provide each party with a duly executed copy of this Agreement for its official records.

IN WITNESS WHEREOF, the above and foregoing Agreement has been executed by each of the parties hereto and made effective on the day and year first above written.

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

City of Edgerton, Kansas

Ed Eilert, Chairman

Donald Roberts, 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 Council Action Item

Council Meeting Date: January 23, 2020

Department: Administration

Agenda Item: Ordinance 2030 Amending Chapter III, Article 1 of the City Code of the City of Edgerton, Kansas, Regulating the Sale of Cereal Malt Beverage or Beer containing Not More Than 6% Alcohol by Volume Within the City of Edgerton, Kansas.

Background/Description of Item:

In 2017, the Kansas Legislature amended the cereal malt beverage (CMB) laws to allow retailers with a CMB license to also sell beer containing not more than 6% alcohol by volume. This change became effective on April 1, 2019. This change allows retailers with a Cereal Malt Beverage (CMB) license to also sell beer containing not more than 6% alcohol by volume. The businesses will still apply to the city for a CMB license, but beginning April 1, 2019, the CMB license issued by the city will allow the businesses to sell CMB and beer containing not more than 6% alcohol by volume.

The City Attorney has prepared Ordinance 2030 to update Chapter III, Article 1 of the Edgerton City Code which addresses Cereal Malt Beverages. The ordinance included in the council packet contains the necessary updates to bring the section into compliance with the statutory change and to accurately reflect current city staff procedures.

Related Ordinance(s) or Statue(s): Ordinance 574, K.S.A. 41-2701, and K.S.A 41-102(d)

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Recommend Approval of Ordinance 2030 Amending Chapter III, Article 1 of the City Code of the City of Edgerton, Kansas, Regulating the Sale of Cereal Malt Beverage or Beer containing Not More Than 6% Alcohol by Volume Within the City of Edgerton, Kansas.

Enclosed: Ordinance 2030

Prepared by: Katy Crow, Development Services Director

ORDINANCE NO. 2030

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 1 OF THE CITY CODE OF THE CITY OF EDGERTON, KANSAS, REGULATING THE SALE OF CEREAL MALT BEVERAGE OR BEER CONTAINING NOT MORE THAN 6% ALCOHOL BY VOLUME WITHIN THE CITY OF EDGERTON, KANSAS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDGERTON:

SECTION 1. Chapter III, Article 1 of the City Code of the City of Edgerton titled “Cereal Malt Beverages” is hereby amended to read as follows:

3-101 **DEFINITIONS.** As used in this article, the words and phrases herein defined shall have the following meanings unless the context otherwise requires:

- (a) Cereal malt beverage means cereal malt beverage as that term is defined in K.S.A. § 41-2701, and amendments thereto;
- (b) License means a license issued by the City of Edgerton under the licensing authority accorded to cities by the Kansas cereal malt beverage act, and in accordance with this ordinance, which authorizes retailers so licensed to sell or offer for sale any cereal malt beverage or beer containing not more than 6% alcohol by volume for use or consumption within the corporate limits of the city and not for resale in any form;
- (c) General retailer means any person who is licensed under the Kansas cereal malt beverage act and in accordance with this ordinance and who sells or offers for sale any cereal malt beverage or beer containing not more than 6% alcohol by volume for use or consumption and not for resale in any form;
- (d) Limited retailer means any person who is licensed under the Kansas cereal malt beverage act and in accordance with this ordinance and who sells or offers for sale, in the original and unopened containers, and not for consumption on the premises, any cereal malt beverage or beer containing not more than 6% alcohol by volume;
- (e) Person means any individual, firm, partnership, corporation or association;
- (f) Licensed premises means those areas described in an application for a cereal malt beverage retailer license issued pursuant to K.S.A. 41-2702, and amendments thereto, that are under the control of the applicant and that are intended as the area in which cereal malt beverage or beer containing not more than 6% alcohol by volume is to be served pursuant to the applicant’s license;

- (g) Minor shall include persons less than twenty-one (21) years of age;
- (h) Sale at retail and retail sale shall mean any place at which cereal malt beverages are sold;
- (i) Wholesaler or distributor shall mean individual, firms, co-partnerships, corporations and associations which sell or offer for sale any beverage referred to in this article, to persons, co-partnerships, corporations and associations authorized by this article to sell cereal malt beverages at retail;
- (j) Licensee is a person defined in subsection (e) who has a license as herein required;
- (k) Motor vehicle shall include all motor-powered means of transportation and conveyance ordinarily used or capable of being used for the transportation of persons, such as automobiles, trucks, pickups, jeeps, racing cars, racing jalopies, motorcycles, motor scooters, farm tractors, garden tractors, truck tractors;
- (l) Highway and public places shall include streets, alleys and public ways of the city, state and federal highways within the corporate limits of the city, off-street parking facilities of businesses, churches, schools, private parking areas, public playgrounds, school playgrounds, church playgrounds, school and church drive-ways, service stations, drive-in laundries, automobile, implement and machinery sales display lots and parks.

3-102. LICENSE REQUIRED OF RETAILERS; HOURS AND DAYS OF SALE.

- (a) It shall be unlawful for any person to sell any cereal malt beverage or beer containing not more than 6% alcohol by volume at retail without a license for each place of business where cereal malt beverages or beer containing not more than 6% alcohol by volume are to be sold at retail;
- (b) It shall be unlawful for any person, having a license to sell cereal malt beverage or beer containing not more than 6% alcohol by volume at retail only in the original and unopened containers and not for consumption on the premises, to sell cereal malt beverage or beer containing not more than 6% alcohol by volume in any other manner;
- (c) Retailers' licenses shall be issued annually and shall be valid for a specified calendar year;
- (d) The sale at retail of cereal malt beverage in the original package is allowed within the city on any Sunday between the hours of 12:00 noon and 8:00 p.m. and on any other day between the hours of 6:00 a.m. and 12:00 midnight. Such sales are prohibited on Easter Sunday, Thanksgiving Day and Christmas Day.

3-103. APPLICATION

Any person desiring a license shall make an application to the governing body of the city and accompany the application by the required license fee for each place of business for which the person

desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:

- (a) The name and residence of the applicant and how long he or she has resided within the State of Kansas;
- (b) The particular place for which a license is desired;
- (c) The name of the owner of the premises upon which the place of business is located;
- (d) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired;
- (e) A statement that the applicant is a citizen of the United States and not less than twenty-one (21) years of age and that he or she has not within two (2) years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;
- (f) Each application for a general retailer's license shall be accompanied by a certificate from the county health officer certifying that he or she has inspected the premises to be licensed and that the same comply with the health code and/or ordinances of the city;
- (g) Each application for a general retailer's license must be accompanied by a certificate from the city fire chief certifying that he or she has inspected the premises to be licensed and that the same comply with the fire code and/or ordinances of the city.

Each application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this article. The chief shall report to the Mayor not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.

3-104. LICENSE APPLICATION PROCEDURES

- (a) All applications for a first time or renewed license for the sale of cereal malt beverage or of beer containing not more than 6% alcohol by volume shall be submitted to the city clerk ten (10) days in advance of the governing body meeting at which the license will be considered;
- (b) The city clerk's office shall notify the holder of an existing license forty-five (45) days in advance

of its expiration;

- (c) The clerk's office shall provide copies of all applications to the police department, to the fire department, and to the county health department, when the applications are received. The police department will contact the KBI for a record check on all applicants. The fire department and health department will inspect the premises to be licensed. Each department will then recommend approval, or disapproval, of each application within five (5) working days of the department's receipt of the application.;
- (d) The governing body will not consider any application for a new or renewed license that has not been submitted ten (10) days in advance or that has not been reviewed by the above city departments;
- (e) An applicant who has not previously held a license for the sale of cereal malt beverage or beer containing not more than 6% alcohol by volume in the city shall attend the governing body meeting when the application for a new license will be considered.

3-105. LICENSE GRANTED; DENIED

- (a) The journal of the governing body shall show the action taken on the application;
- (b) If the license is granted, the city clerk shall issue the license which shall show the name of the licensee and the calendar year for which issued;
- (c) No license shall be transferred to another licensee;
- (d) If the license shall be denied, the license fee shall be immediately returned to the person who has made application.

3-106. LICENSE TO BE POSTED

Each license shall be posted in a conspicuous place in the place of business for which the license is issued.

3-107. LICENSE, DISQUALIFICATION

No license shall be issued to:

- (a) A person who has not been a resident in good faith of the state of Kansas for at least one (1) year immediately preceding application and a resident of Johnson County for at least six (6) months prior to filing of such application;
- (b) A person who is not a citizen of the United States;
- (c) A person who is not of good character and reputation in the community in which he or she

resides;

- (d) A person who, within two years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;
- (e) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license;
- (f) A corporation if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25% of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than non-residence within the city or county;
- (g) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock, of a corporation which: (A) Has had a retailer's license revoked under K.S.A. § 41-2708 and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state;
- (h) A limited liability company, unless it meets the qualifications for licensure of a corporation under K.S.A. § 41-2703, and amendments thereto, except only those individuals owning in the aggregate 25% or more of the ownership interest in such limited liability company shall be required to meet the qualifications for an individual to obtain a license. Any limited liability company applying for a retailer's license shall submit a copy of its articles or organization and operating agreement to the director of alcoholic beverage control of the Kansas department of revenue;
- (i) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee;
- (j) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection (i) shall not apply in determining eligibility for a renewal license.

3-108. RESTRICTION UPON LOCATION.

- (a) No license shall be issued for the sale at retail of any cereal malt beverage or beer containing not more than 6% alcohol by volume on premises which are located in areas not zoned for such purpose;

- (b) It shall be unlawful to sell or dispense at retail any cereal malt beverage or beer containing not more than 6% alcohol by volume at any place within the city limits that is within a three hundred (300) foot radius of any church, school or library;
- (c) The provisions at (a) and (b) shall not apply to any establishment holding a club or drinking establishment license issued by the State of Kansas;
- (d) The distance limitation of subsection (b) above shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing.

3-109. LICENSE FEE.

The rules and regulations regarding license fees shall be as follows:

- (a) General Retailer -- for each place of business selling cereal malt beverages or beer containing not more than 6% alcohol by volume at retail for consumption of the premises, a fee, per calendar year, as determined by the City of Edgerton Fee Resolution.
- (b) Limited Retailer -- for each place of business selling only at retail cereal malt beverages or beer containing not more than 6% alcohol by volume in original and unopened containers and not for consumption on the premises, a fee, per calendar year, as determined by the City of Edgerton Fee Resolution.

The full amount of the license fee shall be required regardless of when the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

3-110. SUSPENSION OF LICENSE

The chief of police, upon five (5) days' written notice, shall have the authority to suspend such license for a period not to exceed thirty (30) days, for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages or to beer containing not more than 6% alcohol by volume, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven (7) days from the date of such order.

3-111. LICENSE SUSPENSION/REVOCATION BY GOVERNING BODY

The governing body of the city, upon five (5) days' written notice, to a person holding a license shall permanently revoke or cause to be suspended for a period of not more than thirty (30) days such license for any of the following reasons:

- (a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;
- (b) If the licensee has violated any of the provisions of this ordinance or has become ineligible to obtain a license under the provisions of this ordinance;
- (c) Drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business.
- (d) The sale of cereal malt beverages or beer containing not more than 6% alcohol by volume to a person under twenty-one (21) years of age;
- (e) For permitting any gambling in or upon any premises licensed;
- (f) For permitting any person to mix drinks with materials purchased in any premises licensed or brought into the premises for this purpose;
- (g) For the employment of any person under the age established by the State of Kansas for employment involving dispensing cereal malt beverages or beer containing not more than 6% alcohol by volume;
- (h) For the employment of a persons the licensee knows has been, within the preceding two years, adjudged guilty of a felony or of a violation of any laws relating to intoxicating liquor in this state, another state or the United States;
- (i) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed, except beer containing not more than 6% alcohol by volume;
- (j) The nonpayment of any license fees;
- (k) If the licensee has become ineligible to obtain a license;
- (l) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a club or drinking establishment by the State of Kansas.

3-112. SAME; APPEAL

Pursuant to K.S.A. 41-2708(d), the licensee, within twenty (20) days after the order of the governing body revoking any license, may appeal to the district court of Johnson County and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his or her behalf, for a period of six months thereafter.

3-113. CHANGE OF LOCATION

If a licensee desires to change the location of his or her place of business, he or she shall make an

application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee as determined by the City of Edgerton Fee Resolution. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the calendar year for which a current license is held by the licensee.

3-114. WHOLESALERS AND/OR DISTRIBUTORS

It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages or beer containing not more than 6% alcohol by volume within the city, to persons authorized to sell the same within this city unless such wholesaler and/or distributor has first secured a license authorizing such sales from the State of Kansas.

3-115. BUSINESS REGULATIONS

It shall be the duty of every licensee to observe the following regulations:

- (a) The place of business licensed, and operating shall at all times have a front and rear exit unlocked when open for business;
- (b) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the police and health officers of the city, county and state;
- (c) Except as provided by subsection (d), no cereal malt beverage or beer containing not more than 6% by volume may be sold or dispensed; (1) Between the hours of 12:00 midnight and 6:00 a.m.; (2) in the original package before 12:00 noon or after 8:00 p.m. on Sunday; (3) on Easter Sunday, Thanksgiving Day and Christmas Day; or (4) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell cereal malt beverage or beer not more than 6% by volume for consumption on the premises, which derive not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises;
- (d) cereal malt beverages or beer containing not more than 6% alcohol by volume may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2601, et seq. and amendments thereto, and licensed as a club or drinking establishment by the State of Kansas;
- (e) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State of Kansas shall be open to the police and not to the public;

- (f) It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued;
- (g) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued;
- (h) No licensee or agent or employee of the licensee shall sell or permit the sale of cereal malt beverage or of beer containing not more than 6% alcohol by volume to any person under twenty-one (21) years of age;
- (i) No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued;
- (j) No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or brought in for such purpose;
- (k) No licensee or agent or employee of the licensee shall employ any person under 18 years of age to dispense cereal malt beverages or beer containing not more than 6% alcohol by volume;
- (l) No licensee shall knowingly employ any person who, within the preceding two years, has been adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States;
- (m) A licensee's employee who is not less than eighteen (18) years of age may dispense or sell cereal malt beverage or beer not more than 6% by volume, if;
 - (1) The licensee's place of business is licensed only to sell at retail cereal malt beverage or beer containing not more than 6% by volume in the original package and not for consumption on the premises; or
 - (2) The licensee's place of business is a licensed food service establishment, as defined by K.S.A. § 36-501, and amendments thereto, and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business;
- (n) No cereal malt beverage license shall permit or allow any person to be on or about the licensed premises after the hour of 1:00 a.m. or at any time during which the sale of cereal malt beverage is prohibited for the purpose of consuming cereal malt beverage;
- (o) No licensee shall allow any person to have any alcoholic liquor in his or her possession which in any place of business licensed to sell cereal malt beverages under this article unless the business also is licensed as a private club.

3-116. SANITARY CONDITIONS REQUIRED

All parts of the licensed premises including furnishings and equipment shall be kept clean and in

a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self-closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city health officer or designee.

3-117. MINORS ON PREMISES.

- (a) Except as allowed by 3-115(m) above, it shall be unlawful for any person under twenty-one (21) years of age to remain on any premises where the sale of cereal malt beverages is licensed for on-premises consumption;
- (b) This section shall not apply if the person under twenty-one (21) years of age is an employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than 50% of its gross receipts in each calendar year from the sale of cereal malt beverages for on premises consumption.

3-118. MINOR MISREPRESENTING AGE. It shall be unlawful for any person under the age of twenty-one (21) years, either directly or indirectly, to misrepresent that he or she is twenty-one (21) years of age or over, for the purpose of asking for, purchasing, receiving or drinking cereal malt beverages within the corporate limits of the city.

3-119. FURNISHING FALSE IDENTIFICATION. It shall be unlawful for any person to furnish, loan or give to a minor under the age of twenty-one (21) years, any identification card, driver's license or other written instrument to be used for the purpose of asking for, purchasing, receiving or drinking cereal malt beverages within the corporate limits of the city.

3-120. NO SALE ON CREDIT. No person shall sell or furnish cereal malt beverages at retail to any person on credit or on a passbook, or order on a store, or in exchange for any goods, wares or merchandise, or in payment for any services rendered.

3-121. SALE, CONSUMPTION, PUBLIC PROPERTY.

- (a) It shall be unlawful for any person to sell, serve, dispense, drink or otherwise consume any

alcoholic liquor or cereal malt beverage upon any highway or public place as defined in section 3-101(l) , or upon property owned by the state or any governmental agency or subdivision thereof, or in any public place not duly licensed to sell cereal malt beverage or alcoholic liquor for consumption on the premises within or under the jurisdiction of the city, except as herein provided in subsections (b), (c) and (d);

- (b) Subject to the provisions of subsection (c), any person of lawful age may consume cereal malt beverages and alcoholic liquor within the confines of the building commonly known as the Edgerton Community Building, located at 404 East Nelson, Edgerton, Kansas, if at the time of such consumption the person is not intoxicated;
- (c) No person shall consume cereal malt beverage or alcoholic liquor on the premises of the Edgerton Community Building unless all of the following conditions are satisfied:
 - (1) Such consumption takes place on the first floor, and at least ten (10) feet from any exterior door of the building and not in any room or area used by the city as an office, meeting or storage room;
 - (2) Such consumption occurs at an event sponsored by the city or at an event for which the sponsor, or sponsors, has obtained a permit for the use of the building from the office of the city clerk;
 - (3) Such consumption occurs between the hours of 12:00 p.m. and 12:00 a.m.; and
 - (4) No fees or other charges are requested or charged for the admission of any person into such event or in the dispensing of cereal malt beverage or alcoholic liquor.
- (d) The governing body may make exceptions and exemptions to the provisions of subsection (a) two days each year permitting the sale and consumption of cereal malt beverages and alcoholic liquor on public property by persons of lawful age provided that any such exception or exemption is duly passed and approved by resolution each year designating the date, times, location of sales and consumption, and all other conditions and restrictions regarding the same.

SECTION 2. Any and all other ordinances in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect and be in force from and after its passage, approval and publication as provided by law.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this 23rd day of January,
2020.

DONALD ROBERTS, Mayor

ATTEST:

RACHEL JAMES, City Clerk

APPROVED AS TO FORM

LEE W. HENDRICKS, CITY ATTORNEY

City Council Action Item

Council Meeting Date: January 23, 2020

Department: Administration

Agenda Item: Consider Resolution No. 01-23-20A Establishing Fees and Rates for Permits, Licenses and Services Within the City of Edgerton, Kansas

Background/Description of Item:

On December 10, 2015, the City Council approved Ordinance No. 1006 which included the authorization for the City to create a Fee Resolution. The purpose for the resolution is to consolidate the fees in one location and remove the fees from the Edgerton Municipal Code "Code Book," thereby eliminating the need for continual ordinance amendments.

The following resolution, No. 01-23-20A, contains an update to the the Fee Resolution. It was noted during the review of Chapter III, Article 1 of the City Code related to Cereal Malt Beverages (CMB), that two of the fees related to CMBs were listed differently in the Fee Resolution. The "General Retailer" listing in the Fee Resolution contained the word "Consumption" and that word is not part of the fee title. Additionally, the "Limited Retailer License Fee" was referred to as "General Retailer – Not for Consumption on Premises" fee.

This update does not change the fee amount, it only corrects the Fee Resolution to match the fee titles used in adopted City Code.

Related Ordinance(s) or Statue(s): Ordinance No. 1006

Funding Source: n/a

Budget Allocated: n/a

Finance Director Approval: 
Karen Kindle, Finance Director

Recommendation: Approve Resolution No. 01-23-20A Establishing Fees and Rates for Permits, Licenses and Services Within the City of Edgerton, Kansas.

Enclosed: Draft Resolution No. 01-23-20A redline version
Draft Resolution No. 01-23-20A clean version

Prepared by: Katy Crow, Development Services Director

RESOLUTION NO. ~~12-12-19B01-23-20A~~

A RESOLUTION ESTABLISHING FEES AND RATES FOR PERMITS, LICENSES AND SERVICES WITHIN THE CITY OF EDGERTON, KANSAS.

WHEREAS, pursuant to Ordinance No. 1006, the City Council indicated that all City Fees that previously were spread throughout the City Code, and would require an Ordinance amending that particular part of the Code to change the fee, would instead be consolidated into a City Fee Resolution such that all fees could be better monitored and, any revisions thereto, could be accomplished via resolution instead of an ordinance; and

WHEREAS, City Staff continues to work on consolidating said fees into this Fee Resolution and, as those fees are added in, revised versions of this Resolution will be presented for Council approval.

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

SECTION 1: FEES.

The following fees shall be due and payable to the City Clerk:

OPEN RECORDS

Inspection Fee, if item is not readily available	\$20.00 per request
Copying Fee (no charge for first ten (10) pages)	\$0.10 per page after first ten
Mailing Fee	Actual mailing costs
Facsimile charges	\$1.00 / \$0.10 per page
Searches by staff, three (3) hours or more	\$25.00 per hour

ANIMAL CONTROL

Animal Registration Fees:

Neutered/Spayed dog or cat	\$5.00
Unneutered/Non-spayed dog or cat	\$25.00
Seniors (60 plus) with neutered/spayed dog or cat	\$No Charge
Chicken registration	\$50.00
Breeder Fee	\$500.00
Late Registration Fee	\$25.00
Duplicate Tag Fee	\$1.00

Animal Redemption Fees:

Registered	
First pick up	\$No charge
Second pick up	\$50.00
Third pick up	\$100.00

Non-Registered, Neutered/Spayed First pick up	\$50.00
Non-Registered, Unneutered/unspayed First pick up	\$100.00
City provided rabies vaccination	\$50.00
Habitual Violator (dog picked up more than three times in one year)	\$250.00
Boarding Fee	\$10.00 per day

BEVERAGES

Cereal Malt Beverages

General Retailer— Consumption	\$100.00
General-Limited Retailer— Not for Consumption on premises	\$35.00
Change of Location Fee	\$5.00

Drinking Establishments

License Fee – Biennial occupation tax	\$500.00
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Private Club

License Fee – Class A Biennial occupation tax	\$500.00
License Fee – Class B Biennial occupation tax	\$500.00

Special Event

Permit Fee	\$50.00
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Caterer

Permit Fee	\$250.00
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Retail

Permit Fee Biennial occupation tax	\$500.00
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BUILDINGS AND CONSTRUCTION

Permit Fees – Non-Residential Building

<i>Total Valuation</i>	<i>Fee</i>
\$1.00 to \$500	\$22.00
\$501.00 to \$2,000.00	\$22.00 for the first \$500.00 plus \$2.75 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$63.00 for the first \$2,000.00 plus \$12.50 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001 to \$50,000.00	\$352.00 for the first \$25,000.00 plus \$9.00 for each additional \$1,000.00, or fractions thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$580.00 for the first \$50,000.00 plus \$6.25 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$895.00 for the first \$100,000.00 plus \$5.00 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,000.00 to \$1,000,000.00	\$2,855 for the first \$500,000.00 plus \$4.25 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,000.01 and up	\$4,955.00 for the first \$1,000,000.00 plus \$2.75 for each additional \$1,000.00, or fraction thereof

Other Inspections and Fees

Inspections outside of normal business hours (minimum charge – two hours)	\$50.00 per hour
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Re-inspection fees assessed	\$50.00 per hour
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Inspections for which no fee is specifically indicated (minimum charge – one-half hour)	\$50.00 per hour
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Additional plan review required by changes, additions or revisions to plans (or total hourly cost to the juris- diction, whichever is greatest. Cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of employees involved)	\$50.00 per hour
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For use of outside consultants for plan checking Actual Costs
or inspections (costs include administrative and
overhead costs)

Permit Fees – Residential Building

<i>Total Valuation</i>	<i>Fee</i>
\$1 to \$500	\$13
\$501 to \$2,000	\$13 for first \$500.00 plus \$1.50 for each additional \$100.00 or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	\$35.50 for the first \$2,000.00 plus \$8.00 for each additional \$1,000 or fraction thereof, to and including \$25,000.
\$25,001 to \$50,000	\$219.50 for the first \$25,000 plus \$6.50 for each additional \$1,000 or fraction thereof, to and including \$50,000.
\$50,001 to \$100,000	\$381.00 for the first \$50,000 plus \$4.00 for each additional \$1,000 or fraction thereof, to and including \$100,000.
\$100,001 to \$500,000	\$582.00 for the first \$100,000 plus \$3.00 for each additional \$1,000 or fraction

	thereof, to and including \$500,000.
\$500,000 and up	\$1782.00 for the first \$500,000 plus \$2.00 for each additional \$1,000 or fraction thereof.

Other Inspections and Fees

Inspections outside of normal business hours (minimum charge – two hours)	\$50.00 per hour
Re-inspection fees assessed	\$50.00 per hour
Inspections for which no fee is specifically indicated (minimum charge – one-half hour)	\$50.00 per hour
Additional plan review required by changes, additions or revisions to plans (or total hourly cost to the jurisdiction, whichever is greatest. Cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of employees involved)	\$50.00 per hour
For use of outside consultants for plan checking or inspections (costs include administrative and overhead costs)	Actual Costs
Certificate of Occupancy	\$10.00
Fire Review and Inspection - Core and Shell 100 square feet to 12,500 square feet Multi-Family (R-3) Commercial Zoning Districts (C-D, C-1, C-2) Industrial Zoning Districts (B-P, L-P, I-G, I-H)	\$250.00
Fire Review and Inspection - Tenant Finish 100 square feet to 12,500 square feet Multi-Family (R-3) Commercial Zoning Districts (C-D, C-1, C-2) Industrial Zoning Districts (B-P, L-P, I-G, I-H)	\$250.00
Fire Review and Inspection - Core and Shell 12,501.00 square feet or greater Multi-Family (R-3)	\$0.02 per square foot

Commercial Zoning Districts (C-D, C-1, C-2)
Industrial Zoning Districts (B-P, L-P, I-G, I-H)

Fire Review and Inspection	\$0.02 per square foot
- Tenant Finish	
12,501 square feet or greater	
Multi-Family (R-3)	
Commercial Zoning Districts (C-D, C-1, C-2)	
Industrial Zoning Districts (B-P, L-P, I-G, I-H)	

Permit Fees - Fuel Gas Code

Issuance of Permit	\$50.00
Supplemental Permit	\$50.00
Inspection outside normal business hours	\$50.00 per hour
Re-inspection	\$50.00 per hour
Additional plan review required by changes, additions or revisions to approved plans (minimum charge – one hour)	\$50.00 per hour

Permit Fees – Plumbing Code

Issuance of Permit	\$50.00
Supplemental Permit	\$50.00
Inspection outside normal business hours	\$50.00 per hour
Re-inspection	\$50.00 per hour
Additional plan review required by changes, additions or revisions to approved plans (minimum charge – one hour)	\$50.00 per hour

Permit Fees – Mechanical Code

Issuance of Permit	\$50.00
Supplemental Permit	\$50.00
Inspection outside normal business hours	\$50.00 per hour
Re-inspection	\$50.00 per hour
Additional plan review required by changes, additions	\$50.00 per hour

or revisions to approved plans (minimum charge – one hour)

Permit Fees – Electrical Code

Issuance of Permit	\$50.00
Supplemental Permit	\$50.00
Issuance of annual permit	\$250.00
Inspection outside normal business hours	\$50.00 per hour
Re-inspection	\$50.00 per hour
Additional plan review required by changes, additions or revisions to approved plans (minimum charge – one hour)	\$50.00 per hour

Moving Buildings

House/building/derrick or other structure permit	\$5.00
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Oil and Gas Wells

Permit Fee	\$150.00 per well
License Fee	\$25.00 per well

Fire Insurance Proceeds Fund

Final Settlement Funds (K.S.A. 40-3901 <u>et seq.</u>)	\$5000.00 or 10% of covered claim payment, whichever is less
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BUSINESS LICENSE

General License	\$5.00
Solicitor's License – Investigation Fee	\$50.00
Solicitor's License – Issuance Per day	\$25.00
Solicitor's License – Six Months	\$250.00
Adult Entertainment Business License	\$250.00
Adult Entertainment Manager's License	\$20.00
Adult Entertainers License	\$20.00
Adult Entertainment Service's License	\$20.00
Mobile Food Vender License	\$100.00

Block Party	\$25.00
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FIREWORKS

Fireworks – Temporary Retail Sale Application Fee	\$500.00
Fireworks – Temporary Retail Sale Bond	\$1000.00
Public Display Application Fee	\$100.00

SOLID WASTE

Customer Unit Charge – Monthly (One trash container and one recycle container)	\$7.50
Extra Container Charge – Monthly	\$5.00
Extra Recycle Container – Monthly	\$1.00

PUBLIC PROPERTY

Community Hall Rental – Residents (24-hrs midnight)	\$100.00
Community Hall Rental – Non-Residents (24 -hrs midnight)	\$150.00
Rental Deposit Required for Rental (Refundable) (Due at time of Reservation)	\$50.00
Overnight Camping (by special permit)	\$10.00
Martin Creek Park Lights	
-Ball field #1 Lights	\$20 / hour
-Horse Shoe Pit Lights	\$20 / hour
Right-Of-Way Permit	\$100.00

PUBLIC OFFENSES

Worthless Check/Returned Check/Dishonored Instrument	\$25.00
Abatement Administrative Fee	\$50.00 per abatement

UTILITIES - WATER

Water Rate

WATER

[Customer Service Charge + Vol. Rate = Monthly Bill]

Customer Service Charge

Meter Size	Inside City	Outside City
5/8"	\$20.83	\$31.23
1"	\$24.76	\$37.13
1 1/2"	\$31.30	\$46.95
2"	\$39.17	\$58.75
3"	\$57.52	\$86.26
4"	\$83.71	\$125.57
6"	\$149.22	\$223.82
8"	\$227.84	\$341.76

Volumetric Rate

Tiers	Inside City	Outside City
0-2,000	\$4.29	\$6.43
2,001-10,000	\$9.64	\$14.45
>10,000	\$13.30	\$19.93

Water System Development Fees

System Development Fee (based on size of water meter)

<u>METER SIZE</u>	<u>CHARGES</u>
5/8"	\$4,300
1"	\$10,750
1.5"	\$21,500
2"	\$34,400
3"	\$64,500
4"	\$107,500
6"	\$215,000
8"	\$344,000

Water Connection Fees

Connections Charge: Inside City - Regular

\$1,250.00

($\frac{3}{4}$ -inch service, with $\frac{3}{4}$ -inch by $\frac{5}{8}$ inch-meter)	
Connections Charge: Outside City - Regular	\$7,500.00
($\frac{3}{4}$ -inch service, with $\frac{3}{4}$ -inch by $\frac{5}{8}$ -inch meter)	
Connections Charge: Other Sizes	TBD by Governing Body
Water Service Application (inside city limits)	\$30.00
Water Service Application (outside city limits)	\$75.00
Reconnection Fee, during normal business hours	\$25.00
Reconnection Fee, during non-business hours	\$100.00
Meter Testing (if meter is correct)	\$10.00
Hydrant Meter Refundable Deposit	\$1,500.00

UTILITIES - WASTEWATER

Wastewater Rate

WASTEWATER

[Customer Service Charge + Vol. Rate = Monthly Bill]

Customer Service Charge

\$6.55

Volumetric Rate

\$7.58 [per 1,000 gallons]¹

LPKC Infrastructure

\$1.00 [per 1,000 gallons]

¹ For residential use properties, Section 15-305(b) of Article 3 of Chapter XV of the City Code will determine the level of gallons.

Wastewater System Development Fees

System Development Fee (based on size of water meter)

<u>METER SIZE</u>	<u>CHARGES</u>
5/8"	\$4,800
3/4"	\$6,600
1"	\$12,000
1.5"	\$24,000
2"	\$38,400
3"	\$72,000
4"	\$120,000
6"	\$240,000
8"	\$384,000

Wastewater Connection Fees

Connection Charge and Inspection Fee \$750.00

Wholesale Wastewater Rate

\$3.36 [per 1,000 gallons]

Private Disposal System Fees

Installation Permit	\$250.00
Significant Alteration and Repair Permit	\$100.00
Minor Repair	\$50.00
Non-Residential Annual Operation Permit	\$50.00
(first year fee included in Installation Permit Fee)	

Septic/Holding Tank Removal	\$100.00
Inspection, non-business hours (2-hour charge minimum, additional to inspection fee)	\$15.00 per hour

ZONING AND DEVELOPMENT FEES

Manufactured Home Park License	\$100.00
Temporary Mobile Home Fee	\$25.00
Planned Unit Development:	
Conceptual Plan/Preliminary Plat Fee	\$200.00 plus \$2.00 per lot
Final Plan/Final Plat Fee	\$300.00 plus \$5.00 per lot
Board of Zoning Appeals Variance or Appeal Fee	\$250.00 plus publication fees
Rezoning Fee	\$250.00
Conditional/Special Use Permit Fee	
Residential Zoning Districts	\$100.00 plus publication fees
Non-Residential Zoning Districts	\$1,000.00 plus publication fees
Temporary Construction Activities	
Permit Fee	\$500.00
Amended Application Requiring Another Planning Commission Review, Post Approval	\$250.00
Expired Permit – treated as a new permit	\$500.00
Blasting Permit (one (1) year)	\$500.00
Home Occupation Permit Fee	\$5.00
Preliminary/Final Site Plan Fee	\$200.00 plus \$10.00 per acre plus publication fees
Site Plan Re-review Fee	\$200.00 plus \$1.00 per acre
Revised Site Plan Fee	
Requiring Planning Commission Approval	\$250.00
Requiring Zoning Administrator Approval	\$100.00
Preliminary Plat Fee	\$300.00 plus \$10.00 per lot plus publication fees
Preliminary Plat Re-review Fee	\$300.00 plus \$10 per lot

Final Plat Fee	\$300.00 plus \$10.00 per lot plus publication fees
Final Plat Re-review Fee	\$300.00 plus \$10 per lot
Lot Split Fee	\$100.00
Street Excise Tax	\$0.10 per square foot of final plat
Park Impact Fee/Residential	\$300.00 per lot
Park Impact Fee/Commercial	\$0.08 per square foot of building
Park Impact Fee/Industrial	\$0.08 per square foot of building
New Street Light Fee	\$250.00
New Public Improvement Inspection Fee	Actual cost of inspection + 2% administrative fee
Street/Stormwater	
Water/Sewer	Actual cost of inspection
Land Disturbance (greater than one acre)	\$250.00
Flood Plain Development Permit	\$75.00
Zoning Verification Letter	\$75.00 per request

Sign Fees

Home Occupation Sign	\$35.00
Temporary/Banner Sign	\$35.00
Pole Sign	\$125.00
Monument Sign	\$35.00
Façade/Wall Sign	\$35.00
Mobile Home Park Sign	\$35.00
Subdivision Name Sign	\$35.00
Apartment Complex Name Sign	\$35.00

SECTION 2: Effective Date. This Resolution shall become effective ~~on January 1, 2020~~ upon adoption by the Governing Body.

SECTION 3: Repealer. Any fees or resolutions inconsistent herewith are hereby repealed and said City Code references (along with other specific fee references throughout the City

Code that will now be controlled by the Fee Resolution) will be formally withdrawn via a future ordinance.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS ON THIS ~~12th~~
~~DAY OF DECEMBER, 2019~~ 23rd DAY OF JANUARY, 2020.

DONALD ROBERTS, MAYOR

ATTEST:

RACHEL A. JAMES, CITY CLERK

APPROVED AS TO FORM:

LEE W. HENDRICKS, CITY ATTORNEY

RESOLUTION NO. 01-23-20A

A RESOLUTION ESTABLISHING FEES AND RATES FOR PERMITS, LICENSES AND SERVICES WITHIN THE CITY OF EDGERTON, KANSAS.

WHEREAS, pursuant to Ordinance No. 1006, the City Council indicated that all City Fees that previously were spread throughout the City Code, and would require an Ordinance amending that particular part of the Code to change the fee, would instead be consolidated into a City Fee Resolution such that all fees could be better monitored and, any revisions thereto, could be accomplished via resolution instead of an ordinance; and

WHEREAS, City Staff continues to work on consolidating said fees into this Fee Resolution and, as those fees are added in, revised versions of this Resolution will be presented for Council approval.

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

SECTION 1: FEES.

The following fees shall be due and payable to the City Clerk:

OPEN RECORDS

Inspection Fee, if item is not readily available	\$20.00 per request
Copying Fee (no charge for first ten (10) pages)	\$0.10 per page after first ten
Mailing Fee	Actual mailing costs
Facsimile charges	\$1.00 / \$0.10 per page
Searches by staff, three (3) hours or more	\$25.00 per hour

ANIMAL CONTROL

Animal Registration Fees:

Neutered/Spayed dog or cat	\$5.00
Unneutered/Non-spayed dog or cat	\$25.00
Seniors (60 plus) with neutered/spayed dog or cat	\$No Charge
Chicken registration	\$50.00
Breeder Fee	\$500.00
Late Registration Fee	\$25.00
Duplicate Tag Fee	\$1.00

Animal Redemption Fees:

Registered	
First pick up	\$No charge
Second pick up	\$50.00
Third pick up	\$100.00

Non-Registered, Neutered/Spayed First pick up	\$50.00
Non-Registered, Unneutered/unspayed First pick up	\$100.00
City provided rabies vaccination	\$50.00
Habitual Violator (dog picked up more than three times in one year)	\$250.00
Boarding Fee	\$10.00 per day

BEVERAGES

Cereal Malt Beverages

General Retailer	\$100.00	
Limited Retailer		\$35.00
Change of Location Fee		\$5.00

Drinking Establishments

License Fee – Biennial occupation tax	\$500.00
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Private Club

License Fee – Class A Biennial occupation tax	\$500.00
License Fee – Class B Biennial occupation tax	\$500.00

Special Event

Permit Fee	\$50.00
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Caterer

Permit Fee	\$250.00
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Retail

Permit Fee Biennial occupation tax	\$500.00
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BUILDINGS AND CONSTRUCTION

Permit Fees – Non-Residential Building

<i>Total Valuation</i>	<i>Fee</i>
\$1.00 to \$500	\$22.00
\$501.00 to \$2,000.00	\$22.00 for the first \$500.00 plus \$2.75 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$63.00 for the first \$2,000.00 plus \$12.50 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001 to \$50,000.00	\$352.00 for the first \$25,000.00 plus \$9.00 for each additional \$1,000.00, or fractions thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$580.00 for the first \$50,000.00 plus \$6.25 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$895.00 for the first \$100,000.00 plus \$5.00 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,000.00 to \$1,000,000.00	\$2,855 for the first \$500,000.00 plus \$4.25 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,000.01 and up	\$4,955.00 for the first \$1,000,000.00 plus \$2.75 for each additional \$1,000.00, or fraction thereof

Other Inspections and Fees

Inspections outside of normal business hours (minimum charge – two hours)	\$50.00 per hour
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Re-inspection fees assessed	\$50.00 per hour
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Inspections for which no fee is specifically indicated (minimum charge – one-half hour)	\$50.00 per hour
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Additional plan review required by changes, additions or revisions to plans (or total hourly cost to the juris- diction, whichever is greatest. Cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of employees involved)	\$50.00 per hour
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For use of outside consultants for plan checking Actual Costs
or inspections (costs include administrative and
overhead costs)

Permit Fees – Residential Building

<i>Total Valuation</i>	<i>Fee</i>
\$1 to \$500	\$13
\$501 to \$2,000	\$13 for first \$500.00 plus \$1.50 for each additional \$100.00 or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	\$35.50 for the first \$2,000.00 plus \$8.00 for each additional \$1,000 or fraction thereof, to and including \$25,000.
\$25,001 to \$50,000	\$219.50 for the first \$25,000 plus \$6.50 for each additional \$1,000 or fraction thereof, to and including \$50,000.
\$50,001 to \$100,000	\$381.00 for the first \$50,000 plus \$4.00 for each additional \$1,000 or fraction thereof, to and including \$100,000.
\$100,001 to \$500,000	\$582.00 for the first \$100,000 plus \$3.00 for each additional \$1,000 or fraction

	thereof, to and including \$500,000.
\$500,000 and up	\$1782.00 for the first \$500,000 plus \$2.00 for each additional \$1,000 or fraction thereof.

Other Inspections and Fees

Inspections outside of normal business hours (minimum charge – two hours)	\$50.00 per hour
Re-inspection fees assessed	\$50.00 per hour
Inspections for which no fee is specifically indicated (minimum charge – one-half hour)	\$50.00 per hour
Additional plan review required by changes, additions or revisions to plans (or total hourly cost to the jurisdiction, whichever is greatest. Cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of employees involved)	\$50.00 per hour
For use of outside consultants for plan checking or inspections (costs include administrative and overhead costs)	Actual Costs
Certificate of Occupancy	\$10.00
Fire Review and Inspection - Core and Shell 100 square feet to 12,500 square feet Multi-Family (R-3) Commercial Zoning Districts (C-D, C-1, C-2) Industrial Zoning Districts (B-P, L-P, I-G, I-H)	\$250.00
Fire Review and Inspection - Tenant Finish 100 square feet to 12,500 square feet Multi-Family (R-3) Commercial Zoning Districts (C-D, C-1, C-2) Industrial Zoning Districts (B-P, L-P, I-G, I-H)	\$250.00
Fire Review and Inspection - Core and Shell 12,501.00 square feet or greater Multi-Family (R-3)	\$0.02 per square foot

Commercial Zoning Districts (C-D, C-1, C-2)
Industrial Zoning Districts (B-P, L-P, I-G, I-H)

Fire Review and Inspection	\$0.02 per square foot
- Tenant Finish	
12,501 square feet or greater	
Multi-Family (R-3)	
Commercial Zoning Districts (C-D, C-1, C-2)	
Industrial Zoning Districts (B-P, L-P, I-G, I-H)	

Permit Fees - Fuel Gas Code

Issuance of Permit	\$50.00
Supplemental Permit	\$50.00
Inspection outside normal business hours	\$50.00 per hour
Re-inspection	\$50.00 per hour
Additional plan review required by changes, additions or revisions to approved plans (minimum charge – one hour)	\$50.00 per hour

Permit Fees – Plumbing Code

Issuance of Permit	\$50.00
Supplemental Permit	\$50.00
Inspection outside normal business hours	\$50.00 per hour
Re-inspection	\$50.00 per hour
Additional plan review required by changes, additions or revisions to approved plans (minimum charge – one hour)	\$50.00 per hour

Permit Fees – Mechanical Code

Issuance of Permit	\$50.00
Supplemental Permit	\$50.00
Inspection outside normal business hours	\$50.00 per hour
Re-inspection	\$50.00 per hour
Additional plan review required by changes, additions	\$50.00 per hour

or revisions to approved plans (minimum charge – one hour)

Permit Fees – Electrical Code

Issuance of Permit	\$50.00
Supplemental Permit	\$50.00
Issuance of annual permit	\$250.00
Inspection outside normal business hours	\$50.00 per hour
Re-inspection	\$50.00 per hour
Additional plan review required by changes, additions or revisions to approved plans (minimum charge – one hour)	\$50.00 per hour

Moving Buildings

House/building/derrick or other structure permit	\$5.00
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Oil and Gas Wells

Permit Fee	\$150.00 per well
License Fee	\$25.00 per well

Fire Insurance Proceeds Fund

Final Settlement Funds (K.S.A. 40-3901 <u>et seq.</u>)	\$5000.00 or 10% of covered claim payment, whichever is less
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BUSINESS LICENSE

General License	\$5.00
Solicitor's License – Investigation Fee	\$50.00
Solicitor's License – Issuance Per day	\$25.00
Solicitor's License – Six Months	\$250.00
Adult Entertainment Business License	\$250.00
Adult Entertainment Manager's License	\$20.00
Adult Entertainers License	\$20.00
Adult Entertainment Service's License	\$20.00
Mobile Food Vender License	\$100.00

Block Party	\$25.00
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FIREWORKS

Fireworks – Temporary Retail Sale Application Fee	\$500.00
Fireworks – Temporary Retail Sale Bond	\$1000.00
Public Display Application Fee	\$100.00

SOLID WASTE

Customer Unit Charge – Monthly (One trash container and one recycle container)	\$7.50
Extra Container Charge – Monthly	\$5.00
Extra Recycle Container – Monthly	\$1.00

PUBLIC PROPERTY

Community Hall Rental – Residents (24-hrs midnight)	\$100.00
Community Hall Rental – Non-Residents (24 -hrs midnight)	\$150.00
Rental Deposit Required for Rental (Refundable) (Due at time of Reservation)	\$50.00
Overnight Camping (by special permit)	\$10.00
Martin Creek Park Lights	
-Ball field #1 Lights	\$20 / hour
-Horse Shoe Pit Lights	\$20 / hour
Right-Of-Way Permit	\$100.00

PUBLIC OFFENSES

Worthless Check/Returned Check/Dishonored Instrument	\$25.00
Abatement Administrative Fee	\$50.00 per abatement

UTILITIES - WATER

Water Rate

WATER

[Customer Service Charge + Vol. Rate = Monthly Bill]

Customer Service Charge

Meter Size	Inside City	Outside City
5/8"	\$20.83	\$31.23
1"	\$24.76	\$37.13
1 1/2"	\$31.30	\$46.95
2"	\$39.17	\$58.75
3"	\$57.52	\$86.26
4"	\$83.71	\$125.57
6"	\$149.22	\$223.82
8"	\$227.84	\$341.76

Volumetric Rate

Tiers	Inside City	Outside City
0-2,000	\$4.29	\$6.43
2,001-10,000	\$9.64	\$14.45
>10,000	\$13.30	\$19.93

Water System Development Fees

System Development Fee (based on size of water meter)

<u>METER SIZE</u>	<u>CHARGES</u>
5/8"	\$4,300
1"	\$10,750
1.5"	\$21,500
2"	\$34,400
3"	\$64,500
4"	\$107,500
6"	\$215,000
8"	\$344,000

Water Connection Fees

Connections Charge: Inside City - Regular

\$1,250.00

($\frac{3}{4}$ -inch service, with $\frac{3}{4}$ -inch by $\frac{5}{8}$ inch-meter)	
Connections Charge: Outside City - Regular	\$7,500.00
($\frac{3}{4}$ -inch service, with $\frac{3}{4}$ -inch by $\frac{5}{8}$ -inch meter)	
Connections Charge: Other Sizes	TBD by Governing Body
Water Service Application (inside city limits)	\$30.00
Water Service Application (outside city limits)	\$75.00
Reconnection Fee, during normal business hours	\$25.00
Reconnection Fee, during non-business hours	\$100.00
Meter Testing (if meter is correct)	\$10.00
Hydrant Meter Refundable Deposit	\$1,500.00

UTILITIES - WASTEWATER

Wastewater Rate

WASTEWATER

[Customer Service Charge + Vol. Rate = Monthly Bill]

Customer Service Charge

\$6.55

Volumetric Rate

\$7.58 [per 1,000 gallons]¹

LPKC Infrastructure

\$1.00 [per 1,000 gallons]

¹ For residential use properties, Section 15-305(b) of Article 3 of Chapter XV of the City Code will determine the level of gallons.

Wastewater System Development Fees

System Development Fee (based on size of water meter)

<u>METER SIZE</u>	<u>CHARGES</u>
5/8"	\$4,800
3/4"	\$6,600
1"	\$12,000
1.5"	\$24,000
2"	\$38,400
3"	\$72,000
4"	\$120,000
6"	\$240,000
8"	\$384,000

Wastewater Connection Fees

Connection Charge and Inspection Fee \$750.00

Wholesale Wastewater Rate

\$3.36 [per 1,000 gallons]

Private Disposal System Fees

Installation Permit	\$250.00
Significant Alteration and Repair Permit	\$100.00
Minor Repair	\$50.00
Non-Residential Annual Operation Permit	\$50.00
(first year fee included in Installation Permit Fee)	

Septic/Holding Tank Removal	\$100.00
Inspection, non-business hours (2-hour charge minimum, additional to inspection fee)	\$15.00 per hour

ZONING AND DEVELOPMENT FEES

Manufactured Home Park License	\$100.00
Temporary Mobile Home Fee	\$25.00
Planned Unit Development: Conceptual Plan/Preliminary Plat Fee	\$200.00 plus \$2.00 per lot
Final Plan/Final Plat Fee	\$300.00 plus \$5.00 per lot
Board of Zoning Appeals Variance or Appeal Fee	\$250.00 plus publication fees
Rezoning Fee	\$250.00
Conditional/Special Use Permit Fee	
Residential Zoning Districts	\$100.00 plus publication fees
Non-Residential Zoning Districts	\$1,000.00 plus publication fees
Temporary Construction Activities	
Permit Fee	\$500.00
Amended Application Requiring Another Planning Commission Review, Post Approval	\$250.00
Expired Permit – treated as a new permit	\$500.00
Blasting Permit (one (1) year)	\$500.00
Home Occupation Permit Fee	\$5.00
Preliminary/Final Site Plan Fee	\$200.00 plus \$10.00 per acre plus publication fees
Site Plan Re-review Fee	\$200.00 plus \$1.00 per acre
Revised Site Plan Fee	
Requiring Planning Commission Approval	\$250.00
Requiring Zoning Administrator Approval	\$100.00
Preliminary Plat Fee	\$300.00 plus \$10.00 per lot plus publication fees
Preliminary Plat Re-review Fee	\$300.00 plus \$10 per lot

Final Plat Fee	\$300.00 plus \$10.00 per lot plus publication fees
Final Plat Re-review Fee	\$300.00 plus \$10 per lot
Lot Split Fee	\$100.00
Street Excise Tax	\$0.10 per square foot of final plat
Park Impact Fee/Residential	\$300.00 per lot
Park Impact Fee/Commercial	\$0.08 per square foot of building
Park Impact Fee/Industrial	\$0.08 per square foot of building
New Street Light Fee	\$250.00
New Public Improvement Inspection Fee	
Street/Stormwater	Actual cost of inspection + 2% administrative fee
Water/Sewer	Actual cost of inspection
Land Disturbance (greater than one acre)	\$250.00
Flood Plain Development Permit	\$75.00
Zoning Verification Letter	\$75.00 per request

Sign Fees

Home Occupation Sign	\$35.00
Temporary/Banner Sign	\$35.00
Pole Sign	\$125.00
Monument Sign	\$35.00
Façade/Wall Sign	\$35.00
Mobile Home Park Sign	\$35.00
Subdivision Name Sign	\$35.00
Apartment Complex Name Sign	\$35.00

SECTION 2: Effective Date. This Resolution shall become effective upon adoption by the Governing Body.

SECTION 3: Repealer. Any fees or resolutions inconsistent herewith are hereby repealed and said City Code references (along with other specific fee references throughout the City

Code that will now be controlled by the Fee Resolution) will be formally withdrawn via a future ordinance.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS ON THIS 23rd DAY of January, 2020.

DONALD ROBERTS, MAYOR

ATTEST:

RACHEL A. JAMES, CITY CLERK

APPROVED AS TO FORM:

LEE W. HENDRICKS, CITY ATTORNEY

CITY OF EDGERTON, KANSAS

COUNCIL AGENDA ITEM

Council Meeting Date: January 23, 2020

Agenda Item: Assignment and Assumption of Lease Agreement and Related Bond Documents

Subject: Midwest Gateway Series B Project

The City previously issued industrial revenue bonds for Midwest Gateway Venture, LLC for the purpose of constructing a 186,107 sq. ft. warehouse and distribution facility. Midwest Gateway desires to sell the project to Dot's Pretzel, LLC. The resolution authorizes an Assignment and Assumption of Lease Agreement and Related Bond Documents. The Assignment transfers all of Midwest Gateway's interest in the Base Lease, the Lease Agreement, the Performance Agreement, the Origination Fee Agreement and the other bond documents for the project to Dot's Pretzel. The bond documents require that the City consent to any assignment. Accordingly, the assignment has a consent page for the Mayor to sign acknowledging the City's consent to the assignment.

RESOLUTION NO. 01-23-20B

**A RESOLUTION CONSENTING TO THE ASSIGNMENT AND
ASSUMPTION OF LEASE AGREEMENT AND RELATED BOND
DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL
REVENUE BONDS (MIDWEST GATEWAY VENTURE, LLC PROJECT),
SERIES 2017B**

WHEREAS, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

WHEREAS, the City issued its Industrial Revenue Bonds (Midwest Gateway Venture, LLC Project), Series 2017B (the "Bonds"), in the aggregate maximum principal amount of \$18,300,000, pursuant to a Trust Indenture dated as of September 1, 2017 (the "Indenture"), between the City and Security Bank of Kansas City, as trustee (the "Trustee"), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial project, consisting of an approximately 186,107 sq. ft. warehouse and distribution facility, located at 32180 W. 191st Street, Edgerton, Kansas (the "Project"); and

WHEREAS, the Project was leased by Midwest Gateway Venture, LLC, a Kansas limited liability company ("Assignor"), to the City pursuant to a Base Lease Agreement dated as of September 1, 2017 (the "Base Lease"), between the Assignor and the City, and the Project was subleased by the City to the Assignor pursuant to a Lease Agreement dated as of September 1, 2017 (the "Lease Agreement"), between the City and the Assignor; and

WHEREAS, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

WHEREAS, the Assignor is requesting that the City consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, the Performance Agreement dated as of September 1, 2017 (the "Performance Agreement"), between the City and Assignor, the Origination Fee Agreement dated as of September 1, 2017 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated September 25, 2017 (the "Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents executed in connection with the Bonds that are included in the transcript of proceedings for the Bonds (collectively, the "Other Bond Documents"), to Dot's Pretzel, LLC, a Delaware limited liability company (the "Assignee"); and

WHEREAS, the City desires to consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents to the Assignee;

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

Section 1. Consent to Assignment. The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

Section 2. Authorization and Execution of Consent to Assignment. The Governing Body hereby approves of the form of the Assignment and Assumption of Lease Agreement and Related Bond Documents (the "Assignment"), in substantially the form attached hereto as **Exhibit A**. The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

Section 3. Further Authority. The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, including a subordination of fee and an estoppel certificate (copies of said documents shall be filed in the records of the City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 4. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

ADOPTED this 23rd day of January, 2020.

CITY OF EDGERTON, KANSAS

By: _____
Mayor

[SEAL]

ATTEST:

City Clerk

Approved as to form:

Scott W. Anderson, Bond Counsel

Assignment Resolution
Midwest Gateway Ventures, LLC Project, Series B

EXHIBIT A

**FORM OF ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT
AND RELATED BOND DOCUMENTS**

Title of Document: Assignment and Assumption of Lease Agreements and Related Bond Documents

Date of Document: _____, 2020

Grantor: Midwest Gateway Venture, LLC, a Delaware limited liability company

Grantee: Dot's Pretzel, LLC, a Delaware limited liability company

Grantee's Mailing Address: _____

Attention: _____

Legal Description: See Exhibit A

Reference Document Nos: Document No. _____ and _____

**ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENTS
AND RELATED BOND DOCUMENTS**

THIS ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENTS AND RELATED BOND DOCUMENTS (this “**Assignment**”) entered into on _____, 2020 (the “**Effective Date**”) is by and between **MIDWEST GATEWAY VENTURE, LLC**, a Delaware limited liability company (the “**Assignor**”) and **DOT’S PRETZEL, LLC**, a Delaware limited liability company (the “**Assignee**”).

RECITALS

WHEREAS, the City of Edgerton, Kansas (the “**City**”) has previously issued its \$18,300,000 aggregate maximum principal amount of Industrial Revenue Bonds (Midwest Gateway Venture, LLC Project) Series 2017B (the “**Bonds**”) pursuant to a Trust Indenture dated as of September 1, 2017 (the “**Indenture**”), between the City and Security Bank of Kansas City, as trustee (the “**Trustee**”), and used the proceeds of the Bonds to construct a Project (as defined in the Indenture);

WHEREAS, pursuant to a Base Lease Agreement dated September 1, 2017 (the “**City Base Lease**”) between Assignor, as lessor, and the City, as lessee, Seller leased the Project, which is located on and includes the land described on **Exhibit A** and the improvements thereon (the “**Real Property**”) to the City, a memorandum of which was recorded January 9, 2018, as Document No. _____. Concurrent with the execution of the City Base Lease, the Seller and City also executed that certain Lease Agreement dated September 1, 2017 between the City, as sublessor, and the Seller, as sublessee (the “**Sublease**”), a memorandum of which was recorded January 9, 2018, as Document No. _____. The City Base Lease and the Sublease are hereinafter together referred to as the “**Leases**”);

WHEREAS, the City and the Assignor entered into a Performance Agreement dated as of September 1, 2017 (the “**Performance Agreement**”) and an Origination Fee Agreement dated as of September 1, 2017, (the “**Origination Fee Agreement**”) whereby those parties set forth the terms relating to tax abatement for the Project and certain other payments to the City;

WHEREAS, in addition to the Indenture, the Leases, the Performance Agreement and the Origination Fee Agreement, the Original Lessee, the City and the Trustee entered into various other documents relating to the Bonds (the “**Other Bond Documents**”);

WHEREAS, Assignor and Assignee are parties to that certain Agreement of Purchase and Sale dated _____, 2020 (the “**Contract**”), pursuant to which the Assignor has agreed to sell and transfer all of its right, title, and interest in the Project to Assignee;

WHEREAS, Assignor desires to assign and transfer to Assignee all of Assignor’s right, title and interest in and to the Bonds, the Performance Agreement, the Origination Fee Agreement and the Other Bond Documents and all of its right, title and interest as lessor under the Base Lease and sublessee under the Sublease; and

WHEREAS, Assignee desires to accept such assignment and assume Assignor’s obligations thereunder, subject to the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, for and in consideration of the promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Assignment.** As of the Effective Date, Assignor hereby sells, transfers, conveys, assigns, and delivers to Assignee the following (collectively, the “**Assigned Interests**”):

- (a) Assignor’s right, title and interest as lessor in and to the Base Lease;
- (b) The subleasehold interest created under the Sublease, together with all of Assignor’s rights and interest under the Sublease, which demises the Project, including the Real Property, and all of Assignor’s rights and interests in the Project, including the buildings, structures, improvements, fixtures, machinery, and equipment situated on the real estate and all of its additions, alterations, modifications, and improvements.
- (c) All of Assignor’s rights and interest under the Performance Agreement, the Origination Fee Agreement and the Other Bond Documents; and
- (d) All of Assignor’s rights and interest in the Bonds.

2. **Assumption.** Assignee accepts all of the Assigned Interests assigned by Assignor in Paragraph 1 and assumes and agrees to pay, perform, and discharge promptly and fully when and as required all obligations and liabilities of the Assignor under the Base Lease, the Sublease, the Performance Agreement, the Origination Fee Agreement, the Bonds and the Other Bond Documents that accrue on or after the Effective Date.

3. **Delivery of documents; representations.** Assignor represents to the City and the Trustee that there has been no damage or destruction to the Project that has not been repaired, restored, and replaced in accordance with the terms of the Lease.

4. **Consent.** Assignor and Assignee acknowledge that the within assignment and assumption has been consented to by the City, and acknowledged by the Trustee, pursuant to that certain Consent, Agreement and Estoppel Certificate dated _____, 2020 executed by the City and the Trustee.

5. **Further Assurances; Cooperation.** The parties agree to execute and deliver any additional documents and instruments and perform any additional acts that may be reasonably necessary to effectuate the intent of this Assignment. Without limiting the generality of the foregoing, the parties further agree to execute any additional documents required for the transfer of the Bonds to Assignee, as may be required by the Indenture.

6. **Successors and Assigns.** This Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

7. **Counterparts.** This Assignment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

8. **Governing law.** This Assignment shall be interpreted and construed under the laws of the State of Kansas, excluding any conflict of law or choice-of-law rules that might lead to the application of the internal laws of another jurisdiction.

9. **Recording.** Assignee shall submit this Assignment for recording in the Office of the Register of Deeds of Johnson County, Kansas on or about the Effective Date.

10. **Indemnity.** Assignor hereby indemnifies and holds Assignee harmless from and against all third party claims, demands, losses, damages, expenses and costs, including, but not limited to, reasonable lawyer's fees and expenses actually incurred, arising out of or in connection with Assignor's failure to observe, perform and discharge each and every one of the covenants, obligations, and liabilities of the Assignor under the Base Lease, the Sublease, the Performance Agreement, the Origination Fee Agreement and the Other Bond Documents to be observed, performed, or discharged with respect to the period prior to the Effective Date. Assignee hereby indemnifies and holds Assignor harmless from and against all third party claims, demands, losses, damages, expenses, and costs including, but not limited to, reasonable lawyer's fees and expenses actually incurred, arising out of or in connection with Assignee's failure, from and after the date of this Assignment, to observe, perform, and discharge all covenants, obligations, and liabilities under the Base Lease, the Sublease, the Performance Agreement, the Origination Fee Agreement and the Other Bond Documents with respect to the period on and after the Effective Date.

[Signature pages to follow]

IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized representatives to execute this Assignment as of the Effective Date.

ASSIGNOR:

Midwest Gateway Venture, LLC,
a Delaware limited liability company

By: IRA Foxfield JV, LLC
a Delaware limited liability company
Its: Manager

By: CB MGCV, LLC
a Kansas limited liability company
Its: Manager

By: _____
Name: Keith Copaken, Manager

ACKNOWLEDGMENT

STATE OF _____)
) ss
COUNTY OF _____)

BE IT REMEMBERED, that on this ____ day of _____, 2020, before me the undersigned, a Notary Public in and for the County and State aforesaid, came Keith Copaken, the Manager of CB MGB, LLC, a Kansas limited liability company, manager of IRA Foxfield JV, LLC, a Delaware limited liability company, manager of Midwest Gateway Venture, LLC, a Delaware limited liability company, who is personally known to me to be such manager and who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said company, and such officer duly acknowledged the execution of the same to be the act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

My Commission Expires:

Notary Public

ASSIGNEE:

DOT'S PRETZEL, LLC, a Delaware limited liability company

By:

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____)
) ss
COUNTY OF _____)

BE IT REMEMBERED, that on this ____ day of _____, 2020, before me the undersigned, a Notary Public in and for the County and State aforesaid, came _____, the _____ of DOT'S PRETZEL, a Delaware limited liability company, who is personally known to me to be such _____ and who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said company, and such officer duly acknowledged the execution of the same to be the act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

My Commission Expires:

Notary Public

CONSENT OF THE CITY OF EDGERTON, KANSAS

The City hereby acknowledges, consents and agrees to the execution and delivery of this Assignment and Assumption of Lease Agreements and Related Bond Documents dated _____, 2020, between Midwest Gateway Venture, LLC, a Delaware limited liability company, and Dot's Pretzel, LLC, a Delaware limited liability company.

CITY OF EDGERTON, KANSAS

[SEAL]

By: _____
Donald Roberts, Mayor

ATTEST:

Rachel A. James, City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF WYANDOTTE)

BE IT REMEMBERED, that on this ____ day of _____, 2020, before me the undersigned, a Notary Public in and for the County and State aforesaid, came Donald Roberts, Mayor of the City of Edgerton, Kansas, who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said corporation, and such officer duly acknowledged the execution of the same to be the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

My commission expires _____.

CONSENT OF TRUSTEE

SECURITY BANK OF KANSAS CITY, as trustee, hereby acknowledges and consents to the execution and delivery of this Assignment and Assumption of Lease Agreements and Related Bond Documents dated _____, 2020, between Midwest Gateway Venture, LLC, a Delaware limited liability company, and Dot's Pretzel, LLC, a Delaware limited liability company.

The Trustee represents and warrants to the City of Edgerton, Kansas and the Assignee that the Trustee has no knowledge of any default, monetary or otherwise, that has occurred under the terms of the Leases.

SECURITY BANK OF KANSAS CITY

By: _____
Erica Lemon
Vice President

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF JOHNSON)

BE IT REMEMBERED, that on this ____ day of _____, 2020, before me the undersigned, a Notary Public in and for the County and State aforesaid, came Erica Lemon, Vice President, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said corporation, and such officer duly acknowledged the execution of the same to be the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

Typed Name: _____

My commission expires _____.

EXHIBIT A

LOT 2, MIDWEST GATEWAY, a Subdivision in the City of Edgerton, Johnson County, Kansas

.

CITY OF EDGERTON, KANSAS

COUNCIL AGENDA ITEM

Council Meeting Date: January 23, 2020

Agenda Item: Public Hearing
Partial Assignment of Resolution of Intent

Subject: IRBs and Property Tax Abatement for ELHC VII, LLC

Hearing Notice Published: January 15, 2020 in the *Gardner News*

Summary:

The City has received an application for industrial revenue bonds and property tax abatement from ELHC VII, LLC. ELHC VII desires to construct an approximately 952,000 sq. ft. warehouse and distribution facility located at 30901 W. 185th Street, Edgerton, Kansas. In order for the City to issue industrial revenue bonds and grant property tax abatement, the City must first hold a public hearing, consider the cost-benefit report and then approve a partial assignment of the Master Resolution of Intent.

Public Hearing

A notice of the public hearing has been published at least seven days prior to the date of this meeting. Written notice of the public hearing has also been provided to the County and the School District. The Council should take comments from the public.

Cost-Benefit Report

Columbia Capital Management, LLC has prepared a cost-benefit report for the proposed project. The Council should consider the cost-benefit report and ask any questions the Council may have about the report.

Partial Assignment of Resolution of Intent

The City previously adopted a Master Resolution of Intent for the benefit of Edgerton Land Holding Company, LLC (“Edgerton Land”) for constructing various projects in the Logistics Park-Kansas City, and provided for the issuance of up to \$1,000,000,000 in industrial revenue bonds. The Master Resolution of Intent allows Edgerton Land to assign portions of the Master Resolution of Intent to various companies that locate within the park. The partial assignment of the Master Resolution of Intent assigns \$45,000,000 of the Master Resolution of Intent to ELHC VII for the purpose of constructing this project.

RESOLUTION NO. 01-23-20C

**RESOLUTION CONSENTING TO THE PARTIAL ASSIGNMENT OF A
RESOLUTION OF INTENT FROM EDGERTON LAND HOLDING COMPANY,
LLC TO ELHC VII, LLC, OR ITS SUCCESSORS IN INTEREST**

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

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

WHEREAS, the City adopted Resolution No. 07-08-10A on July 8, 2010, as amended by Resolution No. 04-25-13A adopted on April 25, 2013 and Resolution No. 04-09-15A adopted on April 9, 2015 (collectively, the “Resolution of Intent”) determining the intent of the City to issue its industrial revenue bonds in multiple series, the aggregate amount of all series not to exceed \$1,000,000,000 (the “Bonds”), to finance the costs of acquiring, constructing, reconstructing, improving and equipping the Logistics Park Projects (as defined in the Resolution of Intent) for the benefit of Edgerton Land Holding Company, LLC (the “Developer”); and

WHEREAS, the Resolution of Intent permits the Developer, with the consent of the City, to assign a portion of its interest in the Resolution of Intent to another entity, thereby conferring on such entity the benefits of the Resolution of Intent and the proceedings related thereto; and

WHEREAS, the Developer desires to assign \$45,000,000 of its interest in the Resolution of Intent to ELHC VII, LLC, a Kansas limited liability company (the “Company”), for the purposes of permitting the Company to acquire, construct and equip a commercial project, consisting of an approximately 952,000 sq. ft. warehouse and distribution facility (the “ELHC VII Project”), located at 30901 W. 185th Street, Edgerton, Kansas; and

WHEREAS, the City desires to consent to such partial assignment of the Resolution of Intent to the Company.

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

Section 1. Partial Assignment of Resolution of Intent. The Governing Body of the City hereby consents to the assignment by the Developer of \$45,000,000 of the Developer’s interest in the Resolution of Intent to the Company for the purposes of completing the ELHC VII Project, which is a Logistics Park Project. The City agrees that the Company will now be entitled to the benefits of the Resolution of Intent to the same extent and on the same terms as the Developer with respect to the ELHC VII Project.

Section 2. Authorization to Proceed. The Company is authorized to proceed with the acquiring, constructing and equipping of the ELHC VII Project, and to advance such funds as may be necessary to

accomplish such purposes, and, to the extent permitted by law, the City will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

Section 3. Benefit of Resolution. This Resolution will inure to the benefit of the City and the Company. The Company may, with the prior written consent of the City, assign its interest in this Resolution and the Resolution of Intent to another entity, and such assignee will be entitled to the benefits of this Resolution, the Resolution of Intent and the proceedings related hereto.

Section 4. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

ADOPTED this 23rd day of January, 2020.

CITY OF EDGERTON, KANSAS

[SEAL]

By: _____
Donald Roberts, Mayor

ATTEST:

Rachel James, City Clerk

Approved as to form:

Scott W. Anderson, Bond Counsel



6330 Lamar
Suite 200
Overland Park, Kansas 66202
Jeff White, Managing Member
913.312.8077
jwhite@columbiacapital.com

January 9, 2020

Ms. Beth Linn
City Administrator
City of Edgerton
404 East Nelson
Edgerton, Kansas 66021

RE: Cost-Benefit Analysis for ELHC VII, LLC

Dear Beth:

Please find attached the results of our cost-benefit analysis related to the projected property tax abatement to be granted by the City to applicant ELHC VII, LLC which plans to construct a 953,000 square foot warehouse and distribution facility in Phase 1 of Logistics Park Kansas City (**LPKC**). The purpose of this analysis is to satisfy the City's requirement pursuant to KSA 12-1749d or KSA 79-251(a)(1) to undertake a cost-benefit analysis before granting a property tax abatement. Consistent with City policy for development within LPKC, this analysis assumes the City will grant a 100% property tax abatement for 10 years with the applicant paying an annual payment-in-lieu-of-taxes equal to \$0.21 per square foot on the project.

BACKGROUND

As part of negotiations with the original master developer on the potential location of LPKC in Edgerton, the Edgerton City Council approved an incentives program that provides ten-year property tax abatements for projects locating in LPKC. The purpose of these abatements was to ensure that rents paid by the eventual users of buildings constructed by the master developer would be competitive against warehouse/distribution developments in Olathe, south Kansas City, Riverside and those located in other cities, including Dallas, Chicago, Memphis and Indianapolis. Like Edgerton, these communities also have incentives programs in place for warehouse and distribution facilities.

The original master developer reported—and its successor, NorthPoint Development/Edgerton Land Holding Company (**ELHC**)—continues to make the argument that, without the abatement incentives, large-scale warehouse and distribution facilities would not materialize in LPKC and certainly not at the pace of development LPKC has seen in recent years: the presence of the abatements was and is a necessary condition to the development of the project.

ABATEMENT MECHANICS

Under Kansas law, every ad valorem tax abatement is a 100% abatement. Cities granting an abatement have the right to negotiate payments-in-lieu-of-tax (**PILOT**)

payments from the abatement beneficiary to reduce the effective value of the abatement to that party. PILOT payments are distributed by Kansas counties to all taxing jurisdictions affected by the abatement in the same proportion as regular property taxes.

Property tax abatements effectively defer a portion of the tax benefit on new development for a period of up to 10 years. Although property tax abatements can create a loss of status quo ante tax revenues for taxing jurisdictions, abatements at LPKC have a very limited impact on existing tax revenues. Because the vast majority of undeveloped land within the boundaries of LPKC is classified for property tax purposes as “farming or ranch operations,” status quo ante property taxes in the aggregate within LPKC tend to total less than \$50 per acre per year.

ECONOMICS

The subject property is approximately 55.7 acres in size and will house a 953,000 square foot warehouse and distribution facility when this expansion is completed. Pursuant to the City’s agreement with the master developer, this analysis assumes the City will provide the applicant with a 100% property tax abatement for 10 years. We have further assumed that, consistent with its agreement with the master developer, the City will impose a \$0.21 per square foot per year PILOT.

The table below reflects the immediate impact on property tax/PILOT receipts from the expansion on the subject property, assuming a status quo ante tax burden of \$50 per acre per year and based upon November 2019 levy rates published by Johnson County.

ENTITY	LEVY	% of TOTAL	EXISTING TAXES LOST	NEW PILOTs PAID	ANNUAL NET TAX GAIN/(LOSS)
State of KS	1.500	1.07%	\$(30)	\$ 2,147	\$ 2,117
Johnson Co.	19.036	13.61%	(379)	27,247	26,868
JCCC	9.121	6.52%	(182)	13,055	12,873
JCPRD	3.090	2.21%	(62)	4,423	4,361
Edgerton	30.881	22.09%	(615)	44,201	43,586
USD 231 Uniform	20.000	14.30%	(399)	28,627	28,228
USD 231 Capital †	8.000	0.00%	-	63,800	63,800
USD 231 Other	18.801	13.45%	(375)	26,911	26,536
USD 231 Bond	18.974	13.57%	(378)	27,158	26,780
Fire Dist #1	14.513	10.38%	(289)	20,773	20,484
Library	3.904	2.79%	(78)	5,588	5,510
	147.820	100.00%	\$(2,787)	\$ 263,930	\$ 261,144

† The USD 231 Capital Levy will not be abated. “New PILOTs Paid,” in this case, reflect projected property taxes paid.

COST-BENEFIT ANALYSIS DETAILS AND ASSUMPTIONS

KSA 12-1749d(2) requires notification of anticipated abatements only to counties or school districts affected. As a result, our analysis focuses on financial impacts to the City, Johnson County and USD 231 Gardner/Edgerton Schools (the **District**). We have not calculated the cost-benefit impacts for other taxing jurisdictions. State law also requires the analysis to include “the effect of the exemption on state revenues.” Our modeling includes such an estimate.

Our cost-benefit modeling relies on a number of key assumptions in the calculation of net present value benefit to the City, Johnson County and USD 231. Most of our

assumptions are derived from public information. Some of these key assumptions include:

- An evaluation of the direct costs and benefits of the project. Columbia's model does not include indirect or "spin-off" effects as a result of input-output multipliers.
- A ten-year analysis timeframe, matching the maximum permitted term of the abatement.
- Direct costs to affected taxing jurisdictions as estimated by Columbia based upon annual audits, proposed and adopted budgets, published tax rates and other publically available information for the taxing jurisdictions affected.
- Where applicable, reliance upon statistical data as reported by the United States Census Bureau and Kansas Department of Revenue.
- The use of a discount rate comprised of two components: a risk-free rate of return (the current yield of the on-the-run 10-year US Treasury) plus a risk premium of two (2) percent. The value of the discount rate is a proxy for the opportunity cost of the City (and other agencies) of foregoing the future property and/or sales tax revenues that would be generated by the development. Thought of another way, if the City had those revenues in hand and placed them in an alternative investment with the same risk characteristics, what would be its expected rate of return?

RECENT STATUTORY CHANGE

Reflecting a change adopted during the 2017 legislative session, this analysis assumes the District's capital levy (eight mills) will not be abated.

USING THE COST-BENEFIT MODELING RESULTS

The output of the model is presented as the net present value benefit/(cost) of the project for the City, County and school district over the 10-year life of the abatement on each project. The net benefit (or, if negative, cost) of the incentive package is presented in today's dollars. The estimated impact on State revenues is presented in nominal (future value) terms. We also provide an estimated future value project contribution to the City's Public Infrastructure Fund (**PIF**). While the modeling shows a significant net present value benefit to the City, it is important to note that the vast majority of this net benefit is reinvested in Phase 1 of LPKC through the Public Infrastructure Fund which is the funding source for the majority of public infrastructure to be developed to serve Phase 1 of LPKC.

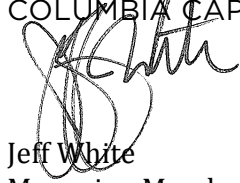
In the preparation of this cost-benefit analysis, Columbia has relied upon the information provided to it by applicant and has not independently verified or validated these data. The City must draw its own conclusions as to the reliability of these data.



Finally, the intent of this analysis and of the applicable statutes is to inform the governing body's policy debate about the value of the abatement incentive it is providing to the applicant. The project's generation of a net present value benefit to the agencies affected should be but one of the many factors in the governing body's decision about whether and how much incentive to provide to any applicant.

Thank you in advance for your thoughtful consideration of the analysis attached. Please let me know if you have any questions.

Respectfully submitted,
COLUMBIA CAPITAL MANAGEMENT, LLC

A handwritten signature in black ink, appearing to read "Jeff White", is written over the company name.

Jeff White
Managing Member



SUMMARY OF COSTS AND BENEFITS
City of Edgerton, Kansas

APPLICANT INFORMATION:

Application Date:	12/6/19	Summary of Incentives Provided:	Construction of an approximate 953,000 s.f. warehousing facility at the southeast corner of 185rd St and Montrose St. LPKC
Firm Name:	ELHC VII, LLC		Phase 1: 100% real property tax abatement for a 10 year period, as well as a construction sales tax exemption for materials, with a PILOT payment of \$0.21/s.f. per year.
Firm Address:	4825 NW 41st St, Suite 500 Riverside, Missouri 64150		
Firm Contact:	Patrick Robinson 913.915.7150	Building Size (sf):	953,000

SUMMARY OF INCENTIVE PACKAGE (LOCAL GOVERNMENT IMPACTS ONLY):

Year	Property Tax Abatement		Construction Sales Tax Abatement		Direct Incentives		
	(%)	(\$)	(%)	(\$)	City	County	School
2	100	901,949	100	0	0	0	0
3	100	901,949	100	0	0	0	0
4	100	901,949	100	0	0	0	0
5	100	901,949	100	0	0	0	0
6	100	901,949	100	0	0	0	0
7	100	901,949	100	0	0	0	0
8	100	901,949	100	0	0	0	0
9	100	901,949	100	0	0	0	0
10	100	901,949	100	0	0	0	0
11	100	901,949	100	0	0	0	0

PAYMENT IN LIEU OF TAXES RECEIPTS:

City	County	School
(\$)	(\$)	(\$)
41,809	25,772	89,051
41,809	25,772	89,051
41,809	25,772	89,051
41,809	25,772	89,051
41,809	25,772	89,051
41,809	25,772	89,051
41,809	25,772	89,051
41,809	25,772	89,051
41,809	25,772	89,051
41,809	25,772	89,051
41,809	25,772	89,051

SUMMARY OF PRESENT VALUE BENEFITS:

City Summary				
Year	Total Benefits	Total Costs	Net Benefit	Net PV Benefit
2	690,768	268,472	422,296	391,791
3	689,617	268,472	421,145	376,347
4	689,655	268,472	421,183	362,533
5	689,696	268,472	421,224	349,227
6	689,739	268,472	421,267	336,412
7	689,784	268,472	421,312	324,068
8	689,831	268,472	421,359	312,179
9	689,881	268,472	421,409	300,728
10	689,933	268,472	421,460	289,699
11	689,987	268,472	421,515	279,076
	6,898,890	2,684,720	4,214,170	3,322,060

County Summary			
Total Benefits	Total Costs	Net Benefit	Net PV Benefit
178,345	161,326	17,018	15,789
176,942	161,326	15,616	13,955
176,998	161,326	15,671	13,489
177,056	161,326	15,729	13,041
177,117	161,326	15,791	12,610
177,181	161,326	15,855	12,195
177,248	161,326	15,922	11,796
177,319	161,326	15,993	11,413
177,393	161,326	16,067	11,044
177,471	161,326	16,145	10,689
1,773,070	1,613,263	159,807	126,022

School District Summary			
Total Benefits	Total Costs	Net Benefit	Net PV Benefit
624,786	464,428	160,358	148,775
624,786	464,428	160,358	143,301
624,786	464,428	160,358	138,028
624,786	464,428	160,358	132,949
624,786	464,428	160,358	128,058
624,786	464,428	160,358	123,346
624,786	464,428	160,358	118,807
624,786	464,428	160,358	114,436
624,786	464,428	160,358	110,225
624,786	464,428	160,358	106,170
6,247,862	4,644,279	1,603,582	1,264,094

SUMMARY OF ECONOMIC IMPACT (over 10-year period):

Number of jobs to be created :	220
Number of new residents:	
City	6
County	7
School District	7
Expected 10-Year Contribution to PIF:	\$ 3,182,100
Impact of exemption on state revenues:	\$ (116,942)



EDGERTON
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404 East Nelson
Edgerton, KS 66021
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City Council Action Item

Council Meeting Date: January 23, 2020

Department: Public Works

Agenda Item: Consider Ordinance No. 2031 Amending Chapter XIV, Article 2 of The Municipal Code of The City of Edgerton, Kansas to Replace Code Section 14-203 And Repeal All Other Ordinances or Parts of Ordinances in Conflict Therewith.

Background/Description of Item:

In 2019, the City of Edgerton updated the City Code to accurately reflect the truck routes within the City. Additionally, when Logistics Park Kansas City (LPKC) opened in October 2013, the City of Edgerton City Council approved several routes adjacent to LPKC as an Overweight Corridor to allow LPKC businesses the ability to fully utilize the additional weight allowed by BNSF Railway over what normally allowed on roadways.

Recently, staff realized the City Code was not updated at that time to reflect roads designated by City Council as the Overweight Corridor. Draft Ordinance No. 2031 simply formalizes the differentiation between a standard truck route and the Overweight Corridor as previously designated by City Council. A standard truck route allows a gross vehicle weight of up to 80,000 pounds, the same weight as allowed on the federal interstate system. The Overweight Corridor routes allow a gross vehicle weight of up to 96,000 pounds. These routes are only in LPKC, north of Interstate 35. The standard truck routes listed in the ordinance are the exact same as designated by City Council earlier this year.

Related Ordinance(s) or Statue(s):

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approve Ordinance No. 2031 Amending Chapter XIV, Article 2 of The Municipal Code of The City of Edgerton, Kansas to Replace Code Section 14-203 And Repeal All Other Ordinances or Parts of Ordinances in Conflict Therewith.

Enclosed: Draft Ordinance No. 2031

Prepared by: Beth Linn, City Administrator

ORDINANCE NO. 2031

AN ORDINANCE AMENDING CHAPTER XIV, ARTICLE 2 OF THE MUNICIPAL CODE OF THE CITY OF EDGERTON, KANSAS TO REPLACE CODE SECTION 14-203 AND REPEAL ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

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

SECTION 1. Chapter XIV, Article 2, Section 14-203 of the City Code of the City of Edgerton, Kansas, which is titled "MISCELLANEOUS TRUCK RESTRICTIONS", is hereby amended to read as follows:

14-203. MISCELLANEOUS TRUCK RESTRICTIONS.

(a) For the purposes of this Section, the following terms, phrases, words and their derivations shall have the following meanings:

- (1) Truck Tractor: Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
- (2) Trailer: Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that some part of its weight and that of its load rests upon the towing vehicle.
- (3) Semitrailer: Every vehicle, with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.
- (4) Vehicle: Every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved by human power or used exclusively upon stationary rails or tracts.

(b). **Heavy Trucks Prohibited.** It shall be unlawful for any person, firm or corporation to operate any truck, truck tractor, semitrailer, other commercial vehicle, or any combination of vehicles with a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 24,000 pounds or more upon any street within the City of Edgerton, Kansas except on a designated Truck Route as described in Subsection (c) Truck Routes below.

These provisions shall not be applicable to the following:

- (1) police, fire or ambulance vehicles;
- (2) city, county or franchised utility maintenance vehicles while engaged in repair, maintenance or construction activities;
- (3) garbage collection vehicles while engaged in collection activities from premises adjacent to the restricted streets;

- (4) U.S. Postal delivery vehicles;
- (5) school buses and school district vehicles;
- (6) City or County owned or sponsored public transportation vehicles while engaged in public transportation activities;
- (7) moving vans while engaged in moving activities at premises on the restricted streets;
- (8) vehicles involved in delivery or other service activities to premises on restricted streets so long as such moving, delivery, and/or service vehicles take the most direct route when entering or leaving the premises;
- (9) the owner/agent of any truck tractor shall be permitted to enter upon street not designated as truck route at the cross street nearest to the house or premises in the direction in which the vehicles are moving for the purpose of parking the truck tractor on private property at the residence of the owner/agent. Nothing in this section shall allow the maintenance of a nuisance or the disturbance of peace of any resident of the Edgerton City area.

(c) **Truck Routes.** The following streets are designated and assigned as Truck Routes in the City of Edgerton:

- East 2nd Street: 56 Highway to Braun (207th Street)
- East 4th Street: Nelson Street to 56 Highway
- West 8th Street (Edgerton Road): Braun (207th Street) to 56 Highway
- Nelson Street: from Sunflower Road to 4th Street
- Sunflower Road: I-35 to Nelson Street
- Braun (207th Street): Sunflower Road to 8th Street (Edgerton Road)
- 181st Street: Waverly Road west to termination
- 183rd Street: Montrose Street east to Edgerton City Limits
- 185th Street: Waverly Road to Montrose Street
- 187th Street: Kill Creek Road to Waverly Road
- 191st Street: Four Corners Road east to Edgerton City Limits
- 193rd Street: Essex Street to Homestead Lane
- 196th Street: Montrose Street west to Edgerton City Limits
- 207th Street: Homestead Lane east to Edgerton City Limits
- Homestead Lane: 191st Street to 207th Street
- Kill Creek Road: 191st Street to 187th Street
- Waverly Road: 196th Street to 181st Street
- Montrose Street: 183rd Street to 196th Street
- Essex Street: 191st Street to termination south of 193rd Street

(d) **Weight Restrictions on Truck Routes.** It shall be unlawful for any person, firm or corporation to operate any truck, truck tractor, semitrailer, other commercial vehicle, or any combination of vehicles with a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 80,001 pounds or more upon any Truck Route within the City of Edgerton, Kansas except as permitted on an Overweight Corridor Route as described in Subsection (e) Overweight Corridor Routes below.

These provisions shall not be applicable to the following:

- (1) the owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment;
- (2) persons operating motor vehicles which have an ad valorem tax situs in and are registered in the State of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles;
- (3) motor vehicles used to transport water for domestic purposes or livestock consumption;
- (4) the operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state.

(e) **Overweight Corridor Routes.** The following streets are designated and assigned as Overweight Corridor Routes in the City of Edgerton:

- 181st Street: Waverly Road west to termination
- 183rd Street: Montrose Street east to Edgerton City Limits
- 185th Street: Waverly Road to Montrose Street
- 187th Street: Kill Creek Road to Waverly Road
- 191st Street: Four Corners Road east to Edgerton City Limits
- 193rd Street: Essex Street to Homestead Lane
- 196th Street: Montrose Street west to Edgerton City Limits
- Essex Street: 191st Street to termination south of 193rd Street
- Homestead Lane: 191st Street to Interstate 35
- Kill Creek Road: 191st Street to 187th Street
- Waverly Road: 196th Street to 181st Street
- Montrose Street: 183rd Street to 196th Street

(f) **Weight Restrictions on Overweight Corridor Routes.** It shall be unlawful for any person, firm or corporation to operate any truck, other commercial vehicle, or any combination of vehicles with a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 96,001 pounds or more upon any Overweight Corridor Route within the City of Edgerton, Kansas.

(g) **Parking of a Truck Tractor.** The owner/agent of any truck tractor shall be permitted to enter upon a street not designated as a truck route at the cross street nearest to the house or premises in the direction in which the vehicles are moving for the purpose of parking the truck tractor on private property at the residence of the owner/agent. Nothing in this section shall allow the maintenance of a nuisance or the disturbance of the peace of any resident of the area.

(h) **Hazardous Materials.** It shall be unlawful for any motor vehicle used solely for the transportation of explosives, flammable liquids or liquefied petroleum gases, which for such purpose if provided with a tank or tanks mounted on the frame or chassis of such vehicle or any vehicle without its own motive power but drawn by a motor vehicle, used for this same purpose to be parked or permitted to stand in any area of the city designated as a residential area, longer than is necessary to make a lawful delivery. Fertilizer and ammonia trucks and hazardous gasses of any kind are included.

SECTION 2. REPEAL OF CONFLICTING ORDINANCES. All ordinances or sections of ordinances in conflict herewith are hereby repealed.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage, approval and publication once in the City's official paper.

PASSED by the Council and APPROVED by the Mayor on this 23rd day of January, 2020.

DONALD ROBERTS, Mayor

ATTEST:

RACHEL JAMES, City Clerk

APPROVED AS TO FORM:

LEE W. HENDRICKS, City Attorney

City Council Action Item

Council Meeting Date: January 23, 2020

Department: Public Works

Agenda Item: Consider Ordinance No. 2032 Approving The Descriptions And Survey Of Lands Necessary For Acquisition Of Right of Way and Easements Needed For Constructing The 207th Street Grade Separation Project And Associated Improvements

Background/Description of Item:

At the January 11, 2018 City Council Meeting, the Council approved the Preliminary Design Agreement with HDR for design services for the 207th Street Grade Separation Project. In November 2018, the Council approved the design of the "Off-Alignment" bridge presented by HDR and chose to forego the acceptance of federal funding in order to free up time for staff and decrease the cost of federal prevailing wage requirements. On February 14, 2019, Edgerton City Council approved Amendment #1 with HDR for the Final Design of the Project.

The Project requires acquisition of rights-of-way and easements from several property owners near the 207th Street and Co-op Road intersection. Requests to grant rights-of-way and easements were mailed to property owners in September with a request to have signed easements or rights-of-way returned by end of October. Staff has met with or spoken to several of those property owners. Staff continues to negotiate easements with property owners. However, for those property owners who do not, staff anticipates the need to exercise the use of condemnation for acquiring the remaining easements.

On January 9, 2020 City Council took the first step by passing Resolution No. 01-09-20A, confirming the necessity for condemnation and authorizing the preparation of survey and legal descriptions. Passing that resolution does not prohibit the City from continuing to negotiate and/or acquire the easements. It simply authorizes the preparation of the legal descriptions. That Resolution with the associated right of way and easement descriptions was published in the Gardner News on January 22, 2020. City Attorney has prepared the enclosed draft ordinance as the next step in the condemnation process.

The 207th Street Grade Separation Project (design, construction, inspection, utility relocations, right-of-way acquisition, etc.) is funded entirely from the Public Infrastructure Fund as part of the City's agreements with BNSF Railway and Edgerton Land Holding Company for Logistics Park Kansas City (LPKC). No city general fund dollars will be used for this project.

Related Ordinance(s) or Statue(s): N/A

Funding Source: LPKC Phase I Public Infrastructure Fund

Budget Allocated: \$15,000,000

Finance Director Approval: x 
Karen Kindle, Finance Director

Recommendation: Approve Ordinance No. 2032 Approving The Descriptions And Survey Of Lands Necessary For Acquisition Of Right of Way and Easements Needed For Constructing The 207th Street Grade Separation Project And Associated Improvements

Enclosed: Draft Ordinance No. 2032

Prepared by: Katy Crow, Development Services Director

ORDINANCE NO. 2032

AN ORDINANCE APPROVING THE DESCRIPTION AND SURVEY OF LANDS NECESSARY FOR ACQUISITION OF RIGHT OF WAY AND EASEMENTS NEEDED FOR CONSTRUCTING THE 207TH STREET GRADE SEPARATION PROJECT AND ASSOCIATED IMPROVEMENTS

WHEREAS, K.S.A. 26-201 requires that, prior to commencing condemnation proceedings, the Governing Body, by passage of an ordinance, authorize and provide for the acquisition of land or interest needed by the City, set forth the land or interest to be condemned, state for what purpose the condemned land or interest in land is to be used, and, if applicable, designate, as a benefit district, property specifically benefited by the proposed improvement.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS:

Section 1. That the description and survey of right of way, temporary easements and permanent easements necessary for the construction of the 207th Street Grade Separation project within the City of Edgerton and Johnson County, Kansas -- as prepared by the City Engineer, and filed with the City Clerk pursuant to Resolution No. 01-09-20A (adopted by the Governing Body of the City of Edgerton, Kansas on January 9, 2020), are hereby approved.

Section 2. That the action of the Governing Body of the City of Edgerton, Kansas in acquiring right of way, temporary easements and permanent easements necessary for construction of the 207th Street Grade Separation project within Johnson County, Kansas has been declared necessary by the Governing Body.

Section 3. That the acquisition of rights-of-way, permanent and temporary easements, as described hereinafter, is all in accordance with and under the provisions of Chapter 26 of the Kansas Statutes Annotated.

Section 4. That there be and there is hereby declared to be public necessity to acquire, by Eminent Domain Proceedings for the purpose of constructing the 207th Street Grade Separation project, which includes the construction of a bridge over the railroad at the intersection of 207th Street and Co-Op Road, as well as other road improvements for the safety of motorists, all as described in Section 1 of this Ordinance, the land hereinafter described:

Parcel No. 4F221518-1012 (37305 W 207TH ST)

Right-of-Way Description

All that part of the Northwest Quarter of Section 18, Township 15 South, Range 22 East, in Johnson County Kansas, more particularly described as follows:

Commencing at the Northwest corner of the Northwest Quarter of Section 18, Township 15 South, Range 22 East, in Johnson County; thence North 87°40'21" East along the north line of said Northwest Quarter a distance of 831.50 feet; thence South 01°52'35" East along a line parallel to the west line of said Northwest Quarter a distance of 20.00 feet to the Point of beginning; thence continuing South 01°52'35" East along a line parallel to the west line of said Northwest Quarter a distance of 5.27 feet; thence southwesterly, along a non-tangent curve to the right having a radius of 545.00 feet a chord bearing of South 82°15'00" West, and a chord length of 103.01 feet for a distance of 103.16 feet; thence South 87°40'21" West parallel to the north line of said Northwest Quarter a distance of 50.00 feet; thence North 02°19'39" West a distance of 15.00 feet to a point on the existing south R/W line of 207th Street; thence North 87°40'21" East along said existing R/W line a distance of 152.59 feet to the Point of Beginning, containing 1,957 square feet, or 0.045 acres, more or less.

Permanent Utility Easement Description

All that part of the Northwest Quarter of Section 18, Township 15 South, Range 22 East, in Johnson County Kansas, more particularly described as follows:

Commencing at the Northwest corner of the Northwest Quarter of Section 18, Township 15 South, Range 22 East, in Johnson County; thence North 87°40'21" East along the north line of said Northwest Quarter a distance of 831.50 feet; thence South 01°52'35" East along a line parallel to the west line of said Northwest Quarter a distance of 25.27 feet to the Point of beginning; thence continuing South 01°52'35" East along a line parallel to the west line of said Northwest Quarter a distance of 5.10 feet; thence southwesterly, along a non-tangent curve to the right having a radius of 550.00 feet a chord bearing of South 82°18'07" West, and a chord length of 102.96 feet for a distance of 103.11 feet; thence South 87°40'21" West parallel to the north line of said Northwest Quarter a distance of 50.00 feet; thence North 02°19'39" West a distance of 5.00 feet to a point on the proposed R/W line; thence North 87°40'21" East parallel to the north line of said Northwest Quarter a distance of 50.00 feet; thence northeasterly, along a non-tangent curve to the left having a radius of 545.00 feet a chord bearing of North 82°15'00" East, and a chord length of 103.01 feet for a distance of 103.16 feet to the Point of Beginning, containing 766 square feet, or 0.018 acres, more or less.

Parcel No. BF221518-3001 (20920 SUNFLOWER RD)

Right-of-Way Description

All that part of the Northeast Quarter of Section 18, Township 15 South, Range 22 East, in Johnson County Kansas, more particularly described as follows:

Commencing at the Northwest corner of the Northeast Quarter of Section 18, Township 15 South, Range 22 East, in Johnson County; thence South 02°37'28" East along the west line of said Northeast Quarter a distance of 40.00 feet to a point on the existing south R/W line of 207th Street; thence North 88°01'16" East along said R/W line a distance of 250.87 feet to the Point of beginning; thence southeasterly, along a non-tangent curve to the left having a radius of 1,047.00 feet a chord bearing of South 88°39'52" East, and a chord length of 121.07 feet for a distance of 121.14 feet; thence North 01°58'44" West a distance of 7.00 feet to a point on said existing south R/W line of 207th Street; thence South 88°01'16" West along said existing R/W line a distance of 120.87 feet to the Point of Beginning, containing 564 square feet, or 0.013 acres, more or less.

Temporary Construction Easement Description

All that part of the Northeast Quarter of Section 18, Township 15 South, Range 22 East, in Johnson County Kansas, more particularly described as follows:

Commencing at the Northwest corner of the Northeast Quarter of Section 18, Township 15 South, Range 22 East, in Johnson County; thence South 02°37'28" East along the west line of said Northeast Quarter a distance of 40.00 feet to a point on the existing south R/W line of 207th Street; thence North 88°01'16" East along the said R/W line a distance of 250.87 feet to the Point of beginning; thence southeasterly, along a non-tangent curve to the left having a radius of 1,047.00 feet a chord bearing of South 88°39'52" East, and a chord length of 121.07 feet for a distance of 121.14 feet; thence North 01°58'44" West a distance of 7.00 feet to a point on said existing south R/W line of 207th Street; thence North 88°01'16" East along said existing R/W line a distance of 100.00 feet; thence South 75°36'49" West a distance of 102.39 feet; thence northwesterly, along a non-tangent curve to the right having a radius of 1,062.00 feet a chord bearing of North 86°08'16" West, and a chord length of 216.17 feet for a distance of 216.54 feet to a point on said existing south R/W line of 207th Street; thence North 88°01'16" East along said existing R/W line a distance of 94.18 feet to the Point of Beginning, containing 3,696 square feet, or 0.085 acres, more or less.

Parcel No. 4F221507-4001

Right-of-Way Description

All that part of the Southeast Quarter of Section 7, Township 15 South, Range 22 East, in Johnson County Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter of Section 7, Township 15 South, Range 22 East, in Johnson County; thence North 01°46'40" West along the west line of said Southeast Quarter a distance of 40.00 feet to the Point of beginning; thence North 01°46'40" West along the west line of said Southeast Quarter a distance of 82.50 feet; thence southeasterly, along a non-tangent curve to the left having a radius of 953.00 feet a chord bearing of South 80°29'56" East, and a chord length of 379.34 feet for a distance of 381.89 feet; thence South 01°58'44" East a distance of 7.00 feet to a point on said existing north R/W line of 207th Street; thence South 88°01'16" West along said existing R/W line a distance of 372.04 feet to the Point of Beginning, containing 11,816 square feet, or 0.271 acres, more or less.

Temporary Construction Easement Description

All that part of the Southeast Quarter of Section 7, Township 15 South, Range 22 East, in Johnson County Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter of Section 7, Township 15 South, Range 22 East, in Johnson County; thence North 01°46'40" West along the west line of said Southeast Quarter a distance of 122.50 feet to the Point of beginning; thence southeasterly, on the proposed R/W line, along a non-tangent curve to the left having a radius of 953.00 feet a chord bearing of South 80°29'56" East, and a chord length of 379.34 feet for a distance of 381.89 feet; thence South 01°58'44" East a distance of 7.00 feet to a point on the existing north R/W line of 207th Street; thence North 88°01'16" East along said existing R/W line a distance of 100.00 feet; thence North 79°34'18" West a distance of 102.39 feet; thence northwesterly, along a non-tangent curve to the right having a radius of 938.00 feet a chord bearing of North 80°18'24" West, and a chord length of 379.55 feet for a distance of 382.18 feet to a point on the west line of said southeast quarter; thence South 01°46'40" East, along said west line, a distance of 16.29 feet to the Point of Beginning, containing 6,831 square feet, or 0.157 acres, more or less.

4F221507-2004

All of the South 696.00 feet of the Southeast 1/4 of the Southwest 1/4 of Section 7, Township 15, Range 22, lying West of the Railroad right-of-way, in Johnson County, Kansas, subject to the rights of the public in roads. Subject to easements, restrictions and reservations of record, if any.

Containing 347,109.71 square feet, or 7.969 acres, more or less, exclusive of existing road rights-of-way.

410 W BRAUN ST (Parcel Nos. BF221507-2009, BF221507-2016)

All that part of the Southwest Quarter of Section 7, Township 15, Range 22, Johnson County described as follows: Commencing at the Southwest corner of said Southwest Quarter; thence East along the South line of said Southwest Quarter, 932.5 feet to the point of beginning, thence continuing East along said South line, 330.74 feet; thence North and Parallel to the West line of said Southwest Quarter, 233.5 feet; thence West and Parallel to the South line of said Southwest Quarter, 330.74 feet; thence South and parallel to the West line of Southwest Quarter, 233.5 feet to the point of beginning, except that part in road.

410 W BRAUN ST (Parcel Nos. BF221507-2010, BF221507-2016)

All that part of the Southwest Quarter of Section 7, Township 15, Range 22, Johnson County, Kansas described as follows: Commencing at the Southwest corner of said Southwest Quarter, thence East along the South line of said Southwest Quarter, 932.5 feet; thence North, parallel to the West line of said Southwest Quarter, 233.5 feet to the point of beginning, thence continuing North parallel to said West line, 557.5 feet, thence East parallel to the South line of said Southwest Quarter, 330.74 feet; thence South, parallel to the West line of said Southwest Quarter 557.5 feet, thence West parallel to the South line of said Southwest Quarter, 330.74 feet to the point of beginning.

410 W BRAUN ST (Parcel Nos. BF221507-2013, BF221507-2016)

All of the East 336.49 feet of the North 531.27 feet of the southwest Quarter of the Southwest Quarter of Section 7, Township 15, Range 22, Johnson County, Kansas.

510 W BRAUN ST (Parcel Nos. BF221507-2008, BF221507-2016)

Right-of-Way Description

All that part of the Southwest Quarter of Section 7, Township 15 South, Range 22 East, in Johnson County Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of Section 7, Township 15 South, Range 22 East, in Johnson County; thence North 87°40'21" East along the south line of said Southwest Quarter a distance of 932.50 feet; thence North 01°36'00" West along a line

parallel to the west line of said Southwest Quarter a distance of 20.00 feet to the Point of beginning; thence continuing North 01°36'00" West along a line parallel to the west line of said Southwest Quarter a distance of 61.41 feet; thence southwesterly, along a non-tangent curve to the right having a radius of 475.00 feet a chord bearing of South 74°54'13" West, and a chord length of 209.97 feet for a distance of 211.72 feet; thence South 87°40'21" West parallel to the south line of said Southwest Quarter a distance of 50.00 feet; thence South 02°19'39" East a distance of 15.00 feet to a point on the existing north R/W line of 207th Street; thence North 87°40'21" East along said existing R/W line a distance of 254.00 feet to the Point of Beginning, containing 6,901 square feet, or 0.158 acres, more or less.

Permanent Drainage Easement Description

All that part of the Southwest Quarter of Section 7, Township 15 South, Range 22 East, in Johnson County Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of Section 7, Township 15 South, Range 22 East, in Johnson County; thence North 87°40'21" East along the south line of said Southwest Quarter a distance of 932.50 feet; thence North 01°36'00" West along a line parallel to the west line of said Southwest Quarter a distance of 81.41 feet to a point on the proposed right of way line; thence southwesterly, along a non-tangent curve to the right having a radius of 475.00 feet a chord bearing of South 69°01'58" West, and a chord length of 114.11 feet for a distance of 114.38 feet; to the Point of beginning; thence North 14°04'07" West a distance of 5.00 feet; thence South 76°50'31" West a distance of 14.94 feet; thence South 12°14'51" East a distance of 5.00 feet; thence northeasterly, along a non-tangent curve to the left having a radius of 475.00 feet a chord bearing of North 76°50'31" East, and a chord length of 15.10 feet for a distance of 15.10 feet to the Point of Beginning, containing 76 square feet, or 0.002 acres, more or less.

Temporary Construction Easement Description

All that part of the Southwest Quarter of Section 7, Township 15 South, Range 22 East, in Johnson County Kansas, more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of Section 7, Township 15 South, Range 22 East, in Johnson County; thence North 87°40'21" East along the south line of said Southwest Quarter a distance of 932.50 feet; thence North 01°36'00" West along a line parallel to the west line of said Southwest Quarter a distance of 81.41 feet to the Point of beginning; thence continuing North 01°36'00" West along a line parallel to the west line of said Southwest Quarter a distance of 25.06 feet; thence South 48°14'53" West a distance of 62.07 feet; thence South 72°02'06" West a distance of 63.88 feet; thence South 14°04'07" East a distance of 5.00 feet; thence southwesterly, along a non-tangent curve to the right having a

radius of 475.00 feet a chord bearing of South 76°50'31" West, and a chord length of 15.10 feet for a distance of 15.10 feet; thence North 12°14'51" West a distance of 5.00 feet; thence South 82°42'45" West a distance of 81.27 feet; thence South 02°19'39" East a distance of 5.00 feet to a point on the proposed R/W line; thence following the proposed R/W line along a non-tangent curve to the left having a radius of 475.00 feet a chord bearing of North 74°54'13" East, and a chord length of 209.97 feet for a distance of 211.72 feet to the Point of Beginning, containing 1,612 square feet, or 0.037 acres, more or less.

Section 5. That this Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

PASSED by the Governing Body of the City of Edgerton, Kansas, and approved by the Mayor on the 23rd of January, 2020.

Donald Roberts, Mayor

(Seal)

ATTEST:

Rachel A. James, City Clerk

APPROVED AS TO FORM:

Lee W. Hendricks, City Attorney