

**EDGERTON CITY COUNCIL
MEETING AGENDA
CITY HALL, 404 EAST NELSON STREET
October 10, 2019
7:00 P.M.**

Call to Order

1. **Roll Call** ____ Roberts ____ Longanecker ____ Brown ____ Conus ____ Lewis ____ Smith
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 September 26, 2019 Regular City Council Meeting
5. Approve Final Acceptance of Martin Creek Park Capital Improvement Projects

Regular Agenda

6. **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.
7. **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.

Business Requiring Action

8. **CONSIDER ORDINANCE NO. 2025 WHICH ADOPTS THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE CONDITIONAL USE PERMITS CU2019-02 (NORTH) AND CU2019-03 (SOUTH) TO ALLOW TWO BILLBOARDS – 36450 FRONTAGE ROAD, EDGERTON, KS**

Motion: _____ Second: _____ Vote: _____

9. **CONSIDER RESOLUTION NO. 10-10-19A AUTHORIZING AND DIRECTING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2019-A, OF THE CITY OF EDGERTON, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX, IF NECESSARY FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID NOTES AS THEY BECOME DUE; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH**

Motion: _____ Second: _____ Vote: _____

10. CONSIDER RESOLUTION NO. 10-10-19B 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

Motion: _____ Second: _____ Vote: _____

11. Report By The City Administrator

12. Report By the Mayor

13. Future Meeting Reminders:

- October 8th: Planning Commission – 7PM
- October 10th: City Council Meeting – 7PM
- October 24th: City Council Meeting – 7PM
- November 12th: Planning Commission – 7PM
- November 14th: City Council – 7PM
- **November 28th: City Council – CANCELED**
- December 10th: Planning Commission – 7PM
- December 12th: City Council Meeting – 7PM
- **December 26th: City Council Meeting – CANCELED**

14. 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: _____ Second: _____ Vote: _____

15. Adjourn Motion: _____ Second: _____ Vote: _____

EVENTS

October 7th: Youth Art Class: Ceramic Pumpkins
October 12th: Gardner Edgerton Chamber School Board Candidate Forum
October 17th: School's Out Day Camp
October 18th: Building Blazer's Day Camp
October 23rd: USD 231 Senior Citizen Luncheon
October 27th: Halloween Party

November 1st: Trivia Night at White Tail Run Winery proceeds go to Mayor's Christmas Tree Fund (6:30 – 9PM)
November 4th: Youth Art Class
November 12th: World War I Museum and Memorial Trip

City of Edgerton, Kansas
Minutes of City Council Regular Session
September 26, 2019

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on September 26, 2019. The meeting convened at 7:00 p.m. with Mayor Roberts presiding.

1. ROLL CALL

Ron Conus	present
Clay Longanecker	present via phone
Josh Lewis	absent
Katee Smith	present
Jody Brown	absent

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator Beth Linn
- Assistant City Administrator Scott Peterson
- City Attorney Lee Hendricks
- City Clerk Rachel James
- Finance Director Karen Kindle
- Development Services Director Katy Crow
- Public Works Director Dan Merkh
- Marketing and Communications Manager Kara Banks
- Parks and Recreation Coordinator Maddie Becker

2. WELCOME

3. PLEDGE OF ALLEGIANCE

CONSENT AGENDA

4. Approve Minutes for September 12, 2019 Regular City Council Meeting
5. Approve of Resolution No. 09-26-19A Waiving the City's Compliance with Generally Accepted Accounting Principles for Financial Reporting and Causing Such Reports to be Prepared in Compliance with the Cash Basis and Budget Laws of the State of Kansas
6. Approve an Agreement with Varney & Associates, CPAs, LLC, to Prepare the City's Financial Audit for Fiscal Year 2019
7. Approve Final Acceptance of UBAS Portion of the 2019 Street Maintenance Program
8. Accept Permanent Trail Easement from Unified School District No. 231 for the Highway 56 Trail Project

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

Motion passed, 3-0.

REGULAR AGENDA

9. **Public Comments.**

Rebecca Hollingshead, Ottawa, asked Council to waive \$150 City Hall Rental fee in order for Venturing Crew 2369 to hold a Haunted Escape Room fundraiser. The fundraiser would raise money for the troops' High Adventure Trip.

Mayor Roberts stated that most of the time Council does not waive fees for City Hall Rentals; however, since this is a non-profit, Edgerton-based, youth organization which is fundraising for their leadership camping trip, he thought this would be acceptable.

Motion by Longanecker, Second by Smith to waive fee for requested date of City Hall Rental for the Venturing Crew.

Motion passed, 3-0.

10. **Declaration.** None.

11. Presentation by Jason Camis from Gardner Edgerton Chamber of Commerce – 2019 Third Quarter Update

Jason Camis, Gardner Edgerton Chamber President, briefed the Council on events and milestones over the past quarter and those upcoming through the end of the year. Mr. Camis stated there are 35 new members of the Chamber. The new website should go live sometime in October, the GE magazine will be distributed the third week of November, and the community map is 90% completed.

There was general discussion about City Staff reviewing the magazine article and map prior to publication.

Mayor Roberts wanted to remind residents of the Gardner Edgerton School Board Candidate Forum on October 12th at 8:30am at the Johnson County Fairgrounds. There will also be a Edgerton City Council candidate meet and greet at a date to be determined.

12. Parks & Recreation 2019 Snapshot

Maddie Becker, Parks & Recreation Coordinator, briefed Council on Parks and Recreation events, City festivals, programs, kids' activities, and senior trips that have taken place this year. Ms. Becker provided a budget snapshot of the events, as well as reporting attendance at a majority of the events has increased in the past year.

Mayor Roberts and Ms. Becker had a discussion about attendance at Summer Movie Nights and brainstormed new ideas for the Summer 2020 season. Ms. Becker stated she is always happy to take suggestions for events or programming that residents would like to see from Parks and Recreation Department.

12.5 Accept Temporary Construction Easement and Permanent Sanitary Sewer Easement

Beth Linn, City Administrator, presented the easements which are for the extension of sanitary sewer lines to connect to the Hostess building.

Motion by Longanecker, Second by Conus to approve acceptance of temporary construction easement and permanent sanitary sewer easement.

Motion Passed, 3-0.

BUSINESS REQUIRING ACTION

13. CONSIDER CHANGE ORDER #1 FOR 2019 STREET RECONSTRUCTION PROJECT, TO INCLUDE MILL & OVERLAY OF SURROUNDING STREETS WITH BASE REPAIR AND CURB REPLACEMENT, AND STORM OUTFALL CONSTRUCTION

Dan Merkh, Public Works Director, introduced Change Order #1 for the 2019 Street Reconstruction Project which covers repair to streets surrounding the project which have degraded because of storms during the 2018-2019 winter season and heavy truck traffic from the project. Mr. Merkh stated there are several areas that need base repair before a four (4) inch Mill and Overlay.

The total request increase is \$332,187; \$300,068 from Temporary Notes and \$32,119 from Street Excise Tax. The Temporary Notes will be repaid with City Maintenance Fee from LPKC Phase I.

Motion by Smith, Second by Conus to approve Change Order #1 for 2019 Street Reconstruction Project, to include Mill & Overlay of Surrounding Streets with base repair and curb replacement, and Storm outfall construction.

Motion passed, 3-0.

14. CONSIDER ORDINANCE NO. 2025 WHICH ADOPTS THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE CONDITIONAL USE PERMITS CU2019-02 (NORTH) AND CU2019-03 (SOUTH) TO ALLOW TWO BILLBOARDS – 36450 FRONTAGE ROAD, EDGERTON, KS

Katy Crow, Development Services Director, asked for this item to be tabled due to the unavailability of the petitioner.

Motion by Longanecker, Second by Smith to table item to the October 10th Council Meeting.

Motion passed, 3-0.

15. CONSIDER ORDINANCE NO. 2026 APPROVING THE DESCRIPTIONS AND SURVEY OF LANDS NECESSARY FOR ACQUISITION OF EASEMENTS NEEDED FOR CONSTRUCTING 56 HIGHWAY MULTI-USE TRAIL AND ASSOCIATED IMPROVEMENTS

Dan Merkh, Public Works Director, introduced the Ordinance which authorizes the preparation of survey and legal descriptions along 56 Highway as part of the multi-use path project which would provide pedestrian/bicycle access from neighborhood/residences along Highway 56 to Dollar General, Edgerton Elementary, and other future development.

The Project requires acquisition of easements from several property owners along the corridor. Staff has spoken with all the property owners on the south side of 56 Highway that are affected by the project and continues to negotiate easements with the property owners as the preferred method to acquire the easements. However, in case negotiations do not reach a conclusion that satisfies both parties, staff would like to proceed with the next step in the condemnation process which is the survey and descriptions of land in the area. This process does not prevent further negotiations with land owners.

Motion by Longanecker, Second by Conus to approve Ordinance No. 2026.

Motion passed, 3-0.

16. CONSIDER RECOMMENDATION TO REJECT THE BIDS FOR CONSTRUCTION OF THE 56 HIGHWAY MULTI-USE TRAIL PROJECT

Dan Merkh, Public Works Director, introduced the Recommendation to Reject the Bids for construction of the 56 Highway Multi-Use Trail Project. In 2017, Council allocated \$150,000 of the Maintenance Fee towards Parks and Recreation Projects for 2017 & 2018. The project budget is \$150,000. If City Council would want to continue with the project, approximately \$150,000 additional funding would be required depending on bid selected and easement acquisition costs. Based on the significant pricing over budget, staff recommends rejection of both the base bid and alternate #1. Alternative methods of completion were discussed including re-bidding in 2020, grant writing, and a change in scope.

Councilmember Smith stated that she believed Kansas State University has a grant funding program she heard about at KRWA and Staff could explore this option.

Councilmember Conus stated that we have rebid once before and saved a considerable amount of money for that project.

Mayor Roberts stated that depending on the time of year, bids can be very different but also the City might need to change scope. He also stated we should investigate cooperative bidding for the project.

Motion by Longanecker, Second by Smith to return to reject bids for construction of the 56 highway multi-use trail project.

Motion was approved, 3-0.

17. CONSIDER CHARTER ORDINANCE NO. 26 EXEMPTING THE CITY FROM THE PROVISIONS OF K.S.A. 25-2120, AMENDING SECTION 3 OF CHARTER ORDINANCE NO. 23 OF THE CITY OF EDGERTON, KANSAS TO ACCURATELY

REFLECT THE EXPIRATION DATE AND START DATE OF CITY COUNCILMEMBER TERMS AND REPEALING CHARTER ORDINANCE NO. 24

Lee Hendricks, City Attorney, introduced the Charter Ordinance which would correct the expiration date and start date of Edgerton City Council members and repeal the conflicting Charter Ordinance No. 24. The first Council meeting date in December following an election will be the date of the term end and term start. Mr. Hendricks covered the history of the previous Charter Ordinances and updates from the state legislature that have necessitated these changes.

Motion by Smith, Second by Conus to approve Charter Ordinance No. 26 Exempting the City from the Provisions of K.S.A 25-2120, Amending Section 3 of Charter Ordinance No. 23 of the City of Edgerton, Kansas to Accurately Reflect the Expiration Date and Start Date of City Councilmember Terms and Repealing Charter Ordinance No. 24.

Motion passed, 4-0, with Mayor Roberts included in the vote.

18. Report by the City Administrator

Beth Linn, City Administrator, requested Council approval on two Staff positions. Mayor Roberts asked if moving forward Staff would not need to bring positions to Council, especially if just updating job descriptions. Lee Hendricks, City Attorney, agreed this would be acceptable.

Ms. Linn overviewed the Accountant position requested by the Finance Director.

Motion by Smith, Second by Longanecker to approve Accountant position.

Motion passed, 3-0.

Ms. Linn overviewed the updates to Municipal Court clerk and the combination of roles with that of the Customer Service Specialist. An additional position, Customer Service Specialist II would create advancement for a current position as well as allow for one person to field court calls. Mayor Roberts stated his approval of the updated job description and role.

Motion by Longanecker, Second by Smith to approve Customer Service Specialist II.

Motion passed, 3-0.

19. Report by the Mayor

Mayor Roberts spoke briefly on the League of Kansas Municipalities conference and that Kara Banks, Marketing & Communications Manager, will be participating on a panel at the conference.

19.5 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

Motion by Longanecker, Second by Smith 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 and City Administrator for ten (10) minutes.

Motion was approved, 3-0.

Session recessed at 8:25 pm. Meeting reconvened at 8:35 pm.

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

Motion was approved, 3-0.

Motion by Longanecker, Second by Smith 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 and City Administrator for an additional ten (10) minutes.

Motion was approved, 3-0.

Session recessed at 8:37 pm. Meeting reconvened at 8:47 pm.

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

Motion was approved, 3-0.

Mayor Roberts drew attention to the Council Meetings scheduled for the 28th of November and 26th of December.

Motion by Longanecker, Second by Smith to cancel the Council Meetings for November 28, 2019 and December 26, 2019.

Motion was approved, 3-0.

20. Future Meeting Reminders:

- October 8th: Planning Commission – 7PM
- October 10th: City Council Meeting – 7PM
- October 24th: City Council Meeting – 7PM
- November 12th: Planning Commission – 7PM
- November 14th: City Council – 7PM
- November 28th: City Council – CANCELED
- December 10th: Planning Commission – 7PM
- December 12th: City Council Meeting – 7PM
- December 26th: City Council Meeting – CANCELED

21. Adjourn

Motion by Smith, Second by Conus to adjourn.

Motion was approved 3-0. The meeting adjourned at 8:50 pm.

EVENTS

October 7th: Youth Art Class: Ceramic Pumpkins

October 12th: Gardner Edgerton Chamber School Board Candidate Forum

October 14th: Youth Cooking Class: Fall Foods

October 17th: School's Out Day Camp

October 18th: Building Blazer's Day Camp

TBD: Gardner Edgerton Chamber Candidate Meet & Greet

City Council Action Item

Council Meeting Date: October 10, 2019

Department: Parks and Recreation

Agenda Item: Consider Final Acceptance of Martin Creek Capital Improvement Projects.

Background/Description of Item:

On April 12, 2018 the City Council approved the Martin Creek Capital Improvement Project. This project provided full reconstruction of the trail network at Martin Creek Park as well as improvements to ball field #1 and #2 at Martin Creek Park.

#1 Martin Creek Park Trail Reconstruction:

The City of Edgerton utilized cooperative bidding language out lined in Johnson County Parks and Recreation Hourly Heavy Equipment Operator/Rental and Miscellaneous Asphalt Work bids/contract for the full reconstruction of the train network at Martin Creek Park. Staff worked with Max Rieke Brothers and Updike Paving Corporation to complete the construction activities including 3,400 square yards of asphalt trail in Martin Creek. The estimated total cost for the trail replacement work was \$122,500. Actual project cost came in under budget at \$118,469. 45.

Staff installed a pedestrian crossing between Martin Creek Park and Big Bull Creek Park, additionally staff has completed the remaining restoration items including overseeding throughout the park and ball fields.

#2 Martin Creek Park Ball Field Restoration:

Part two of this capital improvement project was restoration of ball field #1 and #2, this work was competitively bid and included the grading of the infields, profiling of the infield and outfield edge and fence capping.

#1 Martin Creek Park Trail Reconstruction:	\$ 118,469.45
#2 Martin Creek Park Ball Field Restoration:	\$ 20,775.39
Total:	\$ 139,224.84

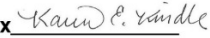
Approximately \$10,775 in excess funds left over will be transferred back to the Undesignated PIF Maintenance Fee CIP Project and would be available to allocate to other projects.

Related Ordinance(s) or Statue(s): n/a

Funding Source: 2017 LPKC Phase 1 Maintenance Fee

Budget Allocated: \$150,000

Finance Director Approval:

x 
Karen Kindle, Finance Director

<p>Recommendation: Approve Final Acceptance of the Martin Creek Park Capital Improvement Projects.</p>

Enclosed:

Prepared by:

Dan Merkh * Public Works Director

Trey Whitaker * Public Works Superintendent

City Council Action Item

Council Meeting Date: September 26, 2019

Department: Community Development

Agenda Item: Consider Ordinance No. 2025 Which Adopts the Planning Commission's Recommendation to Approve Conditional Use Permits CU2019-02 (North) and CU2019-03 (South) to allow two billboards – 36450 Frontage Road, Edgerton, KS.

Background/Description of Item:

The City of Edgerton has received Applications CU2019-02 (North) and CU2019-03 (South) requesting Conditional Use Permits for two billboards existing onsite at 36450 Frontage Road, Edgerton, KS. The applicant is Curt Peterson, Agent, for Robert Blachly, MICO, Inc., the current property owner. This parcel is located southwest of the Sunflower and I-35 interchange

This parcel was annexed into the City of Edgerton on February 28, 2008 and rezoned to C-2 (Heavy Service Commercial) on April 24, 2008. On March 25, 2010 the City of Edgerton Governing Body considered and approved Ordinance 884 allowing a Conditional Use Permit for two billboards to be on display for five years at 36450 Frontage Road. That Conditional Use Permit, CUP-02-05-10, expired in 2015. Per the application, the current operations on the parcel are sales and services. There is also an occupied, residential home located on the subject property. The parcel is adjacent to agricultural land on the north and west.

Due to recent revisions made to Article 12 – *Sign Regulations* of the Unified Development Code (UDC), billboards are no longer allowed in the City of Edgerton. However, city staff was in discussions with the property owner to bring the parcel into compliance before the updates to Article 12 were adopted by the Governing Body on August 8, 2019. Therefore, staff reviewed the applications under the scope of the version of Article 12 that was in place on June 28, 2019 when the City sent notification to the property owner of the steps to take to become compliant with the UDC. That version of the UDC listed signs which exceed a total (single face) area of 125 square feet be issued a Conditional Use Permit. However, the applicant is unable to provide the square foot area of the sign face.

Applicant has a lease agreement in place with the owner of the billboards, Ad Trend. This lease was entered into in 2009 and has a remaining twenty (20) year term. While the applicant has requested that the Conditional Use Permit be allowed through the end of the lease term (twenty years), at the request of staff, the Planning Commission has recommended a 5-year use period with subsequent renewals possible after the permits expire. City staff has

required two applications be filed, one for each billboard. Should a future sale result in the splitting of the parcel, each sign would have its own permit which would stay with the sign.

In order to recommend approval or disapproval of a proposed Conditional Use Permit (CUP), the Governing Body shall determine whether the proposed use is found to be generally compatible with surrounding development and is in the best interest of the City. In making such determination, Section 7.1 (C) of Article 7 of the UDC states that the Planning Commission and the Governing Body may consider all factors they deem relevant. Staff reviewed applications CU2019-02 (North) and CU2019-03 (South) with respect to these requirements.

The Planning Commission conducted a Public Hearing regarding Applications CU2019-02 (North) and CU2019-03 (South) at their meeting on September 10, 2019. Included as an attachment is the Staff Report prepared for this item. The Planning Commission recommended approval with the following stipulations:

1. Conditional Use Permits **CU2019-02 (North)** and **CU2019-03 (South)** are each attached to one sign as described in this report. If ownership of the parcel changes, each Conditional Use Permit allowance will run with the billboard sign to which it is assigned with any change of ownership reported to the City so that permit records may be updated;
2. Each sign must be kept in good condition and should repairs be required, repaired in accordance with the time frame of the City of Edgerton UDC in effect at the time the repair is needed. Failure to properly maintain the sign shall be cause for revocation of the Conditional Use Permit(s);
3. Any major modifications to the billboard sign, as defined by City Staff, will render Conditional Use Permits **CU2019-02 (North)** and **CU2019-03 (South)** null and void. Should the Conditional Use Permit be determined to be null and void, the billboards would then need to be removed within 60 days after notification to the property owner by the City;
4. As a legal non-conforming use, these Conditional Use Permits are subject to the restrictions outlined in Article 9, Section 9.7;
5. This Conditional Use Permit shall be valid for 5 (five) years from date of approval by the City of Edgerton Governing Body, regardless of ownership;
6. Should either of the Conditional Use Permits not be renewed and approved by the Governing Body prior to their expiration date, then the billboards will be considered non-compliant with the UDC and will be required to be removed within 60 days of written notification to the property owner by the City.

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

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approval of Ordinance No. 2025 Which Adopts the Planning Commission's Recommendation to Approve Conditional Use Permits CU2019-02 (North) and CU2019-03 (South) to allow two billboards – 36450 Frontage Road, Edgerton, KS.

Enclosed:

- Ordinance 2025
- Staff Report prepared for September 10, 2019 Planning Commission Meeting
- Excerpt from Draft Minutes – September 10, 2019 Planning Commission Meeting

Prepared by: Katy Crow, Development Services Director

ORDINANCE NO. 2025

AN ORDINANCE ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE TWO CONDITIONAL USE PERMITS (CU2019-02 (NORTH) AND CU2019-03 (SOUTH)) ALLOWING TWO BILLBOARDS ON PROPERTY LOCATED AT 36450 FRONTAGE ROAD, EDGERTON, KANSAS

WHEREAS, the City of Edgerton received Applications CU2019-02 (North) and CU2019-03 (South) for Conditional Use Permits from Curtis Peterson, Agent, on behalf of Robert Blachly, MICO, Inc. (the "Applicant") on or about August 2, 2019 for property located at 36450, Frontage Road (the "Property"); and

WHEREAS, both at the time of application and at the time of the signing of this Ordinance, the Property is owned by MICO, INC, a validly existing Kansas Corporation; and

WHEREAS, the Applicant is requesting to renew a Conditional Use Permit for two billboards which exist on the land today and which were jointly allowed under Conditional Use Permit CUP-02-05-10, which was approved on March 25, 2010, and expired on March 25, 2015;

WHEREAS, the Edgerton Planning Commission did hold a public hearing on September 10, 2019 on the requested Conditional Use Permits in accordance with the requirements as set forth in the Edgerton Zoning Regulations; and

WHEREAS, the Edgerton Planning Commission voted to approve two separate Conditional Use Permits, one for each billboard, conditioned on the following being adhered to by the Applicant/Owner:

1. Two Conditional Use Permits were approved **CU2019-02 (North)** and **CU2019-03 (South)**, with a separate permit being assigned to each billboard (North and South), as described in this report. Should ownership of the parcel change during the term of the Conditional Use Permits, each Conditional Use Permit allowance will run with the billboard sign to which it is assigned with any change of ownership reported to the City so that permit records may be updated;
2. Each sign must be kept in good condition and should repairs be required, repaired in accordance with the requirements \ of the City of Edgerton UDC, including the timeline for repair, in effect at the time the repair is needed. Failure to properly maintain the sign shall be cause for revocation of the Conditional Use Permit(s);
3. Any major modifications to the billboard signs, as determined solely by City Staff, will render Conditional Use Permits **CU2019-02 (North)** and/or **CU2019-03 (South)** null and void. Should the Conditional Use Permit(s) be determined to be null and void, the billboards must be removed within sixty (60) days after written notification to the current property owner by the City;
4. As a legal non-conforming use, these Conditional Use Permits are subject to the restrictions outlined in Article 9, Section 9.7;

5. These Conditional Use Permits shall be valid for 5 (five) years from date of approval by the City of Edgerton Governing Body, regardless of ownership;
6. Should an application renewing the Conditional Use Permit(s) not be filed and approved by the Governing Body prior to its/their expiration date, then the billboard(s) will be considered non-compliant with the UDC and will be required to be removed within (sixty) 60 days following expiration of the Conditional Use permit and written notification to the property owner by the City.

WHEREAS, the City Governing Body, after reviewing the Conditional Use Permit and considering the criteria set forth in Article 7 of the City Zoning Regulations and the recommendations of the Planning Commission, finds the Conditional Use Permit should be approved upon the terms described above.

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

Section 1. The proposed Conditional Use Permits for two existing billboards are hereby approved for the parcel located at 36450 Frontage Road.

Section 2. The Conditional Use Permits approved by this Ordinance are expressly conditioned on the Applicant's/Owner's strict compliance with the six Conditions set forth above, which were recommended by the Edgerton Planning Commission and approved by the City of Edgerton City Council.

Section 3. The effectiveness of these Conditional Use Permits is conditioned upon the strict compliance by the Applicant/Owner of the provisions contained herein as well as strict compliance with the City of Edgerton Zoning Regulations. Should Applicant/Owner fail to comply with any term or provision thereof and should such failure continue following written notice from City to Applicant/Owner specifying the breach and actions to be taken to cure the same, then, at the direction of the City Administrator, Applicant/Owner will be notified that this Conditional Use Permit(s) is/are revoked, and all uses permitted herein on the Property must immediately cease. Reinstatement following default may only occur through action of the Governing Body. Wholly separate and apart from the specific conditions of the City's Zoning Regulations are the City's interest and duties to protect the public health, safety and welfare. Applicant/Owner agrees that this Ordinance shall not operate or be construed to impede or impair the lawful function of City government operation in this area.

Section 4. This Ordinance shall take effect and be enforced from and after its publication once in the official city newspaper. All Zoning and Regulations of the City of Edgerton, Kansas affecting the use of the Property heretofore described which are inconsistent with this Ordinance are hereby made inapplicable to said Property until the Conditional Use Permit(s) is/are vacated or is/are declared null and void.

PASSED by the Governing Body of the City of Edgerton, Kansas and approved by the Mayor on the 10th day of October, 2019.

DONALD ROBERTS, Mayor

ATTEST:

RACHEL A. JAMES, City Clerk

APPROVED AS TO FORM:

LEE W. HENDRICKS, City Attorney

STAFF REPORT

September 10, 2019

To: Edgerton Planning Commission
Fr: Chris Clinton, Planning and Zoning Coordinator
Re: **CU 2019-02 (North)** and **CU2019-03 (South)** for Conditional Use Permit Request for
Billboard Signs at 36450 Frontage Road, Edgerton, KS

APPLICATION INFORMATION

Applicant: Curtis Petersen, Agent
Polsinelli PC
900 W. 48th Place, Suite 900
Kansas City, MO 64112

Property Owners: Robert Blachly
Mico, Inc
307 N Oak Street
Paola, KS 66071

Requested Action: Conditional Use Permit approval for two Billboard Signs currently in existence on the parcel. Approval is sought for two individual Conditional Use Permits so that each billboard will have its own permit.

Legal Description: SE Quarter of Section 18, Township 15 South, Range 22 East; see attached application for complete legal description.

Site Address/Location: 36450 Frontage Road

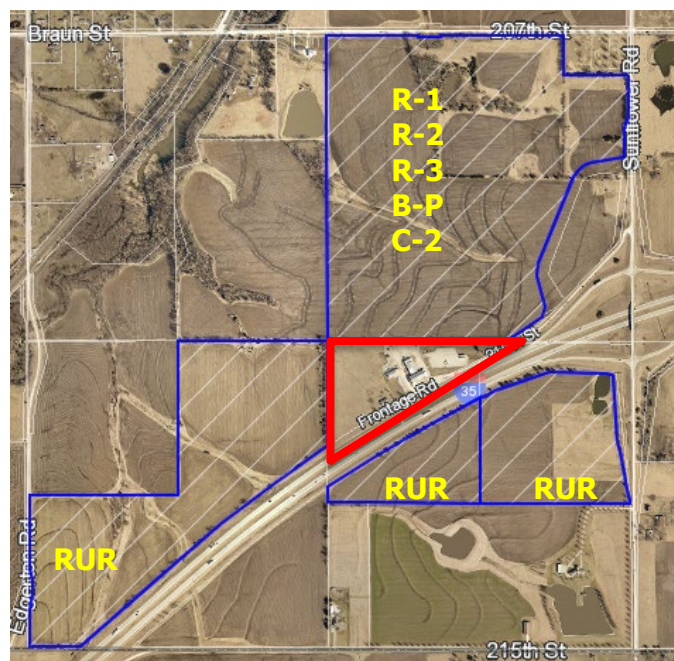
Site Size: Approximately 16.09 Acres

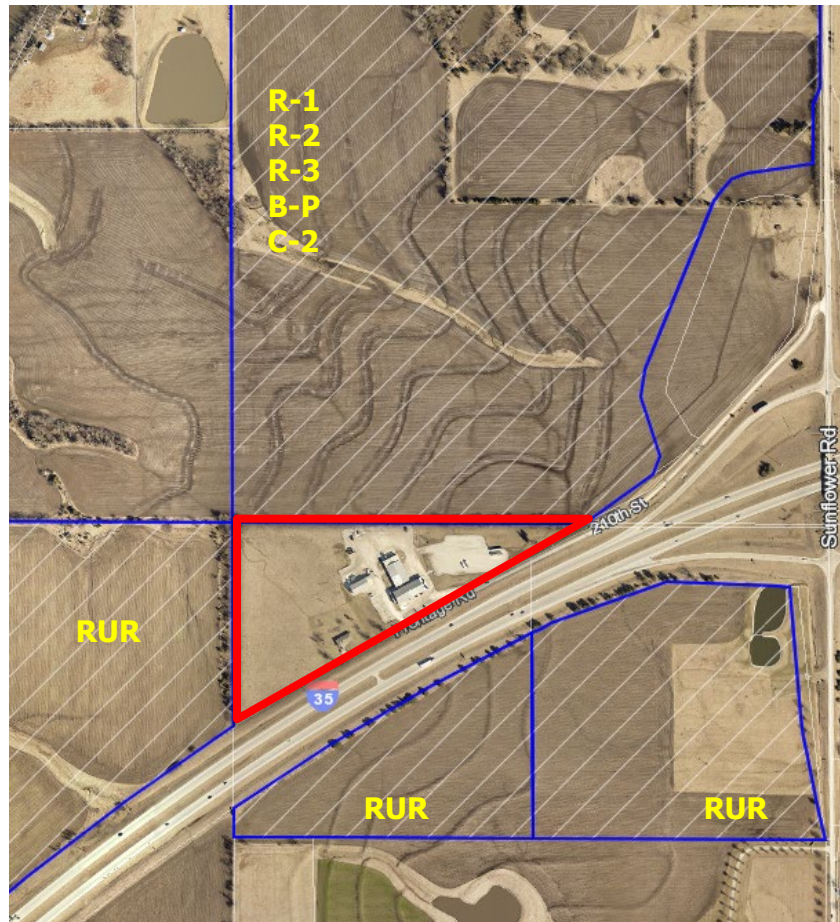
Existing Improvements: Residential house and accessory buildings



Current Zoning and Land Uses:

	<i>ZONING</i>	<i>LAND USE TODAY</i>	<i>USER/OWNER</i>
<i>SITE</i>	C-2, Heavy Service Commercial District	Current use is residential, trailer sales and rental, trucking operations, and cargo container storage	Mico, Inc
<i>NORTH</i>	R-1, Single Family Residential District R-2, Two Family Residential District R-3, Multi-Family Residential District B-P, Business Park District C-2, Heavy Service Commercial District	Agricultural	THS Investments LLC
<i>DIRECTLY SOUTH</i>	Interstate 35	Interstate	Kansas Department of Transportation
<i>SOUTH AND EAST-ACROSS I-35</i>	Johnson County RUR, Rural, Agricultural uses and single family dwellings, 10-acre minimum lot size	Agricultural	Ronald and Rosalie Sims
<i>DIRECTLY EAST</i>	Interstate 35	Interstate	Kansas Department of Transportation
<i>WEST</i>	Johnson County RUR, Rural, Agricultural uses and single family dwellings, 10-acre minimum lot size	Agricultural	72 AC, LLC





BACKGROUND AND PROJECT DESCRIPTION:

This parcel was annexed into the City of Edgerton on February 28, 2008 and rezoned to C-2 (Heavy Service Commercial) on April 24, 2008. On March 25, 2010 the City of Edgerton Governing Body considered and approved Ordinance 884 allowing a Conditional Use Permit for two billboards to be on display for five years at 36450 Frontage Road. That Conditional Use Permit, **CUP-02-05-10**, expired in 2015.

On August 2, 2019 city staff received applications **CU2019-02 (North)** and **CU2019-03 (South)**, requesting to renew the Conditional Use Permit for the billboards located on the parcel outlined in red on the maps above. This is the first time an application for renewal has been presented to and reviewed by the Planning Commission related to this item.

Per the application, the current operations on the parcel are sales and services. There is also an occupied, residential home located on the subject property. The parcel is surrounded by agricultural land to the north and west. The south property line is adjacent to Interstate 35 (I-35). Across I-35 is more agricultural land. The parcel to the north contains five different zonings (R-1, R-2, R-3, C-1 and B-P), so it could be developed in a variety of ways. The zoning designation for the other parcels is Johnson County RUR.

Applicant has a lease agreement in place with the owner of the billboards, Ad Trend. This lease was entered into in 2009 and has a remaining twenty (20) year term. The applicant has requested that the Conditional Use Permit be allowed through the end of the lease term, thus the

request is for a twenty (20) year use period. City staff has required two applications be filed, one for each billboard. Should a future sale result in the splitting of the parcel, each sign would have its own permit which would stay with the sign.

INFRASTRUCTURE AND SERVICES:

The subject parcel is located within the limits of the City. Currently there is a gravel road, Frontage Road, that runs from Sunflower Road to the parcel. KCP&L provides electricity. City of Edgerton is the water service provider and there is a septic tank onsite. It is within the Sunflower Benefit District.

STAFF ANALYSIS

Due to recent revisions made to Article 12 – *Sign Regulations* of the Unified Development Code (UDC), billboards are no longer allowed in the City of Edgerton. However, city staff was in discussions with the property owner to bring the parcel into compliance before the updates to Article 12 were adopted by the Governing Body on August 8, 2019. Therefore, staff reviewed the applications under the scope of the version of Article 12 that was in place on June 28, 2019 when the City sent notification to the property owner of the steps to take to become compliant with the UDC. That version of the UDC listed signs which exceed a total (single face) area of 125 square feet be issued a Conditional Use Permit. Applicant is unable to provide the square foot area of the sign face.

The Planning Commission, in accordance with the procedures and standards of the UDC, may authorize buildings, structures, and uses as conditional uses in specific instances and in particular zoning districts provided that:

- the location is appropriate and consistent with the Comprehensive Plan;
- that the public health, safety, morals, and general welfare will not be adversely affected;
- the necessary safeguards will be provided to surrounding property, persons, and neighborhood values; and
- may further provide that additional standards of this Article be specified as a condition of approval.

No Conditional Use shall be authorized unless the Planning Commission finds that the establishment, maintenance, or operation of the Conditional Use meets the standards set forth in the UDC. The burden of proof and the burden of persuasion is on the applicant to bring forth the evidence on all questions of fact that are determined by the Planning Commission.

Staff has reviewed the Conditional Use application for compliance with the requirements in Section 7.1(C) of Article 7 – *Conditional Uses* of the Edgerton UDC as it relates to the issuance of Conditional Use Permits. Review comments are listed below.

GENERAL CRITERIA

- a. The extent to which there is a need in the community for the proposed use. The Planning Commission recently approved a travel center at the Homestead Lane exit, approximately 2 miles north of this parcel on I-35. Having signage adjacent to the interstate can help direct travelers to businesses established within the Edgerton city limits. Staff determination:
Positive
- b. The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space. The location of the

billboards is on a parcel of land which borders I-35. The parcels adjacent to this one that actually face the signs are all zoned Johnson County RUR and are across a four-lane divided interstate. The closest residence to the billboard signs is the one on the same parcel owned by the applicant. There are no restrictions posed by the neighboring area. Staff determination: **Positive**

- c. The nature and intensity of the proposed use and its compatibility with the zoning and uses of nearby properties. Such determination should include the location, nature, and height of structures, walls, fences, and other improvements connected with the proposed use, their relation to adjacent property and uses, and the need for buffering and screening. The immediate property to the south is an actual interstate highway, I-35. There are no other structures, other than those on the applicant's parcel, near the billboards. The applicant was unable to provide the billboard height or sign face square footage to staff. However, highway adjacency is the most appropriate location for this signage of this size and type. Staff determination: **Positive**
- d. Suitability of the uses of the property without the proposed conditional use permit. The parcel is zoned C-2. In the current UDC, Article 4 – *Commercial Zoning Districts*, several permitted uses are allowed – all seventy-two uses allowed in C-1 zoning districts is also allowed in C-2, plus nine additional C-2 specific uses. There are also four Conditional Uses allowed. Should the property not be used for placement of a billboard, there are many other property uses available to the owner. Staff determination: **Neutral**
- e. Length of time the subject property has remained vacant without the proposed conditional use permit. Per the Johnson County AIMS system, there has been a structure on the parcel since at least 1993. The applicant has provided staff with a copy of the lease agreement in place with an Ad Trend, the owner of the billboard signs. This agreement was signed in 2009 and has a 30-year term. Currently the residence is occupied on the parcel. The trailer sales business closed earlier this year. Two trucking operations on the parcel are non-permitted uses per the C-2 zoning designation and they will be ceasing operations upon expiration of their current leases. Because the Conditional Use permit is for a sign and not for a business operation, the property being vacant is not a consideration for this type of use. Staff determination: **Neutral**
- f. The extent to which the proposed use may detrimentally affect nearby property. The nearby properties are not affected detrimentally to the billboards. City staff has not received a complaint in regard to the content, the lighting, or the aesthetics of the billboard from neighbors. Staff determination: **Positive**
- g. The adequacy of ingress and egress to and within the site of the proposed use, traffic flow and control, the adequacy of off-street parking and loading areas, the adequacy of required yard and open space requirements and sign provisions. Because this application is for a sign and not a business type, the ingress, egress, traffic flow, parking, etc. is not applicable. With regards to sign provisions, under the former version of the UDC being used to consider this application, the code requires that signs which exceed a total single face sign are of 125 square feet require a Conditional Use Permit. Additionally, all billboards must be of a metal monopole type. Applicant was unable to provide the square footage size of the billboards. The signs are monopoles. Staff determination: **Neutral**
- h. The availability and adequacy of required utilities and services to serve the proposed use. These utilities and services include, but are not limited to, sanitary and storm sewers, water,

electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services. The only utility this Conditional Use Permit would require is electrical for possible lighting. KCP&L provides service to the parcel. Staff determination: **Positive**.

- i. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the proposed use, or present parking problems in the vicinity of the property. The billboards are out of any adjacent roadway and at this time, they are not in a parking lot of any onsite operations. Their placement does not impact access for the residential dwelling. Staff determination: **Positive**
- j. The environmental impacts that the proposed use would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm. The only environmental impact related to the signage could potentially be excessive nighttime lighting. There have not been any complaints about nighttime lighting in this area. Staff determination: **Positive**
- k. The economic impact of the proposed use on the community. As was stated previously, the billboards could be utilized to attract businesses into Edgerton, as well as travelers, depending on what is advertised on the sign face. Staff determination: **Positive**
- l. The relative gain (if any) to the public health, safety, and welfare from a denial of the application for conditional use permit as compared to the hardship imposed upon the conditional use applicant from such denial. There would be no gain to public health, safety, and welfare from denial. Nor would there be any hardship imposed in the permit was denied. Staff determination: **Neutral**
- m. Consistency with the Comprehensive Plan, Capital Improvement Plan, ordinances, policies, and applicable City Code of the City of Edgerton, and the general safety, health, comfort and general welfare of the community. The UDC has recently been updated to prohibit billboards. Because discussions with the applicant regarding parcel compliance began before the UDC updates were adopted, these Conditional Use Permits, if approved, would be a legal non-conforming use as described in Article 9, Section 9.7 of the UDC. This permit could be seen as consistent with the current zoning under the previous version of UDC. Staff determination: **Positive**
- n. In addition to the above criteria, the recommendation of professional staff is also required per Ordinance 798 (2005). Staff recommendation is addressed in the Recommendations Section of this Staff Report.

Staff has also reviewed Applications **CU2019-02 (North)** and **CU2019-03 (South)** for compliance with the requirements in Section 7.2(B) of Article 7 of the Edgerton UDC as it relates to uses within an area with a C-2 Zoning District designation.

Section 7.2 (B)(1) indicates that the applicant must provide a Site Plan which gives special emphasis to parking and circulation, screening of outdoor materials, and the conditions listed in Section 7.1(C). The applicant provided an aerial view of the parcel with the billboards outlined. This photo is included as an attachment to this staff report. The conditions listed in 7.1(C) are all addressed above.

RECOMMENDATION

Based upon the above staff analysis, City staff recommends **approval** of Applications **CU2019-02 (North)** and **CU2019-03 (South)** for the two billboards as shown on the attached site plan for a period of 5 (five) years with the following stipulations:

1. Conditional Use Permits **CU2019-02 (North)** and **CU2019-03 (South)** are each attached to one sign as described in this report. If ownership of the parcel changes, each Conditional Use Permit allowance will run with the billboard sign to which it is assigned with any change of ownership reported to the City so that permit records may be updated;
2. Each sign must be kept in good condition and should repairs be required, repaired in accordance with the time frame of the City of Edgerton UDC in effect at the time the repair is needed. Failure to properly maintain the sign shall be cause for revocation of the Conditional Use Permit(s);
3. Any major modifications to the billboard sign, as defined by City Staff, will render Conditional Use Permits **CU2019-02 (North)** and **CU2019-03 (South)** null and void. Should the Conditional Use Permit be determined to be null and void, the billboards would then need to be removed within 60 days after notification to the property owner by the City;
4. As a legal non-conforming use, these Conditional Use Permits are subject to the restrictions outlined in Article 9, Section 9.7;
5. This Conditional Use Permit shall be valid for 5 (five) years from date of approval by the City of Edgerton Governing Body, regardless of ownership;
6. Should either of the Conditional Use Permits not be renewed and approved by the Governing Body prior to their expiration date, then the billboards will be considered non-compliant with the UDC and will be required to be removed within 60 days of written notification to the property owner by the City.

ATTACHMENTS

- Application **CU2019-02 (North)** and **CU2019-03 (South)**
- Photo of Billboards
- Lease Agreement with Ad-Trends
- Future Land Use Map

Please print or type.

PROPERTY INFORMATION

Requesting Conditional Use Permit For:

Billboard Signs

Location or Address of Subject Property:

36450 Frontage Road

Legal Description:

See attached.

Zoning on Subject Property:

C-2

Current Land Use:

Sales and Service

PROPERTY OWNER INFORMATION

Property Owner's Name(s):

Robert Blachly

Phone:

913-449-4054

Company:

Mico, Inc.

Fax:

Mailing Address:

307 N. Oak Street

City:

Paola

State:

KS

Zip:

66071

APPLICANT/AGENT INFORMATION

Applicant/Agent's Name(s):

Curtis Petersen

Phone:

913-234-7458

Company:

Polsinelli PC

Fax:

Mailing Address:

900 W. 48th Place, Suite 900

City:

Kansas City

State:

MO

Zip:

64112

ENGINEER/ARCHITECT INFORMATION

Engineer/Architect's Name(s):

N/A

Phone:

Company:

Fax:

Mailing Address:

City:

State:

Zip:

SIGNATURE

Signature of Owner or Agent:

NOTE: If not signed by owner, authorization of agent must accompany this application

FOR OFFICE USE ONLY

Case No.: CU-2019-02 & CU2019-03

Amount of Fee Paid: \$ 250

13515123

Date Fee Paid: 8-13-19

Received By:

Christopher Clinton

Date of Hearing:

9-10-19

v.09.25.18

Please print or type.

PROPERTY INFORMATION

Requesting Conditional Use Permit For: **Billboard Signs**
Location or Address of Subject Property: **36450 Frontage Road**

Legal Description: **See attached.**

Zoning on Subject Property: **C-2** Current Land Use: **Sales and Service**

PROPERTY OWNER INFORMATION

Property Owner's Name(s): **Robert Blachly** Phone: **913-449-4054**
Company: **Mico, Inc.** Fax: _____
Mailing Address: **307 N. Oak Street**
City: **Paola** State: **KS** Zip: **66071**

APPLICANT/AGENT INFORMATION

Applicant/Agent's Name(s): **Curtis Petersen** Phone: **913-234-7458**
Company: **Polsinelli PC** Fax: _____
Mailing Address: **900 W. 48th Place, Suite 900**
City: **Kansas City** State: **MO** Zip: **64112**

ENGINEER/ARCHITECT INFORMATION

Engineer/Architect's Name(s): **N/A** Phone: _____
Company: _____ Fax: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

SIGNATURE

Signature of Owner or Agent: 

NOTE: If not signed by owner, authorization of agent must accompany this application

FOR OFFICE USE ONLY

Case No.: CU- **2019-02 & CU2019-03**

Amount of Fee Paid: \$ **250 R# 13575123** Date Fee Paid: **8-13-19**

Received By: **Christopher Clinton** Date of Hearing: **9-10-19**

v.09.25.18

Case No.: CU- 2019-02 and 2019-03

I, Amy Grant of lawful age being first duly sworn upon oath, state:

That I am the agent (agent, owner, attorney) for the property for which the application was filed and did, not later than twenty (20) days prior to the date of the public hearing scheduled before the Edgerton Planning Commission, mail certified notice to all persons owning property within the notification area (two hundred (200) feet in the City of Edgerton, one thousand (1,000) feet in the unincorporated area of the subject property) in compliance with the Unified Development Code.

These notices were mailed on the 21st day of August, 2019.

Amy Grant, Agent
Signature of Agent, Owner, or Attorney

Subscribed and sworn to before me this 27th day of August, 2019.

Tracy L. Harrington
Notary Public

TRACY L. HARRINGTON
NOTARY PUBLIC-NOTARY SEAL
STATE OF MISSOURI
CLAY COUNTY
MY COMMISSION EXPIRES 12/5/2020
COMMISSION # 12450513

My Commission Expires:

(SEAL)

12-5-20

Case No.: CU- 2019-02 and 2019-03

Dear Sir or Madam:

This letter is to notify you that a public hearing will be held at the Edgerton City Hall, 404 E. Nelson St., Edgerton, Kansas, to consider a Conditional Use Permit request for two billboards on the following described tract of land:

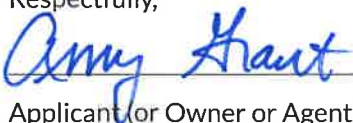
Legal Description: See attached.General Location: 36450 Frontage Road

A public hearing will be held to consider the Conditional Use Permit request on the above-described tract at 7:00 p.m. on September 10, 20 19. Any interested persons or property owners are invited to attend. Information regarding this Conditional Use Permit request is available in the office of the City Clerk at City Hall or by phone at (913) 893-6231. You may also contact the undersigned for additional information regarding this Conditional Use Permit request.

A fourteen (14) day protest period begins at the conclusion of the public hearing during which you may file a protest petition in the office of the City Clerk. If a valid protest petition is received from twenty (20) percent of the property owners within the notification area, a three-quarters ($\frac{3}{4}$) vote of the Governing Body is required to approve this Conditional Use Permit request.

Copies of the protest petition are available in the office of the City Clerk.

Respectfully,



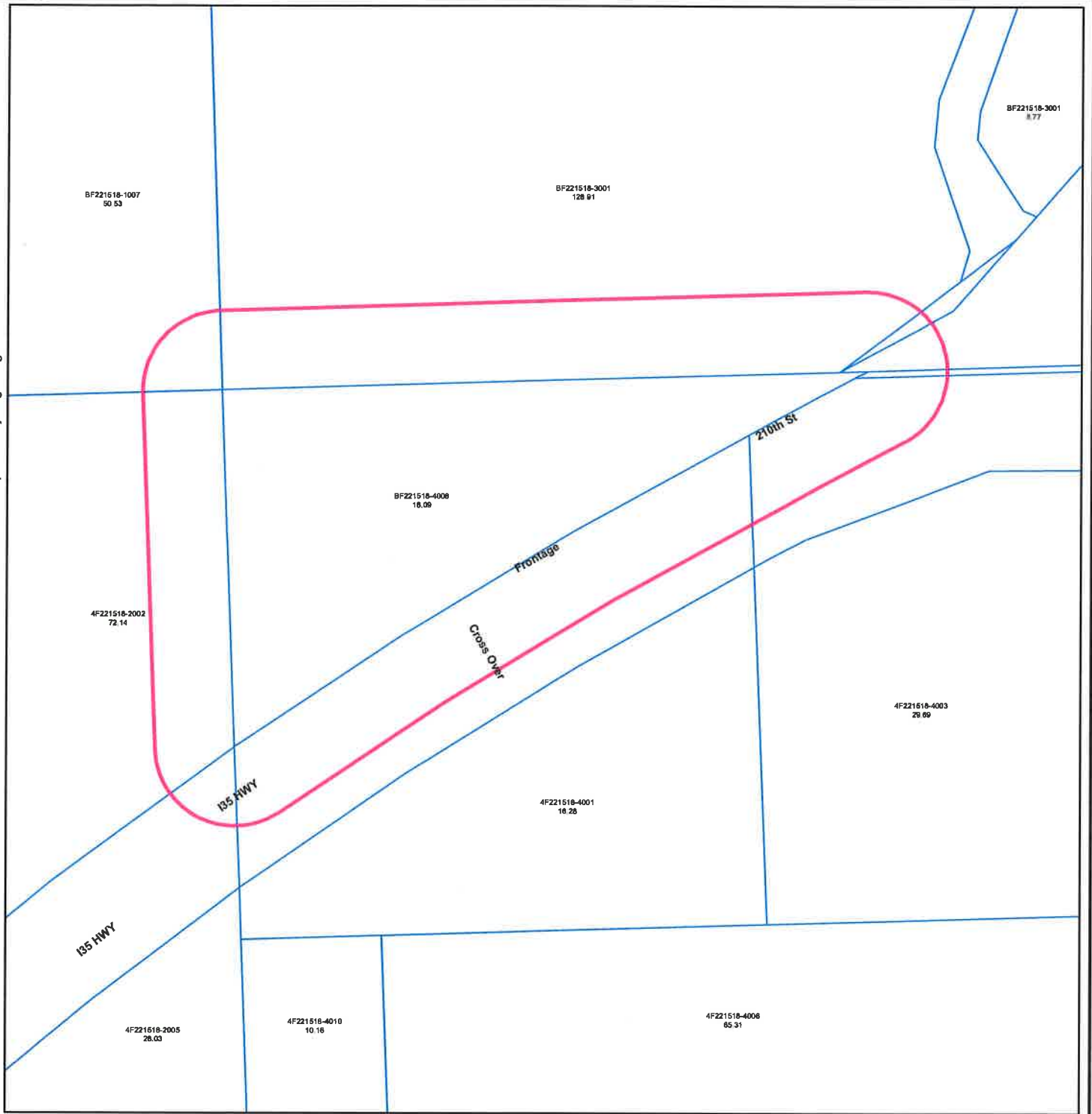
, Amy Grant - agent for applicant (816) 572-4503

Applicant (or Owner or Agent)

Mailing Address: 900 W. 48th Place, Suite 900City: Kansas City State: MO Zip: 64112

LEGAL DESCRIPTION

All that part of the Southeast Quarter of Section 18, Township 15 South, Range 22 East, Johnson County, Kansas, more particularly described as follows: Beginning at the intersection of the Westerly right of way line of I-35 Highway and the North line of the southeast Quarter of Section 18, Township 15 South, Range 22 East, said point being 1,017.6 feet West of the Northeast corner of said Southeast Quarter for a point of beginning; thence West along the North line of said Southeast Quarter a distance of 1,631.0 feet to the Northwest corner of said Quarter; thence South along the West line of said Quarter Section a distance of 904.4 feet to the Northerly right of way line of I-35 Highway; thence Northeasterly along said right of way along a curve to the right having a radius of 11,609.2 feet for a distance of 1,516.2 feet to a point 153.7 feet South of the Northeast corner of the Northwest Quarter of said Southeast Quarter; thence continuing Northeast along said right of way a distance of 344.8 feet to the point of beginning.



- Lot Line
- Section Line
- Plat Perimeter

0 350 700
Feet 1 inch = 350 feet



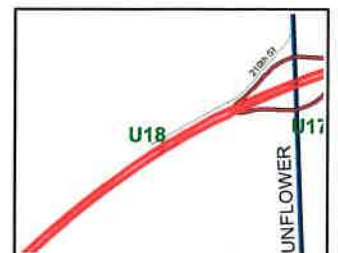
JOHNSON COUNTY
KANSAS
AIMS GIS & Mapping
Section Tiles

200 ft Buffer Map

MAP/DATA DISCLAIMER: It is understood that, while the AIMS participating agencies and information suppliers have no indication and reason to believe that there are inaccuracies in information incorporated in the basemap, AIMS AND ITS SUPPLIER MAKE NO REPRESENTATION OF ANY KIND, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, NOR ARE ANY SUCH WARRANTIES TO BE IMPLIED WITH RESPECT TO THE INFORMATION, DATA, OR SERVICE FURNISHED HERIN. MapRequestID: 291784

8/19/2019

Requester: #maprequest



report

PARCELS WITHIN 200 FEET OF PARCEL BF221518-4008

Produced August 19, 2019 at 10:07:42 AM

4F221518-2002

BF221518-1007

BF221518-4008

BF221518-3001

report_clerk

PARCELS WITHIN 200 FEET OF PARCEL BF221518-4008

Produced August 19, 2019 at 10:07:42 AM

Parcel 1 of 4:

4F221518-2002 (0 NS NT)

(OWNER[S] NAME/ADDRESS)

72 AC, LLC

PO BOX 266

GARDNER, KS 66030

Parcel 2 of 4:

BF221518-1007 (0 NS NT)

(OWNER[S] NAME/ADDRESS)

THS INVESTMENTS LLC

1701 E 147TH ST

KANSAS CITY, MO 64146

Parcel 3 of 4:

BF221518-4008 (36450 FRONTAGE RD)

(OWNER[S] NAME/ADDRESS)

MICO, INC.

307 N OAK ST

PAOLA, KS 66071

Parcel 4 of 4:

BF221518-3001 (20920 SUNFLOWER RD)

(OWNER[S] NAME/ADDRESS)

THS INVESTMENTS LLC

1701 E 147TH ST

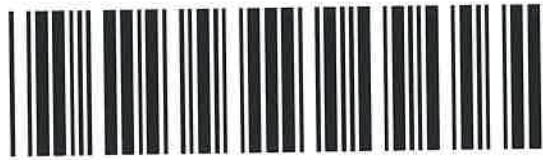
KANSAS CITY, MO 64146

Ship Date	TrackingNumber	Client Matter	Status	Signature?
08/21/2019	9214890163503900027119	094965-598254	Delivered	08/26/19
State of Kansas		State of Kansas		
08/21/2019	9214890163503900027102	094965-598254	Delivered	
72 AC, LLC		72 AC, LLC		
08/21/2019	9214890163503900027096	094965-598254	Delivered	08/26/19
THS Investments, LLC		THS Investments, LLC		
08/21/2019	9214890163503900027089	094965-598254	Delivered	
MICO, Inc.		MICO, Inc.		

Ship Request Form

9214 8901 6350 3900 0271 19

Ship Request #: 017899



Sender

Name: Curtis J. Petersen / Amy Grant
Matter #: 094965-598254
Phone: 816-572-4503
Email: agrant@polsinelli.com
Mail Stop:
Building:
Floor:
Tracking #: 9214890163503900027119

Recipient

Attn To: State of Kansas
Company: State of Kansas
Address: State House

City: Topeka
State: KS
Zip: 66612
Country: US

Shipping Instructions

Address Validated

Items

Units	Description	Code	Origin	Unit Value	Total Value
-------	-------------	------	--------	------------	-------------



August 27, 2019

Dear Amy Grant:

The following is in response to your request for proof of delivery on your item with the tracking number:
9214 8901 6350 3900 0271 19.

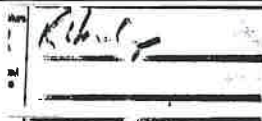
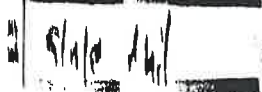
Item Details

Status:	Delivered
Status Date / Time:	August 23, 2019, 9:49 am
Location:	TOPEKA, KS 66618
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™
	Return Receipt Electronic
Recipient Name:	State of Kansas

Shipment Details

Weight:	0.7oz
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Recipient Signature

Signature of Recipient:	
Address of Recipient:	

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

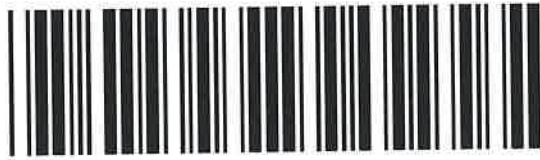
Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Ship Request Form

9214 8901 6350 3900 0271 02

Ship Request #: 017898



Sender

Name: Curtis J. Petersen / Amy Grant
Matter #: 094965-598254
Phone: 816-572-4503
Email: agrant@polsinelli.com
Mail Stop:
Building
Floor:
Tracking #: 9214890163503900027102

Recipient

Attn To: 72 AC, LLC
Company: 72 AC, LLC
Address: PO Box 266

City: Gardner
State: KS
Zip: 66030-0221
Country: US

Shipping Instructions

Address Validated

Items

Units	Description	Code	Origin	Unit Value	Total Value
-------	-------------	------	--------	------------	-------------



August 27, 2019

Dear Amy Grant:

The following is in response to your request for proof of delivery on your item with the tracking number:
9214 8901 6350 3900 0271 02.

Item Details

Status:	Delivered
Status Date / Time:	August 26, 2019, 9:59 am
Location:	GARDNER, KS 66030
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic
Recipient Name:	72 AC LLC

Shipment Details

Weight:	0.7oz
----------------	-------

Recipient Signature

Signature of Recipient:

Matt Murphy
MATT MURPHY
PO BOX 266

Address of Recipient:

GARDNER, KS 66030-0266

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

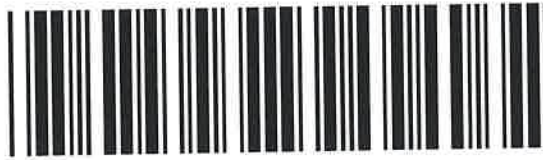
Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Ship Request Form

9214 8901 6350 3900 0270 89

Ship Request #: 017896



Sender

Name: Curtis J Petersen / Amy Grant
Matter #: 094965-598254
Phone: 816-572-4503
Email: agrant@polsinelli.com
Mail Stop:
Building
Floor:
Tracking #: 9214890163503900027089

Recipient

Attn To: MICO, Inc.
Company: MICO, Inc.
Address: 307 N. Oak Street

City: Paola
State: KS
Zip: 66071-1560
Country: US

Shipping Instructions

Address Validated

Items

Units	Description	Code	Origin	Unit Value	Total Value
-------	-------------	------	--------	------------	-------------



August 27, 2019

Dear Amy Grant:

The following is in response to your request for proof of delivery on your item with the tracking number:
9214 8901 6350 3900 0270 89.

Item Details

Status:	Delivered
Status Date / Time:	August 26, 2019, 3:12 pm
Location:	PAOLA, KS 66071
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic
Recipient Name:	MICO Inc

Shipment Details

Weight:	0.8oz
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Recipient Signature

Signature of Recipient:



Address of Recipient:

307 N OAK ST
PAOLA, KS 66071-1560

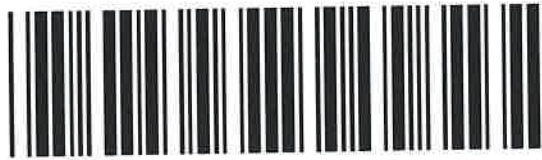
Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Ship Request Form

9214 8901 6350 3900 0270 96

Ship Request #: 017897**Sender**

Name: Curtis J. Petersen / Amy Grant
Matter #: 094965-598254
Phone: 816-572-4503
Email: agrant@polsinelli.com
Mail Stop:
Building
Floor:
Tracking #: 9214890163503900027096

Recipient

Attn To: THS Investments, LLC
Company: THS Investments, LLC
Address: 1701 E. 147th Street

City: Kansas City
State: MO
Zip: 64146-2001
Country: US

Shipping Instructions

Address Validated

Items

Units	Description	Code	Origin	Unit Value	Total Value
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August 27, 2019

Dear Amy Grant:

The following is in response to your request for proof of delivery on your item with the tracking number:
9214 8901 6350 3900 0270 96.

Item Details

Status:	Delivered
Status Date / Time:	August 24, 2019, 11:29 am
Location:	KANSAS CITY, MO 64145
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic
Recipient Name:	THS Investments LLC

Shipment Details

Weight:	0.7oz
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Recipient Signature

Signature of Recipient:

THOMAS H. SMITH

Address of Recipient:

1701 OUTER BELT RD
KANSAS CITY, MO 64146-2004

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Site Plan for 36450 Frontage Road





**30 FOOT
INFLATABLES**
For Rent
Ad-Trend.com
816-283-0600

AD TREND

INFLATABLES
FOR RENT

REAL ESTATE LEASE

1. The undersigned, as Lessor, hereby leases and grants exclusivity to Ad Trend, LLC, ("Lessee") to use the property located at 36450 Frontage Road ("Property"), with free access to and upon same, in the City of Edgerton, Johnson County, State of Kansas, effective on 09/16, 2009, for the purpose of erecting and maintaining an advertising sign in the location depicted on Exhibit A, supporting structures, illumination facilities and connections, service ladders, and other appurtenances thereon ("Sign").
2. Lessee shall pay Lessor rent of Two Thousand Six Hundred Fifty and no/100 Dollars (\$2,650.00) per year payable in monthly installments of Two Hundred Twenty and 83/100 Dollars (\$220.83) per month, beginning at the completion of construction of Lessee's Sign. These payments shall be increased by Fifteen (15%) percent at the end of each five year period.
3. Lessor represents and warrants that Lessor is the master lease holder or owner of the of the above described real estate and has full authority to make this Lease; and that the Lessee shall have the right to make any necessary applications with, and obtain permits from governmental bodies for the construction and maintenance of Lessee's Sign's, at the sole discretion of Lessee. All such permits shall always remain the property of Lessee. Lessor will indemnify, defend and hold Lessee harmless from any claim or demand that undersigned Lessor does not have authority to lease the premises described to Lessee. Lessor agrees Lessee may trim or remove any trees or vegetation on the leased property as often as Lessee deems necessary to prevent obstructions.
4. Lessee shall hold Lessor harmless from all damage to persons or Property resulting from the negligent or willful acts on the Property of Lessee's agents, employees, or others employed in the construction, maintenance, repair or removal of its Sign on the Property.
5. This agreement is a Lease, and all Sign's, permits, structures and improvements placed on the Property by or for Lessee shall remain the property of Lessee and be paid for by Lessee. Lessee shall have the right to remove the same at any time during the term of the Lease, or after the expiration of the Lease.
6. The term of this Lease will be Thirty (30) years commencing at the completion of construction of Lessee's Sign. This Lease shall continue in full force and effect for its term and thereafter for subsequent successive like terms unless terminated at the end of such term or any successive like term upon written notice by the Lessor or Lessee served not less than one-hundred and eighty (180) days before the end of such term or subsequent like term.
7. Lessee shall be entitled to recover from any condemning authority payment for the loss of its leasehold interest, loss of its Sign, and for all other losses for which Lessee is otherwise entitled to recover under applicable law.
8. In the event that (a) any of Lessee's Sign on the Property become entirely or partially obstructed or destroyed in Lessee's opinion; (b) the Property cannot safely be used for the erection or maintenance of Lessee's Sign's thereon for any reason; (c) the value of the location for advertising purposes becomes diminished in Lessee's sole opinion; (d) the Lessee is unable to obtain any necessary permit for the erection and/or maintenance of such Sign as the Lessee may desire; (e) the Lessee is prevented by law from construction and/or maintaining on the Property such Sign as the Lessee may desire; then the Lessee, may at its option, terminate the Lease on Thirty (30) days notice in writing, and Lessor agrees thereupon to return to the Lessee any rent paid in advance for the unexpired term; provided, however, that if the conditions described in (a), (b), and (c) thereof, or any of them, shall at any time temporarily exist, then Lessee shall at its option, in lieu of such termination of this lease, be entitled to an abatement of the rent payable hereunder, for and during the period of the existence of such conditions, or any of them, and to the return of any rent paid in advance for the period of such abatement.

9. Lessee shall be responsible for any permits or fees arising from the construction or maintenance of the Sign.
10. In the event Lessee desires the use of electricity for advertising, Lessee shall obtain and pay for electricity for the Sign. Lessor shall allow Lessee to install and maintain an above-ground or underground electrical supply line to the Sign. The electricity supply line to the Sign shall be metered, installed, operated, and maintained at the sole cost of Lessee. Lessor shall cooperate with Lessee in obtaining electricity for the Sign. Lessor hereby grants to Lessee easement for the utility service for purposes of illuminating the Sign and agrees to execute any necessary easement documents required by the local utility company for said electricity for the Sign.
11. This Lease shall constitute the sole agreement of the parties relating to the Sign. Neither party will be bound by any terms, oral or written, not set forth specifically in this Lease. This Lease is binding upon and inures to the benefit of the heirs, executors, successors, and assigns of Lessee and Lessor.
12. In the event of any change of ownership of the Property herein leased, the Lessor agrees to notify the Lessee promptly of such change and also agrees to give the new owner formal written notice of the existence of this lease and to deliver a copy thereof to the new owner.
13. Lessor hereby grants to the Kansas Department of Transportation and City of Edgerton the right to enter the leased premises for the purposes of inspecting Lessor's outdoor advertising Sign.
14. Lessee may assign this Lease and enter into agreements for the use of the Sign without the prior consent of Lessor. Lessee may license the use of the Sign or any part thereof.
15. All terms of this Lease shall remain confidential, and Lessor, nor any agent to such party, shall disclose its substance or content without prior written consent from Lessee. In the event of any dispute regarding this Lease, whether or not such dispute results in legal proceedings, the prevailing party is entitled to recover its reasonable attorney's fees and costs from the non-prevailing party.
16. Lessor hereby agrees to execute any necessary documents required for said recording of Lease.
17. All rent to be paid pursuant to this Lease, and all notices are to be forwarded to the undersigned Lessor at the address noted below the Lessor's signature.
18. All notices sent under this lease shall be by certified mail, return receipt requested, at the addresses hereinafter set out and such other addresses as either the Lessor or Lessee shall hereafter designate in writing to the other. All notices shall be deemed to have been given when deposited in the U.S. Mail in a sealed envelope, properly addressed, with postage prepaid thereon.

LESSOR:

Mico Inc.
(Please Sign Here)
By: [Signature]
Its: Sec Treas
Phone: (913) 397-1151
Date: 7/28/09
Address: Box 1200

Olathe, KS
66051-1200

LESSEE:

Ad Treas LLC

[Signature]
By: Michael Leo Dahir, Jr.
Its: Manager
Phone: 913-485-5000
Date: 7/28/09
Address: 12804 Maple Street
Overland Park, KS 66209

EDGERTON CITY HALL
PLANNING COMMISSION MEETING
REGULAR SESSION
September 10, 2019

The Edgerton Planning Commission met in regular session with Chair John Daley calling the meeting to order at 7:00 p.m.

All present participated in the Pledge of Allegiance.

The Roll Call was answered, indicating those present were Chair John Daley, Commissioner Jeremy Little, and Commissioner Charlie Crooks. Commissioners Tim Berger and Josh Beem were absent from the meeting. Also present were City Administrator Beth Linn, Development Services Director Katy Crow, and Planning and Zoning Coordinator Chris Clinton.

The Planning and Zoning Coordinator announced a quorum was present.

CONSENT AGENDA

MINUTES

The approval of the minutes from the Regular Session held on August 13, 2019 were considered.

Mr. Crooks motioned to approve the item as presented in the Consent Agenda, Mr. Little seconded. The consent agenda was approved, 3-0.

NEW BUSINESS

PUBLIC HEARING – CONDITIONAL USE PERMITS – APPLICATIONS CU2019-02 & CU2019-03

Chairman Daley introduced Application CU2019-02 and CU2019-03 as the 2 billboards located at 36450 Frontage Road.

Mr. Curt Petersen, agent, Polsinelli Law Firm, came before the Commission as a representative of the property owner, MICO, Inc. He stated the billboards are located just south of the Sunflower Road interchange with Interstate-35 (I-35) and can be seen by travelers along I-35. MICO, Inc. entered into a lease agreement with Ad Trend about 10 years ago to have billboards located on the southern and northern tip of the parcel. The agreement was for a 30-year land lease. At that time, a billboard required a Conditional Use Permit (CUP) per the Unified Development Code (UDC). The UDC has recently been updated to not allow billboards in the City of Edgerton. The original 5-year CUP has expired and an application to renew the CUP was not made by the property owner due to administrative error and oversight. MICO, Inc. is requesting a new CUP to cover the balance of the lease term, which is 20 years. Mr. Petersen agreed with all the stipulations outlined in the Staff Report except for the limitation of the CUP to a the 5-year term, as recommended by City Staff. He requested the Planning Commission consider a 20-year CUP term which would cover the remaining time of the lease agreement. Mr. Petersen stated that MICO, Inc. is at risk with an ever-changing environment and he wants MICO to be able to uphold their end of the lease agreement. Mr. Petersen stated the billboard will be maintained up to City standards.

Ms. Crow confirmed there are 2 billboards on the parcel. The original CUP application was issued in 2010 and issued for 5 years, so it expired in 2015. The applicant has applied for a new CUP. City Staff requested a CUP application be on file for each billboard in case the sale of the parcel results in a land split at some point in the future. Ms. Crow explained a CUP stays with the land, even if property owners change. She informed the Planning Commission a CUP is treated like a rezoning as it is based upon the use of the land. Therefore, the same Golden Factors considered during a rezoning are used in the CUP process and they are outlined in the Staff Report. She stated most of the Factors for the billboards have been deemed positive by Staff, with a few neutral determinations. City Staff has not received any questions or concerns regarding these applications. MICO, Inc. has provided public hearing notices to the surrounding property owners as is required. Ms. Crow explained 5 years is the typical time limit for a CUP. The first CUP was issued for 5 years even with the 30-year lease agreement being in place. The Staff Report does outline some stipulations for approval, which Mr. Petersen stated the property owner does agree with.

Mr. Crooks asked if the billboards will be removed once the lease agreement expires. Ms. Crow answered that the UDC, as of now, does not allow billboards in the City of Edgerton, so it is a risk if an applicant wishes to apply for a CUP. Chairman Daley asked if the billboards would be grandfathered in under the previous UDC. Ms. Crow replied the billboards are considered a non-conforming use and they would not be allowed per the UDC if the CUP expires. Mr. Crooks stated the Planning Commission could split the difference of Staff's recommendation and the applicants request and recommend the CUP for 10 years. He stated there are pros and cons to each. Ms. Linn stated it is up to the Planning Commission to weigh those pros and cons. She stated the applicant is requesting an unusually large amount of time for a CUP. Ms. Linn wants the Planning Commission to keep in mind the investments other property owners have put into the community that have CUPs for less than 20 years. Ms. Linn stated the Planning Commission will send forth a recommendation to the Governing Body as a CUP is adopted by ordinance. Chairman Daley requested clarification if the Governing Body could deny the CUP time limit the Planning Commission recommends. Ms. Linn replied the Governing Body can change the stipulations of approval in the ordinance they adopt.

Mr. Petersen replied the other projects that have larger investments don't have a legal nonconforming use as billboards are no longer allowed per the UDC. He stated the applicant wants to discuss the length of the CUP now as the details could change in 5 years from now with a new Planning Commission, Governing Body, and UDC. Chairman Daley stated the original 5-year CUP was approved even with the 30-year lease agreement in place. He asked if the lease could be transferred to a new property owner. Mr. Petersen stated he is unsure at this time.

Chairman Daley opened the public hearing. No comments were made. Mr. Crooks motioned to close the public hearing, Mr. Little seconded. The public hearing was closed, 3-0.

Chairman Daley stated the original CUP was for 5 years and it is always a possibility for the property to be sold. Mr. Crooks agreed and stated 5 years is the typical time limit for a CUP, but he does understand the request for longer. Chairman Daley inquired about what happens to the CUP if the property is sold. Ms. Linn stated the CUP is transferred with the land and gave the example of a cargo container storage lot that was approved then sold to a new company that is currently operating in Logistics Park Kansas City. She explained that is why CUP applications are treated like a rezoning application.

Mr. Crooks motioned to recommend approval with the following stipulations:

1. Conditional Use Permits CU2019-02 (north) and CU2019-03 (south) are each attached to one sign as described in the Staff Report. If ownership of the parcel changes, each CUP allowance will run with the billboard sign to which it is assigned with any change of ownership reported to the City so that permit records can be updated.
2. Each sign must be kept in good condition and should repairs be required, repaired in accordance with the time frame of the City of Edgerton UDC in effect at the time the repair is needed. Failure to properly maintain the sign shall be cause for revocation of the CUP(s).
3. Any major modifications to the billboard sign, as defined by City Staff, will render CU2019-02 (north) and CU2019-03 (south) null and void. Should the CUP be determined to be null and void, the billboards would then need to be removed within 60 days after notification to the property owner by the City.
4. As a legal non-conforming use, these CUPs are subject to the restrictions outlined in Article 9, Section 9.7.
5. Each CUP shall be valid for 5 (five) years from date of approval by the City of Edgerton Governing Body, regardless of ownership.
6. Should either of the CUPs not be renewed and approved by the Governing Body prior to their expiration date, then the billboards will be considered non-compliant with the UDC and will be required to be removed within 60 days of written notification to the property owner by the City.

Mr. Little stated he would consider approving the CUPs for 10 years. Mr. Daley stated the UDC was updated to not allow billboards in the City of Edgerton. Mr. Crooks stated the Governing Body could change the time if they are not happy with what the Planning Commission recommends. Mr. Little agreed and seconded the motion to recommend approval with the 5-year limit. Conditional Use Permit applications CU2019-02 and CU2019-03 were recommended for approval to the Governing Body, 3-0.

Ms. Linn stated the CUPs will be presented to the Governing Body at the September 26, 2019 meeting.

FUTURE MEETING

The next meeting is scheduled for October 8, 2019 at 7:00 p.m. Chairman Daley asked if there would be any items before the Board of Zoning Appeals (BZA). Ms. Crow replied there are no items to go before the BZA. Chairman Daley confirmed the time of the next meeting to be 7:00 p.m.

ADJOURNMENT

Motion by Mr. Crooks, seconded by Mr. Little, to adjourn. Motion was approved, 3-0.

The meeting adjourned at 7:17 p.m.

Submitted by: Chris Clinton, Planning and Zoning Coordinator

City Council Action Item

Council Meeting Date: October 10, 2019

Department: Administration

Agenda Item: CONSIDER RESOLUTION NO. 10-10-19A AUTHORIZING AND DIRECTING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2019-A, OF THE CITY OF EDGERTON, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX, IF NECESSARY, FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID NOTES AS THEY BECOME DUE; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

Background/Description of Item:

At the October 18, 2018, CIP Work Session, City Council authorized staff to move forward with the 2019 Street Reconstruction Project. Part of the project is being funded with temporary notes (the Notes) to be repaid with the City Maintenance Fee from LPKC Phase 1.

Council has taken various actions over the last few months in order to issue the temporary notes:

- July 25, 2019 - approved Ordinance 2016 designating the streets within the 2019 Street Reconstruction Project as main trafficways of the City.
- August 8, 2019 - approved the project resolution, Resolution No. 08-08-19A, authorizing the project and the amount to be funded with temporary notes.
- August 22, 2019 - approved Resolution No. 08-22-19A which authorized the City to offer the temporary notes for sale and authorized the Mayor to execute a Note Purchase Agreement with a buyer within certain parameters.

Staff worked with the Financial Advisor and Bond Counsel to offer the notes for sale via a bank direct purchase RFP. Even though two banks expressed interest in submitting a response to the RFP, no responses were received. The Financial Advisor contacted those two banks and one of the banks indicated they would be interested, but at an interest rate that was much higher than the market rate for similar debt offerings. The Financial Advisor contacted U.S. Bank, who expressed interest in purchasing the notes at a rate that was more in line with the market for similar debt offerings.

As authorized by Resolution 08-22-19A, the Mayor has executed a Note Purchase Agreement with U.S. Bank. The Note Purchase Agreement documents U.S. Bank's agreement to purchase the notes from the City and includes various representations by the City and U.S. Bank regarding the sale of the notes. The Note Purchase Agreement is enclosed.

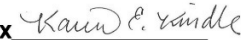
Resolution No. 10-10-19A contains the specifics for the notes, including the amount of the notes, the interest rate, the maturity date, repayment provisions, etc. Approval of Resolution No. 10-10-19A is the final step in the temporary note process. If approved, the closing date for the Notes would be October 24, 2019.

The City Attorney has reviewed and approved this resolution and the Note Purchase Agreement.

Related Ordinance(s) or Statue(s): Ordinance No. 2016, Resolution No. 08-08-19A, Resolution No. 08-22-19A

Funding Source: n/a

Budget Allocated: n/a

x 

Finance Director Approval: Karen Kindle, Finance Director

Recommendation: APPROVE RESOLUTION NO. 10-10-19A AUTHORIZING AND DIRECTING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2019-A, OF THE CITY OF EDGERTON, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX, IF NECESSARY, FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID NOTES AS THEY BECOME DUE; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

Enclosed: Resolution No. 10-10-19A
Note Purchase Agreement with U.S. Bank

Prepared by: Karen Kindle * Finance Director

City of Edgerton, Kansas
General Obligation Temporary Notes, Series 2019-A

- A. Excerpt of Minutes of Meeting approving Note Resolution
 - B. Note Resolution
-

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF EDGERTON, KANSAS
HELD ON OCTOBER 10, 2019**

The governing body met in regular session at the usual meeting place in the City, at 7:00 p.m., the following members being present and participating, to-wit:

Present:

Absent:

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

* * * * *

(Other Proceedings)

There was presented a Resolution entitled:

A RESOLUTION AUTHORIZING AND DIRECTING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2019-A, OF THE CITY OF EDGERTON, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX, IF NECESSARY, FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID NOTES AS THEY BECOME DUE; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

Councilmember _____ moved that the Resolution be adopted. The motion was seconded by Councilmember _____. The Resolution was duly read and considered, and upon being put, the motion for the adoption of the Resolution was carried by the vote of the governing body, as follows:

Yea:

Nay:

The Mayor declared the Resolution duly adopted and the Resolution was then duly numbered Resolution No. 10-10-19A and was signed by the Mayor and attested by the Clerk.

* * * * *

On motion duly made, seconded and carried, the meeting thereupon adjourned.

CERTIFICATE

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

(SEAL)

Rachel James, City Clerk

RESOLUTION NO. 10-10-19A

OF

THE CITY OF EDGERTON, KANSAS

ADOPTED

OCTOBER 10, 2019

**GENERAL OBLIGATION TEMPORARY NOTES
SERIES 2019-A**

RESOLUTION

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RESOLUTION NO. 10-10-19A

A RESOLUTION AUTHORIZING AND DIRECTING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2019-A, OF THE CITY OF EDGERTON, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX, IF NECESSARY, FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID NOTES AS THEY BECOME DUE; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

WHEREAS, the City of Edgerton, Kansas (the “Issuer”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, pursuant to the provisions of the laws of the State of Kansas applicable thereto, by proceedings duly had, the governing body of the Issuer has caused the following improvements (the “Improvements”) to be made in the City, to-wit:

<u>Project Description</u>	<u>Res. No.</u>	<u>Authority</u>	<u>Estimated Cost to be Paid from Notes</u>
Main Trafficway Improvements	08-08-19A	K.S.A. 12-685 <i>et seq.</i>	\$1,835,000*

*Excludes interest on interim financing and other associated financing costs.

WHEREAS, the governing body of the Issuer is authorized by law to issue general obligation bonds to pay a portion of the costs of the Improvements; and

WHEREAS, it is necessary for the Issuer to provide cash funds (from time to time) to meet its obligations incurred in constructing the Improvements prior to the completion thereof and the issuance of the Issuer’s general obligation bonds, and it is desirable and in the interest of the Issuer that such funds be raised by the issuance of temporary notes of the Issuer pursuant to the Act; and

WHEREAS, the governing body of the Issuer hereby finds and determines that it is necessary for the Issuer to authorize the issuance and delivery of the Notes in the principal amount of \$1,870,000 to pay a portion of the costs of the Improvements.

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

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms as used in this Note Resolution shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“Act” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, specifically including K.S.A. 10-123, K.S.A. 10-620 *et seq.*, and K.S.A. 12-685 *et seq.*, all as amended and supplemented from time to time.

“Authorized Denomination” means one Note in the denomination of \$1,870,000.

“Bank” means U.S. Bank National Association, Cincinnati, Ohio, and any successors and assigns.

“Beneficial Owner” of the Notes includes any Owner of the Notes and any other Person who, directly or indirectly has the investment power with respect to any of the Notes.

“Bond and Interest Fund” means the Bond and Interest Fund of the Issuer for its general obligation bonds.

“Bond Counsel” means the firm of Gilmore & Bell, P.C., or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the Issuer.

“Business Day” means a day other than a Saturday, Sunday or holiday on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

“Cede & Co.” means Cede & Co., as nominee of DTC.

“City” means the City of Edgerton, Kansas.

“Clerk” means the duly elected/appointed and acting Clerk of the Issuer or, in the Clerk’s absence, the duly appointed Deputy, Assistant or Acting Clerk of the Issuer.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations proposed or promulgated thereunder of the United States Department of the Treasury.

“Costs of Issuance” means all costs of issuing the Notes, including but not limited to all publication, printing, signing and mailing expenses in connection therewith, registration fees, financial advisory fees, all legal fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with compliance with the Code, and all expenses incurred in connection with receiving ratings on the Notes.

“Dated Date” means October 24, 2019.

“Debt Service Account” means the Debt Service Account for General Obligation Temporary Notes, Series 2019-A (within the Bond and Interest Fund) created pursuant to **Section 501** hereof.

“Debt Service Requirements” means the aggregate principal payments and interest payments on the Notes for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State and having full trust powers.

“Defaulted Interest” means interest on any Note which is payable but not paid on any Interest Payment Date.

“Defeasance Obligations” means any of the following obligations:

(a) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are (i) not subject to redemption prior to maturity or (ii) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(3) such cash and the principal of and interest on such United States Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and United States Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) such obligations are rated in a rating category by Moody’s or Standard & Poor’s that is no lower than the rating category then assigned by the Rating Agency to United States Government Obligations.

“Derivative” means any investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations.

“DTC” means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors and assigns, including any successor securities depository duly appointed.

“Event of Default” means each of the following occurrences or events:

(a) Payment of the principal and of the redemption premium, if any, of any of the Notes shall not be made when the same shall become due and payable, either at Stated Maturity or by proceedings for redemption or otherwise;

(b) Payment of any installment of interest on any of the Notes shall not be made when the same shall become due; or

(c) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Notes or in this Note Resolution (other than the covenants relating to continuing disclosure requirements, if any) on the part of the Issuer to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Issuer by the Owner of any of the Notes then Outstanding.

“Federal Tax Certificate” means the Issuer’s Federal Tax Certificate dated as of the Issue Date, as the same may be amended or supplemented in accordance with the provisions thereof.

“Financeable Costs” means the amount of expenditure for an Improvement which has been duly authorized by action of the governing body of the Issuer to be financed by general obligation bonds, less: (a) the amount of any temporary notes or general obligation bonds of the Issuer which are currently Outstanding and available to pay such Financeable Costs; and (b) any amount of Financeable Costs which has been previously paid by the Issuer or by any eligible source of funds unless such amounts are entitled to be reimbursed to the Issuer under State or federal law.

“Fiscal Year” means the twelve month period ending on December 31.

“Funds and Accounts” means funds and accounts created by or referred to in *Section 501* hereof.

“Improvement Fund” means the Improvement Fund for General Obligation Temporary Notes, Series 2019-A created pursuant to *Section 501* hereof.

“Improvements” means the improvements referred to in the preamble to this Note Resolution and any Substitute Improvements.

“Independent Accountant” means an independent certified public accountant or firm of independent certified public accountants at the time employed by the Issuer for the purpose of carrying out the duties imposed on the Independent Accountant by this Note Resolution.

“Interest Payment Date” means Maturity of the Note.

“Issue Date” means the date when the Issuer delivers the Notes to the Bank in exchange for the Purchase Price.

“Issuer” means the City and any successors or assigns.

“Maturity” when used with respect to any Note means the date on which the principal of such Note becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for redemption or otherwise.

“Mayor” means the duly elected and acting Mayor, or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the Issuer.

“Moody’s” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

“Note Payment Date” means any date on which principal of or interest on any Note is payable.

“Note Purchase Agreement” means the Note Purchase Agreement dated as of October 10, 2019, between the Issuer and the Bank.

“Note Register” means the books for the registration, transfer and exchange of Notes kept at the office of the Note Registrar.

“Note Registrar” means the State Treasurer and its successors and assigns.

“Note Resolution” means this resolution relating to the Notes.

“Notes” means the General Obligation Temporary Notes, Series 2019-A, authorized and issued by the Issuer pursuant to this Note Resolution.

“Notice Address” means with respect to the following entities:

(a) To the Issuer at:

City of Edgerton, Kansas
Attn: City Clerk
P.O. Box 255
Edgerton, Kansas 66021

(b) To the Paying Agent at:

State Treasurer of the State of Kansas
Landon Office Building
900 Southwest Jackson, Suite 201
Topeka, Kansas 66612-1235
Fax: (785) 296-6976

(c) To the Bank:

U.S. Bank National Association
425 Walnut St.
Cincinnati, Ohio 45202

“Notice Representative” means:

(a) With respect to the Issuer, the Clerk.

(b) With respect to the Note Registrar and Paying Agent, the Director of Bond Services.

(c) With respect to any Bank, the manager of its Municipal Bond Department.

“Outstanding” means, when used with reference to the Notes, as of a particular date of determination, all Notes theretofore authenticated and delivered, except the following Notes:

(a) Notes theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;

(b) Notes deemed to be paid in accordance with the provisions of *Article VII* hereof; and

(c) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered hereunder.

“Owner” when used with respect to any Note means the Person in whose name such Note is registered on the Note Register. Whenever consent of the Owners is required pursuant to the terms of this Note Resolution, and the Owner of the Notes, as set forth on the Note Register, is Cede & Co., the term Owner shall be deemed to be the Beneficial Owner of the Notes.

“Paying Agent” means the State Treasurer, and any successors and assigns.

“Permitted Investments” shall mean the investments hereinafter described, provided, however, no moneys or funds shall be invested in a Derivative: (a) investments authorized by K.S.A. 12-1675 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A. 12-1677a, and amendments thereto; (c) direct obligations of the United States Government or any agency thereof; (d) the Issuer’s temporary notes issued pursuant to K.S.A. 10-123 and amendments thereto; (e) interest-bearing time deposits in commercial banks or trust companies located in the county or counties in which the Issuer is located which are insured by the Federal Deposit Insurance Corporation or collateralized by securities described in (c); (f) obligations of the federal national mortgage association, federal home loan banks, federal home loan mortgage corporation or government national mortgage association; (g) repurchase agreements for securities described in (c) or (f); (h) investment agreements or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody’s or Standard & Poor’s; (i) investments and shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts evidencing ownership interests in securities or portions thereof described in (c) or (f); (k) municipal bonds or other obligations issued by any municipality of the State as defined in K.S.A. 10-1101 which are general obligations of the municipality issuing the same; or (l) bonds of any municipality of the State as defined in K.S.A. 10-1101 which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (c) or (f), all as may be further restricted or modified by amendments to applicable State law.

“Person” means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

“Purchase Price” means the amount set forth in the Note Purchase Agreement.

“Rating Agency” means any company, agency or entity that provides financial ratings for the Notes.

“Rebate Fund” means the Rebate Fund for General Obligation Temporary Notes, Series 2019-A created pursuant to *Section 501* hereof.

“Record Dates” for the interest payable on any Interest Payment Date means the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

“Redemption Date” when used with respect to any Note to be redeemed means the date fixed for the redemption of such Note pursuant to the terms of this Note Resolution.

“Redemption Price” when used with respect to any Note to be redeemed means the price at which such Note is to be redeemed pursuant to the terms of this Note Resolution, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

“SEC Rule” means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

“Special Record Date” means the date fixed by the Paying Agent pursuant to *Article II* hereof for the payment of Defaulted Interest.

“Standard & Poor’s” or “S&P” means S&P Global Ratings, a division of S&P Global Inc., a corporation organized and existing under the laws of the State of New York, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Standard & Poor’s shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

“State” means the state of Kansas.

“State Treasurer” means the duly elected Treasurer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the State.

“Stated Maturity” when used with respect to any Note or any installment of interest thereon means the date specified in such Note and this Note Resolution as the fixed date on which the principal of such Note or such installment of interest is due and payable.

“Substitute Improvements” means the substitute or additional improvements of the Issuer described in *Article V* hereof.

“Treasurer” means the duly appointed and/or elected Treasurer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the Issuer.

“United States Government Obligations” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payment on obligations issued by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated in the highest rating category by a nationally recognized rating service and such obligations are held in a custodial account for the benefit of the Issuer.

ARTICLE II

AUTHORIZATION AND DETAILS OF THE NOTES

Section 201. Authorization of the Notes. There shall be issued and hereby are authorized and directed to be issued the General Obligation Temporary Notes, Series 2019-A, of the Issuer in the principal amount of \$1,870,000, for the purpose of providing funds to: (a) pay a portion of the costs of the Improvements; and (b) pay Costs of Issuance.

Section 202. Description of the Notes. The Notes shall consist of fully registered notes in Authorized Denominations, and shall be numbered in such manner as the Note Registrar shall determine. All of the Notes shall be dated as of the Dated Date, shall become due in the amounts, on the Stated Maturity, without option of prior redemption and payment and shall bear interest at the rates per annum as follows:

Stated Maturity	Principal	Annual Rate
<u>October 1</u>	<u>Amount</u>	<u>of Interest</u>
2020	\$1,870,000	1.980%

The Notes shall bear interest at the above specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the later of the Dated Date or the most recent Interest Payment Date to which interest has been paid on the Interest Payment Dates in the manner set forth in *Article II* hereof.

Each of the Notes, as originally issued or issued upon transfer, exchange or substitution, shall be printed in accordance with the format required by the Attorney General of the State and shall be substantially in the form attached hereto as *EXHIBIT A* or as may be required by the Attorney General pursuant to the Notice of Systems of Registration for Kansas Municipal Bonds, 2 Kan. Reg. 921 (1983), in accordance with the Kansas Bond Registration Law, K.S.A. 10-620 *et seq.*

Section 203. Designation of Paying Agent and Note Registrar. The State Treasurer is hereby designated as the Paying Agent for the payment of principal of and interest on the Note and Note Registrar with respect to the registration, transfer and exchange of Notes. The Mayor of the Issuer is hereby authorized and empowered to execute on behalf of the Issuer an agreement with the Note Registrar and Paying Agent for the Notes.

The Issuer will at all times maintain a Paying Agent and Note Registrar meeting the qualifications herein described for the performance of the duties hereunder. The Issuer reserves the right to appoint a successor Paying Agent or Note Registrar by (a) filing with the Paying Agent or Note Registrar then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent or Note Registrar and appointing a successor, and (b) causing notice of appointment of the successor Paying Agent and Note Registrar to be given by first class mail to each Owner. No resignation or removal of the Paying Agent or Note Registrar shall become effective until a successor has been appointed and has accepted the duties of Paying Agent or Note Registrar.

Every Paying Agent or Note Registrar appointed hereunder shall at all times meet the requirements of K.S.A. 10-501 *et seq.* and K.S.A. 10-620 *et seq.*, respectively.

Section 204. Method and Place of Payment of the Notes. The principal of, or Redemption Price, if any, and interest on the Notes shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal or Redemption Price of and interest on each Note shall be paid at Maturity to the Person in whose name such Note is registered on the Note Register at the Maturity thereof, upon presentation and surrender of such Note at the principal office of the Paying Agent. Such amounts shall be paid to the Owner of such Note as shown on the Note Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Paying Agent to the address of such Owner shown on the Note Register or at such other address as is furnished to the Paying Agent in writing by such Owner; or (b) in the case of a payment to any Owner of \$500,000 or more in aggregate principal amount of Notes, by electronic transfer to such Owner upon written notice given to the Note Registrar by such Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank, ABA routing number and account number to which such Owner wishes to have such transfer directed.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Note shall cease to be payable to the Owner of such Note on the relevant Record Date and shall be payable to the Owner in whose name such Note is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The Issuer shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment (which date shall be at least 45 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, by first class mail, postage prepaid, to each Owner of a Note entitled to such notice at the address of such Owner as it appears on the Note Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Notes and at least annually shall forward a copy or summary of such records to the Issuer.

Section 205. Payments Due on Saturdays, Sundays and Holidays. In any case where a Note Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Note Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Note Payment Date, and no interest shall accrue for the period after such Note Payment Date.

Section 206. Registration, Transfer and Exchange of Notes. The Issuer covenants that, as long as any of the Notes remain Outstanding, it will cause the Note Register to be kept at the office of the Note Registrar as herein provided. Each Note when issued shall be registered in the name of the Owner thereof on the Note Register.

Notes may be transferred and exchanged only on the Note Register as provided in this Section. **An Owner shall only have the authority to transfer and exchange Notes in whole, to a Qualified Lender.** “Qualified Lender” means (a) a bank as defined in Section 3(a)(2) of the Securities Act of 1933, as amended (the “1933 Act”), (b) a savings and loan association or other institution described in Section 3(a)(5)(A) of the 1933 Act, or (c) a “Qualified Institutional Buyer” as that term is defined in Rule 144A promulgated by the Securities and Exchange Commission pursuant to the 1933 Act.

Upon surrender of any Note at the principal office of the Note Registrar, the Note Registrar shall transfer or exchange such Note for a new Note or Notes in any Authorized Denomination of the same Stated Maturity and in the same aggregate principal amount as the Note that was presented for transfer or exchange.

Notes presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Note Registrar, duly executed by the Owner thereof or by the Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Notes is exercised, the Note Registrar shall authenticate and deliver Notes in accordance with the provisions of this Note Resolution. The Issuer shall pay the fees and expenses of the Note Registrar for the registration, transfer and exchange of Notes provided for by this Note Resolution and the cost of printing a reasonable supply of registered note blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Note Registrar, are the responsibility of the Owners of the Notes. In the event any Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Code, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Owner hereunder or under the Notes.

The Issuer and the Note Registrar shall not be required to register the transfer or exchange of any Note during a period beginning at the opening of business on the day after receiving written notice from the Issuer of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to this *Article II*.

The Issuer and the Paying Agent may deem and treat the Person in whose name any Note is registered on the Note Register as the absolute Owner of such Note, whether such Note is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Note and for all other purposes. All payments so made to any such Owner or upon the Owner's order shall be valid and effective to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid, and neither the Issuer nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Note Registrar, the Note Register may be inspected and copied by the Owners (or a designated representative thereof) of 10% or more in principal amount of the Notes then Outstanding or any designated representative of such Owners whose authority is evidenced to the satisfaction of the Note Registrar.

Section 207. Execution, Registration, Authentication and Delivery of Notes. Each of the Notes, including any Notes issued in exchange or as substitutions for the Notes initially delivered, shall be executed for and on behalf of the Issuer by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the Clerk and the seal of the Issuer shall be affixed thereto or imprinted thereon. The Mayor and Clerk are hereby authorized and directed to prepare and execute the Notes in the manner herein specified, and to cause the Notes to be registered in the office of the Clerk, which registration shall be evidenced by the manual or facsimile signature of the Clerk with the seal of the Issuer affixed thereto or imprinted thereon. The Notes shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. The Notes shall be countersigned by the manual or facsimile signature of the Clerk and the seal of the Issuer shall be affixed

or imprinted adjacent thereto following registration of the Notes by the Treasurer of the State of Kansas. In case any officer whose signature appears on any Notes ceases to be such officer before the delivery of such Notes, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Note may be signed by such persons who at the actual time of the execution of such Note are the proper officers to sign such Note although at the date of such Note such persons may not have been such officers.

The Mayor and Clerk are hereby authorized and directed to prepare and execute the Notes as herein specified, and when duly executed, to deliver the Notes to the Note Registrar for authentication.

The Notes shall have endorsed thereon a certificate of authentication substantially in the form attached hereto as **EXHIBIT A** hereof, which shall be manually executed by an authorized officer or employee of the Note Registrar, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Notes that may be issued hereunder at any one time. No Note shall be entitled to any security or benefit under this Note Resolution or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Note Registrar. Such executed certificate of authentication upon any Note shall be conclusive evidence that such Note has been duly authenticated and delivered under this Note Resolution. Upon authentication, the Note Registrar shall deliver the Notes to the Bank upon instructions of the Issuer or its representative.

Section 208. Mutilated, Lost, Stolen or Destroyed Notes. If (a) any mutilated Note is surrendered to the Note Registrar or the Note Registrar receives evidence to its satisfaction of the destruction, loss or theft of any Note, and (b) there is delivered to the Issuer and the Note Registrar such security or indemnity as may be required by each of them, then, in the absence of notice to the Issuer or the Note Registrar that such Note has been acquired by a bona fide purchaser, the Issuer shall execute and, upon the Issuer's request, the Note Registrar shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Note, a new Note of the same Stated Maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Issuer, in its discretion, may pay such Note instead of issuing a new Note.

Upon the issuance of any new Note under this Section, the Issuer may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

Every new Note issued pursuant to this Section shall constitute a replacement of the prior obligation of the Issuer, and shall be entitled to all the benefits of this Note Resolution equally and ratably with all other Outstanding Notes.

Section 209. Cancellation and Destruction of Notes Upon Payment. All Notes that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Notes so cancelled and destroyed and shall file an executed counterpart of such certificate with the Issuer.

Section 210. Nonpresentment of Notes. If any Note is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Note have been made available to the Paying Agent all liability of the Issuer to the Owner thereof for the payment of such Note shall

forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Note, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Note Resolution or on, or with respect to, said Note. If any Note is not presented for payment within four (4) years following the date when such Note becomes due at Maturity, the Paying Agent shall repay, without liability for interest thereon, to the Issuer the funds theretofore held by it for payment of such Note, and such Note shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Issuer, and the Owner thereof shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the Issuer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

Section 211. Sale of the Notes – Note Purchase Agreement. The execution of the Note Purchase Agreement by the Mayor is hereby ratified and confirmed. Pursuant to the Note Purchase Agreement, the Issuer agrees to sell the Notes to the Bank for the Purchase Price, upon the terms and conditions set forth therein.

ARTICLE III

REDEMPTION OF NOTES

Section 301. No Redemption of Notes. The Notes shall not be subject to optional redemption and payment prior to their Stated Maturity.

ARTICLE IV

SECURITY FOR NOTES

Section 401. Security for the Notes. The Notes shall be general obligations of the Issuer payable as to both principal and interest from general obligation bonds of the Issuer and, if not so paid, from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes as the same become due.

Section 402. Levy and Collection of Annual Tax. The governing body of the Issuer shall annually make provision for the payment of principal of, premium, if any, and interest on the Notes as the same become due, if necessary, by levying and collecting the necessary taxes upon all of the taxable tangible property within the Issuer in the manner provided by law.

The taxes referred to above shall be extended upon the tax rolls and shall be levied and collected at the same time and in the same manner as the other ad valorem taxes of the Issuer are levied and collected. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund, shall be kept separate and apart from all other funds of the Issuer shall thereafter be deposited in the Debt Service Account and shall be used solely for the payment of the principal of and interest on the Notes as and when the same become due, and the fees and expenses of the Paying Agent.

If at any time said taxes are not collected in time to pay the principal of or interest on the Notes when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the

general funds of the Issuer and to reimburse said general funds for money so expended when said taxes are collected.

ARTICLE V

ESTABLISHMENT OF FUNDS AND ACCOUNTS DEPOSIT AND APPLICATION OF NOTE PROCEEDS

Section 501. Creation of Funds and Accounts. Simultaneously with the issuance of the Notes, there shall be created within the Treasury of the Issuer the following funds and accounts:

- (a) Improvement Fund for General Obligation Temporary Notes, Series 2019-A;
- (b) Debt Service Account for General Obligation Temporary Notes, Series 2019-A; and
- (c) Rebate Fund for General Obligation Temporary Notes, Series 2019-A.

The Funds and Accounts established herein shall be administered in accordance with the provisions of this Note Resolution so long as the Notes are Outstanding.

Section 502. Deposit of Note Proceeds. The net proceeds received from the sale of the Notes shall be deposited simultaneously with the delivery of the Notes as follows:

- (a) All accrued interest received from the sale of the Notes shall be deposited in the Debt Service Account.
- (b) The remaining balance of the proceeds derived from the sale of the Notes shall be deposited in the Improvement Fund.

Section 503. Application of Moneys in the Improvement Fund. Moneys in the Improvement Fund shall be used for the sole purpose of: (a) paying the costs of the Improvements, in accordance with the plans and specifications therefor approved by the governing body of the Issuer and on file in the office of the Clerk, including any alterations in or amendments to said plans and specifications deemed advisable and approved by the governing body of the Issuer; (b) paying interest on the Notes during construction of the Improvements; (c) paying Costs of Issuance; and (d) transferring any amounts to the Rebate Fund required by this *Article V*. Upon completion of the Improvements, any surplus remaining in the Improvement Fund shall be deposited in the Debt Service Account.

Section 504. Substitution of Improvements; Reallocation of Proceeds.

(a) The Issuer may elect for any reason to substitute or add other public improvements to be financed with proceeds of the Notes provided the following conditions are met: (1) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been duly authorized by the governing body of the Issuer in accordance with the laws of the State; (2) a resolution authorizing the use of the proceeds of the Notes to pay the Financeable Costs of the Substitute Improvement has been duly adopted by the governing body of the Issuer pursuant to this Section, (3) the Attorney General of the State has approved the amendment made by such resolution to the transcript of proceedings for the Notes to include the Substitute Improvements; and (4) the use of the proceeds of the Notes to pay the Financeable Cost of the Substitute Improvement will not adversely affect the tax-exempt status of the Notes under State or federal law.

(b) The Issuer may reallocate expenditure of Note proceeds among all Improvements financed by the Notes; provided the following conditions are met: (1) the reallocation is approved by the governing body of the Issuer; (2) the reallocation shall not cause the proceeds of the Notes allocated to any Improvement to exceed the Financeable Costs of the Improvement; and (3) the reallocation will not adversely affect the tax-exempt status of the Notes under State or federal law.

Section 505. Application of Moneys in Debt Service Account. All amounts paid and credited to the Debt Service Account shall be expended and used by the Issuer for the sole purpose of paying the principal or Redemption Price of and interest on the Notes as and when the same become due and the usual and customary fees and expenses of the Note Registrar and Paying Agent. The Treasurer is authorized and directed to withdraw from the Debt Service Account sums sufficient to pay both principal or Redemption Price of and interest on the Notes and the fees and expenses of the Note Registrar and Paying Agent as and when the same become due, and to forward such sums to the Paying Agent, if other than the Issuer, in a manner which ensures that the Paying Agent will receive immediately available funds in such amounts on or before the Business Day immediately preceding the dates when such principal, interest and fees of the Note Registrar and Paying Agent will become due. If, through the lapse of time or otherwise, the Owners of Notes are no longer entitled to enforce payment of the Notes or the interest thereon, the Paying Agent shall return said funds to the Issuer. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Note Resolution and shall be held in trust by the Paying Agent for the benefit of the Owners of the Notes entitled to payment from such moneys.

Any moneys or investments remaining in the Debt Service Account after the retirement of the indebtedness for which the Notes were issued shall be transferred and paid into the Bond and Interest Fund.

Section 506. Application of Moneys in the Rebate Fund.

(a) There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Federal Tax Certificate. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to satisfy the Rebate Amount (as defined in the Federal Tax Certificate), for payment to the United States of America, and neither the Issuer nor the Owner of any Notes shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and the Federal Tax Certificate.

(b) The Issuer shall periodically determine the arbitrage rebate, if any, under Code § 148(f) of the Code in accordance with the Federal Tax Certificate, and the Issuer shall make payments to the United States of America at the times and in the amounts determined under the Federal Tax Certificate. Any moneys remaining in the Rebate Fund after redemption and payment of all of the Notes and payment and satisfaction of any Rebate Amount, or provision made therefor, shall be deposited into the Bond and Interest Fund.

(c) Notwithstanding any other provision of this Note Resolution, including in particular *Article VII* hereof, the obligation to pay arbitrage rebate to the United States of America and to comply with all other requirements of this Section and the Federal Tax Certificate shall survive the defeasance or payment in full of the Notes.

Section 507. Deposits and Investment of Moneys. Moneys in each of the Funds and Accounts shall be deposited in accordance with laws of the State, in a bank, savings and loan association or savings bank organized under the laws of the State, any other state or the United States: (a) which has

a main or branch office located in the Issuer; or (b) if no such entity has a main or branch office located in the Issuer, with such an entity that has a main or branch office located in the county or counties in which the Issuer is located. All such depositories shall be members of the Federal Deposit Insurance Corporation, or otherwise as permitted by State law. All such deposits shall be invested in Permitted Investments as set forth in this Article or shall be adequately secured as provided by the laws of the State. All moneys held in the Funds and Accounts shall be kept separate and apart from all other funds of the Issuer so that there shall be no commingling with any other funds of the Issuer.

Moneys held in any Fund or Account may be invested in accordance with this Note Resolution and the Federal Tax Certificate in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any Fund or Account shall accrue to and become a part of such Fund or Account; provided that, during the period of construction of the Improvements, earnings on the investment of such funds may be credited to the Debt Service Account.

ARTICLE VI

DEFAULT AND REMEDIES

Section 601. Remedies. The provisions of the Note Resolution, including the covenants and agreements herein contained, shall constitute a contract between the Issuer and the Owners of the Notes. If an Event of Default occurs and shall be continuing, the Owner or Owners of not less than 10% in principal amount of the Notes at the time Outstanding shall have the right for the equal benefit and protection of all Owners of Notes similarly situated:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Owner or Owners against the Issuer and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of the Note Resolution or by the Constitution and laws of the State;

(b) by suit, action or other proceedings in equity or at law to require the Issuer, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Notes.

Section 602. Limitation on Rights of Owners. The covenants and agreements of the Issuer contained herein and in the Notes shall be for the equal benefit, protection, and security of the Owners of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of one Note over any other Note in the application of the funds herein pledged to the payment of the principal of and the interest on the Notes, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Note Resolution. No one or more Owners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Outstanding Notes.

Section 603. Remedies Cumulative. No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to

every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner of any Note shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners of the Notes by this Note Resolution may be enforced and exercised from time to time and as often as may be deemed expedient. If action or proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or shall have been determined adversely to such Owner, then, and in every such case, the Issuer and the Owners of the Notes shall, subject to any determination in such action or proceeding or applicable law of the State, be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE VII

DEFEASANCE

Section 701. Defeasance. When any or all of the Notes, redemption premium, if any, or scheduled interest payments thereon have been paid and discharged, then the requirements contained in this Note Resolution and the pledge of the Issuer's faith and credit hereunder and all other rights granted hereby shall terminate with respect to the Notes or scheduled interest payments thereon so paid and discharged. Notes, redemption premium, if any, or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Note Resolution if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Notes or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of or Redemption Price of said Notes and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Issuer, for the purpose of paying and discharging any of the Notes, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Owners of the Notes, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or such bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Note Resolution.

ARTICLE VIII

TAX COVENANTS

Section 801. General Covenants. The Issuer covenants and agrees that: it will comply with (a) all applicable provisions of the Code necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes; and (b) all provisions and requirements of the Federal Tax Certificate. The Mayor and Clerk are hereby authorized and directed to execute the Federal Tax Certificate in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the Issuer. The Issuer will, in addition, adopt such other ordinances or resolutions and take such other actions

as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Notes will remain excluded from federal gross income, to the extent any such actions can be taken by the Issuer.

Section 802. Survival of Covenants. The covenants contained in this Article and in the Federal Tax Certificate shall remain in full force and effect notwithstanding the defeasance of the Notes pursuant to *Article VII* hereof or any other provision of this Note Resolution until such time as is set forth in the Federal Tax Certificate.

ARTICLE IX

CONTINUING DISCLOSURE

Section 901. Exempt from Disclosure. The Issuer has not prepared an official statement or other offering document relating to the Notes and is relying on exemption to provide and disseminate such information contained in Section (d)(1) of the SEC Rule. In furtherance of such exemption, the Issuer certifies that: (a) the Bank has certified that the Notes are being issued in denominations of \$100,000 or more; and (b) the Notes are being sold to no more than thirty-five persons, each of whom the Bank reasonably believes: (1) has the knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment and (2) is not purchasing for more than one account or with a view to distributing the Notes.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 1001. Annual Audit. Annually, promptly after the end of the Fiscal Year, the Issuer will cause an audit to be made of the financial statements of the Issuer for the preceding Fiscal Year by an Independent Accountant. Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the Clerk and a duplicate copy shall be provided to the Bank as set forth in the Note Purchase Agreement. Such audit shall at all times during the usual business hours be open to the examination and inspection by any taxpayer, any Owner of any of the Notes, or by anyone acting for or on behalf of such taxpayer or Owner. Upon payment of the reasonable cost of preparing and mailing the same, a copy of any annual audit will, upon request, be sent to any Owner or prospective Owner. As soon as possible after the completion of the annual audit, the governing body of the Issuer shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Note Resolution, the Issuer shall promptly cure such deficiency.

Section 1002. Amendments. The rights and duties of the Issuer and the Owners, and the terms and provisions of the Notes or of this Note Resolution, may be amended or modified at any time in any respect by resolution or ordinance of the Issuer with the written consent of the Owners of not less than a majority in principal amount of the Notes then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the Clerk, but no such modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon any Note;

(b) effect a reduction in the amount which the Issuer is required to pay as principal of or interest on any Note;

(c) permit preference or priority of any Note over any other Note; or

(d) reduce the percentage in principal amount of Notes required for the written consent to any modification or alteration of the provisions of this Note Resolution.

Any provision of the Notes or of this Note Resolution may, however, be amended or modified by resolution or ordinance duly adopted by the governing body of the Issuer at any time in any legal respect with the written consent of the Owners of all of the Notes at the time Outstanding.

Without notice to or the consent of any Owners, the Issuer may amend or supplement this Note Resolution for the purpose of curing any formal defect, omission, inconsistency or ambiguity herein, to grant to or confer upon the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners, to more precisely identify the Improvements, to reallocate proceeds of the Notes among Improvements, to provide for Substitute Improvements, to conform this Note Resolution to the Code or future applicable federal law concerning tax-exempt obligations, or in connection with any other change therein which is not materially adverse to the interests of the Owners.

Every amendment or modification of the provisions of the Notes or of this Note Resolution, to which the written consent of the Owners is given, as above provided, shall be expressed in a resolution or ordinance adopted by the governing body of the Issuer amending or supplementing the provisions of this Note Resolution and shall be deemed to be a part of this Note Resolution. A certified copy of every such amendatory or supplemental resolution or ordinance, if any, and a certified copy of this Note Resolution shall always be kept on file in the office of the Clerk, and shall be made available for inspection by the Owner of any Note or a prospective purchaser or owner of any Note authorized by this Note Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental resolution or ordinance or of this Note Resolution will be sent by the Clerk to any such Owner or prospective Owner.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the resolution or ordinance of the Issuer hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Owners of the Notes then Outstanding. It shall not be necessary to note on any of the Outstanding Notes any reference to such amendment or modification.

The Issuer shall furnish to the Paying Agent a copy of any amendment to the Notes or this Note Resolution which affects the duties or obligations of the Paying Agent under this Note Resolution.

Section 1003. Notices, Consents and Other Instruments by Owners. Any notice, consent, request, direction, approval or other instrument to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Notes, if made in the following manner, shall be sufficient for any of the purposes of this Note Resolution, and shall be conclusive in favor of the Issuer and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within

such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Notes, the amount or amounts, numbers and other identification of Notes, and the date of holding the same shall be proved by the Note Register.

In determining whether the Owners of the requisite principal amount of Notes Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Note Resolution, Notes owned by the Issuer shall be disregarded and deemed not to be Outstanding under this Note Resolution, except that, in determining whether the Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes which the Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Notes so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Owners the pledgee's right so to act with respect to such Notes and that the pledgee is not the Issuer.

Section 1004. Notices. Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Note Resolution shall be in writing, given to the Notice Representative at the Notice Address and shall be deemed duly given or filed if the same shall be: (a) duly mailed by registered or certified mail, postage prepaid; or (b) communicated via fax, with electronic or telephonic confirmation of receipt. Copies of such notices shall also be given to the Paying Agent. The Issuer, the Paying Agent and the Bank may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

All notices given by: (a) certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed; (b) fax as aforesaid shall be deemed duly given as of the date of confirmation of receipt. If, because of the temporary or permanent suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such other form of notice as shall be made with the approval of the Paying Agent shall constitute a sufficient notice.

Section 1005. Electronic Transactions. The issuance of the Notes and the transactions related thereto and described herein may be conducted and documents may be stored by electronic means.

Section 1006. Further Authority. The officers and officials of the Issuer, including the Mayor and Clerk, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Note Resolution and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 1007. Severability. If any section or other part of this Note Resolution, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Note Resolution.

Section 1008. Governing Law. This Note Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1009. Effective Date. This Note Resolution shall take effect and be in full force from and after its adoption by the governing body of the Issuer.

ADOPTED by the governing body of the Issuer on October 10, 2019.

(SEAL)

Donald Roberts, Mayor

ATTEST:

Rachel James, City Clerk

APPROVED AS TO FORM ONLY.

Gilmore & Bell, P.C.

(Signature Page to Resolution)

**EXHIBIT A
(FORM OF NOTES)**

**REGISTERED
NUMBER _____**

**REGISTERED
\$ _____**

**UNITED STATES OF AMERICA
STATE OF KANSAS
COUNTY OF JOHNSON
CITY OF EDGERTON
GENERAL OBLIGATION TEMPORARY NOTE
SERIES 2019-A**

**Interest
Rate:**

**Maturity
Date: October 1, 2020**

**Dated
Date: October 24, 2019**

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Edgerton, in the County of Johnson, State of Kansas (the “Issuer”), for value received, hereby acknowledges itself to be indebted and promises to pay to the Registered Owner shown above, or registered assigns, but solely from the source and in the manner herein specified, the Principal Amount shown above on the Maturity Date shown above, and to pay interest thereon at the Interest Rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months), from the Dated Date shown above, or from the most recent date to which interest has been paid or duly provided for, payable at maturity (the “Interest Payment Date”).

Method and Place of Payment. The principal or redemption price and interest thereon of this Note shall be paid at maturity to the person in whose name this Note is registered at the maturity, upon presentation and surrender of this Note at the principal office of the Treasurer of the State of Kansas, Topeka, Kansas (the “Paying Agent” and “Note Registrar”). Such amounts shall be payable (a) by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Note Register or at such other address as is furnished to the Paying Agent in writing by such Registered Owner; or (b) in the case of a payment to any Owner of \$500,000 or more in aggregate principal amount of Notes, by electronic transfer to such Owner upon written notice given to the Note Registrar by such Registered Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank, ABA routing number and account number to which such Registered Owner wishes to have such transfer directed. The principal or redemption price of and interest on the Notes shall be payable in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts. Interest not punctually paid will be paid in the manner established in the within defined Note Resolution.

Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the hereinafter defined Note Resolution.

Authorization of Notes. This Note is one of an authorized series of Notes of the Issuer designated “General Obligation Temporary Notes, Series 2019-A,” aggregating the principal amount of \$1,870,000 (the “Notes”) issued for the purposes set forth in the Resolution of the Issuer authorizing the issuance of the Notes (the “Note Resolution”). The Notes are issued by the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution and laws of the State of Kansas, including K.S.A. 10-123 and K.S.A. 12-685 *et seq.*, all as amended, and all other provisions of the laws of the State of Kansas applicable thereto.

General Obligations. The Notes constitute general obligations of the Issuer payable as to both principal and interest from the proceeds of general obligation bonds of the Issuer and, if not so paid, from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the Issuer. The full faith, credit and resources of the Issuer are hereby pledged for the payment of the principal of and interest on this Note and the issue of which it is a part as the same respectively become due.

Redemption Prior to Maturity. The Notes are **not** subject to redemption prior to maturity.

Transfer and Exchange. This Note may be transferred or exchanged, as provided in the Note Resolution, only on the Note Register kept for that purpose at the principal office of the Note Registrar, upon surrender of this Note together with a written instrument of transfer or authorization for exchange satisfactory to the Note Registrar duly executed by the Registered Owner or the Registered Owner’s duly authorized agent, and thereupon a new Note or Notes in any Authorized Denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Note Resolution and upon payment of the charges therein prescribed. **A Registered Owner shall only have the authority to transfer and exchange Notes in whole to a Qualified Lender as described in the Note Resolution.** The Issuer shall pay all costs incurred in connection with the issuance, payment and initial registration of the Notes and the cost of a reasonable supply of note blanks. The Issuer and the Paying Agent may deem and treat the person in whose name this Note is registered on the Note Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes. The Notes are issued in fully registered form in Authorized Denominations.

Authentication. This Note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the hereinafter defined Note Resolution until the Certificate of Authentication and Registration hereon shall have been lawfully executed by the Note Registrar.

IT IS HEREBY DECLARED AND CERTIFIED that all acts, conditions, and things required to be done and to exist precedent to and in the issuance of this Note have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and laws of the State of Kansas, and that the total indebtedness of the Issuer, including this series of notes, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Issuer has caused this Note to be executed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its Clerk, and its seal to be affixed hereto or imprinted hereon.

CITY OF EDGERTON, KANSAS

(Facsimile Seal)

By: (manual or facsimile)
Donald Roberts, Mayor

ATTEST:

By: (manual or facsimile)
Rachel James, City Clerk

This General Obligation Temporary Note shall not be negotiable unless and until countersigned below following registration by the Treasurer of the State of Kansas.

(Facsimile Seal)

(manual or facsimile)
Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is one of a series of General Obligation Temporary Notes, Series 2019-A, of the City of Edgerton, Kansas, described in the within-mentioned Note Resolution.

Registration Date: _____

Office of the State Treasurer,
Topeka, Kansas,
as Note Registrar and Paying Agent

By: _____

Registration Number: _____

CERTIFICATE OF CLERK

STATE OF KANSAS)
) SS.
COUNTY OF JOHNSON)

The undersigned, Clerk of the City of Edgerton, Kansas, does hereby certify that the within Note has been duly registered in my office according to law as of October 24, 2019.

WITNESS my hand and official seal.

(Facsimile Seal)

(facsimile)

Rachel James, City Clerk

CERTIFICATE OF STATE TREASURER

OFFICE OF THE TREASURER, STATE OF KANSAS

Jake LaTurner, Treasurer of the State of Kansas, does hereby certify that a transcript of the proceedings leading up to the issuance of this Note has been filed in the office of the State Treasurer, and that this Note was registered in such office according to law on _____.

WITNESS my hand and official seal.

(Seal)

By: _____

Treasurer of the State of Kansas

NOTE ASSIGNMENT

FOR VALUE RECEIVED, the undersigned do(es) hereby sell, assign and transfer to

(Name and Address)

(Social Security or Taxpayer Identification No.)

the Note to which this assignment is affixed in the outstanding principal amount of \$_____, standing in the name of the undersigned on the books of the Note Registrar. The undersigned do(es) hereby irrevocably constitute and appoint _____ as agent to transfer said Note on the books of said Note Registrar with full power of substitution in the premises.

Dated _____

Name

Social Security or
Taxpayer Identification No.

Signature (Sign here exactly as name(s)
appear on the face of Certificate)

Signature guarantee:

By _____

LEGAL OPINION

The following is a true and correct copy of the approving legal opinion of Gilmore & Bell, P.C., Bond Counsel, which was dated and issued as of the date of original issuance and delivery of such Notes:

GILMORE & BELL, P.C.

Attorneys at Law
2405 Grand Boulevard
Suite 1100
Kansas City, Missouri 64108

(PRINTED LEGAL OPINION)

NOTE PURCHASE AGREEMENT

BETWEEN

CITY OF EDGERTON, KANSAS

AND

**U.S. BANK NATIONAL ASSOCIATION
CINCINNATI, OHIO**

\$1,870,000

GENERAL OBLIGATION TEMPORARY NOTES

SERIES 2019-A

DATED AS OF OCTOBER 24, 2019

\$1,870,000
CITY OF EDGERTON, KANSAS
GENERAL OBLIGATION TEMPORARY NOTES
SERIES 2019-A

October 10, 2019

Mayor and
City Council
City of Edgerton, Kansas

NOTE PURCHASE AGREEMENT

On the basis of the representations, warranties and covenants and upon the terms and conditions contained in this Note Purchase Agreement, U.S. Bank National Association, Cincinnati, Ohio (the “Bank”), hereby offers to purchase all (but not less than all) of the above-described notes (the “Notes”), to be issued by the City of Edgerton, Kansas (the “City”), under and pursuant to a Resolution to be adopted by the City Council of the City (the “Governing Body”) on October 10, 2019 (the “Note Resolution”). All capitalized terms not specifically defined herein shall have the same meaning as defined in the Note Resolution, unless some other meaning is plainly indicated.

This offer is made subject to acceptance of this Note Purchase Agreement by or on behalf of the Governing Body on or before 11:59 p.m., applicable Central time, on October 10, 2019.

SECTION 1. PURCHASE, SALE AND DELIVERY OF THE NOTES

(a) On the basis of the representations, warranties and covenants contained herein and in the other agreements and documents referred to herein, and subject to the terms and conditions herein set forth, the Bank agrees to purchase from the City and the City agrees to sell to the Bank the Notes not later than 12:00 Noon, applicable Central time on October 24, 2019, or such other place, time or date as shall be mutually agreed upon by the City and the Bank at the purchase price set forth on ***Exhibit A*** attached hereto, plus accrued interest from the Dated Date to the Closing Date (the “Purchase Price”). The date of such delivery and payment is herein called the “Closing Date,” the hour and date of such delivery and payment is herein called the “Closing Time” and the transactions to be accomplished for delivery of the Notes on the Closing Date shall be herein called the “Closing.” The Notes shall be issued under and secured as provided in the Note Resolution and the Notes shall have the maturities and interest rates as set forth therein and on ***Exhibit A*** attached hereto, which also contains a summary of the redemption provisions of the Notes. The Notes shall contain such other provisions as are described in the Note Resolution.

(b) The City acknowledges and agrees that: (1) the purchase and sale of the Notes pursuant to this Note Purchase Agreement is an arm’s-length commercial transaction between the City and the Bank; (2) in connection with such transaction, the Bank is acting solely as a principal and not as an agent or a fiduciary of the City; (3) the Bank has not assumed (individually or collectively) a fiduciary responsibility in favor of the City with respect to the offering of the Notes or the process leading thereto (whether or not the Bank, or any affiliate of the Bank, has advised or is currently advising the City on other matters) or any other obligation to the City except with respect to the obligations expressly set forth in this Note Purchase Agreement; and (4) the City has consulted with its own legal and financial advisors to the extent it deemed appropriate in connection with the offering of the Notes.

(c) Payment of the Purchase Price for the Notes shall be made by federal wire transfer or certified or official bank check or draft in immediately available federal funds, payable to the order of a financial institution to be designated by the City for the account of the City on or before the Closing Time on the Closing Date. Upon such payment, the Notes shall be delivered and released upon the instructions of the Bank.

(d) The delivery of the Notes shall be made in definitive form, as fully registered Notes (in such denominations as the Bank shall specify in writing at least 48 hours prior to the Closing Time) duly executed and authenticated; provided, however, that the Notes may be delivered in temporary form. The Notes shall be available for examination and packaging by the Bank at least 24 hours prior to the Closing Time.

SECTION 2. ESTABLISHMENT OF ISSUE PRICE

The Bank agrees to assist the City in establishing the issue price of the Notes and shall execute and deliver to the City at the Closing Time an “issue price” or similar certificate to accurately reflect, as applicable, the sales price of the Notes, in substantially the form attached hereto as *Exhibit C*. The Bank is not acting as an Underwriter with respect to the Notes. The Bank has no present intention to sell, reoffer, or otherwise dispose of the Notes (or any portion of the Notes or any interest in the Notes). The Bank has not contracted with any person pursuant to a written agreement to have such person participate in the initial sale of the Notes, and the Bank has not agreed with the City pursuant to a written agreement to sell the Notes to persons other than the Bank or a related party to the Bank. The term “Related Party” is defined in U.S. Treasury Regulation § 1.150-1(b) which generally provides that the term related party means any two or more persons who have a greater than 50 percent common ownership, directly or indirectly. The term “Underwriter” means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Notes to the Public, and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) of this paragraph to participate in the initial sale of the Notes to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Notes to the Public).

SECTION 3. NO OFFICIAL STATEMENT

No official statement or other offering document has been prepared in connection with the sale of the Notes.

SECTION 4. REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS OF THE BANK

By the execution hereof the Bank hereby represents, warrants and agrees with the City that as of the date hereof and at the Closing Time:

(a) Bank is a national banking association with its corporate offices located in Cincinnati, Ohio, and, pursuant to all necessary corporate action, is authorized to purchase the Notes and to execute and perform this Note Purchase Agreement.

(b) Bank is knowledgeable and experienced in financial and business matters and is capable of evaluating investment merit and risks associated with its purchase of the Notes. The Bank has been furnished and has reviewed the provisions of the Note Resolution relating to the authorization of and security for payment of the Notes. Prior to the execution hereof Bank also obtained and examined such

financial records and information necessary in order to enable itself to fully evaluate the terms and provisions of the Notes and of the Note Resolution authorizing their issuance and providing for the payment thereof and the financial and investment merits and risks associated with the purchase of the Notes. On the basis of such information materials and Bank's investigation, Bank has made the decision to purchase the Notes and has not relied upon any representations of the City or any of its officers or employees with respect to the Notes.

(c) Bank is purchasing the Notes as an investment for its own account and not with a view to the sale, redistribution or other disposition thereof in the ordinary course of business in a transaction not amounting to a public offering as contemplated by Section 4(2) of the Securities Act of 1933, as amended (the "1933 Act"). Bank acknowledges that the Notes will not be registered under the 1933 Act or any applicable state securities law, and that the Notes will only be transferable as set forth in the Note Resolution.

SECTION 5. CITY'S REPRESENTATIONS AND WARRANTIES

By the City's acceptance hereof the City hereby represents and warrants to, and agrees with, the Bank that as of the date hereof and at the Closing Time:

(a) The City is a municipal corporation duly organized under the laws of the State of Kansas (the "State").

(b) The City has complied with all provisions of the Constitution and laws of the State and has full power and authority to consummate all transactions contemplated by the Note Resolution and this Note Purchase Agreement, and all other agreements relating thereto.

(c) The City has duly authorized by all necessary action to be taken by the City: (1) the adoption and performance of the Note Resolution; (2) the execution, delivery and performance of this Note Purchase Agreement; (3) the execution and performance of any and all such other agreements and documents as may be required to be executed, delivered and performed by the City in order to carry out, give effect to and consummate the transactions contemplated by the Note Resolution and this Note Purchase Agreement; and (4) the carrying out, giving effect to and consummation of the transactions contemplated by the Note Resolution and this Note Purchase Agreement. Executed counterparts of the Note Resolution and all such other agreements and documents specified herein will be made available to the Bank by the City at the Closing Time.

(d) The Note Resolution and this Note Purchase Agreement, when executed and delivered by the City, will be the legal, valid and binding obligations of the City enforceable in accordance with their terms, except to the extent that enforcement thereof may be limited by any applicable bankruptcy, reorganization, insolvency, moratorium or other law or laws affecting the enforcement of creditors' rights generally or against entities such as the City and further subject to the availability of equitable remedies.

(e) The Notes have been duly authorized by the City, and when issued, delivered and paid for as provided for herein and in the Note Resolution, will have been duly executed, authenticated, issued and delivered and will constitute valid and binding general obligations of the City enforceable in accordance with their terms and entitled to the benefits and security of the Note Resolution (subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other law or laws affecting the enforcement of creditors' rights generally or against entities such as the City and further subject to the availability of equitable remedies). The Notes are general obligations of the City, payable as to both principal and interest, if necessary, from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City.

(f) The execution and delivery of the Note Resolution, this Note Purchase Agreement, the Notes and compliance with the provisions thereof, will not conflict with or constitute on the part of the City a violation or breach of, or a default under, any existing law, regulation, court or administrative decree or order, or any agreement, ordinance, resolution, mortgage, lease or other instrument to which it is subject or by which it is or may be bound.

(g) The City is not, or with the giving of notice or lapse of time or both would not be, in violation of or in default under its organizational documents or any indenture, mortgage, deed of trust, loan agreement, notes or other agreement or instrument to which the City is a party or by which it is or may be bound, except for violations and defaults which individually and in the aggregate are not material to the City and will not be material to the beneficial owners of the Notes. As of the Closing Time, no event will have occurred and be continuing which with the lapse of time or the giving of notice, or both, would constitute an event of default under the Note Resolution or the Notes.

(h) The financial statements of the City presented to the Bank, except as noted therein, present fairly and accurately the financial condition of the City as of the dates indicated and the results of its operations for the periods specified, and such financial statements are prepared in conformity with generally accepted accounting principles consistently applied in all material respects for the periods involved. The City has not, since the date of such financial statements, incurred any material liabilities and there has been no material adverse change in the condition of the City, financial or otherwise, other than as set forth in such financial statements.

Any certificate signed by any of the authorized officials of the City and delivered to the Bank in connection with the Closing shall be deemed a representation and warranty by the City to the Bank as to the statements made therein.

SECTION 6. COVENANTS AND AGREEMENTS OF THE CITY

The City covenants and agrees with the Bank for the time period specified, and if no period is specified, for so long as any of the Notes remain Outstanding, as follows:

(a) The proceeds of the Notes will be used as provided in the Note Resolution in accordance with the laws of the State.

(b) The proceeds of the Notes shall not be used in a manner which would jeopardize the exclusion of interest on the Notes from gross income for federal income tax purposes.

(c) In the event of the City's failure to pay the principal of or interest on the Notes when due, the City shall, to the extent permitted by State law, reimburse the Bank for reasonable costs incurred for enforcement or collection of the Notes, subject to a limit of \$10,000.

(d) The City shall, to the extent permitted by State law, indemnify the Bank for damages arising from detrimental reliance on material misstatements or misrepresentations of the City relating to the Notes, subject to a limit of \$50,000.

(e) The City, to the extent permitted by State law, hereby waives its right to a jury trial in any legal proceeding arising out of or relating to this Agreement, the Notes or the transactions contemplated herein.

(f) The City shall provide the Bank, or provide notification of such repository where the Bank may reasonably obtain, the City's annual audited financial statements within 30 days of publication.

(g) The City shall provide the Bank with a copy of the City's final budget upon request, which request shall in no case be prior to 45 days after the end of the prior fiscal year.

(h) The City shall provide all information required for the Bank to comply with the USA PATRIOT Act of 2001, Public Law 107-56, upon request.

SECTION 7. CONDITIONS TO THE BANK'S OBLIGATIONS

The Bank's obligations hereunder shall be subject to the due performance by the City of the City's obligations and agreements to be performed hereunder at or prior to the Closing Time and to the accuracy of and compliance with the City's representations and warranties contained herein, as of the date hereof and as of the Closing Time, and are also subject to the following conditions:

(a) The Note Resolution and the Notes shall have been duly authorized, executed and delivered in the form heretofore approved by the Bank with only such changes therein as shall be mutually agreed upon by the City and the Bank.

(b) At the Closing Time, the Bank shall receive:

(1) An opinion dated as of the Closing Date of Gilmore & Bell, P.C. ("Bond Counsel"), substantially in the form attached hereto as ***Exhibit B***.

(2) A certificate of the City, satisfactory in form and substance to the Bank, dated as of the Closing Date, to the effect that: (A) since the date of the financial statements provided to the Bank, there has not been any material adverse change in the business, properties, financial condition or results of operations of the City, whether or not arising from transactions in the ordinary course of business, from that set forth in such financial statements, and except in the ordinary course of business or as set forth in such financial statements, the City has not incurred any material liability; (B) there is no action, suit, proceeding or, to the knowledge of the City, any inquiry or investigation at law or in equity or before or by any public board or body pending or, to the knowledge of the City, threatened against or affecting the City, its officers or its property or, to the best of the knowledge of the City, any basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect the City, the transactions contemplated hereby or by the Note Resolution, the validity or enforceability of the Notes or the Note Purchase Agreement, or the levy and collection of ad valorem taxation in amounts necessary to provide for payment of the principal of and interest on the Notes which are not disclosed herein or in such financial statements; (C) the City has duly authorized, by all necessary action, the execution, delivery and due performance by the City of this Note Purchase Agreement; and (D) the representations and warranties of the City set forth in this Note Purchase Agreement were accurate and complete as of the date hereof and are accurate and complete as of the Closing Time.

Subsequent to Closing, the Bank shall receive a complete Transcript of the Proceedings relating to the issuance of the Notes consisting of original ink signed documents, which shall specifically include each of the forgoing documents.

SECTION 8. CONDITIONS TO THE CITY'S OBLIGATIONS

The obligations of the City hereunder are subject to the Bank's performance of its obligations hereunder.

SECTION 9. PAYMENT OF EXPENSES

(a) Whether or not the Notes are sold by the City to the Bank (unless such sale be prevented at the Closing Time by the Bank's default), the Bank, unless otherwise contracted for, shall be under no obligation to pay any expenses incident to the performance of the obligations of the City hereunder; nor shall the City, unless otherwise contracted for, be under any obligation to pay any expenses incident to the performance of the obligations of the Bank hereunder (unless such sale be prevented at the Closing Time by the City's default).

(b) If the Notes are sold by the City to the Bank, except as hereinafter set forth, all expenses and costs to effect the authorization, preparation, issuance, delivery and sale of the Notes shall be paid by the City out of the proceeds of the Notes or other City funds. Such expenses and costs shall include, but not be limited to: (1) the fees and disbursements of Bond Counsel; (2) the fees and disbursements of the City's legal counsel; (3) the expenses and costs for the preparation, printing, photocopying, execution and delivery of the Notes, this Note Purchase Agreement and all other agreements and documents contemplated hereby; (4) fees of the Note Registrar and Paying Agent designated by the City pursuant to the Note Resolution; (5) all costs and expenses of the City relating to the issuance of the Notes; and (6) Bank counsel fees not to exceed \$1,500 and out-of-pocket fees of the Bank not to exceed \$500.

SECTION 10. NOTICE

Any notice or other communication to be given under this Note Purchase Agreement may be given in the manner set forth in the Note Resolution, as follows:

(a) If to the City at: City of Edgerton, Kansas, P.O. Box 255, Edgerton, Kansas 66021, Attention: Karen Kindle, Finance Director.

(b) If to the Bank at: U.S. Bank National Association, 425 Walnut Street, Cincinnati, Ohio 45202, Attention: Cameron Parker.

SECTION 11. MISCELLANEOUS

(a) This Note Purchase Agreement shall be binding upon the Bank, the City, and their respective successors. This Note Purchase Agreement and the terms and provisions hereof are for the sole benefit of only those persons, except that the representations, warranties, indemnities and agreements of the City contained in this Note Purchase Agreement shall also be deemed to be for the benefit of the person or persons, if any, who control the Bank (within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act). Nothing in this Note Purchase Agreement is intended or shall be construed to give any person, other than the persons referred to in this Paragraph, any legal or equitable right, remedy or claim under or in respect of this Note Purchase Agreement or any provision contained herein. All of the representations, warranties and agreements of the City contained herein shall remain in full force and effect, regardless of: (1) any investigation made by or on behalf of the Bank, (2) delivery of and payment for the Notes of (3) any termination of this Note Purchase Agreement.

(b) For purposes of this Note Purchase Agreement, “business day” means a day other than a Saturday, Sunday or holiday on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

(c) This Note Purchase Agreement shall be governed by and construed in accordance with the laws of the State.

(d) This Note Purchase Agreement may be executed in one or more counterparts, and if executed in more than one counterpart, the executed counterparts shall together constitute a single instrument.

(e) This Note Purchase Agreement may not be assigned by either party without the express written consent of the other party.

SECTION 12. EFFECTIVE DATE

This Note Purchase Agreement shall become effective upon acceptance hereof by the City.

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Upon your acceptance of the offer, this Note Purchase Agreement will be binding upon the City and the Bank. Please acknowledge your agreement with the foregoing by executing the enclosed copy of this Note Purchase Agreement and returning it to the undersigned.

U.S. BANK NATIONAL ASSOCIATION
CINCINNATI, OHIO
as the Bank

Date: October __, 2019
Time: ____:____.m.

By: _____
Name: _____
Title: _____

Accepted and agreed to as of
the date first above written.

CITY OF EDGERTON, KANSAS

Date: October __, 2019
Time: ____:____.m.

By: _____
Donald Roberts, Mayor

ATTEST: (Seal)

By: _____
Rachel James, City Clerk

APPROVED AS TO FORM:

By: _____
Lee W. Hendricks, City Attorney

EXHIBIT A

**\$1,870,000
CITY OF EDGERTON, KANSAS
GENERAL OBLIGATION TEMPORARY NOTES
SERIES 2019-A**

CALCULATION OF PURCHASE PRICE

Principal Amount	\$1,870,000.00
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MATURITY SCHEDULE

Stated Maturity	Principal	Annual Rate	
<u>October 1</u>	<u>Amount</u>	<u>Of Interest</u>	<u>Price</u>
2020	\$1,870,000	1.980%	100%

(Plus accrued interest from October 24, 2019)

REDEMPTION OF NOTES

Redemption by City.

The Notes are not subject to redemption prior to maturity

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EXHIBIT B

FORM OF BOND COUNSEL OPINION

[October 24, 2019]

Governing Body
City of Edgerton, Kansas

U.S. Bank National Association
Cincinnati, Ohio

Re: \$1,870,000 General Obligation Temporary Notes, Series 2019-A, of the City of
 Edgerton, Kansas, Dated October 24, 2019

We have acted as Bond Counsel in connection with the issuance by the City of Edgerton, Kansas (the “City”), of the above-captioned notes (the “Notes”). In this capacity, we have examined the law and the certified proceedings, certifications and other documents that we deem necessary to render this opinion. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the resolution adopted by the Governing Body authorizing the issuance and prescribing the details of the Notes.

Regarding questions of fact material to our opinion, we have relied on the certified proceedings and other certifications of public officials and others furnished to us without undertaking to verify them by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Notes have been duly authorized, executed and delivered by the City and are valid and legally binding general obligations of the City.

2. The Notes are payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The City is required by law to include in its annual tax levy the principal and interest coming due on the Notes to the extent that necessary funds are not provided from other sources.

3. The interest on the Notes is: (a) excludable from gross income for federal income tax purposes; and (b) not an item of tax preference for purposes of the federal alternative minimum tax. The opinions set forth in this paragraph are subject to the condition that the City complies with all requirements of the Internal Revenue Code of 1986, as amended (the “Code”) that must be satisfied subsequent to the issuance of the Notes in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. The City has covenanted to comply with all of these requirements. Failure to comply with certain of these requirements may cause interest on the Notes to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Notes. The Notes have **not** been designated as “qualified tax-exempt obligations” for purposes of Code § 265(b)(3). We express no opinion regarding other federal tax consequences arising with respect to the Notes.

4. The interest on the Notes is exempt from income taxation by the State of Kansas.

The rights of the owners of the Notes and the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally and by equitable principles, whether considered at law or in equity.

This opinion is given as of its date, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may come to our attention or any changes in law that may occur after the date of this opinion.

GILMORE & BELL, P.C.

EXHIBIT C

BANK'S RECEIPT FOR NOTES AND CLOSING CERTIFICATE

\$1,870,000

CITY OF EDGERTON, KANSAS

GENERAL OBLIGATION TEMPORARY NOTES

SERIES 2019-A

The undersigned, on behalf of U.S. Bank National Association (the "Bank"), as the purchaser of the above-described notes (the "Notes"), being issued on the date of this Certificate by the City of Edgerton, Kansas (the "City"), certifies and represents as follows:

1. Receipt for Notes. The Bank acknowledges receipt on the date hereof of all of the Notes, consisting of fully registered Notes in authorized denominations in a form acceptable to the Bank.

2. Issue Price.

(a) *Purchase Price.* On the date of this Certificate, the Bank is purchasing the Notes for the amount of \$1,870,000.00. The Bank is not acting as an Underwriter with respect to the Notes. The Bank has no present intention to sell, reoffer, or otherwise dispose of the Notes (or any portion of the Notes or any interest in the Notes). The Bank has not contracted with any person pursuant to a written agreement to have such person participate in the initial sale of the Notes, and the Bank has not agreed with the City pursuant to a written agreement to sell the Notes to persons other than the Bank or a Related Party to the Bank.

(b) *Defined Terms.*

(i) The term "Public" means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a Related Party to an Underwriter.

(ii) The term "Related Party" is defined in U.S. Treasury Regulation § 1.150-1(b) which generally provides that the term related party means any two or more persons who have a greater than 50 percent common ownership, directly or indirectly.

(iii) The term "Underwriter" means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Notes to the Public, and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) of this paragraph to participate in the initial sale of the Notes to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Notes to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this Certificate represents the Bank's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the certifications contained herein will be relied upon by the City in executing and delivering the Federal Tax Certificate and with respect to compliance with the federal income tax rules affecting the Notes, and by Gilmore & Bell, P.C., Bond Counsel to the City, in rendering its opinion relating

to the exclusion from federal gross income of the interest on the Notes and other federal income tax advice that it may give to the City from time to time relating to the Notes.

Dated: October 24, 2019

U.S. BANK NATIONAL ASSOCIATION

By: _____
Title: _____

City Council Action Item

Council Meeting Date: October 10, 2019

Department: Administration

Agenda Item: Consider Resolution No. 10-10-19B 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

Background/Description of Item:

As part of the final design for the 207th Street Grade Separation Project the design team has determined that several properties need to be acquired in full (or significant portion) for the construction of the project. The property addresses, totaling 5 complete parcels, are listed as follows:

- 410 W. Braun St. (three parcels)
- 20470 Co-Op Rd. (field portion adjacent to intersection)
- 36790 W. 207th St.

City staff has sent purchase offers to the property owners or their representatives, and negotiations are ongoing. However, in case negotiations do not reach a conclusion that satisfies both parties, staff recommends moving forward with the condemnation process.

The first step in that process would be for City Council to pass a resolution confirming the necessity for condemnation and authorizing the preparation of survey and legal description. In an effort to meet the project schedule, staff is requesting that City Council approve this resolution for all of the properties that need to be acquired. Passing this resolution does not prohibit the City from continuing to negotiate and/or acquire the easements – it simply authorizes the preparation of the descriptions.

Staff would anticipate that any remaining easements not acquired would be included in the ordinance to authorize the use of condemnation. Neither of these actions prevents the City from continuing to negotiate the easements.

It is important to note that there are other properties from which the City needs to acquire various easements and rights-of-way, but the entire properties are not needed. Staff continues to negotiate with the property owners. These various easements and rights-of-way are not included in this resolution.

Related Ordinance(s) or Statue(s): K.S.A. 26-201

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approve Resolution No. 10-10-19B 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

Enclosed: Resolution 10-10-19B

Prepared by: Scott Peterson, Assistant City Administrator

RESOLUTION NO. 10-10-19B

A RESOLUTION 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

WHEREAS, K.S.A. § 26-201 authorizes a City to acquire by condemnation any interest in real property when it is deemed necessary, for use by the City, by the governing body of the City; and

WHEREAS, the City wishes to construct the 207th Street Grade Separation Project, consisting of a vehicular and pedestrian bridge over the BNSF Railroad and roadway expansion of 207th Street at Co-Op, said location being within the city limits of the City of Edgerton, Kansas; and

WHEREAS, in order to complete the 207th Street Grade Separation Project the City additionally has determined it necessary to acquire properties in their entirety along the construction limits to ensure that the project is constructed safely and effectively; and

WHEREAS, the City has attempted, and will continue to attempt, to negotiate with the private landowners for the properties needed for the Project but to date such negotiations have been unsuccessful with some of the owners.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Edgerton, Kansas:

SECTION 1: That pursuant to K.S.A. § 26-201, the City declares that the properties are necessary for the Project.

SECTION 2: That the locations of the properties needed are generally located near the intersection Co-Op Road and West 207th Street/West Braun Street, Johnson County, Kansas, and are more specifically described below:

410 W. Braun St.

Tract 1:

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.

Tract 2:

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.

Tract 3:

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.

20470 Co-Op Rd.

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.

36790 W 207th St.

The Southeast Quarter of the Southwest Quarter of Section 7, Township 15, Range 22, except that part lying West of the railroad right of way, LESS a tract of land in the Southeast Quarter of the Southwest

Quarter of Section 7, Township 15 South, Range 22 East of the 6th P.M., Johnson County, Kansas, as described as follows: The South 40.00 feet of the East 404.09 feet of the Southeast Quarter of the

Southwest Quarter of said Section 7; and The South 70.00 feet of the Southeast Quarter of the Southwest Quarter of said Section 7, lying East of the Easterly right-of-way line of the Atchison, Topeka and Santa Fe Railroad, except the East 404.09 feet, all in Johnson County, Kansas

SECTION 3: City Staff is authorized to have a survey conducted and a description of the land and easements to be condemned to be prepared by a competent engineer. Both the survey and the description of the property to be condemned shall be filed with the City Clerk upon their completion.

SECTION 4: The City Clerk is hereby directed to publish this Resolution once in the City's official newspaper.

SECTION 5: This Resolution shall be effective upon its approval and adoption.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS ON THIS
10th DAY OF OCTOBER, 2019.

DONALD ROBERTS, MAYOR

ATTEST:

RACHEL A. JAMES, CITY CLERK

APPROVED AS TO FORM:

LEE W. HENDRICKS, CITY ATTORNEY