

**EDGERTON CITY COUNCIL  
MEETING AGENDA  
CITY HALL, 404 EAST NELSON STREET  
October 13, 2016**

**Call to Order**

1. **Roll Call** \_\_\_\_ Roberts \_\_\_\_ Longanecker \_\_\_\_ Crooks \_\_\_\_ Troutner \_\_\_\_ Brown \_\_\_\_ Crist
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. Agenda Approval
5. Approve City Council Meeting Minutes September 22, 2016
6. Approve Resolution No. 10-13-16A Waiving The City's Compliance With Generally Accepted Accounting Principles For Financial Reporting And Causes Such Reports To Be Prepared In Compliance With The Cash Basis And Budget Laws Of The State Of Kansas
7. Approve One-Year Contract with Varney & Associates, CPAs, LLC, to prepare the City's Financial Audit for Fiscal Year 2016
8. Appoint Juliann Hunter to the Planning Commission for term of September 2016 to September 2019
9. Appoint Eric Erazo to Planning Commission for term of September 2016 to September 2019
10. Accept resignation of Andrea Lucero from Planning Commission effective immediately

**Regular Agenda**

11. **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.

12. **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**

13. **CONSIDER AGREEMENT WITH STRATEGY NEW MEDIA, LLC TO PROVIDE INFORMATION TECHNOLOGY SERVICES**

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

14. **CONSIDER AN AGREEMENT WITH BG CONSULTANTS FOR ENGINEERING DESIGN SERVICES FOR A TRAFFIC SIGNAL SYSTEM AT THE INTERSECTION OF 191ST STREET AND WAVERLY ROAD**

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

15. **PUBLIC HEARING REGARDING THE PARTIAL ASSIGNMENT OF A RESOLUTION OF INTENT FROM EDGERTON LAND HOLDING COMPANY, LLC TO ELHC VIII, LLC, OR ITS SUCCESSORS IN INTEREST**

16. **CONSIDER RESOLUTION NO. 10-13-16B CONSENTING TO THE PARTIAL ASSIGNMENT OF A RESOLUTION OF INTENT FROM EDGERTON LAND HOLDING COMPANY, LLC TO ELHC VIII, LLC, OR ITS SUCCESSORS IN INTEREST**

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

17. **Report by the City Administrator**

18. **Report by the Mayor**

19. **Future Meeting/Event Reminders:**

- October 18<sup>th</sup> 7:00 PM – Planning Commission
- October 19<sup>th</sup> Noon – Senior Lunch
- October 27<sup>th</sup> 7:00 PM – City Council Meeting
- October 30<sup>th</sup> 4:00 PM – Halloween Fest

20. **CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319 (b) (6) FOR PRELIMINARY DISCUSSION RELATED TO ACQUISITION OF REAL PROPERTY TO INCLUDE CITY ATTORNEY AND CITY ADMINISTRATOR**

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

**RECONVENE INTO OPEN SESSION**

21. **Adjourn** Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

**City of Edgerton, Kansas  
Minutes of City Council Regular Session  
September 22, 2016**

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on September 22, 2016. The meeting convened at 7:00 p.m. with Mayor Roberts presiding, and City Clerk Janeice L. Rawles recording.

**1. ROLL CALL**

Charlie Troutner	present
Clay Longanecker	present
Jody Brown	present
Darius Crist	present
Cindy Crooks	absent

With a quorum present, the meeting commenced.

Staff in attendance:	City Administrator Beth Linn
	Community Development Director Kenneth Cook
	City Attorney Patrick Reavey
	Public Works Superintendent Trey Whitaker

**2. WELCOME**

**3. PLEDGE OF ALLEGIANCE**

Mayor Roberts invited Sheriff Denning to the front of the room and read a proclamation proclaiming today as "Deputy Collins Day", in remembrance of Deputy Collins who was killed in the line of duty. Mayor Roberts presented a donation from the City of Edgerton to the Deputy Collins Memorial. Pastor Casey Carter, New City Church, presented a donation from Edgerton New City Church to the Deputy Collins Memorial. Edgerton City Staff passed out blue light bulbs for citizens use, to show support for all law enforcement. Sheriff Denning thanked the City of Edgerton and community for all the support. Mayor Roberts invited all law enforcement officers to the front of the room for a group picture with Edgerton City Council and Mayor Roberts.

**CONSENT AGENDA**

4. The agenda for September 22, 2016 was considered.
5. City Council meeting Minutes of September 8, 2016 was considered.

Motion by Longanecker, seconded by Crist, to approve Consent Agenda.

Motion was approved 4-0.

**6. PUBLIC COMMENTS**

None

**7. DECLARATION**

None

**BUSINESS REQUIRING ACTION**

**ORDINANCE– BEEHIVES-AMENDING CHAPTER II**

**8. AN ORDINANCE AMENDING CHAPTER II OF THE EDGERTON, KANSAS MUNICIPAL CODE TO INCLUDE NEW ARTICLE 6 REGULATING THE KEEPING OF BEEHIVES WITHIN THE CITY WAS CONSIDERED.**

Beth Linn, City Administrator presented background information about the keeping of bees in the City of Edgerton. There are several items required to obtain an annual permit; application form, diagram of the applicant's property lines, location and materials of the proposed Beehives and Flyaway Barrier. Applicants must meet guide lines set forth in the ordinance about height of barrier and have measurements showing the distance between. The applicant is to provide copies of property owner notifications and proof of mailing that they have 14 days from receipt to provide the City Clerk with a written objection, identifying themselves, and indication why they object to the application. Mike Sleister was present and requested to see all written complaints, and who they are from. After much discussion from citizen Mike Sleister and from Mayor Roberts and City Council, the Mayor called for a vote on the topic.

Motion by Longanecker, no second. Ordinance died for lack of a second.

At this time Mayor Roberts introduced Mike Brown who filed for District 6 Johnson County, County Commissioner position. He told all present that he would be here and would attend meetings. Mayor Roberts thanked Mike Brown for appearing at our City Council Meeting.

**ORDINANCE NO 1035 AUTHORIZING THE INDUSTRIAL REVENUE BONDS**

**9. ORDINANCE NO 1035 AUTHORIZING THE CITY OF EDGERTON, KANSAS TO ISSUE INDUSTRIAL REVENUE BONDS (ELHC XIV, LLC PROJECT) SERIES 2016, IN AN AGGREGATE MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED \$25,000,000 FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE REMAINING COST OF A WAREHOUSE AND DISTRIBUTION FACILITY, INCLUDING LAND, BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES, MACHINERY AND EQUIPMENT; AUTHORIZING THE CITY TO ENTER INTO A FIRST SUPPLEMENTAL TRUST INDENTURE; AUTHORIZING THE CITY TO ENTER INTO A FIRST SUPPLEMENTAL BASE LEASE AGREEMENT AND A FIRST SUPPLEMENTAL LEASE AGREEMENT; AUTHORIZING THE CITY TO ENTER INTO A BOND PURCHASE AGREEMENT, AND AUTHORIZING AND APPROVING THE EXECUTION OF CERTAIN DOCUMENTS AND THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS WAS CONSIDERED.**

Scott Anderson, SA Legal Advisors, was present to explain the Industrial Revenue Bonds before the council. The applicant for ELHC XIV has requested that the City issue an additional \$25,000,000 in

industrial revenue bonds to complete the acquisition, construction and equipping of the Project. The public hearing was held at the previous meeting. There were no questions or comments from the public or from the council.

Motion by Brown, seconded by Longanecker, to approve the Ordinance No 1035 authorizing the Industrial revenue bonds.

The vote on the motion- Yea; Longanecker, Brown and Crist, Nay: Troutner. Motion was approved, 3-1.

## **10. REPORT BY THE CITY ADMINISTRATOR**

League of Kansas Municipalities Conference, the City needs to elect a voting delegate. Mayor Roberts was nominated for the voting delegate.

Motion by Brown, seconded by Troutner, for Mayor Roberts to be the new voting delegate.

Motion was approved, 4-0.

The 2017 Community Development Block Grant recommendation is for the waterline replacement on Nelson Street. This project would be for both sides of Nelson, from the school and east. More plans to discuss at a later date.

A handout titled "Edgerton Economic Development Entity" was discussed by Mayor and Council. Council member Crist asked when we would be ready to hire this position. An Edgerton Task Force with suggested members has been established; a time to set up a meeting is forth coming. Council member Troutner asked about the dollars that had been budgeted for Economic Development Services for 2017. The response was, those dollars will now be used in the new organization.

Motion by Longanecker, seconded by Brown, to provide official notice to Southwest Johnson County Economic Development Corporation that City of Edgerton will not be a member for 2017.

Motion was approved, 4-0.

Motion by Longanecker, seconded by Crist ,to appoint Mayor Donald Roberts and City Administrator Beth Linn to the Edgerton Economic Development Task Force.

Motion was approved, 4-0.

Next item discussed was the joint meeting between the Planning Commission and the City Council that was scheduled for September 13<sup>th</sup>. Neither group had a quorum, no meeting was held. Beth Linn, city administrator, would like to offer two dates for consideration of another joint meeting. The dates are Tuesday October 18<sup>th</sup> or Thursday October 20<sup>th</sup> at 7:00 pm.

Motion by Longanecker, seconded by Crist, for Johnson County Liaisons for Storm water; first would be Kenneth Cook and second would be Beth Linn and the Mayor. For the County Assistance Road System liaisons; first would be Trey Whitaker, second would be Beth Linn and the Mayor. The

liaisons for the Emergency Preparedness would be Trey Whitaker, second would be Beth Linn and the Mayor.

Motion was approved, 4-0.

#### **11. REPORT BY THE MAYOR**

Mayor Roberts handed out to the City Council members the CITY OF EDGERTON, GOVERNANCE POLICIES. The Mayor has a request for all council members to read this policy and to police themselves and police others when needed.

#### **12. FUTURE MEETING/EVENT REMINDERS**

September 24<sup>th</sup> 10am-Noon - Cops N' Bobbers Fishing Derby

October 11<sup>th</sup> 7:00 pm – Planning Commission

October 13<sup>th</sup> 7:00 pm – City Council Meeting

October 19<sup>th</sup> Noon – Senior Lunch

October 27<sup>th</sup> 7:00 pm – City Council Meeting

October 30<sup>th</sup> 4:00 pm – Halloween Fest

#### **13. RECESS INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319 (b) (6) FOR PRELIMINARY DISCUSSION RELATED TO ACQUISITION OF REAL PROPERTY TO INCLUDE CITY ATTORNEY AND CITY ADMINISTRATOR WAS CONSIDERED.**

Motion by Brown, seconded by Troutner, to recess into executive session for a period of ten minutes.

Motion was approved, 4-0.

Meeting recessed at 7:54 pm.

Motion by Brown, seconded by Crist, to return to regular session, no action taken.

Motion was approved, 4-0

Meeting reconvened at 8:05 pm.

Motion by Brown, seconded by Crist, to recess into executive session under the same matter, for a period of five minutes.

Motion was approved, 4-0.

Meeting recessed at 8:10 pm.

Motion by Troutner, seconded by Longanecker, to return to regular session, no action taken.

Motion was approved, 4-0.

Meeting reconvened at 8:15 pm.

**14. ADJOURN**

Motion by Brown, seconded by Crist, to adjourn the meeting.

Motion was approved, 4-0.

The meeting adjourned at 8:20 p.m.

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**Janeice L. Rawles, CMC**  
**City Clerk**

**Approved by the Governing Body on**

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## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider Approval of Resolution No. 10-13-16A Waiving the City's Compliance with Generally Accepted Accounting Principles for Financial Reporting and Cause Such Reports to be Prepared in Compliance with the Cash Basis and Budget Laws of the State of Kansas

**Department:** Administration

**Background/Description of Item:** Each year the City of Edgerton requests that the financial statements and financial reports of the City of Edgerton for the year ending December 31<sup>st</sup> be prepared in compliance with the Cash Basis and Budget Laws of the State of Kansas and requests waiver of the requirements of K. S. A. 75-1120a (a).

K.S.A. 75-1120a (a) is the uniform system of fiscal procedure, accounting and reporting for municipalities; it requires the use of generally accepted accounting principles. The governing body can, by resolution, each year make a finding that the financial statements and financial reports prepared in conformity with the requirements of GAAP are of no significant value to the governing body or members of the general public of the municipality. The governing body can then request a waiver from the Director of Accounts and Reports to prepare the City's financial statement on the basis of cash receipts and disbursements as adjusted to show compliance with the cash basis and budget laws of this State.

Another requirement to receive the waiver; the City of Edgerton may not have any bond ordinances or other ordinances or resolutions which require financial statements or reports to be prepared in conformity with K.S.A. 75-1120a (a). The City of Edgerton currently does not have any such ordinances or resolutions.

Resolution No. 10-13-16A has not yet been reviewed by City Attorney. City Attorney will review any changes with City Council during October 13, 2016 meeting.

Enclosure: Draft Resolution 10-13-16A

**Related Ordinance(s) or Statute(s):** K.S.A. 75-1120a

**Recommendation:** Approve Resolution 10-13-16A Waiving the City's Compliance with Generally Accepted Accounting Principles for Financial Reporting and Causes Such Reports to Be Prepared in Compliance with the Cash Basis and Budget Laws of the State of Kansas

**Funding Source:** N/A

Prepared by: Karen Kindle, Accountant  
Date: September 19, 2016



**RESOLUTION NO. 10-13-16A**

**A RESOLUTION WAIVING THE CITY'S COMPLIANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR FINANCIAL REPORTING AND CAUSES SUCH REPORTS TO BE PREPARED IN COMPLIANCE WITH THE CASH BASIS AND BUDGET LAWS OF THE STATE OF KANSAS**

**WHEREAS**, the City of Edgerton, Kansas, prepares its financial statements and financial reports for the year ended December 31, 2016 to be prepared in conformity with the cash basis and budget laws of this state and

**WHEREAS**, K.S.A. 75-1120a (a) requires the financial statements be prepared in conformity with generally accepted accounting principles and

**WHEREAS**, K.S.A. 75-1120a (a) the governing body, by resolution, annually shall make a finding that financial statements and financial reports prepared in conformity with the requirements of subsection (a) are not relevant to the requirements of the cash-basis and budget laws of this state and are of no significant value to the governing body or members of the general public of the municipality.

**WHEREAS**, there are no revenue bond ordinances or other ordinances or resolutions of the municipality which require financial statements and financial reports to be prepared in conformity with K. S. A. 75-1120a (a) for the year ended December 31, 2016.

**NOW, THEREFORE BE IT RESOLVED**, by the Governing Body of the City of Edgerton, Kansas, in regular meeting duly assembled requests that the Director of Accounts and Reports waive the requirements of K. S. A. 75-1120a (a) as they apply to the City of Edgerton, Kansas for the year ended December 31, 2016.

**BE IT FURTHER RESOLVED** that the Governing Body shall cause the financial statements and financial reports of the City of Edgerton to be prepared on the basis of cash receipts and disbursements as adjusted to show compliance with the cash basis and budget laws of this State.

ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF EDGERTON, KANSAS ON THE 13<sup>TH</sup> DAY OF OCTOBER, 2016.

ATTEST:

**CITY OF EDGERTON, KANSAS**

\_\_\_\_\_  
Janeice Rawles, City Clerk

By: \_\_\_\_\_  
Donald Roberts, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Patrick G. Reavey, City Attorney

## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider a One-Year Contract with Varney & Associates, CPAs, LLC, to prepare the City's Financial Audit for Fiscal Year 2016

**Department:** Administration

**Background/Description of Item:**

In 2015, the City of Edgerton conducted an RFP for audit services and selected Varney & Associates, CPAs, LLC, to perform the annual audit of the City's financial statements. Please find attached a copy of the Letter of Understanding detailing the work to be performed by Varney & Associates, CPAs, LLC, as part of the audit of the financial statements.

The fee for the regular financial audit shall not exceed \$8,000. This is an increase of \$200 over the cost of the 2015 audit, in accordance with the cost proposal submitted in response to the RFP. The 2017 Budget includes funding for the regular financial audit totaling \$8,000.

City Attorney has not yet reviewed the Letter of Understanding. Any changes will be reviewed with City Council during meeting.

Enclosure: Letter of Understanding with Varney & Associates, CPAs, LLC

**Related Ordinance(s) or Statute(s):** K.S.A. 44-1030

**Recommendation:** Approve a One-Year Contract with Varney & Associates, CPAs, LLC, to prepare the City's Financial Audit for Fiscal Year 2016.

**Funding Source:** The 2017 Budget includes the following funding for the audit: General Fund \$6,378, Water Fund \$968 and Sewer Fund \$654 for a total of \$8,000.

Prepared by: Karen Kindle, Accountant  
Date: September 19, 2016



August 19, 2016

City of Edgerton, Kansas  
P.O. Box 255  
Edgerton, KS 66021

The following represents our understanding of the services we will provide the City of Edgerton, Kansas.

You have requested that we audit the statement of regulatory basis receipts, expenditures and unencumbered cash balances of the City of Edgerton, Kansas (the City), as of December 31, 2016, and for the year then ended and the related notes to the financial statement, which collectively comprise the City's basic financial statement as listed in the table of contents. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter. Our audit will be conducted with the objective of our expressing an opinion on each opinion unit.

Regulatory-required supplementary information other than RSI will accompany the City's basic financial statement. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and perform certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and additional procedures in accordance with auditing standards generally accepted in the United States of America. We intend to provide an opinion on the following supplementary information in relation to the financial statements as a whole:

- Schedule of expenditures – actual and budget (regulatory basis)
- Schedule of individual fund receipts and expenditures – actual and budget (regulatory basis)

### **The Objective of an Audit**

The objective of our audit is the expression of an opinion as to whether your basic financial statement is fairly presented, in all material respects, in accordance with the regulatory basis of accounting prescribed by the State of Kansas and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statement as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and will include tests of the accounting records and other procedures we consider necessary to enable us to express such opinions. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinion on the financial statement is other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

### **General Audit Procedures**

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS) and the Kansas Municipal Audit and Accounting Guide (KMAAG). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements. An audit also includes evaluating the appropriateness of accounting policies used and

### **General Audit Procedures (Continued)**

the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

### **Internal Control Audit Procedures**

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements may not be detected exists, even though the audit is properly planned and performed in accordance with U.S. GAAS and KMAAG.

In making our risk assessments, we consider internal control relevant to the City's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.

### **Compliance with Laws and Regulations**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

### **Management Responsibilities**

Our audit will be conducted on the basis that management and, when appropriate, those charged with governance acknowledge and understand that they have responsibility:

- a. For the preparation and fair presentation of the financial statements in accordance with the regulatory basis of accounting prescribed by the State of Kansas.
- b. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements; and
- c. To provide us with:
  - i. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements such as records, documentation, and other matters;
  - ii. Additional information that we may request from management for the purpose of the audit; and
  - iii. Unrestricted access to persons within the City from whom we determine it necessary to obtain audit evidence.
- d. For including the auditor's report in any document containing financial statements that indicates that such financial statements have been audited by the City's auditor;
- e. For identifying and ensuring that the City complies with the laws and regulations applicable to its activities; and
- f. For adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current year period(s) under audit are immaterial, both individually and in the aggregate, to the financial statements as a whole.

With regard to the supplementary information referred to above, you acknowledge and understand your responsibility: (a) for the preparation of the supplementary information in accordance with the applicable criteria; (b) to provide us with the appropriate written representations regarding supplementary information; (c) to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information; and (d) to present the supplementary information with the audited financial statements, or if the supplementary information will not be presented with the

**Management Responsibilities (Continued)**

audited financial statements, to make the audited financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.

With respect to any nonattest services we perform, the City's management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities.

In accordance with the requirements of *Government Auditing Standards*, we have attached a copy of our latest external peer review report of our firm for your consideration and files.

As part of our audit process, we will request from management, written confirmation concerning representations made to us in connection with the audit.

**Reporting**

We will issue a written report upon completion of our audit of the City's basic financial statements. Our report will be addressed to the governing body of the City. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

**Other**

We understand that your employees will prepare all confirmations we request and will locate any documents or support for any other transactions we select for testing.

If you intend to publish or otherwise reproduce the financial statements and make reference to our firm, you agree to provide us with printers' proofs or masters for our review and approval before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

**Provisions of Engagement Administration, Timing and Fees**

During the course of the engagement, we may communicate with you or your personnel via fax or e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

Michelle R. Crow, CPA is the engagement partner for the audit services specified in this letter. Her responsibilities include supervising Varney & Associates, CPAs, LLC's services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the audit report.

Our fees are based on the amount of time required at various levels of responsibility not to exceed \$8,000 for 2016. We will notify you immediately of any circumstances we encounter that could significantly affect this initial fee estimate. Whenever possible, we will attempt to use the City's personnel to assist in the preparation of schedules and analyses of accounts. This effort could substantially reduce our time requirements and facilitate the timely conclusion of the audit. Further, we will be available during the year to consult with you on financial management and accounting matters of a routine nature.

During the course of the audit we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

August 19, 2016  
City of Edgerton, Kansas  
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We agree to retain our audit documentation or work papers for a period of at least five years from the date of our report.

At the conclusion of our audit engagement, we will communicate to the governing body the following significant findings from the audit:

- Our view about the qualitative aspects of the City's significant accounting practices;
- Significant difficulties, if any, encountered during the audit;
- Uncorrected misstatements, other than those we believe are trivial, if any;
- Disagreements with management, if any;
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process;
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures;
- Representations we requested from management;
- Management's consultations with other accountants, if any; and
- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

The audit documentation for this engagement is the property of Varney & Associates, CPAs, LLC and constitutes confidential information. However, we may be requested to make certain audit documentation available to regulators pursuant to authority given to it by law or regulation, or to peer reviewers. If requested, access to such audit documentation will be provided under the supervision of Varney & Associates, CPAs, LLC's personnel. Furthermore, upon request, we may provide copies of selected audit documentation to regulators. The regulator may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements including our respective responsibilities.

We appreciate the opportunity to be your financial statement auditors and look forward to working with you and your staff.

Sincerely,

  
Certified Public Accountants

Enclos. (as noted)

RESPONSE:

This letter correctly sets forth our understanding of the City of Edgerton, Kansas

Acknowledged and agreed on behalf of City of Edgerton, Kansas by:

---

Title: \_\_\_\_\_

LIBERAL

J.H. HAY, CPA  
STEPHEN G. RICE, CPA  
CRAIG HAY, CPA  
DUSTIN ORMISTON, CPA  
RODNEY K. HAY, CPA

21 PLAZA DRIVE  
P.O. BOX 2707  
LIBERAL, KS 67905-2707  
(620) 624-8471  
FAX (620) 624-9260  
HRA@hayrice.com

System Review Report

August 20, 2014

To the Owners

Varney & Associates, CPA's, LLC  
and the Peer Review Committee of the  
Kansas Society of Certified Public Accountants

We have reviewed the system of quality control for the accounting and auditing practice of Varney & Associates, CPA's, LLC (the firm) in effect for the year ended June 30, 2014. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. As a part of our peer review, we considered reviews by regulatory entities, if applicable, in determining the nature and extent of procedures. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at [www.aicpa.org/prsummary](http://www.aicpa.org/prsummary).

As required by the standards, engagements selected for review included engagements performed under *Government Auditing Standards*; audits of employee benefit plans, and audits performed under FDICIA, and examinations of service organizations [Service Organizations Control (SOC) 1 engagements].

In our opinion, the system of quality control for the accounting and auditing practice of Varney & Associates, CPA's, LLC, in effect for the year ended June 30, 2014, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Varney & Associates, CPA's, LLC has received a peer review rating of *pass*.

*Hay·Rice & Associates, Chartered*

Hay·Rice & Associates, Chartered

## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider Agreement with Strategy New Media, LLC To Provide Information Technology Services

**Department:** Administration

**Background/Description of Item:** On November 14, 2013, the City contracted with The Reflective Group for Information Technology (IT) services. In July 2016, the City received a letter from The Reflective Group giving the City thirty days' notice that they were closing the IT support services portion of their business; therefore, would no longer provide IT support services to any of their clients. Staff issued a Request for Proposals (RFP) for IT Services on August 29, 2016. Proposals were due on September 19, 2016. The RFP was advertised in the Gardner News and on the City's website. Staff also sent the RFP to the Chamber of Commerce, to firms who had expressed interest in the past in providing IT services to the City, to firms known to provide services to other cities and to firms found via an internet search.

The City received five proposals. Attached is a summary of the proposals received. A staff committee consisting of the City Administrator, the Community Development Director, the Account Clerk and the Accountant reviewed the proposals and interviewed all five firms. The staff committee recommends the City contract with Strategy New Media, LLC, to provide IT services. The contract would be for a period of three years, with the requirement that the contract be renewed annually.

Strategy New Media, LLC, will perform an initial assessment of the City's IT infrastructure for a total cost of \$1,660. The monthly service cost for unlimited help desk services and managed services is \$2,090. Project costs will be billed at \$110/hour, and will be estimated prior to the start of the project. Staff estimates that on average there will be five (5) hours of project work per month, which would result in an additional \$550 per month. The total estimated monthly cost for all services would be \$2,640, for an annual estimated cost of \$31,680. After the first six months of the contract, staff and Strategy New Media, LLC, will review the help desk usage to determine if the help desk fee could be decreased.

The 2016 Budget has \$12,812 remaining available for IT services, which will be sufficient to cover the costs to be incurred in 2016 with Strategy New Media, LLC. The 2017 Budget includes \$15,600 for IT services. Staff recommends that the estimated additional cost (\$16,080) for IT services come from unencumbered fund balance.

The draft agreement has not yet been reviewed by the City Attorney. Any changes will be reviewed with City Council on October 13, 2016.

Enclosure: Information Technology Services Proposal Summary  
Agreement with Strategy New Media, LLC

**Recommendation:** Approve the agreement with Strategy New Media, LLC, for Information Technology Services, subject to approval by the City Attorney.

**Funding Source:** Funding for IT services is included in General Fund, Water Fund and Sewer Fund. Total budget remaining for 2016 is \$12,812. Total budgeted for 2017 is \$15,600. The additional cost for the contract over what is included in the budget would come from unencumbered fund balance.

Prepared by: Karen Kindle, Accountant  
Date: October 11, 2016



City of Edgerton  
Summary of IT Services Proposals Received  
September 19, 2016

																	Monthly Fee Includes							
Firm Name	HQ Office	Year Firm Est.	# of IT Staff	Total Staff	# of Customers	Proposal Contact	Clients: Pub Sec Non-Profit Education	Monthly Support Fee	Regular Hourly Rate	Normal Business Hours	Normal Hours Rate	Holiday Rate	Cost of Initial IT Assessment	Project Work	Set up PCs Dev IT Needs	Response Time Guarantee	Offsite Backup	Unltd Remote Support	# Hrs of On Site Support	Mobile Device Mgmt	Anti-Virus	Anti-Malware	Anti-Spam	Firewall Maint
Allegiant Technology	Overland Park, KS	1974		38		Patrick Moore 913-402-2235 pmoore@allegiantnow.com	Yes (all phone system clients) Platte City St. Joseph Gladstone	\$ 1,758	\$129 - \$159	7am-5pm			\$ 4,203	Billed at regular hourly rate	Billed at regular hourly rate	Server Response: Emergency service response within 2 hours (24x7x365 response is optional)	yes - 1TB	Yes	none (3)	No-optional	Yes	Yes	No	No
Hanebutt Technologies	Overland Park, KS	1989	14	17	100	Brittney Bishop 913-213-6145 bbishop@hanebutt.com	Yes Raytown	\$ 1,140	\$ 95	M-F 8:30am-5pm	\$ 143	none listed	none listed	Billed at regular hourly rate	Part of on-site visit or a separate project; Planning is part of agreement	- Engineer on call 24/7/365 - 30 minutes away	No	No	12 hrs per month	Yes	No	No	No	No
High Tech Relief Center	Ottawa, KS	2013	4	4	34	Jacob Eads 913-314-2714 jeads@htrckc.com	Yes Maur Hill Mount Academy	\$ 850	\$ 75	not listed Hrly rate is same regardless	\$ 75	none listed	none listed	not addressed	Part of on-site visit or a separate project	- 90 min for critical issues '- could be as few as 30 min	yes - 2TB	Yes 24/7	15 hrs per month	Yes	Yes	No	Yes	Yes
Strategy, LLC	Olathe, KS	2010	12 (4)	17	Current # not stated. Since beginning, has served over 300.	Matt Woods 913-353-6909 matt.woods@strategynewmedia.com	Yes Catholic Charities	\$ 2,090	\$ 110	M-F 8am-8pm	\$ 132	\$ 200	\$ 1,660	Billed at regular hourly rate	Billed at regular hourly rate	4 hours for critical 24 hours non-critical	No	Yes	As needed when can't fix remotely.	Yes	No	No	No	No
The Purple Guys	Kansas City, KS	2001	16	20	92	Jon Schram 816-221-3900 x101 jon@purpleguys.com	(2)	\$ 2,625	(1)	M-F 8am-5pm Emergency Support 7am-10pm 365 days/yr	(1)	(1)	\$ 2,625	(1)	(1)	- 1 hour for emergency/site down/multiple users down/work stoppage - 2 hrs for individual down/work stoppage - 4 hrs for any other request	Yes 1 TB	Yes	However many the City would like/needs	Yes	Yes	No	Yes	Yes

Notes

- (1) The Purple Guys charge a flat monthly fee regardless of the number of hours spent working on the City's IT services. The services included in the monthly fee are:
- Unlimited service desk and support services, on-site or remote M-F 8am-5pm
  - Emergency support 7am-10pm, 365 days per year
  - Regular weekly, monthly and/or quarterly on-site visites as needed
  - All patching and maintenance of the PCs, laptops and servers
  - Unlimited support of iPads, tablets, smartphones, etc.
  - 24x7 monitoring of the servers
  - Adding, changing, repurposing any IT related equipment
  - Any projects related to IT equipment or vendors
  - On-site tapeless back up of the servers (and monitoring of the backups)
  - Guarantee never down more than 8 hours due to a server failure (will provide their equipment if necessary to provide a redundant server)
  - off-site backups
  - Anti-spam filtering for all e-mail
  - Anti-virus licenses for all equipment
  - Firewall maintenance
  - IT vendor coordination
  - Hardware & software procurement
  - Regular reviews and technology planning
  - All labor is included. Never charged separately for labor
- (2) The City of Basehor and the City of Basehor Police Department were previous clients. The response indicated the size of cliets served vs the industries. I contacted the City of Basehor to find out why they are no longer using The Purple Guys. They were happy with the service for general city operations. The police department was happy with the service, however, they were implementing some systems that required working with a lot of law enforcement security, etc, and the City decided to use a d and the City decided to use a different vendor that had worked with police systems.
- (3) Allegiant's business model is to provide remote support when needed vs having clients wait for on-site visits. If troubleshooting requires an on-site visit, they will come on-site, which results in billable hours. Has own data center in the caves in Lenexa.
- (4) There are 8 employees that are strictly IT. There are 4 employees that work on both the marketing side of the business and the IT side of the business.

## OBJECTIVE

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Strategy will partner with the city of Edgerton to provide ongoing help desk services, managed network services, and technology project work to assure a healthy and secure network infrastructure.

Strategy uses a team approach in supporting each customer, providing our clients with excellent account support, expert strategists, designers, copywriters, web designers, and more...all at an affordable price. Strategy is a collaborative partner that will support you throughout the year, developing an effective marketing plan, and recommending modifications throughout the year to increase impact and address emerging opportunities.

## CONSIDERATIONS

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### Service Response Times

In the event of a critical system failure, Strategy will regularly communicate status updates to the client. We will guarantee a 4-hour response window for critical events, most often response is within minutes. We will guarantee a 24-hour response to non-critical events, most often response is within minutes. For non-critical events a resolution will be scheduled with the client at a time that is most convenient to the client.

**QUESTIONS OR COMMENTS? GET IN TOUCH WITH US TODAY!**

## ABOUT STRATEGY

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Strategy is a new media partnership.

We specialize in web design, digital & traditional marketing, graphic design, and implementing technology solutions. We strive to make our clients' lives easier and to grow their organizations.

Our culture is relaxed and authentic; however, we work extremely hard to meet deadlines and make our clients shine. We take pride in producing high quality work, and we view our work as a form of art.

We have strategically chosen to work differently in the new economy. Part of that difference is a distributed work environment. While we have central offices in the Kansas City area, our various team members work across the country in highly flexible ways that bring freedom and increased creativity. We've proven the old models of business can be reformatted to produce epic results. The benefit to our clients is lower overhead which results in more affordable solutions as well as an agile company that can scale to meet the most complex challenges.

Our team has vast experience implementing marketing and technology solutions for our clients. We hire and bring the best talent available to the table to assure that each project we undertake exceeds expectations, is completed on time, and remains affordable.

Welcome to Strategy. Welcome home.

## CORE VALUE STATEMENTS

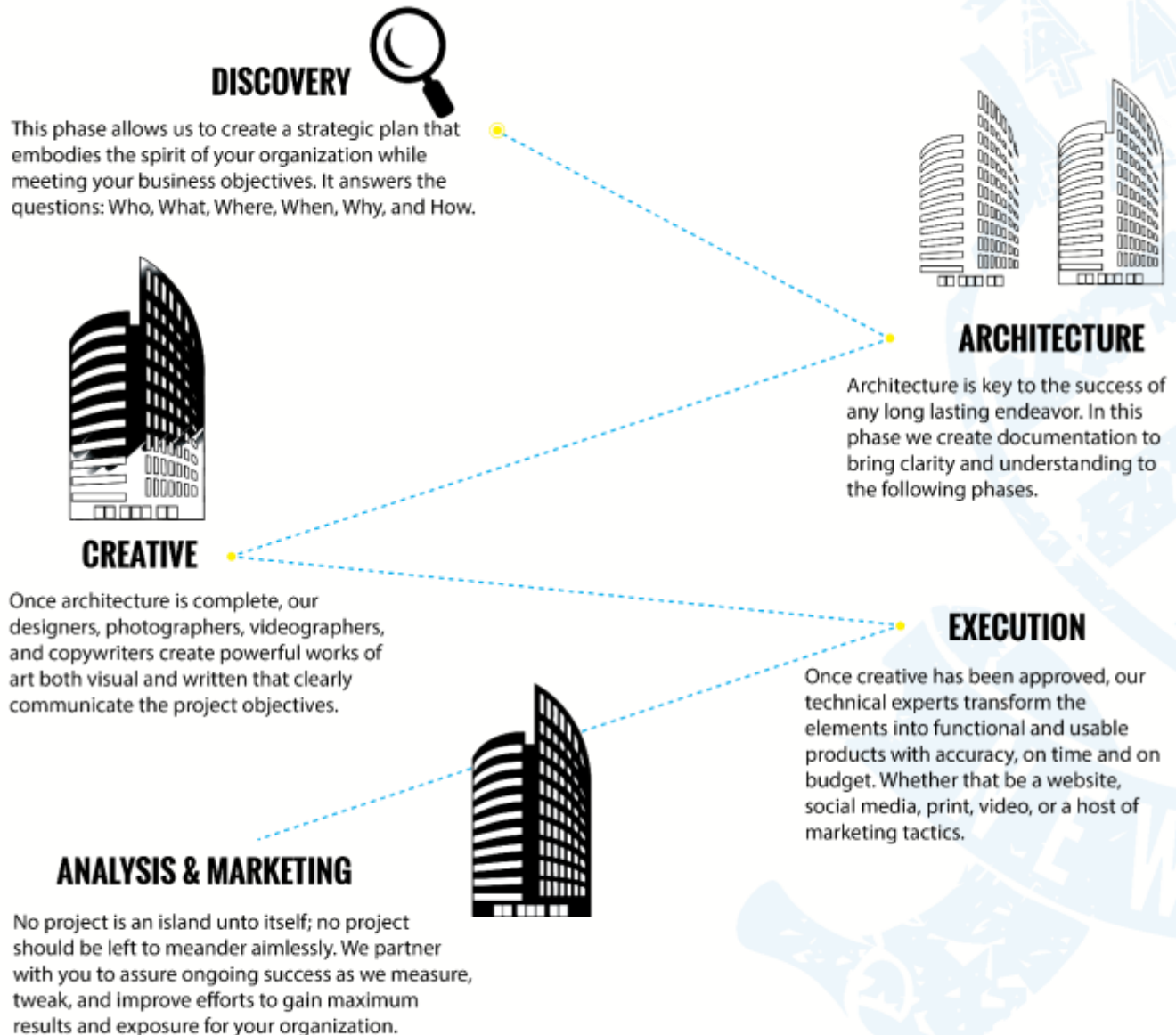
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The following statements define our outlook on life and our relationships. We invite you to do business with a group of people who hold these values.

- We provide exceptional care and service to all clients and team members; we bring value to all of our relationships.
- Our work exhibits highly creative solutions that are produced with excellence and passion.
- We think out-of-the-box for our clients and produce multiple solutions so our customers can make informed decisions.
- We find the best solution for our clients, not necessarily the best solution for ourselves.
- We are agile, flexible, and forward thinking so that we can react in surprisingly timely ways and provide added value to our clients.
- At the heart of our company we are missionally minded and strive to make our community and the world around us a better place to live.
- We value integrity over profit; it's business and it's personal. Relationships matter.

**QUESTIONS OR COMMENTS? GET IN TOUCH WITH US TODAY!**

## OUR PROCESS



**QUESTIONS OR COMMENTS? GET IN TOUCH WITH US TODAY!**

## BUDGET SUMMARY

The following budget is estimated based on the requirements understood at the time of the estimate.

### Unlimited Project Work and Help Desk:

Unlimited help desk shall be limited to remote user support issues, onsite user and desktop issues, desktop or user device hardware repair, routine server and network management tasks (patches, antivirus updates, etc.). Project work will be estimated at the time of the project. Projects may include, but not be limited to: cable projects, firewall/switch installation, server installation, new office building deployments, and any other infrastructure change. Project work will be billed at our normal hourly rate. Any third party costs will be paid by client for hardware/software items that may need to be purchased.

Description	Cost
<b>Unlimited Help Desk</b> Provide monthly help desk tasks as outlined above. Helpdesk hours are based on an average of 15 hours per month, but will be unlimited in practice each month. Project work will be billed in addition to the helpdesk contract. The terms of each project will be agreed upon a project-by-project basis, and will come with their own estimate and approval.	\$1,650 /month
<b>Monthly Managed Services</b> Managed services provides ongoing monthly monitoring and reporting of computer server systems, desktop systems and mobile devices. Each month, systems are monitored for potential health risks as well as preventative maintenance such as operating system patches, backup confirmation, antivirus updates, and other best practice maintenance. A monthly report is provided detailing any issues found and stating the current health states of the systems. Recommendations are also provided related to any issues discovered.	\$440/month
<b>Total</b>	<b>\$2,090 /month</b>

The above budget will be prorated for the month of October. In addition, we will evaluate this agreement every 3 months to ensure that we are meeting all the needs of the City of Edgerton.

QUESTIONS OR COMMENTS? GET IN TOUCH WITH US TODAY!

## Initial IT Assessments

In addition, we recommend doing IT assessments at all 4 of the locations on the request for proposal. Those assessments will provide you with a comprehensive inventory of your IT infrastructure, a system analysis, recommendations, including a budget, to improve all moderate, severe, and critical issues, as well as strategic direction for 2017 projects. In addition, we will provide phone and internet quotes which may lower current monthly costs.

Location	Cost
City Hall	\$550.00
City Hall Annex	\$370.00
Public Works	\$370.00
Big Bull Creek Waste Water Treatment Plant	\$370.00
<b>Total</b>	<b>\$1,660</b>

**QUESTIONS OR COMMENTS? GET IN TOUCH WITH US TODAY!**

## OUR SERVICES

Below is a sample of the services we offer to meet your marketing and technology needs.

### Web Development

- Consulting
- Content Management
- E-Commerce
- .net Programming
- PHP Programming
- Email Template Design
- Hosting
- Strategic Analysis
- Web Applications
- Web Design
- Web Video Production
- Blogs
- Email

### Marketing Services

- Marketing Strategy
- Analytics
- Copy Editing
- Copy Writing
- Direct Mail
- E-Newsletters
- Email Campaigns
- Facebook, Google+, Twitter, LinkedIn
- Google Ad Campaigns
- Internet Marketing
- Meta Tags
- Outdoor Advertising
- Pay Per Click
- Print Campaigns
- Viral Marketing
- SEO

### Creative Services

- Logo Design
- Collateral Design
- Brand Design
- Banners
- Brochures
- Business Cards
- Flyers, Posters
- Letterhead
- Photo Shoots
- Presentation Folders
- Print Brokering
- Trade Show Booths
- Video Shoots

### Technology

- Network Management
- Installations
- Managed Services
- Help Desk
- Remote Support
- Firewalls / Routers
- Wireless Networking
- Windows
- Microsoft Office
- Exchange
- SQL Server
- Backups
- IT Planning
- IT Consulting
- Google Apps
- MAC

**QUESTIONS OR COMMENTS? GET IN TOUCH WITH US TODAY!**



## BILLING

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Invoices are due net 15. New projects are billed 35% down along with first month's hosting if applicable. Additional invoices will be sent in equal installments during the life of the project. If you opt to pay for your development with a payment plan, terms can be established that fit your specific budget needs. Hosting or other monthly fees will be charged to a credit card on a monthly recurring basis on the 1st of each month. A monthly late charge (the greater of, 1.5% of the overdue amount, or \$15/month) will be assessed on outstanding invoices over 60 days old. Payments can be made online at [www.strategynewmedia.com/payments](http://www.strategynewmedia.com/payments).

## SOURCE CODE OWNERSHIP

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We provide a service to our clients in that we provide an end product that the client can use on a web server, send to a printer or use in another media format. The client has the full rights to anything that is needed to render the end product. Template graphic design files are provided as necessary to maintain websites or update print items. Source code is not available for content management systems or e-commerce projects as Strategy may not be the owner of the related software systems.

## RIGHTS FOR USE FOR SELF PROMOTION

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Strategy, LLC reserves the right to use any final product for use in self-promotion unless a non-disclosure agreement is required and signed by Strategy, LLC before work has begun.

## WHAT WE NEED FROM YOU

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Strategy, LLC will be provided necessary administrative access to accomplish project goals.

## WHAT THE ESTIMATE DOESN'T COVER

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This estimate does not cover third party fees such as stock art, credit card processing, hardware, software, print costs, etc. Further, this estimate does not cover mileage for travel outside of the metro area, meals, or other out-of-pocket expenses which will be billed as needed.

**QUESTIONS OR COMMENTS? GET IN TOUCH WITH US TODAY!**



## PROJECT ACCEPTANCE

This project can be accepted via affirmative email response or printed, signed, and delivered to Strategy, LLC.

Client Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Client agrees that the liability of Strategy, LLC, to the client for acts and omissions, whether willful or negligent on the part of Strategy, LLC, shall be limited to actual and not consequential nor punitive damages and shall not exceed the greater (1) of the fees paid by the client to Strategy, LLC, or (2) the available proceeds of any insurance coverage.

***If mailing acceptance please mail with deposit to:***

**Strategy, LLC**  
1121 N Julia  
Olathe, KS 66061  
Fax: 913.324.5899

If accepting via email (please note: project work will not begin until deposit is received):

[sales@strategynewmedia.com](mailto:sales@strategynewmedia.com)

**QUESTIONS OR COMMENTS? GET IN TOUCH WITH US TODAY!**

## CREDIT CARD AUTHORIZATION

CUSTOMER CREDIT CARDHOLDER INFORMATION					
NAME ON CREDIT CARD					
TYPE OF CREDIT CARD	<input type="checkbox"/> VISA	<input type="checkbox"/> MC	<input type="checkbox"/> DISCOVER		
TYPE OF ACCOUNT	<input type="checkbox"/> PERSONAL		<input type="checkbox"/> BUSINESS		
COMPANY NAME					
CARD NUMBER					
EXPIRATION DATE			THREE DIGIT CODE		
BILLING ADDRESS					
CITY			STATE		
PHONE			EMAIL		
ZIP CODE					
FAX NUMBER					
AUTHORIZATION					
CHARGE PRODUCTION FEES	Client Initials				
AUTHORIZE RECURRING CHARGES	Client Initials				
DATES OF CHARGES	Website hosting fees will be charged upon the start of programming. Monthly fees billed on the 1 <sup>st</sup> of each month & every 30 days thereafter until cancelled. Standard fees will be billed according to production schedule.				
PURPOSE OF AUTHORIZATION AND CARD USE					
TO COMPLETE YOUR ORDER, PLEASE COMPLETE THE CREDIT CARD AUTHORIZATION FORM AND FAX or MAIL BACK TO:  FAX: 913.324.5899 MAIL TO: Strategy, LLC 1121 N Julia St. Olathe, KS 66061 Payments may also be made online at <a href="http://www.strategynewmedia.com/payments">www.strategynewmedia.com/payments</a> .  I certify that I am the authorized holder and signer of the credit card referenced above. I certify that all information above is complete and accurate. I hereby authorize collection of payment for all charges as indicated above. Charges may not exceed the amount listed above in the "AMOUNT TO CHARGE" field. I understand this is only for up to this amount during the time period of "DATES OF CHARGES" referenced above.					
CARDHOLDER NAME (Print)					
SIGNATURE				DATE	

QUESTIONS OR COMMENTS? GET IN TOUCH WITH US TODAY!

## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider an Agreement with BG Consultants for Engineering Design Services for a Traffic Signal System at the Intersection of 191<sup>st</sup> Street and Waverly Road

**Department:** Public Works

**Background/Description of Item:** On March 10, 2016 Edgerton City Council approved the construction contract with Emery Sapp & Sons, Inc. (ESS) for the construction of Montrose Street Phase II. The project was included in the List of Projects for the Logistics Park Kansas City (LPKC) Plan of Finance. The project includes construction of a 30-foot-wide concrete roadway with associated storm sewer, sidewalk and other related improvements. Montrose Street is located between the Kubota and Jet buildings at LPKC. This project will begin near the southeast corner of Kubota and will continue south along the east side of Inland Port XIV (Amazon) turning west to connect to Waverly Road.

Based recent tenant announcements at Logistics Park Kansas City (LPKC), employment projections at the end of 2016 are nearly 3,000. Based on these numbers, staff requested the ability to add the construction of a traffic signal at 191<sup>st</sup> Street and Waverly Road to the Montrose Street Phase II project. This request was approved by KDOT. KDOT did express strong desire for the project to be constructed as quickly as possible due to concerns regarding long-term funding for KDOT.

### SCOPE OF SERVICES

The scope of services included in this agreement include in the Design Phase of Services: design of the traffic signal improvements (including wiring, signal phasing, pavement markings, signage, etc); development of an Engineer's Opinion of Probable Costs; design of final construction plans with final plan quantities and bid items; and preparation of the project manual. Staff would also recommend including Bid Phase Services such as advertising the project for bid; addressing any questions from potential bidders; preparing an engineer's estimate; and reviewing the bid tabulations. Construction Phase Services would be considered by a separate agreement.

### FEE

BG Consultants would provide the services as described in Exhibit 1, Item A for a lump sum fee of ten thousand five hundred and NO/100 dollars (\$10,500.00). Exhibit 1, Item B Bid Phase Services would be provided for a lump sum fee of two thousand five hundred and NO/100 dollars (\$2,500.00). Total lump sum fee of \$13,000.

### FUNDING

The City of Edgerton was awarded an Economic Development Grant of \$1,800,000 from the Kansas Department of Transportation (KDOT) for construction of the road based on Amazon as the tenant for Inland Port XIV. The original construction bid approved by City Council from ESS was \$1,389,364.22. City Administrator approved Change Order No. 2 in the amount of \$19,790.10 due to an area of unstable material found during preparation of the sub grade. The unstable material was undercut and replaced with AB-3 material. Current total construction cost at \$1,409,154.32. While the project is substantially complete, actual construction quantities have not been finalized. Staff anticipates actual construction costs will remain under \$1,420,000.

Based on that construction costs, the KDOT economic development grant has approximately \$380,000 funds remaining for the construction of the traffic signal. Design of the traffic signal is not an eligible cost

for the grant. Design of the traffic signal would be funded from the Public Infrastructure Fund. No general fund dollars would be allocated for this project.

#### SCHEDULE

The estimated project schedule below is based on the scope of services described in Exhibit 1.

Notice to Proceed: October 14, 2016

Data Collection: November 1, 2016

Design to Preliminary Check Status ( $\pm 50\%$  completion): November 2016

Field Check Meeting with CLIENT: November/December 2016

Design to Final Check Status (100% completion): December 2016

Receive Bids from Contractors: January 2017

The Agreement has not yet been reviewed by City Attorney. Staff recommends approval of the agreement and execution of the contract by Mayor upon approval by City Attorney.

Enclosure: Draft Agreement for Design Services

#### **Related Ordinance(s) or Statute(s):**

**Recommendation:** Approve an Agreement with BG Consultants for Engineering Design Services for a Traffic Signal System at the Intersection of 191st Street and Waverly Road

**Funding Source:** KDOT Economic Development Grant and Public Infrastructure Fund

Prepared by: Beth Linn, City Administrator

Date: October 11, 2016



## AGREEMENT CONSULTANT-CLIENT

**THIS AGREEMENT** made and entered into by and between BG CONSULTANTS, INC., party of the first part, (hereinafter called the CONSULTANT), and City of Edgerton, Kansas, party of the second part, (hereinafter called the CLIENT).

WITNESSETH:

WHEREAS, the CLIENT is authorized and empowered to contract with the CONSULTANT for the purpose of obtaining Services for the following improvement:

Traffic Signal Installation Project
191 <sup>st</sup> Street and Waverly Road
Edgerton, Kansas

WHEREAS, the CONSULTANT is licensed in accordance with the laws of the State of Kansas and is qualified to perform the Professional Services desired by the CLIENT now therefore:

IT IS AGREED by and between the two parties aforesaid as follows:

### SECTION 1 – DEFINITIONS

As used in this Agreement, the following terms shall have the meanings ascribed herein unless otherwise stated or reasonably required by this contract, and other forms of any defined words shall have a meaning parallel thereto.

- 1.1 “Additional Services” means any Services requested by the CLIENT which are not covered by Exhibit 1 of this Agreement.
- 1.2 “Agreement” means this contract and includes change orders issued in writing.
- 1.3 “CLIENT” or “Client” means the agency, business or person identified on page 1 as “CLIENT” and is responsible for ordering and payment for work on this project.
- 1.4 “CONSULTANT” or “Consultant” means the company identified on page 1. CONSULTANT shall employ for the Services rendered, engineers, architects and surveyors licensed, as applicable, by the Kansas State Board of Technical Professions.
- 1.5 “Contract Documents” means those documents so identified in the Agreement for this Project, including Engineering, Architectural and/or Survey documents under this Agreement. Terms defined in General Conditions shall have the same meaning when used in this Agreement unless otherwise specifically stated or in the case of a conflict in which case the definition used in this Agreement shall prevail in the interpretation of this Agreement.
- 1.6 “Engineering Documents” or “Architectural Documents” or “Survey Documents” means plans, specifications, reports, drawings, tracings, designs, calculations, computer models, sketches, notes, memorandums or correspondence related to the work described in Exhibit 1 attached hereto.

- 1.7 “Consulting Services” or “Engineering Services” or “Architectural Services” or “Survey Services” means the professional services, labor, materials, supplies, testing and other acts or duties required of the CONSULTANT under this Agreement, together with Additional Services as CLIENT may request and evidenced by a supplemental agreement pursuant to the terms of this Agreement.
- 1.8 “Services” is a description of the required work as shown in **Exhibit 1**.
- 1.9 “Subsurface Borings and Testing” means borings, probings and subsurface explorations, laboratory tests and inspection of samples, materials and equipment; and appropriate professional interpretations of all the foregoing.

## SECTION 2 – RESPONSIBILITIES OF CONSULTANT

- 2.1 SCOPE OF SERVICES: The CONSULTANT shall furnish and perform the various Professional Services of the Project to which this Agreement applies, as specifically provided in **Exhibit 1** for the completion of the Project.

### 2.2 GENERAL DUTIES AND RESPONSIBILITIES

- 2.2.1. **Personnel:** The CONSULTANT shall assign qualified personnel to perform professional Services concerning the Project. At the time of execution of this Agreement, the parties anticipate that the following individual will perform as the principal point of contact on this Project.

Name:	David Hamby
Address:	1405 Wakarusa Drive
	Lawrence, KS 66049
Phone:	785-749-4474

- 2.2.2. **Standard of Care:** In the performance of professional Services, CONSULTANT will use that level of care and skill ordinarily exercised by reputable members of CONSULTANT’s profession currently practicing in the same locality under similar conditions. No other representation, guarantee or warranty, express or implied, is included or intended in this agreement or in any communication (oral or written) report, opinion, document or instrument of service.
- 2.2.3. **Independent Contractor:** The CONSULTANT is an independent contractor and as such is not an employee of the Client.
- 2.2.4. **Insurance:** CONSULTANT will maintain insurance for this Agreement in the following types: (i) worker’s compensation insurance as required by applicable law, (ii) comprehensive general liability insurance (CGL), (iii) automobile liability insurance for bodily injury and property damage and (iv) Professional liability insurance.
- 2.2.5. **Subsurface Borings and Material Testing:** If tests additional to those provided in Exhibit 1 are necessary for design, the CONSULTANT shall prepare a request for the necessary additional borings and procure at least two proposals, including cost, from Geotechnical firms who engage in providing Subsurface Borings and Testing Services. The CONSULTANT will provide this information to the Client and the Client will contract directly with the Geotechnical firm. The CONSULTANT will not charge an add-on percentage for the Geotechnical firm’s work. The Client will pay the Geotechnical firm separately from this Agreement.

- 2.2.6. **Service by and Payment to Others:** Any work authorized in writing by the Client and performed by a third party, other than the CONSULTANT or their subconsultants in connection with the proposed Project, shall be contracted for and paid for by the Client directly to the third party or parties. Fees for extra work shall be subject to negotiation between the CLIENT and the third party. Fees shall be approved by the CLIENT prior to the execution of any extra work. Although the CONSULTANT may assist the CLIENT in procuring such Services of third parties, the CONSULTANT shall in no way be liable to either the CLIENT or such third parties in any manner whatsoever for such Services or for payment thereof.
- 2.2.7. **Subcontracting of Service:** The CONSULTANT shall not subcontract or assign any of the architectural, engineering, surveying or consulting Services to be performed under this Agreement without first obtaining the approval of the Client regarding the Services to be subcontracted or assigned and the firm or person proposed to perform the Services. Neither the CLIENT nor the CONSULTANT shall assign any rights or duties under this Agreement without the prior consent of the other party.
- 2.2.8. **Endorsement:** The CONSULTANT shall sign and seal final plans, specifications, estimates and data furnished by the CONSULTANT according to Kansas Statutes and Rules and Regulations.
- 2.2.9. **Force Majeure:** Should performance of Services by CONSULTANT be affected by causes beyond its reasonable control, Force Majeure results. Force Majeure includes, but is not restricted to, acts of God; acts of a legislative, administrative or judicial entity; acts of contractors other than contractors engaged directly by CONSULTANT; fires; floods; labor disturbances; epidemics; and unusually severe weather. CONSULTANT will be granted a time extension and the parties will negotiate an equitable adjustment to the price of any affected Work Order, where appropriate, based upon the effect of the Force Majeure on performance by CONSULTANT.
- 2.2.10. **Professional Responsibility:** The CONSULTANT will exercise reasonable skill, care and diligence in the performance of its Services as is ordinarily possessed and exercised by a licensed professional performing the same Services under similar circumstances.
- 2.2.11. **Inspection of Documents:** The CONSULTANT shall maintain Project records for inspection by the CLIENT during the contract period and for three (3) years from the date of final payment.

### **SECTION 3 – CLIENT RESPONSIBILITIES**

#### **3.1 GENERAL DUTIES AND RESPONSIBILITIES**

- 3.1.1. **Communication:** The CLIENT shall provide to the Consultant information and criteria regarding the CLIENT's requirement for the Project; examine and respond in a timely manner to the Consultant's submissions and give notice to the Consultant whenever the CLIENT observes or otherwise becomes aware of any defect in the Services.
- 3.1.2. **Access:** The CLIENT will provide access agreements for the Consultant to enter public and private property when necessary.
- 3.1.3. **Duties:** The CLIENT shall furnish and perform the various duties and Services in all phases of the Project which are outlined and designated in Exhibit 1 as the CLIENT's responsibility.

- 3.1.4. **Program and Budget:** The CLIENT shall provide full information stating the CLIENT's objectives, schedule, budget with reasonable contingencies and necessary design criteria so that Consultant is able to fully understand the project requirements.
- 3.1.5. **Testing:** Any additional tests required to supplement the Scope of Services or tests required by law shall be furnished by the CLIENT.
- 3.1.6. **Legal, Insurance, Audit:** The CLIENT shall furnish all legal, accounting and insurance counseling Services as may be necessary at any time for the Project. The CLIENT shall furnish all bond forms required for the Project.
- 3.1.7. **Project Representative:** The CLIENT will assign the person indicated below to represent the CLIENT in coordinating this Project with the CONSULTANT, with authority to transmit instructions and define policies and decisions of the CLIENT.

Name:	Beth Linn
Address:	PO Box 255, 404 E. Nelson St.
	Edgerton, KS 66021
Phone:	913-893-6231

## SECTION 4 – PAYMENT

### 4.1 COMPENSATION

- 4.1.1. **Fee and Expense:** The CLIENT agrees to pay the CONSULTANT a Lump Sum Fee according to **Exhibit 2** of this Agreement. The Lump Sum Fee for this project is a total of thirteen thousand and NO/100 Dollars (\$13,000.00) plus reimbursable expenses as outlined in **Exhibit 2** and for the Scope of Services as shown in **Exhibit 1** of this Agreement. Payment of the Lump Sum Fee and reimbursables shall be made by the CLIENT according to the schedule and upon completion of work as shown in **Exhibit 2**. Other methods of compensation are allowed only after written approval by both parties to this Agreement. Payment is due within thirty (30) days of billing by the CONSULTANT and any late payment will incur an interest charge of one and one-half (1½) percent per month.
- 4.1.2. **Hourly Rate:** Any Additional Services which are not set forth in this Agreement will be charged on the basis of BG Consultants, Inc. standard hourly rate schedule in effect at the time of services, unless stated otherwise in a properly executed addendum to this contract for Additional Services. No Additional Services or costs shall be incurred without proper written authorization of the CLIENT.
- 4.1.3. **Annual Rate Adjustment:** The payment amounts listed in this Agreement are based on the work being performed within one year of the contract date. Because of natural time delays that may be encountered in the administration and work to be performed for the project, each value will be increased at the rate of 3%, compounded annually, beginning after one year from the date of the contract and ending when that item is approved for billing.
- 4.1.4. **Reimbursable Expenses:** An estimate of reimbursable expenses ~~plus ten (10) percent~~ shall be included in the total estimate of cost for this project and as shown in **Exhibit 2**. Total estimated cost is calculated as Lump Sum plus reimbursable expenses ~~plus ten (10) percent~~. Reimbursable expenses include, but are not limited to, ~~expenses of transportation in connection with the Project; expenses in connection with authorized out of town travel; expenses of printing and reproductions; postage; expenses of renderings and models requested~~



~~by the CLIENT and~~ other costs as authorized by the CLIENT. Reimbursable expenses will not include overhead costs or additional insurance premiums.

- 4.1.5. **Sales Tax:** Compensation as provided for herein is exclusive of any sales, use or similar tax imposed by taxing jurisdictions on any amount of compensation, fees or Services. Should such taxes be imposed, the CLIENT shall reimburse the CONSULTANT in addition to the contractual amounts provided. The CLIENT shall provide tax exempt number, if required, and if requested by the CONSULTANT.
- 4.1.6. **Billing:** CONSULTANT shall bill the CLIENT monthly for services and reimbursable expenses according to **Exhibit 2**. The bill submitted by CONSULTANT shall state the services and reimbursable expenses for which payment is requested, notwithstanding any claim for interest or penalty claimed in a CONSULTANT's invoice. The CLIENT agrees to pay the CONSULTANT within ten (10) days of approval by the governing body.
- 4.1.7. **Timing of Services:** CONSULTANT will perform the Services in a timely manner according to Exhibit 2. However, if during their performance, for reasons beyond the control of the CONSULTANT, delays occur, the parties agree that they will negotiate in writing an equitable adjustment of time and compensation, taking in to consideration the impact of such delays.
- 4.1.8. **Change in Scope:** For modifications in authorized scope of services or project scope and/or modifications of drawings and/or specifications previously accepted by the CLIENT, when requested by the CLIENT and through no fault of the CONSULTANT, the CONSULTANT shall be compensated for time and expense required to incorporate such modifications at CONSULTANT's standard hourly rates. Provided, however, that any increase in contract price or contract time must be requested by the CONSULTANT and must be approved through a written supplemental agreement prior to performing such services. CONSULTANT shall correct or revise any errors or deficiencies in its designs, drawings or specifications without additional compensation when due to CONSULTANT's negligence, error or omission.
- 4.1.9. **Additional Services:** The CONSULTANT shall provide, with the CLIENT's concurrence, Services in addition to those listed in Exhibit 1 when such Services are requested in writing by the CLIENT. Prior to providing Additional Services, the CONSULTANT will submit a proposal outlining the Additional Services to be provided, and an hourly or lump sum fee adjustment. Payment to the CONSULTANT, as compensation for these Additional Services, shall be in accordance with the mutually agreed adjustment to the CONSULTANT's fee. Reimbursable expenses incurred in conjunction with Additional Services shall be paid separately and those reimbursable expenses shall be paid at cost ~~plus ten (10) percent~~. Records of reimbursable expenses and expenses pertaining to Additional Services and Services performed on an hourly basis shall be made available to the CLIENT if so requested in writing.
- 4.1.10. **Supplemental Agreement:** This Agreement may be amended to provide for additions, deletions and revisions in the Services or to modify the terms and conditions thereof by written amendment signed by both parties. The contract price and contract time may only be changed by a written supplemental agreement approved by the CLIENT, unless it is the result of an emergency situation, in which case the CLIENT may give verbal, e-mail or facsimile approval which shall be the same as written and approved supplemental agreement.

## SECTION 5 – MUTUAL PROVISIONS

### 5.1 TERMINATION

- 5.1.1. **Notice:** The CLIENT reserves the right to terminate this Agreement for either cause or for its convenience and without cause or default on the part of the CONSULTANT, by providing written notice of such termination to the CONSULTANT. Such notice will be with Twenty Four (24) hours' notice.

The CONSULTANT reserves the right to terminate this Agreement based on any material breach by the CLIENT.

Upon receipt of such notice from CLIENT, the CONSULTANT shall, at CLIENT's option as contained in the notice; Immediately cease all Services and meet with CLIENT to determine what Services shall be required of the CONSULTANT in order to bring the Project to a reasonable termination in accordance with the request of the CLIENT. The CONSULTANT shall also provide to the CLIENT digital and/or mylar copies of drawings and documents completed or partially completed at the date of termination. The CONSULTANT is entitled to terminate this agreement by providing thirty (30) days written notice.

- 5.1.2. **Compensation for Convenience Termination:** If CLIENT shall terminate for its convenience, as herein provided, CLIENT shall compensate CONSULTANT for all Services completed to date prior to receipt of the termination notice.
- 5.1.3. **Compensation for Default Termination:** If the CLIENT shall terminate for cause or default on the part of the CONSULTANT, the CLIENT shall compensate the CONSULTANT for the reasonable cost of Services completed to date of its receipt of the termination notice. Compensation shall not include anticipatory profit or consequential damages, neither of which will be allowed. The CLIENT also retains all its rights and remedies against the CONSULTANT, including, but not limited to, its rights to sue for damages, interest and attorney fees.
- 5.1.4. **Incomplete Documents:** Neither the CONSULTANT, nor its subconsultant, shall be responsible for errors or omissions in documents which are incomplete as a result of an early termination under this section, the CONSULTANT having been deprived of the opportunity to complete such documents and certify them as ready for construction and/or complete.

### 5.2 DISPUTE RESOLUTION

- 5.2.1. If a claim, dispute or controversy arises out of or relates to the interpretation, application, enforcement or performance of Services under this Agreement, CONSULTANT and CLIENT agree first to try in good faith to settle the dispute by negotiations between senior management of CONSULTANT and CLIENT. If such negotiations are unsuccessful, CONSULTANT and CLIENT agree to attempt to settle the dispute by good faith mediation. If the dispute cannot be settled through mediation, and unless otherwise mutually agreed, the dispute shall be settled by litigation in an appropriate court in Kansas. Except as otherwise provided herein, each party shall be responsible for its own legal costs and attorneys' fees.

### 5.3 OWNERSHIP OF INSTRUMENTS OF SERVICE

- 5.3.1. Reports, drawings, plans or other documents (or copies) furnished to CONSULTANT by the CLIENT shall, at CLIENT's written request, be returned upon completion of the Services

hereunder; provided, however that CONSULTANT may retain one (1) copy of all such documents. Reports, drawings, plans, documents, software, field notes and work product (or copies thereof) in any form prepared or furnished by CONSULTANT under this Agreement are instruments of service. Exclusive ownership, copyright and title to all instruments of service remain with CONSULTANT. CLIENT's right of use of instruments of service, if any, is limited to that use on the Project. The instruments of service are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the work or on any other project.

#### 5.4 INDEMNIFY AND HOLD HARMLESS

- 5.4.1. CLIENT shall indemnify and save CONSULTANT, its offices and employees harmless from and against any liability, claim, judgment, demand or cause of action arising out of or relating to: (i) CLIENT's breach of this Agreement; (ii) the negligent acts or omissions of CLIENT or its employees, contractors or agents; (iii) site access or damages to any surface or subterranean structures or any damage necessary for site access.
- 5.4.2. In addition, where the Services include preparation of plans and specifications and/or construction observation activities for CLIENT, CLIENT agrees to have its construction contractors agree in writing to indemnify and save harmless CONSULTANT from and against loss, damage, injury, or liability attributable to personal injury or property damage arising out of or resulting from such contractors' performance or nonperformance of their work.
- 5.4.3. CONSULTANT shall indemnify and hold CLIENT and its employees and officials from loss to the extent caused or incurred by the negligence, errors or omissions of the CONSULTANT, its offices or employees in performance of Services pursuant to this Agreement.

#### 5.5 ENTIRE AGREEMENT

- 5.5.1. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both parties to this Agreement.

#### 5.6 APPLICABLE LAW

- 5.6.1. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with laws of the State of Kansas.

#### 5.7 ASSIGNMENT OF AGREEMENT

- 5.7.1. This Agreement shall not be assigned or transferred by either the CONSULTANT or the CLIENT without the written consent of the other.

#### 5.8 NO THIRD PARTY BENEFICIARIES

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

## 5.9 LIMITATION OF LIABILITY

- 5.9.1. For any alleged breach of standard of care hereunder, CLIENT'S remedy shall, if practical, be to require CONSULTANT to re-perform any defective Services. If re-performing the defective services is not practical (for example, the item to be inspected has already been enclosed in concrete or the construction work is already complete at the time the defect is discovered), then the total liability of CONSULTANT, its officers, directors and employees for liabilities, claims, judgments, demands and causes of action arising under or related to this Agreement, whether based in contract or tort, shall be limited to the total compensation actually paid to CONSULTANT for the Services or \$60,000, whichever is greater. All claims by CLIENT shall be deemed relinquished unless filed within the applicable statute of limitations for the claim asserted.
- 5.9.2. CLIENT agrees that any claim for damages filed against CONSULTANT by CLIENT or any contractor or subcontractor hired directly or indirectly by CLIENT will be filed solely against CONSULTANT or its successors or assigns and that no individual person shall be made personally liable for damages in whole or in part.
- 5.9.3. CONSULTANT and CLIENT shall not be responsible to each other for any special, incidental, indirect or consequential damages (including lost profits) incurred by either CONSULTANT or CLIENT or for which either party may be liable to any third party, which damages have been or are occasioned by Services performed or reports prepared or other work performed hereunder.

## 5.10 COMPLIANCE WITH LAWS

- 5.10.1 CONSULTANT shall abide by known applicable federal, state and local laws, ordinances and regulations applicable to this Project until the Consulting Services required by this Agreement are complete. CONSULTANT shall secure occupational and professional licenses, permits, etc., from public and private sources necessary for the fulfillment of its obligations under this Agreement.

## 5.11 TITLES, SUBHEADS AND CAPITALIZATION

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

## 5.12 SEVERABILITY CLAUSE

- 5.12.1. Should any provision of this Agreement be determined to be void, invalid or unenforceable or illegal for whatever reason, such provisions shall be null and void; provided, however that the remaining provisions of this Agreement shall be unaffected hereby and shall continue to be valid and enforceable.

## 5.13 FIELD REPRESENTATION

- 5.13.1. Unless otherwise expressly agreed to in writing, CONSULTANT shall not be responsible for the safety or direction of the means and methods at the contractor's project site or their employees or agents, and the presence of CONSULTANT at the project site will not relieve the contractor of its responsibilities for performing the work in accordance with applicable regulations, or in accordance with project plans and specifications. If necessary, CLIENT

will advise any contractors that Consultant's Services are so limited. CONSULTANT will not assume the role of "prime contractor", "constructor", "controlling employer", "supervisor" or their equivalents, unless the scope of such Services are expressly agreed to in writing.

5.14 HAZARDOUS MATERIALS

5.14.1. The CONSULTANT and the CONSULTANT's subconsultants shall have no responsibility for the discovery, presence, handling, removal or disposal or exposure of persons to hazardous materials in any form at the Project site.

5.15 AFFIRMATIVE ACTION

5.15.1. The CONSULTANT agrees to comply with the provisions of K.S.A. 44-1030 in the Kansas Acts Against Discrimination.

5.16 SPECIAL PROVISIONS

5.16.1. Special Provisions may be attached and become a part of this agreement as **Exhibit 3**.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**CONSULTANT:**

**CLIENT:**

**BG Consultants, Inc.**

**City of Edgerton, Kansas**

By:



By:

\_\_\_\_\_

Printed Name:

David J. Hamby

Printed Name:

\_\_\_\_\_

Title:

Vice President

Title:

\_\_\_\_\_

END OF CONSULTANT-CLIENT AGREEMENT

## **EXHIBIT 1**

### **SCOPE OF SERVICES**

The Scope of Services described in this Exhibit is for the engineering design of a traffic signal system at the intersection of 191<sup>st</sup> Street and Waverly Road in Edgerton, Kansas, hereinafter referred to as “PROJECT”.

#### **A. DESIGN PHASE SERVICES**

CONSULTANT will provide the following Design Phase Services.

##### **1. DATA COLLECTION**

- a. Receive available information from CLIENT applicable to the PROJECT.
- b. Obtain a digital file of the recently designed infrastructure in the PROJECT area from CLIENT. Proposed traffic signal design will be based on information from the digital file.
- c. Surveying services are excluded from this AGREEMENT.
- d. Obtain information from utility companies having facilities within the PROJECT limits. CONSULTANT will contact ONE CALL to request utility companies locate existing utility infrastructure within the PROJECT area.
- e. Geotechnical engineering is not included in this AGREEMENT. If it is determined that geotechnical engineering is necessary for the design of the PROJECT, CONSULTANT will assist CLIENT in soliciting proposals from geotechnical engineering companies. CLIENT will contract directly with a geotechnical engineering company.

##### **2. DESIGN TO PRELIMINARY CHECK STATUS (±50% COMPLETE)**

- a. Design traffic signal infrastructure improvements.
- b. Prepare Preliminary Check construction plans for PROJECT.
  - i. The following sheets are anticipated for the Field Check construction plans:
    1. Title Sheet
    2. General Notes and Summary of Quantities
    3. Traffic Signal Plan, Wiring Diagrams and Signal Phasing Plan
    4. Traffic Signal Details and Specifications
    5. Permanent Pavement Marking Plan
    6. Permanent Signing Plan
    7. Temporary Traffic Control Plan
- c. Provide CLIENT with 2 paper copies and a PDF of the Preliminary Check construction plans.
- d. Provide CLIENT with an opinion of probable construction costs.
- e. Attend a Preliminary Check meeting with CLIENT.

##### **3. DESIGN TO FINAL CHECK STATUS (±100% COMPLETE)**

- a. Based on the CLIENT’s review of the Preliminary Check construction plans, revise the design of PROJECT to incorporate review comments as necessary
- b. After the Preliminary Check Meeting, provide utility companies having infrastructure within the PROJECT area a set of utility plans for their use in determining the need for infrastructure relocations.
- c. Prepare computations for final design plan quantities and bid items.
- d. Prepare Final Check construction plans for PROJECT. Provide CLIENT with 2 paper copies and a PDF of the Final Check construction plans.

- e. Prepare a project manual to include construction contract documents, technical specifications, and project specific Special Provisions. Provide the CLIENT with 1 paper copy and a PDF of the Project Manual with submittal of the Final Check construction plans.
- f. Provide CLIENT with an opinion of probable construction costs.

## **B. BID PHASE SERVICES**

CONSULTANT will provide the following Bid Phase Services.

- 1. Assist CLIENT with advertising project.
- 2. Address questions from prospective bidders regarding the bid documents. Issue addenda, if necessary, prior to the bid letting.
- 3. Provide CLIENT with an Engineer's Estimate for the bid letting.
- 4. Attend the bid letting, review and tabulate bids, and provide CLIENT with a recommendation regarding award of the construction contract.

## **C. CONSTRUCTION PHASE SERVICES**

Construction Phase Services are specifically excluded from this AGREEMENT. CONSULTANT can provide CLIENT with Construction Phase Services by supplemental agreement or separate agreement.

**END OF EXHIBIT 1**

## **EXHIBIT 2**

### **COST AND SCHEDULE**

#### **A. ENGINEERING FEE**

- a. CONSULTANT will provide services in Exhibit 1, Item A. Design Phase Services for a lump sum fee of **ten thousand five hundred and NO/100 dollars (\$10,500.00)** and Exhibit 1, Item B. Bid Phase Services for a lump sum fee of **two thousand five hundred and NO/100 dollars (\$2,500.00)**.
- b. CLIENT will be invoiced in accordance with Section 4 of this AGREEMENT. Monthly invoicing will be based on the percentage of the scope of services performed.
- c. All permit application fees (if any) are not included in this AGREEMENT. CLIENT will be responsible for payment of permit application fees.
- d. Services in Exhibit 1, Item C are excluded from this AGREEMENT. CONSULTANT can provide CLIENT with Exhibit 1, Item C services by separate agreement.

#### **B. ESTIMATED PROJECT SCHEDULE**

1. CONSULTANT will perform services in an effort to meet CLIENT's scheduling goals. The estimated project schedule below is based on the scope of services described in Exhibit 1. The completion of tasks is also contingent upon governmental agency reviews which are beyond CONSULTANT's control and could delay the performance of services beyond the estimated completion date(s).

<b>Estimated Project Schedule</b>	
<b><u>Task</u></b>	<b><u>Estimated Completion Date</u></b>
Notice to Proceed	October 14, 2016
Data Collection	November 1, 2016
Design to Preliminary Check Status (±50% completion)	November 2016
Field Check Meeting with CLIENT	November/December 2016
Design to Final Check Status (100% completion)	December 2016
Receive Bids from Contractors	January 2017

**END OF EXHIBIT 2**



**EXHIBIT 3**  
**SPECIAL PROVISIONS**

Not Used

**END OF EXHIBIT 3**

## CITY OF EDGERTON, KANSAS

### COUNCIL AGENDA ITEM

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**Council Meeting Date:** October 13, 2016

**Agenda Item:** Public Hearing  
Partial Assignment of Resolution of Intent

**Subject:** Property Tax Abatement for ELHC VIII, LLC Project

**Hearing Notice Published:** October 5, 2016 in the *Gardner News*

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#### **Summary:**

The City has received an application for property tax abatement from ELHC VIII, LLC. ELHC VIII desires to construct an approximately 780,000 sq. ft. spec warehouse and distribution facility to be located at 30900 W. 185<sup>th</sup> Street in Edgerton, Kansas. In order for the City to grant property tax abatement, the City must first hold a public hearing, consider the cost-benefit report and then approve a partial assignment of the Master Resolution of Intent.

#### **Public Hearing**

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

#### **Cost-Benefit Report**

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

#### **Partial Assignment of Resolution of Intent**

The City previously adopted a Master Resolution of Intent for the benefit of Edgerton Land Holding Company, LLC ("Edgerton Land") for constructing various projects in the Logistics Park-Kansas City, and provided for the issuance of up to \$1,000,000,000 in industrial revenue bonds. The Master Resolution of Intent allows Edgerton Land to assign portions of the Master Resolution of Intent to various companies that locate within the park. The partial assignment of the Master Resolution of Intent assigns \$41,400,000 of the Master Resolution of Intent to ELHC VIII for the purpose of constructing this project.

## **RESOLUTION NO. 10-13-16B**

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

---

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

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

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

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

**WHEREAS**, the Developer desires to assign \$41,400,000 of its interest in the Resolution of Intent to ELHC VIII, LLC, a Kansas limited liability company (the "Company"), for the purposes of permitting the Company to acquire, construct and equip a commercial project, consisting of an approximately 780,000 sq. ft. warehouse and distribution facility (the "ELHC Project"), to be located at 30900 W. 185th Street in Edgerton, Kansas; and

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

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

**Section 1. Partial Assignment of Resolution of Intent.** The Governing Body of the City hereby consents to the assignment by the Developer of \$41,400,000 of the Developer's interest in the Resolution of Intent to the Company for the purposes of completing the ELHC Project, which is a Logistics Park Project. The City agrees that the Company will now be

entitled to the benefits of the Resolution of Intent to the same extent and on the same terms as the Developer with respect to the ELHC Project.

**Section 2. Authorization to Proceed.** The Company is authorized to proceed with the acquiring, constructing and equipping of the ELHC Project, and to advance such funds as may be necessary to accomplish such purposes, and, to the extent permitted by law, the City will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

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

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

**ADOPTED** this 13<sup>th</sup> day of October, 2016.

**CITY OF EDGERTON, KANSAS**

By:

[SEAL]

\_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel



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

October 4, 2016

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

*RE: Cost-Benefit Analysis for ELHC VIII, LLC*

Dear Beth:

Please find attached the results of our cost-benefit analysis related to the projected property tax abatement to be granted by the City to applicant ELHC VIII, LLC, related to the construction of a 780,000 square foot distribution and warehousing facility in Logistics Park Kansas City (**LPKC**). The purpose of this analysis is to satisfy the City's requirement pursuant to KSA 12-1749d or KSA 79-251(a)(1) to undertake a cost-benefit analysis before granting a property tax abatement. Consistent with City policy for development within LPKC, this analysis reflects the City's previous decision to grant a 100% property tax abatement for 10 years with the applicant paying an annual payment-in-lieu-of-taxes equal to \$0.21 per square foot on the building to be constructed.

## **BACKGROUND**

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

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

## ABATEMENT MECHANICS

Under Kansas law, every ad valorem tax abatement is a 100% abatement. Cities granting an abatement have the right to negotiate payments-in-lieu-of-tax (**PILOT**) payments from the abatement beneficiary to reduce the effective value of the abatement to that party. PILOT payments are distributed by Kansas counties to all taxing jurisdictions affected by the abatement in the same proportion as regular property taxes.

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

## ECONOMICS

The subject property is approximately 42.5 acres in size and will house an estimated 780,000 square foot distribution and warehousing facility. Pursuant to the City’s agreement with the master developer, this analysis assumes the City will provide the applicant with a 100% property tax abatement for 10 years. We have further assumed that, consistent with its agreement with the master developer, the City will impose a \$0.21 per square foot per year PILOT, or \$163,800 per year.

The table below reflects the immediate impact on property tax/PILOT receipts from the subject property, assuming a status quo ante tax burden of \$50 per acre per year and based upon November 2015 levy rates published by Johnson County.

ENTITY	LEVY	% of TOTAL	EXISTING TAXES LOST	NEW PILOTs PAID	ANNUAL NET TAX GAIN/(LOSS)
State of KS	1.500	0.96%	\$(20)	\$ 1,572	\$ 1,551
Johnson Co.	19.582	12.53%	(266)	20,517	20,250
JCCC	9.469	6.06%	(129)	9,921	9,792
JCPRD	3.101	1.98%	(42)	3,249	3,207
Edgerton	33.622	21.51%	(457)	35,227	34,770
USD 231 Uniform	20.000	12.79%	(272)	20,955	20,683
USD 231 Capital	8.000	5.12%	(109)	8,382	8,273
USD 231 Other	25.015	16.00%	(340)	26,209	25,869
USD 231 Bond	16.170	10.34%	(220)	16,942	16,722
Fire Dist #1	15.965	10.21%	(217)	16,727	16,510
Library	3.912	2.50%	(53)	4,099	4,046
	156.336	100.00%	\$(2,127)	\$ 163,800	\$ 161,673

## COST-BENEFIT ANALYSIS DETAILS AND ASSUMPTIONS

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

Our proprietary cost-benefit modeling relies on a number of key assumptions in the calculation of net present value benefit to the City, Johnson County and the District. Most of our assumptions are derived from public information, although some inputs are based upon dialogue with subject matter experts, including staff of the Kansas Department of Revenue. Some of these key assumptions include:

- An evaluation of the direct costs and benefits of the project. Columbia's model does not include indirect or "spin-off" effects as a result of input-output multipliers.
- A ten-year analysis timeframe for each individual project, matching the maximum permitted term of the abatement.
- Direct costs to the City, the County, the school district and the State as estimated by Columbia based upon the financial reports, expert analysis and/or conversations with key staff members within those agencies and at the State of Kansas. Please note our analysis assumes the return of a school finance formula that provides aid to the District on a per pupil basis (see below).
- Where applicable, reliance upon statistical data as reported in the 2010 US Census.
- The use of a discount rate comprised of two components: a risk-free rate of return (the current yield of the on-the-run 10-year US Treasury) plus a risk premium of two (2) percent. The value of the discount rate is a proxy for the opportunity cost of the City (and other agencies) of foregoing the future property and/or sales tax revenues that would be generated by the development. Thought of another way, if the City had those revenues in hand and placed them in an alternative investment with the same risk characteristics, what would be its expected rate of return?

### **TREATMENT OF SCHOOL FINANCE FORMULA**

As of the date of this analysis, the mechanics of public school finances in Kansas remain in flux. The Kansas legislature, through special session during the summer of 2016, resolved immediate judicial concerns about funding equity that might have delayed the start of the 2016/17 school year. But, lower Kansas courts have found that the current block grant funding mechanism is constitutionally flawed and falls hundreds of millions of dollars short of the amount of state aid to schools necessary to satisfy the "adequate" funding requirement within the state constitution; appeals to that lower court ruling remain before the Kansas Supreme Court and are as yet unresolved.

For the purposes of our analysis, we have assumed the existence of a school funding formula that increases or decreases district state aid based upon the district's student enrollment. The district court's findings on the funding adequacy issue were particularly critical of the current block grant formula's failure to recognize and compensate schools for the impacts of changes in enrollment. Our cost-benefit modeling

assumes a return to the capitation-based funding approach that has prevailed in Kansas since the 1990s.

For the treatment of costs in the model, we have assumed that the addition of one new child in the schools increases the District's costs by an average cost to educate the remainder of the students currently within the District. (This approach is consistent with our treatment of new city and county residents on city and county budgets.) For small changes in student enrollment, this approach likely over-states the cost impact to the District: a District with 5,500 students is very likely to spend the same amount in the aggregate to educate those children as it would if its enrollment were 5,501 instead.

It is important to note that, under the state constitution, the obligation of funding public schools is fundamentally the State's obligation. The majority of the local property tax levies imposed by the District automatically adjust to provide a level of funding prescribed by school funding laws or regulations. Put another way, as assessed valuations *decline*, property tax levy rates *increase* to produce required revenue; similarly, as assessed valuations increase, property tax levy levies roll-down to limit revenue collected. This is how, for instance, school districts are able to execute "no tax increase" bond issues—as assessed valuations increase, existing debt service levies produce higher property tax receipts, providing schools with additional financial resources to pay principal and interest on debt even though the levy rate itself has not changed.

The one exception to this general rule is the levy the District may impose for capital purposes. That levy is capped under current state law at eight mills. Because the District imposes the levy at the eight-mill limit, any reduction in assessed value in the District reduces tax dollars available to the District. Similarly, increases in assessed value produce more dollars for the purposes permitted related to that levy.

As demonstrated in the "Economics" section above, we expect most projects within LPKC to produce positive net property tax/PILOT revenues for the District (and all other taxing entities) compared to existing, undeveloped property, even during the term of the tax abatement on such projects.

## **USING THE COST-BENEFIT MODELING RESULTS**

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

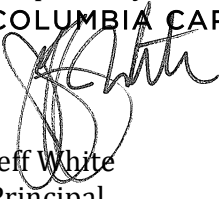
In the preparation of this cost-benefit analysis, Columbia has relied upon the information provided to it by applicant and has not independently verified or validated these data. The City must draw its own conclusions as to the reliability of these data.



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

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

Respectfully submitted,  
**COLUMBIA CAPITAL MANAGEMENT, LLC**

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

Jeff White  
Principal



**SUMMARY OF COSTS AND BENEFITS**  
**City of Edgerton, Kansas**

**APPLICANT INFORMATION:**

<b>Application Date:</b>	10/3/16	<b>Summary of Incentives Provided:</b>	100% real property tax abatement for a 10 year period, as well as a construction sales tax exemption for materials, with a PILOT payment of \$0.21/s.f. per year.
<b>Firm Name:</b>	ELHC VIII, LLC		
<b>Firm Address:</b>	5015 NW Canal St., Suite 200 Riverside, Missouri 64150		
<b>Firm Contact:</b>	Patrick Robinson 913.915.7150		

**SUMMARY OF INCENTIVE PACKAGE (LOCAL GOVERNMENT IMPACTS ONLY):**

Year	Property Tax Abatement		Construction Sales Tax Abatement		Direct Incentives		
	(%)	(\$)	(%)	(\$)	City	County	School
2	100	537,747	100	0	0	0	0
3	100	537,747	100	0	0	0	0
4	100	537,747	100	0	0	0	0
5	100	537,747	100	0	0	0	0
6	100	537,747	100	0	0	0	0
7	100	537,747	100	0	0	0	0
8	100	537,747	100	0	0	0	0
9	100	537,747	100	0	0	0	0
10	100	537,747	100	0	0	0	0
11	100	537,747	100	0	0	0	0

**PAYMENT IN LIEU OF TAXES RECEIPTS:**

City	County	School
(\$)	(\$)	(\$)
35,227	20,517	72,488
35,227	20,517	72,488
35,227	20,517	72,488
35,227	20,517	72,488
35,227	20,517	72,488
35,227	20,517	72,488
35,227	20,517	72,488
35,227	20,517	72,488
35,227	20,517	72,488
35,227	20,517	72,488
35,227	20,517	72,488

**SUMMARY OF PRESENT VALUE BENEFITS:**

City Summary				
Year	Total Benefits	Total Costs	Net Benefit	Net PV Benefit
2	519,586	168,846	350,740	326,284
3	518,831	168,846	349,985	314,025
4	518,870	168,846	350,024	302,913
5	518,911	168,846	350,065	292,195
6	518,954	168,846	350,107	281,859
7	518,999	168,846	350,152	271,889
8	519,046	168,846	350,199	262,274
9	519,095	168,846	350,249	253,001
10	519,147	168,846	350,301	244,057
11	519,202	168,846	350,355	235,431
	5,190,640	1,688,463	3,502,177	2,783,928

County Summary			
Total Benefits	Total Costs	Net Benefit	Net PV Benefit
109,972	105,729	4,243	3,947
109,055	105,729	3,325	2,984
109,110	105,729	3,381	2,926
109,168	105,729	3,439	2,871
109,229	105,729	3,500	2,818
109,294	105,729	3,564	2,768
109,361	105,729	3,632	2,720
109,432	105,729	3,702	2,674
109,506	105,729	3,777	2,631
109,584	105,729	3,855	2,590
1,093,712	1,057,294	36,418	28,928

School District Summary			
Total Benefits	Total Costs	Net Benefit	Net PV Benefit
396,611	325,750	70,860	65,920
396,611	325,750	70,860	63,580
396,611	325,750	70,860	61,323
396,611	325,750	70,860	59,146
396,611	325,750	70,860	57,047
396,611	325,750	70,860	55,022
396,611	325,750	70,860	53,069
396,611	325,750	70,860	51,186
396,611	325,750	70,860	49,369
396,611	325,750	70,860	47,617
3,966,109	3,257,504	708,604	563,279

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

Number of jobs to be created : 227

Number of new residents:

City	6
County	7
School District	7

Expected 10-Year Contribution to PIF: \$ 2,628,550

Impact of exemption on state revenues: \$ (65,906)