

**EDGERTON CITY COUNCIL
MEETING AGENDA
CITY HALL, 404 EAST NELSON STREET
August 24, 2017**

Call to Order

1. **Roll Call** ____ Roberts ____ Longanecker ____ Crooks ____ Brown ____ Crist ____ Conus
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 Minutes from August 10, 2017
6. Approve Application FP2017-06, Final Plat, Logistics Park Kansas City Phase VI, Lot 3 and Accept Any Dedications
7. Approve Application FP2017-007, Final Plat Logistics Park Kansas City Phase VI, Second Plat, and Accept Any Dedications

Regular Agenda

8. **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.
9. **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

10. **CONSIDER RECOMMENDATION OF ENGINEER TO AWARD CONSTRUCTION OF THE 2017 CARS E NELSON ST QUIET ZONE PROJECT TO MILES EXCAVATING, INC. AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT INCLUDING THE RAILROAD AGREEMENT WITH BNSF RAILWAY**

Motion: _____ Second: _____ Vote: _____

11. **PUBLIC HEARING REGARDING 2018 RECOMMENDED BUDGET**

12. **CONSIDER 2018 RECOMMENDED BUDGET**

Motion: _____ Second: _____ Vote: _____

13. **CONSIDER ORDINANCE NO. 1061 AUTHORIZING THE CITY OF EDGERTON, KANSAS, TO ISSUE INDUSTRIAL REVENUE BONDS (ELHC VI, LLC PROJECT) SERIES 2017, IN AN AGGREGATE MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED \$42,600,000, FOR THE PURPOSE OF FINANCING A WAREHOUSE AND**

DISTRIBUTION FACILITY; AUTHORIZING THE CITY TO ENTER INTO A TRUST INDENTURE WITH BOKF, N.A., AS TRUSTEE; AUTHORIZING THE CITY TO ENTER INTO A BASE LEASE AND LEASE AGREEMENT WITH ELHC VI, LLC; AND AUTHORIZING AND APPROVING THE EXECUTION OF ADDITIONAL DOCUMENTS AND THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

Motion: _____ Second: _____ Vote: _____

- 14. CONSIDER ORDINANCE NO. 1062 ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE CONDITIONAL USE PERMIT CU-2017-002 FOR TRANSPORTATION STORAGE AND TRUCKING YARD TO TEMPORARILY ALLOW A GRAVEL LOT, SUBJECT TO CERTAIN CONDITIONS, IN THE CITY OF EDGERTON, KANSAS, LOGISTICS PARK ZONING DISTRICT, MORE SPECIFICALLY ON THE NORTH SIDE OF LPKC BUILDING XXI**

Motion: _____ Second: _____ Vote: _____

- 15. Report by the City Administrator**

- 16. Report by the Mayor**

- 17. Future Meeting/Event Reminders:**

- September 4th – City Offices Closed for Labor Day
- September 12th 7:00 PM – Planning Commission and Board of Zoning Appeals
- September 14th 7:00 PM – City Council Meeting
- September 20th Noon – Senior Lunch
- September 28 7:00 PM – City Council Meeting

- 18. Adjourn** Motion: _____ Second: _____ Vote: _____

**City of Edgerton, Kansas
Minutes of City Council Regular Session
August 10, 2017**

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on August 10, 2017. The meeting convened at 7:00 p.m. with Mayor Roberts presiding.

1. ROLL CALL

Darius Crist	present
Jody Brown	present
Ron Conus	present
Clay Longanecker	present
Cindy Crooks	Present

With a quorum present, the meeting commenced.

Staff in attendance:	City Administrator Beth Linn
	Assistant City Administrator Scott Peterson
	City Attorney Lee Hendricks
	Public Works Superintendent Trey Whitaker
	Finance Director Karen Kindle
	Elevate Edgerton! Steve Hale
	Fire District #1

2. WELCOME

3. PLEDGE OF ALLEGIANCE

CONSENT AGENDA

4. Agenda Approval was considered.
5. Minutes from July 27, 2017 City Council Meeting were considered.
6. Approve Amendment No. 1 to the Loan Agreement with KDHE for the Automated Meter Reading Project was considered.
7. Approve Easements related to Extension of Utilities to IP XXI and IP XXII related to Widmer Lift Station Project was considered.

- * Item #6 was removed from the Consent Agenda.

Motion by Longanecker, seconded by Brown, to approve items 4, 5, and 7 of the consent agenda.

Motion was approved, 5-0.

- * Item # 6 was discussed and a change in the date of when payment is due, is the only change to be made.

Motion by Longanecker, seconded by Crooks, to approve Item # 6.

Motion was approved, 5-0.

8. PUBLIC COMMENTS

There were three representatives from the Kiwanis Club present to inform the Mayor and City Council about their club. They passed out information about the Kiwanis organization and verbalized what their club could do for our city and our kids. They would like our support and membership as they feel the club would help fill the needs of the children in our town. Mayor Roberts thanked the Kiwanis representatives for coming to the meeting and agreed The Kiwanis Organization would be great for Edgerton.

9. DECLARATION

None

10. PRESENTATION BY PROJECT TEAM REGARDING DOWNTOWN EDGERTON, PLANNING SUSTAINABLE PLACES GRANT WAS CONSIDERED.

Cale Doornbos, Project Manager for SWT Design, regarding the Downtown Edgerton, Planning Sustainable Places Grant was present to introduce the project. Next week will be the Downtown Edgerton Discovery Week and SWT Design will be holding meetings throughout the day on Tuesday, Wednesday and Thursday. Discovery Week open house will be on Wednesday from 6-8 pm, with presentations at 6:15 and 7:15 pm. The Mayor would like to encourage everyone to be here next Wednesday.

BUSINESS REQUIRING ACTION

JOHNSON COUNTY FIRE DISTRICT 1 MEMORANDUM

11. A MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF EDGERTON AND JOHNSON COUNTY FIRE DISTRICT NO. 1 REGARDING FIRE REVIEW AND INSPECTION FEES WAS CONSIDERED.

The Johnson County Fire District No. 1 had three representatives (Assistant Chief Dennis Myers, Division Chief of Prevention Jerry Holly, and Battalion Chief Mike Hirschmann) present to answer questions about the Memorandum of Understanding (MOU) between the City of Edgerton and Johnson County Fire District No.1 for fire review and inspection services. The fee, as detailed in the Memorandum of Understanding, will be collected on building permits for new development excluding R-1 and R-2. Fees collected by the City at the time the permit is issued will be remitted to the Fire District within thirty (30) days of receipt by the City. The agreement and collection of fees will take effect upon the date it is fully approved and executed by all parties. The permit fees shall apply to all new construction which occurs after the signing of this Agreement.

Motion by Crooks, seconded by Longanecker, to allow Mayor Roberts to sign the amended version of the agreement.

Motion was approved, 4-1. Yea's Longanecker, Brown, Crist, and Crooks. Nay's Conus.

ORDINANCE 1059

- 12. ORDINANCE 1059 AMENDING CHAPTER XIV OF THE EDGERTON, KANSAS MUNICIPAL CODE TO INCORPORATE THE 2017 STANDARD TRAFFIC ORDINANCE, SUBJECT TO EXISTING LOCAL TRAFFIC PROVISIONS IN THE CITY CODE WHICH SUPPLEMENT AND / OR MODIFY CERTAIN SECTIONS THEREOF WAS CONSIDERED.**

The Standard Traffic Ordinance (STO) for Kansas Cities for 2017 has been prepared and published by the League of Kansas Municipalities the STO is adopted every year by ordinance.

Motion by Longanecker, seconded by Brown, to approve Ordinance 1059.

Motion was approved, 5-0.

ORDINANCE 1060

- 13. ORDINANCE 1060 AMENDING CHAPTER XI, ARTICLE 1, SECTION 11-101 OF THE CODE OF THE CITY OF EDGERTON, KANSAS CONCERNING THE UNIFORM PUBLIC OFFENSE CODE WAS CONSIDERED.**

The League of Kansas Municipalities prepares and publishes the code known as the Uniform Public Offense Code (UPOC) for Kansas Cities. This code is adopted every year by ordinance. One major change this year is that the charge for "No Seatbelt" will be raised from Ten Dollars to Thirty Dollars per offence.

Motion by Crooks, seconded by Longanecker, to approve Ordinance 1060.

Motion was approved, 5-0.

RESOLUTION 08-10-17A

- 14. RESOLUTION 08-10-17A FOR THE ADDITION OF A 401 (A) MATCH PLAN TO KPERS 457 EMPLOYEE RETIREMENT BENEFIT WAS CONSIDERED.**

Mayor Roberts removed this item from the agenda, and asked that it be brought back to another meeting.

15. REPORT BY THE CITY ADMINISTRATOR

No Report by the City Administrator

16. REPORT BY THE MAYOR

No Report by the Mayor

17. FUTURE MEETING/EVENT REMINDERS

August 16th Noon – Senior Lunch

August 24th 7:00 pm – City Council Meeting

September 4th – City Offices Closed for Labor Day

September 12th 7:00 pm – Planning Commission and Board of Zoning Appeals

September 14th 7:00 pm – City Council Meeting

September 20th Noon – Senior Lunch

September 28th 7:00 pm – City Council Meeting

14. ADJOURN MOTION: 1st Crooks 2nd Crist Vote 5-0

The meeting adjourned at 8:15 pm.

Janeice L. Rawles
City Clerk

Approved by the Governing Body on

City Project No. LPKC Phase II Sewer
Parcel No. BF2211434-4014

PERMANENT SANITARY SEWER EASEMENT

THIS AGREEMENT, Made and entered into this _____ day of _____, 2017, by and between **EDGERTON LAND HOLDING COMPANY LLC**, a Kansas limited liability company, hereinafter called Grantor, and the **CITY OF EDGERTON, KANSAS**, a Municipal Corporation, located in the County of Johnson, State of Kansas, hereinafter called Grantee.

NOW, THEREFORE, for the consideration hereinafter described, the parties hereto agree as follows:

**SECTION ONE
GRANT OF PERMANENT EASEMENT**

In consideration of One and No/100 Dollar (\$1.00), in hand paid and other valuable consideration, including just compensation paid for all property damage resulting from the public improvement and from those factors set forth in K.S.A. 26-513 and other factors arising from the public improvement to be made, including but not limited to increased water run-off or drainage; loss of trees and landscaping; and erosion, receipt of which is hereby acknowledged, the Grantor does hereby grant and convey to the Grantee, its successors and assigns, a permanent easement for sanitary sewer line(s) and other appurtenances in, over, on, under and through the following described land in the County of Johnson, State of Kansas (such land is referred to herein as the premises):

**SEE EXHIBIT "A" ATTACHED HERETO
AND BY REFERENCE MADE A PART HEREOF.**

SECTION TWO
RESTRICTED USE BY GRANTOR

Grantor shall not interfere with the exercise by Grantee of the rights granted herein. Grantor shall not construct or permit to be constructed any structure or obstruction on the above described easement area or interfere with the construction, maintenance, or operation of sanitary sewer lines and appurtenance constructed pursuant to this instrument.

SECTION THREE
WARRANTY OF TITLE

Grantor covenants that it is the owner of the premises and has the right, title and capacity to grant the easement granted herein.

SECTION FOUR
EFFECT OF AGREEMENT

This agreement shall be binding upon the heirs, legal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

GRANTOR:

**EDGERTON LAND HOLDING COMPANY
LLC,**
a Kansas limited liability company

By: NorthPoint Development, LLC
A Missouri limited liability company
Its: Manager

By: 
Nathaniel Hagedorn, Manager

GRANTEE:

CITY OF EDGERTON, KANSAS,
A Municipal Corporation

By: _____
Beth Linn, City Administrator

ATTEST:

Janeice Rawles, Interim City Clerk

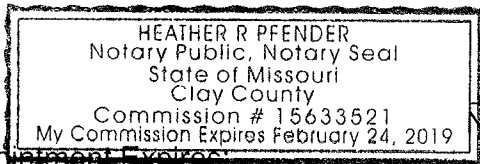
(SEAL)

ACKNOWLEDGMENT

STATE OF MISSOURI)
) ss:
COUNTY OF PLATTE)

BE IT REMEMBERED, That on this 27th day of July, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Nathan Hagedorn (Name), manager (Title) of EDGERTON LAND HOLDING COMPANY LLC, a Kansas limited liability company, who is personally known to me to be the same person who executed as such officer/member the foregoing instrument of writing on behalf of said entity and said person duly acknowledged the execution of the same to be the act and deed of said entity.

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



Heather R. Pfender
Notary Public

My Appointment Expires:

February 24, 2019

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)

BE IT REMEMBERED, That on this _____ day of _____, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came **BETH LINN**, City Administrator of the City of Edgerton, Kansas, and **JANEICE RAWLES**, Interim City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

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

Notary Public

My Appointment Expires:

EXHIBIT A

Parcel I.D. No.: BF221434-4014
Owner: Edgerton Land Holding Company, LLC

Permanent Sanitary Sewer Easement

A strip of land 20 feet in width and being a part of the Southeast Quarter of Section 34, Township 14 South, Range 22 East, in the City of Edgerton, Johnson County, Kansas, lying 10 feet on each side of the following described centerline:

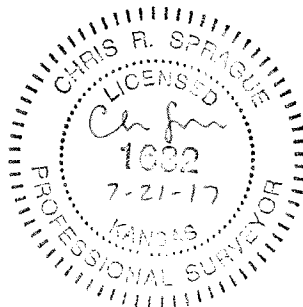
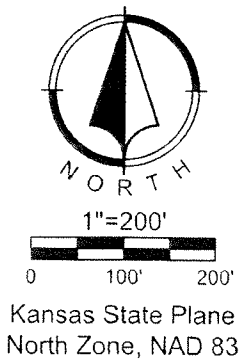
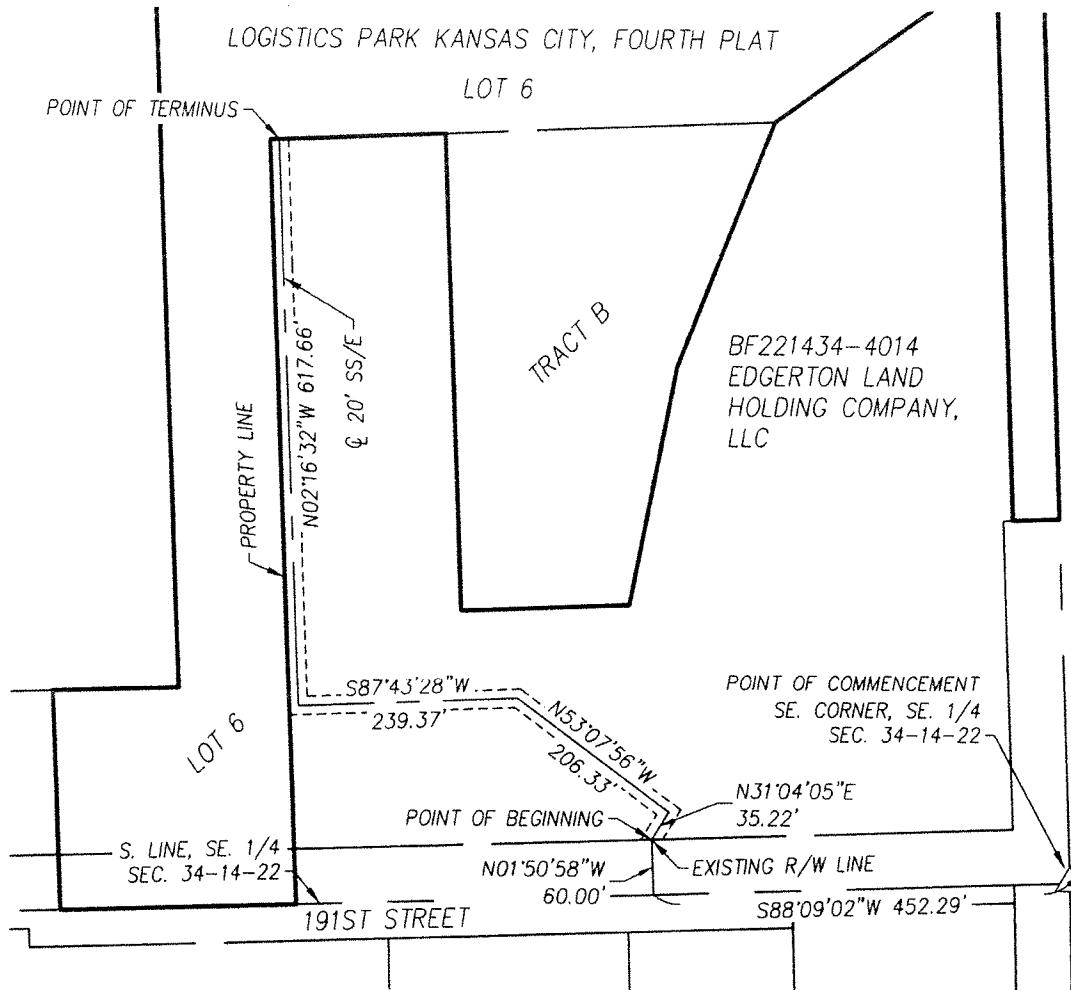
Commencing at the Southeast corner of said Southeast Quarter; thence South 88°09'02" West, coincident with the South line of said Southeast Quarter, 452.29 feet; thence departing said South line, North 01°50'58" West, 60.00 feet to a point on the North right-of-way line of 191st Street, as it now exists, and the Point of Beginning; thence departing said North right-of-way line, North 31°04'05" East, 35.22 feet; thence North 53°07'56" West, 206.33 feet; thence South 87°43'28" West, 239.37 feet; thence North 02°16'32" West, coincident with a line 10 feet east of and parallel with the Easterly line of Lot 6, LOGISTICS PARK KANSAS CITY, FOURTH PLAT, a subdivision in said City, a distance of 617.66 feet to a point on the Southerly line of said Lot 6, and there terminating, containing 21,972 square feet, more or less.

The outer boundary lines described above shall either be truncated or extended to terminate at the lines which contain the points of beginning and terminus, and at angle points, as not to leave any areas of void or overlapping.



Permanent Sanitary Sewer Easement

Exhibit A



Sheet 1 of 1



Prepared 7-21-17

15-0225

Two New Century Parkway
New Century, Kansas 66031

913.317.9500
www.nc-consult.com

City Project No. LPKC Phase II Sewer
Parcel No. BF221503-3022
BF221503-3027

PERMANENT SANITARY SEWER EASEMENT

THIS AGREEMENT, Made and entered into this _____ day of _____, 2017, by and between **EDGERTON LAND HOLDING COMPANY LLC**, a Kansas limited liability company, hereinafter called Grantor, and the **CITY OF EDGERTON, KANSAS**, a Municipal Corporation, located in the County of Johnson, State of Kansas, hereinafter called Grantee.

NOW, THEREFORE, for the consideration hereinafter described, the parties hereto agree as follows:

**SECTION ONE
GRANT OF PERMANENT EASEMENT**

In consideration of One and No/100 Dollar (\$1.00), in hand paid and other valuable consideration, including just compensation paid for all property damage resulting from the public improvement and from those factors set forth in K.S.A. 26-513 and other factors arising from the public improvement to be made, including but not limited to increased water run-off or drainage; loss of trees and landscaping; and erosion, receipt of which is hereby acknowledged, the Grantor does hereby grant and convey to the Grantee, its successors and assigns, a permanent easement for sanitary sewer line(s) and other appurtenances in, over, on, under and through the following described land in the County of Johnson, State of Kansas (such land is referred to herein as the premises):

**SEE EXHIBIT "A" ATTACHED HERETO
AND BY REFERENCE MADE A PART HEREOF.**

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Grantor shall not interfere with the exercise by Grantee of the rights granted herein. Grantor shall not construct or permit to be constructed any structure or obstruction on the above described easement area or interfere with the construction, maintenance, or operation of sanitary sewer lines and appurtenance constructed pursuant to this instrument.

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WARRANTY OF TITLE

Grantor covenants that it is the owner of the premises and has the right, title and capacity to grant the easement granted herein.

SECTION FOUR
EFFECT OF AGREEMENT

This agreement shall be binding upon the heirs, legal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

GRANTOR:

**EDGERTON LAND HOLDING COMPANY
LLC,**
a Kansas limited liability company

By: NorthPoint Development, LLC
A Missouri limited liability company
Its: Manager

By:


Nathaniel Hagedorn, Manager

GRANTEE:

CITY OF EDGERTON, KANSAS,
A Municipal Corporation

By: _____
Beth Linn, City Administrator

ATTEST:

Janeice Rawles, Interim City Clerk

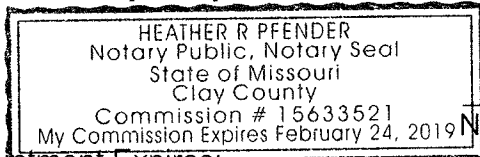
(SEAL)

ACKNOWLEDGMENT

STATE OF MISSOURI)
) ss:
COUNTY OF PLATTE)

BE IT REMEMBERED, That on this 27th day of July, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Nathanial Hayden (Name), manager (Title) of EDGERTON LAND HOLDING COMPANY LLC, a Kansas limited liability company, who is personally known to me to be the same person who executed as such officer/member the foregoing instrument of writing on behalf of said entity and said person duly acknowledged the execution of the same to be the act and deed of said entity.

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



Heather R. Pfender
Notary Public

My Appointment Expires:

February 24, 2019

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)

BE IT REMEMBERED, That on this _____ day of _____, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came **BETH LINN**, City Administrator of the City of Edgerton, Kansas, and **JANEICE RAWLES**, Interim City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

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

Notary Public

My Appointment Expires:

EXHIBIT A

Parcel I.D. No.: BF221503-3022, BF221503-3027

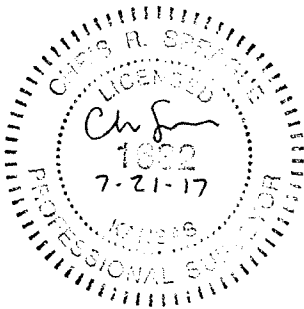
Owner: Edgerton Land Holding Company, LLC

Permanent Sanitary Sewer Easement

A strip of land 20 feet in width and being a part of the Northeast Quarter of Section 3, Township 15 South, Range 22 East, in the City of Edgerton, Johnson County, Kansas, lying 10 feet on each side of the following described centerline:

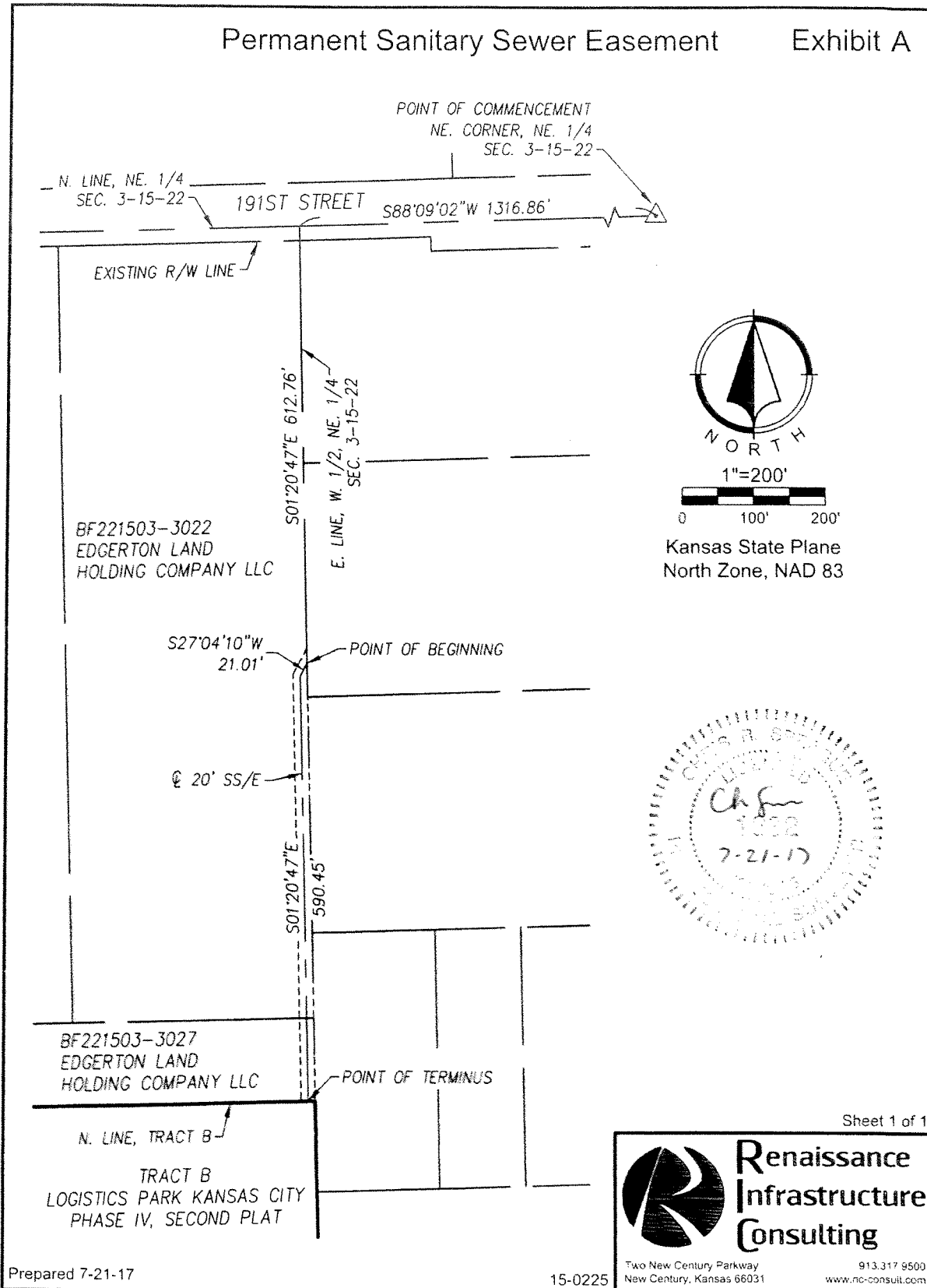
Commencing at the Northeast corner of said Northeast Quarter; thence South 88°09'02" West, coincident with the North line of said Northeast Quarter, 1316.86 feet to the Northeast corner of the West half of said Northeast Quarter; thence South 01°20'47" East, coincident with the East line of said West half, 612.76 feet to the Point of Beginning; thence South 27°04'10" West, 21.01 feet; thence South 01°20'47" East, coincident with a line 10 feet west of and parallel with the East line of said West half, 590.45 feet to a point on the North line of Tract B, LOGISTICS PARK KANSAS CITY PHASE IV, SECOND PLAT, a subdivision in said City, and there terminating, containing 12,229 square feet, more or less.

The outer boundary lines described above shall either be truncated or extended to terminate at the lines which contain the points of beginning and terminus, and at angle points, as not to leave any areas of void or overlapping.



Permanent Sanitary Sewer Easement

Exhibit A



AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Application FP2017-06, Final Plat, Logistics Park Kansas City Phase VI, Lot 3

Department: Community Development

Background/Description of Item: The City of Edgerton has received Application FP2017-06 for final plat of the Logistics Park Kansas City Phase VI, Lot 3, which is located on the South side of 185th Street just east of Waverly Road. The final plat includes one lot approximately 57.525 acres. The Final Plat also includes dedication of easement necessary for the development including utility, cross access, drainage and pedestrian easements.

Staff, including City Engineer, has reviewed the Final Plat submittal for compliance with the Approved Preliminary Plat and requirements in Section 13.3 of Article 13 of the Edgerton UDC. Review comments are detailed in the attached staff report.

The Edgerton Planning Commission reviewed the application on July 11, 2017. The Planning Commission recommended approval of Application FP2017-06 for Final Plat for Logistics Park Kansas City Phase VI, Lot 3, subject to compliance with the following stipulations as listed in the staff report dated July 11, 2017:

1. Adequate drainage easements for the stormwater conveyance and detention system will be dedicated as directed by the City Engineer.
2. All Final Plat requirements of the City listed above shall be met or addressed prior to recording of the Plat.
3. The commencement of any improvements shall not occur prior to the approval and endorsement of the final plat and the submittal to and approval of construction plans for all streets, sidewalks, storm water sewers, sanitary sewers, and water mains contained within the final plat by the Governing Body. Sanitary sewer drawings and specifications must be submitted to and approved by the City of Edgerton and Kansas Department of Health and Environment prior to the commencement of any improvements.
4. Sanitary sewer drawings and specifications must be submitted to and approved by the City of Edgerton and Kansas Department of Health and Environment prior to the commencement of any improvements.
5. A Public Improvement Inspection Fee, established by the Fee Schedule for the Unified Development Code, shall be submitted with the document of financial assurance as defined in Section 13.7 prior to the commencement of any improvements.
6. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the Edgerton Unified Development Code, including payment of excise tax.
7. The applicant shall meet all requirements of Financial Assurances as defined in Section 13.7 of the Edgerton Unified Development Code.

Enclosure: Staff Report from July 11, 2017 Planning Commission meeting
Final Plat
Final Plat Application FP2017-06 for Logistics Park Kansas City Phase VI, Lot 3

Recommendation: Approve Application FP2017-06, Final Plat, Logistics Park Kansas City Phase VI, Lot 3.

Funding Source: N/A

Prepared by: Scott Peterson, Assistant City Administrator
Date: August 21, 2017

STAFF REPORT

July 11, 2017

To: Edgerton Planning Commission
Fr: Beth Linn, City Administrator
Re: Application FP2017-06 for *Final Plat Logistics Park Kansas City Phase VI, Lot 3* located in the southeast corner of the intersection at 185th & Montrose Streets.

APPLICATION INFORMATION

Applicant/Property Owner: Aaron Burks
Edgerton Land Holding Company, LLC

Requested Action: Final Plat Approval

Legal Description: The south ½ of the NW ¼, Section 35, Township 14 South, Range 22 East in the City of Edgerton, Johnson County, Kansas. See attached final plat for full legal description.

Site Address/Location: South side of 183rd Street just east of Waverly Road.

Existing Zoning and Land Uses: City of Edgerton L-P (Logistics Park) zoning on vacant land.

Existing Improvements: None.

Site Size: Lot 1 is 42.793 acres, Lot 2 is 50.592 acres.

PROJECT DESCRIPTION

The applicant is seeking approval of a final plat based on the approved preliminary plat and the L-P, Logistics Park District zoning requirements. The three (3) lot Preliminary Plat was approved on April 11, 2017. This plat is for property that is part of Logistics Park Kansas City. The subject property is located along the south side of 185th Street and has frontage along the east of Waverly Road Street. The property is zoned L-P, Logistics Park. The City's Unified Development Code (UDC) defines this district as a limited multimodal industrial zone created to support activities related to truck, rail and other transport services.

INFRASTRUCTURE AND SERVICES

Infrastructure was reviewed previously per the rezoning and preliminary plat. Some conditions continue to exist as noted below.

- a. 185th Street has been constructed and will provide access along the west one-half of the lot north property line to Montrose Street. Access to the east one-half will be provided by private road on Lot 2, directly to the north.

- b. The property is located within the Big Bull Creek watershed, which flows south from 167th Street to the southern edge of the county at Homestead Lane.
- c. The property is located within an area identified as Zone X and is defined as Areas determined to be outside the 500-year flood elevation. No base Flood Elevations have been determined.
- d. The property has access to sanitary sewer service. A gravity sewer line is located on the south side of 185th Street and east side of Waverly Road. The building is showing a sewer service line extending from the northwest corner to the main. This line flows into the Big Industrial Lift Station.
- e. The property is located within the service area of Water District No. 7. The new water tower for Water 7 is located on Lot 3 of the first plat of the Logistics Park Kansas City Phase IV. A 12-inch water main is located along the south side of the property line.
- f. Police protection is provided by the Johnson County Sheriff's Department under contract with the City of Edgerton. Fire protection is provided by Johnson County Fire District No. 1. A fire station is located in the City of Edgerton approximately 5.0 miles to the west, and one approximately 1.0 mile to the east in the City of Gardner.

FINAL PLAT REVIEW

Staff has reviewed the Final Plat submittal for compliance with the Approved Preliminary Plat and requirements in Section 13.3 of Article 13 of the Edgerton UDC. Review comments are listed below.

- 1. The words "FINAL PLAT" followed by the name of the subdivision at the top of the sheet, and then followed by a metes and bounds description of the tract. *Revise the fractional legal description in the title. Update Final Plat*
- 2. The instrument of survey which shows the point of beginning, corners, bearings, courses, distances, exterior boundaries, interior lot boundaries, abandoned lot lines, pins, and monuments found or set. All P.I.'s corners, boundaries must be monumented with a 2" x 24" metal bar. *Update Final Plat*
- 3. *The plat currently shows all monuments being ½" x 24" Rebar while the regulations require 2" x 24" metal bar. Staff believes that the 2" measurement is a typographical error and that it should be ½".*
- 4. A boundary survey of third order surveying accuracy (maximum closure error one in five thousand (1' in 5,000), with bearings and distances referenced to section or fractional section corners or other base line shown on the plat and readily reproducible on the ground. *The legal description does not match the graphic depiction. Please check and revise accordingly. Update Final Plat.*
- 5. All easements with widths, and roads with curve data. *Drainage easements shall be provided for the detention areas and conveyance system, and wetlands as directed by City Engineer. Update Final Plat.*
- 6. Surveyor's Certificate and Seal and certificate for survey review by the County Surveyor or designated Land Surveyor. *Surveyor's Certificate who prepared the plat is missing, the County Surveyor utilizes their own stamp, and therefore no other certificate is required. Update Final Plat.*
- 7. Certificate of the Zoning Administrator. *Please revise by removing name and revise title to Acting Zoning Administrator. Revise Final Plat.*

RECOMMENDATION

City staff recommends **approval** of FP2017-0X for the Final Plat, Logistics Park Kansas City Phase IV – Second Plat, subject to compliance with the staff report recommendations and following stipulations:

1. Adequate Drainage Easements for the stormwater conveyance and detention system will be dedicated as directed by the City Engineer.
2. All Final Plat requirements of the City listed above shall be met or addressed prior to recording of the Plat.
3. The commencement of any improvements shall not occur prior to the approval and endorsement of the final plat and the submittal to and approval of construction plans for all streets, sidewalks, storm water sewers, sanitary sewers, and water mains contained within the final plat by the Governing Body.
4. Sanitary sewer drawings and specifications must be submitted to and approved by the City of Edgerton and Kansas Department of Health and Environment prior to the commencement of any improvements.
5. A Public Improvement Inspection Fee, established by the Fee Schedule for the Unified Development Code, shall be submitted with the document of financial assurance as defined in Section 13.7 prior to the commencement of any improvements.
6. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the Edgerton Unified Development Code, including payment of excise tax.
7. The applicant shall meet all requirements of Financial Assurances as defined in Section 13.7 of the Edgerton Unified Development Code.

ATTACHMENTS

Application FP2017-06

Final Plat Logistics Park Kansas City Phase VI, Lot 3

NAME OF PROPOSED SUBDIVISION: Logistics Park Kansas City Phase VI - Lot 3

 LOCATION OR ADDRESS OF SUBJECT PROPERTY: SEC of Waverly Rd and 185th St

 LEGAL DESCRIPTION: See Attached

 CURRENT ZONING ON SUBJECT PROPERTY: LP CURRENT LAND USE: AG

 TOTAL AREA: 58.642 Acres NUMBER OF LOTS: 1 AVG. LOT SIZE: 58.642 Sq. Ft.

 DEVELOPER'S NAME(S): Edgerton Land Holding Company, LLC PHONE: 816-888-7340

 COMPANY: Edgerton Land Holding Company, LLC FAX: _____

 MAILING ADDRESS: 4825 NW 41st Street, Riverside, MO 64150

Street	City	State	Zip
<u>Edgerton Land Holding Company, LLC</u>		<u>816-888-7340</u>	

 PROPERTY OWNER'S NAME(S): _____ PHONE: _____

 COMPANY: Edgerton Land Holding Company, LLC FAX: _____

 MAILING ADDRESS: 4825 NW 41st Street, Riverside, MO 64150

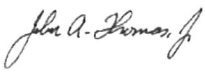
Street	City	State	Zip
<u>Renaissance Infrastructure Consulting</u>		<u>913-317-9500</u>	

 ENGINEER'S NAME(S): _____ PHONE: _____

 COMPANY: Renaissance Infrastructure Consulting FAX: _____

 MAILING ADDRESS: 207 S. 5th Street, Leavenworth, KS 66048


Street	City	State	Zip
--------	------	-------	-----

 SIGNATURE OF OWNER OR AGENT: 
 If not signed by owner, authorization of agent must accompany this application.

NOTE: Ten (10) copies of the proposed preliminary plat must accompany this application for staff review. One (1) reduced copy (8 1/2 x 11) must also be submitted with the application.

FOR OFFICE USE ONLY

 Case No.: P- FP 2017-06 Amount of Fee Paid: \$ 310.00 Date Fee Paid: 6/28/17

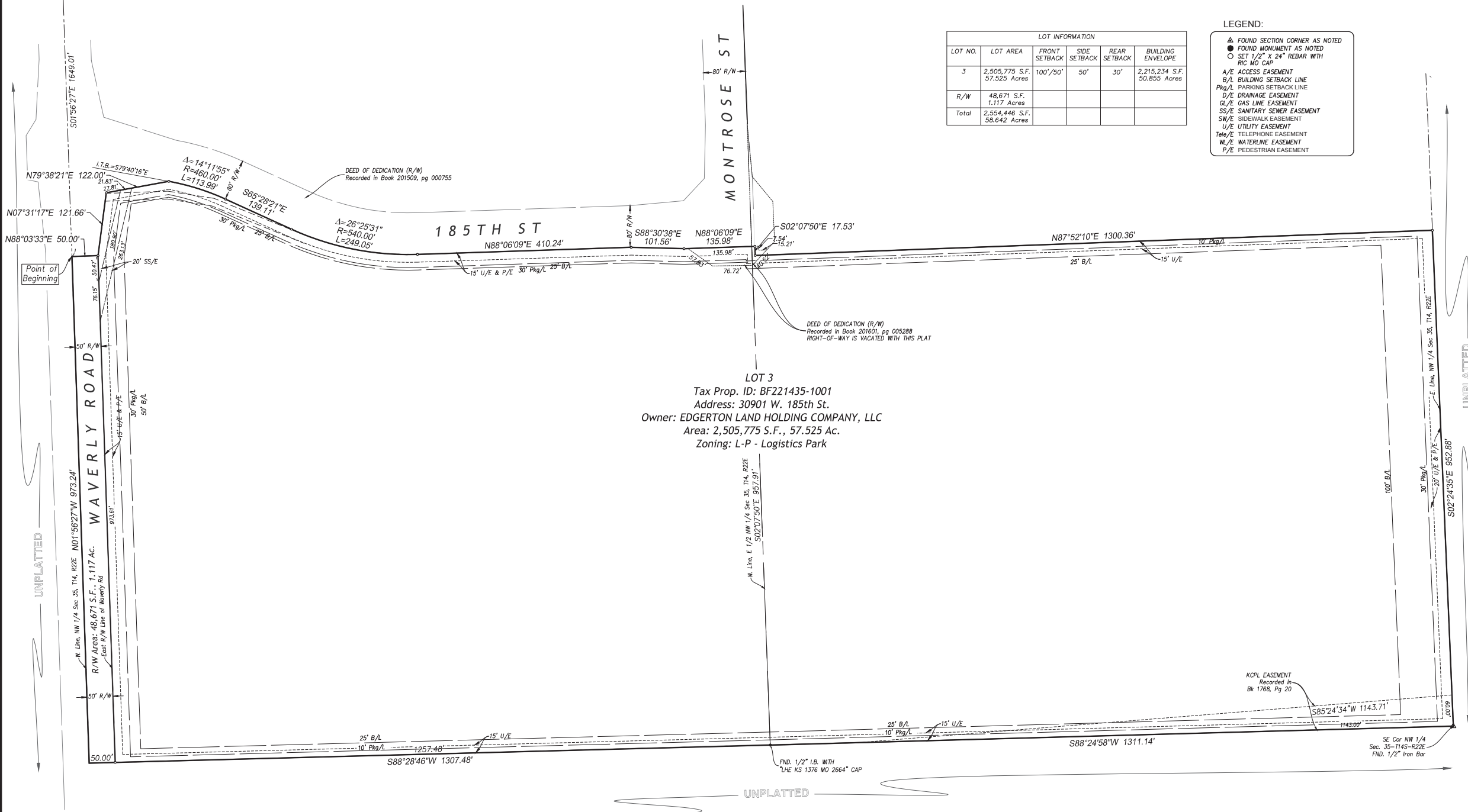
 Received By:  Date of Hearing: —
FINAL PLAT INSTRUCTIONS

SUBMITTAL DEADLINE: The applicant shall submit an application at least forty-five (45) days prior to a scheduled meeting. If the final plat complies with the preliminary plat, Planning Commission and Governing Body may consider approval without notice or public hearing.

FINAL PLAT

LOGISTICS PARK KANSAS CITY PHASE VI - LOT 3

A PART OF THE NORTHEAST QUARTER AND THE NORTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 14 SOUTH, RANGE 22 EAST, IN THE CITY OF EDGERTON, JOHNSON COUNTY, KANSAS



LOT INFORMATION					
LOT NO.	LOT AREA	FRONT SETBACK	SIDE SETBACK	REAR SETBACK	BUILDING ENVELOPE
3	2,505,775 S.F. 57.525 Acres	100'/50'	50'	30'	2,215,234 S.F. 50.855 Acres
R/W	48,671 S.F. 1.117 Acres				
Total	2,554,446 S.F. 58.642 Acres				

LEGEND:

- ▲ FOUND SECTION CORNER AS NOTED
- FOUND MONUMENT AS NOTED
- SET 1/2" X 24" REBAR WITH RIC MO CAP
- A/E ACCESS EASEMENT
- B/L BUILDING SETBACK LINE
- Pkg/L PARKING SETBACK LINE
- D/E DRAINAGE EASEMENT
- G/L GAS LINE EASEMENT
- SS/E SANITARY SEWER EASEMENT
- SW/E SIDEWALK EASEMENT
- U/E UTILITY EASEMENT
- Tele/E TELEPHONE EASEMENT
- WL/E WATERLINE EASEMENT
- P/E PEDESTRIAN EASEMENT

LOT 3
Tax Prop. ID: BF221435-1001
Address: 30901 W. 185th St.
Owner: EDGERTON LAND HOLDING COMPANY, LLC
Area: 2,505,775 S.F., 57.525 Ac.
Zoning: L-P - Logistics Park

Description:

A tract of land in the Northwest Quarter of Section 35, Township 14 South, Range 22 East, in the City of Edgerton, Johnson County, Kansas being more particularly described as follows:

Commencing at the Northwest corner of said Northwest Quarter, thence South 01°56'27" East, along the West line of said Section 35, a distance of 1649.01 feet to the Point of Beginning; thence North 88°03'33" East, a distance of 50.00 feet to a point on the Easterly right-of-way line of Waverly Road as it now exists, thence along the Southerly right-of-way line of 185th Street as it now exists for the next seven courses: thence North 7°31'17" East, 121.66 feet; thence North 79°38'21" East, 122.00 feet to a point of curvature; thence along said curve to the right having an Initial Tangent Bearing of South 79°40'16" East, a radius of 460.00 feet, and a central angle of 14°11'55" an arc distance of 113.99 feet; thence South 65°28'21" East, 139.11 feet a point of curvature; thence along said curve to the left having a radius of 540.00 feet and a central angle of 26°25'31" an arc distance of 249.05 feet; thence North 88°06'09" East, a distance of 410.24 feet; thence South 88°30'38" East, a distance of 101.56 feet; thence North 88°06'09" East, a distance of 135.98 feet; thence along said East quarter line, a distance of 962.87 feet; thence South 88°24'58" West, a distance of 1311.14 feet; thence South 88°28'46" West, 1307.48 feet to a point on along the West line of said section 35; thence North 1°56'27" West, along the West line of said Section 35, a distance of 973.24 feet to the Point of Beginning. Containing 2,554,446 square feet, or 58.642 acres more or less, except any part used or dedicated for streets, roads or public rights of way.

NOTES:

Basis of Bearings: Kansas North Zone, U.S. State Plane, NAD 83
N01°56'27"W, along the West line of the Northwest 1/4 of Section 35-T14S-R22E.

CLOSURE CALCULATIONS:
Precision, 1 part in: 1,007,492.592
Error distance: 0.007
Error direction: N 13°45'54" E
Perimeter: 7,306.17

All bearings and distances shown on this plat are measured unless otherwise noted.

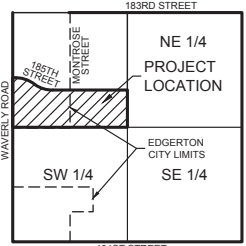
Flood Plain Note: According to the F.E.M.A. Flood Insurance Rate Map Number 20091C0119G, revised August 3, 2009, this tract graphically lies in OTHER AREAS, ZONE X, defined as areas determined to be outside the 0.2% annual chance floodplain.

SURVEYORS CERTIFICATION

This is to certify on the 25th day of May, 2016 this field survey was completed on the ground by me or under my direct supervision and that said survey meets or exceeds the "Kansas Minimum Standards" for boundary surveys pursuant to K.S.A. 74-7037.



Roger B. Dill, Kansas LS-1408



LOCATION MAP

SECTION 35-14S-22E
Scale 1" = 2000'

SHEET 1 OF 1

DEDICATION

The undersigned proprietors of the above described tract of land have caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision and plat shall hereafter be known as "LOGISTICS PARK KANSAS CITY PHASE VI - LOT 3".

An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, sewer pipes, poles, wires, drainage facilities, irrigation systems, ducts and cables, and similar facilities, upon, over and under these areas outlined and designated on this plat as "Utility Easement" or "U/E" is hereby granted to the City of Edgerton, Kansas with subordinate use of the same by other governmental entities and public utilities as may be authorized by state law to use such easement for said purposes. Utility easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of public utilities located within the easement.

An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction, maintenance or use of conduits, surface drainage facilities, subsurface drainage facilities, and similar facilities, upon, over and through those areas outlined and designated on this plat as "Drainage Easement" or "D/E" is hereby granted to the City of Edgerton, Kansas. Drainage easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of storm drainage facilities.

An easement to lay construct, alter, repair, replace or operate one or more sewer lines and all appurtenances convenient for the collection of sanitary sewage, together with the right of ingress and egress, over and through those areas designated as "Sanitary Sewer Easement" or "SSE" on this plat are hereby dedicated to the City of Edgerton, Kansas. Utility easements shall be kept clear of obstructions that impair strength or interfere with the use and/or maintenance of public utilities located within the easement.

Areas designated on the accompanying plat as "pedestrian access easement" are hereby dedicated to the public for the purpose of pedestrian access (PIE). No fence, wall, planting, structure or other obstruction may be placed or maintained in said PIE without approval of said City Community Development Director of the City of Edgerton, Kansas.

CONSENT TO LEVY

The undersigned proprietors of the above described tracts of land hereby consent and agree that the Board of County Commissioners and the City of Edgerton, Johnson County, Kansas, shall have the power to release such land proposed to be dedicated for public use from the lien and effect of any special assessments, and that the amount of unpaid special assessments on such land dedicated, shall become and remain a lien on this land fronting and abutting on such dedicated public way or thoroughfare.

EXECUTION

IN TESTIMONY WHEREOF, the undersigned proprietor has caused this instrument to be executed this ____ day of _____, 20__.

Edgerton Land Holding Company, LLC
By: NorthPoint Development, LLC
Its: Manager

Nathaniel Hagedorn, Manager

STATE OF MISSOURI)
COUNTY OF PLATTE)

BE IT REMEMBERED, that on this ____ day of _____, 20__, before me a Notary Public in and for said County and State, came Nathaniel Hagedorn, Manager of NorthPoint Development, LLC, the Manager of Edgerton Land Holding Company, LLC, who is personally known to me to be the same person who executed the foregoing instrument of writing on behalf of said limited liability company, and he duly acknowledged the execution of the same to be the act and deed of said limited liability company.

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

My Appointment Expires:

Notary Public

APPROVALS

APPROVED by the Planning Commission of the City of Edgerton, Johnson County, Kansas, on this ____ day of _____, 2017.

Chuck Davis, Chairperson Maria O'Neil, Secretary

APPROVED by the Governing Body of the City of Edgerton, Johnson County, Kansas, on this ____ day of _____, 2017.

Attest:
Donald Roberts, Mayor Janeice Rawles, City Clerk

APPROVED by the Zoning Administrator, on this ____ day of _____, 2017.

Kenneth A. Cook, Zoning Administrator

LOGISTICS PARK KANSAS CITY PHASE VI - LOT 3

Prepared For:

Edgerton Land Holding Co., LLC
5015 NW Canal Street
Suite 200
Riverside, Mo. 64150

Date of Preparation:
June 7, 2017

By: RCW



207 S. 5th Street
Leavenworth, Kansas 66048

913.317.9500
www.ric-consult.com

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Application FP2017-007, Final Plat Logistics Park Kansas City Phase VI, Second Plat, and Accept Any Dedications

Department: Community Development

Background/Description of Item: The City of Edgerton has received Application FP2017-007, Final Plat Logistics Park Kansas City Phase VI, Second Plat which is located on the North side of 183rd Street just east of Waverly Road (includes Inland Ports IX and X). The final plat encompasses a total of 79.776 acres, and includes two (2) lots and three (3) tracts. The Final Plat also includes dedication of easement necessary for the development including utility, cross access, drainage and pedestrian easements.

Staff, including City Engineer, has reviewed the Final Plat submittal for compliance with the Approved Preliminary Plat and requirements in Section 13.3 of Article 13 of the Edgerton UDC. Review comments are detailed in the attached staff report.

The Edgerton Planning Commission reviewed the application on August 8, 2017. The Planning Commission recommended approval of Application FP2017-007 for Final Plat for Logistics Park Kansas City Phase VI, 2nd Plat subject to compliance with the following stipulations as listed in the staff report dated August 8, 2017:

1. Adequate drainage easements for the stormwater conveyance and detention system, plus City of Edgerton access to the stormwater detention basins.
2. All Final Plat requirements of the City listed above shall be met or addressed prior to recording of the Plat.
3. The commencement of any improvements shall not occur prior to the approval and endorsement of the final plat and the submittal to and approval of construction plans for all streets, sidewalks, storm water sewers, sanitary sewers, and water mains contained within the final plat by the Governing Body. Sanitary sewer drawings and specifications must be submitted to and approved by the City of Edgerton and Kansas Department of Health and Environment prior to the commencement of any improvements.
4. Sanitary sewer drawings and specifications must be submitted to and approved by the City of Edgerton and Kansas Department of Health and Environment prior to the commencement of any improvements.
5. A Public Improvement Inspection Fee, established by the Fee Schedule for the Unified Development Code, shall be submitted with the document of financial assurance as defined in Section 13.7 prior to the commencement of any improvements.
6. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the Edgerton Unified Development Code, including payment of excise tax.
7. The applicant shall meet all requirements of Financial Assurances as defined in Section 13.7 of the Edgerton Unified Development Code.

Enclosure: Staff Report from August 8, 2017 Planning Commission meeting
Final Plat

Recommendation: Approve Application FP2017-007, Final Plat Logistics Park Kansas City Phase VI, Second Plat, and Accept Any Dedications.

Funding Source: N/A

Prepared by: Scott Peterson, Assistant City Administrator
Date: August 21, 2017

STAFF REPORT

August 8, 2017

To: Edgerton Planning Commission
Fr: Beth Linn, City Administrator
Re: Application FP2017-007 for *Final Plat Logistics Park Kansas City Phase VI – Second Plat* located on the north side of 183rd Street and East of Waverly Road.

APPLICATION INFORMATION

Applicant/Property Owner:	Aaron Burks Edgerton Land Holding Company, LLC
Requested Action:	Final Plat Approval
Legal Description:	The Southwest ¼ of Section 26, Township 14 South, Range 22 East in the City of Edgerton, Johnson County, Kansas. See attached final plat.
Site Address/Location:	North side of 183 rd St. and East of Waverly Rd.
Existing Zoning and Land Uses:	City of Edgerton L-P (Logistics Park) zoning on vacant land.
Existing Improvements:	None.
Site Size:	79.776 acres -- Lot 1 is 26.31 acres, Lot 2 is 36.67 acres, Tract A is 4.37 acres, Tract B is 7.07 acres, and Tract C is 5.36

PROJECT DESCRIPTION

The applicant is seeking approval of a final plat based on the approved preliminary plat and the L-P, Logistics Park District zoning requirements. The two (2) lot Preliminary Plat was approved July 11, 2017. This plat is for property that is part of Logistics Park Kansas City. The subject property is located along the north side of 183rd Street and has restricted access frontage along the east side of Waverly Road. The property is zoned L-P, Logistics Park. The City's Unified Development Code (UDC) defines this district as a limited multimodal industrial zone created to support activities related to truck, rail and other transport services.

INFRASTRUCTURE AND SERVICES

Infrastructure was reviewed previously per the rezoning and preliminary plat. Some conditions continue to exist as noted below.

- a. Access to both lots will be from 183rd Street. Access to Waverly Road is prohibited.

- b. 183rd Street from Montrose Street to eastern city limits will require upgrade in the future to city standard road section similar to other streets in LPKC. It is anticipated that funding for the improvement of 183rd Street in future will be allocated as part of the tri-party agreement between NorthPoint Development, BNSF Railway and City of Edgerton; therefore, the City will not require the property owner to sign an agreement not to protest the formation of a benefit district to fund these improvements.
- c. The property is located within the Big Bull Creek watershed, which flows south from 167th Street to the southern edge of the county at Homestead Lane.
- d. No part of this property is located within the 100 year floodplain.
- e. A 20-foot sanitary sewer easement is shown on the plat along the south side of Lot 1 to Lot 2. The City of Edgerton is currently working with NorthPoint Development to develop a sanitary sewer master plan for LPKC. Staff anticipates the master plan to include sanitary sewer connection for both Lots 1 and 2 via the lift station under construction near Inland Port VII.
- f. The property is located within the service area of Johnson County Water District No. 7.
- g. Police protection is provided by the Johnson County Sheriff's Department under contract with the City of Edgerton. Fire protection is provided by Johnson County Fire District No. 1. Fire stations are located in the City of Edgerton approximately 5.0 miles to the west, and approximately 1.0 mile to the east in the City of Gardner.

FINAL PLAT REVIEW

Staff has reviewed the Final Plat submittal for compliance with the Approved Preliminary Plat and requirements in Section 13.3 of Article 13 of the Edgerton UDC. All items on the plans comply with the exception of the review comments listed below.

1. The instrument of survey which shows the point of beginning, corners, bearings, courses, distances, exterior boundaries, interior lot boundaries, abandoned lot lines, pins, and monuments found or set. All P.I.'s corners, boundaries must be monumented with a 2" x 24" metal bar.
 - a. *The plat currently shows all monuments being ½" x 24" Rebar while the regulations require 2" x 24" metal bar. Staff believes that the 2" measurement is a typographical error and that it should be ½".*
 - b. *The "iron bar with cap" shown north of the northeast corner of Tract C is not dimensioned and lacks a symbol. **Remove the notation or update Final Plat.***
2. Individual notations and a table showing: lot and tract areas, setbacks, and building envelopes. *Side and rear building setbacks in the table for Lots 1 and 2 do not match. **Update Final Plat.***
3. All easements with widths, and roads with curve data. ***Update Final Plat – see list below.***
 - a. *Please name the north/south street (Montrose) located south and across 183rd Street.*
 - b. *If 183rd Street west of Montrose Road has been vacated, it should be noted on the final plat.*
 - c. *The sanitary sewer easement shown along the south side of Tract A and Lot 1 is not noted in the legend (SS/E).*
 - d. *The Pkg/L shown on the plat is not noted in the legend, please add.*
 - e. *Verify correct placement (check for duplication) of 15' U/E and P/E particularly on Lot @.*
4. An instrument of dedication for all roads and easements.

- a. *The Final Plat includes language for the dedication of right-of-way (streets) and other types of similar rights-of-way including utility easements.*
 - b. *The Dedication section that grants City of Edgerton access to drainage easements needs to also provide the City access to all three stormwater detention basins (Tracts A, B & C) via the three access easements (A/E): 30' A/E along the south line of Lot 1; 40' A/E along the east line of Lot 1; and 75' A/E in the northwest corner of Lot 2). It is also recommended that all of Tracts A, B & C be designated as permanent drainage easements. **Update Final Plat.***
5. *Surveyor's Certificate and Seal and certificate for survey review by the County Surveyor or designated Land Surveyor. **Surveyor's Certificate who prepared the plat is missing, the County Surveyor utilizes their own stamp, and therefore no other certificate is required. Update Final Plat.***

RECOMMENDATION

City staff recommends **approval** of FP2017-0X for the Final Plat, Logistics Park Kansas City Phase VI – Second Plat, subject to compliance with the staff report recommendations and the following stipulations:

1. Adequate Drainage Easements for the stormwater conveyance and detention system, plus City of Edgerton access to the stormwater detention basins.
2. All Final Plat requirements of the City listed above shall be met or addressed prior to recording of the Plat.
3. The commencement of any improvements shall not occur prior to the approval and endorsement of the final plat and the submittal to and approval of construction plans for all streets, sidewalks, storm water sewers, sanitary sewers, and water mains contained within the final plat by the Governing Body.
4. Sanitary sewer drawings and specifications must be submitted to and approved by the City of Edgerton and Kansas Department of Health and Environment prior to the commencement of any improvements.
5. A Public Improvement Inspection Fee, established by the Fee Schedule for the Unified Development Code, shall be submitted with the document of financial assurance as defined in Section 13.7 prior to the commencement of any improvements.
6. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the Edgerton Unified Development Code, including payment of excise tax.
7. The applicant shall meet all requirements of Financial Assurances as defined in Section 13.7 of the Edgerton Unified Development Code.

ATTACHMENTS

Application FP2017-007

Final Plat Logistics Park Kansas City Phase VI – Second Plat

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Recommendation of Engineer to Award Construction of the 2017 CARS E Nelson St Quiet Zone Project to Miles Excavating, Inc. and Authorize the Mayor to Execute the Contract Including the Railroad Agreement with BNSF Railway

Department: Public Works

Background/Description of Item: On May 11th, 2016, City Council approved Resolution No. 05-12-16C supporting the E Nelson Street Quiet Zone Project as part of the County Assistance Road System (CARS) program for 2017-2021 for construction in 2017. The project will reconstruct Nelson Street (28' wide x 315' long concrete roadway) with associated storm water improvements, sidewalk and other related improvements. The E Nelson Street Project was design by BG Consultants. Inspection will be performed by City of Edgerton staff.

The CARS program provides funds to the cities of Johnson County to construct and maintain their major arterials. Each year the cities submit a 5-year road improvement plan to Johnson County. Using a scoring system, Johnson County selects projects and allocates funds. The County pays 50% of the project's construction and construction inspection costs. Cities are responsible for design, right-of-way, and utility relocation costs.

On August 17, 2017, the City of Edgerton held a public bid opening. A total of five (5) bids were received, opened and read aloud to the public. The bids ranged from a low of \$178,761.21 to a high of \$214,727.40. The engineer's estimate was \$205,220.00. Miles Excavating, Inc. of Basehor, Kansas submitted the low bid at \$178,761.21. Based upon review of the bids and prior direct experience with Miles for both staff and City Engineer, staff recommendation is Miles Excavating, Inc. is qualified to perform the scope of work included in this project.

Funding for construction of the project is 50/50 split between the City of Edgerton and CARS program. Total construction was budgeted at \$195,600, with 50% from City of Edgerton at \$97,800. Based on the low bid submitted, cost of construction for City of Edgerton would be \$89,380.61, a savings of approximately \$8,419.

If awarded, staff anticipates a Notice to Proceed on September 21, 2017. Once a notice to proceed is issued, the contract requires that substantial completion by November 3, 2017. Final completion of the entire work shall be complete by November 17, 2017.

Johnson County CARS program has given concurrence on this bid process.

City Attorney has approved the Project Manual and Contract Documents, including the Agreement with BNSF Railway for working in proximity to the railroad tracks/railroad right-of-way. City Attorney will review and approve to form the Performance and Maintenance Bonds once submitted by the Contractor.

Enclosure: Project Map
 Letter of recommendation from City Engineer
 Project Bid Tabulations
 Contract

Related Ordinance(s) or Statute(s):

Recommendation: Approve Award Construction of the 2017 CARS E Nelson St Quiet Zone Project to Miles Excavating, Inc. and Authorize the Mayor to Execute the Contract Including the Railroad Agreement with BNSF Railway

Funding Source: Capital Improvement Fund




Prepared by: Trey Whitaker, Public Works Superintendent

Date: August 18, 2017

5th Street

Nelson St.



-  Intersection Improvements
-  Nelson Improvements [West of RR]
-  Nelson Improvements [East of RR]

August 17, 2017

Trey Whitaker, Public Works Superintendent
404 E. Nelson Street
Edgerton, KS 66021

Re: E. Nelson Street at BNSF Railroad Crossing/Quiet Zone Construction
Edgerton, Kansas
BG Project No. 17-1101L
CARS Project No. 320001143

Dear Mr. Whitaker:

The bid letting for the E. Nelson Street at BNSF Railroad Crossing/Quiet Zone Construction was conducted August 17, 2017. A total of five (5) bids were received, opened and read aloud to the public. The bids ranged from a low of \$178,761.21 to a high of \$214,727.40. The engineer's estimate was \$205,220.00. The bids are shown below:

	Engineer's Estimate	Miles Excavating, Inc.	Freeman Concrete Construction	Gunter Construction Company	Mega Industries Corporation	Kansas Heavy Construction
BIDS	\$205,220.00	\$178,761.21	\$192,880.10	\$202,117.00	\$213,204.00	214,727.40

Miles Excavating, Inc. of Basehor, Kansas submitted the low bid. Based upon review of the bids and our prior direct experience, we believe that Miles Excavating, Inc. is qualified to perform the scope of work included in this project. Bid tabulations are attached to this letter.

Award of this contract should be contingent upon Johnson County Public Works concurrence.

Feel free to call me if you have any questions or need additional information.

Sincerely,

BG CONSULTANTS, INC.



David Hamby, P.E., CFM
Vice President

Attachment

				Engineer's Estimate		Miles Excavating, Inc.		Freeman Concrete Construction		Gunter Construction Company		Mega Industries Corporation		Kansas Heavy Construction	
Item #	Description	Quantity	Unit	Unit Price		Unit Price		Unit Price		Unit Price		Unit Price		Unit Price	
Base Bid															
1.	Contractor Construction Staking	1	L.S.	\$ 2,000.00	\$ 2,000.00	\$ 2,985.79	\$ 2,985.79	\$ 7,200.00	\$ 7,200.00	\$ 7,940.00	\$ 7,940.00	\$ 3,000.00	\$ 3,000.00	\$ 7,150.00	\$ 7,150.00
2.	Mobilization	1	L.S.	\$ 16,500.00	\$ 16,500.00	\$ 13,811.10	\$ 13,811.10	\$ 20,300.00	\$ 20,300.00	\$ 26,591.00	\$ 26,591.00	\$ 20,000.00	\$ 20,000.00	\$ 42,500.00	\$ 42,500.00
3.	Removal of Existing Structures	1	L.S.	\$ 1,500.00	\$ 1,500.00	\$ 5,202.34	\$ 5,202.34	\$ 1,840.00	\$ 1,840.00	\$ 5,818.00	\$ 5,818.00	\$ 33,000.00	\$ 33,000.00	\$ 8,500.00	\$ 8,500.00
4.	Clearing and Grubbing	1	L.S.	\$ 2,000.00	\$ 2,000.00	\$ 4,068.24	\$ 4,068.24	\$ 1,330.00	\$ 1,330.00	\$ 310.00	\$ 310.00	\$ 9,000.00	\$ 9,000.00	\$ 2,500.00	\$ 2,500.00
5.	Traffic Control	1	L.S.	\$ 5,000.00	\$ 5,000.00	\$ 5,750.41	\$ 5,750.41	\$ 3,320.00	\$ 3,320.00	\$ 3,670.00	\$ 3,670.00	\$ 4,000.00	\$ 4,000.00	\$ 5,720.00	\$ 5,720.00
6.	Railway Flagger	3	Daily	\$ 5,000.00	\$ 15,000.00	\$ 995.26	\$ 2,985.78	\$ 1,990.00	\$ 5,970.00	\$ 1,530.00	\$ 4,590.00	\$ 1,200.00	\$ 3,600.00	\$ 1,100.00	\$ 3,300.00
7.	Sediment Trap	32	Lin. Ft.	\$ 30.00	\$ 960.00	\$ 6.91	\$ 221.12	\$ 7.00	\$ 224.00	\$ 8.00	\$ 256.00	\$ 8.00	\$ 256.00	\$ 6.90	\$ 220.80
8.	Biodegradable Log	24	Lin. Ft.	\$ 30.00	\$ 720.00	\$ 3.87	\$ 92.88	\$ 4.00	\$ 96.00	\$ 4.25	\$ 102.00	\$ 4.00	\$ 96.00	\$ 3.85	\$ 92.40
9.	Slope Barrier	450	Lin. Ft.	\$ 3.00	\$ 1,350.00	\$ 1.38	\$ 621.00	\$ 1.70	\$ 765.00	\$ 1.50	\$ 675.00	\$ 1.50	\$ 675.00	\$ 1.40	\$ 630.00
10.	Temporary Gravel Construction Entrance Pad	1	Ea.	\$ 1,750.00	\$ 1,750.00	\$ 1,037.31	\$ 1,037.31	\$ 1,300.00	\$ 1,300.00	\$ 1,225.00	\$ 1,225.00	\$ 1,500.00	\$ 1,500.00	\$ 1,000.00	\$ 1,000.00
11.	Concrete Washout	1	Ea.	\$ 1,500.00	\$ 1,500.00	\$ 453.78	\$ 453.78	\$ 830.00	\$ 830.00	\$ 1,835.00	\$ 1,835.00	\$ 600.00	\$ 600.00	\$ 1,000.00	\$ 1,000.00
12.	Temporary Seeding	1	L.S.	\$ 5,000.00	\$ 5,000.00	\$ 1,990.53	\$ 1,990.53	\$ 2,000.00	\$ 2,000.00	\$ 2,200.00	\$ 2,200.00	\$ 2,000.00	\$ 2,000.00	\$ 2,950.00	\$ 2,950.00
13.	Permanent Seeding, Fertilizing, and Mulching	1	L.S.	\$ 5,000.00	\$ 5,000.00	\$ 2,156.41	\$ 2,156.41	\$ 2,160.00	\$ 2,160.00	\$ 2,400.00	\$ 2,400.00	\$ 2,000.00	\$ 2,000.00	\$ 3,225.00	\$ 3,225.00
14.	Unclassified Excavation	175	C.Y.	\$ 25.00	\$ 4,375.00	\$ 17.88	\$ 3,129.00	\$ 85.00	\$ 14,875.00	\$ 54.40	\$ 9,520.00	\$ 26.00	\$ 4,550.00	\$ 48.00	\$ 8,400.00
15.	Pavement Removal	1,136	S.Y.	\$ 6.50	\$ 7,384.00	\$ 11.74	\$ 13,336.64	\$ 12.50	\$ 14,200.00	\$ 16.00	\$ 18,176.00	\$ 9.00	\$ 10,224.00	\$ 15.00	\$ 17,040.00
16.	Compaction of Earthwork (Type B)	69	C.Y.	\$ 18.00	\$ 1,242.00	\$ 11.14	\$ 768.66	\$ 60.00	\$ 4,140.00	\$ 23.00	\$ 1,587.00	\$ 17.00	\$ 1,173.00	\$ 20.00	\$ 1,380.00
17.	Concrete Pavement (8" Uniform)(AE)(NRDJ)	920	S.Y.	\$ 85.00	\$ 78,200.00	\$ 61.48	\$ 56,561.60	\$ 57.00	\$ 52,440.00	\$ 64.60	\$ 59,432.00	\$ 65.00	\$ 59,800.00	\$ 62.00	\$ 57,040.00
18.	Concrete Pavement (8" Uniform)(AE)	85	S.Y.	\$ 85.00	\$ 7,225.00	\$ 125.72	\$ 10,686.20	\$ 250.00	\$ 21,250.00	\$ 87.20	\$ 7,412.00	\$ 85.00	\$ 7,225.00	\$ 78.00	\$ 6,630.00
19.	Aggregate Base (AB-3)(6")	1,132	S.Y.	\$ 12.00	\$ 13,584.00	\$ 8.91	\$ 10,086.12	\$ 6.80	\$ 7,697.60	\$ 9.50	\$ 10,754.00	\$ 10.00	\$ 11,320.00	\$ 9.00	\$ 10,188.00
20.	Curb and Gutter (Combined)(AE)	615	Lin. Ft.	\$ 20.00	\$ 12,300.00	\$ 32.52	\$ 19,999.80	\$ 20.50	\$ 12,607.50	\$ 26.00	\$ 15,990.00	\$ 25.00	\$ 15,375.00	\$ 21.00	\$ 12,915.00
21.	Flume Inlet (Concrete)	16													



CITY OF EDGERTON, KANSAS PROJECT MANUAL

E. NELSON STREET AT BNSF RAILROAD CROSSING/QUIET ZONE CONSTRUCTION

**CARS PROJECT NO. 320001143
BG PROJECT NO. 17-1101L**



July 27th, 2017

EDGERTON, KANSAS

E. NELSON STREET CONSTRUCTION

CONTRACT

This agreement for the construction of the E. NELSON STREET CONSTRUCTION (hereinafter referred to as the "Contract"), made and entered into this ____ day of _____, 20__ by and between the City of Edgerton, Kansas, a municipal corporation organized and existing under the laws of the State of Kansas (hereinafter referred to as the "Owner") and _____ of _____, a corporation organized under the laws of the State of _____ and authorized to transact business in the State of Kansas, (hereinafter referred to as the "Contractor").

WITNESSETH:

THAT WHEREAS, the Owner has caused to be prepared, in accordance with law, Contract Documents, including Project Specifications and Plans, for the Work herein described and has approved and adopted these Contract Documents and has caused to be published, in the manner and for the time required by law, an advertisement inviting sealed proposals for furnishing materials, labor and equipment for, and in connection with, the construction of E. NELSON STREET CONSTRUCTION, in the City of Edgerton, Kansas, in accordance with the terms of this Contract; and

WHEREAS, the Owner in the manner prescribed by law has publicly opened, examined and canvassed the proposals submitted, and as a result of such canvass has determined and declared the Contractor to be the lowest and best bidder for constructing said Work, and duly awarded to the said Contractor this Contract therefore for the sum or sums named in the proposal attached to, and made a part of this Contract;

NOW, THEREFORE in consideration of the compensation to be paid to the Contractor, and of the mutual covenants, promises and agreements set forth herein, the parties hereto agree, the Owner for itself and its successors, and the Contractor for itself, its successors and assigns, or executors and administrators, as follows:

ARTICLE I. That the Contractor shall furnish at its own cost and expense all labor, tools, equipment and materials necessary to complete the Work and shall construct and complete in good first class manner the Work as designated, described and required by the Project Manual for the E. NELSON STREET CONSTRUCTION. All Work to be done under this Contract shall be under the direct supervision, and to the entire satisfaction of the Owner, and in accordance with the laws of the State of Kansas.

ARTICLE II. That the following documents, which may be attached hereto, are incorporated by reference as a part of this Contract to the same extent as if fully set forth

herein: the Project Manual, consisting of the Bidding Documents (which shall include the advertisement for bid, instructions to bidders, proposal (including the bid schedule proposal), statement of bidder's qualifications and affidavit) and Contract Documents (which shall include the proposal, performance bond, statutory bond, contract, general conditions, special conditions, technical specifications, and any addenda or change orders authorized by the Owner), and the Plans.

ARTICLE III. That the Owner shall pay to the Contractor for the performance of the Work embraced in this Contract, and the Contractor will accept in full compensation therefore the sum (subject to adjustment as provided by the Contract) of \$_____, in cash or its equivalent, for all Work covered by and included in the Contract, in the manner provided in the General Conditions hereto attached.

ARTICLE IV. That the Contractor will commence work on a date to be specified in a written order form from the Owner, and will complete all Work covered by this Contract as set forth in the proposal.

IN WITNESS WHEREOF, the parties hereto have caused the Contract to be executed and made effective the day and year first above written and the Contractor has executed four (4) counterparts of this Contract in the prescribed form and manner.

OWNER

CITY OF EDGERTON, KANSAS

Attest:

By Donald Roberts, Mayor_____
Janeice Rawles, City Clerk

(SEAL)

Contract Approved as to Form:

Lee Hendricks, City Attorney**CONTRACTOR**_____
Bonds Approved as to Form:By _____
Title: __________
Lee Hendricks, City Attorney

(SEAL)

ADDENDUM A: INSURANCE REQUIREMENTS

Contractor shall procure and maintain at its sole cost and expense, the following insurance coverage with minimum acceptable limits as follows:

(1) COMMERCIAL GENERAL LIABILITY

\$1,000,000 Per Occurrence

\$2,000,000 Aggregate

Coverage shall be written on ISO occurrence form CG 0001 or equivalent, and shall cover liability arising from premises, operations, independent contractors, products- completed operations, and personal and advertising injury, and include explosion, collapse, and underground coverage. Such coverage shall also contain a "per project" aggregate endorsement. It shall also name City, its officers, employees, Mayor, and City Council Members, and agents as additional insureds on a primary basis, not contributing with any insurance maintained by the additional insured, using ISO additional insured endorsements CG 2010 and CG 2037, or their equivalent, copies of which are required to be attached to the certificate of insurance. Contractor shall maintain this coverage for itself and for all additional insureds for the duration of the project and maintain Completed Operations for coverage for itself and for each additional insured for at least 3 years after completion of the Work. Pollution Liability, if applicable, must also be included or separate policy provided reflecting same limits and terms as above.

(2) AUTOMOBILE LIABILITY

\$1,000,000 Per Accident

Coverage shall apply to all owned, hired, and non-owned automobiles used in the completion of the work set forth in the contract. It shall also name City, its officers, employees, Mayor, and City Council Members, and agents as additional insureds.

(3) WORKERS COMPENSATION - STATUTORY & EMPLOYERS LIABILITY

\$500,000 Each Accident

\$500,000 Policy Limit - Disease

\$500,000 Each Employee – Disease

Coverage shall apply to all workers and employees related to the work, including sole proprietors, partners, members of an LLC, and officers of a corporation, regardless of whether or not such persons come under the statutory requirements to carry this coverage.

(4) UMBRELLA / EXCESS LIABILITY**\$4,000,000 Per Occurrence****\$4,000,000 Aggregate**

A combined single limit of excess liability to apply over and above General Liability, Pollution Liability (if applicable), Auto Liability, and Employers Liability, with terms and conditions consistent with those of the underlying coverage, not any more restrictive. It shall also name City, its officers, employees, Mayor, and City Council Members, and agents as additional insureds on a primary basis, not contributing with any insurance maintained by the additional insured.

(5) BUILDERS RISK / INSTALLATION FLOATER

This coverage, is required for building projects in an amount equal to the Replacement Cost of the work or the Contract Amount, whichever is greater. Street and drainage projects will be insured for an amount adequate to provide for removal, repair, or replacement of damaged, unacceptable, or otherwise destroyed work, including labor costs, completed as part of the Contract. It shall include the interest of all entities who are deemed to have an insurable interest in the work and these shall be listed as an insured or additional insured. Coverage shall be "all-risk" and include insurance for loss and damage to the work itself, and materials and equipment in transit. Property of the City in the care, custody and control of Contractor shall also be included in such policy, if applicable. Coverage shall allow for partial utilization of the work by City and shall include testing and startup. Coverage shall be maintained in effect until final payment is made unless otherwise agreed to in writing by the City. Contractor shall be responsible for any deductible or self-insured retention.

(6) WAIVER OF SUBROGATION

Contractor, and in addition, its insurers, through policy endorsement, and to the fullest extent permitted by law, waives all rights against City, its officers, employees, Mayor, and City Council Members, and agents for recovery of damages to the extent that these damages are covered by commercial general liability, commercial umbrella liability, business auto liability or workers compensation and employers liability insurance maintained per the requirements stated above.

(7) CERTIFICATE OF INSURANCE/MISCELLANEOUS PROVISIONS

Prior to commencing the work, Contractor shall furnish an acceptable certificate(s) of insurance, identifying insurers that write Contractor's coverages, with minimum Best's Guide Rating of A- and Class VIII or better, and authorized to do business in the state of Kansas. Certificate will evidence the required

coverage and endorsements stated above, with copies of the additional insured endorsements attached. Should any of the above described policies be cancelled, non-renewed, or be materially altered, which would have an adverse effect on the coverage required by the above terms of this contract, the insurance company(ies) shall notify the City in writing at least 30 days prior to such event. This cancellation provision shall be indicated on the certificate of insurance. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by the Contractor with reasonable promptness according to the Contractor's information and belief. City also reserves the right to obtain copies of Contractor's policies to validate coverage in effect if certificates are ambiguous. Annually, Contractor agrees to provide City with a new and replacement formal certificate of insurance. Not less than five (5) days prior to the expiration date, Contractor will provide City with renewal certificate and new additional insured endorsements, naming City, its officers, employees, Mayor and City Council Members, and agents as additional insured. If any portion of the work is to be subcontracted, Contractor shall require that the subcontractor(s) shall comply with the same indemnification agreement terms and be required to provide and maintain all insurance coverages and provisions as stated above, with a formal certificate of insurance provided to City evidencing same. Acceptance of any certificate that does not comply with the above requirements shall not operate as a waiver of Contractor's obligations hereunder. And the fact that insurance is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this contract. Damages recoverable by City shall not be limited by the amount of the required insurance coverage. Contractor shall notify City in writing as soon as possible after any bodily injury or property damage occurrence that could potentially lead to any lawsuit or after it receives notice or knowledge of any demand, claim, cause of action, lawsuit, or action arising out of the work performed under this contract.

GENERAL CONDITIONS

GC-1. SCOPE: The conditions set forth herein are general in scope and are intended to contain requirements and conditions generally required in the Work, but may contain conditions or requirements which will not be required in the performance of the Work under contract and which therefore are not applicable thereto. Where any stipulation or requirement set forth herein applies to any such non-existing condition, and is not applicable to the Work under contract, such stipulation or requirement will have no meaning relative to the performance of said Work.

GC-2. CONTRACT DOCUMENTS: It is expressly understood and agreed that the bound volume of Contract Documents, as defined in GC-3, and other drawings and data which may be furnished by the Contractor and approved by the Owner, and such other additional drawings which may be furnished by the Consulting Engineer as are necessary to make clear, and to define in greater detail, the intent of the Contract Documents, are each and all included in this Contract and the Work shall be done fully in accordance therewith.

GC-3. DEFINITIONS: Whenever any word or expression, defined in this Paragraph GC-3, or pronoun used in its stead, occurs in the Contract Documents or the Bidding Documents, it shall have and is mutually understood to have the meaning herein given.

"Bidding Documents" shall mean and include the advertisement for bid, instructions to bidders, proposal (including the bid schedule proposal) and statement of bidder's qualifications.

"Calendar Days" shall be defined as each day falling within a given month, including Saturday, Sunday or Holidays.

"City Engineer" or "Engineer" shall mean the City Engineer of the City of Edgerton, Kansas.

"Consulting Engineer" shall mean the engineer who has been employed by the Owner to provide professional services with regard to this Work or his duly authorized agents, such agents acting severally within the scope of the particular duties entrusted to them.

"Contract" or "Contract Documents" may be used interchangeably and shall mean and include the proposal, performance bond, statutory bond, contract, general conditions, special conditions, technical specifications, and any addenda or change orders authorized by the Owner.

"Contractor" shall mean the party entering into contract for the performance of the Work covered by this Contract and his duly authorized agents or legal representatives.

"Date of Signing the Contract" or words equivalent thereto, shall mean the date upon which the Contract, executed by the Contractor, is signed by the Owner.

"Observer" shall mean the Consulting Engineer or technical observer or observers duly authorized by the Consulting Engineer or the Owner, limited to the particular duties entrusted to him/her or them.

"Owner" or "City" shall mean the City Council acting as Governing Body of the City of Edgerton, Kansas.

"Plans" or "The Plans" shall mean and include all drawings which may have been prepared by the Owner as a basis for proposals, all drawings submitted by the successful bidder with its proposal and by the Contractor to the Owner, if and when approved by the City Engineer, and all drawings submitted by the Owner to the Contractor during the progress of the Work, as provided for herein.

"Project Manual" shall mean the Bidding Documents and the Contract Documents.

"Project Specifications" shall mean the general conditions, special conditions, and technical specifications.

"Resident representative" shall mean the qualified technical representative designated by the Consulting Engineer, City Engineer or Owner to observe the Work on a continuous basis and to be present at the site of the Work when required. This term may be synonymous with "Observer".

"Standard Specifications" for this Work shall be the Kansas City Metropolitan Chapter American Public Works Association (APWA) Standard Specifications and Design Criteria latest revision. If any item of work or portion thereof is not covered by the APWA specifications, then the latest edition of the KDOT State Road and Bridge Construction specifications will apply. If an item in the Standard Specifications calls for a bid, and a bid item is not provided for in the Contractor's proposal, such items shall be considered a subsidiary obligation of the various bid items for the Work. When reference is made to a Standard Specification, such specification shall govern as though it were repeated verbatim herein. If any conflict should arise between the Standard Specifications and the Project Specifications, the Project Specifications shall govern.

"Work" shall mean the work to be done and the equipment, supplies, and materials to be furnished under this Contract, unless some other meaning is indicated by the context.

"Working Day" shall be any day the Contractor is not restricted from prosecuting the "Controlling Item of Work" because of KDOT, LPAs or weather as defined in the 2015 KDOT Standard Specifications.

Whenever in these Contract Documents the words "as ordered," "as directed," "as required," "as permitted," "as allowed," or words or phrases of like import are used it shall be understood that the order, direction, requirement, permission, or allowance of the Owner and City Engineer is intended.

Similarly the words "approved," "reasonable," "suitable," "acceptable," "properly," "satisfactory," or words of like effect and import, unless otherwise particularly specified herein shall mean approved, reasonable, suitable, acceptable, proper, or satisfactory in the judgment of the Owner and City Engineer.

Whenever any statement is made in the Contract Documents containing the expression "it is understood and agreed," or an expression of like import, such expression means the mutual understanding and agreement of the parties executing the Contract.

GC-4. VERBAL STATEMENTS NOT BINDING: It is understood and agreed that the written terms and provisions of this Contract shall supersede all verbal statements of any and every official and/or other representative of the Owner, and such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any way whatsoever, the written Contract.

GC-5. TITLES AND SUBHEADINGS: The titles or subheadings used in this Contract are understood to be for convenience of reference only, and shall not be taken or considered as being a part thereof, or as having any bearing on the interpretation thereof.

GC-6. COPIES OF CONTRACT: Sufficient copies of the Contract Documents shall be prepared, each containing the Contractor's proposal as submitted, the bond properly executed, and the Contract signed by both parties thereto. These executed counterparts of the Contract Documents are to be filed with the Owner, Contractor, Consulting Engineer, and the Surety Company executing the bond. The original proposal submitted by the Contractor will be retained by the Owner, in addition to the copy thereof in the Owner's copy of the executed documents.

GC-7. SCOPE, NATURE AND INTENT OF SPECIFICATIONS AND PLANS: The Plans, which are incorporated by reference into the Contract Documents, are intended to supplement, but not necessarily duplicate, the other documents which comprise the Contract Documents. Should anything be omitted from the Plans or the other documents comprising the Contract Documents which is necessary to a clear understanding of the Work, or should it appear that various provisions are in conflict, the Contractor shall secure written instructions from the City Engineer before proceeding with the construction affected by such omissions or discrepancies. It is understood and agreed that the Work shall be performed and completed according to the true spirit, meaning and intent of the Contract Documents.

The Contractor's responsibility for construction covered by conflicting requirements, not provided for by addendum prior to the time of opening bids for the work represented thereby, shall not extend beyond the construction in conformity with the cheaper of the said conflicting requirements. Any increase in cost of work required to be done in excess of the cheaper of the conflicting requirements will be paid for as extra work as provided for herein.

GC-8. SILENCE OF CONTRACT DOCUMENTS: The apparent silence of the Contract Documents as to any detail, or the apparent omission from them of a detailed description concerning any point, shall be regarded as meaning that only the best general practice is to be used. All interpretations of these Contract Documents shall be made on the basis above stated.

GC-9. FIGURED DIMENSIONS TO GOVERN: Dimensions and elevations shown on the Plans shall be accurately followed, even though they differ from scaled measurements. No work shown on the Plans, if the dimensions are not indicated, shall be executed until the required dimensions have been obtained from the City Engineer.

GC-10. CONTRACTOR TO CHECK PLANS AND SCHEDULES: The Contractor shall check all dimensions, elevations and quantities shown on the Plans and schedules given thereto by the Consulting Engineer, and shall notify the City Engineer of any discrepancy between the Plans and the conditions on the ground, or any error or omission in Plans, or in the layout as given by stakes, points or instructions, which may be discovered in the course of the Work. The Contractor will not be allowed to take advantage of any error or omission in the Contract Documents, including the Plans. Full instructions will be furnished by the City Engineer should such error or omission be discovered, and the Contractor shall carry out such instructions as if originally specified.

GC-11. DRAWINGS TO BE FURNISHED BY CONTRACTOR: The Contractor shall furnish all shop, fabrication, assembly, foundation and other drawings required by the Project Specifications, including but not limited to, drawings of equipment and devices offered by the Contractor for approval of the Consulting Engineer, in sufficient detail to adequately show the construction and operation thereof, drawings showing essential details of any change in design of construction proposed for consideration of the Owner, by the Contractor in lieu of the design or arrangement required by the Contract, or any item of extra work thereunder, and all required wiring and piping layouts.

Not less than two (2) preliminary copies of each such drawing shall be submitted to the Consulting Engineer for his review and approval, together with the same number of copies of each drawing required by the Consulting Engineer to be revised. On final approval, the Consulting Engineer shall be furnished with a total of not less than five (5) copies, and more when required, of each drawing as finally approved, such number to include any copies of preliminary or revised drawings which are approved as submitted. After due approval in writing by the Consulting Engineer, all such drawings shall become a part

of the Contract Documents and the work or equipment shown by such drawings shall be in conformity with said drawings unless otherwise required by the Owner.

No work shall be performed in connection with the fabrication or manufacture of material or equipment shown by any drawing thereof, nor shall any accessory, appurtenance or device not fabricated or manufactured by the Contractor or its subcontractor, be purchased until the drawing or drawings thereto have been approved as stipulated, except at the Contractor's own risk and responsibility.

The Consulting Engineer's check and approval of drawings submitted by the Contractor will cover only general conformity to the Contract Documents and will not constitute a blanket approval of all dimensions, quantities, and details of the material or equipment shown, nor shall such approval relieve the Contractor of its responsibility for errors contained in such drawings.

GC-12. LINES AND GRADES: All work performed under this Contract shall be done to the lines, grades, and elevations shown on the Plans. The Contractor shall keep the City Engineer informed, a reasonable time in advance of the times and places at which it wishes to do work, in order that lines and grades may be furnished and necessary measurements for record and payment may be made with the minimum of inconvenience and delay to the City Engineer, and delay to the Contractor.

GC-13. WORK DONE WITHOUT LINES OR GRADES: Any work done without being properly located and established by base lines, offset stakes, bench marks or other basic reference points located, established, or checked by the City Engineer, may be ordered removed and replaced at the Contractor's cost and expense.

GC-14. CONTRACTOR FURNISHED STAKING: The Contractor shall be responsible for and provide all staking and furnish stakes, labor, and other materials as required for the proper staking out of the work; and in making measurements and surveys; and in establishing temporary or permanent reference marks in connection with said work. The stakes furnished for the staking of the work shall be of such type, size, and quality as to be acceptable to the City Engineer.

All work performed under this contract shall be done to the lines, grade, and elevations shown on the plans.

Any work done without being properly located and established by base lines, off-set stakes, bench marks, or other basic reference points may be ordered removed and replaced at the Contractor's expense.

The Contractor shall be responsible for all monuments, property corners, bench marks, reference points and stakes, and in case of willful or careless destruction of same, will be charged with the resulting expense of replacement, and he/she shall be responsible for

any mistakes or loss of time that may be caused by their unnecessary loss or disturbance. In the event that the loss of stakes causes a delay in the work, the Contractor shall have no claim for damages or extensions of time. In the case of any permanent monuments, property corners, or benchmarks that have been moved or destroyed, the Contractor shall furnish at its own expense such materials, surveyors, and assistance as are necessary for the proper repairs of monuments, property corners, or bench marks that have been moved or destroyed.

GC-15. LEGAL ADDRESS OF CONTRACTOR: Both the business address of the Contractor given in the bid of proposal upon which this Contract is founded, and the Contractor's office in the vicinity of the Work, are hereby designated as the places to which all notices, letters, and other communications to the Contractor may be mailed or delivered. The delivery at either of the above named addresses, or the depositing in any mail box regularly maintained by the Post Office, of any notice, letter, or other communication so addressed to the Contractor, shall be deemed sufficient service thereof upon the Contractor, and the date of said service shall be the date of such delivery or mailing.

Such addresses may be changed at any time by an instrument in writing, executed by the Contractor and presented and delivered to the City Engineer. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter or communication upon the Contractor personally.

GC-16. CONTRACTOR'S OFFICE AT SITE OF WORK: During the performance of this Contract, the Contractor may be required to maintain a suitable office at or near the site of the Work which shall be the headquarters of a representative authorized to receive drawings, instructions or other communications or articles from the Owner or the Owner's agents, and any such communication given to said representative, or delivered at the Contractor's office at the site of the Work in the Contractor's absence, shall be deemed to have been given to the Contractor.

GC-17. RESPONSIBILITY OF CONTRACTOR: The Contractor shall furnish all transportation, tools, equipment, machinery and plant, and all suitable appliances, requisite for the execution of this Contract and shall be solely answerable for the same and for the safe, proper and lawful construction, maintenance and use thereof. The Contractor shall cover and protect its work from damage and all injury to the same, before the completion and acceptance of the Work under this Contract. The Contractor shall be solely answerable for all damage to the Owner or the property of the Owner, to other contractors or other employees of the Owner, to the neighboring premises, or to any private or personal property, due to improper, illegal, or negligent conduct of the Contractor or its subcontractors, employees, or agents in and about said Work, or in the execution of the Work covered by this Contract, or any extra work undertaken as herein provided. The Contractor shall be responsible to the Owner for any defect in, or the improper use of, any scaffolding, shoring, apparatus, ways, works, machinery or plant.

GC-18. PATENTS: It is mutually agreed by and between the parties to this Contract that all royalties and fees for and in connection with patents, or patent infringement, claims for materials, articles, apparatus, devices or equipment (as distinguished from processes) used in or furnished for the Work shall be included in the Contract amount and the Contractor shall satisfy all demands that may be made at any time for such, and the Contractor shall at its own cost and expense, defend any and all suits or proceedings that may be instituted at any time against the Owner for infringement or alleged infringement of any such patents involved in the Work, and in case of an award of damages, Contractor shall pay such award; final payment to the Contractor by the Owner will not be made while any such suit or claim remains unsettled. The Contractor, however, shall not be liable for the payment of any damages or other cost in connection therewith, for the infringement or alleged infringement of any patented process required by the Owner in the design of the Work to be done under this Contract.

GC-19. INDEPENDENT CONTRACTOR: The right of general administration of the Owner shall not make the Contractor an agent of the Owner, and the liability of the Contractor for all damages to persons, firms, and corporations, arising from the Contractor's execution of the Work, shall not be lessened because of such general administration, but as to all such persons, firms and corporations, and the damages, if any, to them or their property, the Contractor herein is an independent contractor in respect to the Work.

GC-20. RELATIONS WITH OTHER CONTRACTORS: The Contractor shall cooperate with all other contractors who may be performing work in behalf of the Owner and workers who may be employed by the Owner, on any work in the vicinity of the Work to be done under this Contract, and the Contractor shall so conduct its operations as to interfere to the least possible extent with the work of such contractors or workers. The Contractor shall be responsible for any injury or damage that may be sustained by other contractors or employees of the Owner, because of any fault or negligence on its part, and shall at its own expense, repair or pay for such injury or damage. Any difference or conflict which may arise between the Contractor and other contractors, or between the Contractor and the workers of the Owner, in regard to their work, shall be adjusted and determined by the City Engineer. If the Work of the Contractor is delayed because of any acts or omissions of any other contractor or contractors, the Contractor shall have no claim against the Owner on that account other than for an extension of time.

When two or more contracts are being executed at one time in such manner that work on one contract may interfere with that on another, the City Engineer shall decide which contractor shall cease work and which shall continue, or whether the work on both contracts shall progress at the same time, and in what manner.

When territory of one contract is the necessary or convenient means of access for the transportation or movement of men, materials, or appliances required for the execution of another contract, such privileges of access or any other responsible privilege may be

granted by the City Engineer to the contractor so desiring, to the extent which may be reasonably necessary.

GC-21. DEFENSE OF SUITS: In case an action at law or suit in equity is brought against the Owner, the Consulting Engineer, or any of their officers or agents for, or on account of the failure, omission or neglect of the Contractor to do and perform any of the covenants, acts, matters, or things by this Contract undertaken to be done or performed, or for any injury or damage caused by the negligence or alleged negligence of the Contractor or its subcontractors or their employees or agents, the Contractor shall indemnify and save harmless the Owner, the Consulting Engineer, and their officers and agents, of and from all losses, costs, damages, expenses, judgments, or decrees whatever arising out of such actions or suits as may be brought as aforesaid.

GC-22. METHOD OF OPERATION: The Contractor shall give to the City Engineer full information in advance, as to its plans for carrying on any part of the Work. If at any time before the beginning or during the progress of the Work, any part of the Contractor's plant or equipment or any of its methods of executing the Work appear to the City Engineer to be inadequate, the City Engineer may order the Contractor to increase or improve its facilities or methods and the Contractor shall promptly comply with such orders but neither compliance with such orders nor failure of the City Engineer or Owner to issue such orders shall relieve the Contractor from its obligation to secure the degree of safety, the quality of work, and the rate of progress required by the Contract. The Contractor alone shall be responsible for the safety, adequacy and efficiency of its plant, equipment and methods.

The approval by the City Engineer of a plan or method of work proposed by the Contractor shall not relieve the Contractor of any responsibility therefore, and such approval shall not be considered as an assumption by the Owner, City Engineer, or an officer, agent or employee thereof, of any risk or liability, and the Contractor shall have no claim under this Contract on account of the failure or inefficiency of any plan or method so approved. Such approval shall be considered, and shall mean, that the City Engineer has no objection to the Contractor's use or adoption, at the Contractor's own risk and responsibility, of the plan or method so proposed by the Contractor.

GC-23. SUGGESTIONS TO CONTRACTOR ADOPTED AT ITS OWN RISK: Any plan or method of work suggested by the City Engineer, or other representative of the Owner, to the Contractor, but not specified or required, if adopted or followed by the Contractor, in whole or in part, shall be used at the risk and responsibility of the Contractor, and the City Engineer and the Owner will assume no responsibility therefore.

GC-24. AUTHORITY AND DUTY OF THE CITY ENGINEER: It is mutually agreed by and between the parties to this Contract, that the City Engineer shall act as the representative of the Owner and shall observe, as required, the Work included herein. In order to prevent delays and disputes and to discourage litigation, it is further agreed by and

between the parties to this Contract that the City Engineer shall in good faith and to the best of his ability, determine the amount and quantities of the several kinds of work which are to be paid for under this Contract; that he/she shall determine, where applicable, questions in relation to said Work and the construction thereof; that he/she shall, where applicable, decide questions which may arise relative to the execution of this Contract on the part of said Contractor; that his decisions and findings shall be the conditions precedent to the right of the parties hereto to any action on the Contract, and to any rights of the Contractor to receive any money under this Contract; provided, however, that should the City Engineer render any decision or give any direction which, in the opinion of either party hereto is not in accordance with the meaning and intent of this Contract, either party may file with the City Engineer within thirty (30) days, its written objection to the decision or direction so rendered and, by such action, may reserve the right to submit the question so raised to dispute resolution as herein provided.

The City Engineer will not be responsible for Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto and he/she will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents. The City Engineer will not be responsible for the acts or omissions of Contractor or any subcontractor or any of their agents or employees, or any other person at the site or otherwise performing any of the Work.

GC-25. PROJECT REPRESENTATIVE AND OBSERVATION: It is agreed by the Contractor that the Owner shall be and is hereby authorized to appoint or employ such Resident representatives or Observers as the Owner may deem proper, to observe the materials furnished and the Work performed under this Contract, and to see that said materials are furnished, and said Work performed, in accordance with the Contract Documents. The Contractor shall furnish all reasonable aid and assistance required by the City Engineer or by the Resident representatives for the proper observation and examination of the Work and all parts thereof.

The Contractor shall comply with the directions and instructions of the City Engineer, or a Resident representative or Observer so appointed, when the same are consistent with the obligations of this Contract and the Plans and Specifications thereof. However, should the Contractor object to any order given by any Resident representative or Observer, the Contractor may make written appeal to the City Engineer for his decision.

Resident representatives, Observers, and other properly authorized representatives of the Owner or Consulting Engineer shall be free at all times to perform their duties, and intimidation or attempted intimidation of any one of them by the Contractor or by any of its employees, shall be sufficient reason, if the Owner so decides, to terminate the Contract.

Such observation shall not relieve the Contractor from any obligation to perform said Work strictly in accordance with the Contract Documents or modifications thereof as

herein provided, and work not so constructed shall be removed and made good by the Contractor at its own expense, and free of all expense to the Owner, whenever so ordered by the City Engineer.

GC-26. NO WAIVER OF RIGHTS: Neither the observation by the Owner or the Owner's officials, employees, or agents, nor any order by the Owner for payment of money, nor a payment for, or acceptance of, the whole or any part of the Work by the Owner, nor any extension of time, nor any possession taken by the Owner or its employees or agents, shall operate as a waiver of any provision of this Contract, or of a power herein reserved to the Owner, or a right to damages herein provided, nor shall any waiver of any breach in this Contract be held to be a waiver of another or subsequent breach.

GC-27. SUPERINTENDENT OF WORK: The Contractor shall provide and maintain, continually on the site of Work during its progress, adequate and competent superintendents of all operations for and in connection with the Work being performed under this Contract, either personally or by a duly authorized superintendent or other representative.

The superintendent, or other representative of the Contractor on the Work, who has charge thereof, shall be fully authorized to act for the Contractor, and to receive whatever orders as may be given for the proper prosecution of the Work, or notices in connection therewith. Use of subcontractors on portions of the Work shall not relieve the Contractor of its obligation to have a competent superintendent on the Work at all times.

GC-28. ORDERS TO CONTRACTOR'S AGENT: Whenever the Contractor is not present on any part of the Work where it may be desired to give directions, orders may be given by the City Engineer or his representative, and shall be received and obeyed by the superintendent or foreman who may have charge of the particular part of the Work in reference to which such orders are given.

GC-29. PROTECTION OF PROPERTY AND PUBLIC LIABILITY: The Contractor shall assume full responsibility for protection of all public and private property, structures, sewers and utilities, both above and below ground, along, beneath, above, across or near the site or sites of the Work being performed under this Contract, or which are in any manner affected by the prosecution of the Work or the transportation of men or materials in connection therewith. Barriers shall be kept in place at all times to protect persons other than those engaged on or about the Work from accident, and the Contractor will be held responsible for all accidents to persons or property through its negligence or that of its employees.

The Contractor shall indemnify, defend, and save harmless the Owner and the Consulting Engineer against all damages or alleged damages to such property, structures and utilities, together with all claims for damages for personal injury, including accidental death, arising out of its operations in connection with this Contract. All property so

damaged shall be repaired or replaced to a condition equal to its condition immediately prior to the time of damage, and to the satisfaction of the Owner.

The Contractor shall give reasonable notice to the owner or owners of public or private property and utilities when such property is liable to injury or damage through the performance of the Work, and shall make all necessary arrangements with such owner or owners relative to the removal and repairs or protection of such property or utilities.

All permits and licenses required in the prosecution of any and all parts of the Work shall be obtained and paid for by the Contractor.

The Contractor shall satisfactorily shore, support, and protect any and all structures and all pipes, sewers, drains, conduits and other facilities, belonging to the owners of the utility involved and shall be responsible for any damage resulting thereto. The Contractor shall not be entitled to any damages, including but not limited to, damages due to delays in utility relocation, or extra pay on account of the postponement, interference, or delay caused by any such structures and facilities being on the line of the Work, whether they are shown on the Plans or not.

Any claim made against the Contractor, allegedly relating to the Work herein, shall be paid or submitted to Contractor's insurance carrier within ten (10) days of the Contractor receiving notice of said claim.

GC-30. EASEMENTS AND RIGHT-OF-WAY: Permanent and Temporary (Construction) easements will be provided by the Owner as shown on the Plans. The Contractor shall confine its operations to the easements provided and shall carefully note where buildings, structures or other obstructions will limit its working space. In the event that easements are not available or if they have not been secured or if entry to property is denied by court order, injunction, litigation or for any other reason, the Contractor shall cease operations in such area and confine its work to other areas approved by the Owner. In the event of any delay arising from delays in securing easements, the Contractor shall have no claims against the Owner for damages arising from such delay except for extension of time as provided in paragraph GC-48.

GC-31. INSURANCE: Refer to Addendum A, Insurance Requirements, as an addendum to this contract.

GC-32. MODIFICATIONS AND ALTERATIONS: In executing the Contract, the Contractor agrees that the Owner shall have the right to make such modifications, changes, and alterations as the Owner may see fit, in the line, grade, form, arrangement, dimensions, extent or plan of the Work agreed to be done, or any part thereof, or in the materials to be used therein, either before or after the beginning of the construction thereof, without affecting the validity of the Contract and the performance bond thereunder.

Where such modifications, changes, and/or alterations reduce the quantity of work to be done, they shall not constitute a basis for a claim for damages or for anticipated profits on the work involved in such reduction. Where the amount of work required by the modifications, changes, and/or alterations increase the quantity of work to be performed, and is within the scope of the Specifications under a fair interpretation thereof, such increase shall be paid for, according to the quantity of work actually done, at the unit price or prices therefore where such unit prices are included in the Contract, otherwise such additional work shall be paid for as hereinafter provided for Extra Work.

In case the Owner shall make any modifications, changes, or alterations which would replace or otherwise make useless any work already done under the terms of the Contract, the Owner shall reimburse the Contractor for any material used or labor performed in connection therewith, and for any actual loss occasioned thereby due to actual expenses incurred in preparation for the Work as originally planned, as determined by the City Engineer.

All orders for modifications, changes, or alterations in the Work as herein provided shall be in writing, either by the City Engineer under authority of the Owner or by the Owner direct.

GC-33. EXTRA WORK: The term "extra work," as used in this Contract shall be understood to mean and to include all work that may be required by the City Engineer or Owner to be performed by the Contractor to accomplish any change or alteration in, or addition to, the Work shown by the Plans, or required or reasonably implied by the Project Specifications, which is not covered by the proposal and not otherwise provided under "Modifications and Alterations."

It is agreed that the Contractor shall perform all extra work under the direction of the City Engineer, when and as so ordered in writing by the City Engineer or Owner, and it is further agreed that the compensation to be paid the Contractor for performing extra work shall be determined by one or more of the following methods:

Method "A" by agreed unit prices, or

Method "B" by agreed lump sum; or

Method "C" If neither Method "A" nor "B" be agreed upon before the extra work is started, then the Contractor shall be paid the actual field cost of the work plus fifteen percent (15%).

Where extra work is performed under Method "C", the term "actual field cost" of such extra work is hereby defined to be and shall include (a) the cost of all workers, such as foremen, timekeepers, mechanics, and laborers, for the time actually employed or used in the performance of the said extra work; (b) any transportation charges necessarily incurred in connection with any equipment authorized by the City Engineer for use on said work and similar operating expenses; (c) all incidental expenses incurred as a direct

result of such extra work, including payroll taxes and ratable proportion of premiums on construction bonds and, where the premiums therefore are based on payroll costs, public liability and property damage, worker's compensation, and other insurance required by the Contract. The City Engineer may direct the form in which accounts of the actual field cost shall be kept and may also specify in writing, before the extra work commences, the method of doing the extra work and the type and kind of machinery and equipment, if required, which shall be used in the performance of extra work under "Method C." In the event that machinery and heavy construction equipment be required for such extra work, the authorization and basis of payment for the use thereof shall be stipulated in the written extra work order.

The fifteen percent (15%) of the actual field cost to be paid to the Contractor shall cover, and be full compensation for, the Contractor's profit, overhead, general superintendents, and field office expense, and all other elements of cost not embraced within the "actual field cost" as herein defined.

No claim for extra work of any kind will be allowed unless ordered in writing by the City Engineer or Owner. In case an order or instructions, either oral or written, appear to the Contractor to involve extra work for which it should receive compensation, the Contractor shall make a written request to the City Engineer for a written order authorizing such extra work. Should a difference of opinion arise as to what does or does not constitute extra work, or concerning the payment thereof, and the City Engineer insists on its performance, the Contractor shall proceed with the extra work after making a written request for a written extra work order and it shall keep an accurate account of the actual field cost thereof as provided for in Method "C" in the foregoing paragraph. The Contractor will thereby preserve the right to submit the matter of payment to dispute resolution as hereinafter provided.

GC-34. EXTRA WORK A PART OF CONTRACT: If extra work orders are given in accordance with the provision of this Contract, such extra work shall be considered a part hereof and subject to each and all of its terms and requirements.

GC-35. DISPUTES: The City and Contractor agree that disputes relative to the Work or this Contract should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis of the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute, the Contractor shall proceed with its services under this Contract as though no dispute exists unless otherwise agreed to by the City; and provided further, that no arbitration proceedings shall be initiated by Contractor without the prior written consent of the City.

It is understood and agreed by the parties to the Contract that no requirement or statement herein shall be interpreted as curtailing the power of the City Engineer to determine the amount, quality and acceptability of work and materials.

GC-36. PROVISION FOR EMERGENCIES: In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, Contractor without special instruction or authorization from the City Engineer or Owner, is obligated to act, at its discretion, to prevent threatened damage, injury or loss. The Contractor shall give City Engineer prompt written notice of significant changes in the Work or deviations from the Contract Documents caused thereby. A Change Order shall thereupon be issued covering the changes and deviations involved. If Contractor believes that additional work performed in an emergency which arose from causes beyond the Contractor's control entitles it to an increase in the Contract price and an extension of the Contract time, the Contractor may make a claim therefore as provided in GC-32, "Modifications and Alterations," GC-33, "Extra Work," and GC-48, "Extensions of Time."

GC-37. ASSIGNMENT AND SUBLETTING OF CONTRACT: The Contractor shall not assign or sublet the Work, or any part thereof, without the previous written consent of the City Engineer, nor shall it assign, by power of attorney or otherwise, any of the money payable under this Contract unless by and with the like consent of the Owner to be signified in like manner. In case the Contractor assigns all, or any part of any moneys due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to the Contractor shall be subject to all prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this Contract.

Should any subcontractor fail to perform in a satisfactory manner the work undertaken by him/her, his subcontract shall be immediately terminated by the Contractor upon notice from the Owner. The Contractor shall be as fully responsible to the Owner for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as it is for the omissions of persons directly employed by the Contractor. Nothing contained in this Contract shall create any contractual relation between any subcontractor and the Owner.

GC-38. RIGHT OF OWNER TO TERMINATE CONTRACT: If the Work to be done under this Contract shall be abandoned by the Contractor, or if this Contract shall be assigned otherwise than as herein provided, or if the Contractor should be adjudged as bankrupt, or if a general assignment of its assets be made for the benefit of its creditors, or if a receiver should be appointed for the Contractor or any of its property, or if at any time the City Engineer shall certify in writing to the Owner that the performance of the Work under this Contract is being unnecessarily delayed, or that the Contractor is willfully violating any of the conditions or covenants of this Contract, or that it is executing the same in bad faith or otherwise not in accordance with the terms of said Contract, or if the Work be not substantially completed within the time named for its completion or within the time to which such completion date may be extended, then the Owner may serve written notice upon the Contractor and its surety of said Owner's intention to

terminate this Contract and, unless within five (5) days after the serving of such notice a written appeal is received by the Owner, the Contractor shall cease and terminate. In the event of such termination, the Owner shall immediately serve notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and complete the Work, provided however, that if the surety does not commence performance thereof within thirty (30) days from the date of said notice of termination, the Owner may take over the Work and prosecute same to completion, by contract or otherwise for the amount and at the expense of the Contractor, and the Contractor and its surety shall be liable to the Owner for any and all excess cost sustained by the Owner by reason of such prosecution and completion, and in such event the Owner may take possession of, and utilize in completing the Work, all such materials, equipment, tools and plant as may be on the site of the Work and necessary therefore.

GC-39. SUSPENSION OF WORK ON NOTICE: The Contractor shall delay or suspend the progress of the Work or any part thereof, whenever it shall be so required by written order of the Owner or City Engineer, and for such periods of time as it or he/she shall require; provided, that in the event of such delay or delays or of such suspension or suspensions, the total days allowed for the Work shall be extended for a period equivalent to the time lost by reason of such suspension or suspensions, but such order of the Owner or City Engineer shall not otherwise modify or invalidate in any way, any of the provisions of this Contract. In the event that the Work shall be stopped by order of the Owner or City Engineer, any expense which, in the opinion and judgment of the City Engineer, is caused thereby shall be paid by the Owner to the Contractor.

GC-40. LOSSES FROM NATURAL CAUSES: All loss or damage arising out of the nature of work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the Work shall be sustained and borne by the Contractor at its own cost and expense.

GC-41. LAWS AND ORDINANCES: The Contractor shall keep itself fully informed of all existing and current regulations of the Owner, and county, state and national laws which in any way limit or control the actions or operation of those engaged upon the Work, or affecting the materials supplied to or by them. The Contractor shall at all times observe and comply with all ordinances, laws and regulations and shall protect and indemnify the Owner and the Owner's officers and agents against any claims or liability arising from or based on any violation of the same.

GC-42. SANITARY REGULATIONS: In general, the operations of the Contractor shall be in full conformity with all of the rules and regulations of boards and bodies having jurisdiction with respect to sanitation. The Contractor shall supply safe and sufficient drinking water to all of its employees. The Contractor shall obey and enforce all sanitary

regulations and orders, and shall take precautions against infectious diseases and the spread of the same.

GC-43. CHARACTER OF WORKERS: The Contractor shall employ only workers who are competent to perform the work assigned to them, and in the case of skilled labor, who are adequately trained and experienced in their respective trades and who do satisfactory work.

When the City Engineer shall notify the Contractor that any worker on the Work is, in his opinion, incompetent, unfaithful, or disorderly or who uses threatening or abusive language to any person representing the Owner when on the Work, such worker shall be immediately discharged from the Work and shall not be re-employed thereon except with the consent of the City Engineer.

GC-44. SUNDAY, HOLIDAY AND NIGHT WORK: No work shall be done between the hours of 10 P.M. and 7 A.M. nor on weekends or legal holidays, without the written approval or permission of the City Engineer in each case, except such work as may be necessary for the proper care, maintenance and protection of work already done or of equipment, or in the case of an emergency.

Night work may be established by the Contractor, as a regular procedure, with the written permission of the City Engineer. Such permission, however, may be revoked at any time by the City Engineer if the Contractor fails to maintain at night adequate equipment for the proper prosecution and control of the Work and all operations performed thereunder.

GC-45. UNFAVORABLE CONSTRUCTION CONDITIONS: During unfavorable weather, or other unfavorable conditions for construction operations, the Contractor shall pursue only such portions of the Work as will not be damaged thereby. No portions of the Work, the satisfactory quality or efficiency of which will be affected by any unfavorable conditions, shall be constructed while these conditions exist, unless, by special means or precautions approved by the City Engineer, the Contractor shall be able to perform the Work in a proper and satisfactory manner.

GC-46. BEGINNING, PROGRESS AND TIME OF COMPLETION OF WORK: The Contractor shall, within ten (10) days of the date specified in a written notice from the Owner, commence the Work to be done under this Contract; and the rate of progress shall be such that the Work shall have been completed in accordance with the terms of the Contract on or before the termination of the construction period named in the proposal, subject to any extension or extensions of such time made as hereinafter provided. The Contractor may be required to furnish the City Engineer with a tentative schedule setting forth in detail the sequences it proposes to follow, and giving the dates on which it expects to start and complete separate portions of the Work. If at any time, in the opinion of the City Engineer, proper progress is not being maintained, such changes shall be made in the schedule of operations as the City Engineer shall direct or approve.

GC-47. HINDRANCES AND DELAYS: In executing the Contract, the Contractor expressly covenants and agrees that, in undertaking to complete the Work within the time therein fixed, it has taken into consideration and made allowances for all hindrances and delays incident to such Work, including, but not limited to, delays caused by adverse weather conditions, delays in securing materials or workers, or otherwise. No charge shall be made by the Contractor for hindrances or delays from any cause during the progress of the Work, or any portion thereof, included in this Contract, except as provided in the paragraph on "Suspension of Work on Notice" of these General Conditions, and no extension of time shall be granted to the Contractor for hindrances or delays from any cause, except as set forth in GC-48, Extensions of Time.

GC-48. EXTENSIONS OF TIME: Except as provided in GC-47, Hindrances and Delays, the right of the Contractor to proceed shall not be terminated, nor will the Contractor be charged with liquidated damages for delays in the completion of the Work if the Contractor has notified the City Engineer, in writing, within seven (7) Calendar Days of the cause of the delay, and the delay arises out of one or more of the following acts, events or causes beyond the control of, and through no fault or negligence of, the Contractor: acts or delays of the Owner or Consulting Engineer, or of any employee of either; acts of any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; employee strikes or lock-outs; extraordinary adverse weather events not reasonably anticipatable; acts of the public enemy; or by any cause which the City Engineer shall decide would justify the delay. Neither adverse weather conditions nor the inability to timely obtain materials or workers (including subcontractors) shall be considered beyond the control of the Contractor.

In the event one of the aforementioned acts or events causes the Contractor to be delayed in the final completion of the Work, an extension of time sufficient to compensate for such delay in the final completion of the Work shall be granted by the Owner, the amount of such extension to be determined by the City Engineer, in the City Engineer's sole discretion. Each extension of time shall be evidenced by a change order for the period of time caused by such delay.

GC-49. LIQUIDATED DAMAGES: It is mutually understood and agreed by and between the parties to this Contract that time is of the essence of this Contract, and that in the event the Contractor shall fail in the performance of the Work specified and required to be performed within the period of time stipulated therefore in the Contract binding said parties, after due allowance for any extension or extensions of time which may be granted under the provisions of GC-48 Extensions of Time, the Contractor shall pay unto the Owner, as stipulated liquidated damages and not as a penalty, the sum stipulated therefore in the Special Conditions, Proposal or other Contract Documents for each and every day that the Contractor shall be in default.

In case of joint responsibility for any delay in the final completion of the Work covered by this Contract, where two or more separate contracts are in force at the same time and cover work on the same project and at the same site, the total amount of liquidated damages assessed against all contractors under such contracts, for any one day of delay in the final completion of the Work will not be greater than the approximate total of the damages sustained by the Owner by reason of such delay in completion of the Work, and the amount assessed against any one contractor for such one day of delay will be based upon the individual responsibility of such contractor for the aforesaid delay as determined by, and in the judgment of, the Owner.

The Owner shall have the right to deduct said damages from any moneys in its hands, otherwise due or to come due, to said Contractor, or to sue for and recover compensation for damages for non-performance of this Contract at the time stipulated herein and provided for.

GC-50. TEST OF MATERIALS OFFERED BY CONTRACTOR: All specified and required tests for approval of source of material shall be made at the expense of the Contractor by a properly equipped laboratory of established reputation, whose work and testing facilities shall be approved by the Owner. Approval of materials based on acceptable tests will apply only while such material as furnished equal or exceed the tested samples or test specimens in quality and minimum requirements. Any change in origin, method of preparation, or manufacture of such materials will require new tests and approval thereof. Reports of all tests shall be furnished to the Owner in as many certified counterparts as may be required by the Owner. Any tests specified in the Contract Documents of finished work or material shall be performed by the Contractor. Failure of such tests shall be deemed evidence of defective work and such work shall be replaced or repaired until satisfactory tests have been secured. All special tests required by law, ordinance, statute or regulations of any public body having jurisdiction shall be performed by and at the expense of the Contractor.

GC-51. WORK IN OR ACROSS STREET OR HIGHWAY RIGHT-OF-WAY: All Work performed and all operations of the Contractor or its employees, and subcontractors, if any, within the limits of street or highway rights-of-way shall be in conformity with the requirements, and be under the control, through the Owner, of the street or highway authority owning, or having jurisdiction and control over such rights-of-way in each case.

GC-52. MAINTENANCE OF TRAFFIC: Local traffic on all streets shall be carried through construction whenever possible. Detours of traffic will be permitted when necessary and with the prior permission of the City Engineer. Streets may be closed for short periods of time under authority of proper permit issued by the city or authority having jurisdiction. However, the Contractor shall conduct its work so as to interfere as little as possible with public travel, whether vehicular or pedestrian, on such streets. The Contractor, before closing of private driveways, shall give proper notification to county and city police and fire units and to the Fire District. The Contractor shall give adequate notice to the

owner(s) thereof and, where necessary, shall provide temporary access to private property.

GC-53. BARRICADES AND LIGHTS: All streets, roads, highways, and other public thoroughfares which are closed to traffic, under the authority of a proper permit, shall be protected by means of effective barricades on which shall be placed acceptable warning signs; such barricades, shall be located at the nearest intersecting public highway or street on each side of the blocked section of such public thoroughfare.

All open trenches and other excavations shall be provided with suitable barriers, signs and lights to the extent that adequate protection is provided to the public against accident by reason of such open construction. Obstructions such as material piles and equipment shall be provided with similar warning lights and signs.

All barricades and obstructions shall be illuminated by means of amber lights at night and all lights used for this purpose shall be kept burning from sunset to sunrise. Materials stored upon or alongside public streets and highways shall be so placed, and the Work at all times shall be so conducted, as to cause the minimum obstruction and inconvenience to the traveling public.

All barricades, signs, lights and other protective devices in public rights-of-way shall be installed and maintained in conformity with applicable statutory requirements and as required by the authority having jurisdiction thereover.

GC-54. BORROW AND WASTE AREAS: All borrow material shall be obtained by the Contractor at its own cost and expense. The borrow area and materials shall be approved by the City Engineer, and shall be friable material suitable for compaction.

All waste areas shall be located off the site and arrangements and payment for use of such areas shall be the sole responsibility of the Contractor.

GC-55. PARKING AREAS, DRIVES AND WALKS: All existing parking areas, drives and walks, within the project limits, shall be adjusted to conform to the lines and grades shown on the Plans. Any of the above structures that are removed or damaged during construction shall be reconstructed of materials that will create a quality equal to or better than the condition existing prior to construction.

GC-56. STREET SIGNS AND TRAFFIC AIDS: All existing street signs and traffic aids, within the project limits, shall be carefully removed, stored and as soon as practicable, reset in concrete as directed by the City Engineer, at the Contractor's own cost and expense, except that when traffic, local or through, is to be carried during construction, all stop signs shall be temporarily located at the Contractor's own cost and expense.

GC-57. CLEAN-UP: The project site shall be kept as clean, neat and orderly as possible at all times. Stockpiling of debris and unsuitable materials beyond normal working demands shall not be allowed. Immediately after construction operations are complete, all equipment, debris and unsuitable materials shall be completely removed from the site in order to minimize the damage to finished work and inconvenience to the public and adjoining property owners.

GC-58. WATER USED: All water used in the course of the work shall be hauled in or purchased from the local water company's distribution system at the Contractor's own cost and expense.

GC-59. PERMITS: The Contractor shall secure all permits that may be required to construct the Work included in this Contract. All cost in connection therewith shall be borne by the Contractor.

GC-60. RIGHT-OF-WAY LIMITS: The Contractor shall confine its construction operations to right-of-way limits and easements provided for the project. Equipment or materials shall not be stored beyond these limits without the express written approval of the owner of such property. The City Engineer shall be informed as to any arrangements the Contractor makes on its behalf in such matters.

GC-61. TESTING OF COMPLETED WORK: Before final acceptance, all mechanical and electrical equipment and devices shall be tested and each part shall be in good condition and working order, or shall be placed in such condition and order at the expense of the Contractor. All tests of such completed work required under this Contract shall be made in the presence of the City Engineer or his authorized representatives. All unsatisfactory work, all faulty or defective work and all work not conforming to the requirements of the Contract Documents at the time of acceptance thereof, or of such inspections, tests or approvals shall be considered defective. Prompt notice of all defects shall be given to the Contractor. All defective work, whether or not in place may be rejected or corrected.

GC-62. REMOVAL OF REJECTED MATERIALS AND STRUCTURES: The Contractor shall remove from the site of the Work, without delay, all rejected and condemned materials or structures of any kind brought to or incorporated in the Work, and upon the Contractor's failure to do so, or to make satisfactory progress in so doing, within forty-eight (48) hours after the service of a written notice from the City Engineer ordering such removal, the rejected material or structures may be removed by the Owner and the cost of such removal be taken out of the money that may be due or may become due to the Contractor on account of or by virtue of this Contract. No such rejected or condemned material shall again be offered for use by the Contractor under this or any other contract under this project.

GC-63. PLACING WORK IN SERVICE: If desired by the Owner, portions of the Work may be placed in service when completed and the Contractor shall give proper access to the

Work for this purpose; but such use and operation shall not constitute an acceptance of the Work, and the Contractor shall be liable for defects due to faulty construction until the entire Work under this Contract is finally accepted and for a period of one year or longer thereafter, as stipulated in paragraph GC-65, Defective Workmanship and Materials, or as stipulated in the Special Conditions.

GC-64. DISPOSAL OF TRASH AND DEBRIS: The Contractor shall not allow the site of the Work to become littered with trash and waste material, but shall maintain the same in a neat and orderly condition throughout the construction period. The City Engineer shall have the right to determine what is or is not trash or waste material. On or before the completion of the Work the Contractor shall, without charge therefore, carefully clean out all pits, pipes, chambers or conduits, and shall tear down and remove all temporary structures built by the Contractor, and shall remove all rubbish of every kind from the tracts or grounds which it has occupied and shall leave them in first-class condition as determined by the City Engineer.

GC-65. DEFECTIVE WORKMANSHIP AND MATERIALS: During a period of two years, or longer if stipulated in the Special Conditions, from and after the date of the final acceptance by the Owner of the Work embraced by this Contract, the Contractor shall make all needed repairs arising out of defective workmanship or materials, or both, which in the judgment of the Owner, shall become necessary during such period. If, within ten (10) days after the mailing of a notice in writing to the Contractor or its agent, the Contractor shall neglect to make or undertake with due diligence to make the aforesaid repairs, the Owner is hereby authorized to make such repairs at the Contractor's expense, provided however, that in case of an emergency in which, in the judgment of the Owner, delay would cause serious loss, hazard or damage, repairs may be made without notice being sent to the Contractor, and the Contractor shall pay the cost thereof.

GC-66. EQUIPMENT GUARANTY: All mechanical and electrical equipment and devices, and every part thereof, which are furnished by the Contractor under the terms of this Contract shall be guaranteed by the Contractor and its surety against defective workmanship, faulty design, mechanical and physical defects, leakage, breakage and other damages or failure, under normal operation of the equipment and devices under specified conditions, for a period of two years from and after the date of acceptance thereof by the Owner, and each item of equipment or part thereof, thus proving to be defective within the specified period shall be promptly replaced by and at the expense of the Contractor, when notified by the Owner.

GC-67. MONTHLY ESTIMATES/FINAL PAYMENT: The Contractor will, on the 25th day of each month, make an estimate in writing of the amount of work performed during the preceding period and the value thereof at the unit prices contracted. From the amounts so ascertained, there shall be deducted ten percent (10%) to be retained until after completion of the entire Work to the satisfaction of the City Engineer and Owner, except that no amount less than \$500.00 will be so submitted unless the total amount of the

Contract remaining unpaid is less than \$500.00. The Contractor shall submit with Contractor's written estimate, lien waivers for work performed up to and including thirty (30) days prior to the estimate date.

Deductions will be made from partial payments if the Contract includes a provision for a lump sum or a percentage deduction. Lump sum deductions will be that portion of the stated lump sum computed on the ratio that the amount earned bears to the Contract amount. Percentage deductions will be computed at the stated percentage of the amount earned.

The final estimate will be paid within 30 days after the completion of and the acceptance of the construction by the Owner at a regularly scheduled City Council meeting, upon receipt of final lien waivers, and upon satisfaction of the terms of this Contract.

GC-68. COMPLETION FINAL PUNCH LIST: Upon receipt of the final punch list from the Owner or City Engineer, the Contractor shall complete all items listed with 30 calendar days.

GC-69. PHRASEOLOGY: In this Contract, the singular includes the plural, the plural includes the singular and any gender includes the other gender.

GC-70. WAIVER: The failure of either party to insist upon the strict performance of any of the terms or conditions of this Contract or to exercise any option, right or remedy herein contained, should not be construed as a waiver or relinquishment for the future of such term, provision, option, right or remedy, but the same shall continue and remain in full force and effect. No waiver by either party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by the waiving party.

GC-71. AMENDMENTS: This Contract may not be amended unless such amendment is in writing and signed by both parties hereto.

GC-72. INVALIDITY: In the event that any provision in this Contract shall be adjudicated invalid under applicable laws, such invalid provision shall automatically be considered reformed and amended so as to conform to all applicable legal requirements, or, if such invalidity cannot be cured by reformation or amendment, the same shall be considered stricken and deleted, but in neither such event or events shall the validity or enforceability of the remaining valid portions hereof be affected thereby.

GC-73. CASH BASIS AND BUDGET LAWS: The right of the City to enter into this Contract is subject to the provisions of the Cash Basis Law (K.S.A. §§10-1112 and 10-1113), the Budget Law (K.S.A. § 79-2935), and other laws of the State of Kansas. This Contract shall be construed and interpreted in such a manner as to ensure the City shall at all times remain in conformity with such laws. Further, the City reserves the right to unilaterally sever, modify, or terminate this Contract at any time if, in the opinion of its

legal counsel, the Contract may be deemed to violate the terms of any laws of the State of Kansas.

GC-74. COMPUTATION OF SUBCONTRACTORS' WORK: Prior to the Owner's approval of the Contract bid, the successful bidder shall submit to the Owner a list of names of all subcontractors proposed for each portion of the work and shall designate the entirety of work each is to perform. Compliance with the percentage of work to be performed, as set forth in the Instructions to Bidders, will be determined by the City Engineer by assessing whether the General Contractor or a subcontractor will be performing the major item of work associated with each line item in the proposal. Bid items where the General Contractor will perform the major item of work will be totaled and compared to the bid total to verify compliance with this provision. (Example: If a subcontractor is going to be placing curb and gutter, the total line item amount for curb and gutter will be credited to the subcontractor portion of the work even if subsidiary efforts are performed by the General Contractor)

The City Engineer shall, prior to Owner's approval of the Contract bid, notify the bidder in writing if after due investigation there is reasonable objection to any proposed subcontractor. The Contractor will be allowed to substitute a subcontractor acceptable to the Owner at no additional cost to the Owner.

GC-75. NON-DISCRIMINATION, AFFIRMATIVE ACTION & FEDERAL REGULATION

A. The Contractor shall be an equal opportunity employer as defined by Section 1000 (e) of Chapter 21, Title 42, of the United States Code Annotated, and comply with all Federal Regulations or acts regarding construction or employment when Federal Funds are used on the project.

B. The Contractor shall observe the provision of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of Work under the present Contract because of race, religion, color, sex, physical handicap unrelated to such person's ability to engage in the particular work, national origin or ancestry.

C. In all solicitations or advertisements for employees, the Contractor shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Commission on Civil Rights.

D. If the Contractor fails to comply with the manner in which the Contractor reports to the Commission in accordance with the provisions of K.S.A. 1977 Supp. 44-1031, as amended, the Contractor shall be deemed to have breached the present Contract and it may be canceled, terminated or suspended, in whole or in part, by the Owner.

E. If the Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Contractor shall be deemed to have breached the present Contract and it may be canceled, terminated or suspended in whole or in part, by the Owner.

The Contractor shall include the provisions of paragraphs (A) through (E) inclusively of this subsection in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

SPECIAL CONDITIONS

SC-1 GENERAL

1. All pavement, surfacing, driveways, entrances, buildings, utility poles, guy wires, fence, and other surface structures affected by construction operations in connection with performance of the Contract, together with underground sprinkler systems, underground wire pet fence, and private utility lines, sod and shrubs in yards, parks and parking shall be maintained, and if removed or otherwise damaged shall be restored to the original or better condition at no additional cost to the Owner, as determined and approved by the City Engineer.
2. The Contractor shall be held responsible for all damage to roads, highways, streets, curb and gutter, driveways, sidewalks, shoulders, ditches, embankments, bridges, culverts, and other property caused by the Contractor or any of its subcontractors in hauling or otherwise transporting materials to or from the several sites of the Work, regardless of the location of such damage. The Contractor shall make all arrangements for the payment for such damage or for the repair or replacement of such damaged surfaces or structures. Said arrangement shall be satisfactory and acceptable to the owner or owners of such damaged surfaces or structures, or to their legally responsible officers, agents, or other representative, and said payment shall be at the Contractor's own expense, unless otherwise provided by the Contract.
3. Some existing utility lines have been plotted on the Plans from available records, but other installations may be present. The relationship between proposed work and existing facilities, structures, and utilities must be considered approximate, and it is the Contractor's responsibility to determine their exact location and existence. Any and all utility lines, both above ground and underground, shall be protected from damage during the process of the Work. If the Contractor damages existing facilities, structures or utility line, it shall immediately make a report of such damage to the Owner and City Engineer.
4. The Contractor shall submit a phasing and traffic control plan for review and approval to the City Engineer. The Contractor shall maintain access to local residences at all times (except when removing or placing driveways or as noted on the Plans). The Contractor will take necessary measures, such as temporary surfacing, when required, to provide access on streets and drives affected by construction operations. The cost of said measures is considered a subsidiary item in the bid and no separate payment will be made to the Contractor. The Contractor shall notify all property owners by door hanger at least 48 hours in advance of any work impacting access to their property.
5. Traffic control devices and procedures shall meet or exceed the standards required by the latest edition Manual on Uniform Traffic Control Devices (MUTCD) and shall

be approved by the City Engineer prior to beginning work. All signs shall be maintained 24 hours per day throughout the duration of the project. All traffic control shall be paid for per lump sum basis. No payment will be made for additional traffic control.

6. The Contractor shall confine its construction operations within the project area. Equipment and materials shall not be stored beyond the immediate working area without the written approval of the owner of such property. The City Engineer shall be supplied a copy of any such arrangement signed by both parties.
7. The Contractor shall be required to coordinate all work with utilities involved. Some utilities may require relocation in order for the Contractor to complete the Work intended by the Contract Documents. The Contractor shall be responsible for such coordination of Work with each of the utilities, both below and above ground. The Contractor is to fully cooperate with the utilities, even if a delay may occur. Requests for extensions of time relating to such delays will be governed by the provisions of General Conditions GC-48, "Extensions of Time." The Contractor shall not be allowed to make monetary claims for damages caused by utility conflicts.
8. Any delay or extra cost to the Contractor caused by utilities or other obstructions not shown by the Plans, or found in locations different than indicated, or, in the case of pipelines, not of the material as originally anticipated by the Contractor, shall not constitute a claim for extra work, additional payments, extension of time, or damages.
9. Contractor shall keep open trenches properly protected during and after working hours. The Contractor is also responsible for keeping the trench covered to protect against weather so no delay occurs. Contractor shall replace unsatisfactory material, at its expense, if it fails to produce adequate weather protection of open trenches.
10. The Contractor shall review each plan sheet thoroughly to understand the proposed Work. All work not listed as a pay item shall be considered subsidiary to the Contract Documents, therefore, no additional payment will be made.
11. Contractor may be required to remove trees, bushes, shrubs and other vegetation within the limits of the Work area. All trees, bushes, and shrubs shall remain unless absolutely necessary for installation of items shown on the Plans. The Contractor shall attempt to save all trees when adjacent to or near a construction area. The Contractor shall be responsible for trees that die because of any unnecessary root removal or Contractor negligence. Any unnecessarily removed tree, bush or shrub shall be replaced with a nursery plant of similar type. This item of work shall be considered subsidiary to the Contract, therefore there will be no additional payment for this work. All tree removals shall be approved by the City

Engineer prior to commencement of construction.

12. The Contractor shall be required to haul off all pavement to be removed from the Work site as indicated on the Plans. Material to be hauled off shall be taken to an approved dumpsite. All costs for hauling shall be subsidiary to the construction items of the Work.
13. The Contractor shall provide the City Engineer with a proposed work schedule including the days of the week and hours of each day of expected construction operations. The work schedule must be approved prior to beginning of any work on the site. All required material reports must be submitted with the proposed work schedule.
14. Upon award of the Contract, the Contractor shall immediately prepare and submit for approval by the City Engineer, a construction phasing schedule that will ensure completion of the project within the Contract time. The schedule shall be submitted prior to issuance of the notice to proceed. No work on this Contract shall begin until said schedule is approved. The City reserves the right to adjust the Contractor's schedule to coordinate with other projects.
15. The Contractor shall immediately point out any discrepancies, conflicts, errors, or omissions in the Plans or other Contract Documents to the City Engineer and shall not perform any related work until the discrepancy is resolved.
16. Changes in the Work:

Quantity Variations: Where changes in the Work involve a change in the quantity of any bid item, the Contract price shall be revised by extension of the quantities and unit price of all bid items so changed subject to written approval of the City Engineer.

Field Orders: The City Engineer may order minor changes in the Work through field orders, which in no specific, concrete or substantial way increase or decrease the Work; and such minor changes in the Work shall not involve an addition to or deduction from the Contract price.

Clarifications, Modifications or Corrections: From time to time the City Engineer may also issue written orders to Contractor for needed clarifications, modifications or corrections. Should a difference of opinion arise as to whether the order constitutes extra work for which additional compensation is due, and the City Engineer insists on its performance, the Contractor shall proceed with the Work after making a written request for a change order, and it shall keep an accurate account of the actual field cost thereof as provided for in GC-33, "Extra Work." The Contractor will thereby preserve the right to submit a claim therefore.

Additional Time: No change in the Work shall entail additional time unless the City

Engineer determines that additional time is required and specifically so provides in the change order. No change in the Work shall entitle the Contractor to delay damages.

Notification to Sureties of Modifications to the Contract: Contractor shall be responsible for notifying its surety(ies) of any modifications to the Contract price or time, and said surety(ies) shall not seek discharge as a result of any failure on Contractor's part to notify surety(ies).

Substantial Changes to the Work: In the event unit prices provided for in the Contract are subsequently altered by a change order that is substantially inequitable to either the Owner or the Contractor, the unit prices shall be re-evaluated and adjusted in accordance with the following:

- a) If the total cost of a particular item of unit price work amounts to twenty-five percent (25%) or more of the Contract price or the variation in the quantity of that particular item of unit price work performed by Contractor differs by more than thirty-three percent (33%) from the estimate quantity of such item indicated in the Contract; and
- b) If there is no corresponding adjustment with respect to any other item of work; and
- c) If Owner believes that the quantity variation entitles it to an adjustment in the unit price and, the parties are unable to agree as to effect of any such variations in the quantity of unit price work performed;

then either Owner or Contractor may request the City Engineer to make an adjustment in the Contract price.

TECHNICAL SPECIFICATIONS

The specifications that shall govern the materials furnished and work performed in the construction of the project covered by this contract shall be the latest revision of the Kansas City Metropolitan Chapter of APWA Construction and Material Specifications, as though fully set forth herein. If any item of work or portion thereof is not covered by the APWA specifications, then the KDOT "Standard Specifications for State Road and Bridge Construction, 2015 Edition" and the most current Special Provisions shall apply.

No attempt has been made in the above designated specifications to segregate work to be performed by any trade, contract or proposal item under any one specification section. Any segregation between trade or craft jurisdiction limits and the establishment of subcontract limits will be solely a matter of agreement between the CONTRACTOR and his employees and his SUBCONTRACTORS. The specifications will govern the construction of the entire work, and the provisions thereof will govern each item of the work to which such provisions apply.



CARS INDEMNIFICATION CLAUSE

CITY OF EDGERTON, KANSAS PROJECT MANUAL

E. NELSON STREET AT BNSF RAILROAD CROSSING/QUIET ZONE CONSTRUCTION

CARS Indemnification Required
(As of 4-2-15)

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

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



CARS SIGN DETAILS

CITY OF EDGERTON, KANSAS PROJECT MANUAL

E. NELSON STREET AT BNSF RAILROAD CROSSING/QUIET ZONE CONSTRUCTION



REQUIRED RAILROAD AGREEMENT

CITY OF EDGERTON, KANSAS PROJECT MANUAL

E. NELSON STREET AT BNSF RAILROAD CROSSING/QUIET ZONE CONSTRUCTION



Jones Lang LaSalle Brokerage, Inc.
4200 Buckingham Road, Suite 110
Fort Worth, Texas 76155
tel +1 817-230-2600, fax +1 817 306-8265

June 4, 2017

City of Edgerton, Kansas
Attention: Mr. Trey Whitaker
404 East Nelson
Edgerton, Kansas 66021

17-57866

Dear Mr. Whitaker:

Attached please find a copy of the requested contract for execution by an official authorized to execute contract agreements on behalf of your company. Please print two (2) copies execute and **return both copies with original signature** for completion on part of BNSF Railway Company ("BNSF") to this office.

Please note the agreements cannot be executed by BNSF without an approved insurance certificate. If there are any issues with your insurance, you will be contacted by a member of the Risk Management team of BNSF Railway.

1. A Certificate of Insurance as required in the agreement.
2. A **separate policy** for Railroad Protective Liability Insurance as required in the agreement (**ORIGINAL POLICY MUST BE PROVIDED**). BNSF Railway Company will be the only insured party; OR;

In lieu of providing a separate policy for Railroad Protective Liability Insurance, you may participate in the BNSF's Railroad Protective Policy by checking the appropriate box in the contract and including an additional \$2,940.00 with your check.

PLEASE ADVISE IF THIS PROJECT IS ARRA FUNDED.

Acceptance and deposit of any check by BNSF does not constitute an agreement between BNSF and Licensee for the requested license. BNSF shall not be obligated to hold the check in a separate fund, but may commingle the funds with other funds of BNSF, and in no event shall BNSF be responsible for interest on said funds.

The enclosed permit is not a binding agreement and shall become binding only when, and if, it is executed by you and fully approved and executed by BNSF Railway Company. Upon completion on behalf of BNSF, one fully executed counterpart will be returned for your records.

The specifications/plans you provided may differ from BNSF's minimum specification requirements. Therefore, prior to your installation, please review the Exhibit A to determine the specifications necessary for your installation.

Please be informed that if contracts, fees, and insurance are not returned within sixty (60) days, the processing fee will increase to \$800.00.

Sincerely,

Vicki Norman

Vicki Norman
Senior Manager Permits
Attachment

ROADWAY SURFACING AGREEMENT

This Roadway Surfacing Agreement ("Agreement") is entered into effective as of this the ____ day of _____ 2017, by and between **CITY OF EDGERTON, KANSAS**, ("Contractor"), and **BNSF RAILWAY COMPANY** ("Railway"), a Delaware corporation.

WHEREAS, Railway operates a freight transportation system by rail with operations throughout the United States and Canada; and

WHEREAS, City of Edgerton desires Contractor to surface the roadway adjacent to and upon Railway's right of way, and Contractor is willing to perform such services.

NOW, THEREFORE, in consideration for Railway entering this Agreement with Contractor and granting Contractor permission to enter upon the Premises (defined herein), Contractor agrees with Railway as follows:

SECTION 1. SCOPE OF SERVICES

Contractor shall perform the following services, hereinafter described as Work":

Pavement, curb and gutter and sidewalk replacement at Line Segment 7100 and Mile Post 39.77.

Performance of the Work will necessarily require Contractor to enter Railway's right of way and property ("Premises"). Contractor agrees that no work shall be commenced on the Premises until (i) this Agreement is executed by both Contractor and Railway; and (ii) Railway approves the insurance required to be maintained by Contractor hereunder. Contractor further agrees that if this Agreement is not executed by the owner, general partner, president, or vice-president of Contractor, Contractor shall furnish Railway with evidence certifying that the signatory is empowered to execute this Agreement.

This License shall commence on the Effective Date and shall continue for a period one hundred eighty (180) days, subject to prior termination as hereinafter described.

SECTION 2. PAYMENT OF FEES

City of Edgerton shall be responsible for payment to Contractor for the Work performed under this Agreement.

SECTION 3. RELEASE OF LIABILITY AND INDEMNITY

Contractor hereby waives, releases, indemnifies, defends and holds harmless Railway for all judgments, awards, claims, demands, and expenses (including attorney's fees), for injury or death to all persons, including Railway's and Contractor's officers and employees, and for loss and damage to property belonging to any person, arising in any manner from Contractor's or any of Contractor's subcontractors' acts or omissions or any work performed on or about Railway's property or right-of-way. **THE LIABILITY ASSUMED BY CONTRACTOR SHALL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DESTRUCTION, DAMAGE, DEATH, OR INJURY WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF RAILWAY, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF RAILWAY.**

THE INDEMNIFICATION OBLIGATION ASSUMED BY CONTRACTOR SHALL INCLUDE ANY CLAIMS, SUITS OR JUDGMENTS BROUGHT AGAINST RAILWAY UNDER THE FEDERAL EMPLOYEE'S LIABILITY ACT INCLUDING CLAIMS FOR STRICT LIABILITY UNDER THE SAFETY APPLIANCE ACT OR THE BOILER INSPECTION ACT, WHENEVER SO CLAIMED.

Contractor further agrees, at its expense, in the name and on behalf of Railway, that it shall adjust and settle all claims made against Railway, and shall, at Railway's discretion, appear and defend any suits or actions of law or in equity brought against Railway on any claim or cause of action arising or growing out of or in any manner connected with any liability assumed by Contractor under this Agreement for which Railway is liable or is alleged to be liable. Railway shall give notice to Contractor, in writing, of the receipt or pendency of such claims and thereupon Contractor shall proceed to adjust and handle to a conclusion such claims, and in the event of a suit brought against Railway, Railway may forward summons and complaint or other process in connection therewith to Contractor, and Contractor, at Railway's discretion, shall defend, adjust, or settle such suits and protect, indemnify, and save harmless Railway from and against all damages, judgments, decrees, attorney's fees, costs, and expenses growing out of or resulting from or incident to any such claims or suits.

It is mutually understood and agreed that the assumption of liabilities and indemnification provided for in this Agreement shall survive any termination of this Agreement.

SECTION 4. INSURANCE.

Contractor shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. **Commercial General Liability Insurance.** This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$2,000,000 each occurrence and an aggregate limit of at least \$ 6,000,000. Coverage must be purchased on a post 1998 ISO occurrence form or equivalent and include coverage for, but not limited to, the following:

- ◆ Bodily Injury and Property Damage
- ◆ Personal Injury and Advertising Injury
- ◆ Fire legal liability
- ◆ Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ It is agreed that any workers' compensation exclusion does not apply to **Railroad** payments related to the Federal Employers Liability Act or a **Railroad** Wage Continuation Program or similar programs and any payments made are deemed not to be either payments made or obligations assumed under any Workers Compensation, disability benefits, or unemployment compensation law or similar law.
- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- ◆ Any exclusions related to the explosion, collapse and underground hazards shall be removed.

No other endorsements limiting coverage as respects obligations under this Agreement may be included on the policy.

- B. **Business Automobile Insurance.** This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
- ◆ Bodily injury and property damage
 - ◆ property or property under contractor's car
- C. **Workers Compensation and Employers Liability Insurance.** This insurance shall include coverage for, but not limited to:
- ◆ Contractor's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 - ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.
- D. **Railroad Protective Liability Insurance.** This insurance shall name only the Railroad as the Insured with coverage of at least \$2,000,000 per occurrence and \$6,000,000 in the aggregate. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:
- ◆ Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
 - ◆ Endorsed to include the Limited Seepage and Pollution Endorsement
 - ◆ Endorsed to include Evacuation Expense Coverage Endorsement
 - ◆ No other endorsements restricting coverage may be added
 - ◆ The original policy must be provided to the Railroad prior to performing any work or services under this Agreement

In lieu of providing a Railroad Protective Liability Policy, Licensee may participate in Licensor's Blanket Railroad Protective Liability Insurance Policy available to Licensee or its contractor. The limits of coverage are the same as above. The cost is \$2,940.

- ☐ I elect to participate in Licensor's Blanket Policy;
- ☐ I elect not to participate in Licensor's Blanket Policy.

E. **Other Requirements:**

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages and certificates of insurance shall reflect that no exclusion exists.

Contractor agrees to waive its right of recovery against **Railroad** for all claims and suits against **Railroad**. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against **Railroad** for all claims and suits. The certificate of insurance must reflect the waiver of subrogation endorsement. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against **Railroad** for loss of its owned or leased property or property under contractor's care, custody or control.

Contractor's insurance policies through policy endorsement, must include wording which states that the policy shall be primary and non-contributing with respect to any insurance carried by **Railroad**. The certificate of insurance must reflect that the above wording is included in evidenced policies.

All policy(ies) required above (excluding Workers Compensation and if applicable, Railroad Protective) shall include a severability of interest endorsement and **Railroad** shall be named as an additional insured with respect to work performed under this agreement. Severability of interest and naming **Railroad** as additional insured shall be indicated on the certificate of insurance.

Contractor is not allowed to self-insure without the prior written consent of **Railroad**. If granted by **Railroad**, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by contractor in lieu of insurance. Any and all **Railroad** liabilities that would otherwise, in accordance with the provisions of this **Agreement**, be covered by contractor's insurance will be covered as if contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Prior to commencing the Work, contractor shall furnish to **Railroad** an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments and referencing the contract audit/folder number if available. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify **Railroad** in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. Upon request from **Railroad**, a certified duplicate original of any required policy shall be furnished.

Any insurance policy shall be written by a reputable insurance company acceptable to **Railroad** or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provide.

Contractor represents that this **Agreement** has been thoroughly reviewed by contractor's insurance agent(s)/broker(s), who have been instructed by contractor to procure the insurance coverage required by this **Agreement**. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, **Railroad** may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by contractor, contractor shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming **Railroad** as an additional insured, and shall require that the subcontractor shall release, defend and indemnify **Railroad** to the same extent and under the same terms and conditions as contractor is required to release, defend and indemnify **Railroad** herein.

Failure to provide evidence as required by this section shall entitle, but not require, **Railroad** to terminate this **Agreement** immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of contractor's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by contractor shall not be deemed to release or diminish the liability of contractor including, without limitation, liability under the indemnity provisions of this **Agreement**. Damages recoverable by **Railroad** shall not be limited by the amount of the required insurance coverage.

Prior to entering the Premises, Licensee shall and shall cause its contractor to comply with all Licensors' applicable safety rules and regulations. Prior to commencing any work on the Premises, Licensee shall complete and shall require its contractor to complete the safety-training program at the following Internet Website "<http://www.BNSFcontractor.com>". This training must be completed no more than one year in advance of Licensee's entry on the Premises.

These insurance provisions are intended to be a separate and distinct obligation on the part of the Licensee. Therefore, these provisions shall be enforceable and Licensee shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable.

For purposes of this section, **Railroad** shall mean "Burlington Northern Santa Fe Corporation", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

SECTION 5. PROTECTION OF RAILWAY FACILITIES AND RAILWAY FLAGGER SERVICES

A. The Contractor shall give a minimum of at least thirty (30) working days' notice to the roadmaster at 1112 West South Avenue, Emporia, Kansas, 66801, telephone (630) 341-7250 (Office) or (620) 794-7179 (Cell), in advance of when flagging services will be required to bulletin the flaggers position and shall provide five (5) working days' notice to the Roadmaster to abolish the position per union requirements.

B. Railway flagger and protective services and devices will be required and furnished when Contractor's work activities are located over or under of and within twenty-five (25) feet measured horizontally from center line of the nearest track and when cranes or similar equipment positioned outside of 25-foot horizontally from track center line that could foul the track in the event of tip over or other catastrophic occurrence, but not limited thereto for the following conditions:

- (1). When in the opinion of the Railway's representative, it is necessary to safeguard the Premises, employees, trains, engines and facilities.
- (2). When any excavation is performed below the bottom of tie elevation, if, in the opinion of Railway's representative, track or other Railway facilities may be subject to movement or settlement.
- (3). When work in any way interferes with the safe operation of trains at timetable speeds.
- (4). When any hazard is presented to Railway track, communications, signal, electrical, or other facilities either due to persons, material, equipment or blasting in the vicinity.
- (5). Special permission must be obtained from the Railway before moving heavy or cumbersome objects or equipment which might result in making the track impassable.

C. Flagging services will be performed by qualified Railway flaggers. Licensee agrees to reimburse Licensors (pursuant to the terms of **Section 5 (d)** below) for all costs and expenses incurred by Licensors in connection with Licensee's use of the Premises or the presence, construction and maintenance of the Roadway, including but not limited to the furnishing of Licensors' flaggers and any vehicle rental costs incurred. Licensee shall bear the cost of flagger services and other safety measures provided by Licensors, when deemed necessary by Licensors' representative. Flagging costs shall include, but not be limited to, the following: pay for at least an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays (as applicable); vacation allowance; paid holidays (as applicable); railway and unemployment insurance; public liability and property damage insurance; health and welfare benefits;

transportation; meals; lodging and supervision. Negotiations for railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase flagging rates. Flagging rates in effect at the time of performance by the flaggers will be used to calculate the flagging costs pursuant to this **Section 5**.

D. All invoices are due thirty (30) days after the date of invoice. In the event that Licensee shall fail to pay any monies due to Licensor within thirty (30) days after the invoice date, then Licensee shall pay interest on such unpaid sum from the due date until paid at an annual rate equal to the lesser of (i) the prime rate last published in *The Wall Street Journal* in the preceding December plus two and one-half percent (2-1/2%), or (ii) the maximum rate permitted by law.

(1) A flagging crew generally consists of one employee. However, additional personnel may be required to protect the Premises and operations, if deemed necessary by the Railway's representative.

(2) Each time a flagger is called, the minimum period for billing shall be the eight (8) hour basic day.

(3) The cost of flagger services provided by the Railway, when deemed necessary by the Railway's representative, will be borne by the City's contractor.

SECTION 6. INDEPENDENT CONTRACTOR

In the performance of the Work under this Agreement, Contractor will be considered as an independent contractor, neither Contractor nor any of its employees, subcontractors, agents or servants will be considered as employees of Railway in any respect. Contractor shall have the exclusive right and duty to control the work of its employees. All persons employed by Contractor or any of its subcontractors in the performance of this Agreement shall be the sole employees of Contractor or its subcontractors. Contractor will be given general directions and instructions regarding the Work to be rendered under this Agreement; however, direct supervision of Contractor's employees will be Contractor's responsibility and obligation.

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

CITY OF EDGERTON, KANSAS

404 East Nelson
Edgerton, Kansas 66021

BNSF RAILWAY COMPANY

Jones Lang LaSalle Brokerage, Inc.,
its Attorney in Fact
4200 Buckingham Road, Suite 110
Fort Worth, TX 76155

By: _____
Print
Name: _____

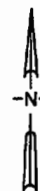
Title: _____

By: _____

Title: _____

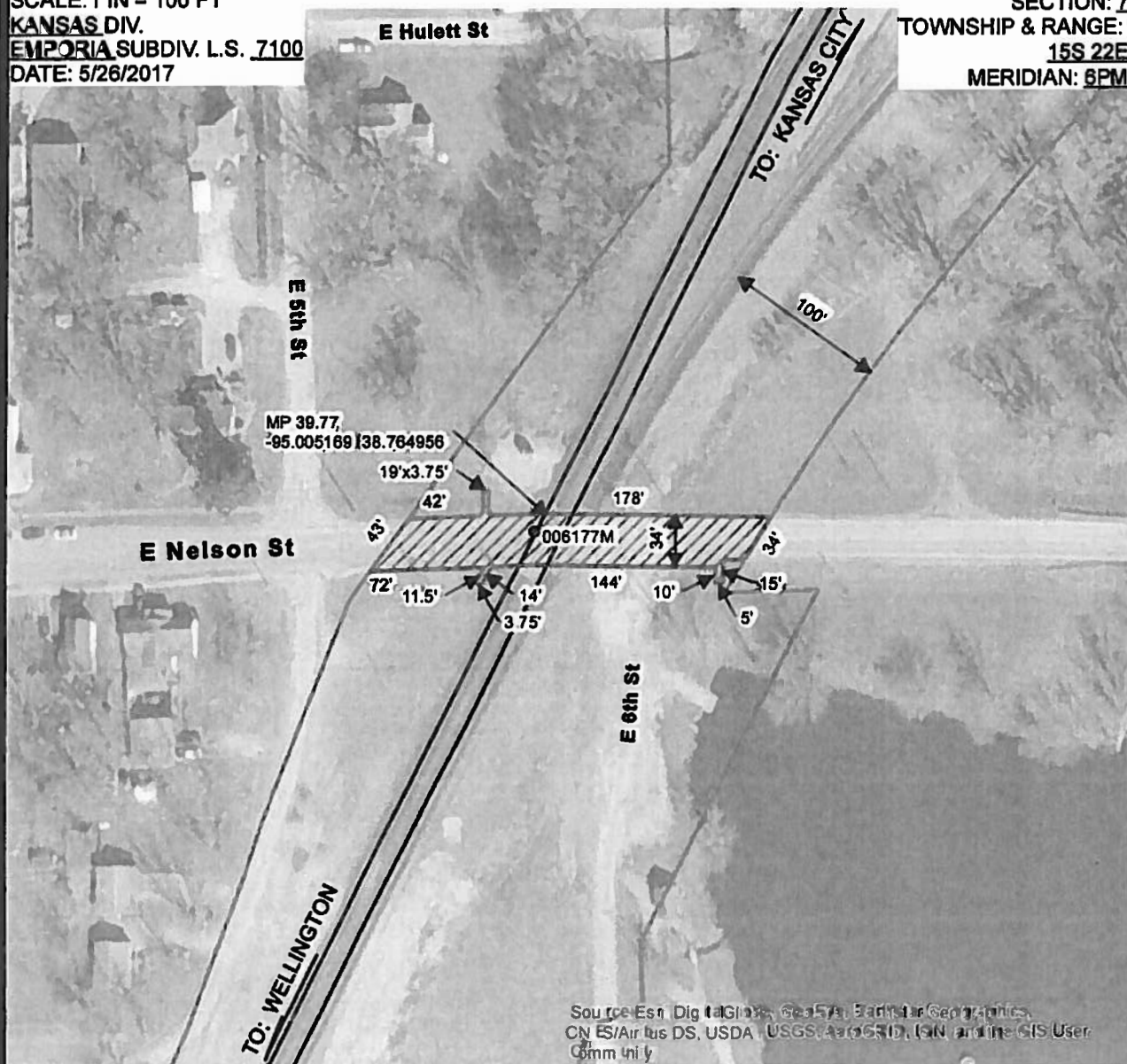
EXHIBIT "A"
 ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
 AND

CITY OF EDGERTON, KANSAS



SCALE: 1 IN = 100 FT
 KANSAS DIV.
 EMPORIA SUBDIV. L.S. 7100
 DATE: 5/26/2017

SECTION: 7
 TOWNSHIP & RANGE:
15S 22E
 MERIDIAN: 6PM



Source Esri, DigitalGlobe, GeoEye, Earthstar Geographics,
 CN ES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User
 Community

LEGEND:

- PREMISES
- RIGHT OF WAY LINE
- TRACK

DESCRIPTION:

A PARCEL OF LAND CONTAINING A TOTAL OF 7,870 SQ. FT.
 (0.18 A.C.) MORE OR LESS SHOWN HATCHED. TO BE USED
 FOR PAVEMENT, CURB & GUTTER, AND SIDEWALK
 REPLACEMENT ON EITHER SIDE OF THE RR TRACK.

AT EDGERTON
 COUNTY OF JOHNSON

STATE OF KS

JNC

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider the 2018 Recommended Budget

Department: Administration

Background/Description of Item:

In April, staff presented revenue information in preparation for development of the 2018 Budget. At that same meeting, staff also presented the vehicle and equipment replacement schedule and the Capital Improvement Program for 2018-2022.

Staff developed the recommended 2018 Budget for the General Fund and presented it at the Budget Work Session on May 11, 2017. At the June 8, 2017, Budget Work Session, staff presented recommended budgets for the Utility Funds, Special Highway Fund, Special Parks & Recreation Fund and the Bond and Interest Fund. At the budget work session on July 27, 2017, the City Administrator provided an update on the 2018 Budget. At that meeting, Council directed staff to reduce the mill rate by three mills.

Staff made the change to the mill rate, and published the budget hearing notice in the Gardner News on August 9, 2017.

The official public hearing for the 2018 Budget required by state law will be held on August 24, 2017.

Enclosure: 2018 Fund Budget Schedules
 2018 Budget Public Hearing Notice
 2018 Budget Certificate Page

Related Ordinance(s) or Statute(s):

Recommendation: Approve the 2018 Recommended Budget

Funding Source: N/A

Prepared by: Karen Kindle, Finance Director

Date: August 21, 2017

To the Clerk of Johnson, State of Kansas

Edgerton

- (2) after the Budget Hearing this budget was duly approved and adopted as the maximum expenditures for the various funds for the year 2018; and
- (3) the Amounts(s) of 2017 Ad Valorem Tax are within statutory limitations.

Governing Body

**City of Edgerton
General Fund**

	2015 Actual	2016 Actual	2017 Estimate	2018 Recommended
Balance 1/1	\$ 1,128,336	\$ 1,346,053	\$ 1,748,720	\$ 1,822,289
Revenues:				
Ad Valorem Tax	1,199,575	1,472,934	1,349,919	1,245,664
LPKC PILOT	-	-	178,000	428,990
Delinquent Tax	3,239	6,574	5,000	6,000
Motor Vehicle Tax	44,281	44,538	47,705	48,197
Recreational Vehicle Tax	772	993	900	794
16/20M Vehicle Tax	111	75	100	100
Local Alcoholic Liquor Tax	3,061	2,407	5,541	3,300
Compensating Use Tax	117,746	233,741	250,000	250,000
Local Sales Tax	466,188	549,668	596,533	646,300
Franchise Tax	83,785	103,245	100,000	100,000
Licenses & Permits	302,481	740,345	754,600	757,600
Charges for Services	94,278	113,442	104,230	108,744
Fines & Forfeitures	17,919	14,786	15,100	15,100
Miscellaneous	797	7,761	-	-
Investment Income	1,708	1,857	8,000	8,000
Total Revenue	\$ 2,335,941	\$ 3,292,366	\$ 3,415,628	\$ 3,618,789
Transfers from Other funds:				
Transfer from PIF	213,689	-	-	-
Total	\$ 213,689	\$ -	\$ -	\$ -
Total Sources	\$ 2,549,630	\$ 3,292,366	\$ 3,415,628	\$ 3,618,789
Expenditures:				
General Government	553,647	604,915	645,678	758,439
Law Enforcement	277,162	288,340	293,051	334,534
Public Works	291,241	413,855	453,220	472,193
Parks	129,335	152,290	216,318	267,852
Facilities	26,440	24,331	83,133	90,039
Community Development	318,213	236,007	317,845	326,214
Intermodal	62,257	11,309	66,200	66,200
Information Technology	22,573	31,884	40,000	61,157
Employee Benefits	187,711	218,818	282,220	329,138
Total Expenditures	\$ 1,868,579	\$ 1,981,749	\$ 2,397,665	\$ 2,705,766
Transfers to Other Funds:				
Transfer to Equipment Reserve Fund-General	105,501	126,177	79,250	79,250
Transfer to Public Infrastructure Fund	313,028	342,534	343,000	277,899
Transfer to Capital Projects Fund	44,805	439,239	522,144	202,259
Transfer to Grant Fund	-	-	-	-
Total	\$ 463,334	\$ 907,950	\$ 944,394	\$ 559,408
Total Uses	\$ 2,331,913	\$ 2,889,699	\$ 3,342,059	\$ 3,265,174
Sources Over(Under) Uses	\$ 217,717	\$ 402,667	\$ 73,569	\$ 353,615
Prior Period Adjustment	-	-	-	-
Balance 12/31	\$ 1,346,053	\$ 1,748,720	\$ 1,822,289	\$ 2,175,904

Reserve Per Policy - 17% of Budgeted Revenue:	\$ 506,354	\$ 615,194
Unencumbered Cash Over(Under) Requirement:	\$ 1,315,936	\$ 1,560,710
Reserve Per Policy - 25% of Budgeted Revenue:	\$ 744,638	\$ 904,697
Unencumbered Cash Over(Under) Requirement:	\$ 1,077,652	\$ 1,271,207

Funding Sources: Property tax, sales tax, franchise fees, user fees and charges

Expenditures: General operations of the City

City of Edgerton Water Fund

	2015 Actual	2016 Actual	2017 Estimate	2018 Recommended
Balance 1/1	\$ 237,462	\$ 220,874	\$ 288,664	\$ 347,424
Revenues:				
Charges for Services	401,944	449,049	448,000	487,000
Fines & Forfeitures	13,628	17,244	17,000	17,000
Reimbursements	839	-	-	-
Investment Income	481	364	1,000	1,000
Total Revenue	\$ 416,892	\$ 466,657	\$ 466,000	\$ 505,000
Transfers from Other funds:				
Transfer from Capital Projects Fund	-	-	41,667	-
Total	\$ -	\$ -	\$ 41,667	\$ -
Total Sources	\$ 416,892	\$ 466,657	\$ 507,667	\$ 505,000
Expenditures:				
Information Technology	5,683	11,810	23,065	26,120
Production	149,135	145,407	149,700	162,200
Distribution	98,319	49,054	50,971	48,890
Administrative - Water	118,319	178,261	111,746	127,843
Employee Benefits	20,357	14,335	21,973	26,737
Debt Service	-	-	91,452	100,511
Total Expenditures	\$ 391,813	\$ 398,867	\$ 448,907	\$ 492,301
Transfers to Other Funds:				
Transfer to Equipment Reserve Fund-Water	41,667	-	-	-
Transfer to Water Principal & Interest	-	-	-	-
Transfer to Capital Projects Fund	-	-	-	-
Total	\$ 41,667	\$ -	\$ -	\$ -
Total Uses	\$ 433,480	\$ 398,867	\$ 448,907	\$ 492,301
Sources Over(Under) Uses	\$ (16,588)	\$ 67,790	\$ 58,760	\$ 12,699
Prior Period Adjustment				
Balance 12/31	\$ 220,874	\$ 288,664	\$ 347,424	\$ 360,123

Funding Sources: Charges to users of the City's water system

Expenditures: Water system operation and maintenance

City of Edgerton, KS
Calculation of Reserve per Policy - Water Utility Fund
Budget Year 2018

Reserve Calculation per Edgerton Financial Policy

Reserve shall be calculated according to the following guidelines:

1/13th of the current year budgeted payroll (2 payrolls including fringe benefit costs)	\$	7,669
10% of current year budgeted water user charges	\$	46,950
Maintain minimum of \$50,000 for potential new expenditures to address community growth	\$	50,000
25% of current year budgeted development related revenue (i.e. service connections, inspection fees)	\$	4,375
Subtotal	\$	108,994

PLUS

5% - 10% of annual principal and interest amounts due on outstanding bonds and loans

5%	\$	5,026
10%	\$	10,051

Bottom Line Reserve Range:

Reserve using 5% annual principal and interest amounts due on bonds and loans	\$	114,020
Reserve using 10% annual principal and interest amounts due on bonds and loans	\$	119,045

Estimated Ending Cash at 12/31/2018: \$ 360,123

Estimated Ending Cash at 12/31/2018 Over (Under) Requirement:

Using Reserve Requirement with 5% annual principal and interest amounts due on bonds and loans	\$	246,103
Using Reserve Requirement with 10% annual principal and interest amounts due on bonds and loans	\$	241,078

Reserve Calculation per Recommendation from Raftelis

90 days of operating expenses	\$	121,389
120 days of operating expenses	\$	161,852

Estimated Ending Cash at 12/31/2018 \$ 360,123

Estimated Ending Cash at 12/31/2018 over the 90 day requirement	\$	238,734
Estimated Ending Cash at 12/31/2018 over the 120 day requirement	\$	198,271

City of Edgerton Sewer Fund

	2015 Actual	2016 Actual	2017 Estimate	2018 Recommended
Balance 1/1	\$ 49,753	\$ 133,078	\$ 234,133	\$ 180,477
Revenues:				
Charges for Services	384,154	350,050	446,500	537,750
Reimbursements	80	-	-	-
Bond Proceeds	-	94,408	-	-
Investment Income	175	238	250	300
Total Revenue	\$ 384,409	\$ 444,696	\$ 446,750	\$ 538,050
Transfers from Other funds:				
Transfer from Sewer Reserve Fund	-	-	-	-
Transfer from Grants Fund	-	-	-	-
Total	\$ -	\$ -	\$ -	\$ -
Total Sources	\$ 384,409	\$ 444,696	\$ 446,750	\$ 538,050
Expenditures:				
Information Technology	4,569	8,653	16,360	23,352
Treatment Plant	198,329	149,800	160,500	150,600
Sewer Line Maintenance	4,039	4,212	4,850	4,000
Lift Stations/Vaults	6,961	4,874	14,577	20,375
Administrative - Sewer	61,981	154,600	180,000	181,559
Employee Benefits	25,205	21,502	29,853	34,785
Debt Service	-	-	94,266	94,438
Total Expenditures	\$ 301,084	\$ 343,641	\$ 500,406	\$ 509,109
Transfers to Other Funds:				
Transfer to Equipment Reserve Fund-Sewer	-	-	-	-
Transfer to Sewer Principal & Interest	-	-	-	-
Transfer to Sewer Reserve Fund	-	-	-	-
Total	\$ -	\$ -	\$ -	\$ -
Total Uses	\$ 301,084	\$ 343,641	\$ 500,406	\$ 509,109
Sources Over(Under) Uses	\$ 83,325	\$ 101,055	\$ (53,656)	\$ 28,941
Prior Period Adjustment				
Balance 12/31	\$ 133,078	\$ 234,133	\$ 180,477	\$ 209,418

Funding Sources: Charges to users of the City's sewer system

Expenditures: Sewer system operation and maintenance

City of Edgerton, KS
Calculation of Reserve per Policy - Sewer Utility Fund
Budget Year 2018

Reserve Calculation per Edgerton Financial Policy

Reserve shall be calculated according to the following guidelines:

1/13th of the current year budgeted payroll (2 payrolls including fringe benefit costs)	\$	9,865
10% of current year budgeted sewer user charges	\$	52,125
Maintain minimum of \$50,000 for potential new expenditures to address community growth	\$	50,000
25% of current year budgeted development related revenue (i.e. service connections, inspection fees)	\$	4,125
Subtotal	\$	116,115

PLUS:

5%-10% of annual principal and interest amounts due on outstanding bonds and loans*		
5%	\$	4,722
10%	\$	9,444

Bottom Line Reserve Range:

Reserve using 5% annual principal and interest amounts due on bonds and loans*	\$	120,837
Reserve using 10% annual principal and interest amounts due on bonds and loans*	\$	125,559

Estimated Ending Cash at 12/31/2018: \$ 209,418

Estimated Ending Cash at 12/31/2018 Over (Under) Requirement:

Using Reserve Requirement with 5% annual principal and interest amounts due on bonds and loans	\$	88,581
Using Reserve Requirement with 10% annual principal and interest amounts due on bonds and loans	\$	83,860

* used 2018 non-BBCWWTP debt service payment amounts because BBCWWTP debt service payments are paid from the Public Infrastructure Fund.

Reserve Calculation per Recommendation from Raftelis

90 days of operating expenses	\$	125,534
120 days of operating expenses	\$	167,378

Estimated Ending Cash at 12/31/2018 \$ 209,418

Estimated Ending Cash at 12/31/2018 over the 90 day requirement	\$	83,884
Estimated Ending Cash at 12/31/2018 over the 120 day requirement	\$	42,040

City of Edgerton Special Highway Fund

	2015 Actual	2016 Actual	2017 Estimate	2018 Recommended
Balance 1/1	\$ 163,246	\$ 150,952	\$ 959	\$ 959
Revenues:				
Gasoline Tax	44,698	45,638	44,500	45,630
Total Revenue	\$ 44,698	\$ 45,638	\$ 44,500	\$ 45,630
Transfers from Other funds:				
Total	\$ -	\$ -	\$ -	\$ -
Total Sources	\$ 44,698	\$ 45,638	\$ 44,500	\$ 45,630
Expenditures:				
Public Works	56,992	125,864	-	-
Total Expenditures	\$ 56,992	\$ 125,864	\$ -	\$ -
Transfers to Other Funds:				
Transfer to Capital Projects Fund	-	69,767	44,500	46,589
Total	\$ -	\$ 69,767	\$ 44,500	\$ 46,589
Total Uses	\$ 56,992	\$ 195,631	\$ 44,500	\$ 46,589
Sources Over(Under) Uses	\$ (12,294)	\$ (149,993)	\$ -	\$ (959)
Prior Period Adjustment	-	-	-	-
Balance 12/31	\$ 150,952	\$ 959	\$ 959	\$ -

Expenditure Detail:

Annual Street Maintenance Project		\$ 25,841	\$ 44,500	\$ 46,589
2014 Chip & Seal	\$ 56,992			
CARS Project w/Johnson County (Edgewood/207th)		\$ 43,927		
2016 Prepwork		9,141		
2016 Street Maintenance Project		\$ 80,135		
CARS Project w/Johnson County (Sunflower Road)		\$ 36,587		
	\$ 56,992	\$ 195,631	\$ 44,500	\$ 46,589

Funding Sources: State gasoline tax (per gallon)

Expenditures: Maintenance of City streets

City of Edgerton Special Parks & Recreation Fund

	2015 Actual	2016 Actual	2017 Estimate	2018 Recommended
Balance 1/1	\$ 8,909	\$ 11,970	\$ 14,377	\$ 20,531
Revenues:				
Local Alcoholic Liquor Tax	3,061	2,407	6,154	3,300
Total Revenue	\$ 3,061	\$ 2,407	\$ 6,154	\$ 3,300
Transfers from Other funds:				
Total	\$ -	\$ -	\$ -	\$ -
Total Sources	\$ 3,061	\$ 2,407	\$ 6,154	\$ 3,300
Expenditures:				
Parks	-	-	-	-
Total Expenditures	\$ -	\$ -	\$ -	\$ -
Transfers to Other Funds:				
Transfer to Capital Projects Fund	-	-	-	23,831
Total	\$ -	\$ -	\$ -	\$ 23,831
Total Uses	\$ -	\$ -	\$ -	\$ 23,831
Sources Over(Under) Uses	\$ 3,061	\$ 2,407	\$ 6,154	\$ (20,531)
Prior Period Adjustment				
Balance 12/31	\$ 11,970	\$ 14,377	\$ 20,531	\$ -

Expenditure Detail:

Transfer to CIP	\$ 23,831
	<u>\$ 23,831</u>

Funding Sources: Special alcohol tax per K.S.A. 79-41a04 (1/2 of total alcohol tax received by the City)

Expenditures: Park & Recreation programs and improvements

City of Edgerton Bond & Interest Fund

	2015 Actual	2016 Actual	2017 Estimate	2018 Recommended
Balance 1/1	\$ 52,799	\$ 270,314	\$ 259,012	\$ 404,593
Revenues:				
Special Assessments	317,567	88,751	245,634	245,634
Investment Income	-	-	-	-
Total Revenue	\$ 317,567	\$ 88,751	\$ 245,634	\$ 245,634
Transfers from Other funds:				
Total	\$ -	\$ -	\$ -	\$ -
Total Sources	\$ 317,567	\$ 88,751	\$ 245,634	\$ 245,634
Expenditures:				
Debt Service	100,052	100,053	100,053	255,053
Total Expenditures	\$ 100,052	\$ 100,053	\$ 100,053	\$ 255,053
Transfers to Other Funds:				
Total	\$ -	\$ -	\$ -	\$ -
Total Uses	\$ 100,052	\$ 100,053	\$ 100,053	\$ 255,053
Sources Over(Under) Uses	\$ 217,515	\$ (11,302)	\$ 145,581	\$ (9,419)
Prior Period Adjustment				
Balance 12/31	\$ 270,314	\$ 259,012	\$ 404,593	\$ 395,174

Funding Sources: Special assessments

Expenditures: Debt service payments on the City's 2012 outstanding GO bonds

Notes: The City's 2012 outstanding GO bonds will be paid off in 2034.

CITY OF EDGERTON, KANSAS

COUNCIL AGENDA ITEM

Council Meeting Date: August 24, 2017

Agenda Item: Ordinance Authorizing Bonds and Bond Documents

Subject: Industrial Revenue Bonds and Property Tax Abatement for ELHC VI Project

Summary:

The City received an application for property tax abatement from ELHC VI, LLC for a project located in the Logistics Park, consisting of an approximately 777,000 sq. ft. warehouse and distribution facility, to be located at 18451 Montrose Street, Edgerton, Kansas (the "Project").

The City has previously adopted Resolution No. 07-08-10A on July 8, 2010, Resolution No. 04-25-13A on April 25, 2013, and Resolution No. 04-09-15A on April 9, 2015 (collectively, the "Resolution of Intent") expressing 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, to finance the costs of acquiring, constructing, reconstructing, improving and equipping various projects within The Logistics Park-KC for the benefit of Edgerton Land Holding Company, LLC, or its assigns (the "Developer"). The City adopted Resolution No. 04-27-17A on April 27, 2017 (the "Assignment Resolution") consenting to the assignment of \$42,600,000 of the Developer's interest in the Resolution of Intent to ELHC VI, LLC for the Project. Prior to adopting the Assignment Resolution, the City held a public hearing on the Project and considered the cost-benefit report.

Ordinance:

The Ordinance authorizes the City to issue up to \$42,600,000 of industrial revenue bonds for the Project. This bond issue is commonly referred to as a "buy your own bonds bond issue." ELHC VI will be both the lessee on the project and the owner of the bonds. When the bonds are issued, ELHC VI will lease the project site to the City as is required by state law in order to issue industrial revenue bonds. The City will then sublease the project back to ELHC VI. ELHC VI will be obligated to repurchase the project at the conclusion of the tax abatement.

The bonds will be limited obligations of the City. This means that the City has to make payments on the bonds to ELHC VI as the owner of the bonds only to the extent the City receives payments from ELHC VI pursuant to the lease. If lease payments from ELHC VI are insufficient to cover scheduled debt service on the bonds, the City is not obligated to make up any shortfall from any other funds of the City. The bonds are not a general obligation of the City and do not count against the City's debt limit.

The Ordinance authorizes the City to enter into the following documents:

- (a) Trust Indenture which contains the terms governing the Bonds and contains the form of the Bonds;
- (b) Base Lease Agreement whereby the City leases the project site from ELHC VI;
- (c) Lease Agreement whereby the City will lease the project to ELHC VI for the term of the tax abatement;
- (d) Bond Purchase Agreement whereby ELHC VI agrees to acquire the Bonds;
- (e) Performance Agreement whereby ELHC VI agrees to make certain payments-in-lieu of tax payments; and
- (f) Origination Fee Agreement whereby ELHC VI agrees to pay the origination fee to the City over time.

ORDINANCE NO. 1061

AN ORDINANCE AUTHORIZING THE CITY OF EDGERTON, KANSAS, TO ISSUE INDUSTRIAL REVENUE BONDS (ELHC VI, LLC PROJECT) SERIES 2017, IN AN AGGREGATE MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED \$42,600,000, FOR THE PURPOSE OF FINANCING A WAREHOUSE AND DISTRIBUTION FACILITY; AUTHORIZING THE CITY TO ENTER INTO A TRUST INDENTURE WITH BOKF, N.A., AS TRUSTEE; AUTHORIZING THE CITY TO ENTER INTO A BASE LEASE AND LEASE AGREEMENT WITH ELHC VI, LLC; AND AUTHORIZING AND APPROVING THE EXECUTION OF ADDITIONAL DOCUMENTS AND THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

WHEREAS, the City of Edgerton, Kansas (the “City”), is authorized pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), to acquire, purchase, construct, install and equip certain commercial and industrial facilities, and to issue industrial revenue bonds for the purpose of paying the cost of such facilities, and to lease such facilities to private persons, firms or corporations; and

WHEREAS, the governing body of the City has heretofore and does now find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the City and the State of Kansas that the City issue its Industrial Revenue Bonds (ELHC VI, LLC Project) Series 2017, in an aggregate maximum principal amount not to exceed \$42,600,000 (the “Bonds”), for the purpose of acquiring, constructing and equipping a commercial project, consisting of an approximately 777,000 sq. ft. warehouse and distribution facility, to be located at 18451 Montrose Street, Edgerton, Kansas, including land, buildings, structures, improvements, fixtures, machinery and equipment (the “Project”), and that the City lease the Project to ELHC VI, LLC, a Kansas limited liability company (the “Company”); and

WHEREAS, the governing body of the City further finds and determines that it is necessary and desirable in connection with the issuance of the Bonds that the City enter into certain agreements, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:

Section 1. Authorization for the Acquisition, Purchase, Construction, Installation and Equipping of the Project. The City is hereby authorized to provide for the acquisition, purchase, construction, installation, rehabilitation and equipping of the Project, all in the manner and as more particularly described in the Indenture and the Lease Agreement hereinafter authorized.

Section 2. Authorization of and Security for the Bonds. The City is hereby authorized to issue and sell the Bonds for the purpose of providing funds to pay the cost of acquiring, purchasing, constructing, installing and equipping the Project. The Bonds shall be issued and secured pursuant to the herein authorized Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rates, shall be in such form, shall be subject to redemption and other terms and conditions, and shall be issued in such manner, subject to such provisions, covenants and agreements, as are set forth in the hereafter defined Indenture. The Bonds shall be payable solely out of the rents, revenues and receipts derived by the City from the Project, and the Project and the net earnings derived by the City from

the Project shall be pledged and assigned to the hereafter defined Trustee as security for payment of the Bonds as provided in the Indenture.

Section 3. Authorization of Documents. The City is hereby authorized to enter into the following documents, in substantially the forms presented to and reviewed by the Council of the City (copies of which documents, upon execution thereof, shall be filed in the office of the City Clerk), with such changes therein as shall be approved by the officers of the City executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture dated the date set forth therein (the "Indenture"), between the City and BOKF, N.A., as trustee (the "Trustee"), pursuant to which the Bonds shall be issued and the City shall pledge the Project and assign the rents, revenues and receipts received pursuant to the hereafter defined Lease to the Trustee for the benefit of and security of the holder of the Bonds upon the terms and conditions as set forth in said form of Indenture;

(b) Base Lease Agreement dated the date set forth therein (the "Base Lease"), between the Company and the City, under which the City will lease the project site from the Company;

(c) Lease Agreement dated the date set forth therein (the "Lease Agreement"), between the City and the Company, under which the City will agree to use the proceeds derived from the sale of the Bonds for the purpose of acquiring, purchasing, constructing, installing and equipping the Project and to sublease the Project to the Company, and the Company will agree to make payments in amounts sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the Bonds as the same become due;

(d) Bond Purchase Agreement dated the date set forth therein (the "Bond Purchase Agreement"), among the City, the Company, as lessee, and the Company, as purchaser;

(e) Performance Agreement dated the date set forth therein (the "Performance Agreement"), between the City and the Company; and

(f) Origination Fee Agreement dated the date set forth therein (the "Origination Fee Agreement"), between the City and the Company.

Section 4. Execution of Bond and Documents. The Mayor of the City is hereby authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor of the City is hereby authorized and directed to execute the Indenture, the Base Lease, the Lease Agreement, the Bond Purchase Agreement, the Performance Agreement, the Origination Fee Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Bonds, the Indenture, the Base Lease, the Lease Agreement, the Bond Purchase Agreement, the Performance Agreement, the Origination Fee Agreement and such other documents, certificates and instruments as may be necessary.

Section 5. Further Authority. The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds, the Indenture, the Base Lease, the Lease Agreement, the Performance Agreement, the Bond Purchase Agreement and the Origination Fee Agreement.

Section 6. Effective Date. This Ordinance shall take effect and be in force from and after its passage, approval and publication in summary form in the official City newspaper.

PASSED by the Council of the City of Edgerton, Kansas, this 24th day of August, 2017.

Donald Roberts, Mayor

[SEAL]

ATTEST:

Janeice Rawles, City Clerk

Approved as to form:

Scott W. Anderson, Bond Counsel

ELHC VI

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Ordinance No. 1062 Adopting The Planning Commission's Recommendation To Approve Conditional Use Permit CU-2017-002 For Transportation Storage And Trucking Yard To Temporarily Allow A Gravel Lot, Subject To Certain Conditions, In The City Of Edgerton, Kansas, Logistics Park Zoning District, More Specifically On The North Side Of LPKC Building XXI

Department: Community Development

Background/Description of Item: In February 2017, Edgerton Planning Commission approved Final Site Plan (FS2017-01) for Inland Port XXI (19400 Essex Street). As recently announced, United Parcel Service (UPS) is the tenant for this building.

To support their expected growth and operations, UPS has requested the opportunity to expand their planned truck court with a temporary gravel lot. The gravel lot would be located north of the truck court and south of the existing creek present (and will remain) on the property. The planned expansion area is illustrated on the enclosed exhibit. UPS would benefit from the excess storage lot during the holiday season and the ramp up period prior to the holiday season.

Edgerton Unified Development Code requires that all parking be conducted on paved surface (asphalt or concrete). Therefore, UPS submitted a conditional use permit for a transportation storage and trucking yard for a minimum 1-year and up to a 3-year use period. If the initial use period is limited to less than 3 years, UPS respectfully requests the opportunity to resubmit the Conditional Use Permit application for 6-month extensions to the approved permit duration period.

Planning Commission held a public hearing for application CU-2017-002 on August 8th. That staff report including staff's review and analysis of the application based on the following standards set in the Edgerton Unified Development Code.

- a. The extent to which there is a need in the community for the proposed use.
- b. The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space.
- c. The nature and intensity of the proposed use and its compatibility with the zoning and uses of nearby properties. Such determination should include the location, nature, and height of structures, walls, fences, and other improvements connected with the proposed use, their relation to adjacent property and uses, and the need for buffering and screening.
- d. Suitability of the uses of the property without the proposed conditional use permit.
- e. Length of time the subject property has remained vacant without the proposed conditional use permit.
- f. The extent to which the proposed use may detrimentally affect nearby property.
- g. The adequacy of ingress and egress to and within the site of the proposed use, traffic flow and control, the adequacy of off-street parking and loading areas, the adequacy of required yard and open space requirements and sign provisions.
- h. The availability and adequacy of required utilities and services to serve the proposed use. These utilities and services include, but are not limited to, sanitary and storm sewers, water, electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services.

- i. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the proposed use, or present parking problems in the vicinity of the property.
- j. The environmental impacts that the proposed use would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm.
- k. The economic impact of the proposed use on the community.
- l. The relative gain (if any) to the public health, safety, and welfare from a denial of the application for conditional use permit as compared to the hardship imposed upon the conditional use applicant from such denial.
- m. Consistency with the Comprehensive Plan, Capital Improvement Plan, ordinances, policies, and applicable City Code of the City of Edgerton, and the general safety, health, comfort and general welfare of the community.
- n. The recommendation of professional staff. (Ord. 798; 2005)

Following the conclusion of the public hearing, Planning Commission recommended approval of the conditional use permit with the following conditions:

1. Within twelve (12) months of the passage of this Ordinance, the parking lot shall be either:

Paved in accordance with Edgerton Unified Development Code (asphalt or concrete) as indicated by the approved Final Site Plan within sixty (60) days following the expiration of the twelve-month Conditional Use Permit.

OR

The gravel lot is returned to pre-existing condition (grass) within sixty (60) days following the expiration of the twelve-month Conditional Use Permit.

2. Applicant shall continuously monitor the surface of the gravel lot and apply dust control measures as needed/as requested by the City.

City Attorney has not yet reviewed draft Ordinance No. 1062. Any changes will be reviewed with City Council during meeting.

Enclosure: Draft Ordinance No. 1062
 Staff Report from August 8, 2017 Planning Commission meeting
 Conditional Use Permit Application CU-2017-002

Recommendation: Approve Ordinance No. 1062 Adopting The Planning Commission's Recommendation To Approve Conditional Use Permit CU-2017-002 For Transportation Storage And Trucking Yard To Temporarily Allow A Gravel Lot, Subject To Certain Conditions, In The City Of Edgerton, Kansas, Logistics Park Zoning District, More Specifically On The North Side Of LPKC Building XXI

Funding Source: N/A

Prepared by: Scott Peterson, Assistant City Administrator
Date: August 21, 2017

ORDINANCE NO. 1062

AN ORDINANCE ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE CONDITIONAL USE PERMIT CU-2017-002 FOR TRANSPORTATION STORAGE AND TRUCKING YARD TO TEMPORARILY ALLOW A GRAVEL LOT, SUBJECT TO CERTAIN CONDITIONS, IN THE CITY OF EDGERTON, KANSAS, LOGISTICS PARK ZONING DISTRICT, MORE SPECIFICALLY ON THE NORTH SIDE OF LPKC BUILDING XXI

WHEREAS, included in Section 5.2(K)(i) of the City of Edgerton Unified Development Code is the requirement that all parking and storage areas be paved with asphalt or concrete and be maintained in a dust-free manner; and

WHEREAS, on July 17, 2017 the City of Edgerton Planning Commission received an application from United Parcel Service (UPS), on behalf of ELHC XXI, LLC, requesting that the City consider a deviation from the requirement that all paving be concrete or asphalt to allow a temporary gravel parking lot to exist at on the north side of ELHC XI located at 19400 Essex Street; and

WHEREAS, the Edgerton Planning Commission did hold a public hearing on the request for a Conditional Use Permit on August 8, 2017 in accordance with the requirements of the Edgerton Zoning Regulations, and

WHEREAS, at that meeting the Edgerton Planning Commission voted to approve the application for Conditional Use Permit for transportation storage and trucking yard and allow a temporary gravel parking lot at LPKC Building XXI but such vote was conditioned upon the following being adhered to by the Applicant:

1. Within twelve (12) months of the passage of this Ordinance, the parking lot shall be either:

a. Paved in accordance with Edgerton Unified Development Code (asphalt or concrete) as indicated by the approved Final Site Plan within sixty (60) days following the expiration of the twelve-month Conditional Use Permit.

OR

b. The gravel lot is returned to pre-existing condition (grass) within sixty (60) days following the expiration of the twelve-month Conditional Use Permit.

2. Applicant shall continuously monitor the surface of the gravel lot and apply dust control measures as needed/as requested by the City.

WHEREAS, the City Governing Body, after reviewing the application for Conditional Use Permit and considering the criteria set forth in the City Zoning Regulations and the recommendations of the Planning Commission, finds the Conditional Use Permit should be approved.

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

Section 1. The proposed Conditional Use Permit CU-2017-002 is hereby approved.

Section 2. The allowance of a gravel parking lot at LPKC Building XXI by the City of Edgerton is expressly conditioned on the Applicant's strict compliance with the two conditions set forth above, which were recommended by the Edgerton Planning Body.

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

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

PASSED by the Governing Body of the City of Edgerton, Kansas, and approved by the Mayor on the 24th day of August, 2017.

DONALD ROBERTS, MAYOR

(Seal)

ATTEST:

JANEICE RAWLES, CITY CLERK

APPROVED AS TO FORM

LEE W. HENDRICKS, CITY ATTORNEY



EDGERTON
global routes. local roots.

404 East Nelson
Edgerton, KS 66021
P: 913.893.6231
EDGERTONKS.ORG

STAFF REPORT

August 8, 2017

To: Edgerton Planning Commission

Fr: Scott Peterson, Assistant City Administrator/Zoning Administrator

Re: Application CU2017-002 for Conditional Use Permit Request for Transportation Storage and Trucking Yard

APPLICATION INFORMATION

Applicant/Property Owner: United Parcel Service (UPS), on behalf of ELHC XXI, LLC

Requested Action: Conditional Use Permit for Transportation Storage and Trucking Yard

Legal Description: A tract of land in the Northeast Quarter of Section 4, Township 15 South, Range 22 East, in the City of Edgerton, Johnson County Kansas.

Site Address/Location: 19400 Essex Street

Site Size: Approximately 4 Acres

Existing Improvements: 200,000-Square Foot Building with Parking

Zoning and Land Uses:

	ZONING	LAND USE	USER/OWNER
SITE	LP, Logistics Park District	Industrial	UPS/ELHC XXI, LLC
NORTH	RUR, Agricultural	Agricultural	Widmer Farms, LLC
SOUTH	RUR, Agricultural	Agricultural	Widmer Farms, LLC
EAST	LP, Logistics Park District RUR, Agricultural	Industrial Agricultural	ELHC XXII, LLC Widmer Farms, LLC
WEST	RUR, Agricultural	Agricultural	JO CO Park & Recreation District

BACKGROUND:

The Planning Commission approved a Final Site Plan (FS2017-01) for Inland Port XXI on February 14, 2017. As recently announced, United Parcel Service (UPS) is the tenant for this building.

PROJECT DESCRIPTION

To support their expected growth and operations, UPS has requested the opportunity to expand their planned truck court with a temporary gravel lot. The gravel lot would be located north of the truck court and south of the existing creek present (and will remain) on the property. The planned expansion area is illustrated on the enclosed exhibit. UPS would benefit from the excess storage lot during the holiday season and the ramp up period prior to the holiday season.

UPS is requesting a minimum 1-year and up to a 3-year use period. If the initial use period is limited to less than 3 years, UPS respectfully requests the opportunity to resubmit the Conditional Use Permit application for 6-month extensions to the approved permit duration period.

INFRASTRUCTURE AND SERVICES:

All infrastructure and services remain the same as the approved Final Site Plan (FS2017-01).

STAFF ANALYSIS

Based on review of the application and the plan submitted, staff determined the request to be for a transportation storage and trucking yard as allowed by the Edgerton Unified Development Code (UDC) by conditional use in the Logistics Park (L-P) zoning district.

The Planning Commission, in accordance with the procedures and standards of the UDC, may authorize buildings, structures, and uses as conditional uses in the specific instances and particular districts set forth provided that the location is appropriate, consistent with the Comprehensive Plan, that the public health, safety, morals, and general welfare will not be adversely affected, and that necessary safeguards will be provided surrounding property, persons, and neighborhood values, and further provided that the additional standards of this Article specified as a condition of approval. No conditional use shall be authorized unless the Planning Commission finds that the establishment, maintenance, or operation of the Conditional Use meets the standards set forth in the UDC. The burden of proof is on the applicant to bring forth the evidence and the burden of persuasion on all questions of fact that are determined by the Planning Commission.

GENERAL CRITERIA

- a. The extent to which there is a need in the community for the proposed use. UPS has indicated that the gravel truck court is necessary to provide excess storage during the holiday season and the ramp up period prior to the holiday season adjacent to their new building (Inland Port XXI). The addition of UPS in time for the holiday season to provide transportation support services to other LPKC tenants is beneficial to the City. Staff determination: *Positive*
- b. The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space. The

character of the neighborhood is becoming an established transportation and logistics hub. The BNSF Intermodal Facility is across 191st to the north. The lot would be wholly contained within the UPS parcel. Inland Port XXII (Horizon Global) is directly to the east. The future use of this area of property on the approved final site plan would be parking. Staff determination: **Positive**

- c. The nature and intensity of the proposed use and its compatibility with the zoning and uses of nearby properties. Such determination should include the location, nature, and height of structures, walls, fences, and other improvements connected with the proposed use, their relation to adjacent property and uses, and the need for buffering and screening. The approved final site plan meets the Edgerton UDC requirements with one exception. UPS has indicated their desire to use gravel, rather than asphalt or concrete, due to the temporary nature of the use. All parking and truck courts in the L-P district require the use of asphalt or concrete. Staff determination: **Negative**
- d. Suitability of the uses of the property without the proposed conditional use permit. The property is zoned L-P district. Truck courts and additional parking are an important support function to a sorting facility like UPS. Without the proposed conditional use permit, staff anticipates the property will remain unused until UPS expands. Staff determination: **Neutral**
- e. Length of time the subject property has remained vacant without the proposed conditional use permit. Before annexation, the property was in agricultural use in unincorporated Johnson County. Staff determination: **Positive**
- f. The extent to which the proposed use may detrimentally affect nearby property. No long term detrimental effects are expected for the use of the property as the request is temporary in nature. The use of gravel has the possibility to create increased dust. Staff determination: **Negative**
- g. The adequacy of ingress and egress to and within the site of the proposed use, traffic flow and control, the adequacy of off-street parking and loading areas, the adequacy of required yard and open space requirements and sign provisions. The proposed site plan meet city requirements for ingress/egress, traffic flow, etc as the lot is in the location of future parking. Staff determination: **Positive**
- h. The availability and adequacy of required utilities and services to serve the proposed use. These utilities and services include, but are not limited to, sanitary and storm sewers, water, electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services. Availability and adequacy of utilities and services was address in the approved Final Site Plan. Staff determination: **Positive**.
- i. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the proposed use, or present parking problems in the vicinity of the property. The application is not anticipated to adversely affect the capacity of safety of the road network as it in the location of future parking. Use of gravel could cause material to be tracked on to the public rights-of-way if routing occurs directly from the gravel. Staff determination: **Negative**

- j. The environmental impacts that the proposed use would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm. The City will follow NPDES (stormwater management requirements) guidelines that require the developer to address runoff and water pollution mitigation measures as part of the development of the property and have been approved with the Final Site Plan. Staff determination: ***Positive***
- k. The economic impact of the proposed use on the community. Prior to the development of the BNSF intermodal and logistics park, there have been few commercial and industrial uses within the City. Warehousing and related uses in the L-P District, if built, have the potential to benefit the residents and community in a positive way by providing needed jobs and tax revenues. This type of use is seen as necessary support for the warehousing and other related uses. Staff determination: ***Neutral***
- l. The relative gain (if any) to the public health, safety, and welfare from a denial of the application for conditional use permit as compared to the hardship imposed upon the conditional use applicant from such denial. While the application does not fully meet the requirements of the UDC, there would be little gain to the public health, safety and welfare of the City of Edgerton and the property owner due to the temporary nature of the request. Staff determination: ***Neutral***
- m. Consistency with the Comprehensive Plan, Capital Improvement Plan, ordinances, policies, and applicable City Code of the City of Edgerton, and the general safety, health, comfort and general welfare of the community. The Future Land Use Map (attached) within the Comprehensive Plan designates the subject property for industrial development. While this complies with the Comprehensive Plan, the UDC specifies that this type of use is required to use concrete or asphalt for all paving and is therefore not consistent. Staff determination: ***Negative***
- n. The recommendation of professional staff. (Ord. 798; 2005) Please see the Recommendations Section, below.

RECOMMENDATIONS

City staff recommends **approval** of the Conditional Use Permit for a Transportation Storage and Trucking Yard on a portion of the UPS parcel as shown in the enclosed site plans for a period of twelve (12) months.

At the conclusion of twelve (12) months, UPS shall do one of the following:

1. Pave the parking lot with concrete or asphalt as indicated in the approved Final Site Plan (2017-01).
2. Cease to use the gravel lot and return in to the preexisting condition (i.e. grass)

ATTACHMENTS

Application (including site plans and letter)

CITY OF EDGERTON, KANSAS
APPLICATION FOR CONDITIONAL USE PERMIT

Please print or type

REQUESTING CONDITIONAL USE PERMIT FOR: UPS (IP 21) Gravel Trailer Lot

LOCATION OR ADDRESS OF SUBJECT PROPERTY: NE Quadrant of IP 21 (see attached exhibit) - 19400 Essex St., Edgerton, KS

LEGAL DESCRIPTION: See attached exhibit and legal description

ZONING ON SUBJECT PROPERTY: LP CURRENT LAND USE: LP

PROPERTY OWNER'S NAME(S): ELHC XXI, LLC PHONE: 816-888-7380

COMPANY: ELHC XXI, LLC FAX: 816-888-7399

MAILING ADDRESS: 4825 NW 41st Street, Suite 500, Riverside, MO 64150
STREET CITY STATE ZIP

APPLICANT/AGENT'S NAME(S): ELHC XXI, LLC PHONE: 816-888-7380

COMPANY: ELHC XXI, LLC FAX: 816-888-7399

MAILING ADDRESS: 4825 NW 41st Street, Suite 500, Riverside, MO 64150
STREET CITY STATE ZIP

ENGINEER/ARCHITECT'S NAME(S): Renaissance Infrastructure Consulting PHONE: 816-800-0950

COMPANY: Renaissance Infrastructure Consulting FAX: _____

MAILING ADDRESS: 5015 NW Canal St, #100 Riverside MO 64150
STREET CITY STATE ZIP



SIGNATURE OF OWNER OR AGENT: _____
If not signed by owner, authorization of agent must accompany this application.

FOR OFFICE USE ONLY

Case No.: CU-2017-02 Amount of Fee Paid: \$ 250⁰⁰ Date Fee Paid: 7-19-17 CC 63195489

Received By: Wesley A. Hagg Date of Hearing: 08-08-2017

Legal Description
UPS (IP XXI) Gravel Storage Lot - Conditional Use Permit

A tract of land in the Northeast Quarter of Section 4, Township 15 South, Range 22 East, in the City of Edgerton, Johnson County, Kansas being more particularly described as follows:

Commencing at the Northwest corner of the Northeast Quarter of said Section 4; thence North 88°33'29" East, along the North line of said Northeast Quarter, a distance of 1317.05 feet; thence departing said section line, South 2°10'17" East, a distance of 1402.80 feet to the Point of Beginning; thence South 23°19'09" East, a distance of 172.28 feet; thence South 87°59'21" West, a distance of 257.20 feet; North 71°25'31" West, a distance of 282.28 feet; thence North 82°25'18" West, a distance of 120.03 feet; thence North 10°06'32" East, a distance of 308.85 feet; thence South 76°14'07" East, a distance of 491.96 feet; thence South 14°48'05" East, a distance of 66.64 feet; thence South 23°19'09" East, a distance of 66.52 feet to the Point of Beginning. Containing 172.650 square feet, or 3.963 acres, more or less.

July 6, 2017

Beth Linn, City Administrator
City of Edgerton, KS
404 East Nelson
Edgerton, KS 66021

Re: Conditional Use Permit Request – Trailer Storage Gravel Lot
United Parcel Service – Inland Port XXI

Mrs. Linn:

As announced last month, United Parcel Service (UPS) has leased Inland Port XXI. This project is part of UPS's expansion plans in the Kansas City area. As noted in a recent press release, Fern Shaw, president of UPS's Central Plains District, said the "Edgerton location is at the center of the UPS network and enables the Fortune Top 50 company to keep packages moving in all directions across the country. New technologies will give our people training and opportunity to make processing accuracy a hallmark and expand what we offer businesses and consumer who are benefiting from e-commerce growth."

To support their expected growth and operations, UPS has requested the opportunity to expanded their planned truck court with a gravel lot. The gravel lot would be located north of the truck court and south of the existing creek present (and will remain) on the property. The planned expansion area is illustrated on the attached exhibit. UPS would prefer to start storing trucks as soon as agreeable by the City of Edgerton.

UPS would benefit from the excess storage lot during the holiday season and the ramp up period prior to the holiday season. UPS is requesting a minimum 1-year and up to a 3-year use period. If the initial use period is limited to less than 3 years, UPS respectfully requests the opportunity to resubmit the Conditional Use Permit application for 6-month extensions to the approved permit duration period.

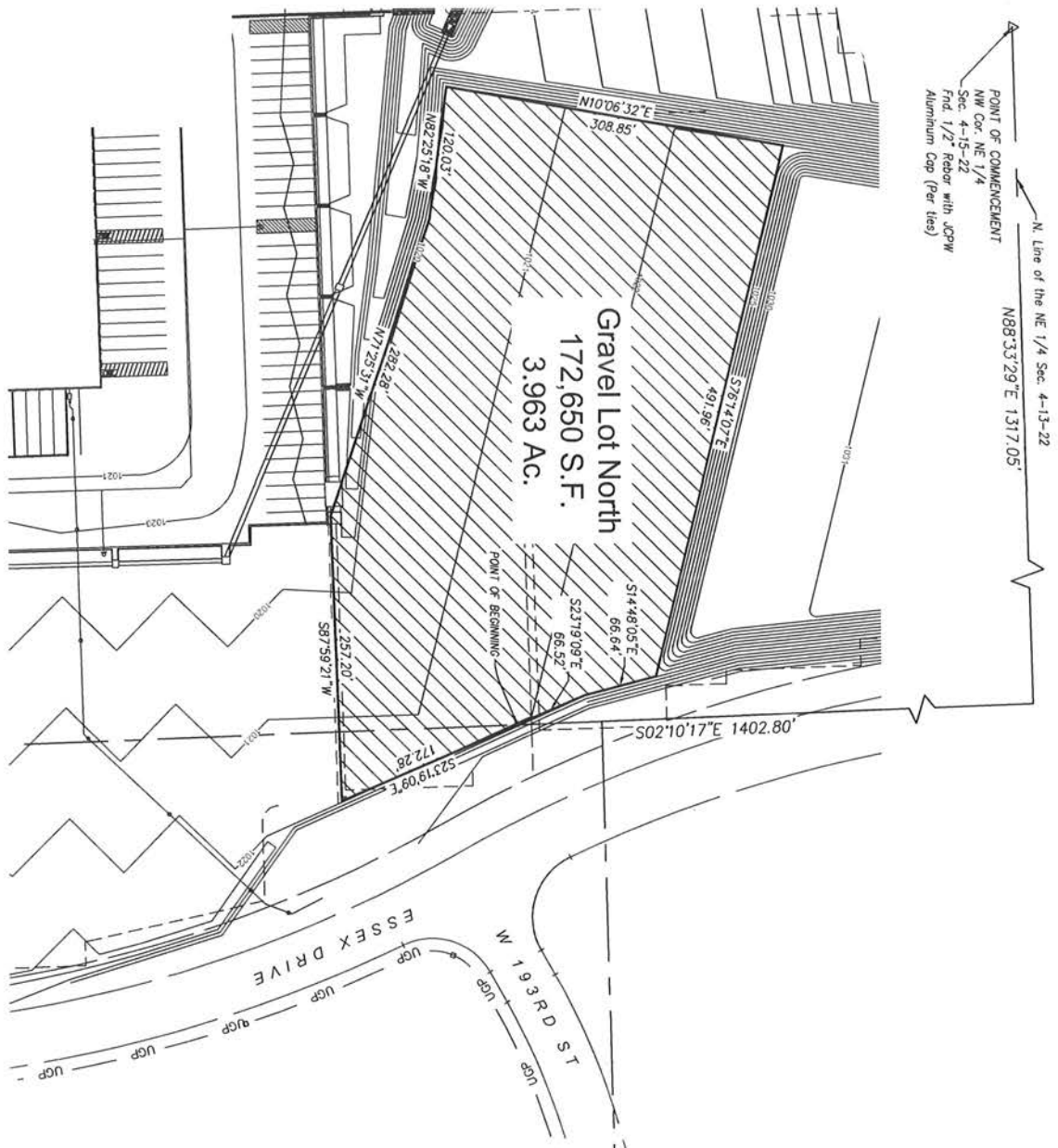
Thank you for your consideration of this Conditional Use Permit request on behalf of UPS.

Sincerely,



John Thomas
VP of Development

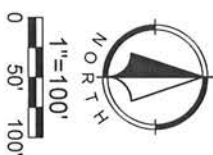
Attachments: IP XXI – Gravel Lot location Diagram, Legal Description, Legal Depiction
cc: Mr. Kenny Wiseman – City Inspector



DESCRIPTION

A tract of land in the Northeast Quarter of Section 4, Township 15 South, Range 22 East, in the City of Edgerton, Johnson County, Kansas being more particularly described as follows:

Commencing at the Northwest corner of the Northeast Quarter of said Section 4; thence North 88°33'29" East, along the North line of said Northeast Quarter, a distance of 1317.05 feet; thence departing said section line, South 2°10'17" East, a distance of 1402.80 feet to the Point of Beginning; thence South 23°19'09" East, a distance of 172.28 feet; thence South 87°59'21" West, a distance of 257.20 feet; North 71°25'31" West, a distance of 120.03 feet; thence North 82°25'18" West, a distance of 308.85 feet; thence North 10°06'32" East, a distance of 491.96 feet; thence South 76°14'07" East, a distance of 491.96 feet; thence South 14°48'05" East, a distance of 66.52 feet; thence South 23°19'09" East, a distance of 66.52 feet to the Point of Beginning. Containing 172,650 square feet, or 3.963 acres, more or less.



ORIGINAL PREPARATION		REVISION
NO.	DATE	

Inland Port XXI

Gravel Lot North