

**EDGERTON CITY COUNCIL
MEETING AGENDA
CITY HALL, 404 EAST NELSON STREET
July 11, 2024
7:00 P.M.**

Call to Order

1. Roll Call

_____ Roberts _____ Longanecker _____ Lewis _____ Lebakken _____ Malloy _____ 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. Approve Minutes from July 2, 2024 Special City Council Meeting

5. Approve Final Acceptance of the Design/Build of the Skate Park for Glendell Acres Park Improvements

Motion: _____ Second: _____ Vote: _____

Regular Agenda

6. **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.

7. **Public Comments.** The City of Edgerton encourages public participation in local governance issues. To facilitate an efficient and effective meeting, persons wishing to address the City Council must sign-up before the meeting begins. Speakers must provide their name and address for the record and are limited to three (3) minutes. The maximum time limit for all speakers will be thirty (30) minutes. Comments on personnel matters or matters pending before court/other outside tribunals are not permitted. Any comments are for informational purposes only. No action will be taken.

The Mayor may modify these provisions, as necessary. The Mayor may limit any unnecessary, off-topic, or redundant comments or presentations. Speakers should address their comments to City Council members only and should not speak to fellow audience members. City Council members will not engage in a dialogue or debate with speakers. Speakers and audience members should conduct themselves in a civil and respectful manner. Disruptive conduct may result in removal from the meeting.

8. **Presentation.** 2024 ETC Citizen Survey Results

Business Requiring Action

9. **CONSIDER RESOLUTION NO. 07-11-24A PROVIDING FOR A HEARING TO DISCUSS A POSSIBLE DANGEROUS AND UNSAFE BUILDING EXISTING AT 301 E. 5TH STREET IN THE CITY OF EDGERTON, JOHNSON COUNTY, KANSAS PURSUANT TO CITY OF EDGERTON MUNICIPAL CODE, CHAPTER IV, ARTICLE 4, SECTION 4-1105**

Motion: _____ Second: _____ Vote: _____

10. **CONSIDER AMENDMENT TO THE COOPERATION AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS FOR RENEWING PARTICIPATION IN THE JOHNSON COUNTY URBAN COUNTY FOR PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME INVESTMENT PARTNERSHIPS (HOME), AND EMERGENCY SOLUTIONS GRANT (ESG)**

Motion: _____ Second: _____ Vote: _____

11. **CONSIDER ORDINANCE NO. 2162 AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN THE CITY OF EDGERTON, KANSAS AND THE STATE OF KANSAS, ACTING BY AN THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS WATER POLLUTION CONTROL REVOLVING FUND FOR THE PURPOSE OF FINANCING A WASTEWATER TREATMENT PROJECT; ESTABLISHING A DEDICATED REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE LOAN AGREEMENT.**

Motion: _____ Second: _____ Vote: _____

12. **Report by the City Administrator**

- Senior Property Tax Rebate and HOME Improvements Grant Update
- Update on 312 E 5th St.
- Utilities Quarterly Update
- Municipal Court Update
- Johnson County Sheriff's Office Update

13. **Report by the Mayor**

14. **Future Meeting Reminders:**

- July 18: Budget Work Session – 7:00 PM
- July 25: City Council Meeting – 7:00 PM
- August 8: City Council Meeting – 7:00 PM
- August 13: Planning Commission – 7:00 PM
- August 22: City Council Meeting – 7:00 PM

15. **CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO THE ATTORNEY/CLIENT EXCEPTION TO INCLUDE CITY ATTORNEY AND CITY ADMINISTRATOR FOR DISCUSSIONS RELATED TO ACQUISITION OF REAL PROPERTY (K.S.A. 75- 4319(B)(6))**

Motion: _____ Second: _____ Vote: _____

16. **Adjourn** Motion: _____ Second: _____ Vote: _____

EVENTS

7/13: Puzzle Palooza
7/17: Senior Lunch
7/18: Culinary Kids: Chocolate Chip Cookies
7/19: Coloring Cafe
7/19: Outdoor Movie Night: Ghostbusters Frozen Empire
7/22: Fun in the Sun
7/24: Dog Bite Prevention Class
7/25: Crafty Kids: Paint Pouring

City of Edgerton, Kansas
Minutes of City Council Special Session
July 2, 2024

A Special Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas July 2, 2024. The meeting convened at 5:00PM with Mayor Donald Roberts presiding.

1. ROLL CALL

Clay Longanecker	present
Josh Lewis	present
Deb Lebakken	present
Bill Malloy	present
Ron Conus	present

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator, Beth Linn
- City Clerk, Alex Clower
- Assistant to the City Administrator, Kara Banks
- Public Works Director, Dan Merkh
- Public Work Superintendent, Trey Whitaker
- Parks and Recreation Director, Levi Meyer
- CIP Project Manager, Holly Robertson
- Development Services Director, Zach Moore

2. WELCOME. Mayor Roberts welcomed all in attendance.

3. PLEDGE OF ALLEGIANCE. All present participated in the Pledge of Allegiance.

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

4. Approve Minutes from June 13, 2024 Regular City Council Meeting
5. Approve Application FP2024-0001, Final Plat for Replat of Lots 9-12, Block 25, Town of Martin, Located At The Northwest Corner Of E. 4th Street and Hulett Street, Edgerton, Kansas.
6. Approve Application FP2024-0002, Final Plat for Replat of Logistics Park Kansas City – Southeast, Fourth Plat, Located At The Southeast Corner Of W. 191st Street and Montrose Street, Edgerton, Kansas.

Councilmember Lewis moved to approve the Consent Agenda, seconded by Councilmember Conus. The Consent Agenda was approved, 5-0.

Regular Agenda

7. **Declaration.** There were no declarations made.

8. **Public Comments.**

Mr. Bill Lafalce thanked the council for having him and wished everyone a happy and safe 4th of July.

He stated he would like to see about the possibility of having a shred event at future city-wide clean up days. He stated he would also like to address the drainage issue on West 4th. He stated since Bridgewater was established, water run off has been a huge issue in every direction, causing property drainage issues. He stated he had City Public Works staff come out to his property and clear out the drain this morning. He stated he hopes to see some resolution to these problems and see some kind of new drainage solution put in to keep water out. He stated he has invested thousands of dollars into leveling his property and installing French drains, but flooding is still occurring. He added the county assesses his house at \$200,000 but he does not think he could sell it for that amount due to these issues. He stated there is money coming into the City and would like to see it allocated to projects like this.

He stated he would also like to see a Veteran's Monument established. He suggested the City host a contest to get better feedback. He stated this would be a great way to honor our veterans in the community, including the medal of honor recipient from WWI. He would also like to see Rays old gas station dedicated as a historic monument. He added the building looks junky more than ever before and by putting it on the historic register, maybe it could be preserved. He stated Ray was an icon for this town and those that have been here know how important he is to this community.

He stated he would like to recognize the tremendous staff the City has, they really do set the standard for excellence. He stated each member of City staff he has worked with has been great help and always kind to him. He stated they deal often with unruly or rude people, so it's nice for them to be recognized for the great work they do and for them to know the community is thankful. He also gave a special mention Charlie Troutner for all the work he does for the museum.

There were no further public comments made.

Mayor Roberts addressed the public comments made by Mr. Lafalce.

He stated in regard to the shred truck, if people in the community are interested in something like this, they should let staff know so that we can consider that through budget talks.

He then addressed the flooding around Mr. Lafalce's home. Mayor Roberts stated stormwater master plan showed that there would need to be approximately \$6 million in repairs throughout the city with a third of that total just around Mr. Lafalce's neighborhood. He stated those types of projects are listed in the CIP list; however, currently none are funded other than some repairs on Second Street for 2025 as road work is being done. He stated he would encourage this issue to be on kept on peoples minds as Council works through the CIP lists.

Ms. Linn stated the CIP Work Session is open to the public to attend, this is usually the second council meeting in October.

Mayor Roberts stated he thinks the Veteran's Monument is a great idea and he for years has tried to convince Eagle Scouts to work on a project for this. He stated the City could then help fund. He stated the sign on the highway was actually started by the mother of Shane Austin; the City did not initiate that project, but did help fund the sign costs when approached. He stated this is something that can be done by anyone, it does not have to be the City to start an item like this.

Ms. Linn stated staff can get Mr. Lafalce the info to start the process.

As to the comments about adding Rays gas station to the historic register, Mayor Roberts stated he is not sure about that process. He stated he does not believe it has to be the owner that does this, anyone can do it. He stated it does not guarantee any maintenance is completed and the designation can increase costs because there are only certain materials, etc. you can use and things you can do. He stated having it as historic though could potentially bring grant money in to help offset costs of maintenance.

He stated he does appreciate Mr. Lafalce expressing his positive comments toward staff. He stated they do not often receive the positive feedback. He believes the City does have a great staff and they do not often get recognized for it.

There were no further public comments made.

9. CONSIDER A CONTRACT WITH ECOTURF PLAYGROUND SURFACING FOR PLAYGROUND AND FITNESS SURFACING OF \$49,582.72 FOR THE GLENDELL ACRES PARK IMPROVEMENTS PROJECT.

Ms. Holly Robertson addressed the Council. She stated in February, City Council approved an update to the project budget and contract with CM Concrete for construction of the improvements at Glendell Acres Park. She stated construction is currently underway and scheduled to be completed later this year.

She stated in May, Council approved a contract with KDHE for the Waste Tire Grant Program where the city was awarded \$24,000, approximately half the cost of supplies, labor, shipping, and equipment for the playground surfacing.

She stated attached is the Ecoturf Playground surfacing contract for \$49,582.72 for the playground surfacing at Glendell Acres. She stated staff recommends contracting directly with Ecoturf to better control the deliverables required by KDHE as part of the loan process. She stated additionally, Ecoturf has experience with project specifications and has worked with the equipment manufacturers. She stated Ecoturf has also worked on projects of similar size and larger, as well as projects that incorporate KDHE funding. She stated CM Concrete also recommends them, having worked with them on past projects.

She stated the cost summary is included in the Council packet. In accordance with the City's purchasing policy, the City Administrator has approved a deduct of \$44,490 from CM Concretes contract for their quoted price of playground resurfacing. She stated this amount is the cost of the playground minus \$5,092.72, which is their cost for administration/scheduling on the project.

With no questions or comments, Mayor Roberts requested motion to approve the contract with Ecoturf for Glendell Acres Park resurfacing for a total cost of \$49,458.72.

Councilmember Longanecker moved to approve, seconded by Councilmember Lebakken. The agreement was approved, 5-0.

10. CONSIDER DESIGNATION OF OFFICIAL CITY NEWSPAPER

Ms. Kara Banks addressed the Council. She stated the City currently designates The Gardner News as its official city newspaper for legal records and notices, however The Gardner News is no longer in operation as of July 1st. She stated the owner, CherryRoad Media, made the announcement on June 27th, stating the paper is not financially viable. She stated in a letter on their website, CherryRoad CEO Jeremy Gulban wrote the paid circulation for the paper was less than 200.

She stated under KSA 12-1651, the City now must designate a new official City newspaper within certain requirements:

1. It must be published at least weekly 50 times per year for at least one year prior to any publication of any official city publication
2. It must be entered at the post office of publication as second-class mail matter
3. More than 50% of the circulation must be sold to the subscribers either on a daily, weekly, monthly or yearly basis
4. It shall have general paid circulation on a daily, weekly, monthly or yearly basis in the county and shall not be a trade, religious or fraternal publication.

She stated under these requirements, the City has two options: the Kansas City Star or the Legal Record. She stated after research, the Legal Record is significantly less expensive for the City, however the subscriber cost is much higher.

She stated the City may have a third option for most legal publications. The KS Attorney General's Office released an opinion last year that allows cities of the second and third class to use Home Rule powers to opt out of the newspaper publication requirements because they are not uniformly applied to cities across the state. She stated the city may then publish official city business on its own website. She stated this does not apply to budget publications or where service by publication requires notice to be published in a newspaper in the county where a lawsuit is filed.

She stated for these reasons, staff is recommending legally required publications and notifications be published in the Legal Record and a new legal record page be created on the City's website.

Councilmember Conus asked if the KC Star or Legal Record will provide news and event coverage for the city.

Ms. Banks stated they will not.

Councilmember Lewis stated social media can be the outlet for that.

Ms. Linn stated having an outside newspaper allows for third party proof of publication and provides that transparency element.

With no further questions or comments, Mayor Roberts requested motion to approve the designation of the Legal Record as the City's official newspaper.

Councilmember Conus moved to approve the motion, seconded by Councilmember Longanecker. The motion was approved, 5-0.

11. Report by the City Administrator

- Right-of-Way Restoration Update

Mr. Whitaker addressed the Council. He stated as of June 17th, Kwikcom is done with their project and is working on wrapping up a few items. NPL, as of today, is working on restoration for vegetation and has filled in the holes. He stated they could potentially wait to complete vegetation portion, so they are not wasting effort. He stated this has been 358 days of staff time working with them and monitoring their efforts.

Mayor Roberts stated would like to add that people often see these projects and think it is the City, but he would like to note that both of these were not City projects. He stated staff does not inspect other projects, we just try to maintain the right of way and it is the individual company's job to remediate what they have touched. He encouraged residents that have had issues to reach out directly to the company.

12. Report by the Mayor

Mayor Roberts stated tomorrow is 3rd of July and encouraged everyone to come to the party. He stated the show is on despite the weather, but there will be no parking on the soccer field, so he heavily encourages people to use the shuttle stops. He stated shuttle will be at the Elementary School and City Hall.

Councilmember Conus thanked Dan Merkh for his tour of the Sewer Plant. He stated he now has a new appreciation for what goes on behind the scenes and how complicated it really is to run the Treatment Plant.

Mayor Roberts stated Edgerton is pretty unique because we have very stringent standards for wastewater.

13. Future Meeting Reminders

Mayor Roberts reminded the Council of the future meetings for the Council and Planning Commission.

14. Adjourn

Councilmember Lewis moved to adjourn, seconded by Councilmember Malloy. The meeting was adjourned at 5:31 PM 5-0.

Submitted by Alexandria Clower, City Clerk

City Council Action Item

Council Meeting Date: July 11, 2024

Department: Public Works

Agenda Item: Consider Final Acceptance of the Design/Build of the Skate Park for Glendell Acres Park Improvements

Background/Description of Item:

On June 8, 2023 City Council authorized a contract with American Ramp Company (ARC) for the design and construction of the skate park element for Glendell Acres Park Improvements Project.

The table below summarizes the original contract amount and a previously approved change order for the placement of additional suitable material and preparation of the skate park subgrade. This contract amount and change order fits within the current budget that includes the waste tire grant received from KDHE and approved by City Council.

Change Order #	Description	Amount	Authority	Approved
	Original Contract	\$160,000	City Council	Yes
Change Order #1	Additional subgrade materials	\$1,845	City Administrator	Yes
	Total	\$161,845		

On June 20th, 2024 a walk-through inspection of the skatepark was performed by City Staff, project inspector, and design team. Some hairline cracking was observed throughout the skate park slab and brought to the attention of ARC. Additionally, a close-out punch list of repairs was submitted to ARC and items were completed for a final walk through on June 21st, excluding the hairline cracking. Due to the small size and lack of displacement of the cracks, the cracks are within the specifications from the original contract with ARC. ARC recommends accepting the work to initiate the warranty period and observe the cracking over the next year for any further cracking or displacement. Attached is the final acceptance documentation and 1-year warranty for the concrete and shotcrete surfaces of the park.

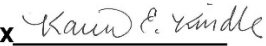
The project inspector completed the final inspection of the punch list noting all items were completed and built according to plans and specifications.

Staff would recommend approval of final acceptance for the skate park design/build contract and authorize final payment to American Ramp Company.

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

Funding Source: Park Impact Fee, General Fund, KDHE Waste Tire Grant

Budget Allocated: \$1,140,867

x 

Finance Director Approval: Karen Kindle, Finance Director

Recommendation: Approve Final Acceptance of the Design/Build of the Skate Park for Glendell Acres Park Improvements and Authorize Mayor to Sign the Final Acceptance Documentation.

Enclosed: Final Acceptance Documentation
Concrete Warranty

Prepared by: Dan Merkh, Public Works Director

601 McKinley
Joplin, MO 64801
Toll-free 877-RAMP-778
Local 417-206-6816
Fax 417-206-6888
sales@americanrampcompany.com



Edgerton, KS
Attn: Holly Robertson
404 East Nelson St.,
Edgerton, KS 66021

SKATEPARK FINAL ACCEPTANCE AND RELEASE OF PAYMENT

1. I am an authorized representative of the City of Edgerton.
2. I have reviewed the construction and installation of the skatepark equipment. On behalf of the City of Edgerton, I acknowledge that it has been built and installed in accordance with the specifications, construction drawings, and contractual requirements.
3. I agree that there are no defects or other issues with the construction and installation.
4. The skatepark project work is hereby accepted by the City of Edgerton, subject to the terms and conditions set forth in the contract between the parties, including the incorporated warranty of American Ramp Company, Inc.
5. I authorize issuance of the final payment for the Edgerton Skate Park.

American Ramp Company, Inc. requires signature of this document to activate your Limited Warranty. Client's return of this form with the required signature is a condition precedent to the Limited Warranty. ARC's receipt of final payment further constitutes Final Acceptance by City of Edgerton.

Signed:

City of Edgerton

Name & Title:

Date:

CONCRETE WARRANTY

1 YEAR LIMITED ON ALL CONCRETE & SHOTCRETE SURFACES

Begins on the date of final project delivery or when the on-site work is complete, under the condition that the skatepark has no defect in material and/or workmanship. Warranty items covered include:

- Spalling attributed to improper floating, finishing, water content or curing methods.
- Compression strength less than required by the specifications.
- Surface cracking greater than the width of two quarters.

Should purchaser believe American Ramp Company has failed to meet the terms of this warranty, they shall notify American Ramp Company, and American Ramp Company shall, at its sole discretion, repair or provide replacement parts. This warranty is exclusive and is in lieu of all other warranties, whether expressed, implied, or statutory.

EXCEPTIONS TO WARRANTY

Concrete by its inherent characteristics develop hairline checks, cracks, discolor, and stain, and therefore will not be covered by this warranty except when such checks or cracks exceed the thickness of two quarters. Damage caused by surface or subterranean drainage under or around said concrete or earth fill movement or expansive soil, explosions, wrecking, and the like. Damage caused by improper landscape drainage, stopped up drain, excessive humidity, or commercial vehicular traffic on flatwork. Damage caused by premature use of the concrete surface by foot traffic, furniture, equipment, or vehicles. Repairs required by normal wear, neglect, abuse, accident, vandalism, use of products other than the intended purpose, and acts of nature or God are not warrantied. The warranty does not cover any modifications, additions, or changes to the skatepark unless approved in writing by American Ramp Company.

DISCLAIMER OF CONSEQUENTIAL DAMAGES

American Ramp Company shall not be held liable to purchaser, purchaser's customers, or other users of the product, or to anyone else for incidental, consequential or any other direct loss or damage or for lost profits or revenues of any kind, arising out of this agreement, whether in any action for or arising out of breach of contract, tort, fraud, or otherwise.

SAFETY

Skatepark surfaces should be inspected regularly by purchaser to ensure that it is safe and in good repair. Should the purchaser neglect any suggested maintenance, this warranty is rendered invalid. Purchaser assumes all liability for site location and any and all problems resulting from such placement (noise, vandalism, traffic, etc.).

PURCHASER _____ REP. _____ DATE _____



City Council Action Item

Council Meeting Date: July 11, 2024

Department: Community Development

Agenda Item: Consider Resolution No. 07-11-24A Providing For A Hearing To Discuss A Possible Dangerous and Unsafe Building Existing At 301 E. 5th Street In The City Of Edgerton, Johnson County, Kansas Pursuant to City of Edgerton Municipal Code, Chapter IV, Article 4, Section 4-1105.

Background/Description of Item:

On June 3, 2024, the City Building Inspector conducted an inspection of the property at 301 E. 5th Street in response to complaints received regarding a vacant and dilapidated structure located at 301 E. 5th Street. The result of this inspection is provided in the inspection report included as Exhibit A.

The Edgerton Municipal Code provides that when it appears to the Public Officer (Building Inspector) that a structure is dangerous, unsafe or unfit for human habitation, they may report such findings to the Governing Body (Municipal Code, Chapter IV, Article 11, Section 4-1104). Upon receipt of this report and pursuant to Municipal Code, Chapter IV, Article 11, Section 4-1105, should the Governing Body of the City of Edgerton find a structure unfit for human use or habitation because of dilapidation, defects, unsanitary conditions, or conditions which provide a general blight upon the neighborhood or surrounding properties, the Governing Body may fix a time and place at which the owner, the owner's agent, any lienholder of record and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished.

Resolution No. 07-11-24A has been prepared pursuant to Chapter 4, Article 11, Section 1105 of the Edgerton Municipal Code to set the date and time for such a hearing. This resolution must be published once each week for two consecutive weeks, and 30 days must elapse between the last publication and the date set for the hearing. Publication of this resolution will occur on July 16th, 2024 and July 23rd, 2024, with a public hearing set for 51 days later of Thursday, September 12, 2024 at 7:00 PM, should this resolution be adopted.

Related Ordinance(s) or Statute(s): Municipal Code Chapter IV, Article 11; KSA 12-1752.

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Adopt Resolution No. 07-11-24A Providing For A Hearing To Discuss A Possible Dangerous and Unsafe Building Existing At 301 E. 5th Street In The City Of Edgerton, Johnson County, Kansas Pursuant to City of Edgerton Municipal Code, Chapter IV, Article 4, Section 4-1105.

Prepared by: Zachary Moore, Development Services Director

Enclosed:

Exhibit A - Building Official's Request for Condemnation/Inspection Report

Exhibit B - Resolution Requesting Public Hearing

EXHIBIT A
BUILDING OFFICIALS REQUEST FOR
CONDEMNATION/INSPECTION REPORT

EXHIBIT B
RESOLUTION ESTABLISHING DATE OF PUBLIC HEARING



Building Official's Request for Condemnation

The City of Edgerton Community Development Department has determined that the following structure is dangerous and unsafe as defined by the Municipal Code and Kansas Statutes Annotated.

Request By: Jim Brown, CBO, LEED Green Associate

Date: 06/21/2024

Address: 301 E 5th Street

KS Uniform Parcel #: 0462030701012001000

City of Edgerton, Kansas.

Legal Description: CITY OF EDGERTON (MARTIN) LTS 1-6 EX PT IN SE CR LT 1 2BLK 22 EDC 355

Occupancy Status: Vacant.

Building Description: Residential building

Zoning: R-1

Appraised value of the structure: \$107,500 (Per Johnson Co. Appraiser's office as of June 2024)

Taxes and other assessments owed: Taxes are current. Not aware of other assessments.

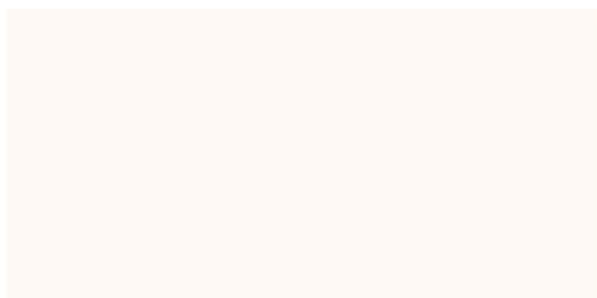
Background:

The structure at 301 E 5th Street is a 1,068 square foot single family structure constructed in 1900. The property is currently zoned R-1 (Single Family Residence District). The property area is .41 acres.

Owner 1: Danny P. O'Neal
26845 W 207th Street
Gardner, KS 66030

Owner 2: Jane A. O'Neal
26845 W 207th Street
Gardner, KS 66030

On June 3, 2024, in response to complaints received involving an unoccupied, vacant and dilapidated structure located at 301 E 5th Street an investigation was carried out. During this investigation, several significant violations were observed and documented as noted in the inspection report (attached).



DANGEROUS STRUCTURES INSPECTION

Municipal Code Chapter IV, Article 11

Following an inspection of the subject property at 301 E. 5th Street, the City Inspector found the following:

1. The structural foundation elements located at the southeast and northeast corners are in extreme disrepair and has reached its limit state. The current condition demonstrates a lack of stability in supporting the imposed loads.
2. The roof structure shows evidence of extreme dilapidation and deterioration.
3. The electrical service is in disrepair whereas the mast and weather head has broken away from the meter base. The electrical meter and housing has been removed. The gas meter has been removed. There is no evidence of active utilities for this structure.
4. The building is vacant, leading to its enticement as an attractive nuisance, which may contribute to harboring of vagrants and other unauthorized persons.
5. In addition to the violations noted on the principal dwelling, there exists a large amount of tree debris in the rear yard.

All dangerous buildings and structures are hereby declared to be a public nuisance and shall be vacated, repaired and/or demolished in accordance with the procedures specified in the Municipal Code and under authority of Kansas Statutes Annotated KSA 12-1750 through 12- 1756a.

RESOLUTION NO. 07-11-24A

A RESOLUTION IN THE CITY OF EDGERTON, KANSAS, ESTABLISHING THE TIME AND PLACE FOR A PUBLIC HEARING TO DETERMINE WHETHER A PROPERTY LOCATED AT 301 EAST 5TH STREET IN THE CITY OF EDGERTON, JOHNSON COUNTY, KANSAS IS A DANGEROUS OR UNSAFE STRUCTURE, PURSUANT TO CITY OF EDGERTON CITY CODE, CHAPTER IV, ARTICLE 11, SECTION 4-1105.

WHEREAS, the Public Officer has filed with the Governing Body a written statement charging that the structure located upon the property at 301 E. 5th Street, Edgerton, Kansas (the "Property"), is, in his determination, unsafe or dangerous; and

BE IT RESOLVED BY THE CITY COUNCIL, CITY OF EDGERTON, JOHNSON COUNTY, KANSAS:

Section 1: That pursuant to Section 4-1105 and K.S.A. 12-1752, the owner, the owner's agent, any lien holders of record and any occupant of the Property may appear and show cause why such structure should not be condemned and ordered repaired or demolished at 7:00 P.M. on September 12, 2024 in the City Council Chambers, 404 East Nelson Street, Edgerton. Kansas.

Section 2: This resolution shall be in full force and effect from and after its adoption by the Governing Body and the City Clerk shall cause it to be published once each week for two consecutive weeks on the same day of each week in the official city newspaper as required by Edgerton Municipal Code Chapter IV, Article 11, Section 4-1106 and K.S.A. 12-1752.

BE IT FURTHER RESOLVED:

That all costs incurred by the City of Edgerton, Kansas, for any repairs, alterations, improvements, vacating, removal, or demolition, including making the site safe shall be assessed against the Property as provided in Section 4-1111 of the City Code. Should those amounts go unpaid, the County Clerk shall extend the same on the tax roll and it shall be collected by the County Treasurer and paid to the City of Edgerton as other City taxes are collected and paid.

PASSED By the City Council on this this 11th day of July, 2024.

APPROVED BY the Mayor on this 11th day of July, 2024

Donald Roberts, Mayor

ATTEST:

Alexandria Clower, City Clerk

APPROVED AS TO FORM:

Lee W. Hendricks, City Attorney

City Council Action Item

Council Meeting Date: July 11, 2024

Department: Public Works

Agenda Item: Consider Amendment to the Cooperation Agreement with the Board of County Commissioners of Johnson County, Kansas for renewing participation in the Johnson County Urban County for participation in the Community Development Block Grant (CDBG), Home Investment Partnerships (HOME), and Emergency Solutions Grant (ESG).

Background/Description of Item:

On March 27th, 2003 the City of Edgerton executed a cooperative agreement by official action of the governing body and Johnson County for the purpose of undertaking essential community revitalization and lower income housing assistance activities, specifically urban renewal and publicly assisting housing funding from annual CDBG and Home program appropriations for which the County qualifies for entitlement from federal programs. The agreement automatically renews at the end of each three-year qualification period. Additionally, as part of the agreement the City acknowledges it is ineligible to apply for grants under the HUD-Administered Small Cities or State CDBG Programs.

Community Development Block Grant (CDBG) – This program provides annual grants on a formula basis to Johnson County who then administers an annual competitive grant for cities and organizations within the County. The selection is based on providing decent housing, a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income people. There is no cost to the City to participate in this program; however, typically matching dollars of 25% to 50% of the projects are used to supplement the annual project costs. The City can request a maximum of \$200,000 over a 2 year period.

HOME Rehabilitation (HOME) – This program assists eligible homeowners in Johnson County with rehabilitation needs of their owner-occupied homes. Health and safety, accessibility and curing local code citations may be addressed through this program. Assistance is provided as a deferred payment plan between the homeowner and the County, there is not cost for the City of Edgerton for residents to participate in the program.

Emergency Solutions Grants (ESG) – Johnson County partners with local homeless assistance agencies to conduct activities like street outreach, emergency shelters,

homelessness prevention, rapid re-housing, and HMIS. There is not cost for the City of Edgerton related to this program.


On June 27th, 2024 Johnson County Planning, Housing & Community Development issued an amendment to the Cooperation Agreement to the City. The amendment is necessary for the County to continue to meet HUD requirements for cooperation agreements for Urban County Qualifications. The agreement amendments are attached and provide updated information for terminating the agreement between the City and County as well as adding code language for Americans with Disabilities Act and Age Discrimination Act per HUD requirements.

Staff would recommend approval of the agreement amendments to ensure continuation and compliance with the County CDBG, HOME, and ESG programs.

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

Funding Source: NA

Budget Allocated: NA

x 

Finance Director Approval: Karen Kindle, Finance Director

Recommendation: Amendment to the Cooperation Agreement with the Board of County Commissioners of Johnson County, Kansas for renewing participation in the Johnson County Urban County for participation in the Community Development Block Grant (CDBG), Home Investment Partnerships (HOME), and Emergency Solutions Grant (ESG).

Enclosed: CDBG HOME Cooperation Agreement Amendment 2
Edgerton Cooperation Agreement 2004-2006

Prepared by: Holly Robertson, P.E. – CIP Project Manager

June 27, 2024

Mayor Donald Roberts
City of Edgerton
404 E. Nelson, PO Box 255
Edgerton, KS 66021

Dear Mayor Roberts:

The Cooperation Agreement between the City and Johnson County for Fiscal Years 2004-2006 contained a provision that both the County and City agreed to "to adopt any amendment(s) to this Agreement incorporating changes that are necessary to meet HUD requirements for cooperation agreements set forth in any future Urban County Qualification Notice(s) that apply to a subsequent three-year urban county qualification period".

The County must incorporate additional language to provisions V (B) and VII in the Cooperation Agreement detailing specific instructions for if the City or County wish to terminate the agreement the "terminating party shall send a copy of the notice of termination to the HUD field office by the date specified in HUD's Urban County Qualification Notice." The County must also add references to the implementing Code of Federal Regulations citations, as well incorporate the following: Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1974, the Age Discrimination Act of 1975, Section 3 of the Housing and Urban Development Act of 1968.

Due to a timeline established by HUD, we are requesting that the City take action on the amendment as soon as practicable. For the county to satisfy HUD's requirements for requalification, we must receive the executed amendment and a certified copy of the Council Minutes no later than **July 25, 2024**. If you have any questions related to this matter, I can be reached at 913-715-2245 or by email at leslie.davis@jocogov.org.

Thank you for your attention to this matter.

Sincerely,



Leslie Davis
Community Development Coordinator

**AMENDMENT #2 TO CDBG AND HOME COOPERATION AGREEMENT –
PARTICIPATION IN THE JOHNSON COUNTY URBAN COUNTY AND THE
COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT
PARTNERSHIPS PROGRAMS DATED JUNE 5, 2003**

THIS SECOND AMENDMENT to the Cooperation Agreement – Participation in the Johnson County Urban County and Community Development Block Grant (“CDBG”) and HOME Investment Partnerships (“HOME”) dated June 5, 2003 for Federal Fiscal Years 2004-2006, as amended on June 25, 2015 (the “Agreement”), is entered the date of last signature below (the “Effective Date”) by and between the Board of County Commissioners of Johnson County, Kansas, by and through the Planning, Housing, and Community Development Department, a body corporate and political subdivision of the State of Kansas (“County”) and the City of Edgerton (“City”) (collectively, the “Parties”).

RECITALS

- A.** Johnson County, as Lead Entity for the Johnson County Urban County, has entered into a Cooperation Agreement with the City’s for participation in the CDBG and HOME programs.
- B.** On May 6, 2024, the U.S. Department of Housing and Urban Development (“HUD”) issued CPD Notice 24-02 Instructions for Urban County Qualifications for Participation in the Community Development Block Grant (CDBG) Program for Fiscal Years (FYs) 2025-27 (the “Urban County Notice”).
- C.** The Urban County Notice requires that subrecipient agreements comply with the federal laws and regulations specified in HUD’s Urban County Notice.
- D.** The Urban County Notice also recommends including a provision that if a party elects to terminates the Agreement at a new qualification period, the terminating party shall send a copy of the notice of termination to the HUD field office by the date specified in HUD’s Urban County Qualification Notice.
- E.** The Parties wish to amend their Agreement to address these two points.

In consideration of the above, the Parties agree to amend the Cooperation Agreement as follows:

- 1.0 Section V(B) of the Cooperation Agreement is amended to add additional language. The new language is in *italics*. Amended Section V(B) shall be and read as follows:

By the date specified in HUD's Urban County Qualification Notice for the next qualification period, the urban county will notify the participating unit of general local government in writing of its right not to participate. *The terminating party shall send a copy of the notice of termination to the HUD field office by the date specified in HUD's Urban County Qualification Notice.*

- 2.0 Section VII of the Cooperation Agreement is amended to add additional language. The Cooperation Agreement is amended to add additional language to VII. Language to be deleted is ~~struck out~~. New language is in *italics*. Amended Section VII shall be and read as follows:

The COUNTY and CITY agree to take all required actions necessary to assure compliance with the COUNTY's urban county certification ~~required by~~ *and*:

- Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, ~~including~~
- Title VI of the Civil Rights Act of 1964, as amended, *(and the implementing regulations at 24 CFR Part 1);*
- the Fair Housing Act, *(Title VIII of the Civil Rights Act of 1968), and the implementing regulations at 24 CFR Part 100 and the duty to affirmatively further fair housing;*
- Section 109 of Title I of the Housing and Community Development Act of 1974 *and the implementing regulations at 24 CFR Part 6, which incorporates:*
 - *Section 504 of the Rehabilitation Act of 1973, and the implementing regulations at 24 CFR Part 8;*
 - *Title II of the Americans with Disabilities Act of 1974, and the implementing regulations at 28 CFR Part 35;*
 - *the Age Discrimination Act of 1975, and the implementing regulations at 24 CFR Part 146; and*

- *Section 3 of the Housing and Urban Development Act of 1968,*
and

- All other applicable laws.

3.0 All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

The Parties have caused their duly authorized representatives to execute the above and foregoing Amendment to the Agreement on the date of last signature below.

**BOARD OF COUNTY COMMISSIONERS OF
JOHNSON COUNTY KANSAS THROUGH
THE DEPARTMENT OF PLANNING,
HOUSING, AND COMMUNITY
DEVELOPMENT**

CITY OF EDGERTON

Printed Name: Donald Roberts
Title: Mayor

Jay C. Leipzig, Director of Planning,
Housing, and Community Development

Date: _____

Date: _____

ATTEST:

ATTEST:

Lynda Sader, Deputy County Clerk

Alexandria Clower, City Clerk

APPROVED AS TO FORM

APPROVED AS TO FORM



Betsey Lasister, Ass't County Counselor

Lee Hendricks, City Attorney

COOPERATION AGREEMENT

A COOPERATION AGREEMENT BETWEEN THE CITY OF EDGERTON, KANSAS AND THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS, FOR THE PURPOSE OF RENEWING PARTICIPATION IN THE JOHNSON COUNTY URBAN COUNTY FOR PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAMS BEGINNING WITH FEDERAL FISCAL YEARS 2004, 2005, 2006.

THIS AGREEMENT is made and entered into by and between the **BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS**, hereinafter referred to as "COUNTY" and the **CITY OF EDGERTON, KANSAS**, hereinafter referred to as "CITY", each party having been duly organized and now existing under the laws of the State of Kansas.

WITNESSETH:

WHEREAS, the parties hereto have determined that it is in the best interests of the public health, safety and welfare to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing; and

WHEREAS, the U.S. Department of Housing and Urban Development, hereinafter referred to as "HUD", has determined that the COUNTY is eligible to conduct essential community development and housing assistance activities and qualify for an entitlement Community Development Block Grant as an urban county beginning with Federal Fiscal Years 2004, 2005, 2006; and

WHEREAS, the CITY is a unit of general local government located within the COUNTY and desires to be eligible for participation in the COUNTY's Community Development Block Grant, hereinafter referred to as "CDBG Program" and HOME Investment Partnerships Program,

hereinafter referred to as "HOME Program", during the COUNTY's urban county qualification period; and

WHEREAS, K.S.A. 12-2908, and amendments thereto, authorizes the parties hereto to cooperate in such governmental undertaking; and

WHEREAS, the governing bodies of each of the parties hereto have determined to enter into this Agreement for the aforesaid public purpose and undertaking as authorized and provided for by K.S.A. 12-2908, and amendments thereto; and

WHEREAS, the governing body of the CITY did approve and authorize its mayor to execute this agreement by official action of said governing body on the 27th of MARCH, 2003; and

WHEREAS, the governing body of the COUNTY did approve and authorize its chairman to execute this Agreement by official action of said governing body on the 5 of JUNE, 2003.

NOW, THEREFORE, in consideration of the above and foregoing recitals, the mutual covenants and agreements herein contained, and for the other good and valuable considerations, the parties hereto agree as follows:

I. PURPOSE

The COUNTY and CITY hereby expressly agree that the purpose of this Agreement is to cooperate to undertake, or assist in undertaking, essential community revitalization and lower income housing assistance activities, specifically urban renewal and publicly assisted housing, funded from annual CDBG Program and HOME Program appropriations for the federal fiscal years for which the COUNTY qualifies for entitlement as an urban county and from any program income generated from the expenditure of such funds.

II. URBAN COUNTY QUALIFICATION

The COUNTY and CITY acknowledge that HUD has notified the COUNTY that:

- A. The COUNTY may qualify for "urban county status" under the CDBG Program of the Housing and Community Development Act of 1974 (ACT), as amended, and the HOME Program authorized by Title II of the Cranston-Gonzales National Affordable Housing Act (ACT) of 1990 (42 U.S.C. 12701 et seq.); and
- B. That such qualification would make the COUNTY eligible to receive a CDBG Program and HOME Program entitlement under these ACTS for the triennial federal fiscal period beginning Federal Fiscal Years 2004, 2005, 2006.

III. NOTIFICATION OF ELIGIBILITY

The CITY represents that the COUNTY has notified the CITY, in writing, of its intention to seek qualification for CDBG Program and HOME Program entitlement funding as an urban county; and that such notification advised the City:

- A. That the CITY was eligible to elect to have its population excluded from that of the urban county for the purposes of the CDBG Program and HOME Program; and
- B. That the CITY's election or failure to make an election shall be effective for the full three year period for which the COUNTY qualifies to receive a CDBG Program and HOME Program entitlement as an urban county under the ACTS; and
- C. That the CITY, in becoming part of the urban county, would not be eligible to apply for grants under the HUD-Administered Small Cities or State CDBG programs while the CITY is a part of the urban county; and
- D. That the CITY, in becoming a part of the urban county, automatically participates in the HOME Program if the urban county receives HOME Program funding, although this

does not preclude the urban county or a unit of local government within the urban county from applying for State HOME funds.

IV. PERIOD OF QUALIFICATION

- A.** The COUNTY and CITY acknowledge that the COUNTY's qualification by HUD as an urban county shall remain effective for three (3) consecutive Federal Fiscal years, 2004, 2005, 2006, regardless of changes in its population or boundary or population changes in any communities contained within the urban county during that period, except as otherwise provided by 24 C.F.R. Part 570.307(f).
- B.** The COUNTY and CITY acknowledge that, for grant calculation purposes, during the period of urban county qualification, the CITY, as an included unit of general local government, may not withdraw from the urban county unless the COUNTY does not receive a grant for any year during such period of qualification.
- C.** The COUNTY and CITY acknowledge that any unincorporated portion of the county that incorporates during the urban county qualification period will remain part of the urban county through the end of the three-year qualification period.
- D.** The CITY further understands and acknowledges that it is ineligible to apply for grants under the HUD-Administered Small Cities or State CDBG Programs during the period in which it is participating with the COUNTY under the CDBG Program of the ACT.
- E.** The CITY also understands that it will be a participant in the COUNTY's HOME Program and may not participate in a HOME consortium except through the urban county, regardless of whether the urban county receives a HOME Program formula allocation. This does not preclude the urban county or a unit of local government participating with the urban county from applying for State HOME Program funds.

- F. The CITY understands and acknowledges that it will continue to be included in the urban county for the urban count's qualification period, even if its population surpasses 50,000 during that period and that it cannot become eligible for an entitlement grant as a metropolitan city while participating in the COUNTY's triennial period of qualification as an urban county under the ACT.

V. AUTOMATIC RENEWAL PROVISION

- A. The COUNTY and CITY agree that this agreement will renew automatically at the end of each three-year qualification period, unless the county or the participating unit of general local government provides written notice it elects not to participate in a new qualification period.
- B. By the date specified in HUD's Urban County Qualification Notice for the next qualification period, the urban county will notify the participating unit of general local government in writing of its right not to participate.
- C. The COUNTY and CITY agree:
1. To adopt any amendment(s) to this Agreement incorporating changes that are necessary to meet HUD requirements for cooperation agreements set forth in any future Urban County Qualification Notice(s) that apply to a subsequent three-year urban county qualification period; and
 2. To submit such amendment(s) to HUD as provided in the applicable Urban County Qualification Notice; and
 3. That failure to comply with these requirements shall void the automatic renewal for such qualification period.

VI. RESPONSIBILITIES

For the duration of this Agreement the COUNTY and CITY agree:

- A. That the COUNTY is authorized to carry out any and all activities which shall receive federal funding from the annual CDBG Program and HOME Program for Federal Fiscal Years 2004, 2005 and 2006, and during each triennial period thereafter, and
- B. That the COUNTY has ultimate responsibility for selecting activities under the CDBG Program and HOME Program, and
- C. That the COUNTY is responsible for annually submitting the Johnson County Consolidated Plan or Annual Action Plan, and all other reports as required by HUD; and
- D. That the COUNTY, as the CDBG grant recipient for the urban county, has full responsibility for the execution of the community development program, for following its Consolidated Plan, and for meeting the requirements of other applicable laws.

VII. REQUIRED ACTIONS

The COUNTY and CITY agree to take all required actions necessary to assure compliance with the COUNTY's urban county certification required by Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, as amended, the Fair Housing Act, Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, and all other applicable laws.

VIII. FAIR HOUSING ACTIVITIES

- A. The COUNTY and CITY acknowledge and agree that the COUNTY and CITY are required to take steps to affirmatively further fair housing.
- B. The COUNTY and CITY acknowledge and agree that urban county CDBG Program and HOME Program funding shall not be permitted or made available for activities in or in

support of the CITY if it is determined that the CITY does not affirmatively further fair housing within its own jurisdiction or impedes the COUNTY's actions to comply with its fair housing certification.

IX. CIVIL RIGHTS POLICIES

The COUNTY and CITY acknowledge and represent to the other that they have adopted and are enforcing the following policies:

- A. A policy prohibiting the use of excessive force by law enforcement agencies within their respective jurisdictions against any individuals engaged in non-violent civil rights demonstrations; and
- B. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within the jurisdiction.

X. REQUIREMENTS APPLICABLE TO SUBRECIPIENTS

The COUNTY and CITY acknowledge and agree that, pursuant to 24 C.F.R. 570.501(b), the CITY shall be subject to the same requirements applicable to subrecipients, including the requirement for a written agreement as set forth in 24 CFR 570.503.

XI. CONSOLIDATED PLAN

- A. The COUNTY and CITY acknowledge and understand that a Consolidated Plan including a comprehensive affordable housing strategy is required of the COUNTY, as an urban county, and that the Consolidated Plan must be submitted to and approved by HUD.

- B. The COUNTY and CITY agree that neither party, during the period covered by this Agreement, shall obstruct the implementation of the Consolidated Plan as approved by HUD.

XII. DURATION OF AGREEMENT

- A. The COUNTY and CITY acknowledge that this Agreement shall remain in full force and effect for the period beginning with Federal Fiscal Year 2004 until CDBG Program and HOME Program funds and program income received with respect to activities carried out during the three-year qualification period, and any successive periods thereafter, are expended and the funded activities are completed.
- B. The COUNTY and CITY agree that for the duration of each urban county qualification period covered by this Agreement, neither party may terminate, cancel, withdraw from, or, in any way, impair this Agreement.

XIII. LEGAL AUTHORITY

The COUNTY represents that counsel for the COUNTY has reviewed the terms and provisions of this Agreement, and amendments thereto, and that said counsel has determined that the terms and provisions of this Agreement are fully authorized under State law, as provided by K.S.A. 12-2908, as well as local law, and that the Agreement provides full legal authority for the COUNTY to undertake, or assist in undertaking, essential community development and housing assistance activities, specifically urban renewal and publicly assisted housing, consistent with the CDBG Program and HOME Program.

IN WITNESS WHEREOF, the parties hereto have caused the above and foregoing Cooperation Agreement to be executed in triplicate by their respective and duly authorized officers.

CITY OF EDGERTON, KANSAS

Frances M. Cross
Mayor

ATTEST

Beta M. Moore
City Clerk

APPROVED AS TO FORM:

M. L. Davis
City Attorney



ATTEST:

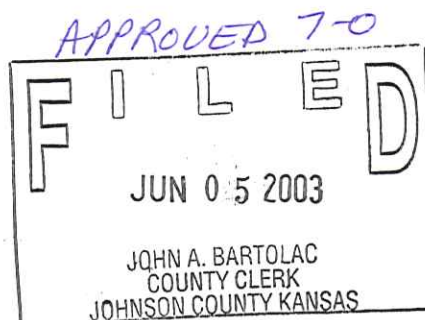
John A. Bartolac
John A. Bartolac
County Clerk

APPROVED AS TO FORM:

Nicholas Saldan
Nicholas Saldan
Deputy County Counselor

BOARD OF COUNTY COMMISSIONERS
OF JOHNSON COUNTY, KANSAS

Annabeth Surbaugh
Annabeth Surbaugh, Chairman



City Council Action Item

Council Meeting Date: July 11, 2024

Department: Utilities

Agenda Item: Consider Ordinance No. 2162 Authorizing The Execution Of A Loan Agreement Between The City Of Edgerton, Kansas And The State Of Kansas, Acting By An Through The Kansas Department Of Health And Environment For The Purpose Of Obtaining A Loan From The Kansas Water Pollution Control Revolving Fund For The Purpose Of Financing A Wastewater Treatment Project; Establishing A Dedicated Revenue For Repayment Of Such Loan; Authorizing And Approving Certain Documents In Connection Therewith; And Authorizing Certain Other Actions In Connection With The Loan Agreement.

Background/Description of Item:

On October 26, 2023, City Council approved the resolution to apply for SRF funding, additionally a public hearing was held for the Dwyer Sanitary Sewer Extension Project to be funded by the Kansas Water Pollution Control Revolving Fund through the Kansas Department of Health and Environment (KDHE). The project and anticipated funding sources were presented in the public hearing as a requirement of the loan application. City Staff worked with KDHE throughout the loan review process and received notice at the end of June 2024 that the loan was approved.

The Dwyer Sewer Project includes constructing approximately 1,800 linear feet of 18-inch sanitary sewer to serve the Dwyer Farms new residential development and large watershed (Site #1). To serve this development, the City of Edgerton will also improve the City Pump Station to install an equalization basin, construct a 30-inch gravity main at the City Pump Station, and upsize approximately 245 linear feet of existing 8-inch sanitary sewer (Site #2). Additional improvements to accommodate the Dwyer Farms development are expected at the Big Bull Creek Wastewater Treatment (BBCWWTP) Plant including SCADA upgrades and replacement of aged equipment (Site #3).

The proposed improvements to Edgerton's Wastewater System for the Dwyer Sewer Project are estimated to be \$5,000,000.00 and will be funded under the low interest Kansas Water Pollution Control Revolving Fund Program through the Kansas Department of Health and Environment (KDHE). The loan repayment will be made with Rural Housing Incentive District (RHID) funds generated by Dwyer Farms Development.

On July 5, 2024 the loan agreement between the Kansas Department of Health and Environment Acting on Behalf of the State of Kansas and the City of Edgerton, Kansas for KWPCRF Project No. C20 3097 01 was received. Enclosed is Ordinance No. 2162 entitled:

An ordinance authorizing the execution of a loan agreement between the City of Edgerton, Kansas and the State of Kansas, acting by and through the Kansas Department of Health and Environment for the purpose of obtaining a loan from the Kansas Water Pollution Control Revolving Fund for the purpose of financing a wastewater treatment project; establishing a dedicated revenue for repayment of such loan; authorizing and approving certain documents in connection therewith; and authorizing certain other actions in connection with the loan agreement.

Adoption of this Ordinance will authorize execution of the Loan Agreement under the Kansas Water Pollution Control Revolving Fund Act. City Staff recommends adoption of the draft Ordinance No. 2162 as provided by KDHE pending approval of the City Attorney.

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

Funding Source: SRF Loan, RHID

Budget Allocated: \$5,000,000

Finance Director Approval: 
Karen Kindle, Finance Director

Recommendation: Approve Ordinance No. 2162 Authorizing The Execution Of A Loan Agreement Between The City Of Edgerton, Kansas And The State Of Kansas, Acting By And Through The Kansas Department Of Health And Environment For The Purpose Of Obtaining A Loan From The Kansas Water Pollution Control Revolving Fund For The Purpose Of Financing A Wastewater Treatment Project; Establishing A Dedicated Revenue For Repayment Of Such Loan; Authorizing And Approving Certain Documents In Connection Therewith; And Authorizing Certain Other Actions In Connection With The Loan Agreement Subject to City Attorney Approval.

Enclosed: Ordinance No. 2162
Loan Agreement

Prepared by: Holly Robertson, PE – CIP Project Manager

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN THE CITY OF EDGERTON, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS WATER POLLUTION CONTROL REVOLVING FUND FOR THE PURPOSE OF FINANCING A WASTEWATER TREATMENT PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE LOAN AGREEMENT.

WHEREAS, the Federal Water Quality Act of 1987 (the "Federal Act") established revolving fund program for public wastewater treatment systems to assist in financing the costs of infrastructure needed to achieve or maintain compliance with the Federal Act and to protect the public health and authorized the Environmental Protection Agency (the "EPA") to administer a revolving loan program operated by the individual states; and

WHEREAS, to fund the state revolving fund program, the EPA will make annual capitalization grants to the states, on the condition that each state provide a state match for such state's revolving fund; and

WHEREAS, by passage of the Kansas Water Pollution Control Revolving Fund Act, K.S.A. 65-3321 through 65-3329, inclusive (the "Loan Act"), the State of Kansas (the "State") has established the Kansas Water Pollution Control Revolving Fund (the "Revolving Fund") for purposes of the Federal Act; and

WHEREAS, under the Loan Act, the Secretary of the Kansas Department of Health and Environment ("KDHE") is given the responsibility for administration and management of the Revolving Fund; and

WHEREAS, the Kansas Development Finance Authority (the "Authority") and KDHE have entered into a Master Financing Indenture (the "Master Indenture") pursuant to which KDHE agrees to enter into Loan Agreements with Municipalities for public wastewater treatment projects (the "Projects") and to pledge the Loan Repayments (as defined in the Master Indenture) received pursuant to such Loan Agreements to the Authority; and

WHEREAS, the Authority is authorized under K.S.A. 74-8905(a) and the Loan Act to issue revenue bonds (the "Bonds") for the purpose of providing funds to implement the State's requirements under the Federal Act and to loan the same, together with available funds from the EPA capitalization grants, to Municipalities within the State for the payment of Project Costs (as said terms are defined in the Loan Act); and

WHEREAS, the City of Edgerton, Kansas (the "Municipality") is a municipality as said term is defined in the Loan Act which operates a wastewater collection and treatment system (the "System"); and

WHEREAS, the System is a public Wastewater Treatment Works, as said term is defined in the Loan Act; and

WHEREAS, the Municipality has, pursuant to the Loan Act, submitted an Application to KDHE to obtain a loan from the Revolving Fund to finance the costs of improvements to its System consisting of the following:

Construction of a project to install a sewer main extension, provide improvements at the City Pump Station to utilize an equalization basin, installation of a new gravity main to flow to the new equalization basin, repair/replacement of existing components at the City's wastewater treatment plant (WWTP) to address aging infrastructure, and updates to the City's SCADA system (the "Project"); and

WHEREAS, the Municipality has taken all steps necessary and has complied with the provisions of the Loan Act and the provisions of K.A.R. 28-16-110 to 28-16-138 (the "Regulations") applicable thereto necessary to qualify for the loan; and

WHEREAS, KDHE has informed the Municipality that it has been approved for a loan in amount of not to exceed \$5,000,000 (the "Loan") in order to finance the Project; and

WHEREAS, the governing body of the Municipality hereby finds and determines that it is necessary and desirable to accept the Loan and to enter into a loan agreement and certain other documents relating thereto, and to take certain actions required in order to implement the Loan Agreement.

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

Section 1. Authorization of Loan Agreement. The Municipality is hereby authorized to accept the Loan and to enter into a certain Loan Agreement, with an effective date of June 25, 2024, with the State of Kansas acting by and through the Kansas Department of Health and Environment (the "Loan Agreement") to finance the Project Costs (as defined in the Loan Agreement). The Mayor and Clerk are hereby authorized to execute the Loan Agreement in substantially the form presented to the governing body this date, with such changes or modifications thereto as may be approved by the Mayor and the City Attorney, the Mayor's execution of the Loan Agreement being conclusive evidence of such approval.

Section 2. Establishment of Dedicated Source of Revenue for Repayment of Loan. Pursuant to the Loan Act, the Municipality hereby establishes a dedicated source of revenue for repayment of the Loan. In accordance therewith, the Municipality shall impose and collect such rates, fees and charges for the use and services furnished by or through the System, including all improvements and additions thereto hereafter constructed or acquired by the Municipality as will provide System Revenues or levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce amounts which are sufficient to (a) pay the cost of the operation and maintenance of the System, (b) pay the principal of and interest on the Loan as and when the same become

due, and (c) pay all other amounts due at any time under the Loan Agreement; provided, however, no lien or other security interest is granted by the Municipality to KDHE on the System Revenues under this Agreement. In the event that the System Revenues are insufficient to meet the obligations under the Loan and the Loan Agreement, the Municipality shall levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce the amounts necessary for the prompt payment of the obligations under the Loan and Loan Agreement.

In accordance with the Loan Act, the obligations under the Loan and the Loan Agreement shall not be included within any limitation on the bonded indebtedness of the Municipality.

Section 3. Further Authority. The Mayor, Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 4. Governing Law. The Ordinance and the Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

Section 5. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City and publication in the official City newspaper.

PASSED by the governing body of the City on [Ordinance Date] and [signed][and **APPROVED**] by the Mayor.

(SEAL)

Mayor

ATTEST:

Clerk

[APPROVED AS TO FORM ONLY.]

[City Attorney]

LOAN AGREEMENT

Between

THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
ACTING ON BEHALF OF
THE STATE OF KANSAS

AND

CITY OF EDGERTON, KANSAS
KWPCRF PROJECT NO.: C20 3097 01

EFFECTIVE AS OF JUNE 25, 2024

The interest of the Kansas Department of Health and Environment ("KDHE") in the Loan Repayments to be made by the Municipality and certain other revenues (the "Revenues") under this Loan Agreement have been pledged and assigned to the Kansas Development Finance Authority (the "Authority") pursuant to a Master Financing Indenture, between KDHE and the Authority. The interest of the Authority in the Revenues has been pledged as security for the payment of the principal of, redemption premium, if any, and interest on the Authority's Kansas State Revolving Fund Bonds, pursuant to a Master Financing Indenture adopted by the Authority.

LOAN AGREEMENT

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KANSAS WATER POLLUTION CONTROL REVOLVING FUND LOAN AGREEMENT

THIS LOAN AGREEMENT, effective as of June 25, 2024, by and between the KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT ("KDHE"), acting on behalf of THE STATE OF KANSAS (the "State"), and the CITY OF EDGERTON, KANSAS, a "Municipality" according to K.S.A. 65-3321 hereinafter referenced as the "Municipality";

WITNESSETH:

WHEREAS, the Federal Water Quality Act of 1987 (the "Federal Act") established a state revolving fund program as a means to phase-out the Environmental Protection Agency (EPA) construction grants program and replace it with a revolving loan program operated by the individual states; and

WHEREAS, to fund the state revolving fund program, the EPA will make annual capitalization grants to the states (CFDA 66.458), on the condition that each state provide a state match for such state's revolving fund; and

WHEREAS, by passage of the Kansas Water Pollution Control Revolving Fund Act, K.S.A. 65-3321 through 65-3329, inclusive (the "Loan Act"), the State of Kansas (the "State") has established the Kansas Water Pollution Control Revolving Fund (the "Revolving Fund") for purposes of the Federal Act; and

WHEREAS, under the Loan Act, the Secretary (the "Secretary") of the Kansas Department of Health and Environment ("KDHE") is given the responsibility for administration and management of the Revolving Fund; and

WHEREAS, the Secretary, the Kansas Department of Administration, Division of Accounts and Reports ("the DOA"), and the Kansas Development Finance Authority (the "Authority") have entered into an Inter-Agency Agreement effective December 23, 1999, (the "Inter-Agency Agreement"), to define the cooperative relationship between KDHE, DOA, and the Authority, to jointly administer certain provisions of the Loan Act; and

WHEREAS, the Authority and KDHE have supplemented the Inter-Agency Agreement by entering into a Master Financing Indenture, as the same has been amended and may be further amended and supplemented from time to time, (jointly the "Master Indenture"), pursuant to which KDHE agrees to enter into Loan Agreements with Municipalities (as defined in the Loan Act) for Wastewater Treatment Projects (the "Projects") and to pledge the Loan Repayments received pursuant to such Loan Agreements and certain other revenues to the Authority; and

WHEREAS, the Authority is authorized under K.S.A. 74-8905(a) and the Loan Act to issue revenue bonds (the "Bonds") for the purpose of providing funds to implement the State's requirements under the Federal Act and to loan the same, together with available funds from the EPA capitalization grants, to Municipalities within the State for the payment of Project Costs (as said terms are defined in the Loan Act);

WHEREAS, the Municipality has made timely application to KDHE for a Loan to finance all or a portion of the Project Costs; and

WHEREAS, KDHE has approved the Municipality's application for a Loan, subject to the receipt of capitalization grants from the EPA pursuant to the Federal Act and proceeds of the Bonds when issued by the Authority; and

NOW, THEREFORE, for and in consideration of the award of the Loan by KDHE, the Municipality agrees to complete its Project and to perform under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein and attached hereto as a part hereof, as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise or as otherwise defined in the Master Resolution, have the following meanings:

"Act" means the Constitution and laws of the State, including particularly the Loan Act and K.S.A. 74-8905(a), as amended and supplemented.

"Additional Payments" means the payments described in **Section 2.06** hereof.

"Additional Revenue Obligations" means any obligation for the payment of money undertaken by the Municipality which is payable from or secured by a pledge of, or lien upon, the System Revenues incurred after the date of execution and delivery of this Loan Agreement, and all Existing Revenue Obligations.

"Annual Compliance Checklist" means a questionnaire and/or checklist designed to ensure compliance with the requirements related to the use of proceeds of this Loan Agreement, the use of the Financed Facility and the investment of gross proceeds of this Loan Agreement that is completed each year by the Municipality initially in the form set forth in **Exhibit I**.

"Authority" means the Kansas Development Finance Authority, a public body politic and corporate and an instrumentality of the State, and its successors and assigns.

“Authorized Municipality Representative” means any person authorized pursuant to a resolution of the governing body of the Municipality to perform any act or execute any document relating to the Loan, or this Loan Agreement.

“Bonds” means the Kansas Development Finance Authority, Kansas Revolving Funds Revenue Bonds, issued in one or more series pursuant to the Master Indenture, and supplements thereto.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations thereunder promulgated by the Department of the Treasury.

“Continuing Disclosure Undertaking” means, with respect to any series of Bonds, the undertaking or agreement by KDHE and any other parties thereto with respect to continuing disclosure matters within the scope of the SEC Rule.

“Dedicated Source of Revenue” shall have the meaning ascribed thereto in *Exhibit B* attached hereto.

“EPA” means the Environmental Protection Agency of the United States, its successors and assigns.

“Event of Default” means any occurrence of the following events:

(a) failure by the Municipality to pay, or cause to be paid, any Loan Repayment required to be paid hereunder when due;

(b) failure by the Municipality to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a) of this Section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Municipality by KDHE, unless KDHE shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in such notice is correctable but cannot be corrected within the applicable period KDHE may not unreasonably withhold its consent to an extension of such time up to 90 days from the delivery of the written notice referred to above if corrective action is instituted by the Municipality within the applicable period and diligently pursued until the Event of Default is corrected;

(c) failure by the KDHE to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Agreement which shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to KDHE by the Municipality, unless the Municipality shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in such notice is correctable but cannot be corrected within the applicable period the Municipality may not unreasonably withhold its consent to an extension of such time up to 90 days from the delivery of the written notice referred to above if corrective action is instituted by KDHE within the applicable period and diligently pursued until the Event of Default is corrected;

(d) any representation made by or on behalf of the Municipality contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan, is intentionally false or misleading in any material respect;

(e) any representation made by or on behalf of KDHE contained in this Agreement, or in any instrument furnished in compliance with or with reference to this Agreement, is intentionally false or misleading in any material respect;

(f) a petition is filed by or against the Municipality under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Municipality, such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal;

(g) the Municipality shall generally fail to pay its debts as such debts become due;

(h) failure of KDHE to promptly pay any Project Costs when reasonably requested to do so by the Municipality pursuant to **Section 2.03** hereof.

“Existing Revenue Obligation” means any obligation for the payment of money undertaken by the Municipality, which is payable from or secured, by a pledge of, or lien upon, the System Revenues existing or outstanding at the time of execution and delivery of this Loan Agreement by the Municipality.

“Federal Act” means the Federal Water Quality Act of 1987, as amended.

“Federal Tax Regulations” means all regulations issued by the U.S. Treasury Department to implement the provisions of Code §§ 103 and 141 through 150 and applicable to the Bonds.

“Financed Facility” means the portion of the Project consisting of property financed or refinanced with the proceeds of this Loan Agreement as described herein.

“GAAP” means generally accepted accounting principles as applicable to municipal utility systems.

“Indebtedness” means any financial obligation of the Municipality evidenced by an instrument executed by the Municipality, including this Loan, Existing Revenue Obligations, Additional Revenue Obligations, general obligation bonds or notes, lease or lease-purchase agreement or similar financial transactions.

“Indenture” means collectively the Master Financing Indenture, dated as of November 1, 2010, among the Authority, KDHE and the trustee named therein, and any supplemental indentures executed from time to time by the Authority, KDHE and the trustee named therein, in accordance with the provisions of the Master Financing Indenture.

“KDHE” means the Kansas Department of Health and Environment or its successors in interest.

“Loan Act” means the Constitution and laws of the State of Kansas, including particularly K.S.A. 65-3321 through 65-3329, inclusive, as amended and supplemented.

“Loan Agreement” means this Loan Agreement, including the Exhibits attached hereto, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

“Loan Repayments” means the payments payable by the Municipality pursuant to **Section 2.05** of this Loan Agreement.

“Loan Terms” means the terms of this Loan Agreement provided in **Article II** hereof.

“Management or Operating Agreement” means a legal agreement with a Non-Qualified User where the Non-Qualified User provides services involving all or a portion of any function of the Financed Facility, such as a contract to manage the entire Financed Facility or a portion of the Financed Facility. However, a contract for services that are solely incidental to the primary governmental function of the Financed Facility (for example, contracts for janitorial, office equipment repair, billing or similar services) is not a Management or Operating Agreement.

“Master Indenture” means the Master Financing Indenture adopted by the Board of Directors of the Authority, as amended and supplemented from time to time by Supplemental Resolutions.

“Municipality” means City of Edgerton, Kansas, its successors and assigns.

“Non-Qualified Use” generally means any use of the Financed Facility in a trade or business carried on by any Non-Qualified User that is different in form or substance to the use made of the Financed Facility by any other member of the general public. The rules set out in Federal Tax Regulations § 1.141-3 determine whether the Financed Facility is “used” in a trade or business. Generally, ownership, a lease, a Management or Operating Agreement or any other use that grants a Non-Qualified User a special legal right or entitlement with respect to the Financed Facility, will constitute use under Federal Tax Regulations § 1.141-3.

“Non-Qualified User” means any person or entity other than a Qualified User.

“Opinion of Bond Counsel” means the written opinion of a firm of nationally recognized Bond Counsel acceptable to the Authority to the effect that the proposed action or the failure to act will not adversely affect the exclusion of the interest on the Bonds from gross income for federal income tax purposes.

“Qualified User” means the City, a State, territory, possession of the United States, the District of Columbia, or any political subdivision thereof, or any instrumentality of such entity, but it does not include the United States or any agency or instrumentality of the United States.

“Project” means the acquisition, construction, improvement, repair, rehabilitation or extension of the System described in **Exhibit A** hereto, which constitutes a project pursuant to the Loan Act for which KDHE is making a Loan to the Municipality pursuant to this Loan Agreement.

“Project Costs” means all costs or expenses which are necessary or incident to the Project and which are directly attributable thereto, including, but not limited to: (a) costs of any Loan reserves; (b) interest on the Loan during the construction of the Project; (c) financing and administrative costs associated with the Loan Agreement; and (d) subject to the approval of Bond Counsel and the Authority, payment of temporary financing obligations issued by the Municipality to pay Project Costs;

“Regulations” means Kansas Administrative Regulations (K.A.R.) 28-16-110 to 28-16-138, and any amendments thereto promulgated by KDHE pursuant to the Loan Act.

“Revolving Fund” means the Kansas Water Pollution Control Revolving Fund established by the Loan Act.

“SEC Rule” means Rule 15c2-12 adopted by the Securities and Exchange Council under the Securities Exchange Act of 1934, as may be amended from time to time or such other similar rule regarding disclosure of information in securities transactions.

“Secretary” means the Secretary of KDHE

“State” means the State of Kansas, acting, unless otherwise specifically indicated, by and through KDHE, and its successors and assigns.

“System” means wastewater collection and treatment system of the Municipality, as the same may be modified or enlarged from time to time, including the Project described in **Exhibit A**, for which the Municipality is making the borrowing under this Loan Agreement, which constitutes or includes a Wastewater Treatment System.

“System Revenues” means all revenues derived by the Municipality from the ownership and operation of the System.

“Wastewater Treatment System” means any Wastewater Treatment Works, as defined in the Federal Act, that is publicly owned, and as further described in the Regulations.

Section 1.02. Rules of Interpretation.

- (a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.
- (b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.
- (c) All references in this Loan Agreement to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this Loan Agreement as originally executed. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Loan Agreement as a whole and not to any particular Article, Section or other subdivision.

- (d) The Table of Contents and the Article and Section headings of this Loan Agreement shall not be treated as a part of this Loan Agreement or as affecting the true meaning of the provisions hereof.

ARTICLE II

LOAN TERMS

Section 2.01. Amount of the Loan. Subject to all of the terms, provisions and conditions of this Loan Agreement, and subject to the availability of State and Federal funds and proceeds of Bonds, KDHE will loan an amount not to exceed \$5,000,000 to the Municipality to pay all or a portion of Project Costs described in **Exhibit A** hereto. The final actual amount of the Loan may be reduced without revision of any other terms, provisions or conditions of this Loan Agreement, other than the Loan Repayment Schedule (**Exhibit B** hereto), to reflect reductions in the estimated or actual total Project Costs as impacted by opening of bids for construction, change orders, final actual costs, and prepayments. The Municipality shall be responsible for any costs incurred by the Municipality in connection with the Project in addition to the amount of the Loan. Any amendment to **Exhibit B** shall be effected by written amendment to the Loan Agreement executed by all parties.

Section 2.02. Interest Rate. The gross interest rate on the loan shall be 2.29% per annum, which shall be assessed on the unpaid principal balance to be paid as set out in the Loan Repayment Schedule, **Exhibit B** hereto. This gross interest rate consists of a net loan interest rate, and a service fee, as described in **Exhibit B**.

Section 2.03. Disbursement of Loan Proceeds.

(a) Subject to the conditions described in this Section, KDHE agrees to disburse the proceeds of the Loan during the progress of the Project for Project Costs. Requests for disbursement may be submitted by the Municipality (in substantially the form attached hereto as **Exhibit E**), not more than once per month, in accordance with the procedures set forth by KDHE. Any request for disbursement must be supported by proper invoices and a certificate of the Authorized Municipality Representative to the effect that all representations made in this Loan Agreement remain true as of the date of the request and, based upon that information then available to such person, no adverse developments affecting the financial condition of the Municipality or its ability to complete the Project or to repay the Loan have occurred.

The Municipality may request disbursement for the following Project Costs:

- (1) any eligible planning/design costs incurred prior to execution of this Loan Agreement;
- (2) disbursement for eligible Project Costs if such Project Costs have been incurred and are due and payable to Project contractors (actual payment of such Project Costs by the Municipality is not required as a condition of the payment request); or

(3) interest becoming due on the Loan prior to the initial scheduled payment of principal; and

(4) the principal of and interest on any temporary financing obligations issued by the Municipality to pay Project Costs.

(b) KDHE shall not be under any obligation to disburse any Loan proceeds to the Municipality under this Loan Agreement unless:

(1) there are moneys available in the Revolving Fund to fund the Loan, as determined solely by KDHE;

(2) the Municipality shall certify to KDHE that it has executed a Project contract or contracts and has funds available to pay for that portion of the Project Costs not eligible (pursuant to the Loan Act or the Federal Act) to be funded under this Loan Agreement, if any;

(3) no Event of Default by the Municipality shall have occurred and be continuing; and

(4) the Municipality continues to maintain reasonable progress towards completion of the Project.

Section 2.04. Schedule of Compliance; Completion of Project.

(a) The Municipality agrees to complete the Project in accordance with the Conditions Applicable to Construction of the Project set forth in **Exhibit C** attached hereto.

(b) The completion of the construction of the Project shall be evidenced to KDHE by a certificate signed by the Authorized Municipality Representative stating: (1) that the construction of the Project has been completed in accordance with the plans and specifications therefore; and (2) that all Project Costs have been paid, except Project Costs the payment of which is not yet due or is being retained or contested in good faith by the Municipality. Such certificate shall be given not later than the date established by KDHE, which shall be approximately the date that the Project is capable of being placed into operation by the Municipality. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

Section 2.05. Repayment of the Loan.

(a) *Loan Repayments.* The Municipality shall pay to KDHE, on or before the due dates, installments of principal and interest on the Loan in accordance with *Exhibit B* attached hereto, until the Loan has been paid in full. Installments of principal and interest on the Loan shall be computed and paid in accordance with the Loan Repayment Schedule on *Exhibit B* as in effect at any time under this Loan Agreement. Notwithstanding any other provision of this Loan Agreement, the first payment of principal and interest due on the Loan shall be made the earlier of two years after receipt by the Municipality of the first disbursement under the Loan or one year after Project completion. The final

installment of principal under the Loan shall be fully repaid not later than 20 years after Project completion.

(b) *Prepayment of the Loan.* The Municipality may prepay the outstanding principal of the Loan, in whole, or in part, without penalty, if consent from KDHE is obtained. The municipality must provide a written request to KDHE of its desire to prepay, such request shall indicate the actual source of funds that will be used to make the prepayment (specifically proceeds from a tax exempt bond issue, proceeds from a taxable bond issue, cash on hand, or some other instrument) and the desired date of prepayment. KDHE may require the prepayment date coincide with a scheduled repayment date. A partial prepayment may be made only if the prepayment amount is the greater of 10% of the original principal amount of the Loan or \$50,000. A new ***Exhibit B*** will be prepared by KDHE following receipt of any acceptable partial prepayment, re-amortizing the remaining principal amount over the remaining term of the Loan.

Section 2.06. Additional Payments. The Municipality shall pay as Additional Payments the following amounts:

(a) Any amounts required to be paid by the Authority to the United States of America as arbitrage rebate, arising due to the Municipality's failure to expend proceeds of the Loan at the times certified to KDHE by the Municipality, that result in arbitrage rebate liability for the Authority, but only to the extent that the funds in the Rebate Fund established by the Master Resolution are insufficient to make such payments; and.

(b) All other payments of whatever nature which the Municipality has agreed to pay or assume hereunder.

ARTICLE III

REPRESENTATIONS AND COVENANTS OF MUNICIPALITY

Section 3.01. Representations of the Municipality. The Municipality makes the following representations:

(a) ***Organization and Authority.***

(1) The Municipality is a municipal corporation duly created and validly existing under and pursuant to the constitution and statutes of the State.

(2) The Municipality has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain its System, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to undertake and complete the Project, and to carry out and consummate all transactions contemplated by this Loan Agreement.

(3) The Ordinance (adopted substantially in the form attached hereto as **Exhibit F**) and other proceedings of the Municipality's governing body approving this Loan Agreement and authorizing its execution, issuance and delivery on behalf of the Municipality, and authorizing the Municipality to undertake and complete the Project have been duly and lawfully adopted.

(4) This Loan Agreement has been duly authorized, executed and delivered on behalf of the Municipality, and, constitutes the legal, valid and binding obligation of the Municipality enforceable in accordance with its terms.

(b) **Full Disclosure.** To the best knowledge of the Municipality, there is no fact that the Municipality has not disclosed to KDHE in writing on the Municipality's application for the Loan or otherwise that materially adversely affects or that will materially adversely affect the properties, activities, or its System, or the ability of the Municipality to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreement under this Loan Agreement.

(c) **Non-Litigation.** There is no controversy, suit or other proceeding of any kind pending or threatened wherein or whereby any question is raised or may be raised, questioning, disputing or affecting in any way: (1) the legal organization of the Municipality; (2) its boundaries; (3) the right or title of any of its officers to their respective offices; (4) the legality of any official act taken in connection with obtaining the Loan; (5) the constitutionality or validity of the indebtedness represented by the Loan Agreement; (6) any of the proceedings had in relation to the authorization or execution of this Loan Agreement; (7) the collection of revenues of the System; (8) the levy and collection of unlimited *ad valorem* taxes to pay the principal of and interest on the Loan; or (9) the ability of the Municipality to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(d) **Compliance with Existing Laws and Agreements.** To the best knowledge of the Municipality, the authorization, execution and delivery of this Loan Agreement by the Municipality, and the performance by the Municipality of its duties, covenants, obligations and agreements thereunder will not result in any breach of any existing law or agreement to which the Municipality is a party.

(e) **No Defaults.** No event has occurred and no condition exists that would constitute an Event of Default. The Municipality is not presently aware of any violation of any agreement, which would materially adversely affect the ability of the Municipality to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(f) **Compliance with Law.** The Municipality has, to the best of the Authorized Municipality's Representative's knowledge:

(1) complied with all laws, ordinances, governmental rules and regulations to which it is subject, including, without limitation, any public hearing or public notice requirements or environmental review requirements contained in the Loan Act, the Regulations and the Federal Act, the failure to comply with which would materially adversely affect the ability of the Municipality to conduct its activities, enter into this Loan Agreement or undertake or complete the Project; and

(2) obtained all licenses, permits, franchises or other governmental authorizations

presently necessary for the ownership of its property which, if not obtained, would materially adversely affect the ability of the Municipality to complete the Project or operate the Project.

(g) **Use of Loan Proceeds.** The Municipality will apply the proceeds of the Loan as described in **Exhibit D**: (1) to finance or refinance a portion of the Project Cost; and (2) where applicable, to reimburse the Municipality for a portion of the Project Costs, which portion was paid or incurred in anticipation of reimbursement by KDHE and is eligible for such reimbursement pursuant to the Regulations and the Code.

(h) **Project Costs.** The Municipality certifies that the Project Costs, as listed in **Exhibit D**, is a reasonable and accurate estimation and, upon direction of KDHE, will supply the same with a certificate from its engineer stating that such Costs are reasonable and accurate estimations, taking into account investment income to be realized during the course of construction of the Project, if any, and other lawfully available money that would, absent the Loan, have been used to pay the Project Costs.

Section 3.02. Particular Covenants of the Municipality.

(a) **Dedicated Source of Revenue for Repayment of the Loan.** The Municipality hereby establishes the Dedicated Source of Revenue described on **Exhibit B** attached hereto, which Dedicated Source of Revenue is hereby pledged to the Loan Repayments, Additional Payments and all other obligations of the Municipality under this Loan Agreement.

(b) **Performance Under Loan Agreement.** The Municipality covenants and agrees in the performance of its obligations under this Loan Agreement:

(1) to comply with all applicable State and federal laws, rules and regulations (including, but not limited to the conditions set forth in **Exhibit C** hereto) as are applicable to this Loan Agreement; and

(2) to cooperate with KDHE in the observance and performance of the respective duties, covenants, obligations and agreements of the Municipality and KDHE under this Loan Agreement (including, without limitation the requirements contained in **Exhibit C** hereto).

(c) **Completion of Project and Provision of Moneys Therefore.** The Municipality covenants and agrees:

(1) to exercise its best efforts in accordance with prudent utility practice to complete the Project and to so accomplish such completion on or before the estimated Project completion date set forth in **Exhibit C** hereto; and

(2) to provide, from its own financial resources, all moneys, in excess of the total amount of proceeds it receives under the Loan, required to complete the Project.

(d) **Delivery of Documents and Payment of Fees.** Concurrently with the delivery of this Loan Agreement and the closing of the Loan, the Municipality will cause to be delivered to KDHE:

(1) fully executed counterparts of this Loan Agreement;

(2) copies of the ordinance of the governing body of the Municipality authorizing the execution and delivery of this Loan Agreement, certified by an Authorized Municipality Representative, which shall be in substantially the form attached hereto as **Exhibit F** together with an affidavit of publication thereof in the official newspaper of the Municipality;

(3) an opinion of the Municipality's counsel substantially in the form set forth in **Exhibit G** attached hereto;

(4) such other certificates, documents, opinions and information as KDHE may reasonably require.

(e) **Operation and Maintenance of System.** The Municipality covenants and agrees that it shall, in accordance with prudent wastewater treatment utility practice:

(1) at all times operate the properties of its System in an efficient manner in accordance with applicable laws and regulations;

(2) maintain its System, making all necessary and proper repairs, renewals, replacements, additions, betterments and improvements necessary to maintain its System in good repair, working order and operating condition;

(3) implement any modification of the rates fees and charges for use of the System that comprise the Dedicated Source of Revenues as the Secretary may require to ensure repayment of the Loan in accordance with the provisions of the Loan Act; and

(4) take such other action as the Secretary may require in accordance with powers granted to the Secretary under the Loan Act and the Regulations.

(f) **Disposition of System.** The Municipality shall not sell, lease or otherwise transfer ownership of all or substantially all of its System without the consent of the Secretary. In no event shall the Municipality sell, abandon or otherwise transfer ownership of the System to any person or entity other than a city, county, township, sewer district, improvement district, or other political subdivision of the State, or any combination thereof, that has legal responsibility to treat wastewater. The Municipality shall provide the Secretary with ninety (90) days' prior written notice to KDHE of such sale, lease or transfer. No such sale, lease or transfer shall be effective unless compliance is with the provisions of *Section 4.02* hereof, assuming such sale, lease or transfer is deemed to be an assignment for the purposes of such Section. The provisions of this paragraph shall not be construed to prohibit the lease of portions of the System by the Municipality in connection with a lease-purchase transaction to finance improvements to the System; provided that a termination or an event of default by the Municipality under such arrangement shall not have a material adverse effect on the Municipality's Dedicated Source of Revenues.

(g) **Records and Accounts**

(1) The Municipality shall keep accurate records and accounts for its System (the "System Records"), separate and distinct from its other records and accounts (the "General Accounts"). Such System Records shall be audited annually in accordance with generally accepted auditing standards if the total Disbursement of Loan Proceeds exceed \$25,000 for the Municipalities fiscal year. This audit shall be completed by an independent certified public accountant or firm of independent certified public accountants, or by an independent registered municipal accountant, and may be part of the single agency audit made on the Municipality's General Accounts in accordance with the Federal Single Audit Act of 1984, OMB Circular No. A-133, **Audits of States, Local Governments, and Non-Profit Organizations** as amended in 1996 and 2003 and as may be further amended and revised. Such System Records and General Accounts shall be made available for inspection by KDHE at any reasonable time, and a copy of the Municipality's annual audit, including all written comments and recommendations of such accountant, shall be furnished to KDHE within 270 days of the close of the Municipal Fiscal Year being so audited.

(2) The Municipality shall maintain Project accounts in accordance with generally accepted government accounting standards including standards relating to the reporting of infrastructure assets.

(h) **Inspections.** The Municipality shall permit the EPA, KDHE and any party designated by KDHE to examine, visit and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, including the System Records and General Accounts, and shall supply such reports and information as the EPA and KDHE may reasonably require in connection therewith.

(i) **Financial Information.**

(1) Obligation to Provide Information if Notified by KDHE. The Municipality agrees to provide to KDHE such annual financial information and operating data, together with ongoing notice of the occurrence of any "material event" (defined below), each with respect to the Municipality, as is necessary for KDHE to comply with each Continuing Disclosure Undertaking from time to time in effect. Such information, data and notices pursuant to this section will be required to be provided by the Municipality upon notice from KDHE that the Municipality is a Principal Participating Municipality (which is a borrower for which information and notices are required to be filed pursuant to a Continuing Disclosure Undertaking), as defined in a Continuing Disclosure Undertaking.

(2) Timing. Any such financial information and operating data shall be provided by the Municipality to KDHE as soon as practicable after it is available, and any such notice of a material event shall be provided by the Municipality to KDHE promptly following the occurrence of the event. Existing Continuing Disclosure Undertakings require that any such financial information and operating data shall be filed by KDHE within 270 days after the end of the Municipal Fiscal

Year, as defined in a Continuing Disclosure Undertaking, and that any such notice of a material event be filed by KDHE within 10 business days of the occurrence of the material event. The timing of such requirements may be different in a future Continuing Disclosure Undertaking, and a request by KDHE to the Municipality pursuant to this section may require that such information be provided to KDHE a reasonable period in advance of the filing dates required by a Continuing Disclosure Undertaking.

(3) Annual Information. Any such financial information shall be accompanied by an audit report prepared in accordance with the provisions of subsection (g)(2) hereof, unless such subsection exempts the Municipality from such audit report requirement. The financial information shall be prepared in accordance with GAAP, unless the Municipality has received a waiver from such requirement as permitted by State Law, in which case it shall be prepared on such other basis of accounting that demonstrates compliance with State law. Such requirement for financial information and operating data may be satisfied by submitting the Municipality's annual comprehensive financial report (ACFR) and/or annual report of its System (if System revenues are included in the dedicated source of repayment), unless KDHE notifies the Municipality of the need for additional information. If an audit report is required to be prepared, but is not available within 270 days of the end of the Municipal Fiscal Year, un-audited financial information shall be provided to KDHE pending receipt of the audit report. If the method of preparation and the basis of accounting is changed to a basis less comprehensive than previously described, the Municipality shall provide a specific notice of such change to KDHE when the financial information is provided.

(4) Event Notices. For purposes of this section, "material event" shall mean any event with respect to the Municipality (if it is a Principal Participating Municipality) required to be reported by KDHE pursuant to a Continuing Disclosure Undertaking. Upon a determination by KDHE that the Municipality is a Principal Participating Municipality, KDHE will provide instructions to the Municipality identifying such events then required to be reported, and the Municipality agrees to report such events to the extent required by a Continuing Disclosure Undertaking. The existing Continuing Disclosure Undertakings require reporting by a Principal Participating Municipality of four events, relating generally to (i) bankruptcy or insolvency, (ii) merger, consolidation or acquisition, (iii) incurrence of a financial obligation or debt and (iv) default, acceleration, termination or modification of a financial obligation or debt.

(j) **Insurance.** The Municipality will carry and maintain such reasonable amount of all-risk insurance on all properties and all operations of its System as would be carried by similar municipal operators of Systems, insofar as the properties are of an insurable nature. The Municipality also will carry general liability insurance in amounts not less than the maximum liability of a governmental entity for claims arising out of a single occurrence, as provided by the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.*, or other similar future law (currently \$500,000 per occurrence).

(k) **Notice of Material Adverse Change.** The Municipality shall promptly notify KDHE of any material adverse change in the activities, prospects or condition (financial or otherwise) of the System, or in the ability of the Municipality to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(l) ***Additional Covenants and Requirements.*** The parties hereto acknowledge that this Loan Agreement may be assigned or pledged to secure financings of the Authority. Should it be necessary to modify any covenants or obtain or enhance the security of the financings, the parties agree to take all reasonable actions and make reasonable covenants and agreements necessary to accomplish such purpose to the extent permitted by applicable laws.

Section 3.03 Federal Tax Compliance Representations and Covenants.

(a) The Municipality is the owner of the Financed Facility. As long as any portion of this Loan Agreement is unpaid, the Municipality will not dispose of any portion of the Financed Facility without first notifying the Authority and KDHE in writing and the Authority and KDHE obtaining favorable advice of Bond Counsel.

(b) As long as any portion of this Loan Agreement is unpaid, the Municipality will never permit any of the Financed Facility to be used in any Non-Qualified Use without first notifying the Authority and KDHE in writing and the Authority and KDHE obtaining favorable advice of Bond Counsel. In furtherance of this covenant, the Municipality will not enter into any Management or Operating Agreement of the Financed Facility or lease any portion of the Financed Facility to any Non-Qualified User or provide any Non-Qualified User with a special legal right or entitlement to use the Financed Facility without first notifying the Authority and KDHE in writing and the Authority and KDHE obtaining favorable advice of Bond Counsel.

(c) None of the proceeds of this Loan Agreement will be loaned directly or indirectly to any Non-Qualified User.

(d) All costs previously paid by the Municipality that are to be reimbursed from the proceeds of this Loan Agreement either (1) were paid by the Municipality after the date the Municipality filed its application with KDHE and not more than **3** years prior to the date reimbursement is requested or (2) were for costs incurred in connection with the planning or design of the Project paid prior to the date construction commenced.

(e) The Municipality will not take any action or permit any action to be taken which would cause this Loan Agreement to be “federally guaranteed” within the meaning of Code § 149.

(f) No operating costs or expenses of the Municipality are being paid from the proceeds of this Loan Agreement.

(g) Upon the written request of the Authority or KDHE, the Municipality will provide written confirmation of compliance with the federal tax requirements through use of an Annual Compliance Checklist in a form acceptable to the Authority and KDHE. A sample Annual Compliance Checklist is attached to this Loan Agreement as ***Exhibit I***.

ARTICLE IV

ASSIGNMENT

Section 4.01. Assignment and Transfer by KDHE. The Municipality hereby approves and consents to any assignment or transfer of this Loan Agreement that KDHE deems necessary in connection with the operation and administration of the Revolving Fund. The Municipality hereby specifically approves the assignment and pledging of the Loan Repayments and Additional Payments to the Authority, and the Authority's pledging of all or a portion of the same to the Bonds.

Section 4.02. Assignment by the Municipality. This Loan Agreement may not be assigned by the Municipality for any reason, unless the following conditions shall be satisfied:

- (a) KDHE and the Authority shall have approved said assignment in writing;
- (b) the assignee is a city, county, township, sewer district, improvement district or other political subdivision of the State or any combination thereof that has legal responsibility to treat wastewater;
- (c) the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Municipality's duties, covenants, and obligations under this Loan Agreement; provided, however, such assignment shall not relieve the Municipality of its duties, covenants, and obligations under this Loan Agreement;
- (d) the assignment will not adversely impact KDHE's ability to meet its duties, covenants and obligations to the Authority under the Master Indenture, nor may the sale endanger the exclusion from gross income for federal income tax purposes of the interest on the Bonds; and
- (e) the Municipality shall, at its expense, provide KDHE and the Authority with an opinion of a qualified attorney that each of the conditions set forth in *subparagraphs (b), (c), and (d)* hereof have been met.

ARTICLE V

EVENTS OF DEFAULT AND REMEDIES

Section 5.01. Notice of Default. If an Event of Default shall occur, the non-defaulting party shall give the party in default and the Authority prompt telephonic notice of the occurrence of such Event of Default, provided the non-defaulting party has knowledge of such Event of Default. Such telephonic notice shall be immediately followed by written notice of such Event of Default given in the manner set forth in **Section 6.01** hereof.

Section 5.02. Remedies on Default.

(a) Whenever an Event of Default shall have occurred and be continuing, KDHE or the Municipality shall have the right to take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and to become due or to enforce the performance and observance of any obligation or agreement of KDHE or the Municipality (including, without limitation, withholding remaining Loan disbursements, cancellation of the Loan Agreement and acceleration of the remaining scheduled principal payments set forth on **Exhibit B**, or such other remedies provided to the Secretary in the Loan Act and the Regulations.

(b) Upon the occurrence of an Event of Default on the part of KDHE, and to the extent permitted by law and availability of appropriated funds by the Kansas Legislature, KDHE shall, on demand, pay to the Municipality the reasonable fees and expenses incurred by the Municipality in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of KDHE contained herein. Prior to incurring any such expenses, the Municipality shall provide written notice to KDHE that it intends to incur such expenses; provided, however, a failure by the Municipality to give such notice shall not affect the Municipality's right to receive payment for such expenses. Upon request by KDHE, the Municipality shall provide copies of statements evidencing the fees and expenses for which the Municipality is requesting payment.

Section 5.03. Expenses. Upon the occurrence of an Event of Default on the part of the Municipality, and to the extent permitted by law, the Municipality shall, on demand, pay to KDHE the reasonable fees and expenses incurred by KDHE in the collection of Loan Repayments or any other sum due hereunder or in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the Municipality contained herein. Prior to incurring any such expenses, KDHE shall provide written notice to the Municipality that it intends to incur such expenses; provided, however, a failure by KDHE to give such notice shall not affect KDHE's right to receive payment for such expenses. Upon request by the Municipality, KDHE shall provide copies of statements evidencing the fees and expenses for which KDHE is requesting payment.

Section 5.04. Application of Moneys. Any moneys collected by KDHE pursuant to **Section 5.02** hereof shall be applied: (a) first, to pay interest on the Loan as the same becomes due and payable; (b) second, to pay principal due and payable on the Loan; (c) third, to pay expenses owed by the Municipality pursuant to **Section 5.03** hereof; and (d) fourth, to pay any other amounts due and payable hereunder as such amounts become due and payable.

Section 5.05. No Remedy Exclusive; Waiver; Notice. No remedy herein conferred upon or reserved to the Parties hereto is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. The parties hereto, in good faith, shall exercise such remedies with due diligence in a timely manner, however, no delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the parties hereto to exercise any remedy reserved to them in this **Article V**, it shall not be necessary to give any notice, other than such notice as may be required in this **Article V**.

Section 5.06. Retention of Rights. Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof, or anything else to the contrary contained herein, the parties hereto shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the defaulting party at law or in equity, as such party may, in its discretion, deem necessary to enforce the obligations of the defaulting party pursuant to this Loan Agreement.

Section 5.07. Financial and Management. Upon failure of the Municipality to pay one or more installments of the Loan Repayments in a timely manner, or in the event that the Secretary deems it advisable or necessary, the Secretary, after consultation with the governing body of the Municipality, may require the Municipality to undergo a financial and management operations review. The governing body shall correct any deficiencies noted during such review and adopt charges or surcharges as may be required by the Secretary during the term of this Loan Agreement.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when: (a) hand delivered; (b) mailed by registered or certified United States mail, postage prepaid; or (c) via telefax, with confirmation in the manner set forth in *subsection (b)*, to the parties hereinafter set forth at the following addresses:

(1) to KDHE:

Department of Health and
Environment
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367
Attention: Bureau of Water

with a copy to its General Counsel

(2) to the Authority:

Kansas Development Finance
Authority
534 South Kansas Avenue, Suite 800
Topeka, Kansas 66603
Attention: President,

with a copy to its General Counsel

(3) to the Municipality:

at the address set forth on ***Exhibit H***.

All notices given by telefax as aforesaid shall be deemed given as of the date of evidence of receipt thereof by the recipient. All notices given by registered or certified mail as aforesaid shall be deemed duly given as of the date they are so deposited in the United States Postal Service, if postage is prepaid. Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

Section 6.02. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon KDHE and the Municipality and their respective successors and assigns.

Section 6.03. Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Section 6.04. Amendments, Supplements and Modifications. This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the Authority.

Section 6.05. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 6.06. Governing Law and Regulations. This Loan Agreement shall be governed by and construed in accordance with the laws of the State, including the Loan Act and the Regulations, which Regulations are, by this reference thereto, incorporated herein as a part of this Loan Agreement.

Section 6.07. Consents and Approvals. Whenever the written consent or approval of the State shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the Secretary.

Section 6.08. Further Assurances. The Municipality shall, at the request of KDHE, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be reasonably necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Loan Agreement.

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IN WITNESS WHEREOF, KDHE and the Municipality have caused this Loan Agreement to be executed, sealed and delivered, effective as of the date above first written.

THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT, acting on behalf of THE STATE OF KANSAS



By: Janet Stanek
Janet Stanek
Secretary
Kansas Department of Health and Environment

Date: 6-28-2024

THE CITY OF EDGERTON, KANSAS

(Seal)

By: _____
Title: Mayor

"Municipality"

Date: _____

ATTEST:

By: _____
Title: Clerk

EXHIBIT A

DESCRIPTION OF THE PROJECT

The proposed project includes construction of a sewer main extension, improvements at the City Pump Station to utilize an equalization basin, installation of a new gravity main to flow to the new equalization basin, repair/replacement of existing components at the City's wastewater treatment plant (WWTP) to address aging infrastructure, and updates to the City's SCADA system.

EXHIBIT B

DEDICATED SOURCE OF REVENUES AND LOAN REPAYMENT SCHEDULE

Dedicated Source of Revenue

The Municipality shall impose and collect such rates, fees and charges for the use and services furnished by or through the System, including all improvements and additions thereto hereafter constructed or acquired by the Municipality as will provide System Revenues or levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce amounts which are sufficient to (a) pay the cost of the operation and maintenance of the System, (b) pay the principal of and interest on the Loan as and when the same become due, and (c) pay all other amounts due at any time under the Loan Agreement; provided, however, no lien or other security interest is granted by the Municipality to KDHE on the System Revenues under this Agreement. In the event that the System Revenues are insufficient to meet the obligations under the Loan and the Loan Agreement, the Municipality shall levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce the amounts necessary for the prompt payment of the obligations under the Loan and Loan Agreement.

Loan Repayment Schedule

The Municipality and KDHE have agreed that interest becoming due semiannually on the Loan during the construction period for the Project may be capitalized and repaid as a part of the Loan. In this regard, KDHE shall give the Municipality written notice of each semiannual installment of interest becoming due during the construction period. At its option, the Municipality may elect to pay such amounts, and if so elected, must pay such amounts within 30 days of receipt of the notice of their becoming due. If the Municipality does not elect to pay such amounts within 30 days of receipt of such notice, the amount then due and owing as semiannual interest on the Loan shall be capitalized and added to the principal amount of the Loan and shall bear interest at the rate of interest set forth in **Section 2.02** hereof.

KANSAS WATER POLLUTION CONTROL REVOLVING FUND

Preliminary Schedule for Construction Loan Agreement
Amortization of Loan Costs as of 6/25/2024

Project Principal: 5,000,000.00
Interest During Const.: 0.00
Service Fee During Const.: 0.00
Gross Loan Costs: 5,000,000.00

Prepared for:

City of Edgerton, Project No. C20 3097 01

Gross Interest Rate Allocation	thru 9/1/2029	after 9/1/2029	Gross Interest Rate:	2.29%
Service Fee Rate:	2.04%	0.25%	First Payment Date:	3/1/2026
Net Loan Interest Rate:	0.25%	2.04%	Number of Payments:	40

Payment Number	Payment Date	Beginning Balance	Interest Payment	Principal Payment	Service Fee	Total Payment	Ending Balance
1	3/1/2026	5,000,000.00	6,250.00	99,254.42	51,000.00	156,504.42	4,900,745.58
2	9/1/2026	4,900,745.58	6,125.93	100,390.89	49,987.60	156,504.42	4,800,354.69
3	3/1/2027	4,800,354.69	6,000.44	101,540.36	48,963.62	156,504.42	4,698,814.33
4	9/1/2027	4,698,814.33	5,873.52	102,702.99	47,927.91	156,504.42	4,596,111.34
5	3/1/2028	4,596,111.34	5,745.14	103,878.94	46,880.34	156,504.42	4,492,232.40
6	9/1/2028	4,492,232.40	5,615.29	105,068.36	45,820.77	156,504.42	4,387,164.04
7	3/1/2029	4,387,164.04	5,483.96	106,271.39	44,749.07	156,504.42	4,280,892.65
8	9/1/2029	4,280,892.65	5,351.12	107,488.19	43,665.11	156,504.42	4,173,404.46
9	3/1/2030	4,173,404.46	42,568.73	108,718.93	5,216.76	156,504.42	4,064,685.53
10	9/1/2030	4,064,685.53	41,459.79	109,963.77	5,080.86	156,504.42	3,954,721.76
11	3/1/2031	3,954,721.76	40,338.16	111,222.86	4,943.40	156,504.42	3,843,498.90
12	9/1/2031	3,843,498.90	39,203.69	112,496.36	4,804.37	156,504.42	3,731,002.54
13	3/1/2032	3,731,002.54	38,056.23	113,784.44	4,663.75	156,504.42	3,617,218.10
14	9/1/2032	3,617,218.10	36,895.62	115,087.28	4,521.52	156,504.42	3,502,130.82
15	3/1/2033	3,502,130.82	35,721.73	116,405.03	4,377.66	156,504.42	3,385,725.79
16	9/1/2033	3,385,725.79	34,534.40	117,737.86	4,232.16	156,504.42	3,267,987.93
17	3/1/2034	3,267,987.93	33,333.48	119,085.96	4,084.98	156,504.42	3,148,901.97
18	9/1/2034	3,148,901.97	32,118.80	120,449.49	3,936.13	156,504.42	3,028,452.48
19	3/1/2035	3,028,452.48	30,890.22	121,828.63	3,785.57	156,504.42	2,906,623.85
20	9/1/2035	2,906,623.85	29,647.56	123,223.58	3,633.28	156,504.42	2,783,400.27
21	3/1/2036	2,783,400.27	28,390.68	124,634.49	3,479.25	156,504.42	2,658,765.78
22	9/1/2036	2,658,765.78	27,119.41	126,061.55	3,323.46	156,504.42	2,532,704.23
23	3/1/2037	2,532,704.23	25,833.58	127,504.96	3,165.88	156,504.42	2,405,199.27
24	9/1/2037	2,405,199.27	24,533.03	128,964.89	3,006.50	156,504.42	2,276,234.38
25	3/1/2038	2,276,234.38	23,217.59	130,441.54	2,845.29	156,504.42	2,145,792.84
26	9/1/2038	2,145,792.84	21,887.09	131,935.09	2,682.24	156,504.42	2,013,857.75
27	3/1/2039	2,013,857.75	20,541.35	133,445.75	2,517.32	156,504.42	1,880,412.00
28	9/1/2039	1,880,412.00	19,180.20	134,973.70	2,350.52	156,504.42	1,745,438.30
29	3/1/2040	1,745,438.30	17,803.47	136,519.15	2,181.80	156,504.42	1,608,919.15
30	9/1/2040	1,608,919.15	16,410.98	138,082.29	2,011.15	156,504.42	1,470,836.86
31	3/1/2041	1,470,836.86	15,002.54	139,663.33	1,838.55	156,504.42	1,331,173.53
32	9/1/2041	1,331,173.53	13,577.97	141,262.48	1,663.97	156,504.42	1,189,911.05
33	3/1/2042	1,189,911.05	12,137.09	142,879.94	1,487.39	156,504.42	1,047,031.11
34	9/1/2042	1,047,031.11	10,679.72	144,515.91	1,308.79	156,504.42	902,515.20
35	3/1/2043	902,515.20	9,205.66	146,170.62	1,128.14	156,504.42	756,344.58
36	9/1/2043	756,344.58	7,714.71	147,844.28	945.43	156,504.42	608,500.30
37	3/1/2044	608,500.30	6,206.70	149,537.09	760.63	156,504.42	458,963.21
38	9/1/2044	458,963.21	4,681.42	151,249.30	573.70	156,504.42	307,713.91
39	3/1/2045	307,713.91	3,138.68	152,981.10	384.64	156,504.42	154,732.81
40	9/1/2045	154,732.81	1,578.27	154,732.81	193.34	156,504.42	0.00
		Totals	790,053.95	5,000,000.00	470,122.85	6,260,176.80	

EXHIBIT C

CONDITIONS APPLICABLE TO CONSTRUCTION OF THE PROJECT

1. Municipality agrees to expeditiously initiate and complete the Project in accordance with the following schedule:
 - a. Advertising for bids within 30 days of authorization to advertise.
 - b. Bid opening no sooner than 30 days after advertisement for bids.
 - c. Contract award within 60 days of bid opening.
 - d. Issuance of notice to proceed within 30 days of contract award.
 - e. Initiation of operation within 90 days of notice to proceed or no later than May 31, 2026.
 - f. Finalization of construction within 120 days of notice to proceed.
 - g. Project Performance Certification 365 days following Initiation of Operation.

KDHE must be promptly notified of any proposed changes.

2. Prior to giving a notice to proceed, the Municipality must certify that all easements and rights-of-way necessary to allow construction of the Project have been obtained (i.e., all real property has been acquired, bonafide options have been taken or formal condemnation proceedings have been initiated for necessary real property).
3. The Municipality agrees that all bid solicitations will include the following statement in the "Advertisement for Bids" for this project:

Nondiscrimination in Employment

- a. Bidders on this work will be required to comply with the President's Executive Order No. 11246 as amended. Requirements for bidders and contractors under this order are explained in the specifications.
4. The municipality must comply with and include the requirements of the Prohibition Statement below in all contracts and subcontracts made to private entities.
 - a. The Contractor, its employees, subcontractors and subcontractors' employees may not engage in severe forms of trafficking in persons during the period of time that the contract is in effect; procure a commercial sex act during the period of time that the contract is in effect; or use forced labor in the performance of the contract or subcontract.
5. The Municipality agrees to comply with the Kansas Act Against Discrimination, K.S.A. 44-1001, *et seq.* and the Kansas Age Discrimination in Employment Act, K.S.A. 44-1111, *et seq.* as provided by law and to include those provisions in every contract or purchase order relating to the Project so that they are binding upon such subcontractors or vendors.
6. The Municipality agrees to include Section 202 of Executive Order 11246 in all contracts and subcontracts for all construction contracts exceeding \$10,000.00.

7. If the project is for construction, alteration, and repair of treatment works, the municipality shall comply with KWPCRF wage rate requirements listed below:
- a. insert in full in any contract funded by this loan agreement in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, wage rate contract provisions, found in 29 CFR 5.5, as indicated by EPA and US Department of Labor, generally known as Davis Bacon requirements;
 - b. while the solicitation remains open, shall monitor <https://beta.sam.gov/> on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The municipality shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the Municipality may request a finding from KDHE that there is not reasonable time to notify interested contractors of the modification of the wage determination. KDHE will provide a report of its findings to the Municipality.
 - c. incorporate any modifications or supersedes DOL makes to the wage determination contained in the solicitation if the contract is not awarded within 90 days of bid opening. Unless KDHE, at the request of the Municipality, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The Municipality shall monitor <https://beta.sam.gov/> on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.
 - d. review all subcontracts subject to Davis-Bacon entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.
 - e. either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order, if the Department of Labor (DOL) issues a revised wage determination applicable to the contract after the award of a contract or the issuance of an ordering instrument due to a DOL determination that the municipality has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. The Municipality's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.
 - f. provide written confirmation in a form satisfactory to KDHE indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and

completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls;

- g. interview a sufficient number of employees entitled to Davis Bacon Act prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 20 CFR 5.6 (a)(6), all interviews must be conducted in confidence. The Municipality must use Standard Form 1445 or equivalent documentation to memorialize the interviews. Copies of SF 1445 are available from EPA on request;
 - h. establish and follow an interview schedule based on its assessment of the risks of noncompliance with Davis-Bacon posed by contractors or subcontractors and the duration of the contract or subcontract. The municipality shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.
 - i. periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The municipality shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with Davis -Bacon posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the municipality must spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. The municipality must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with Davis-Bacon. In addition, during the examinations the municipality shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.
 - j. periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item (h) and (i) above.
 - k. must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact Julie Milazzo at Milazzo.Julie@epa.gov or 206-553-2429 ; and to the appropriate DOL Wage and Hour District Office listed at www.dol.gov/whd/america2.htm.
8. The Municipality certifies that it is not suspended or debarred from participating in federal assistance and benefit programs and further agrees to fully comply with Subpart C of 2 CFR Part 180 and Subpart C of 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions." The Municipality must ensure that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180 and Subpart B of 2 CFR Part 1532, entitled "Covered

Transactions,” includes a term or condition requiring compliance with Subpart C. Recipient may search for exclusion records at www.sam.gov.

9. The Municipality agrees that all bid solicitations will include the Anti-Lobbying Certification form, which must be completed and returned with the bid form.
10. The owner or successful bidder must obtain, prior to construction, permit coverage from KDHE to discharge stormwater runoff associated with construction activity for most any project which disturbs one acre or more of soils. A Notice of Intent form (NOI) must be submitted to KDHE 60 days before the start of construction and a permit determination from KDHE must be made before construction can begin. The Kansas construction stormwater general permit, a Notice of Intent (application form), a frequently asked questions file, and supplemental materials are available online on the KDHE Stormwater Web Page at www.kdhe.state.ks.us/stormwater.
11. The Municipality shall follow applicable state procurement laws and regulations. KDHE approval is required prior to procurement.
12. The Municipality agrees to make prompt payment to its contractor(s) of sums due for construction and to retain only such amounts as may be justified by specific circumstances and provisions of this Loan Agreement or the construction contract.
13. The Municipality will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the completed work conforms with the approved plans and specifications per K.A.R. 28-16-55 and Water Quality Policy Memorandum No. 2-78 dated January 18, 1978 and will furnish progress reports and such other information as the State may require.
14. The Municipality hereby assures that the engineering firm principally responsible for supervising construction and for providing engineering services during construction (engineer associated with the design build team) will continue its relationship with the Municipality for a period of up to one year after initiation of operation of the Project. During this period, the engineering firm shall direct the operation of the Project, train operating personnel and prepare curricula and training material for operating personnel. The following specific requirements apply:
 - a. The Municipality agrees the performance standards applicable to the Project are:
 - (1) All construction deficiencies have been resolved.
 - b. One year after completion of construction and initiation of operation of the Project, the Municipality shall certify to KDHE whether or not such Project meets the design specifications and effluent limitations contained in subparagraph a. of this condition. Any statement of non-compliance must be accompanied by a corrective action report containing: an analysis of the cause of the Project's inability to meet performance standards; actions necessary to bring it into compliance, and a reasonably scheduled date for positive certification of the Project. Timely corrective action will be executed by the Municipality.
 - c. Municipality agrees to furnish KDHE with an annual report describing actions taken to

date to achieve positive certification, planned future activities, the Project's status and potential for positive certifications.

15. A final plan of operation and draft O&M Manual shall be submitted by the Municipality for approval by KDHE at or prior to 50 percent construction completion and the Final O&M Manual must be submitted at 90% construction completion. The plan of operation must include, but is not limited to, an assessment of the employee skills necessary to carry out the operation and maintenance function and a training plan designed to provide employees with the necessary skills. Details on the skills assessment must be submitted along with the final plan of operation. Necessary training as indicated by the skills assessment must be provided in accordance with the approved training plan.
16. The rates and ordinances enacting the System user charges and System use requirements shall be enacted prior to initiation of operation.
17. The municipality agrees to provide a Fiscal Sustainability Plan (FSP) document to KDHE, including an appropriate Asset Management Plan, prior to final closeout of the Loan Agreement project. The required scope of the FSP will be provided to the municipality by letter from KDHE.
18. None of the funds made available by this loan agreement shall be used for a project for the construction, alteration, maintenance, or repair of a wastewater collection system or wastewater treatment plant unless all of the iron and steel products used in the project are produced in the United States. The term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.
19. This Project is consistent with the Kansas Water Quality Management Plan, subject to the provisions of Section 208(d) and 208(e) of the Federal Water Pollution Control Act, as amended. Service by the Project will not be denied or conditioned on the basis of factors or issues unrelated to wastewater management.
20. The Loan Recipient must comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. Other civil rights laws may impose additional requirements on the Loan Recipient. These laws include, but are not limited to, Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment and in services provided by State and local governments, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.
21. The Municipality hereby agrees to request and obtain intergovernmental environmental evaluations of the proposed Project and the Municipality hereby agrees to implement measures to mitigate all known adverse environmental effects of the project.
22. The Municipality is prohibited from procuring goods or services from persons who have been

convicted of violations of the Clean Air Act or the Clean Water act.

23. The Municipality shall obtain any required Corps of Engineers Section 404 and/or Section 10 permit prior to awarding the construction contract.
24. If this Project is for a segment of a total project for the System, KDHE does not assume any obligation, commitment, or responsibility for funding any other anticipated steps, phases, segments or stages or any other improvements to the System not constituting the Project. The Municipality agrees to complete the total System improvements of which this Project is a part in accordance with the schedule presented in Exhibit C(1), regardless of whether KDHE funding is available for the remaining System improvements.

EXHIBIT D

USE OF LOAN PROCEEDS

Construction of a project to install a sewer main extension, provide improvements at the City Pump Station to utilize an equalization basin, installation of a new gravity main to flow to the new equalization basin, repair/replacement of existing components at the City's wastewater treatment plant (WWTP) to address aging infrastructure, and updates to the City's SCADA system.

The loan proceeds will be utilized to pay the costs of:

1. Construction: Actual construction costs of the improvements to the wastewater collection system and incidental work associated with construction.
2. Engineering: All actual costs of construction services including basic services, design, procurement, inspection, final plan of operation, user charge and sewer use ordinance development, one year project performance evaluation, and all items as included in the engineering contract for the project, including the Fiscal Sustainability Plan.
3. Administrative: All reasonable costs of legal and financial administrative support directly provided for the project, including financial audits.

Unallowable Costs: The costs of full-time employees of the municipality.

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EXHIBIT E

INSTRUCTIONS FOR REQUESTING DISBURSEMENTS

1. All payment requests must be filed on the Outlay Report and Request for Disbursement Form and represent the actual completion level of the project at the date the request is prepared.
2. All cost entries must be based upon allowable work in place, which is due and payable. This means that you may **not** request payment for:
 - a. Any work or services which have not been explicitly approved by the KDHE in the Loan Agreement or subsequent amendments.
 - b. Any work performed under a change order unless written approval of the change order has been given by the State.
 - c. Any ineligible project costs.
 - d. Any retainage which you are withholding from the construction contractor, engineer, etc.
 - e. Expenditures relating to site acquisition, easements, rights-of way, EXCEPT: (1) additional work required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act such as appraisal and certification services; (2) when the site itself is allowable in accordance with Federal SRF regulations and guidance; and (3) costs incurred in eminent domain proceedings.
 - f. Costs associated with the approval, preparation, issuance and sale of Bonds, and other costs incidental to normal operating overhead of a Municipality, whether performed by Municipal employees, the engineer, or the attorney.

It is essential that you understand the cost basis of the approved Loan amount. It is, therefore, necessary that you read the Loan Agreement (including all conditions) and its transmittal letter, any Loan amendments and Project correspondence, and that you maintain current and accurate files on all approved change orders. Failure to follow these procedures may result in your requesting and subsequently receiving overpayment of loan funds, which later may, in turn, result in substantial inconvenience to you and the Municipality. This could include repayment or crediting to KDHE the interest earned on overpaid funds, and any penalties that can result from this action.

3. Submit an original signature of the form and one set of supporting documentation directly to:

Kansas Department of Health & Environment
Bureau of Water
Municipal Programs
1000 SW Jackson Street, Suite 420
Topeka, Kansas 66612-1367

You should retain one copy for your records.

EXHIBIT E - REQUEST FOR DISBURSEMENT FROM KDHE REVOLVING LOAN PROGRAMS

INDICATE WHICH LOAN PROGRAM THIS REQUEST IS FOR:		KDHE PROJECT NUMBER (REFER TO LOAN AGREEMENT)
KANSAS WATER POLLUTION CONTROL REVOLVING FUND _____		KWPCRF PROJECT # C20
KANSAS PUBLIC WATER SUPPLY LOAN FUND _____		KPWSLF PROJECT #
IS THIS THE FINAL DISBURSEMENT REQUEST FOR THIS LOAN?	RECIPIENT INFORMATION	
YES _____ NO _____	NAME :	
PAYMENT REQUEST NUMBER :	ADDRESS or PO box (include City, State, Zip) :	

The undersigned hereby requests that the following amounts be disbursed for the following Project Costs as defined in the loan agreement:

Classification	Invoice amounts (invoices must be attached)	Invoiced from (list payee(s))	Description
a. Administrative expense (loan admin services, publication fees, attorney fees, etc.)			
b. Engineering services expense			
c. Land, easements (Not allowable under KWPCRF)			
d. Construction Contract Expense			
e. Equipment (by separate KDHE approved contract or procedure)			
f. Miscellaneous cost (not categorized above)			
g. Total of Invoices Submitted (sum of lines a thru f)			
h. Deductions for other sources of funding used (from grants or cash on hand)			
i. Total Disbursement Requested from KDHE * (Line g minus line h)			

CERTIFICATION: I hereby state and certify that: (i) the amounts requested, are or were necessary and appropriate in connection with the purchase, construction and installation of the Project, have been properly incurred and are a proper disbursement of the proceeds of the Loan and that an inspection has been performed and all work is in accordance with the terms of the Loan; have been paid or are justly due as stated above; and have not been the basis of any previous requisition from the proceeds of the Loan; (ii) all representations made in the Agreement remain true as of the date of this request; and (iii) no adverse developments affecting the financial condition of the Recipient or its ability to complete the Project or to repay the Loan have occurred.

RECIPIENT NAME:

Signature of Authorized Certifying Official

Typed or Printed Name and Title

Date Signed

Telephone (Area Code, number & ext.)

Email

EXHIBIT F

FORM OF MUNICIPALITY ORDINANCE

* * * * *

EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF EDGERTON, KANSAS
HELD ON [ORDINANCE DATE]

The Governing Body of the City met in [regular/special] session at the usual meeting place in the City, at [meeting time], the following members being present and participating, to-wit:

Absent:

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

(Other Proceedings)

Thereupon, there was presented an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN THE CITY OF EDGERTON, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS WATER POLLUTION CONTROL REVOLVING FUND FOR THE PURPOSE OF FINANCING A WASTEWATER TREATMENT PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE LOAN AGREEMENT.

Thereupon, [Council member] _____ moved that said Ordinance be passed. The motion was seconded by [Council member] _____. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the Governing Body, the vote being as follows:

Yes: _____.

No: _____.

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. _____ and was signed and approved by the Mayor and attested by the Clerk. The Clerk was directed to publish the Ordinance one time in the official newspaper of the City.

(Other Proceedings)

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

(SEAL)

Clerk

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ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN THE CITY OF EDGERTON, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS WATER POLLUTION CONTROL REVOLVING FUND FOR THE PURPOSE OF FINANCING A WASTEWATER TREATMENT PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE LOAN AGREEMENT.

WHEREAS, the Federal Water Quality Act of 1987 (the "Federal Act") established revolving fund program for public wastewater treatment systems to assist in financing the costs of infrastructure needed to achieve or maintain compliance with the Federal Act and to protect the public health and authorized the Environmental Protection Agency (the "EPA") to administer a revolving loan program operated by the individual states; and

WHEREAS, to fund the state revolving fund program, the EPA will make annual capitalization grants to the states, on the condition that each state provide a state match for such state's revolving fund; and

WHEREAS, by passage of the Kansas Water Pollution Control Revolving Fund Act, K.S.A. 65-3321 through 65-3329, inclusive (the "Loan Act"), the State of Kansas (the "State") has established the Kansas Water Pollution Control Revolving Fund (the "Revolving Fund") for purposes of the Federal Act; and

WHEREAS, under the Loan Act, the Secretary of the Kansas Department of Health and Environment ("KDHE") is given the responsibility for administration and management of the Revolving Fund; and

WHEREAS, the Kansas Development Finance Authority (the "Authority") and KDHE have entered into a Master Financing Indenture (the "Master Indenture") pursuant to which KDHE agrees to enter into Loan Agreements with Municipalities for public wastewater treatment projects (the "Projects") and to pledge the Loan Repayments (as defined in the Master Indenture) received pursuant to such Loan Agreements to the Authority; and

WHEREAS, the Authority is authorized under K.S.A. 74-8905(a) and the Loan Act to issue revenue bonds (the "Bonds") for the purpose of providing funds to implement the State's requirements under the Federal Act and to loan the same, together with available funds from the EPA capitalization grants, to Municipalities within the State for the payment of Project Costs (as said terms are defined in the Loan Act); and

WHEREAS, the City of Edgerton, Kansas (the "Municipality") is a municipality as said term is defined in the Loan Act which operates a wastewater collection and treatment system (the "System"); and

WHEREAS, the System is a public Wastewater Treatment Works, as said term is defined in the Loan Act; and

WHEREAS, the Municipality has, pursuant to the Loan Act, submitted an Application to KDHE to obtain a loan from the Revolving Fund to finance the costs of improvements to its System consisting of the following:

Construction of a project to install a sewer main extension, provide improvements at the City Pump Station to utilize an equalization basin, installation of a new gravity main to flow to the new equalization basin, repair/replacement of existing components at the City's wastewater treatment plant (WWTP) to address aging infrastructure, and updates to the City's SCADA system (the "Project"); and

WHEREAS, the Municipality has taken all steps necessary and has complied with the provisions of the Loan Act and the provisions of K.A.R. 28-16-110 to 28-16-138 (the "Regulations") applicable thereto necessary to qualify for the loan; and

WHEREAS, KDHE has informed the Municipality that it has been approved for a loan in amount of not to exceed \$5,000,000 (the "Loan") in order to finance the Project; and

WHEREAS, the governing body of the Municipality hereby finds and determines that it is necessary and desirable to accept the Loan and to enter into a loan agreement and certain other documents relating thereto, and to take certain actions required in order to implement the Loan Agreement.

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

Section 1. Authorization of Loan Agreement. The Municipality is hereby authorized to accept the Loan and to enter into a certain Loan Agreement, with an effective date of June 25, 2024, with the State of Kansas acting by and through the Kansas Department of Health and Environment (the "Loan Agreement") to finance the Project Costs (as defined in the Loan Agreement). The Mayor and Clerk are hereby authorized to execute the Loan Agreement in substantially the form presented to the governing body this date, with such changes or modifications thereto as may be approved by the Mayor and the City Attorney, the Mayor's execution of the Loan Agreement being conclusive evidence of such approval.

Section 2. Establishment of Dedicated Source of Revenue for Repayment of Loan. Pursuant to the Loan Act, the Municipality hereby establishes a dedicated source of revenue for repayment of the Loan. In accordance therewith, the Municipality shall impose and collect such rates, fees and charges for the use and services furnished by or through the System, including all improvements and additions thereto hereafter constructed or acquired by the Municipality as will provide System Revenues or levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce amounts which are sufficient to (a) pay the cost of the operation and maintenance of the System, (b) pay the principal of and interest on the Loan as and when the same become

due, and (c) pay all other amounts due at any time under the Loan Agreement; provided, however, no lien or other security interest is granted by the Municipality to KDHE on the System Revenues under this Agreement. In the event that the System Revenues are insufficient to meet the obligations under the Loan and the Loan Agreement, the Municipality shall levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce the amounts necessary for the prompt payment of the obligations under the Loan and Loan Agreement.

In accordance with the Loan Act, the obligations under the Loan and the Loan Agreement shall not be included within any limitation on the bonded indebtedness of the Municipality.

Section 3. Further Authority. The Mayor, Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 4. Governing Law. The Ordinance and the Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

Section 5. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City and publication in the official City newspaper.

PASSED by the governing body of the City on [Ordinance Date] and [signed][and **APPROVED**] by the Mayor.

(SEAL)

Mayor

ATTEST:

Clerk

[APPROVED AS TO FORM ONLY.]

[City Attorney]

EXHIBIT G

FORM OF OPINION OF MUNICIPALITY'S COUNSEL

[Date]

Kansas Development Finance Authority
Topeka, Kansas

The Kansas Department of Health and
Environment, acting on behalf of
The State of Kansas
Topeka, Kansas

Re: Loan Agreement effective as of June 25, 2024, between the Kansas Department of Health and Environment ("KDHE"), acting on behalf of the State of Kansas (the "State"), and the City of Edgerton, Kansas (the "Municipality")

I have acted as counsel to the Municipality in connection with the authorization, execution and delivery of the above referenced Loan Agreement (the "Loan Agreement"). In my capacity as counsel to the Municipality, I have examined original or certified copies of minutes, ordinances of the Municipality and other documents relating to the authorization of the Project, the authorization, execution and delivery of the Loan Agreement, and the establishment of a Dedicated Source of Revenue (as defined in the Loan Agreement) for repayment of the Loan evidenced by the Loan Agreement. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the Loan Agreement.

In this connection, I have examined the following:

- (a) an executed or certified copy of the Loan Agreement;
- (b) proceedings adopted or taken by the Municipality to authorize and approve the Project to be constructed with the proceeds of the Loan evidenced by the Loan Agreement;
- (c) Ordinance No. _____ of the Municipality (the "Ordinance") adopted on [Ordinance Date], and other proceedings of the Municipality taken and adopted in connection with the authorization, execution and delivery of the Loan Agreement, and the establishment of a Dedicated Source of Revenue for repayment of the Loan evidenced by the Loan Agreement; and
- (d) such other proceedings, documents and instruments as I have deemed

necessary or appropriate to the rendering of the opinions expressed herein.

In this connection, I have reviewed such documents, and have made such investigations of law, as deemed relevant and necessary as the basis for the opinions hereinafter expressed.

Based upon the foregoing, it is my opinion, as of the date hereof, that:

1. The Municipality is a municipal corporation duly created, organized and existing under the laws of the State.
2. The Municipality operates a public Wastewater Treatment Works, as said term is defined in the Loan Act.
3. The Project has been duly authorized by the Municipality.
4. The Municipality has all requisite legal power and authority to and has been duly authorized under the terms and provisions of the Ordinance to, execute and deliver, and perform its obligations under, the Loan Agreement.
5. The Loan Agreement has been duly authorized, executed and delivered by the Municipality and constitutes a valid and binding agreement of the Municipality enforceable in accordance with its terms, subject as to enforcement of remedies to any applicable bankruptcy, reorganization, insolvency, moratorium or other similar laws affecting creditors' rights heretofore or hereafter enacted, and subject further to the exercise of judicial discretion in accordance with general principles of equity. In rendering this opinion, I have assumed due authorization, execution and delivery of the Loan Agreement by the State, acting by and through KDHE.
6. The Municipality has duly authorized the Dedicated Source of Revenue for repayment of the Loan to be made pursuant to the Loan Agreement.
7. To the best of my knowledge, the execution and delivery of the Loan Agreement by the Municipality will not conflict with or result in a breach of any of the terms of, or constitute a default under, any ordinance, indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Municipality is a party or by which it or any of its property is bound or any of the rules or regulations applicable to the Municipality or its property or of any court or other governmental body.

Very truly yours,

EXHIBIT H

MUNICIPALITY'S NOTICE ADDRESS

Mayor and City Council
Edgerton City Hall
404 East Nelson
Edgerton, KS 66021

EXHIBIT I

BORROWER SAMPLE ANNUAL COMPLIANCE CHECKLIST (Example – Do Not Complete)

Name of Borrower: City of Edgerton, Kansas
Number of Borrower Loan financing the Financed Facility: KWPCRF Proj. No. C20 3097 01
Financed Facility and Placed in Service Date: The proposed project includes construction of a sewer main extension, improvements at the City Pump Station to utilize an equalization basin, installation of a new gravity main to flow to the new equalization basin, repair/replacement of existing components at the City's wastewater treatment plant (WWTP) to address aging infrastructure, and updates to the City's SCADA system. This loan agreement (C20 3097 01) provides funds for planning, administrative, design and construction costs and interest during construction.
Issue Date of Borrower Loan: June 25, 2024
Name of Borrower Bond Compliance Officer:
Period covered by request ("Annual Period"):

Item	Question	Response
1 Project Completion	Has the Project intended to be financed from proceeds of the Borrower Loan been completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Please provide the completion date of the Borrower Project, or, if the Borrower Project is not yet complete, the <u>expected</u> completion dates of the Project.	

Item	Question	Response
2 Ownership	Was the Financed Facility owned by the Borrower during the entire Annual Period?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If answer above was "No," please describe the assets no longer owned and indicate whether KDFA and KDHE were notified and advice or an Opinion of Bond Counsel obtained prior to the transfer. Include a copy of any advice or Opinion of Bond Counsel in your response.	

Item	Question	Response
3 Leases and Other Rights to Possession	During the Annual Period, was any part of the Financed Facility used by any entity other than the Borrower at any time pursuant to a lease or similar agreement for more than 50 days (e.g., has the Borrower entered into an agreement permitting a cell phone tower or advertisement on a Financed Facility)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If the answer above was "Yes", describe the Financed Facility subject to the lease or similar use agreement and indicate whether KDFA and KDHE were notified and advice or Opinion of Bond Counsel obtained prior to entering into the lease or use agreement. Include a copy of any advice or Opinion of Bond Counsel and a copy of the agreement in your response.	

Item	Question	Response
4 Management or Service Agreements	During the Annual Period, has the Borrower entered into an agreement with another entity to manage the operation of the Financed Facility? (for example, does a private entity operate the System on behalf of the Borrower)	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If the answer above was "Yes", describe the Financed Facility subject to the management or operating agreement and indicate whether KDFA and KDHE were notified and advice or Opinion of Bond Counsel obtained prior to entering into the management or operating agreement. Include a copy of any advice or Opinion of Bond Counsel and a copy of the agreement in your response.	

Item	Question	Response
5 Other Use	During the Annual Period, was any agreement entered into with an individual or entity that grants special legal rights to the Financed Facility (e.g., has the Borrower entered into a take or pay contract or similar agreement related to output from the Financed Facility)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If the answer above was "Yes", describe the Financed Facility subject to the agreement and indicate whether KDFA and KDHE were notified and advice or Opinion of Bond Counsel obtained prior to entering into the agreement. Include a copy of any advice or Opinion of Bond Counsel and a copy of the agreement in your response.	

Borrower Authorized Representative (Print Name): _____

Borrower Authorized Representative (Signature): _____

Date: _____

MEMORANDUM

Date: July 11, 2024
To: City of Edgerton Governing Body
From: Zachary Moore, Development Services Director
Re: Status Update – 312 E. 5th Street, Edgerton, Kansas

On May 9, 2024 the Edgerton City Council passed Resolution 05-09-24B, which requires the owners of 312 E. 5th Street, Edgerton, Kansas to resolve the dangerous and unfit structure which exists on said property by June 10, 2024 by either bringing the property within compliance with the City Code or by demolishing the structures on site.

At the June 13, 2024 City Council meeting, an update was provided to the Council regarding the progress that had occurred since the property was found to have an unsafe structure with Resolution 05-09-24B. Between May 9 and June 13, the property owner had set up a utility account for the property, collected a series of bids for work to bring the structure closer to compliance with City codes, and had removed the dilapidated trailer from the property.

Additionally, the property owner's representative had mentioned at the June 13 City Council meeting that a bid had been collected for demolition of the property, and that the property owner would be making a decision on whether or not to pursue demolition of the structures on the property the next day, June 14. City Council was amenable to an extension of the deadline established with Resolution 05-09-24B to June 27, provided that an update be provided at the next City Council meeting.

As of the writing of this memorandum, the property remains as it did as of the June 13 City Council meeting, and the only action that staff has witnessed on the property was that the lawn had been mowed and a tree had been cut down. Staff has not received any verbal or written update from the property owner or their representatives regarding the status of the demolition bid to date either.

Any additional updates received after publication of this agenda packet will be shared by staff during the July 11th City Council meeting.



Utilities Quarterly Update

March-May 2024

Water

6,950,675
gallons pumped March-May



0 Failed Tests



Flushing

- 6,000 gallons

Testing

- Daily Chlorine
- 6 Bac-T (Ecoli)
- Quarterly S2DBPR



Consumer Confidence Report

The City of Edgerton published the annual Consumer Confidence Report. Once again, the City has had no drinking water violations in the past year and continues to meet or exceed all federal guidelines for water quality.

Locates

299
locates

Locates include water and sewer lines. During the last three months, 8 of these locates were emergency.

Maintenance Highlights

5 Meters Repair/Replace

19 Meter Maintenance

45 Monthly meter readings



Service Orders

March 1 - May 31



36
turn-offs for
non-payment



15
turn-ons

6

continuous flow reports

Investigations

- 6 Meters "not reporting" or not working
- 3 Antennas damaged and replaced
- 6 Other investigations for meter/water service issues



Lead Service Line Inventory

The City of Edgerton received roughly 95 responses to our LSLI survey during the month of March. Customers who completed the survey received a \$20 bill credit. The City is continuing the inventory project, receiving additional assistance from JEO Consulting through KDHE to improve the response rate.

Edgerton Utilities is committed to providing excellent water, wastewater, and stormwater services that ensure the health and safety of our community with a focus on protecting our limited water resources efficiently and effectively for generations to come.



Utilities Quarterly Update

March - May 2024

Sewer

13,709,000
gallons treated



0

Leaks

0

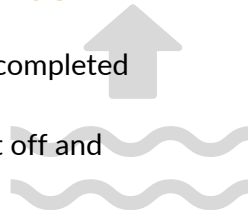
Sanitary Sewer
Overflow

Plant Maintenance

Staff replaced an influent pump at Big Bull Creek Wastewater Treatment Plant. Major repairs were also made to the clarifiers after a scraper arm failure. Staff pumped out 75,000+/- gallons from Clarifier #2 to repair the issue and establish a flow for treatment in #2. Pumped about the same amount out of Clarifier #1 for repair. Assessment of cause of the failure is currently under review.

Lift Station Maintenance

- **EWWS** -Hoist maintenance completed by PW and Utilities staff
- **8th St LS** - Winter heater shut off and basin blower activated
- **Essex LS and IMF LS** - Grease and trash management



Staffing/Training

- New Utilities Maintenance Tech hired
- PW Superintendent temporarily covered plant operations for six weeks
- Two staff members received training at annual KRWA Conference



CDBG Sewer Rehabilitation Project

The City is continuing our sanitary sewer system rehabilitation project that started in 2021. The project replaces clay tile pipe with cured-in-place pipe (CIPP) to reduce inflow and infiltration of storm water into our sanitary sewer system.

For 2024, the area that will receive work is between Nelson and McCarty Streets, from 1st to 5th streets. Initial sewer inspections have been completed. Analysis of pipes is now underway. The sewer inspection team will identify areas that need repairs prior to lining the pipe later this year.