

EDGERTON CITY COUNCIL
***AMENDED* MEETING AGENDA**
CITY HALL, 404 EAST NELSON STREET
September 22, 2022
7:00 P.M.

Call to Order

1. **Roll Call** _____ Roberts _____ Longanecker _____ Lewis _____ Beem
 _____ Stambaugh _____ Lebakken
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 September 8, 2022 Regular City Council Meeting
5. Consider Application FP2021-04, Final Plat for 30650 W. 191st Street Located Near the Northeast Corner of 191st Street and Montrose Street, Edgerton, Kansas
6. Approve Resolution No. 09-22-22A Establishing Fees and Rates for Permits, Licenses and Services with the City of Edgerton, Kansas
7. Approve Final Acceptance of the Nelson Street from East 3rd Street to West 8th Street (CARS) Project, Including Street Maintenance Program 2022 Roadway Sections (West 5th Street & West Martin Street)

Motion: _____ Second: _____ Vote: _____

Regular Agenda

8. **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.
9. **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.

10. **Introduction.** Dan Merkh, Public Works Director, Introduces New Employees for the Public Works and Utilities Departments.

Business Requiring Action

11. **CONSIDER ORDINANCE NO. 2120 AMENDING CITY OF EDGERTON ORDINANCE 2113 WHICH ADOPTED THE RECOMMENDATION OF THE CITY OF EDGERTON PLANNING COMMISSION TO APPROVE APPLICATION ZA2022-01 FOR THE REZONING OF APPROXIMATELY 80.4 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF 207TH STREET/BRAUN STREET AND 8TH STREET/EDGERTON ROAD, FROM JOHNSON COUNTY "RUR" (RURAL DISTRICT) TO CITY OF EDGERTON "PUD" (PLANNED UNIT DEVELOPMENT) ZONING TO CURE A DEFECTIVE LEGAL DESCRIPTION**

Motion: _____ Second: _____ Vote: _____

12. **CONSIDER RESOLUTION NO. 09-22-22B AUTHORIZING THE CITY OF EDGERTON, KANSAS TO ENTER INTO A DEVELOPMENT AGREEMENT FOR A HOUSING DEVELOPMENT PROJECT**

Motion: _____ Second: _____ Vote: _____

13. **CONSIDER RESOLUTION NO. 09-22-22C MAKING CERTAIN FINDINGS AND DETERMINATIONS AS TO THE NEED FOR HOUSING WITHIN THE CITY OF EDGERTON, KANSAS AND SETTING FORTH THE LEGAL DESCRIPTION OF REAL PROPERTY PROPOSED TO BE DESIGNATED AS A RURAL HOUSING INCENTIVE DISTRICT WITHIN THE CITY**

Motion: _____ Second: _____ Vote: _____

14. **CONSIDER AN AGREEMENT BETWEEN BG CONSULTANTS AND THE CITY OF EDGERTON, KANSAS FOR THE ENGINEERING SERVICES FOR DWYER FARMS SANITARY SEWER IMPROVEMENTS**

Motion: _____ Second: _____ Vote: _____

15. **CONSIDER RESOLUTION NO. 09-22-22D APPROVAL OF INDEMNITY AGREEMENT BETWEEN THE CITY AND THE EDGERTON UNITED METHODIST CHURCH FOR USE OF THE CHURCH PARKING LOTS DURING THE MEAT INFERNO EVENT**

Motion: _____ Second: _____ Vote: _____

16. **Report by the City Administrator**

- Project Update: Stormwater Master Plan

17. **Report by the Mayor**

18. Future Meeting Reminders:

- October 11th: Planning Commission Meeting – 7:00PM
- October 13th: City Council Meeting – 7:00PM
- October 13th: CIP Budget Work Session – Following Regularly Scheduled Meeting
- October 27th: City Council Meeting – 7:00PM
- November 8th: Planning Commission Meeting – 7:00PM
- November 10th: City Council Meeting – 7:00PM

19. Adjourn Motion: _____ Second: _____ Vote: _____

EVENTS

September 30: Spooky Stories and S'Mores
October 7-8: Meat Inferno
October 11: Tales for Tots
October 22: Family Pumpkin Yoga
October 30: Edgerton Frontier Days Halloween Party

City of Edgerton, Kansas
Minutes of City Council Regular Session
September 8, 2022

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on September 8, 2022. The meeting convened at 7:00 PM with Mayor Roberts presiding.

1. ROLL CALL

Clay Longanecker	present
Josh Lewis	present
Josh Beem	present via telephone
Josie Stambaugh	absent
Deb Lebakken	present

With a quorum present, the meeting commenced.

Staff in attendance: City Administrator, Beth Linn
Assistant City Attorney, Todd Luckman
Planning and Zoning Coordinator/Deputy City Clerk, Chris Clinton
Finance Director, Karen Kindle
Public Works Director, Dan Merkh
Public Works Superintendent, Trey Whitaker
Marketing & Communications Manager, Kara Banks
Accountant, Justin Vermillion
Capital Improvement Project Manager, Brian Stanley

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 August 25, 2022 Regular City Council Meeting
5. Approve Application FP2021-03, Final Plat for Logistics Park Kansas City (LPKC) Fifth Plat Generally Located North of 187th Street Between Kill Creek Road and Waverly Road, Edgerton, Kansas
6. Approve an Agreement with Varney & Associates, CPAs, LLC, to Prepare the City's Audit for Fiscal Year 2022
7. Approve Resolution No. 09-08-22A Waiving the City's Compliance with Generally Accepted Accounting Principles for Financial Reporting and Causing such reports to be Prepared in Compliance with the Cash Basis and Budget Laws of the State of Kansas
8. Approve the Updated Scope, Budget, and Schedule for The Greenspace Project

Councilmember Longanecker moved to approve the consent agenda. The motion was seconded by Councilmember Lebakken. The consent agenda was approved, 4-0.

Regular Agenda

9. **Declaration.** At this time Councilmembers may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

There were no declarations made by the Councilmembers.

10. **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 Councilmembers only and should not speak to fellow audience members. City Council members should conduct themselves in a civil and respectful manner. Disruptive conduct may result in removal from the meeting.

There were no public comments made at this time.

Business Requiring Action

11. CONSIDER THE 2023 RECOMMENDED BUDGET

Ms. Karen Kindle, Finance Director, approached the Council. She stated the 2023 Budget process began on May 26, 2022 with presentation and funding requests from outside agencies to whom the City provides funding. She explained a budget work session was held on July 7, 2022 where City staff reviewed the schedules for all the City's budgeted funds. This included a detailed review of the calculation of the recommended mill rate based on the adjustments to the Revenue Neutral Rate (RNR) as directed by Council on June 10, 2022. Ms. Kindle said the 2022 Utility Rate Study was presented by the City's rate consultant, Raftelis. Information for Vehicles and Equipment was also reviewed at the budget work session. The vehicle and equipment schedules are included in the budget packet for final approval to incorporate those items in the 2023 budget. She explained that in the future, as the vehicles and equipment items are purchased, City staff will bring the bids to the Council for approval in accordance with the City's Purchasing Policy.

Ms. Kindle stated City staff published the RNR and Budget public hearing notices in the Gardner News on August 3, 2022. The RNR and Budget public hearings were held during the Council meeting on August 25, 2022. During that meeting, the Council approved Resolution No. 08-25-22D authorizing a mill rate of 29.669 for the 2023 Budget. She said the final step in the 2023 Budget process is to formally adopt the 2023 Budget and submit the required budget forms to the Johnson County Clerk.

Councilmember Longanecker moved to approve the 2023 Budget at recommended by City staff. Councilmember Lewis seconded the motion. The 2023 Budget was approved, 4-0.

12. CONSIDER ORDINANCE NO. 2118 AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 2022A, OF THE CITY OF EDGERTON

Ms. Kindle addressed the Council. She said at the July 28, 2022 Council meeting, the Council approved an agreement with the City of Gardner to acquire their interest in the Big Bull Creek Wastewater Treatment Plant (BBCWWTP) joint infrastructure. During the same meeting, the Council approved Resolution No. 07-28-22B which authorized the City to offer bonds for sale to fund the acquisition of the BBCWWTP joint infrastructure. She explained in accordance with Kansas statutes, the City's financial advisor, Columbia Capital, held a competitive sale earlier today, September 8, 2022.

Ms. Kindle stated Ordinance No. 2118 authorizes the issuance of the bonds and notes that the specific terms of the bonds will be outlined in the Bond Resolution, which will be considered by the Governing Body after consideration of this Ordinance. She stated the City Attorney has reviewed and approved the Ordinance.

Mr. Khaleen Dwyer, Columbia Capital, approached the Council. He stated the General Obligation Bonds (GO Bonds) for this project are for \$3,500,000. Columbia Capital spoke with six (6) banks but only received one (1) bid. The bid was from First National Bank of Omaha. He stated it was a good bid. He explained the interest rate that was expected was around 3.33% to 3.45% but the bid had an interest rate of 3.29%. He also explained the City had to do a competitive bid process for these bids because the amount was greater than \$2,000,000. When that is the case, Kansas state statute requires competitive bidding. It is better when it is not a competitive bid because then Columbia Capital can negotiate a better rate for the City.

Councilmember Longanecker stated when reviewing the information, he noted that the interest rate for the Temporary Notes is 3.34% and thought it would be higher since the City is borrowing for a shorter amount of time. Mr. Dwyer replied that it actually is typically a lower interest rate for a shorter loan period. With what the market is doing, it makes the rates the City got for the GO Bonds even more impressive.

Councilmember Longanecker moved to approve Ordinance No. 2118. The motion was seconded by Councilmember Lebakken. Ordinance No. 2118 was approved, 4-0.

13. CONSIDER RESOLUTION NO. 09-08-22B PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION BONDS, SERIES 2022A, OF THE CITY OF EDGERTON, KANSAS PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 2118

Ms. Kindle explained Resolution No. 09-08-22B contains the specifics for the bonds just approved including the amount of the bonds, the interest rate, the maturity date, repayment provisions, and other details. Approval of this Resolution is the final step in the issuance process for the Series 2022A General Obligation Bonds (GO Bonds). If approved, the closing date for the bonds will be September 22, 2022. She stated the City Attorney has reviewed and approved the resolution and the Bond Purchase Agreement.

Councilmember Longanecker verified the bidder was First National Bank of Omaha. Ms. Kindle answered that is correct.

Councilmember Longanecker moved to approve Resolution No. 09-08-22B. Councilmember Lewis seconded the motion. Resolution No. 09-08-22B was approved, 4-0.

14. CONSIDER RESOLUTION NO. 09-08-22C AUTHORIZING AND DIRECTING THE ISSUANCE OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2022A, OF THE CITY OF EDGERTON, KANSAS, AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTION CONNECTED THEREWITH

Ms. Kindle addressed the Council. She stated in 2020, the City issued general obligation temporary notes to finance the remaining balance on the 2019 Street Reconstruction project and the construction of the intersection at 200th Street and Homestead Lane. Those notes mature on October 1, 2022. The City will pay off the portion of the principal related to the 2019 Street Reconstruction Project and finance the remaining principal for the 200th Street and Homestead Lane Intersection Project with the Series 2022A general obligation temporary notes. She said on July 28, 2022, the Council approved Resolution No. 07-28-22C which authorized the City to offer the temporary notes for sale and authorized the Mayor to execute a Note Purchase Agreement within certain parameters.

Ms. Kindle said the Financial Advisor issued a Request for Proposals (RFP) to banks and received four (4) proposals. The proposals were from Capital One, Central Trust Bank doing business as Central Bank of the Midwest (Central Bank), Intrust Bank, and US Bank. The Financial Advisor reviewed the rate as well as the bank fees for the transaction. The RFP summary was provided in the packet. Based upon Columbia Capital's review, they recommend the proposal from Central Bank. She explained Central Bank's interest rate is not the lowest rate but when the bank fees are factored in, their proposal is the best proposal. She said Central Bank's proposal is for a two-year term with an interest rate of 3.34% plus additional fees of \$2,000. Interest will be paid twice a year on March 1 and Sep 1, beginning on March 1, 2023. Interest payments will be funded from Tax Increment Financing (TIF) revenues from the Homestead Lane Retail TIF District Project Plan A1, which is comprised of On the Go Travel Center.

Ms. Kindle explained that as authorized by Resolution No. 07-28-22C, the Mayor will execute a Note Purchase Agreement with Central Bank. The Note Purchase Agreement documents Central Bank's agreement to purchase the notes from the City and includes various representations by the City and Central Bank regarding the sale of the notes. The Note Purchase Agreement was provided in the packet. Resolution No. 09-08-22C contains the specifics for the notes including the amount of the notes, the interest rate, the maturity date, repayment provisions, and other specifics. She said approval of this Resolutions is the final step in the temporary note process. If approved, the closing date for the Notes will be September 22, 2022. The City Attorney has reviewed and approved the Resolutions and the Note Purchase Agreement.

Mr. Dwyer approached the Council. He stated there were 4 offers received. Columbia Capital has been trying to get Central Bank to place offers and they were glad to see Central Bank show interest. He explained Intrust Bank's proposal did have lower interest rates but did

contain more fees. Central Bank was a better proposal with lower fees but a slightly higher rate.

Councilmember Lewis moved to approve Resolution No. 09-08-22C. The motion was seconded by Councilmember Lebakken. Resolution No. 09-08-22C was approved, 4-0.

15. CONSIDER ORDINANCE NO. 2119 ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE A CONDITIONAL USE PERMIT (CU2021-04) ALLOWING A CARGO CONTAINER STORAGE, REPAIR OR MAINTENANCE FACILITY ON PROPERTY LOCATED NORTH OF 187TH STREET BETWEEN KILL CREEK ROAD AND WAVERLY ROAD (31220 W. 187TH STREET), EDGERTON, KANSAS

Ms. Beth Linn, City Administrator, spoke before the Council. She stated the City has received Application CU2021-04 requesting a Conditional Use Permit (CUP) to operate a cargo container storage, repair or maintenance facility on a parcel of land located north of 187th Street between Kill Creek Road and Waverly Road, Edgerton, Kansas. The applicant and landowner is NorthPoint Development, LLC. The Burlington Northern Santa-Fe (BNSF) intermodal facility is located directly north from where this operation would be located and the LPKC industrial park is adjacent to this parcel on two (2) sides.

Ms. Linn stated as outlined in Final Site Plan Application FS2021-11, the applicant has proposed a cargo container storage lot operation on this parcel. The east half of the parcel will be used for stacked container storage with the west being utilized for wheeled container storage. The Site Plan includes a gate to allow traffic onto the site from 187th Street. She said a separate exit only lane is planned to the west of that entrance, also onto 187th Street. Operations will include a new 10,600 square foot maintenance facility near the southeast corner of the parcel. Just to the west of the maintenance facility is a pre-tripping area where containers will be rinsed and prepped for the storage yard. She said the facility will contain a designated parking area to keep vehicle traffic separate from truck traffic. Application FS2021-11 was approved by the Planning Commission on December 14, 2021.

Ms. Linn said pursuant to the City's Unified Development Code (UDC), Article 7, Section 7.2.(G)(7), cargo container storage, repair or maintenance facilities are considered a conditional use on parcels which contain an L-P zoning designation. In order to approve or disapprove of a proposed CUP, the Governing Body shall determine whether the proposed use is found to be generally compatible with surrounding development and is in the best interest of the City. In making such determination, Article 7, Section 7.1(C) of the UDC states that the Governing Body may consider all factors they deem relevant. The staff report presented to the Planning Commission outlining the findings of staff's review was included in the packet.

Ms. Linn explained the Planning Commission held a public hearing regarding Application CU2021-04 on December 14, 2021. Upon conclusion of that public hearing, the Planning Commission recommended approval of Application CU2021-04 with the following stipulations:

1. The CUP CU2021-04 approval shall be transferable, but it must stay with the ownership of these parcels for which its use is approved (Final Plat application FP2021-03).
2. The property owner shall continuously comply with all performance criteria in Article 7 pertaining to Cargo Container Storage Facilities and Cargo Repair and Maintenance Facilities, including, but not limited to, noise maximums and cargo container and chassis stacking height requirements. The applicant shall comply with height requirement by limiting cargo container stacking to not exceed the maximum five (5) cargo containers. This condition shall be continually met for the duration of the CUP.
3. The property shall be developed in accordance with Final Site Plan application FS2021-05 and any stipulations, to be approved by the Planning Commission, prior to commencement of the cargo container storage use.
4. Landscaping material shall be continuously maintained and replaced when dead.
5. No other outside storage of equipment or materials shall be allowed on the property.
6. Any future phases or additional areas used for cargo container maintenance and repair uses shall not commence until a new, revised Site Plan is submitted and approved by the City for that phase, including photometric and landscaping plans.
7. This CUP shall be valid for ten (10) years from date of approval by the Governing Body.

Ms. Linn stated there were a few items noted during the review of Final Site Plan FS2021-11 that required revisions in order for staff to ensure compliance with Articles 5, 7, and 10 of the UDC. City staff has continued to work with the applicant regarding regulations related to the pre-tripping area of the facility. On April 22, 2022, the applicant submitted a revised Final Site Plan for staff to review pursuant to the stipulations made during the Planning Commission meeting on December 14, 2021 and requirements provided during ongoing conversations with staff related to the pre-tripping area wastewater disposal method. Ms. Linn said the applicant has made the necessary revisions to the Site Plan to meet the stipulations outlined during City Staff review presented at the Planning Commission meeting. Due to the conversations regarding the pre-tripping and stormwater areas, City staff recommends adding an additional stipulation as follows:

8. As part of the CUP, the owner and operator of the facility are required to enter into and remain in compliance with a Significant Industrial User Agreement. This Significant Industrial User Agreement must be executed prior to the issuance of a building permit.

Ms. Linn explained City staff recommends approval of CU2021-04 for a period of 10 years subject to the stipulations outlined by the Planning Commission and the additional stipulation required by City staff. The City Attorney has prepared Ordinance No. 2119 for the Council's consideration.

Councilmember Longanecker stated there used to be a problem with the gravel on the cargo container lots. Ms. Linn replied the UDC was updated so that cargo container storage lots can no longer use gravel as a base for the storage area. When LPKC was first developing, they could use gravel, but the City learned from that and adopted new standard. The storage lot now has to be completely concrete or asphalt.

Councilmember Longanecker stated this is the perfect location for a storage lot. Mayor Roberts agreed and stated it is in the middle of everything.

Mr. Aaron Burks, NorthPoint Development, showed a map of where the project is going to be located. He explained it abuts the BNSF Intermodal with warehouses across the street from the site. The parcel is triangular and doesn't work for much else.

Councilmember Longanecker inquired about future access directly to the Intermodal facility. Mr. Burks replied explained the tenant will be ITS ConGlobal who also operates the Intermodal. Mr. Burks showed the site plan. He said NorthPoint has worked a lot with the City on the site plan which includes a long drive to prevent trucks stacking on 187th Street and Waverly Road. He stated the site plan was drafted for a possible access point into the Intermodal. Mayor Roberts said there are a lot of gates to jump through to get that access point granted. He said he know it does happen, but there are only a few. Mr. Burks added this tenant does have a gate at their Fort Worth, Texas location to an intermodal facility there and NorthPoint was the first company to negotiate a private access to a BNSF site. He explained it takes a long time to get anything done when working with the BNSF.

Councilmember Lewis said this is a good use of the space.

Councilmember Lebakken moved to approve Ordinance No. 2119. The motion was seconded by Councilmember Longanecker. Ordinance No. 2119 was approved, 4-0.

16. CONSIDER AN AGREEMENT WITH NORTHPOINT AND THEIR TENANT TO BE A SIGNIFICANT INDUSTRIAL USER

Mr. Dan Merkh, Public Works Director, addressed the Council. He stated as part of the current Wastewater Master Plan, identifying significant industrial users (SIU) will provide needed safety measures to know which customers will be dumping wastewater that may differ from typical residential flow. The Master Plan recommended a SIU Agreement between the customer and the City, requiring the customer to declare what they intend to discharge and the amount. The draft agreement was included in the packet.

Mr. Merkh explained the agreement is set to be between the City, the property owner, NorthPoint, and their tenant. The owner and tenant are planning to operate a cargo container storage facility with a pre-tripping area. This agreement requires the tenant to measure quantity and quality of flow. The tenant also agrees to perform standard maintenance on testing equipment, solids catchment, and the oil/grease separator. In the agreement, there are measures to protect the City in case of non-compliance on the part of the tenant. The agreement is required as part of the CUP. City staff recommends approving the agreement pending final review by the City Attorney.

Mr. Merkh highlighted some of the key components of the agreement. The agreement is for 1 year. There are ways for the agreement to be terminated based on noncompliance. There is language for remediation if the agreement is terminated. The ways to renew the agreement are outlined as well. He explained the agreement does not allow anything more than residential flow. The tenant will have to follow the City's codes and sample downstream in a standard approved method. Mr. Merkh stated the agreement does allow City staff onsite for inspections as needed. The operator will need to maintain and calibrate the equipment regularly. A sand and oil separator will be required as well. He said there is a valve the operator will switch on to allow the water to drain into the sanitary sewer. The

agreement will not allow for that valve to be kept on, which will prevent stormwater from flowing into the sanitary sewer. The off position of the valve will direct water into the storm sewer. There will also be a rain sensor required to prevent this situation as well. The operator will need to provide an estimate as to the times of operation when they apply for the building permit.

Councilmember Longanecker stated the City and State are rather particular when it comes to the pre-tripping area. Mr. Merkh explained it is a lot of risk taken on by the City because it is unknown what is in the containers when the operator goes to clean them. Mr. Burks stated the pre-tripping will only occur on export containers for cold storage and will contain food products that are shipped on a pallet. These pallets will contain a lot of pork and dairy products. Mr. Burks explained that during the pre-tripping, the containers are swept out then power washed to rinse out debris, dust, or remnants of food. The containers are then stored clean for the next shipment. He said though there is more wastewater being discharged into the system, it is about the same amount as five (5) three-person family homes. Mr. Burks stated it would not be a huge burden on the system. Councilmember Longanecker appreciated the information and stated he knows someone who cleans up after a semi wreck and has been told about the messes. Mr. Merkh stated when that happens, those packages open, but that should not be happening in the closed container. He warned there is a chance of organic material and the City needs to be able to handle that material during treatment of the water.

Mayor Roberts inquired if any disinfectant was used during the power washing of the containers. Mr. Burks answered there is no disinfectant or soap used during the power washing, just the water from the washer.

Ms. Linn explained this is the first agreement like this the City has done. The City utilized Burns and McDonnell to draft the agreement.

Mayor Roberts stated the City has had some conversations with BNSF similar to this but that was just water going onto concrete pads. Ms. Linn said if there was just water draining, then it can go to the stormwater system, but when there is the possibility of organic matter in the water, then it needs to go to the sanitary sewer and treatment plant. Mr. Burks explained there will be a valve that blocks the flow to sanitary when the power washing equipment is not being used.

Councilmember Longanecker asked if the truck wash at On the Go Travel Center has this type of system. Mr. Merkh replied all of the water there goes into the sanitary sewer and the truck wash facility is all indoor.

Councilmember Lewis inquired if there is another facility that does the pre-tripping. Ms. Linn answered there is not. Ms. Lebakken stated this particular pre-tripping area is outside, where others could be indoors. Councilmember Lewis asked if this pre-tripping area is the first of its kind here. Mayor Roberts replied it is.

Mayor Roberts questioned if there were conversations with the Kansas Department of Health and Environment (KDHE). Mr. Merkh and Mr. Burks replied there have been. Ms. Melissa DeGonia, Project Engineer, stated the proposed solution was one first proposed by

KDHE. Mayor Roberts said this project has been well vetted by City staff and appreciates the patience shown by the applicants.

Councilmember Longanecker moved to approve the Significant Industrial User Agreement pending approval of the City Attorney. The motion was seconded by Councilmember Lebakken. The Agreement was approved, pending approval from the City Attorney, 4-0.

17. Report by the City Administrator

- Ms. Linn said ColdPoint is a major sponsor for Meat Inferno. She said there are many competitors and volunteers who have signed up, but more are always welcome. The City is very excited for this event. Ms. Burks said he and his daughter will be competing.
- Ms. Linn explained Ms. Brittany Paddock, Recreation Coordinator, is planning an event on September 30, 2022 for spooky stories and s'mores at Edgerton Lake. She explained that the City Code does not permit fires in any City parks. The City's intention is to have s'mores that night made over a fire. Councilmember Longanecker moved to allow a fire in a contained pit for s'mores during the City sponsored event. Councilmember Lebakken seconded the motion. The City will be allowed to have a fire in a contained pit during their event on September 30, 2022, 4-0.
- Ms. Linn stated to motivate council for the upcoming Capital Improvement Plan (CIP) Budget work session that will kick off the 2024 budget process, City staff will be providing updates on current CIP projects. She wanted to provide an update on the 207th Street Grade Separation. She explained the original scope of the project only included the bridge and adjacent roadway. The Council approve the addition of the 8th Street and Braun Street intersection. She said the bridge and adjacent roadway work is at punch-list stage. She explained that is when substantial completion is done, and the City will walk the project with the construction team and look for items that need to be completed. Those items are called the punch list. There is still work continuing, even though a crew may not be out there daily. Due to the addition of the intersection work, final acceptance will be after that work is completed. Ms. Linn explained the fabrication of a water vault will be done in about sixty (60) days. The water line needs to be relocated, then the intersection will be completed. The City hopes for substantial construction to be completed by the end of the year. She said there have been supply chain challenges to overcome. Mayor Roberts added it is an ever-moving environment in terms of construction equipment. Ms. Linn stated updates on different projects will be provided at each meeting.

Councilmember Longanecker inquired as to who was to be mowing that area. He noticed the City was mowing today but was not earlier. Mayor Roberts said this situation is unique. Ms. Linn replied that City staff will present options regarding the maintenance of large tracts of land that belongs to the City. Councilmember Longanecker asked if mowing was to be done by the contractor or the City. Ms. Linn explained the project area still belongs to the contractor, but mowing is not in their list of duties, so the City mowed it recently. She said in order for the City to mow it, equipment needed to be rented. Mr. Merkh explained City staff mowed today, but two days ago it was not City Staff mowing.

Councilmember Longanecker asked if the logos on the fence would be changed. He explained as you drive down Co-Op Road towards the bridge, the logo is backwards. Ms. Linn replied the logos are orientated for those driving on the bridge and any additional work is not budgeted at this time.

Councilmember Lebakken inquired if the infrastructure being installed at the 8th Street and Braun Street intersection will be expanded into the new development. Ms. Linn answered the infrastructure to the development will be separate and some studies will be needed for the utilities. Councilmember Lebakken asked if the intersection will be completed before the development starts construction. Ms. Linn replied that the intersection will be improved, but not fully built out. She explained it is possible that the intersection will need more work in the future.

Councilmember Longanecker asked if there is a water main along 207th Street/Braun Street. Mr. Merkh replied there is a water line there and at the intersection there is a change in pressure zone. He explained the City will need to know which zone to connect to for the development on the southwest corner. Ms. Linn added studies with engineers will be needed to figure out how to best serve the development.

18. Report by the Mayor

- Mayor Roberts did not have anything to report at this time.

19. Future Meeting Reminders:

- September 12th: Comprehensive Plan Open House – 7:00 to 8:30 PM – Ms. Linn explained there will be a presentation first then some planning exercises after. The more people who participate, the better the Comprehensive Plan will be. The following morning, there will be an interactive website set up so residents can share their ideas, but it not as good as coming to the open house. Mayor Roberts said it also helps gets questions answered regarding the process. He agreed and stated the more participation, the better the Compressive Plan will be.
- September 13th: Planning Commission Meeting; and
- September 13th: Board of Zoning Appeals Meeting– 8:00PM
- September 22nd: City Council Meeting – 7:00PM
- October 11th: Planning Commission Meeting – 7:00 PM
- October 13th: City Council Meeting – 7:00PM
- October 13th: CIP Budget Work Session – Following Regularly Scheduled Meeting
- October 27th: City Council Meeting – 7:00PM

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

Councilmember Longanecker moved to enter executive session pursuant to K.S.A. 75-4319(B)(2) for consultation with an attorney deemed privileged in the Attorney-Client relationship to include the Assistant City Attorney and City Administrator for the purposes of

contract negotiations for 5 minutes. Councilmember Lewis seconded the motion. The meeting recessed into executive session at 7:54 PM, 4-0.

Councilmember Longanecker moved to return to open session. Councilmember Lebakken seconded the motion. Open session resumed at 7:59 PM, 4-0.

Councilmember Longanecker moved to enter executive session pursuant to K.S.A. 75-4319(B)(2) for consultation with an attorney deemed privileged in the Attorney-Client relationship to include the Assistant City Attorney and City Administrator for the purposes of contract negotiations for two (2) minutes. Councilmember Lewis seconded the motion. The meeting recessed into executive session at 7:59 PM, 4-0.

Councilmember Longanecker moved to return to open session. Councilmember Lebakken seconded the motion. Open session resumed at 8:01 PM, 4-0.

Councilmember Longanecker moved to purchase the property owned by the Ebels at 414 E 4th Street in Edgerton, Kansas for \$240,000. Councilmember Lewis seconded the motion. The City will purchase the property at 414 E 4th Street for \$240,000, 4-0.

21. Adjourn

Councilmember Lewis moved to adjourn the meeting. Councilmember Lebakken seconded the motion. The meeting was adjourned at 8:02 PM, 4-0.

City Council Action Item

Council Meeting Date: September 22, 2022

Department: Community Development

Agenda Item: Consider Application FP2021-04, Final Plat for 30650 W. 191st Street Located Near the Northeast Corner of 191st Street and Montrose Street, Edgerton, Kansas.

Background/Description of Item:

The City of Edgerton has received Application FP-2021-04 for the Final Plat of *JB Hunt Addition*, generally located near the northeast corner of 191st Street and Montrose Street, Edgerton, Kansas. This Final Plat request combines one already platted parcel with two unplatted parcels. The platted parcel was annexed into the City on December 3, 2013 and the unplatted parcels were annexed in on June 10, 2021.

All three parcels contain the Edgerton L-P zoning designation. The Edgerton City Council gave final approval to rezone the original platted parcel from Johnson County *RUR* to Edgerton *L-P, Logistics Park* zoning on January 9, 2014 (Ordinance 964) and on September 9, 2021, the Edgerton City Council granted final approval to rezone the two (2) eastern unplatted parcels, also from Johnson County *RUR* to Edgerton *L-P, Logistics Park* (Ordinance 2096).

The Planning Commission held a public hearing for Preliminary Plat Application PP2021-05 on December 14, 2021. This Final Plat application aligns with the request made in that application.

JB Hunt currently conducts cargo container storage operations on the platted parcel. The applicant wishes to combine these three lots to accommodate the expansion of their cargo container storage operations. The new lot size which would total approximately 29.62 acres. The city has received a Final Site Plan application for this expansion which is scheduled to be heard at the September 13, 2022 Planning Commission meeting. The applicant is aware that applications for both a Final Site Plan and a Conditional Use Permit must be approved by the Planning Commission and Governing Body before operations may be expanded.

City staff has reviewed the Final Plat submittal for conformance with the approved Preliminary Plat and requirements in Section 13.3 of Article 13 of the Edgerton UDC. The applicant's engineer has updated the Final Plat as required by stipulations listed in the staff report and the updated Final Plat is included here. This Final Plat has been reviewed by the City Engineer and found to be in compliance with City Code requirements.

Related Ordinance(s) or Statue(s): K.S.A. 12-715b, K.S.A. 12-741, et. Seq. to K.S.A. 12-771 – Establishment of the Unified Development Code

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approve Application FP2021-04, Final Plat for 30650 W. 191st Street Located Near the Northeast Corner of 191st Street and Montrose Street, Edgerton, Kansas.

Enclosed:

- Revised Final Plat dated July 28, 2022.
- Staff Report from December 14, 2021 Planning Commission including Final Plat Application FP2021-04
- Excerpt of December 14, 2021 Planning Commission Meeting Draft Minutes – JB Hunt Final Plat portion only.

Prepared by: Beth Linn, City Administrator

FINAL REPLAT
SHALL HEREAFTER BE KNOWN AS
JB HUNT ADDITION
A REPLAT OF LOT 1, JB HUNT CONTAINER STORAGE FACILITY AND AN UNPLATTED PART OF THE SOUTH HALF
OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 14 SOUTH, RANGE 22 EAST, IN THE CITY OF
EDGERTON, JOHNSON COUNTY, KANSAS
30650 W 191st ST.
CITY OF EDGERTON, JOHNSON COUNTY, KANSAS

LEGAL DESCRIPTION:

A Tract of land being located in the South Half (S1/2) of the Southwest Quarter (SW1/4) of Section 35, Township 14 South, Range 22 East (Sec. 35, T14S, R22E) in the City of Edgerton, Johnson County, Kansas, being a replat of Lot 1 of the Final Plat of JB Hunt Container Storage Facility, a subdivision in the City of Edgerton as recorded in Document Number 201602002873 of the Recorder of Deeds Office and all of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) of Sec. 35, T14S, R22E, being more particularly described by James G. Temple KS PLS # 1121 on August 8, 2021, as follows:

COMMENCING at a 2-inch aluminum cap with punch mark found at the southwest corner of said Section 35;
THENCE N 88°38'46" E, a distance of 987.82 feet to a Mag Nail with washer found for the southwest corner of the E 1/2 of the E 1/2 of the SW 1/4 of said SW 1/4;

THENCE N 02°03'23" W along the westerly line of the East Half (E1/2) of the East Half (E1/2) of the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) of said Section 35, a distance of 60.00 feet to a 5/8-inch rebar with cap stamped "S1121" set at the Southwest corner of said Lot 1 and the POINT OF BEGINNING;

THENCE N 02°03'23" W, a distance of 1267.55 feet to a 5/8-inch rebar in concrete found for the northwest corner of said Lot 1 and being the northwest corner of the East Half (E1/2) of the East Half (E1/2) of the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) of said Section 35;

THENCE N 88°32'53" E, a distance of 984.62 feet to a found 1/2-inch rebar for the northeast corner of said Lot 1 and being the northeast corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE N 88°30'28" E, a distance of 657.24 feet to a found 1/2-inch rebar for the northeast corner of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Southwest Quarter (SW 1/4) of said Section 35;

THENCE S 02°14'42" E, a distance of 665.88 feet to a nail found for the southeast corner of the Northeast Quarter (NE 1/4) of the Southeast Half (SE 1/2) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE S 88°36'52" W, a distance of 657.70 feet to a 1/2-inch rebar found for the southeast corner of said Lot 1 and being the southeast corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE S 88°35'02" W, a distance of 658.83 feet to a 1/2-inch rebar found for a corner of said Lot 1 and being the southwest corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE S 02°12'45" E, a distance of 603.92 feet to a 5/8-inch rebar with cap stamped "LS 1121" set for the most southerly southeast corner of said Lot 1;

THENCE S 88°38'46" W, a distance of 329.20 feet to the POINT OF BEGINNING and containing 1,290,242 square feet or 29.62 acres of land, more or less.

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

DEDICATION:

The undersigned proprietor of the above described tract of land has caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision and plat shall hereafter be known as "JB HUNT ADDITION".

The undersigned proprietor of said property shown on this plat does hereby dedicate for public use and public ways and thoroughfares, all parcels and parts of land indicated on said plat as streets, terraces, places, roads, drives, lanes, parkway, avenues and alleys not heretofore dedicated. Where prior easement rights have been granted to any person, utility of corporation on said parts of the land so dedicated, and any pipes, lines, poles and wires, conduits, ducts or cables heretofore installed thereupon and therein are required to be relocated, in accordance with proposed improvements as now set forth, the undersigned proprietor hereby absolves and agrees to indemnify the City of Edgerton, Kansas, from any expense incident to the relocation of any such existing utility installations within said prior easement.

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

APPROVALS:

APPROVED by the Planning Commission of the City of Edgerton, Johnson County, Kansas, on the _____ day of _____, 2022.

John Daley, Chairperson
Jeremy Little, Secretary

APPROVED by the Governing Body of the City of Edgerton, Johnson County, Kansas, on the _____ day of _____, 2022

Donald Roberts, Mayor
Alexandria Clower, City Clerk

APPROVED by the Zoning Administrator on the _____ day of _____, 2022.

Zoning Administrator

EXECUTION:

IN TESTIMONY WHEREOF, the undersigned proprietor has caused this instrument to be executed this _____ day of _____, 2022.

JB HUNT TRANSPORT INC.
It's: Manager

Manager

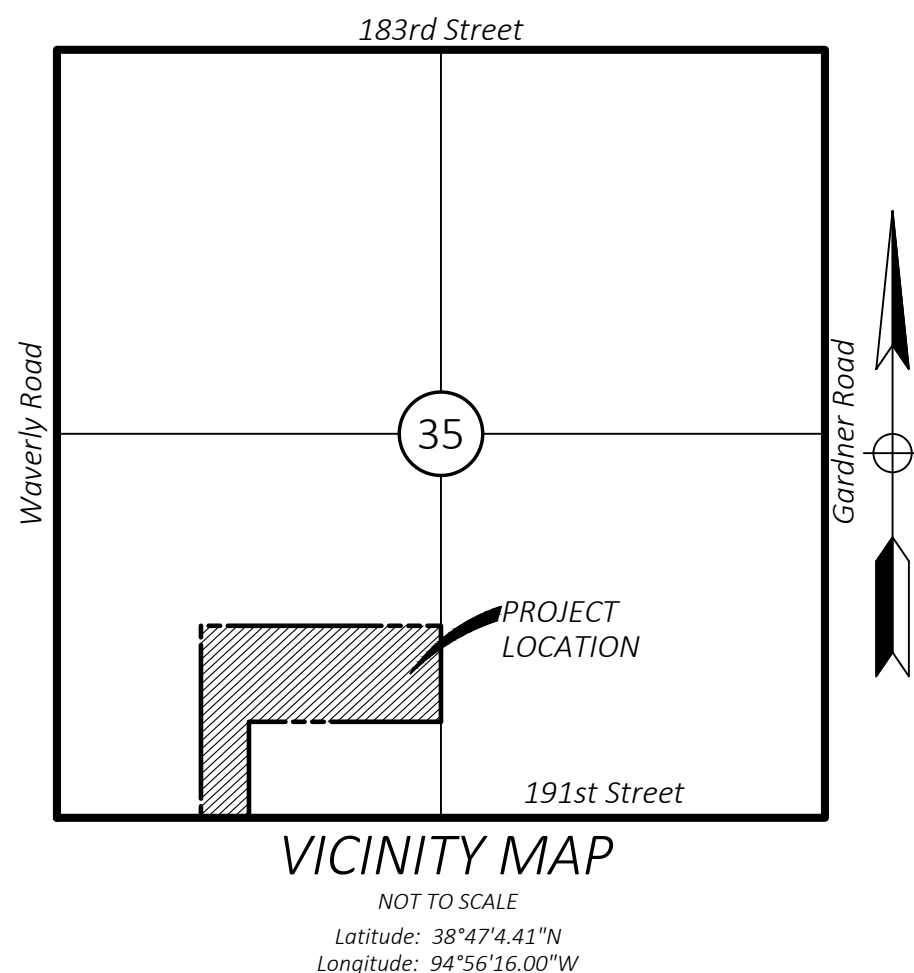
STATE OF _____

COUNTY OF _____

BE IT REMEMBERED, that on this _____ day of _____, 2022, before me a Notary Public in and for said County and State, came _____, Manager of JB HUNT TRANSPORT INC. who is personally known to me to be the same person who executed the foregoing instrument of writing on behalf of said corporation, and he/she duly acknowledged the execution of the same to be the act and deed of said corporation.

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

Notary Public
My Appointment Expires: _____



SURVEYOR'S CERTIFICATION:

I, James G. Temple, hereby certify that this Preliminary Plat and the survey on which it was based was made by me or under my direct supervision, and meets or exceeds the current Kansas Minimum Standards for surveys of this type. All monuments were found or set as shown and the physical features shown are a true representation of what was found to the best of my knowledge and ability.

James G. Temple, KS LS No. 1121

Date

GENERAL NOTES:

- Basis of Bearings: All bearings and distances shown hereon are grid based on KANSAS State Plane Coordinate System, NAD83, North Zone. S 88°38'46" W, along the South line of the SW 1/4 of Section 35-T14S-R22E.
- Closure Calculations: Precision 1: 640103.30
Perimeter: 5824.95'
Error Closure: 0.0091 Course: S62°27'09"W
Error North: -0.00421 East: -0.00808
- By scaled map location and graphical plotting only. This property is located in unshaded Zone "X" which are areas determined to be outside the 0.2% annual chance floodplain determined by the National Flood Insurance Program, Flood Insurance Rate Map for Johnson County, Kansas.
Map Number: 20091C0119G Map Number: 20091C0120G
Map Revised: August 3, 2009 Map Revised: August 3, 2009
- An on the ground survey was conducted on August 09, 2021
- This plat was prepared on August 12, 2021
- This plat shall not be filed by the Register of Deeds of Johnson County, Kansas unless filing within 365 calendar days after the City of Edgerton Governing Body approval date, inclusive.

REVIEWED	
COUNTY CLERK	DATE
Reviewed in accordance with KSA	
DEPUTY COUNTY SURVEYOR	DATE

FINAL PLAT
JB HUNT ADDITION
30650 W 191st ST.
CITY OF EDGERTON, JOHNSON COUNTY, KANSAS

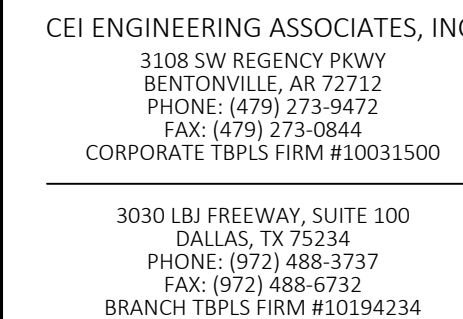
Preliminary
This document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document

PROFESSIONAL OF RECORD	JGT
DESIGNER	CDG
FIELD WORK	KTC
CEI PROJECT NUMBER	32213
DATE	7/28/2022
REVISION	REV 2

FP COVER

SHEET TITLE
SHEET NUMBER

1 OF 2



Preliminary
This document shall
not be recorded for any
purpose and shall not
be used or viewed or
relied upon as a final
survey document

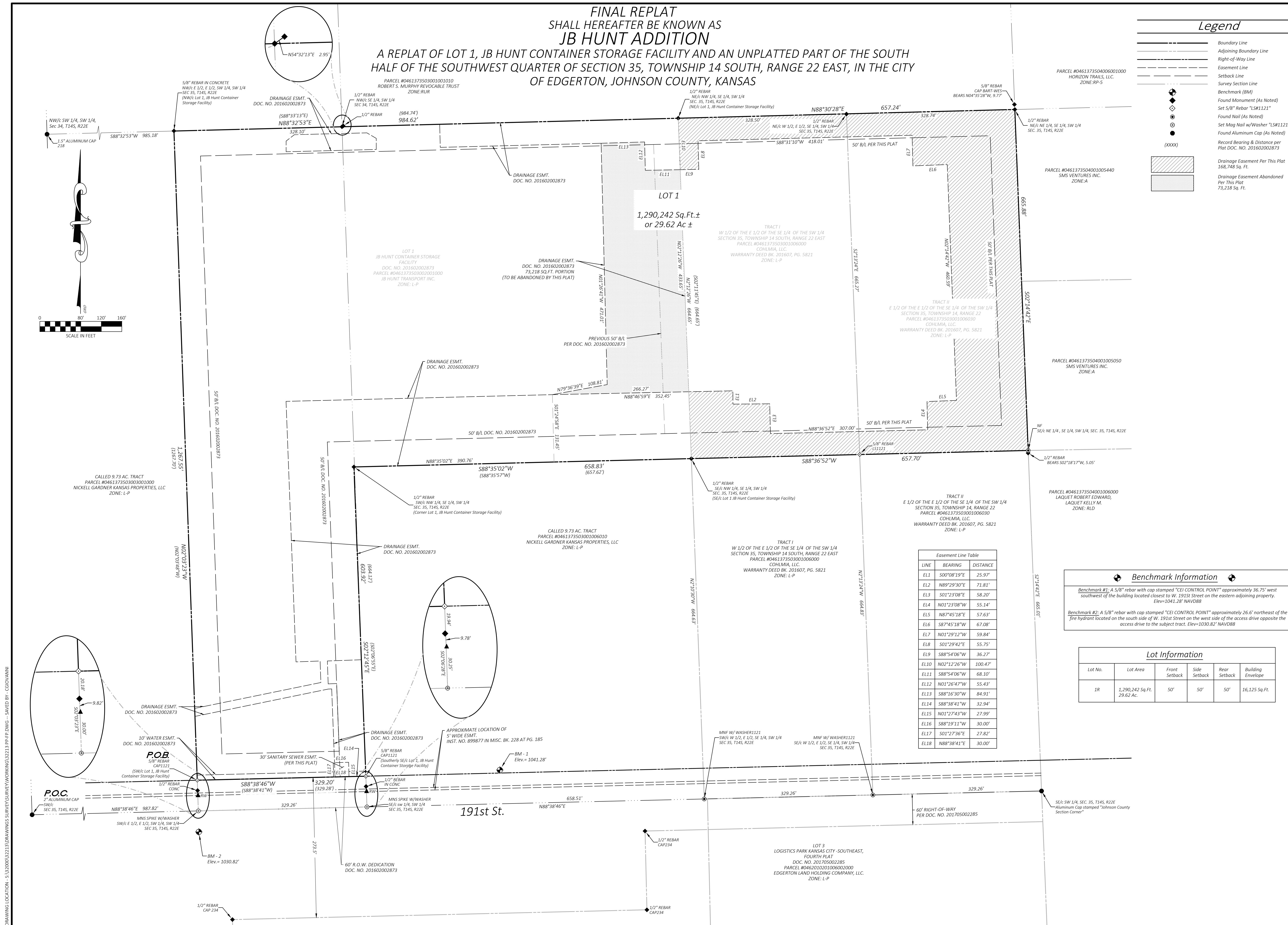
PROFESSIONAL OF RECORD	JG
DESIGNER	CD
FIELD WORK	KT
CEI PROJECT NUMBER	3221
DATE	7/28/2021
REVISION	REV

32213 FP

SHEET TITLE

SHEET NUMBER

2 OF 2



JB HUNT TRANSPORT

Application FP2021-04

30650 W. 191st Street (Northeast corner of 191st Street and Montrose Street)

QUICK FACTS

PROJECT SUMMARY AND REQUESTED APPROVALS

The Applicant is requesting approval of a Final Plat for 30650 W. 191st Street (northeast corner of 191st Street and Montrose Street).

Owner and Applicant

JB Hunt Transport, Inc.
represented by Derek Kennemer,
Agent and Property Owner

Zoning and Land Use

L-P (Logistics Park) which has been developed with a cargo container storage lot.

Legal Description

The S ½ of the SW ¼ of Section 35, Township 14 S, Range 22 E, in the City of Edgerton, Johnson County, Kansas; please see attached application for complete Legal Description

Parcel Size

29.62 acres

Staff Report Prepared by

Chris Clinton



BACKGROUND

Subject Site

The parcel is located within the Bull Creek watershed and was annexed into the City of Edgerton on June 10, 2021.

Utilities and service providers:

- a. Water Provider - Johnson County Rural Water District #7.
- b. Sanitary Sewer - City of Edgerton.
- c. Electrical Service - Evergy.
- d. Gas Service – Kansas Gas Service.
- e. Police protection is provided by the City of Edgerton through the Johnson County Sheriff's Office.
- f. Fire protection is provided by Johnson County Fire District #1.

Site History and Past Approvals

The Edgerton City Council gave final approval to rezone the original platted parcel from Johnson County *RUR* to Edgerton *L-P, Logistics Park* zoning on January 9, 2014.

On August 8, 2021, the City of Edgerton Planning Commission approved Applications ZA2021-07 and ZA2021-08 for the rezoning of the two (2) eastern unplatted parcels. Edgerton City Council granted final approval for this rezoning on September 9, 2021. This Preliminary Plat application shows the northern half of the 2 eastern parcels being combined with the existing JB Hunt operations to the west into one (1) lot.

This Final Plat includes the parcels that were addressed in Preliminary Plat PP2021-05, which was presented to the Planning Commission on December 14, 2021.

Proposed Use

The applicant has proposed combining the three (3) parcels, into 1 lot. This Preliminary Plat request is being made in preparation for future expansion of the JB Hunt facility and operations. City staff has not received an application related to that expansion.

Current access to the site is from W. 191st Street.

Project Timeline

- Application submitted to the City: October 29, 2021

FINAL PLAT REVIEW

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

Final Plat. Required Contents

1. The words "FINAL PLAT" followed by the name of the subdivision at the top of the sheet, and then followed by a metes and bounds description of the tract.
 - a. *The City Engineer has requested a metes and bounds description of the tract under the plan name at the top of the sheet be added. The metes and bounds description should include replat of Lot 1 of JB Hunt Container Storage Facility and should be shown on Pages 1 and 2.*

Update Final Plat.

2. The instrument of survey which shows the point of beginning, corners, bearings, courses, distances, exterior boundaries, interior lot boundaries, abandoned lot lines, pins, monuments found or set. All P.I.'s corners, boundaries must be monumented with a 2" x 24" metal bar.
 - a. *Include the bearings and distances of the existing lot lines shown. The City Engineer states the east and west lines of the south portions of Tract 1 and 2 have not been shown.*

Update Final Plat.

3. Individual notations and a TABLE showing: lot area, setbacks, and building envelopes.
 - a. *The City Engineer would like the numbers for the setbacks in the table to be provided or each setback line on the plat be labeled.*

Update Final Plat.

4. A number for each lot, starting (if applicable) in the northwest corner.
 - a. *Johnson County will not accept the lot number 1R. Lot must be renamed.*

Update Final Plat.

5. All easements with widths, and roads with curve data.
 - a. *City Engineer has indicated that additional utility easements may be necessary. The applicant should allow the plat to be reviewed by the utility companies.*

The applicant has indicated that the proposed improvements are in the design phase and the Final Plat will be updated with the required easement prior to recording once the design is finalized.

6. Surveyor's Certificate and Seal and certificate for survey review by the County Surveyor or designated Land Surveyor.

a. The Final Plat has not been sealed by the Surveyor.

Applicant has stated a signed and sealed copy of the Final Plat will be provided after approval of the Governing Body and prior to City signatures.

NOTICE OF CITY CODES AND PERMITS

The Applicant is subject to all applicable City codes – whether specifically stated in this report or not – including, but not limited to, Zoning, Buildings and Construction, Subdivisions, and Sign Code. The Applicant is also subject to all applicable local, State, and Federal laws.

Various permits may be required in order to complete this project. Please contact the Building Codes Division of the Community Development Department for more information about City

permits. The project may also be subject to obtaining permits and/or approvals from other local, County, State, or Federal agencies.

DOCUMENTS INCLUDED IN PACKET

Sheet #	Title	Date on Document
Application	Application for FP2021-04	10/29/2021
1	Title Sheet	11/30/2021
2	Final Plat	11/30/2021

STAFF RECOMMENDATION

City Staff recommends approval of Preliminary Plat **Application FP2021-04** for *JB Hunt Transport*, subject to the following stipulations:

1. The commencement of any improvements shall not occur prior to the approval and endorsement of the Final Plat by the Governing Body and the submittal and approval of construction plans for all streets, sidewalks, storm water sewers, sanitary sewers, and water mains contained within the Final Plat. The property owner and/or developer shall work with City Staff to determine the best possible placement for a storm water easement and shall dedicated said storm water easement on the submitted Final Plat.
2. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the Edgerton Unified Development Code (UDC).
3. The applicant shall meet all requirements of Financial Assurances as defined in Section 13.7 of the Edgerton UDC.
4. All City Engineer comments related to the Stormwater Management Plan must be addressed.
5. All Final Plat requirements of the City listed above shall be met or addressed prior to recording of the Plat.
6. If the Final Plat is not recorded with the Johnson County Register of Deeds within one year after acceptance by the Governing Body, the plat will expire. Planning Commission re-approval and Governing Body re-acceptance is required for expired Final Plats.

Note: For Application FP2021-04 the Planning Commission will be recommending either approval or denial of the application to the Governing Body. If the Planning Commission recommends approval, the Final Plat will be presented to the Governing Body on January 13, 2022, subject to the applicant making the necessary corrections in a timely manner.

☐ INITIAL SUBMISSION☐ RE-REVIEWNAME OF PROPOSED SUBDIVISION: JB HUNT ADDITIONLOCATION OR ADDRESS OF SUBJECT PROPERTY: 30650 W 191ST ST EDGERTON KSLEGAL DESCRIPTION: JB HUNT CONTAINER STORAGE FACILITY LT 1CURRENT ZONING ON SUBJECT PROPERTY: L-P CURRENT LAND USE: COMMERCIAL STORAGETOTAL AREA: 29.62 Acres NUMBER OF LOTS: 31 AVG. LOT SIZE: 429937.2 Sq. Ft.DEVELOPER'S NAME(S): DEREK KENNEMER PHONE: 479-659-6852COMPANY: JB HUNT TRANSPORT INC

FAX: _____

MAILING ADDRESS: 705 A NORTH BLOOMINGTON STREET LOWELL AR 72745
Street City State ZipPROPERTY OWNER'S NAME(S): DEREK KENNEMER PHONE: 479-659-6852COMPANY: JB HUNT TRANSPORT INC

FAX: _____

MAILING ADDRESS: 705 A NORTH BLOOMINGTON STREET LOWELL AR 72745
Street City State ZipENGINEER'S NAME(S): JAMES TEMPLE PHONE: 479-273-9472COMPANY: CEI ENGINEERING ASSOCIATES INC FAX: 479-273-0544MAILING ADDRESS: 3108 SW REGENCY PKWY BENTONVILLE AR 72712
Street City State ZipSIGNATURE OF OWNER OR AGENT: *Derek Kenner* 10/14/2021
If not signed by owner, authorization of agent must accompany this application.

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

FOR OFFICE USE ONLYApplication No.: FP2021-04 Application Fee Paid: \$ 310 Date Fee Paid: 10-29-21 Receipt # 37126565

Publication Fee Paid: \$ _____ Date Fee Paid: _____ Receipt # _____

Received By: *Christopher Winton*

LEGAL DESCRIPTION:

A Tract of land being located in the South Half (S1/2) of the Southwest Quarter (SW1/4) of Section 35, Township 14 South, Range 22 East (Sec. 35, T14S, R22E) in the City of Edgerton, Johnson County, Kansas, being all of Lot 1 of the Final Plat of JB Hunt Container Storage Facility, a subdivision in the City of Edgerton as recorded in Document Number 201602002873 of the Recorder of Deeds Office and all of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) of Sec. 35, T14S, R22E, being more particularly described as follows:

*COMMENCING at the southwest corner of said Section 35;
THENCE N 88°38'46" E, a distance of 987.82 feet to a Mag Nail with washer found for the southwest corner of the E 1/2 of the E 1/2 of the SW 1/4 of said SW 1/4;*

THENCE N 02°03'23" W along the westerly line of the East Half (E1/2) of the East Half (E1/2) of the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) of said Section 35, a distance of 60.00 feet to a 5/8-inch rebar with cap stamped "LS1121" set at the Southwest corner of said Lot 1 and the POINT OF BEGINNING;

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THENCE N 88°32'53" E, a distance of 984.62 feet to a found 1/2-inch rebar for the northeast corner of said Lot 1 and being the northeast corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE N 88°30'28" E, a distance of 657.24 feet to a found 1/2-inch rebar for the northeast corner of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE S 02°14'42" E, a distance of 665.88 feet to a nail found for the southeast corner of the Northeast Quarter (NE 1/4) of the Southeast Half (SE 1/2) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE S 88°36'52" W, a distance of 657.70 feet to a 1/2-inch rebar found for the southeast corner of said Lot 1 and being the southeast corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE S 88°35'02" W, a distance of 658.83 feet to a 1/2-inch rebar found for a corner of said Lot 1 and being the southwest corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE S 02°12'45" E, a distance of 603.92 feet to a 5/8-inch rebar with cap stamped "LS 1121" set for the most southerly southeast corner of said Lot 1;

THENCE S 88°38'46" W, a distance of 329.20 feet to the POINT OF BEGINNING and containing 1,290,242 square feet or 29.62 acres of land, more or less.

\\NWPL\CEI\DATA\1-13-2005\2222-306650-191st\2222-306650-191st.dwg - JAMES B. TOMPA

© 2021 CEI ENGINEERING ASSOCIATES, INC.

FINAL PLAT

JB HUNT ADDITION

30650 W 191st ST.

CITY OF EDGERTON, JOHNSON COUNTY, KANSAS



CEI
Solutions for
Land and Life

CEI ENGINEERING ASSOCIATES, INC.
3108 SW REGENCY FERRY
BENTONVILLE, AR 72712
PHONE: (479) 275-2672
FAX: (479) 275-2684
CORPORATE TRIPS FORM #20203100

3000 I-84 FREEWAY, SUITE 100
DALLAS, TX 75234
PHONE: (972) 488-3717
FAX: (972) 488-4712
BRANCH TRIPS FORM #20204234

FINAL PLAT
JB HUNT ADDITION
30650 W 191st ST.
CITY OF EDGERTON, JOHNSON COUNTY, KANSAS

Preliminary
This document shall
not be recorded for any
purpose and shall not
be used or viewed or
relied upon as a final
survey document

PROFESSIONAL OF RECORD	JGT
DESIGNER	CWG
FIELD WORK	KTC
CEI PROJECT NUMBER	32213
DATE	11/18/2021
REVISION	REV-0

32213 COVER

SHEET TITLE
SHEET NUMBER

1 OF 2

LEGAL DESCRIPTION

A Tract of land being located in the South Half (S 1/2) of the Southwest Quarter (SW 1/4) of Section 35, Township 14 South, Range 12 East (Sec. 35, T14S, R21E) in the City of Edgerton, Johnson County, Kansas, being a portion of Lot 1 of the West Plat of JB Hunt Addition, a subdivision in the City of Edgerton as recorded in Document Number 20160300873 of the Recorder of County Office and of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Sec. 35, T14S, R21E, being more particularly described by James C. Tompa as follows:

COMMENCING at a 2-inch aluminum cap with punch mark found at the southwest corner of said Section 35;

THENCE N 88°38'46" E, a distance of 387.82 feet to a May Nail with washer found for the southwest corner of the E 1/2 of the E 1/2 of the SW 1/4 of said SW 1/4;

THENCE S 02°03'13" W along the westerly line of the East Half (E 1/2) of the East Half (E 1/2) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 35, a distance of 650.00 feet to a 5/8-inch rebar with cap stamped "S 11212" set for the Southwest corner of said Lot 1 and the POINT OF BEGINNING;

THENCE N 02°08'33" W, a distance of 1267.55 feet to a 5/8-inch rebar in concrete found for the northeast corner of said Lot 1 and being the northeast corner of the East Half (E 1/2) of the East Half (E 1/2) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE N 88°32'53" E, a distance of 384.62 feet to a found 1/2-inch rebar for the northeast corner of said Lot 1 and being the northeast corner of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE N 88°30'28" E, a distance of 657.24 feet to a found 1/2-inch rebar for the northeast corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE S 02°24'42" E, a distance of 665.88 feet to a nail found for the southeast corner of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE S 88°36'32" W, a distance of 657.35 feet to a 1/2-inch rebar found for the southeast corner of said Lot 1 and being the southeast corner of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE S 88°35'02" W, a distance of 658.83 feet to a 1/2-inch rebar found for a corner of said Lot 1 and being the southwest corner of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of said Section 35;

THENCE S 02°12'45" E, a distance of 862.50 feet to a 5/8-inch rebar with cap stamped "S 11212" set for the most southeasterly southeast corner of said Lot 1;

THENCE S 88°36'46" W, a distance of 329.30 feet to the POINT OF BEGINNING and containing 1,250,242 square feet or 28.62 acres of land, more or less.

DEDICATION

The undersigned proprietor of the above described tract of land has caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision and plat shall hereafter be known as "JB HUNT ADDITION".

The undersigned proprietor of said property shown on this plat does hereby dedicate for public use and public ways and thoroughfares, all parcels and parts of land indicated on said plat as streets, easements, places, roads, ditches, drains, parkways, avenues and other not heretofore dedicated; where prior easement rights have been granted to any person, utility or corporation and said parts of the land so dedicated, and any poles, lines, pipes and wires, conduits, ducts or cables heretofore installed thereupon and thereon are required to be relocated, or assistance with intended improvements as now set forth, the undersigned proprietor hereby advises and agrees to indemnify the City of Edgerton, Kansas, from any expense incident to the relocation of any such existing utility installations within said prior easement.

An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, sewer pipes, poles, wires, drainage facilities, irrigation systems, ducts and cables, and other facilities, upon, over and under these areas outlined and designated on the plat as "JB Hunt Addition" (1/4) or "JB Hunt Addition" (1/4) is hereby granted to the City of Edgerton, Kansas with subordinate use of the same by other governmental entities and public utilities as may be authorized by state law to use such easements for said purposes. Utility easements shall be kept clear of obstructions that impair the strength of interference with the use and/or maintenance of public utilities located within the easement.

APPROVALS

APPROVED by the Planning Commission of the City of Edgerton, Johnson County, Kansas, on the _____ day of _____, 2021.

John Ducky, Chairperson
Jeremy Little, Secretary

APPROVED by the Governing Body of the City of Edgerton, Johnson County, Kansas, on the _____ day of _____, 2021.

Donald Roberts, Mayor
Amanda Roberts, City Clerk

APPROVED by the Zoning Administrator on the _____ day of _____, 2021.

Zoning Administrator

EXCERPTS

IN TESTIMONY WHEREOF, the undersigned proprietor has caused the instrument to be executed this _____ day of _____, 2021.

JB HUNT TRANSPORT, INC.
It's Manager

Manager _____

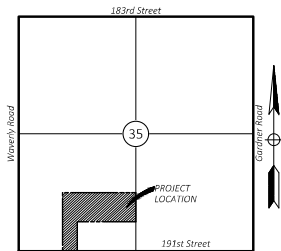
STATE OF _____

COUNTY OF _____

BEFORE ME, Notary Public, this _____ day of _____, 2021, before me a Notary Public in and for said County and State, came _____ Manager of JB HUNT TRANSPORT, INC. who is personally known to me to be the same person who executed the foregoing instrument of writing on behalf of said corporation, and he/she duly acknowledged the execution of the same to be his act and deed of said corporation.

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

Notary Public _____ My Appointment Expires: _____



VICINITY MAP

NOT TO SCALE

Latitude: 38°16'41.41"N

Longitude: 94°56'16.00"W



SURVEYOR'S CERTIFICATION

I, James B. Tompa, hereby certify that this Preliminary Plat and the survey on which it was based was made by me or under my direct supervision, and meets or exceeds the current Kansas Minimum Standards for surveys of this type. All measurements were found or set in shown and the physical features shown are a true representation of what was found to the best of my knowledge and ability.

James B. Tompa, KS Lic. 11217

Date: _____

GENERAL NOTES

1. Basis of Bearings: All bearings and distances shown herein are grid based on KANSAS State Plane Coordinate System, NAD83, North Zone. S 88°38'46" W, along the South line of the SW 1/4 of Section 35, T14S, R21E.
2. Closure Calculations: Precision: 1:640,033.30
Perimeter: 3824.85
Error Closure: -0.0092 Course: 562°7'208"V
Error North: -0.00421 East: -0.00808
3. By scaled map location and geotagged plotting only. This property is located in unshaded Zone "C" which can areas determined to be outside the 0.26 annual chance floodplain determined by the National Flood Insurance Program. Flood Insurance Rate Map for Johnson County, Kansas.
Map Number: 20091401205
FIRM Revised: August 1, 2009
Map Number: 20091401205
Map Revised: August 1, 2009
4. This plat was prepared on August 12, 2021.

REVIEWED

COUNTY CLERK	DATE
Reviewed in accordance with GSA	
DEPUTY COUNTY SURVEYOR	DATE

CIVIL ENGINEERING • LANDSCAPE ARCHITECTURE • LAND SURVEYING • PLANNING

BENTONVILLE | DALLAS | FRESNO | HOUSTON | JACKSONVILLE | MINNEAPOLIS | PHILADELPHIA | PHOENIX

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EXCERPTED MINUTES
EDGERTON CITY HALL
PLANNING COMMISSION MEETING
December 14, 2021

A regular session of the Edgerton Planning Commission (the Commission) was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on December 14, 2021. The meeting convened when Chairperson John Daley called the meeting to order at 7:00 PM.

1. ROLL CALL

Jeremy Little	absent
Charlie Crooks	present
Tim Berger	absent
Deb Lebakken	present
John Daley	present

With a quorum present, the meeting commenced.

Staff in attendance: Katy Crow, Development Services Director
 Beth Linn, City Administrator

NEW BUSINESS

2. HOLD A PUBLIC HEARING TO CONSIDER APPLICATION PP2021-05 FOR A PRELIMINARY PLAT FOR JB HUNT TRANSPORT, INC. LOCATED AT 30650 W. 191ST STREET (NORTHEAST CORNER OF 191ST STREET AND MONTROSE STREET)

Chairman Daley opened the Public Hearing at 7:01 PM.

Ms. Katy Crow, Development Services Director, presented the application using information from the Staff Report provided in the Planning Commission packet. The applicant has been provided with the Staff Report comments and stipulations required for approval. She stated Zach Fletcher is present to represent the applicant.

With no comments made from the applicant or persons in the audience, Chairman Daley then closed the Public Hearing at 7:06 PM.

3. CONSIDER APPLICATION PP2021-05 FOR A PRELIMINARY PLAT FOR JB HUNT TRANSPORT, INC. LOCATED AT 30650 W. 191ST STREET (NORTHEAST CORNER OF 191ST STREET AND MONTROSE STREET)

Chairman Daley stated with the conclusion of the discussion on this item, the Commission will now vote on Application PP2021-05, Preliminary Plat for JB Hunt Transport, Inc.

He asked for a motion to recommend approval, denial, or the continuance of PP2021-05.

Commissioner Crooks made motion to approve the application, seconded by Commissioner Lebakken. The Application was approved, 3-0.

4. CONSIDER APPLICATION FP2021-04 FOR A FINAL PLAT FOR JB HUNT TRANSPORT, INC. LOCATED AT THE 30650 W. 191ST STREET (NORTHEAST CORNER OF 191ST STREET AND MONTROSE STREET)

Ms. Crow presented the information for FP2021-04, using information from the Staff Report provided in the Planning Commission packet.

There were no questions or comments from the Commissioners.

Commissioner Crooks made motion to approve the application, seconded by Commissioner Lebakken. The Application was approved, 3-0.

City Council Action Item

Council Meeting Date: September 22, 2022

Department: Administration

Agenda Item: Consider Resolution No. 09-22-22A Establishing Fees and Rates for Permits, Licenses and Services with the City of Edgerton, Kansas

Background/Description of Item:

Water/Wastewater Rates for 2023

In 2022, staff worked with Raftelis Financial Consultants to update the rate study for both the water and wastewater utilities. In their report, Raftelis recommends a small rate increase in each year of the forecast period in order to avoid large rate increases in the later years of the forecast period. The rate increases recommended for 2023 are listed below. The 2023 Budget adopted by the Council on September 8, 2022, includes these rate increases. The attached fee resolution formally adopts the rate increases and sets the effective date as the **January 1, 2023, utility bills.**

Utility	2023 Rate Increase	Typical Customer Bill 2023 (3,000 gallons)	Typical Customer Bill Current (3,000 gallons)
Water	\$2.06	\$42.63	\$40.57
Wastewater	\$2.55	\$34.27	\$31.72

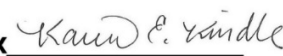
Enclosed is a chart that compares the amount of a typical customer bill for Edgerton and other nearby cities.

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

Funding Source: n/a

Budget Allocated: n/a

Finance Director Approval:

x 
Karen Kindle, Finance Director

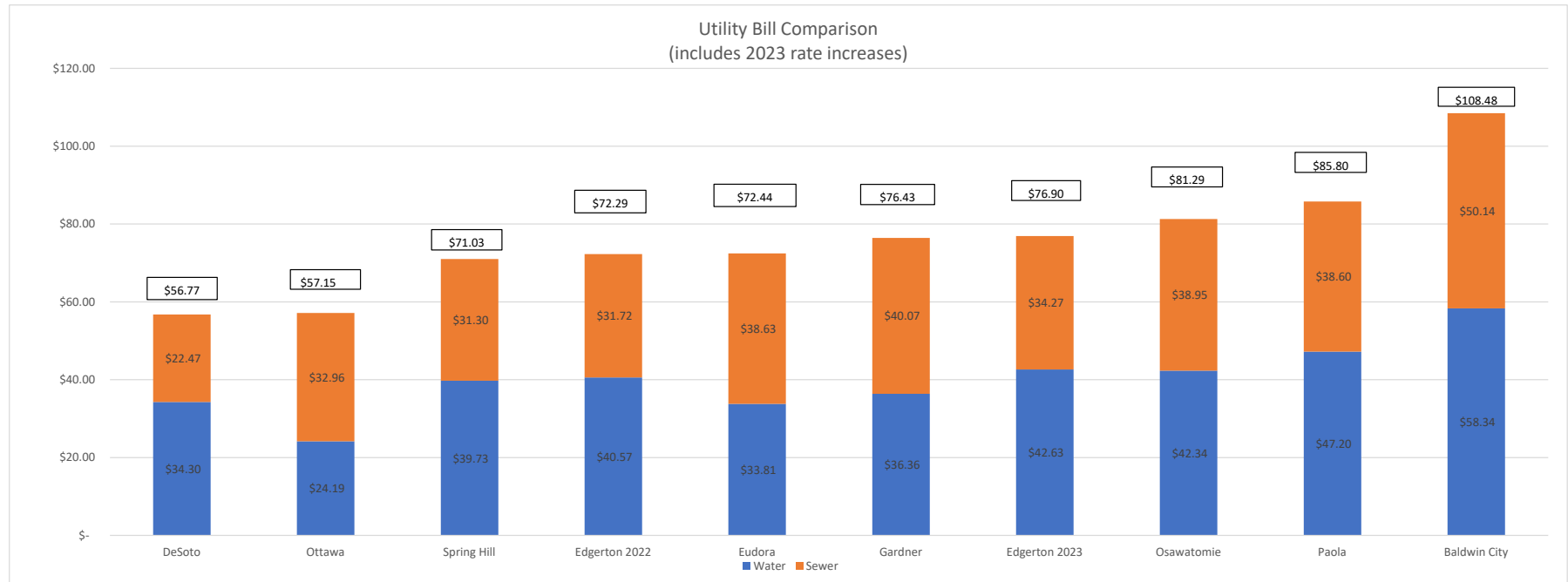
Recommendation: Approve Resolution No. 09-22-22A Establishing Fees and Rates for Permits, Licenses and Services Within the City of Edgerton, Kansas.

Enclosed: Utility Bill Comparison Chart
City of Edgerton FY 2023 Utility Rate Sheet
Resolution No. 09-22-22A Redline version

Prepared by: Karen Kindle, Finance Director

City of Edgerton
Comparison of Utility Rates - Water and Wastewater
9/15/2022

Service	City									
	DeSoto	Ottawa	Spring Hill	Edgerton 2022	Eudora	Gardner	Edgerton 2023	Osawatomie	Paola	Baldwin City
Water	\$ 34.30	\$ 24.19	\$ 39.73	\$ 40.57	\$ 33.81	\$ 36.36	\$ 42.63	\$ 42.34	\$ 47.20	\$ 58.34
Sewer	\$ 22.47	\$ 32.96	\$ 31.30	\$ 31.72	\$ 38.63	\$ 40.07	\$ 34.27	\$ 38.95	\$ 38.60	\$ 50.14
Total	\$ 56.77	\$ 57.15	\$ 71.03	\$ 72.29	\$ 72.44	\$ 76.43	\$ 76.90	\$ 81.29	\$ 85.80	\$ 108.48





Utility Rates FY 2023



2023 Proposed Average
Monthly Water Charge

2023 Residential Monthly
Trash, Recycling, Yard Waste &
Weekly Large Item Charge

2023 Proposed Average
Monthly Sewer Charge



\$42.63
an increase of
\$2.06

\$7.50
an increase of
\$0

\$34.27
an increase of
\$2.55



Total monthly utility bill is less than...

Average monthly
natural gas bill
\$112.37



2023 Proposed Total
Average Monthly Utility Bill
\$84.40
per month



Average monthly
cell phone bill
\$127.37



Average monthly
electricity bill
\$117.62

Average monthly
cable package
\$217.42



Why yearly increases?

Both water and sewer are considered enterprise funds, which means they operate like a business. The user charges are based on how much money is needed to run the utility, any debt service payments and capital costs.

RESOLUTION NO. 09-22-22A

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

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

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

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

SECTION 1: FEES.

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

OPEN RECORDS

Prepayment	Required if total estimate exceeds \$25.00
Production/Inspection Fee, if item is not readily available	\$20.00 per request
Copying/Facsimile Fee (no charge for first ten (10) pages)	\$0.10 per page after first ten
Mailing Fee	Actual mailing costs
Staff Searches, one (1) hour or more	
Records custodian/administrative staff,	30.00 per hour
Dept heads/City Administrator/Elected Officials	\$50.00 per hour
Contracted Professionals (IT, Attorneys, etc)	Hourly rates charged to City

ANIMAL CONTROL

Animal Registration Fees:

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

Animal Redemption Fees:

Registered	
First pick up	\$No charge
Second pick up	\$50.00
Third pick up	\$100.00
Non-Registered, Neutered/Spayed	
First pick up	\$50.00
Non-Registered, Unneutered/unspayed	
First pick up	\$100.00
City provided rabies vaccination	\$50.00
Habitual Violator (dog picked up more than three times in one year)	\$250.00
Boarding Fee	\$10.00 per day

Animal Adoption Fees:

Neutered/Spayed Pet	\$50.00
Pet Neutered/Spayed by the City	\$100.00

BEVERAGES**Cereal Malt Beverages**

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

Drinking Establishments

License Fee – Biennial occupation tax	\$500.00
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Private Club

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

Special Event

Permit Fee	\$50.00
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Caterer

Permit Fee	\$250.00
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Retail

Permit Fee Biennial occupation tax	\$500.00
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BUILDINGS AND CONSTRUCTION

Permit Fees – Non-Residential Building

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

each additional \$1,000.00, or fraction thereof

A plan review fee shall be assessed at sixty-five percent (65%) of the calculated building permit fee.

Other Inspections and Fees

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

For use of outside consultants for plan checking or inspections (costs include administrative and overhead costs)	Actual Costs
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Permit Fees – Residential Building

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

	\$1,000 or fraction thereof, to and including \$100,000.
\$100,001 to \$500,000	\$582.00 for the first \$100,000 plus \$3.00 for each additional \$1,000 or fraction thereof, to and including \$500,000.
\$500,000 and up	\$1782.00 for the first \$500,000 plus \$2.00 for each additional \$1,000 or fraction thereof.

A plan review fee shall be assessed at sixty-five percent (65%) of the calculated building permit fee.

Other Inspections and Fees

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

100 square feet to 12,500 square feet
Multi-Family (R-3)
Commercial Zoning Districts (C-D, C-1, C-2)
Industrial Zoning Districts (B-P, L-P, I-G, I-H)

Fire Review and Inspection	\$0.02 per square foot
- Core and Shell	
12,501.00 square feet or greater	
Multi-Family (R-3)	
Commercial Zoning Districts (C-D, C-1, C-2)	
Industrial Zoning Districts (B-P, L-P, I-G, I-H)	

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

Permit Fees - Fuel Gas Code

Issuance of Permit	\$50.00
Issuance of Permit for senior residents (60 plus)	\$25.00
Supplemental Permit	\$50.00
Inspection outside normal business hours	\$50.00 per hour
Re-inspection	\$50.00 per hour
Additional plan review required by changes, additions or revisions to approved plans (minimum charge – one hour)	\$50.00 per hour

Permit Fees – Plumbing Code

Issuance of Permit	\$50.00
Issuance of Permit for senior residents (60 plus)	\$25.00
Supplemental Permit	\$50.00
Inspection outside normal business hours	\$50.00 per hour
Re-inspection	\$50.00 per hour
Additional plan review required by changes, additions	\$50.00 per hour

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

Permit Fees – Mechanical Code

Issuance of Permit	\$50.00
Issuance of Permit for senior residents (60 plus)	\$25.00
Supplemental Permit	\$50.00
Inspection outside normal business hours	\$50.00 per hour
Re-inspection	\$50.00 per hour
Additional plan review required by changes, additions or revisions to approved plans (minimum charge – one hour)	\$50.00 per hour

Permit Fees – Electrical Code

Issuance of Permit	\$50.00
Issuance of Permit for senior residents (60 plus)	\$25.00
Supplemental Permit	\$50.00
Issuance of annual permit	\$250.00
Inspection outside normal business hours	\$50.00 per hour
Re-inspection	\$50.00 per hour
Additional plan review required by changes, additions or revisions to approved plans (minimum charge – one hour)	\$50.00 per hour

Moving Buildings

House/building/derrick or other structure permit	\$250.00 + Staff Time to monitor the move
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Oil and Gas Wells

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

Fire Insurance Proceeds Fund

Final Settlement Funds (K.S.A. 40-3901 <u>et seq.</u>)	\$5,000.00 or 10% of covered claim payment, whichever is less
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BUSINESS LICENSE

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

FIREWORKS

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

SOLID WASTE

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

PUBLIC PROPERTY

Community Hall Rental – Residents (24-hrs midnight)	\$100.00
Community Hall Rental – Non-Residents (24 -hrs midnight)	\$150.00
Rental Deposit Required for Rental (Refundable) (Due at time of Reservation)	\$50.00
Overnight Camping (by special permit)	\$10.00
Martin Creek Park Lights	

-Ball field #1 Lights	\$20 / hour
-Horse Shoe Pit Lights	\$20 / hour
Park Shelters – Residents	No charge
Park Shelters – Non-residents	\$50 per half day
Right-Of-Way Permit	\$100.00

PUBLIC OFFENSES

Worthless Check/Returned Check/Dishonored Instrument	\$25.00
Abatement Administrative Fee	\$50.00 per abatement
Abatement Administrative Fee-Tall Weed/Grass	\$50.00 for the first
abatement with the fee increasing by \$50.00 for each subsequent abatement	

UNCONVENTIONAL VEHICLES

Permit, initial sticker	\$100
Permit, annual renewal with no infractions	\$25
Permit, annual renewal with infractions	\$100

UTILITIES - WATER

Water Rate

WATER

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

Customer Service Charge

Meter Size	Inside City	Outside City
5/8"	~~\$21.63~~ \$22.72	~~\$32.41~~ \$34.03
1"	~~\$25.71~~ \$27.00	~~\$38.54~~ \$40.47
1 1/2"	~~\$32.49~~ \$34.12	~~\$48.72~~ \$51.16
2"	~~\$40.66~~ \$42.70	~~\$60.97~~ \$64.02
3"	~~\$59.71~~ \$62.70	~~\$89.52~~ \$94.00
4"	~~\$86.89~~ \$91.24	~~\$130.32~~ \$136.84
6"	~~\$154.87~~ \$162.62	~~\$232.29~~ \$243.90

8"	~~\$236.47~~ <u>\$248.30</u>	~~\$354.70~~ <u>\$372.44</u>
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Volumetric Rate [per 1,000 gallons]		
Tiers	Inside City	Outside City
0-2,000	~~\$4.46~~ <u>\$4.69</u>	~~\$6.68~~ <u>\$7.01</u>
2,001-10,000	~~\$10.02~~ <u>\$10.53</u>	~~\$15.00~~ <u>\$15.75</u>
>10,000	~~\$13.81~~ <u>\$14.51</u>	~~\$20.69~~ <u>\$21.72</u>

Water System Development Fees

System Development Fee (based on size of water meter)

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

Water Connection Fees

Connections Charge: Inside City - Regular (¾-inch service, with ¾-inch by 5/8 inch-meter)	\$1,250.00
Connections Charge: Outside City - Regular (¾-inch service, with ¾-inch by 5/8-inch meter)	\$7,500.00
Connections Charge: Other Sizes	TBD by Governing Body
Water Service Application (inside city limits)	\$30.00
Water Service Application (outside city limits)	\$75.00
Reconnection Fee, during normal business hours	\$25.00
Reconnection Fee, during non-business hours	\$100.00
Meter Testing (if meter is correct)	\$10.00
Hydrant Meter Refundable Deposit	\$1,500.00

UTILITIES - WASTEWATER

Wastewater Rate

WASTEWATER

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

Customer Service Charge

~~\$7.09~~ \$7.66

Volumetric Rate

~~\$8.21~~ \$8.87 [per 1,000 gallons]¹

LPKC Infrastructure

\$1.00 [per 1,000 gallons]

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

Wastewater System Development Fees

System Development Fee (based on size of water meter)

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

Wastewater Connection Fees

Connection Charge and Inspection Fee \$750.00

Wastewater Service Application Fee \$30.00

Wholesale Wastewater Rate

\$3.68 [per 1,000 gallons]

Private Disposal System Fees

Installation Permit \$250.00

Significant Alteration and Repair Permit \$100.00

Minor Repair \$50.00

Non-Residential Annual Operation Permit \$50.00

(first year fee included in Installation Permit Fee)	
Septic/Holding Tank Removal	\$100.00
Inspection, non-business hours	\$15.00 per hour
(2-hour charge minimum, additional to inspection fee)	

VEHICLE PERMITS

Restoration Permit	\$250.00/new or renewal
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ZONING AND DEVELOPMENT FEES

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

Preliminary Plat Fee	\$300.00 plus \$10.00 per lot plus publication fees
Preliminary Plat Re-review Fee	\$300.00 plus \$10 per lot
Final Plat Fee	\$300.00 plus \$10.00 per lot plus publication fees
Final Plat Re-review Fee	\$300.00 plus \$10 per lot
Lot Split Fee	\$100.00
Street Excise Tax	\$0.10 per square foot of final plat
Park Impact Fee/Residential	\$300.00 per lot
Park Impact Fee/Commercial	\$0.08 per square foot of building
Park Impact Fee/Industrial	\$0.08 per square foot of building
New Street Light Fee	\$250.00
New Public Improvement Plan Review Fee	
Street/Stormwater/Water/Sewer	\$300.00
Re-review Fee	\$300.00
New Public Improvement Inspection Fee	
Street/Stormwater	Actual cost of inspection + 2% administrative fee
Water/Sewer	Actual cost of inspection + 2% administrative fee
Land Disturbance (greater than one acre)	\$250.00
Flood Plain Development Permit	\$75.00
Zoning Verification Letter	\$75.00 per request
Temporary Certificate of Occupancy Extension	\$100 per request

Sign Fees

Home Occupation Sign	\$35.00
Temporary/Banner Sign	\$35.00
Pole Sign	\$125.00
Monument Sign	\$35.00
Façade/Wall Sign	\$35.00

Mobile Home Park Sign	\$35.00
Subdivision Name Sign	\$35.00
Apartment Complex Name Sign	\$35.00

SECTION 2: Effective Date. This Resolution shall become effective upon adoption by the Governing Body with changes to the water and wastewater rates becoming effective on the January 1, ~~2022~~2023 utility bill.

SECTION 3: Repealer. Any fees or resolutions inconsistent herewith are hereby repealed and said City Code references (along with other specific fee references throughout the City Code that will now be controlled by the Fee Resolution) will be formally withdrawn via a future ordinance.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS ON THIS 22nd DAY of SEPTEMBER, 2022.

DONALD ROBERTS, MAYOR

ATTEST:

ALEXANDRIA CLOWER, CITY CLERK

APPROVED AS TO FORM:

LEE W. HENDRICKS, CITY ATTORNEY

City Council Action Item

Council Meeting Date: September 22, 2022

Department: Public Works

Agenda Item: Consider Final Acceptance of the Nelson Street from East 3rd Street to West 8th Street (CARS) Project, including Street Maintenance Program 2022 Roadway Sections (West 5th Street & West Martin Street)

Background/Description of Item:

On October 28, 2021 City Council approved the 2022-2026 Capital Improvement Program which included the Nelson Street from East 3rd Street to West 8th Street Project. This project was also listed within the County in the County Assistance Road System (CARS) program.

On December 9, 2021, the Edgerton City Council approved an Agreement with BG Consultants for Professional Design Services of the 2022 CARS Project.

On March 24, 2022 City Council approved Concurrence to Bid the Nelson Street from East 3rd Street to West 8th Street (CARS) Project.

On May 26, 2022 City Council approved the award of construction to McAnany Construction with an initial contract amount of \$334,276.78. This amount exceeded the project budget, so an initial change order to deduct the contract amount by \$57,534.12, with a new contract amount of \$276,742.66

The project budget is \$279,280. The balance remaining in the 2021 Street Preservation Program budget at the time the project was closed out, \$3,645, was transferred to the 2022 Street Maintenance Program budget. This increased the budget for the CARS and SMP 2022 from \$279,280 to \$282,925.

During the project a final change was needed to true up the quantities. Change order #2, was an increase of \$37,854. This increase includes additional concrete curb, commercial drive approach and ADA repair as outlined by the summary of change orders document from McAnany Construction. Also included in CO #2 was a decrease in the quantity of UBAS from 18,247 square yards to 15,284 square yards. The change in quantities reduced the overall cost by \$24,829. The overall change associated with CO#2 is an increase of \$13,024.66

The final contract amount is \$289,767.32, which causes the project to be over budget by \$6,842.32. The project budget cannot support the overrun and staff recommends that the additional funds be taken out of the Public Works Operating budget.

A summary of the project construction expenses described above is listed below.

Budget:

\$279,280	Original 2022 CARS Project & 2022 Street Preservation Program Amount
<u>\$ 3,645</u>	Unused Funds from 2021 Street Preservation Program
\$282,925	New 2022 Street Preservation Program Budget

Actual:

\$334,276.78	Award to McAnany
-\$57,534.12	Change Order #1 (reduction)
<u>+\$13,024.66</u>	Change Order #2 (increase)
\$289,767.32	Actual Program Amount
(\$6,842.32)	Overage to be funded by Public Works Operating Budget

Upon acceptance Staff will make final payment to the contractor and submit for reimbursement through the Johnson County CARS Program.

Related Ordinance(s) or Statue(s):

Funding Source: Special Highway Fund, Street Excise Tax Fund & General Fund, Johnson County CARS Program, Public Works Operating Budget

x Karen E. Kindle

Finance Director Approval: Karen Kindle, Finance Director

Recommendation: Approve Final Acceptance of the Nelson Street from East 3rd Street to West 8th Street (CARS) Project, including Street Maintenance Program 2022 Roadway Sections (West 5th Street & West Martin Street).

Enclosed: Summary of Change Orders
Final Acceptance Letter

Prepared by: Dan Merkh, Public Works Director



**McANANY
CONSTRUCTION**

2022 Nelson Street Improvements – City of Edgerton, KS

Summary of Change Orders

ATTN: Dan Merkh, Director of Public Works

City of Edgerton, KS

404 E Nelson

Edgerton, Kansas 66021

Dear Mr. Merkh,

Outlined below is a summary of the change order history associated with the 2022 Nelson Street Improvements Project, for the City of Edgerton.

- Change Order #1 – Reduction of \$57,534.12 from the Awarded Contract Price (\$334,276.78) to align with budgeted amount for this project. New Contract Price is \$276,742.66.
- Change Order #2 – Concrete items in need of replacement exceeded the amount quantified, once concrete items were completed, and field measured. To offset this additional cost, UBAS was deleted from the project from 5th Street south of Old 56. UBAS was reduced from 18,247 SY to 15,284 SY.
 - Concrete Overrun - \$37,854.60
 - UBAS Reduction - \$24,829.94
 - Total Increase for CO #2 - \$13,024.66
 - New Contract Price is \$289,767.32

The new Contract Price listed at the end of CO #2 will be the final project amount as well, as we are now substantially complete on this project. Approval of this summary will be confirmed by signature of this document.

X 

Zach Tincher
Project Manager, McAnany Construction

X 

Dan Merkh
Director of Public Works, City of Edgerton KS

X

Donald Roberts
Mayor, City of Edgerton KS

www.mcananyconstruction.com

15320 Midland Drive, Shawnee, Kansas 66217  Phone 913.631.5440 Fax 913.631.7043



To: Beth Linn, City Administrator
Dan Merkh, Public Works Director

From: Trey Whitaker, Public Works Superintendent

Subject: Final Acceptance: CARS 2022 Project & Street Maintenance Program 2022

Date: September 15, 2022

Beth & Dan,

To the best of my knowledge McAnany Construction has completed all work for the Nelson Street from East 3rd Street to West 8th Street (CARS) Project, including Street Maintenance Program 2022 Roadway Sections (West 5th Street & West Martin Street) as noted in the plans as of September 12, 2022, with the exception of the punch list items as noted in the substantial completion certificate. This project may be accepted.

Respectfully submitted,



Trey Whitaker
Public Works Superintendent

City Council Action Item

Council Meeting Date: September 22, 2022

Department: Community Development

Agenda Item: Consider Ordinance No. 2120 Amending City Of Edgerton Ordinance 2113 Which Adopted The Recommendation Of The City Of Edgerton Planning Commission To Approve Application ZA2022-01 For The Rezoning Of Approximately 80.4 Acres Of Land Located At The Southwest Corner Of 207th Street/Braun Street And 8th Street/Edgerton Road, From Johnson County "RUR" (Rural District) To City Of Edgerton "PUD" (Planned Unit Development) Zoning To Cure A Defective Legal Description

Background/Description of Item:

On August 11, 2022, the Edgerton Governing Body approved Ordinance No. 2113 adopting the recommendation of the City of Edgerton Planning Commission to approve Application ZA-2022-01 for the rezoning of certain property from Johnson County Rural ("RUR") to City of Edgerton Planned Unit Development ("PUD"). This week staff realized that the legal description for the subject property in Ordinance No. 2113 was inadvertently truncated and thus did not correctly describe the subject property. Therefore, staff and City Attorney recommend the City Council consider Ordinance No. 2020 to correctly describe the subject property. The other ordinance related to this property also approved on August 11th (Ordinance No. 2114) contained the correct legal description.

The City Attorney has prepared the enclosed draft ordinance correcting the previously adopted Ordinance No. 2113 which includes the proper legal description.

Related Ordinance(s) or Statue(s): K.S.A. 12-715b, K.S.A. 12-741, et. Seq. to K.S.A. 12-771 – Establishment of the Unified Development Code; 12-757 – Zoning Amendments

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approval of Ordinance No. 2120 Amending City Of Edgerton Ordinance 2113 Which Adopted The Recommendation Of The City Of Edgerton Planning Commission To Approve Application Za2022-01 For The Rezoning Of Approximately 80.4 Acres Of Land Located At The Southwest Corner Of 207th Street/Braun Street And 8th Street/Edgerton Road, From Johnson County "RUR" (Rural District) To City Of Edgerton "PUD" (Planned Unit Development) Zoning To Cure A Defective Legal Description

Enclosed:

- Draft Ordinance No. 2120

Prepared by: Beth Linn, City Administrator

ORDINANCE NO. 2120

AN ORDINANCE AMENDING CITY OF EDGERTON ORDINANCE 2113 WHICH ADOPTED THE RECOMMENDATION OF THE CITY OF EDGERTON PLANNING COMMISSION TO APPROVE APPLICATION ZA2022-01 FOR THE REZONING OF APPROXIMATELY 80.4 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF 207TH STREET/BRAUN STREET AND 8TH STREET/EDGERTON ROAD, FROM JOHNSON COUNTY "RUR" (RURAL DISTRICT) TO CITY OF EDGERTON "PUD" (PLANNED UNIT DEVELOPMENT) ZONING TO CURE A DEFECTIVE LEGAL DESCRIPTION

WHEREAS, the Governing Body of the City of Edgerton approved Ordinance 2113 on August 11, 2022 adopting the recommendation of the City of Edgerton Planning Commission to approve Application ZA-2022-01 for the rezoning of certain property from Johnson County Rural ("RUR") to City of Edgerton Planned Unit Development ("PUD"); and

WHEREAS, Ordinance 2113 included a legal description for the subject property which was inadvertently truncated and thus did not correctly describe the subject property; and

WHEREAS, the Governing Body wishes to amend the terms of Ordinance 2113 to correctly describe the subject property.

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

Section 1. City of Edgerton Ordinance 2113 is hereby amended to reflect the following, amended legal description:

The North Half of the Northeast Quarter of Section 13, Township 15 South, Range 21 East, Johnson County, Kansas, EXCEPT that part described as follows:

All that part of the Northeast Quarter of Section 13, Township 15, Range 21, Johnson County, Kansas, more particularly described as follows:

Beginning at a point on the East line of said Northeast $\frac{1}{4}$ of said Section 13 and 376.40 feet South of the Northeast corner thereof; thence West a distance of 35.00 feet; thence South parallel to the East line of said Northeast $\frac{1}{4}$ a distance of 200.00 feet; thence East a distance of 35.00 feet; thence North along the East line of said Northeast $\frac{1}{4}$ a distance of 200.00 feet to the point of beginning, all subject to that part thereof dedicated for existing public road right-of-way containing 0.161 acres, including 0.092 acres, more or less, of existing public road right-of-way and 0.069 acres, more or less, of new right-of-way.

Section 2. All prior ordinances or parts of prior ordinances in conflict herewith are

hereby amended.

Section 3. This ordinance shall take effect from and after its publication once in the official city newspaper.

ADOPTED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR OF THE CITY OF EDGERTON, KANSAS ON THE 22nd DAY OF SEPTEMBER, 2022.

CITY OF EDGERTON, KANSAS

By: _____
Donald Roberts, Mayor

ATTEST:

Alexandria Clower, City Clerk

APPROVED AS TO FORM:

Lee Hendricks, City Attorney

CITY OF EDGERTON, KANSAS

COUNCIL AGENDA ITEM

Council Meeting Date: September 22, 2022

Agenda Item: Resolution Approving a Development Agreement

Subject: Dwyer Farms Housing Subdivision

Kansas LD, LLC (Rausch Coleman Homes) (the “Developer”) desires to develop a single-family housing subdivision on an 80.4 acre parcel located at the southwest corner of 207th Street/ Braun Street and 8th Street/Edgerton Road. The housing subdivision will be known as Dwyer Farms. Upon completion, it is anticipated that Dwyer Farms will have approximately 275 single-family homes. The City has both recently annexed and rezoned the property.

In the Development Agreement, the Developer has agreed to develop the housing subdivision in four Phases. The first phase includes at least 63 single-family homes within five years of recording the final plat. The remainder of the subdivision will be built out based upon demand. The Developer has agreed to pay for and install all infrastructure within the property to serve the houses.

In the Development Agreement, the City has agreed to install and pay for all necessary off-site improvements, including streets, sewer and water. The City has discretion to determine when these improvements need to be installed.

The City intends to reimburse itself for the costs of making the off-site improvements by establishing a Rural Housing Incentive District (“RHID”). The RHID will be discussed in more detail in a subsequent agenda item.

The Development Agreement requires the Developer to post a payment bond in the event the Developer does not build housing at a sufficient rate to generate enough RHID increment to reimburse the City.

The Resolution authorizes the City to enter into the Development Agreement with Kansas LD, LLC.

RESOLUTION NO. 09-22-22B

RESOLUTION AUTHORIZING THE CITY OF EDGERTON, KANSAS TO ENTER INTO A DEVELOPMENT AGREEMENT FOR A HOUSING DEVELOPMENT PROJECT

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

WHEREAS, Kansas LD, LLC, a Kansas limited liability company (the “Developer”), desires to develop the Dwyer Farms single-family housing subdivision located on 80.4 acres of land at the southwest corner of Edgerton Road and Braun, which upon completion is anticipated to contain approximately 275 single-family homes, all as described in the form of Development Agreement attached hereto as **Exhibit A** (the “Project”); and

WHEREAS, the City desires to provide for the development of the Project on the terms set forth in the Development Agreement;

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

Section 1. Approval of Development Agreement. The Governing Body hereby approves the Development Agreement in substantially the form attached hereto as **Exhibit A**.

Section 2. Execution of Development Agreement. The Mayor of the City is hereby authorized to enter into the Development Agreement, in substantially the form presented to and reviewed by the City Council at this meeting (a copy of which upon execution shall be filed in the office of the City Clerk), with such changes therein as shall be approved by the Mayor, the Mayor’s signature thereon being conclusive evidence of his approval thereof. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Development Agreement.

Section 3. Further Authority. The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the Development Agreement.

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

ADOPTED this 22nd day of September, 2022.

CITY OF EDGERTON, KANSAS

[SEAL]

By: _____
Donald Roberts, Mayor

ATTEST:

Alexandria Clower, City Clerk

Approved as to form:

Scott W. Anderson, Economic Development Counsel

EXHIBIT A

FORM OF DEVELOPMENT AGREEMENT

DEVELOPMENT AGREEMENT

(Project Cola)

This Development Agreement (this “Agreement”) is entered into as of September ___, 2022, between the **CITY OF EDGERTON, KANSAS**, a Kansas municipal corporation (the “City”), and **KANSAS LD, LLC**, a Kansas limited liability company, and its successors and assigns (the “Developer”). The City and the Developer may each be referred to herein as a “party” and collectively as the “parties.”

RECITALS

A. The Developer and City desire the Developer to develop the Project on the Project Site to provide additional housing options for current and future residents of the City.

B. The City is willing to grant certain incentives for the development of the Project so long as the Developer complies with the terms of this Agreement.

C. The Developer is willing to undertake development of the Project so long as the City complies with the terms of this Agreement.

AGREEMENT

In consideration of the mutual assurances and agreements contained in this Agreement, and for other good and valuable consideration, the parties agree as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

1.1 Definitions. Capitalized words used in this Agreement which are not otherwise defined shall have the following meanings:

“Applicable Laws and Requirements” means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, and/or determination, including, without limitation, the Kansas Cash Basis Law (K.S.A. § 10-1101, *et. seq.*) and the Budget Law (K.S.A. § 75-2529, *et. seq.*).

“City” means the City of Edgerton, Kansas.

“City Impact Fees” means all fees and costs paid to the City by the Developer for the development of the Project Site and the Project, including but not limited to application fees, permitting fees, review fees, sewer connections, water connections, and other fees, expenses or costs imposed or required by City codes or regulations.

“Developer” means Kansas LD, LLC, a Kansas limited liability company, or its successors or assigns as permitted by this Agreement.

“Development Plan” has the meaning given to such term in **Section 2.4**.

“Excused Delay” has the meaning given to such term in **Section 12.11**.

“Offsite Improvements” means all public improvements and infrastructure, including but not limited to streets, curbs, gutters, stormwater facilities, sanitary sewers and connections, water service and connections, sidewalks, and public rights-of-way and related improvements that the City determines are reasonably necessary in its sole discretion for development of the Project and which are located outside of the boundaries of the Project Site.

“Payment Bond” has the meaning given to such term in **Section 3.4**.

“Project” has the meaning given to such term in **Section 2.5**.

“Project Site” means approximately 80.4 acres of unimproved land located at the southwest corner of Edgerton Road/West 8th and 207th Street/Braun Street, and within the boundaries as depicted on the attached **Exhibit A**.

“Project Site Improvements” means all improvements within the boundaries of the Project Site necessary to comply with all City ordinances and code sections for a single-family subdivision within the proposed Planned Unit Development zoning district, including but not limited to public improvements and infrastructure (e.g., streets, curbs, gutters, stormwater facilities, water, sanitary sewers, sidewalks, and public rights-of-way).

“RHID Act” has the meaning given to such term in **Section 5.1**.

“RHID District” has the meaning given to such term in K.S.A. 12-5242(f).

“RHID Revenues” means the portion of the Tax Increment (as defined in the RHID Act) generated from the Project Site as a result of the RHID project plan for the Project.

1.2 Interpretation. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;
- (c) reference in this Agreement to any article, section, appendix, annex, schedule or exhibit means such article or section thereof or appendix, annex, schedule or exhibit thereto;
- (d) each of the items or agreements identified on the attached Index of Exhibits and Schedules are deemed part of this Agreement to the same extent as if set forth herein;

(e) “hereunder”, “hereof”, “hereto” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular article, section or other provision thereof;

(f) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term;

(g) capitalized terms, not otherwise defined in the text of this agreement shall have the definitions set forth in **Section 1.1** or as otherwise provided herein.

1.3 Legal Representation of the Parties. This Agreement was negotiated by the parties hereto with the benefit of legal representation and any rules of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any party shall not apply to any construction or interpretation hereof or thereof.

ARTICLE II DEVELOPMENT OF PROJECT

2.1 Undertaking of Developer. Developer shall act as the developer of the Project Site and Project for all purposes herein, subject to the terms and conditions of this Agreement. Developer hereby agrees, subject to the terms and conditions hereinafter provided, to pursue the construction and completion of the Project with its own funds and in a commercially reasonable fashion. The performance of all activities by Developer hereunder shall be as an independent contractor and not as an agent of the City.

2.2 Undertaking of the City. City shall be responsible for the initial financing and construction of all Offsite Improvements, subject to the terms and conditions of this Agreement. City hereby agrees, subject to the terms and conditions hereinafter provided, to pursue timely completion of such Offsite Improvements in conjunction with the development of the Project Site. The City further agrees to review and consider necessary permitting and entitlement requests of Developer in a reasonably timely manner in compliance with the City code and all applicable ordinances.

2.3 Project Site Development Costs. Subject to **Article XII**, below, the Developer agrees to and will bear the costs of the design and construction of Project Site Improvements.

2.4 Development Plan. The City and Developer hereby agree that the preliminary “Development Plan” describing the Project is attached hereto as **Exhibit B**. The Development Plan shall be updated by Developer from time to time with the consent of the City. Developer covenants and agrees that all housing units and other improvements constituting the Project shall be developed, constructed, completed and operated on the Project Site in substantial accordance and compliance with the terms and conditions of this Agreement and with City code and all applicable ordinances. Subject to the terms of this Agreement, Developer reserves the right to make all construction and operational decisions relating to the Project without the City’s consent, but subject to the City’s normal planning and development process and subject to all Applicable Laws and Requirements.

2.5 The Project. The “Project” shall consist of the Dwyer Farms single-family housing subdivision, which, upon completion and as depicted in the preliminary Development Plan, is anticipated to contain 275 single family homes within the approved Planned Unit Development designation of the City. It is anticipated that the Development will proceed in four phases over an estimated full completion time of ten (10) years.

(a) Developer shall complete Phase I of the Development to include the development of not less than 63 single family lots and the construction of homes on such lots within a maximum of five (5) years from the recording of the final plat for Phase I.

(b) Upon completion of Phase I, Developer intends but is not obligated to develop the remaining 212 single family lots at the rate of approximately 48 single family homes annually, dependent upon market conditions.

2.6 Project Requirements. The Development Plan and the Project shall comply with all conditions and stipulations in Ordinance No. 2114 and be covered by HOA covenants and restrictions in form and substance similar to other HOA covenants and restrictions of similar developments in the area. All houses in the Project shall have a sales price not less than comparable single-family homes in the area.

2.7 Greenspace. The Project Site will include the greenspace shown in the Development Plan. All greenspace shall have sufficient landscaping and trees.

2.8 Permits and Reviews. Developer hereby recognizes, stipulates and agrees that (a) in the design, construction, completion, use or operation of the Project, Developer shall procure and pay for any and all permits, licenses and fees customarily paid for by a developer, builder, property owner or business owner for development in the City, and (b) that nothing herein shall be construed as any release by the City of the responsibility of Developer to comply with, and satisfy the requirements of, all Applicable Laws and Requirements.

ARTICLE III

OFF-SITE IMPROVEMENTS TO INFRASTRUCTURE

3.1 Offsite Improvement Costs. The City agrees to and will bear the costs of the design and construction of all Offsite Improvements.

3.2 Developer Obligations for Offsite Improvements. Developer agrees to provide a traffic impact study regarding street infrastructure adjacent to the Project, to include Edgerton Road/West 8th Street and Braun/207th Street.

3.3 Design Standards. The City shall have absolute discretion in determining the design of all Offsite Improvements to public infrastructure and the time that it is constructed, installed and operational; provided, however, the City agrees to construct such Offsite Improvements in a good faith manner in coordination with the development of the Project Site and Phase I of the single family subdivision, such that Offsite Improvements are reasonably available to the Project Site for its development and sale of single family lots and homes.

3.4 Adequate Security/Payment Bond. The parties acknowledge that the City intends to pay for or be reimbursed for the costs of the Offsite Improvements from the RHID increment described in **Section 5.3**. If the Developer fails to complete Phase I of the Project as set forth in **Section 2.5**, the City may not have sufficient RHID increment to pay or reimburse its costs. Before the City commences work on any of the improvements described in this **Article III**, the Developer shall post a Payment Bond with the City to enable the City to pay for or reimburse the Offsite Improvements costs to the extent, if any, the RHID increment is not sufficient by the completion of Phase I. The bond shall be of sufficient amount to reimburse the City for all costs incurred in the design and construction of the Offsite Improvements. If the City and the Developer are unable to agree on what constitutes adequate security, or if the Developer is unable to post adequate security, either party may terminate this Agreement by delivering written notice to the other party. The payment bond shall be reviewed annually on January 1 and may be adjusted downward by the City based upon the amount of any RHID Increment received in the preceding 12 months. Upon full reimbursement of the costs incurred in the design and construction of the Offsite Improvements, the payment bond shall be released and no longer required of the Developer.

ARTICLE IV

INTERNAL PROJECT INFRASTRUCTURE

4.1 Developer agrees to and will construct at its cost and expense, all Project Site Improvements required by the City code and all applicable ordinances. The design, installation, inspection and approval of all internal infrastructure improvements shall go through normal City processes.

ARTICLE V

RHID FINANCING

5.1 RHID Financing. The City has authority to create a Rural Housing Incentive District (the “RHID”) pursuant to the Kansas Rural Housing Incentive District Act, codified at K.S.A 12-5241 et seq., as amended (the “RHID Act”). The Developer agrees that the City, subject to compliance with Applicable Laws and Requirements, may establish a RHID district and plan that includes within the district the Offsite Improvements, the Project Site, and the Project. Establishment of the RHID is not a condition precedent to any of the obligations of the City under this Agreement.

5.2 Disbursement of RHID Increment. If established, the RHID increment deposited with the City pursuant to K.S.A. 12-5250(b)(2) shall be used by the City at its discretion to either pay, or reimburse the City for the payment of, any cost permitted by the RHID Act.

ARTICLE VI
ASSIGNMENT BY DEVELOPER; DEVELOPER OWNERSHIP

Any assignment of this Agreement shall require the written consent of the City. Any change in ownership of the Developer that results in _____ no longer being the majority owner of Developer shall require the written consent of the City. Notwithstanding the foregoing to the contrary, Developer shall be permitted to assign its rights under this Agreement without receipt of the City's consent to: (i) any entity controlled by or under common control of Developer or _____ [INSERT APPROPRIATE INDIVIDUAL] or (ii) any entity that acquires all or substantially all of Developer's assets (each a "Permitted Assignee"); provided, each Permitted Assignee shall have sufficient financial assets to perform all of Developer's obligations hereunder and shall show evidence that the payment bond required by Section 3.4 (or an adequate substitute payment bond as determined by the City) will remain in force after the assignment. Nothing in this agreement shall prohibit or limit the Developer from pledging or assigning this Agreement or the benefits of this Agreement as collateral for financing purposes.

ARTICLE VII
PROJECT CONSTRUCTION SCHEDULE AND OTHER AGREEMENTS

Section 7.1 Project Schedule. Subject to an Excused Delay, Developer agrees that the Project will comply with the following schedule:

- (a) Construction of the first home in Phase I shall commence no later than _____.
- (b) Phase I shall be completed on or before five (5) years from the approval of the final Plat for Phase I.

Section 7.2 Benefit District. The parties acknowledge that the Project will be served by the Sunflower Sewer Benefit District. Developer will be responsible for making a one-time buy-in payment to join and connect to the district pursuant to currently existing requirements. City and Developer acknowledge that the estimated one time buy-in as of the date of this Development Agreement is approximately \$294,673.46, plus any related fees charged by the City's outside counsel, advisors and escrow agent which shall be paid by the Developer (estimated to be \$14,000). If the actual one time buy-in exceeds \$400,000, Developer retains the right to terminate this Development Agreement. Additionally, Developer acknowledges that the Project Site is subject to annual assessments for tax year 2023 through and including the 2032 tax year.

Section 7.3 Future Easements. The Developer agrees, at the request of the City, to dedicate future easements to the City within one of the two greenspace areas within the Project for the installation of an outdoor warning siren, a chlorine testing station and radio antenna infrastructure for automated meter reading. Such easements shall be in a mutually agreeable location and be limited to the amount of land area reasonably necessary for such purposes.

ARTICLE VIII
DEFAULT; REMEDIES

8.1 Default by Developer. Developer shall be in default under this Agreement if: (a) Developer fails to keep or perform any material covenant or obligation herein contained on the Developer's part to be kept or performed, and the Developer fails to remedy the same within sixty (60) days after the Developer has been given written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by the Developer within such period and diligently pursued until the default is corrected; or (b) the Developer materially breaches the representations and warranties set forth in this Agreement and fails to cure or correct same within thirty (30) days following written notice. In the event of such default, the City may take such actions, or pursue such remedies, as exist hereunder or at law or in equity. Notwithstanding the foregoing, the Developer's liability for monetary amounts shall be limited to the actual amount, if any, in question, and under no circumstances shall Developer be liable for any remote or consequential damages

8.2 Default by City. The City shall be in default under this Agreement if: (a) the City fails to keep or perform any material covenant or obligation herein contained on the City's part to be kept or performed, and the City fails to remedy the same within sixty (60) days after the City has been given written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by the City within such period and diligently pursued until the default is corrected; or (b) the City materially breaches the representations and warranties set forth in this Agreement and fails to cure or correct same within thirty (30) days following written notice. In the event of such default, the Developer may terminate this Agreement and/or take such actions, or pursue such remedies, as exist hereunder or at law or in equity.

ARTICLE IX CITY TERMINATION OPTION

The City shall have the option to terminate this Agreement immediately if Developer (a) defaults beyond the cure period set forth in Section 8.1 above, on the Project construction schedule set forth in **Article VII**, as such schedule may be as adjusted for an Excused Delay, or (b) fails to maintain the payment bond as required by **Section 3.4**.

ARTICLE X REPRESENTATIONS AND WARRANTIES

10.1 Representations and Warranties of Developer. Developer represents and warrants to the City as follows:

10.1.1 Organization. Developer is a limited liability company duly formed and validly existing under the laws of the State of Kansas. Developer is duly authorized to conduct business in all jurisdictions in which the nature of its properties or its activities requires such authorization. Developer shall (1) preserve and keep in full force and effect its corporate or other separate legal existence and (2) remain qualified to do business and conduct its affairs in the State of Kansas and each jurisdiction where ownership of its property or the conduct of its business or affairs requires such qualification.

10.1.2 Authority. The execution, delivery and performance by Developer of this Agreement is within Developer's powers and have been duly authorized by all necessary action of Developer.

10.1.3 No Conflicts. Neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein contemplated, nor compliance with the terms and provisions hereof, will contravene the organizational documents of Developer or any provision of law, statute, rule or regulation to which Developer is subject, or to any judgment, decree, license, order or permit applicable to Developer, or will conflict or be inconsistent with, or will result in any breach of any of the terms of the covenants, conditions or provisions of any indenture, mortgage, deed of trust, agreement or other instrument to which Developer is a party, by which Developer is bound, or to which Developer is subject.

10.1.4 No Consents. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or governmental authority or regulatory body or third party is required for the due execution and delivery by Developer of this Agreement. No consent, authorization, approval, order, or other action by, and no notice to or filing with, any court or governmental authority or regulatory body or third party is required for the performance by Developer of this Agreement, or the consummation of the transactions contemplated hereby except for zoning, building and other customary permits to be obtained from the City, county, or other governmental units

10.1.5 Valid and Binding Obligation. The provisions of this Agreement are the legal, valid and binding obligations of Developer, enforceable against Developer in accordance with the terms hereof.

10.2 Representations and Warranties of City. City represents and warrants to the Developer as follows:

10.2.1 Authority. The execution, delivery and performance by the City of this Agreement is within its powers and has been duly authorized by all necessary action.

10.2.2 No Conflicts. Neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein contemplated, nor compliance with the terms and provisions hereof, will contravene the ordinances, rules, regulations of the City or the laws of the State nor result in a breach, conflict with or be inconsistent with any terms, covenants, conditions or provisions of any indenture, agreement or other instrument by which the City is bound or to which the City is subject.

10.2.3 No Consents. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or governmental authority or regulatory body or third party is required for the due execution and delivery by the City of this Agreement. No consent, authorization, approval, order, or other action by, and no notice to or filing with, any court or governmental authority or regulatory body or third party is required for the performance by the City of this Agreement, or the consummation of the transactions contemplated hereby

10.2.4 Valid and Binding Obligation. The provisions of this Agreement are, to the fullest extent permitted by applicable law, the legal, valid and binding obligation of the City enforceable against the City in accordance with the terms hereof and thereof, subject to the Kansas cash basis law and the lawful ability of the current governing body to bind future governing bodies.

ARTICLE XI

MISCELLANEOUS

11.1 Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

11.2 Elevate Edgerton Membership. Developer agrees to obtain membership with Elevate Edgerton at the \$2,500 level or higher.

11.3 Amendments. This Agreement may be amended, changed, or modified only by a written agreement duly executed by the City and the Developer.

11.4 Construction and Enforcement. This Agreement shall be construed and enforced in accordance with the laws of the State of Kansas.

11.5 Invalidity of Any Provisions. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

11.6 Headings. The Article and Section headings shall not be treated as a part of this Agreement or as affecting the true meaning of the provisions hereof.

11.7 Execution of Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

11.8 Time. Time is of the essence in this Agreement.

11.9 Consents and Approvals. Wherever in this Agreement it is provided that the City or the Developer shall, may or must give its approval or consent, the City or the Developer shall not, unless specifically herein provided otherwise, unreasonably withhold, condition, delay or refuse to give such approvals or consents. It is agreed, however, that the sole right and remedy for the Developer or the City in any action concerning the other's reasonableness will be action for declaratory judgment and/or specific performance, and in no event shall either such party be entitled to claim damages of any type or nature in any such action.

11.10 Notices. All notices required or desired to be given hereunder shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed duly served and delivered for all purposes if (i) delivered by nationally recognized overnight delivery service; (ii) emailed (with follow up by sending such notice within one (1) business day by United States Mail); or (iii) delivered in person, in each case if addressed to the parties set forth below:

To the City:	City Administrator Edgerton Community Building 404 East Nelson P.O. Box 255 Edgerton, Kansas 66021 Phone: (913) 893-6231 BLinn@EdgertonKS.org
With a copy to:	Scott W. Anderson SA Legal Advisors LC 16201 W 95th Street, Suite 270 Lenexa, Kansas 66219 Phone (913) 600-2999 SAnderson@SALegalAdvisors.com
To the Developer:	Kansas LD, LLC c/o Jared Payne Rausch Coleman Homes 4058 North College Avenue Suite 100 Fayetteville, Arkansas 72703

All notices given by personal delivery or email (when followed up by regular United States mail as set forth above), shall be deemed duly given the day they are so delivered / emailed. All notices sent by nationally recognized overnight delivery service shall be deemed duly given the next business day following the day such notice was deposited with such delivery service.

11.11 Excused Delay. The performance of any of Developer's obligations under this Agreement shall be excused or extended, at Developer's option, as a consequence of events caused by force majeure or excusable delay (collectively "Excused Delay") applicable to the portion of the Project on account of (i) Acts of Nature (including fire, flood, earthquake, storm, tornado, hurricane or other natural disaster), (ii) acts of war, invasion, hostilities (whether war is declared or not), or usurped power or confiscation, nationalization, blockage or embargo, (iii) terrorist activities (iv) strikes or lockout, (v) riot or civil commotion in the Kansas City metro, (vi) any public health crisis, epidemic or pandemic requiring or resulting in a recommended or mandatory quarantine, or (vii) prolonged break-down of electric current

11.12 Term. This Agreement shall become effective as of the date of its execution and shall remain in full force and effect until all phases of the Project have been constructed, unless sooner terminated as provided in this Agreement.

11.13 City Legal Fees. Developer agrees to reimburse the City for its legal fees in negotiating and drafting this Agreement in the amount of \$5,000.

11.14 Entire Agreement; Conflicts with Incentive Agreements. Together with the Exhibits hereto, this Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes and replaces all prior oral or written agreements concerning the subject matter hereof.

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

CITY OF EDGERTON, KANSAS,
a Kansas municipal corporation

[SEAL]

By: _____
Donald Roberts
Mayor

ATTEST:

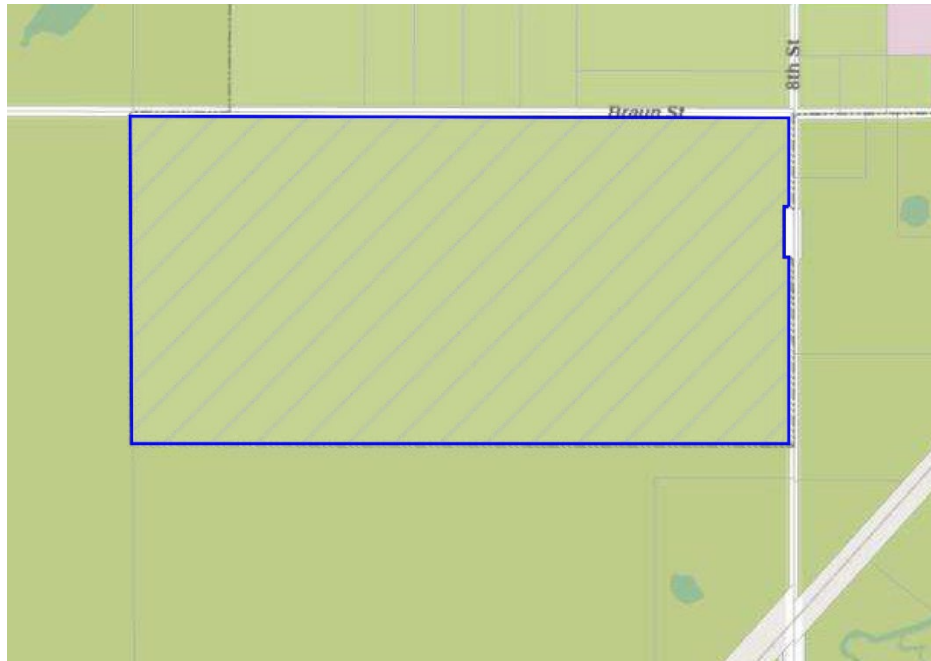
Alexandria Clower
City Clerk

KANSAS LD, LLC
a Kansas limited liability company

By: _____

EXHIBIT A
DEPICTION OF PROJECT SITE AND BOUNDARY

Kansas UPN 0462161301001001000



CITY OF EDGERTON, KANSAS

COUNCIL AGENDA ITEM

Council Meeting Date: September 22, 2022

Agenda Item: Resolution Making Certain Findings and Determinations

Subject: Rural Housing Incentive District

Kansas law allows any city with a population of 60,000 or less to establish a rural housing incentive district (“RHID”). A RHID is very similar to a tax increment financing district. In a RHID, the tax increment generated from the new housing units is captured and can be used to reimburse the city for eligible project costs, such as streets and utility infrastructure.

There are two primary differences between TIF and RHID. First, while a TIF project plan captures the increment for up to 20 years, a RHID captures the increment for up to 25 years. Second, unlike a TIF, RHID does capture the 8 mils for the school capital levy.

Kansas LD, LLC (Rausch Coleman Homes) (the “Developer”) desires to develop a single-family housing subdivision on an 80.4 acre parcel located at the southwest corner of 207th Street/ Braun Street and 8th Street/Edgerton Road. The housing subdivision will be known as Dwyer Farms. Upon completion, it is anticipated that Dwyer Farms will have 275 single-family homes. The City has both recently annexed and rezoned the property.

In the Development Agreement, the City has agreed to install and pay for all necessary off-site improvements, including streets, sewer and water. The City intends to reimburse itself for the costs of making the off-site improvements by establishing a RHID.

The steps for establishing an RHID are as follows:

1. Conduct a housing needs analysis.
2. Adopt resolution making certain findings and determinations.
3. Obtain Secretary of Commerce approval.
4. Adopt a plan for redevelopment.
5. Hold a public hearing on the creation of the district and the redevelopment plan.
6. Establish the district by ordinance.

The Resolution is the first step in the City’s creation of a RHID.

RESOLUTION NO. 09-22-22C

A RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS AS TO THE NEED FOR HOUSING WITHIN THE CITY OF EDGERTON, KANSAS AND SETTING FORTH THE LEGAL DESCRIPTION OF REAL PROPERTY PROPOSED TO BE DESIGNATED AS A RURAL HOUSING INCENTIVE DISTRICT WITHIN THE CITY.

WHEREAS, K.S.A. 12-5241 *et seq.* (the “Act”) authorizes any city incorporated in accordance with the laws of the State of Kansas (the “State”) with a population of less than 60,000 to designate rural housing incentive districts within such city; and

WHEREAS, prior to such designation the Governing Body of such city shall conduct a housing needs analysis to determine what, if any, housing needs exist within its community; and

WHEREAS, after conducting such analysis, the Governing Body of such city may adopt a resolution making certain findings regarding the establishment of a rural housing incentive district and providing the legal description of property to be contained therein; and

WHEREAS, after publishing such resolution, the governing body of such city shall send a copy thereof to the Secretary of Commerce of the State (the “Secretary”) requesting that the Secretary agree with the findings contained in such resolution; and

WHEREAS, if the Secretary agrees with such findings, such city may proceed with the establishment of a rural housing incentive district within such city and adopt a plan for the development or redevelopment of housing and public facilities in the proposed district; and

WHEREAS, the City of Edgerton, Kansas (the “City”) has a population of less than 60,000 and therefore constitutes a city as said term is defined in the Act; and

WHEREAS, the Elevate Edgerton performed a Housing Assessment dated December 2020 (the “Housing Study”) for the City, a copy of which is on file in the office of the City Clerk; and

WHEREAS, based on the Housing Study, the Governing Body of the City proposes to commence proceedings necessary to create a Rural Housing Incentive District, in accordance with the provisions of the Act.

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

Section 1. The Governing Body adopts and incorporates by reference as part of this Resolution the Housing Study, and based on a review of said Housing Study makes the following findings and determinations.

Section 2. The Governing Body hereby finds and determines that there is a shortage of quality housing of various price ranges in the City despite the best efforts of public and private housing developers.

Section 3. The Governing Body hereby finds and determines that the shortage of quality housing can be expected to persist and that additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in the City.

Section 4. The Governing Body hereby finds and determines that the shortage of quality housing is a substantial deterrent to future economic growth and development in the City.

Section 5. The Governing Body hereby finds and determines that the future economic wellbeing of the City depends on the Governing Body providing additional incentives for the construction or renovation of quality housing in the City.

Section 6. Based on the findings and determinations contained in Sections 2 through 5 of this Resolution, the Governing Body proposes to establish a rural Housing Incentive District pursuant to the Act on the property legally described in **Exhibit A**. A depiction of the parcels included within the boundaries is shown in **Exhibit B**.

Section 7. This Resolution shall be published once in the official newspaper of the City.

Section 8. This Resolution shall be in full force and effect from and after its adoption.

PASSED AND ADOPTED by the Governing Body for the City of Edgerton, Kansas this 22nd day of September, 2022.

CITY OF EDGERTON, KANSAS

[SEAL] By: _____
Donald Roberts, Mayor

ATTEST:

Alexandria Clower, City Clerk

Approved as to form:

Scott W. Anderson, Economic Development Counsel

EXHIBIT A

Legal Description

The North Half of the Northeast Quarter of Section 13, Township 15 South, Range 21 East, Johnson County, Kansas, EXCEPT that part described as follows:

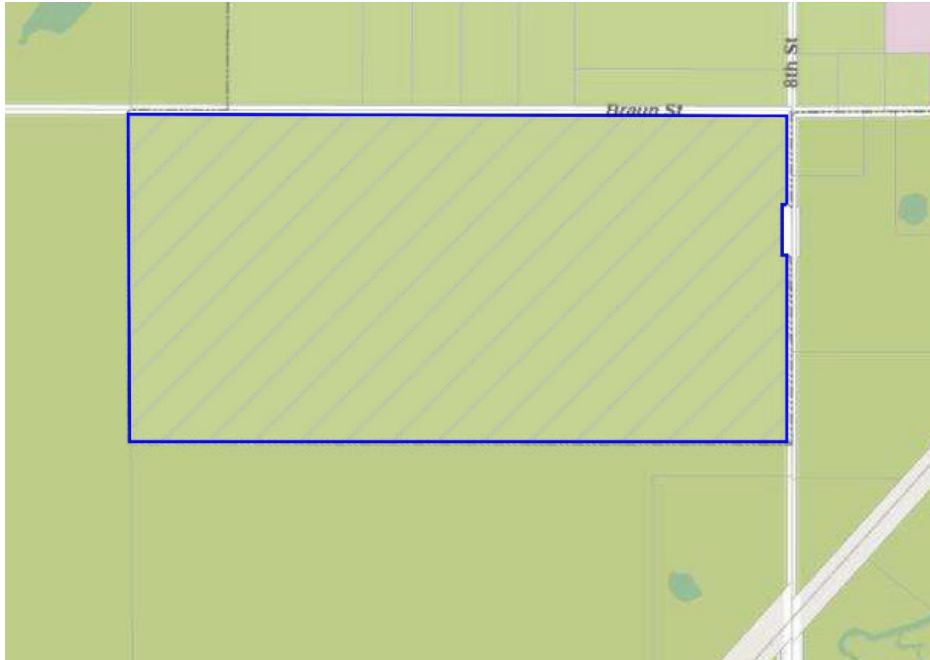
All that part of the Northeast Quarter of Section 13, Township 15, Range 21, Johnson County, Kansas, more particularly described as follows:

Beginning at a point on the East line of said Northeast $\frac{1}{4}$ of said Section 13 and 376.40 feet South of the Northeast corner thereof; thence West a distance of 35.00 feet; thence South parallel to the East line of said Northeast $\frac{1}{4}$ a distance of 200 feet; thence East a distance of 35.00 feet; thence North along the East line of said Northeast $\frac{1}{4}$ a distance of 200.00 feet to the point of beginning, all subject to that part thereof dedicated for existing public road right-of-way containing 0.161 acres, including 0.092 acres, more or less, of existing public road right-of-way and 0.069 acres, more or less, of new right-of-way.

EXHIBIT B

Depiction of Parcel

Kansas UPN 0462161301001001000



City Council Action Item

Council Meeting Date: September 22, 2022

Department: Public Works

Agenda Item: Consider an Agreement between BG Consultants and the City of Edgerton, Kansas For The Engineering Services for Dwyer Farms Sanitary Sewer Improvements

Background/Description of Item:

On August 11, 2022, Edgerton City Council approved the recommendation of the Planning Commission to approve an application for a Planned Unit Development (PUD) for Dwyer Farms.

The Dwyer Farms project is located at the southwest corner of 8th Street and Braun Street. This project is proposed single family residential. As such this project will need sanitary sewer improvements at the onset of development. The Sanitary Sewer project will have several hurdles to get started, as the proposed alignment crosses beneath existing rail, existing high-pressure pipeline, and an existing lake.

BG Consultants has worked with the City on numerous occasions, they are positioned to start immediately and handle the coordination with the rail and pipeline.

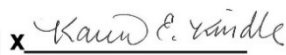
City Staff along with BG Consultants have worked to outline the needed easements. Staff recommends approving this agreement upon acceptance by City Attorney.

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

Funding Source: Rural Housing Incentive District (RHID)

Budget Allocated: \$38,500

Finance Director Approval:

x 
Karen Kindle, Finance Director

Recommendation: Approve Agreement between BG Consultants and the City of Edgerton, Kansas For the Engineering Services for Dwyer Farms Sanitary Sewer Improvements

Enclosed:

BG Consultant-Client Agreement: Dwyer Farms Sanitary Sewer Improvements

Prepared by:

Dan Merkh, Public Works Director



AGREEMENT CONSULTANT-CLIENT

THIS AGREEMENT made and entered into by and between BG CONSULTANTS, INC., party of the first part, (hereinafter called the CONSULTANT), and CITY OF EDGERTON, KANSAS, party of the second part, (hereinafter called the CLIENT).

WITNESSETH:

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

Dwyer Sanitary Sewer Extension

Edgerton, Kansas

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

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

SECTION 1 – DEFINITIONS

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

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

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

SECTION 2 – RESPONSIBILITIES OF CONSULTANT

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

2.2 GENERAL DUTIES AND RESPONSIBILITIES

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

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

- 2.2.2. **Standard of Care:** In the performance of professional Services, CONSULTANT will use that level of care and skill ordinarily exercised by reputable members of CONSULTANT’s profession currently practicing in the same locality under similar conditions. No other representation, guarantee or warranty, express or implied, is included or intended in this agreement or in any communication (oral or written) report, opinion, document or instrument of service.
- 2.2.3. **Independent Contractor:** The CONSULTANT is an independent contractor and as such is not an employee of the Client.
- 2.2.4. **Insurance:** CONSULTANT will maintain: a) workers compensation insurance in an amount at least equal to that required by applicable law; (b) comprehensive general liability insurance in the amount of at least \$1,000,000.00; (c) automobile liability insurance in the amount of at least \$1,000,000.00; and (d) professional liability insurance in the amount of at least \$1,000,000.00. Such insurance will be with insurance carriers that are acceptable to the CLIENT and the policies evidencing such insurance will be in a form acceptable to the CLIENT. The comprehensive general liability insurance policy will name CLIENT as an additional insured. CONSULTANT will provide certification evidencing the insurance coverages named above. CONSULTANT agrees to inform CLIENT at least 30 days in advance of any termination or expiration of any of its insurance policies named above.
- 2.2.5. **Subsurface Borings and Material Testing:** If tests additional to those provided in Exhibit 1 are necessary for design, the CONSULTANT shall prepare a request for the necessary additional borings and procure at least two proposals, including cost, from Geotechnical firms

who engage in providing Subsurface Borings and Testing Services. The CONSULTANT will provide this information to the Client and the Client will contract directly with the Geotechnical firm. The CONSULTANT will not charge an add-on percentage for the Geotechnical firm's work. The Client will pay the Geotechnical firm separately from this Agreement.

- 2.2.6. **Service by and Payment to Others:** Any work authorized in writing by the Client and performed by a third party, other than the CONSULTANT or their subconsultants in connection with the proposed Project, shall be contracted for and paid for by the Client directly to the third party or parties. Fees for extra work shall be subject to negotiation between the CLIENT and the third party. Fees shall be approved by the CLIENT prior to the execution of any extra work. Although the CONSULTANT may assist the CLIENT in procuring such Services of third parties. Where any design services are provided by persons or entities not under CONSULTANT's direct control, CONSULTANT's role shall be limited to its evaluation of the general conformance with the design intent and the interface with CONSULTANT's design and portion of the project. Except to the extent it is actually aware of a deficiency, error, or omission in such design by others, CONSULTANT shall have no responsibility for such design and may rely upon its adequacy, accuracy, and completeness in all respects.
- 2.2.7. **Subcontracting of Service:** The CONSULTANT shall not subcontract or assign any of the architectural, engineering, surveying or consulting Services to be performed under this Agreement without first obtaining the approval of the Client regarding the Services to be subcontracted or assigned and the firm or person proposed to perform the Services. Neither the CLIENT nor the CONSULTANT shall assign any rights or duties under this Agreement without the prior consent of the other party.
- 2.2.8. **Endorsement:** The CONSULTANT shall sign and seal final plans, specifications, estimates and data furnished by the CONSULTANT according to Kansas Statutes and Rules and Regulations.
- 2.2.9. **Force Majeure:** Should performance of Services by CONSULTANT be affected by causes beyond its reasonable control, Force Majeure results. Force Majeure includes, but is not restricted to, acts of God; acts of a legislative, administrative or judicial entity; acts of contractors other than contractors engaged directly by CONSULTANT; fires; floods; labor disturbances; epidemics; and unusually severe weather. CONSULTANT will be granted a time extension and the parties will negotiate an equitable adjustment to the price of any affected Work Order, where appropriate, based upon the effect of the Force Majeure on performance by CONSULTANT.
- 2.2.10. **Inspection of Documents:** The CONSULTANT shall maintain Project records for inspection by the CLIENT during the contract period and for three (3) years from the date of final payment.

SECTION 3 – CLIENT RESPONSIBILITIES

3.1 GENERAL DUTIES AND RESPONSIBILITIES

- 3.1.1. **Communication:** The CLIENT shall provide to the Consultant information and criteria regarding the CLIENT's requirement for the Project; examine and respond in a timely manner to the Consultant's submissions and give notice to the Consultant whenever the CLIENT observes or otherwise becomes aware of any defect in the Services. The CLIENT represents that all information they provide is accurate. Our review and use of the information will be to

the standard of care and any delays or additional costs due to inaccurate information will be the responsibility of the CLIENT.

- 3.1.2. **Access:** The CLIENT will provide access agreements for the Consultant to enter public and private property when necessary.
- 3.1.3. **Duties:** The CLIENT shall furnish and perform the various duties and Services in all phases of the Project which are outlined and designated in Exhibit 1 as the CLIENT's responsibility.
- 3.1.4. **Program and Budget:** The CLIENT shall provide full information stating the CLIENT's objectives, schedule, budget with reasonable contingencies and necessary design criteria so that Consultant is able to fully understand the project requirements.
- 3.1.5. **Testing:** Any additional tests required to supplement the Scope of Services or tests required by law shall be furnished by the CLIENT.
- 3.1.6. **Legal, Insurance, Audit:** Except as otherwise set forth herein, the CLIENT shall furnish all legal, accounting and insurance counseling Services as may be necessary at any time for the Project. The CLIENT shall furnish all bond forms required for the Project.
- 3.1.7. **Project Representative:** The CLIENT will assign the person indicated below to represent the CLIENT in coordinating this Project with the CONSULTANT, with authority to transmit instructions and define policies and decisions of the CLIENT.

Name:	Dan Merkh
Address:	404 E. Nelson
	Edgerton, KS 66021
Phone:	913-893-6231

SECTION 4 – PAYMENT

4.1 COMPENSATION

- 4.1.1. **Fee and Expense:** The CLIENT agrees to pay the CONSULTANT a Lump Sum Fee according to **Exhibit 2** of this Agreement. The Lump Sum Fee for this project is a total of **\$36,000.00** Dollars plus reimbursable expenses as outlined in **Exhibit 2** and for the Scope of Services as shown in **Exhibit 1** of this Agreement. Payment of the Lump Sum Fee and reimbursables shall be made by the CLIENT according to the schedule and upon completion of work as shown in **Exhibit 2**. Other methods of compensation are allowed only after written approval by both parties to this Agreement. Payment is due within thirty (30) days of billing by the CONSULTANT and any late payment will incur an interest charge of one and one-half (1½) percent per month.
- 4.1.2. **Hourly Rate:** Any Additional Services which are not set forth in this Agreement will be charged on the basis of BG Consultants, Inc. standard hourly rate schedule in effect at the time of services, unless stated otherwise in a properly executed addendum to this contract for Additional Services. No Additional Services or costs shall be incurred without proper written authorization of the CLIENT.
- 4.1.3. **Annual Rate Adjustment:** The payment amounts listed in this Agreement are based on the work being performed within one year of the contract date. Because of natural time delays that may be encountered in the administration and work to be performed for the project, each

value will be increased at the rate of 3%, compounded annually, beginning after one year from the date of the contract and ending when that item is approved for billing.

- 4.1.4. **Reimbursable Expenses:** An estimate of reimbursable expenses plus ten (10) percent shall be included in the total estimate of cost for this project and as shown in **Exhibit 2**. Total estimated cost is calculated as Lump Sum plus reimbursable expenses plus ten (10) percent. Reimbursable expenses include, but are not limited to, expenses of transportation in connection with the Project; expenses in connection with authorized out-of-town travel; expenses of printing and reproductions; postage; expenses of renderings and models requested by the CLIENT and other costs as authorized by the CLIENT. Reimbursable expenses will not include overhead costs or additional insurance premiums.
- 4.1.5. **Sales Tax:** Compensation as provided for herein is exclusive of any sales, use or similar tax imposed by taxing jurisdictions on any amount of compensation, fees or Services. Should such taxes be imposed, the CLIENT shall reimburse the CONSULTANT in addition to the contractual amounts provided. The CLIENT shall provide tax exempt number, if required, and if requested by the CONSULTANT.
- 4.1.6. **Billing:** CONSULTANT shall bill the CLIENT monthly for services and reimbursable expenses according to **Exhibit 2**. The bill submitted by CONSULTANT shall state the services and reimbursable expenses for which payment is requested, notwithstanding any claim for interest or penalty claimed in a CONSULTANT's invoice. The CLIENT agrees to pay within thirty (30) days of billing by the CONSULTANT and any late payment will incur an interest charge of one and one-half (1½) percent per month.
- 4.1.7. **Timing of Services:** CONSULTANT will perform the Services according to Exhibit 2. However, if during their performance, for reasons beyond the control of the CONSULTANT, delays occur, the parties agree that they will negotiate in writing an equitable adjustment of time and compensation, taking in to consideration the impact of such delays. CONSULTANT will endeavor to start its services on the anticipated start date and continue to endeavor to complete its services according to the schedule indicated in Exhibit 2. The start date, completion date and any milestone for project delivery are approximate only and CONSULTANT reserves the right to adjust its schedule and all of those dates at its sole discretion for delays caused by the CLIENT, Owner or third parties.
- 4.1.8. **Change in Scope:** For modifications in authorized scope of services or project scope and/or modifications of drawings and/or specifications previously accepted by the CLIENT, when requested by the CLIENT and through no fault of the CONSULTANT, the CONSULTANT shall be compensated for time and expense required to incorporate such modifications at CONSULTANT's standard hourly rates. Provided, however, that any increase in contract price or contract time must be requested by the CONSULTANT and must be approved through a written supplemental agreement prior to performing such services. CONSULTANT shall correct or revise errors or deficiencies in its designs, drawings or specifications without additional compensation when due to CONSULTANT's negligence, error or omission.
- 4.1.9. **Additional Services:** The CONSULTANT shall provide, with the CLIENT's concurrence, Services in addition to those listed in Exhibit 1 when such Services are requested in writing by the CLIENT. Prior to providing Additional Services, the CONSULTANT will submit a proposal outlining the Additional Services to be provided, and an hourly or lump sum fee adjustment. Payment to the CONSULTANT, as compensation for these Additional Services, shall be in accordance with the mutually agreed adjustment to the CONSULTANT's fee. Reimbursable expenses incurred in conjunction with Additional Services shall be paid separately and those reimbursable expenses shall be paid at cost plus ten (10) percent.

Records of reimbursable expenses and expenses pertaining to Additional Services and Services performed on an hourly basis shall be made available to the CLIENT if so requested in writing.

- 4.1.10. **Supplemental Agreement:** This Agreement may be amended to provide for additions, deletions and revisions in the Services or to modify the terms and conditions thereof by written amendment signed by both parties. The contract price and contract time may only be changed by a written supplemental agreement approved by the CLIENT, unless it is the result of an emergency situation, in which case the CLIENT may give verbal, e-mail or facsimile approval which shall be the same as written and approved supplemental agreement.

SECTION 5 – MUTUAL PROVISIONS

5.1 TERMINATION

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

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

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

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

5.2 DISPUTE RESOLUTION

- 5.2.1. If a claim, dispute or controversy arises out of or relates to the interpretation, application, enforcement or performance of Services under this Agreement, CONSULTANT and CLIENT agree first to try in good faith to settle the dispute by negotiations between senior management of CONSULTANT and CLIENT. If such negotiations are unsuccessful, CONSULTANT and CLIENT agree to attempt to settle the dispute by good faith mediation. If the dispute cannot

be settled through mediation, and unless otherwise mutually agreed, the dispute shall be settled by litigation in an appropriate court in Kansas. Except as otherwise provided herein, each party shall be responsible for its own legal costs and attorneys' fees.

5.3 OWNERSHIP OF INSTRUMENTS OF SERVICE

- 5.3.1. Reports, drawings, plans or other documents (or copies) furnished to CONSULTANT by the CLIENT shall, at CLIENT's written request, be returned upon completion of the Services hereunder; provided, however that CONSULTANT may retain one (1) copy of all such documents. Reports, drawings, plans, documents, software, field notes and work product (or copies thereof) in any form prepared or furnished by CONSULTANT under this Agreement are instruments of service. Exclusive ownership, copyright and title to all instruments of service remain with CONSULTANT. CLIENT is hereby granted a License to Use instruments of service with use limited to use on this project. The instruments of service are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the work or on any other project.

5.4 INDEMNIFY AND HOLD HARMLESS

- 5.4.1. CLIENT shall indemnify and hold CONSULTANT, its officers and employees harmless from and against any claim, judgment, demand, or cause of action to the extent caused by: (i) CLIENT's breach of this Agreement; and (ii) the negligent acts or omissions of CLIENT or its employees, contractors or agents.
- 5.4.2. In addition, where the Services include preparation of plans and specifications and/or construction observation activities for CLIENT, CLIENT agrees to have its construction contractors agree in writing to indemnify and hold harmless CONSULTANT from and against loss, damage, or injury attributable to personal injury or property damage to the extent caused by such contractors' performance or nonperformance of their work. The CLIENT will cause the contractor to name BG Consultants, Inc. (CONSULTANT) as additional insured on the contractor's General Liability Policy.
- 5.4.3. CONSULTANT shall indemnify and hold CLIENT and its employees and officials harmless from loss to the extent caused or incurred by the negligence, errors or omissions of the CONSULTANT, its officers or employees in performance of Services pursuant to this Agreement.

5.5 ENTIRE AGREEMENT

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

5.6 APPLICABLE LAW

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

5.7 ASSIGNMENT OF AGREEMENT

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

5.8 NO THIRD PARTY BENEFICIARIES

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

5.9 LIMITATION OF LIABILITY

- 5.9.1. CONSULTANT's Liability Limited to Stated Amount, or Amount of CONSULTANT's Compensation: To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of CONSULTANT and CONSULTANT's officers, directors, members, partners, agents, employees, and Consultants, to CLIENT and anyone claiming by, through, or under CLIENT for any and all injuries, claims, losses, expenses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project, CONSULTANTS or its Consultants' services or this Agreement from any cause or causes whatsoever, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of CONSULTANT or CONSULTANT's officers, directors, members, partners, agents, employees, or Consultants, shall not exceed the total amount of \$500,000.00 or the total compensation received by CONSULTANT under this Agreement, whichever is greater. Higher limits are available for an additional fee.
- 5.9.2. CONSULTANT and CLIENT shall not be responsible to each other for any special, incidental, indirect or consequential damages (including lost profits) incurred by either CONSULTANT or CLIENT or for which either party may be liable to any third party, which damages have been or are occasioned by Services performed or reports prepared or other work performed hereunder.

5.10 COMPLIANCE WITH LAWS

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

5.11 TITLES, SUBHEADS AND CAPITALIZATION

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

5.12 SEVERABILITY CLAUSE

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

5.13 FIELD REPRESENTATION

- 5.13.1. Unless otherwise expressly agreed to in writing, CONSULTANT shall not be responsible for the safety or direction of the means and methods at the contractor's project site or their

employees or agents, and the presence of CONSULTANT at the project site will not relieve the contractor of its responsibilities for performing the work in accordance with applicable regulations, or in accordance with project plans and specifications. If necessary, CLIENT will advise any contractors that Consultant's Services are so limited. CONSULTANT will not assume the role of "prime contractor", "constructor", "controlling employer", "supervisor" or their equivalents, unless the scope of such Services are expressly agreed to in writing.

5.14 HAZARDOUS MATERIALS

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

5.15 AFFIRMATIVE ACTION

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

5.16 SPECIAL PROVISIONS

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

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate this _____ day of _____, 20__.

CONSULTANT:

CLIENT:

BG Consultants, Inc.

City of Edgerton, Kansas

By:



By:

Printed Name:

David J. Hamby, P.E., CFM

Printed Name:

Title:

Vice President

Title:

END OF CONSULTANT-CLIENT AGREEMENT

EXHIBIT 1

SCOPE OF SERVICES

The Scope of Services described in this Exhibit 1 is for the engineering design of a sanitary sewer extension to the Dwyer Property. The PROJECT will consist of approximately 1,800 LF of 18" sanitary sewer that runs from MH A-27 to the east property line of the Dwyer Property located southwest of 207th and Braun Streets.

i. DESIGN PHASE SERVICES

CONSULTANT will provide the following Design Phase Services.

1. Receive any available information from CLIENT applicable to the PROJECT.
2. CONSULTANT will perform design of the PROJECT to prepare construction plans and project special provisions referencing the most current edition of the following design guides and specifications:
 - a. Minimum Standards of Design for Water Pollution Control Facilities, published by the State of Kansas Department of Health and Environment.
 - b. Construction and Material Specifications, published by the Kansas City Metropolitan Chapter of the American Public Works Association.
 - c. Standard Specifications for State Road and Bridge Construction and applicable Special Provisions prepared by KDOT.
3. Perform a topographical survey of the PROJECT location. The survey will include a 100' wide strip along the PROJECT centerline.
4. Receive information from utility companies having facilities within the PROJECT limits. CONSULTANT will contact ONE CALL to request utility companies locate existing utility infrastructure within the area to be surveyed. Existing utilities that are marked at the time of the topographic survey may be included in the topographic survey.
5. Perform engineering design of sanitary sewer infrastructure improvements. CONSULTANT and CLIENT anticipate the infrastructure design will primarily include the following:
 - a. Horizontal and vertical alignment.
 - b. Sanitary sewer improvements.
 - c. Typical pavement section(s) and patching details.
 - d. Sanitary sewer details.
6. Prepare a Storm Water Pollution Prevention Plan (SWPPP).
7. Prepare a temporary traffic control plan which could be used by the Contractor as a general guide to traffic control during construction of the PROJECT. Temporary traffic control plan will conform to the KDOT Traffic Engineering standards and the MUTCD.
8. Prepare construction plans on 24"x36" sheets. Construction Plans will be prepared to Concept Check, Preliminary Check, and Final Check stages. Each stage will be reviewed by CLIENT and CONSULTANT will address CLIENT's review comments.

9. Assist the CLIENT with compiling a list of known utilities in the PROJECT limits and summarizing utility adjustment coordination for CLIENT records. Provide one set of construction plans to each utility owner having facilities located within the PROJECT limits.
10. Prepare project special provisions for improvements included in the PROJECT which are not specified in the APWA or KDOT Standard Specifications.
11. Prepare a Project Manual containing bidding documents, construction contract documents, and technical specifications.
12. Prepare an opinion of probable construction costs at the Concept Design, Preliminary Check and Final Check project development stages.
13. Prepare the permit application and applicable exhibits for known permits required for construction. CONSULTANT will deliver permit application(s) to CLIENT for CLIENT to submit for approval. Permit application fees will be the CLIENT's responsibility. CONSULTANT and CLIENT anticipate the following permits will be needed.
 - i. KDHE NOI Permit.
 - ii. KDHE Sanitary Sewer Extension Permit
 - iii. Kansas Pipeline Company Encroachment Agreement
 - iv. BNSF Railroad Encroachment Agreement
14. CLIENT and CONSULTANT anticipate up to four (4) meetings to discuss PROJECT.
15. Applying for and obtaining Environmental Permits is not included in this scope of services. CONSULTANT anticipates CLIENT will contract for this work separately.
16. Applying for and obtaining a Section 404 Permit from the U.S. Army Corps of Engineers is not included in this scope of services.
17. Environmental Assessment or Environmental Impact Statement services concerning the National Environmental Policy Act are specifically excluded from this AGREEMENT.
18. Geotechnical engineering services are not included within this scope of services. CONSULTANT will assist CLIENT in soliciting proposals for services from geotechnical engineering companies (if desired by CLIENT). CLIENT will contract directly with a qualified geotechnical engineering firm to provide geotechnical services.

ii. PROPERTY ACQUISITION PHASE SERVICES

CONSULTANT will provide the following Property Acquisition Phase Services.

1. CONSULTANT will prepare property descriptions of PROJECT easements on up to two (2) private properties abutting the PROJECT.
2. Surveying of PROJECT easements is not included.

iii. BID PHASE SERVICES

CONSULTANT will provide the following Bid Phase Services.

1. Assist CLIENT with advertising the PROJECT to Construction Contractors.
2. Address questions from prospective bidders regarding the PROJECT bid documents.
3. If necessary, issue addenda prior to the bid opening.

4. Review bids and provide a recommendation to CLIENT regarding awarding the construction contract.

iv. **CONSTRUCTION PHASE SERVICES** – Construction Phase Services are not included but can be added by Supplemental Agreement.

END OF EXHIBIT 1

EXHIBIT 2
COST AND SCHEDULE

A. ENGINEERING FEE

1. CONSULTANT will provide services in Exhibit 1 for a lump sum fee of **thirty-six thousand and NO/100 dollars (\$36,000.00)** which includes transportation expenses in connection with the PROJECT. CLIENT will be invoiced for services in Exhibit 1 in accordance with Section 4 of this AGREEMENT. Monthly invoicing will be based on the percentage of the scope of services performed.
2. Reimbursable expenses not included in the Engineering Fee above may include, but are not limited to, expenses such as the purchase of title reports, maps, expenses of printing and reproductions, expenses to obtain copies of deeds, plots, plats, prints, plans, or other direct costs incurred by CONSULTANT. CONSULTANT and CLIENT agree to a reimbursable expenses allowance of **two thousand five hundred and NO/100 dollars (\$2,500.00)**.

B. ESTIMATED PROJECT SCHEDULE

1. CONSULTANT will perform services in an effort to meet CLIENT scheduling goals.

END OF EXHIBIT 2

EXHIBIT 3
SPECIAL PROVISIONS

None.



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EDGERTONKS.ORG

City Council Action Item

Council Meeting Date: September 22, 2022

Department: Parks and Recreation

Agenda Item: Consider Resolution No. 09-22-22D Approval Of Indemnity Agreement Between The City And The Edgerton United Methodist Church For Use Of The Church Parking Lots During The Meat Inferno Event

Background/Description of Item:

Meat Inferno is Edgerton's new community event. This event will take place on October 7th and 8th, 2022. In order to allow more contestants to have a place to park and compete in the Kansas City Barbeque Society sanctioned master's competition, the City has requested use of the Edgerton United Methodist church parking lots at 300 East 4th Street, Edgerton, Kansas 66021.

In order for the United Methodist Church to be covered by the City's insurance for the duration of the event, the City's insurance agent has requested that a signed indemnity agreement be submitted. The City's attorney has drafted the agreement and it has already been signed by a member of the United Methodist Church.

The Church has made the following requests of the City for use of their property:

- The area temporarily used by the City shall be cleaned prior to Sunday services on October 9, 2022;
- The City will provide access to the Church on October 7th at 9:00 a.m. for food pantry delivery;
- The Church will be allowed a booth during the event should they choose operate one; and
- The Church shall be covered as an additional insured by the City's insurance in the event of a liability claim.

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

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approve Resolution No. 09-22-22D The Indemnity Agreement Between The City And The Edgerton United Methodist Church For Use Of The Church Parking Lots During The Meat Inferno Event

Enclosed: Draft Resolution No. 09-22-22D
Indemnity Agreement between the City and Edgerton United Methodist Church

Prepared by: Brittany Paddock, Recreation Coordinator

RESOLUTION 09-22-22D

A RESOLUTION OF THE CITY OF EDGERTON, KANSAS, TO APPROVE THE INDEMNITY AGREEMENT BETWEEN THE CITY AND THE EDGERTON UNITED METHODIST CHURCH FOR USE OF THE CHURCH PARKING LOTS DURING THE MEAT INFERNO EVENT.

WHEREAS, the Meat Inferno Barbeque Competition will be held in the City of Edgerton on October 7th and October 8th, 2022; and

WHEREAS, Meat Inferno will be held on East Nelson and East 5th Streets and use of the Edgerton United Methodist Church parking lots will allow more teams to park and compete; and

WHEREAS, the indemnity agreement between the two parties will allow the Edgerton Methodist Church to be covered as an additional insured by the City's insurance for the duration of the Meat Inferno event.

THEREFORE, BE IT RESOLVED by the City Council of Edgerton, Kansas;

Agreement to the indemnity agreement to have the Edgerton United Methodist Church to be covered as an additional insured by the City's insurance for the duration of the Meat Inferno event on October 7th and 8th, 2022.

PASSED AND APPROVED by the City Council of Edgerton, Kansas on the 22nd day of September, 2022.

ATTEST:

CITY OF EDGERTON, KANSAS

Alexandria Clower, City Clerk

By: _____
Donald Roberts, Mayor

APPROVED AS TO FORM:

Lee W. Hendricks, City Attorney

INDEMNITY AGREEMENT

THIS AGREEMENT is made and entered into as of the dates listed below, by and between the CITY OF EDGERTON, KANSAS (the “City”) and the EDGERTON METHODIST CHURCH (the “Church”).

RECITALS

- A. Whereas, the Church owns certain real estate located at 300 East 4th Street, Edgerton, Kansas 66021 (the “Property”);
- B. Whereas, the City is sponsoring a BBQ event (the “Event”) titled Meat Inferno, to be held on October 7 and 8, 2022, wherein it wishes to use the gravel and paved parking lot at the Property for competing teams to park and remain for the term of the Event;
- C. Whereas, the Church is agreeable to that arrangement subject to certain terms;
- D. Whereas, the parties wish to memorialize those terms as follows:

AGREEMENT

The City and the Church agree as follows:

- 1. **USE OF PROPERTY.** The Church agrees to allow the City to use the gravel and paved parking lot located at 300 East 4th Street for competing teams to park and operate subject to the following conditions:
 - a. The area temporarily used by the City shall be cleaned prior to Sunday services on October 9, 2022;
 - b. The City will provide access to the Church on October 7th at 9:00 a.m. for food pantry delivery;
 - c. The Church will be allowed a booth during the event should they choose to operate one; and
 - d. The Church shall be covered as an additional insured by the City’s insurance in the event of a liability claim.
- 2. **INDEMNITY.** The City shall indemnify, defend and hold the Church harmless from and against all losses, claims and liabilities (including reasonable attorneys’ fees and costs) incurred by the Church and arising from the City’s use of the of the Property for the Event. As a term of this Agreement, the Church shall be covered as an additional insured under the City’s insurance policy during all times the Property is used for the Event.

3. TERM This Agreement shall continue in force and effect through the term of the Event.
4. POWER TO SIGN. By signing this Agreement, the undersigned on behalf of the Church is warranting that they are empowered in any and all manners necessary to sign on behalf of the Edgerton Methodist Church.
5. CHOICE OF LAW. This Agreement will be governed by and construed in accordance with the laws and regulations of the State of Kansas.

IN WITNESS WHEREOF, the above and foregoing Agreement has been executed by the parties hereto.

CITY OF EDGERTON, KANSAS

Date

By: _____
Donald Roberts, Mayor

ATTEST:

Date

Alexandria Clower, City Clerk

EDGERTON METHODIST CHURCH

Date

By _____

_____, _____
Print Name Title