

**CITY COMMISSION MEETING
Winfield, Kansas**

DATE: Tuesday, February 19, 2019
TIME: 5:30 p.m.
PLACE: City Commission – Community Council Room – First Floor – City Building

AGENDA

CALL TO ORDERMayor Ronald E. Hutto
ROLL CALL.....Deputy City Clerk Carina Anderson
MINUTES OF PRECEDING MEETING.....Monday, February 04, 2019

BUSINESS FROM THE FLOOR

-Citizens to be heard

NEW BUSINESS

Ordinances & Resolutions

Bill No. 1909 – An Ordinance – Amending Chapter 54, Article V, Section 54-128 of the Winfield City Code by the striking of current Section 54-128 and adopting a new Section 54-128.

Bill No. 1910 – An Ordinance – Amending the Code of Ordinances of the City of Winfield, Kansas by the repeal of Chapter 34, Sec. 34-78 (q), charges for collection of solid waste, and the adoption in lieu thereof, a new Sec. 34-78 (q).

Bill No. 1911 – A Resolution – Authorizing and directing the City Manager of the City of Winfield, Kansas to execute a fairgrounds special event agreement between the City of Winfield and the Cowley County Fair Association.

Bill No. 1912 – A Resolution – Accepting and authorizing the filing of a certain permanent easement necessary to provide right-of-way for installation, construction, maintenance, repair, and removal of the utilities and the necessary appurtenances therefore, in, over, under, and across real estate in Highland Park Addition, City of Winfield, Cowley County, Kansas. (Harrison)

Bill No. 1913 – A Resolution – Accepting and authorizing the filing of a certain permanent easement necessary to provide right-of-way for installation, construction, maintenance, repair, and removal of the utilities and the necessary appurtenances therefore, in, over, under, and across real estate in Highland Park Addition, City of Winfield, Cowley County, Kansas. (Mildfelt)

OTHER BUSINESS

- Consider an agreement with Professional Engineering Consultants for civil engineering services for Phase II of the Public Safety Facility (FD Bays.)
- Consider a contract renewal for gas transmission with Enable
- Consider an agreement renewal for gas transportation and storage with Enable
- Consider approval of the 2019 substation technical support program with Southwest Electric Company

ADJOURNMENT

- Next regular work session 4:00 p.m. Thursday February 28, 2019
- Next regular meeting 5:30 p.m. Monday, March 04, 2019.

CITY COMMISSION MEETING MINUTES

February 4, 2019

The Board of City Commissioners met in regular session, Monday, February 04, 2019 at 5:30 p.m. in the City Commission-Community Council Meeting Room, City Hall; Mayor Ronald E. Hutto presiding. Commissioners Gregory N. Thompson and Phillip R. Jarvis were also present. Also in attendance were Brenda Peters, Interim City Manager; Carina Anderson, Deputy City Clerk and William E. Muret, City Attorney. Other staff members present were Gus Collins, Director of Utilities; Gary Mangus, Assistant to the City Manager; Patrick Steward, Director of Public Improvements; Jerred Schmidt, Director of Information Systems; Gary Bortz, Police Lieutenant; and Chad Gordon, Interim Police Captain.

Deputy City Clerk Anderson called roll.

Commissioner Thompson moved that the minutes of the January 22, 2019 meeting be approved. Commissioner Jarvis seconded the motion. With all Commissioners voting aye, motion carried.

Commissioner Thompson moved that the minutes of the January 28, 2019 Special meeting be approved. Commissioner Jarvis seconded the motion. With all Commissioners voting aye, motion carried.

Commissioner Jarvis moved that the minutes of the January 31, 2019 Special meeting be approved. Commissioner Thompson seconded the motion. With all Commissioners voting aye, motion carried.

BUSINESS FROM THE FLOOR

NEW BUSINESS

Bill No. 1903 – A Resolution – Accepting and authorizing the filing of a certain permanent easement necessary to provide right-of-way for installation, construction, maintenance, repair, and removal of the utilities and the necessary appurtenances therefore, in, over, under, and across real estate in Section 32, Township 32 South, Range 4 East of the 6th P.M., City of Winfield, Cowley County, Kansas. Director of Utilities Collins explains this Resolution accepts an easement that would grant the City an additional 20 feet for utilities to be run to Country Club Villas. Upon motion by Commissioner Hutto, seconded by Commissioner Jarvis all Commissioners voting aye, Bill No. 1903 was adopted and numbered Resolution No. 0319.

Bill No. 1904 – A Resolution – Determining the existence of certain nuisances in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City. Director of Public Improvements Steward explains that this resolution is for the determination of a nuisance of a property at 1513 Mansfield Street. Upon motion by Commissioner Jarvis, seconded by Commissioner Hutto all Commissioners voting aye, Bill No. 1904 was adopted and numbered Resolution No. 0419.

Bill No. 1905 – A Resolution – Determining the existence of certain nuisances in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City. Director of Public Improvements Steward explains that this resolution is for the determination of a nuisance of a property at 607 Loomis Street. Upon motion by Commissioner Thompson, seconded by Commissioner Jarvis all Commissioners voting aye, Bill No. 1905 was adopted and numbered Resolution No. 0519.

Bill No. 1906 – A Resolution – Determining the existence of certain nuisances in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City. Director of Public Improvements Steward explains that this resolution is for the determination of a nuisance of a property at 332 N Massachusetts Street. Upon motion by Commissioner Jarvis, seconded by Commissioner Thompson all Commissioners voting aye, Bill No. 1906 was adopted and numbered Resolution No. 0619.

Bill No. 1907 – A Resolution – Fixing the time and place and providing for notice of a public hearing before the Governing Body of the City of Winfield, Kansas, regarding the condemnation of a certain structures, a house and detached garage in the City of Winfield, Cowley County, Kansas. Director of Public Improvements Steward explains that this resolution that will fix the time and place to consider condemnation of structures located at the corner of High Street and 9th Avenue, 1421 E 9th Avenue and 909 High Street. Steward explains there are two structures on a single parcel, and that staff has been in contact with the owner, who has taken no action to remove or repair the structures. Upon motion by Commissioner Thompson, seconded by Commissioner Jarvis all Commissioners voting aye, Bill No. 1907 was adopted and numbered Resolution No. 0719.

Bill No. 1908 – A Resolution – Authorizing and providing of the calling of a Special Question election in the City of Winfield, Kansas, for the purpose of submitting to the electors of the City the question of imposing a one percent (1%) City-wide Retailers' Sales Tax; and providing for the giving of Notice of said election. Interim City Manager Peters explains this Resolution will allow the citizens to vote on whether to implement a one percent sales tax for 25 years, which is the length of time expected to pay off the debt for the public safety facility, continuation of street projects and facilities maintenance for aging infrastructures and facilities. Upon motion by Commissioner Jarvis, seconded by Commissioner Hutto all Commissioners voting aye, Bill No. 1908 was adopted and numbered Resolution No. 0819.

OTHER BUSINESS

-Consider quote for 2019 Street Work from Bryant & Bryant- Director of Public Improvements Steward explains that Federal law dictates that the sidewalk access ramps be brought up to ADA code when a street is reworked. Steward asks that the Commission approve the contract for Street work to Bryant & Bryant, in an amount not to exceed \$144,648. Commissioner Thompson moved to approve the contract with Bryant & Bryant for street work, in an amount not to exceed \$144,648. Motion was seconded by Commissioner Jarvis. With all Commissioners voting aye, motion carried.

-Consider 2019 Computer Purchase- Director of Information Systems Jerred Schmidt explains that \$130,000 was budgeted for the purchase of 81 Desktop PC's and 46 Tablets, in order to stay in compliance with PCI DSS, CJIS and HIPAA standards, and keep our network secure. Staff recommends the Commission award the bid to SHI International Corp in the amount of \$114,202.17. Commissioner Jarvis moved to approve the purchase of computers from SHI International Corp. for \$114,202.17. Motion was seconded by Commissioner Thompson. With all Commissioners voting aye, motion carried.

-Consider purchase of a drone for the Electric Department- Director of Utilities Collins explains to the Commissioners that the City received a quote from Unmanned Vehicle Technologies, LLC in the amount of \$20,791.00 for a new drone that has a higher resolution than the current drone. This drone will be used city-wide, and we currently have four employees certified to fly a drone. Commissioner Thompson made a motion to approve the purchase of a larger drone in the amount of \$20,791.00. Commissioner Jarvis seconded the motion. With all Commissioners voting aye, motion carried.

-Consider acquisition of a 1 ½ ton truck for Underground Utility. Director of Utilities Collins explains that only one proposal was received for a 1 ½ ton truck which will replace two dump trucks and serve water and wastewater needs. Staff recommends that the Commission accept the quote from Kansas Truck Equipment in the amount of \$122,234.95, which is below the budgeted amount of \$133,000. Commissioner Jarvis moved to accept the bid from Kansas Truck Equipment for a 1 ½ ton at a cost of \$122,234.95. Motion was seconded by Commissioner Thompson. With all Commissioners voting aye, motion carried.

- Consider Board Appointment to Senior Citizen's Advisory Committee. City Clerk Peters presented the name of Hannah Peroo for appointment to the Senior Citizen's Advisory Committee. Commissioner Thompson made a motion to appoint Hannah Peroo to the Senior Citizen's Advisory Committee. Commissioner Jarvis seconded the motion. With all Commissioners voting aye, motion carried.

-Executive Session – Commissioner Jarvis moved the City Commission recess into Executive Session for consultation with the City Attorney and the Interim City Manager which would be deemed privileged in the attorney-client relationship pursuant to the consultation with the City Attorney matter exception, K.S.A. 75-4319(b)(2). The open meeting will reconvene in the Community Council Room at 6:00 p.m.

The regular meeting resumed at 6:00 p.m.

-Executive Session – Commissioner Jarvis moved the City Commission recess into executive session to discuss an individual's performance pursuant to the non-elected personnel exception, K.S.A. 75-4319 (b)(1), and the open meeting will convene at 6:15 p.m. Motion was seconded by Commissioner Thompson. With all Commissioners voting aye, motion carried.

The regular meeting resumed at 6:15 p.m.

The City Commission announced they had offered the position of City Manager to Taggart Wall, and he had accepted. Commissioner Thompson moved to approve the contract with Taggart Wall, and submit it for approval and signature. Commissioner Jarvis seconded the motion, with all Commissioners voting aye, motion carried.

ADJOURNMENT

Upon motion by Commissioner Jarvis, seconded by Commissioner Thompson, all Commissioners voting aye, the meeting adjourned at 6:17 p.m.

Signed and sealed this 15th day of February 2019. Signed and approved this 19th day of February 2019.

Carina Anderson, Deputy City Clerk

Ronald E. Hutto, Mayor

(First published in the Cowley Courier Traveler on Friday, February 22, 2019)

BILL NO. 1909

ORDINANCE NO. 4103

AN ORDINANCE

AMENDING Chapter 54, Article V, Section 54-128 of the Winfield City Code by the striking of current Section 54-128 and adopting a new Section 54-128.

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

Section 1. Current Section 54-128, Article V, Chapter 10 shall be stricken and a new Section 54-128, Article V, Chapter 10 shall be adopted, which shall read as follows:

Section 54-128 Interference with a City official, employee, agent or contractor employee of the City.

Interference with a City official, employee, agent, contractor or contractor employee of the City is:

(a) Knowingly impeding any City official, employee, agent, contractor, or contractor employee of the City in the lawful performance of duties, assignments or activities through the use of restraint, abduction, coercion or intimidation or by force and violence or threat, who are engaged in carrying out the provisions of the Article.

(b) Knowingly committing threats to commit, or incite others to commit, any act which does or would if completed, disrupt, impair, interfere with, or obstruct the lawful mission, processes, procedures, or functions being carried on by such person(s) engaged in carrying out the provisions of the Article.

(c) Violation of this section is a Class B violation.

Section 2. This ordinance shall be in full force and effect on and after its passage and publication in the official city newspaper.

ADOPTED this 19th day of February, 2019.

CITY OF WINFIELD, KANSAS

By _____
Ronald E. Hutto, Mayor

ATTEST:

Carina Anderson, Deputy City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Brenda Peters, Interim City Manager

BILL NO. 1910

ORDINANCE NO. 4104

AN ORDINANCE

AMENDING the Code of Ordinances of the City of Winfield, Kansas by the repeal of Chapter 34, Sec. 34-78 (q), charges for collection of solid waste, and the adoption in lieu thereof, a new Sec. 34-78 (q).

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. Section 34-78(q) of Chapter 34 of the Code of Ordinances of the City of Winfield, Kansas is hereby amended by the repeal of such section and the adoption in lieu thereof the following:

(q) Charges for collection of solid waste. The charges referenced in section 78-556 are as follows:

(1) *Residential dwellings, commercial, office or other establishments, not serviced by a city container.* The charge for once-a-week collection of solid waste for each location shall be the sum of the solid waste & recyclables fee and the solid waste disposal fee. That total shall be billed and payable monthly. Any commercial, office or other establishment that weekly requires more than once-a-week collection shall pay the solid waste & recyclables fee plus the landfill disposal fee, multiplied by the number of collections per week.

Effective date of rates	Solid Waste & Recyclables
July 1, 2019	\$ 11.54
January 1, 2020	\$ 12.77
July 1, 2020	\$ 14.00

(2) *The Solid waste disposal fee shall be established at \$5.00/month as of July 17, 2019.* This fee shall be increased or decreased on an annual basis beginning on the first billing cycle in July each year based on the percentage change of aggregate cost of solid waste disposal from the previous calendar year. These costs shall include landfill disposal costs as well as disposal and freight costs for recyclables.

(3) *Two cubic yard and larger container rates.*

Effective July 1, 2019, Monthly Charges per Size of Container for Each Container:

Collections Per Week	1 Yard	1½ Yard	2 Yard	3 Yard	4 Yard	6 Yard	8 Yard
1	\$48	\$53	\$59	\$71	\$77	\$107	\$130
2	\$85	\$96	\$106	\$129	\$141	\$198	\$240
3	\$122	\$139	\$153	\$187	\$205	\$289	\$350
4	\$159	\$182	\$200	\$245	\$269	\$380	\$460
5	\$196	\$225	\$247	\$303	\$333	\$471	\$570
6	\$233	\$268	\$294	\$361	\$397	\$562	\$680

Effective January 1, 2020, Monthly Charges per Size of Container for Each Container:

Collections Per Week	1 Yard	1 ½ Yard	2 Yard	3 Yard	4 Yard	6 Yard	8 Yard
1	\$52	\$57	\$63	\$76	\$83	\$115	\$140
2	\$91	\$103	\$114	\$139	\$151	\$213	\$258
3	\$130	\$149	\$165	\$202	\$219	\$311	\$376
4	\$169	\$195	\$216	\$265	\$287	\$409	\$494
5	\$208	\$241	\$267	\$328	\$355	\$507	\$612
6	\$247	\$287	\$318	\$391	\$423	\$605	\$730

Effective July 1, 2020, Monthly Charges per Size of Container for Each Container:

Collections Per Week	1 Yard	1 ½ Yard	2 Yard	3 Yard	4 Yard	6 Yard	8 Yard
1	\$55	\$61	\$67	\$81	\$89	\$123	\$149
2	\$97	\$110	\$122	\$148	\$162	\$227	\$276
3	\$139	\$159	\$177	\$215	\$235	\$331	\$403
4	\$181	\$208	\$232	\$282	\$308	\$435	\$530
5	\$223	\$257	\$287	\$349	\$381	\$539	\$657
6	\$265	\$306	\$342	\$416	\$454	\$643	\$784

(4) *Use of a four-cubic-yard trailer.* The charge for the use of a four-cubic-yard solid waste collection trailer for the collection and disposal of building demolition materials and/or construction waste or the collection and disposal of yard waste, appliances and/or similar items from residential premises shall be based on the schedule of fees as follows:

Definitions:

Light Building Demolition Materials, Construction Waste, Yard Waste, and Similar items: Items Accepted: include but not limited to lumber, pipe, tree branches, shrubbery trimmings when all these items are cut in four foot lengths and NO limbs over four inches in diameter, glass, tile, floorcoverings, old shingles, grass clippings, leaves, and metal.

Items Prohibited: include vehicle tires, oil, fuel, chemicals, batteries, paint, concrete, bricks, utility poles, railroad ties, appliances (stove, washer, dryer, refrigerator, freezer, air-conditioner, or other bulky items).

(1) *Additional charge for Prohibited Items.* Prohibited Items that are found in the dumpster trailer when picked up from renter will receive one phone call to remove items first or if not removed renter will be assessed an additional \$50.00 charge added to the customer's city utility bill.

Effective date of rates	Residential Light Demolition Materials, Yard Waste, and Similar Items	Commercial/Contractors Light Demolition Materials, Yard Waste, and Similar Items
August 1, 2018	\$50.00	\$100.00

(1) *Collection outside city limits.* The charges for collection of solid waste from property outside the corporate limits of the city shall be 125 percent of the charges for collection with in the city limits.

Section 2. This ordinance shall be in full force and effect after its passage and publication in the official city newspaper.

ADOPTED this 19th day of February, 2019.

(SEAL)

Ronald E. Hutto, Mayor

ATTEST:

Carina Anderson, Deputy City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Brenda Peters, Interim City Manager/ps



Request for Commission Action

Date: February 11, 2019

Requestor: Gary Mangus, Assistant to the City Manager

A handwritten signature in dark ink, appearing to read "G. Mangus", is written over a horizontal line.

Action Requested: February 14, 2019, Work Session, discussion. February 19, 2019, Commission Agenda, consideration of a Resolution authorizing execution of a Fairgrounds Special Event Agreement with the Cowley County Fair Association.

Analysis: The Agreement for consideration sets the Dates, as well as, Terms & Conditions for the 2019-2023 Cowley County Fair events to be held at the Winfield Fairgrounds. The Agreement includes a 5-year renewal clause. Amendments to the previous Agreement include:

- Paragraph 4: New Agreement-"Memorial Day through Labor Day Weekend". Previous Agreement-"Memorial Day to the start of the Cowley County Fair".
- Paragraphs 11-14: Updated verbiage per the City's Risk Management Consultant.

Fiscal Impact: Historically, the City has not required rents or deposits from the Fair Association for the facilities used. The Fair Association does support the operation and maintenance of the Fairgrounds through contributions toward the Fairgrounds Improvements Fund. Camping fees generated in 2018 during the dates exclusive to the CCFA exceeded \$11,000.

Attachments: 2019-2023 Fairgrounds Special Event Agreement signed by CCFA

Fairgrounds Special Event Agreement

This Agreement, made and entered into this 28 day of January, 2019, by and between the City of Winfield, Kansas, hereinafter referred to as "CITY," and Cowley County Fair Association, hereinafter referred to as "FAIR."

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments set forth herein, the parties agree as follows:

1. CITY agrees that FAIR may lease to the exclusion of all other parties and individuals, for the purpose of conducting that event known as the Cowley County Fair, the following described premises:

That portion of the Winfield fairgrounds bound on the west by the Walnut River, on the south by 14th Street, on the east by the Flood Control Levee, and the north by 9th Avenue.

It is understood and agreed that this agreement is specifically limited to the above-described premises and does not include the West 14th Street Power Plant, Horse Barn, or 4-H Booth.

2. It is understood and agreed that the terms of this agreement shall cover five (5) separate FAIR events with dates and times as follows:

- 8:00 a.m. July 29, 2019 through 6:00 p.m. August 6, 2019
- 8:00 a.m. July 27, 2020 through 6:00 p.m. August 4, 2020
- 8:00 a.m. July 26, 2021 through 6:00 p.m. August 3, 2021
- 8:00 a.m. July 25, 2022 through 6:00 p.m. August 2, 2022
- 8:00 a.m. July 31, 2023 through 6:00 p.m. August 8, 2023

3. All event activities shall be completed by 1:00 a.m.

4. The Parties agree, during the term this Agreement that: No carnival, Figure 8 Race or Demolition Derby will be scheduled by CITY at the Winfield Fairgrounds from Memorial Day through Labor Day Weekend.

5. Within 30 days of the completion of each event, CITY and FAIR shall review performance and consider expectations for future events. Should either party wish to give written notice of its intent to terminate this agreement, it must be done within 120 days after said review.

6. This agreement shall renew for an additional five-year term unless either party gives written notice of their intent to terminate prior to October 1, 2023.

7. It is recognized that FAIR is a nonprofit corporation and partially supported by Cowley County taxes. It is further recognized that FAIR supports the maintenance of the Winfield Fairgrounds through contributions toward the Fairgrounds Capital

Improvements Fund and ongoing donations toward the operation of the fairgrounds. As a result of this support and ongoing donations, CITY will require no additional rents or deposits from FAIR for the facilities used and will accept the above-mentioned donations and capital improvement support in consideration for this agreement.

8. FAIR shall keep the premises maintained in a clean and sanitary condition and returned to CITY in as good and safe of condition as exists at the time FAIR takes possession, reasonable wear and tear excepted. Any repairs or maintenance caused, required or necessitated to the premises through the fault of FAIR or its agents, customers, invitees, independent contractors, or employees shall be paid by FAIR.

9. CITY, its officers and agents, shall have free access to the premises for the purposes that they may deem necessary. FAIR shall have the right to close the premises at any time they may deem necessary and to further establish rules of conduct and discipline necessary to maintain a well ordered event. Those individuals or groups not wishing to follow those rules set out by FAIR for proper conduct may be, at FAIR direction, removed from the premises or dealt with as FAIR deems necessary.

10. CITY shall assume responsibility for the payment of any utilities (water, electricity) consumed during the events as outlined in Section 2 of this agreement. FAIR agrees that any alteration or temporary extensions to CITY utilities be coordinated through CITY. FAIR shall assume responsibility for trash collection, trash removal, portable showers, portable restrooms, all restroom supplies and cleanliness during term of this agreement. FAIR shall assume responsibility for hauling and placement of tables, benches, and bleachers made available on fairground premises and replacing them to prior locations.

11. It is expressly understood and agreed that FAIR shall save and hold CITY harmless from any and all loss sustained by FAIR on account of any suit, judgment, execution, claim or damage of any kind whatsoever, resulting from the use of said premises as provided herein, and FAIR shall cause to be defended at its own expense all actions that may be commenced against CITY by reason of said events. FAIR shall also save and hold CITY harmless and indemnify CITY from any and all losses sustained by CITY by reasons of said event. FAIR shall procure and maintain during the term of this agreement, commercial general liability insurance with limits not less than \$1,000,000 each occurrence bodily injury or property damage, extended to and including (if applicable), spectators, fireworks displays, carnivals, mechanical amusement devices, animals and cereal malt beverage/liquor liability, \$500,000 personal and/or advertising injury limit, \$1,000,000 products completed operations aggregate, \$2,000,000 general aggregate, and \$100,000 Fire Damage Legal Liability, with CITY named as additional insured on FAIR general liability policy. FAIR shall furnish to CITY, at least fifteen (15) days prior to event, a certificate of insurance in said amounts for the payment of all damages which may be caused either to a person or persons or to property by reason of each and all of said events. The certificate of liability insurance provided by FAIR to CITY is to confirm that security services are included. Otherwise, a certificate of insurance is to be provided by the security firm contracted by FAIR, confirming the minimum limits as outlined herein. All policies of insurance shall provide for at least thirty (30) days prior written notice of

cancellation or any changes of insurers to CITY. By entering this agreement, FAIR acknowledges its responsibility to insure all of its own personal property which will be located on the premises. Said insurance limits do not infer or place a limit of liability on FAIR, nor has the CITY assessed the risk that may be applicable to FAIR. The CITY will not be responsible to FAIR for any loss of income, wage or any other such loss of use regardless of cause.

12. FAIR shall secure commercial general liability insurance with similar limits as noted above, from any sanctioned auto exhibition/racing event and include the CITY as an additional insured.

13. FAIR is to maintain Statutory Workers' Compensation and Employers Liability limits of \$500,000/\$500,000 as may be required by statutes in the State of Kansas. CITY it to be indemnified by FAIR should any Workers' Compensation claim be made against the CITY for any reason.

14. FAIR and CITY shall each inform their property insurer(s) that each entity has agreed to a Joint Waiver of Subrogation for any owned property damage incurred by either entity, regardless of fault. Each entity shall bear the cost of its own insurance program.

15. CITY has maintained the practice of loaning city-owned equipment for use by the Fair Association. This practice is considered outside of the scope of the City's coverage. If the City continues to loan city-owned equipment to the Fair Association, the Fair Association must obtain a certificate of insurance showing non-owned automobile coverage with \$500,000 general liability limits and showing the City as an additional insured, as well as, a list of Fair Association members authorized to operate each piece of city-owned equipment.

16. FAIR shall not make any alterations, additions, or improvements to the premises without the prior consent of the CITY, except for installation of unattached, movable objects which may be installed without drilling, cutting or otherwise defacing the premises. FAIR shall be solely responsible for the repair and restitution needed to restore the affected premises to its original condition.

17. It is anticipated that a portion of the leased premises will be utilized for camping purposes. It is understood and agreed that any such use shall be under the control of FAIR, and that FAIR agrees to charge and collect fees from users of any camping area with electrical hookups and primitive camping. FAIR agrees to pay to CITY for each said user the fees established in the Revised Ordinance of the City of Winfield, Kansas, on January 15 of each year of this agreement. CITY has the right to verify usage and FAIR shall pay to CITY all uncollected amounts.

18. Should FAIR desire to televise or broadcast event, FAIR shall pay all costs associated with televising or broadcasting event.

19. Winfield Police Department will not be restricted in patrol operations of the fairground area during the lease period. When it is essential for public safety, in the opinion of the Winfield Chief of Police, officers of the Winfield Police Department will be

assigned to duty on-site at any time during this agreement and remain on duty subject to the Chief's orders.

20. Winfield Fire Department will not be restricted in patrol operations of the fairground area during the lease period. When, it is essential for public safety, in the opinion of the Winfield Fire Chief, firefighters of the Winfield Fire Department will be assigned to duty on-site at any time during this agreement and remain on duty subject to the Chief's orders. Duty orders will include, but not be limited to, maintenance of fire lanes, campfire inspection, fire extinguisher location and workability, and extinguishment of fires that may occur.

21. FAIR shall not sublet nor assign all or any portion of its interest in this agreement without the prior written consent of CITY, which may or may not be granted. The approval of any assignment or sublease by CITY shall not relieve FAIR of liability for the performance of all the terms and conditions of this agreement. FAIR therein is an independent contractor and not the agent, partner, joint venturer, or employee of CITY.

22. All service staff such as, but not limited to, security officers, ticket sellers, ticket takers, ushers, gate guards, bands, sound technicians, stage hands, and electricians to be used on the occasion herein mentioned, shall be contracted by FAIR and FAIR shall assume responsibility for their compensation, benefits, protections or privileges provided by the law, and their conduct and its consequences. FAIR agrees that prior to performing such tasks, all tradesmen are licensed according to CITY regulation.

23. All concessions, catering, or catering rights are reserved to FAIR. Its concessionaires will have the privilege of canvassing, selling, delivering, servicing, and otherwise hawking wares, novelties, merchandise, foodstuff and beverages. The Revised Ordinances of the City of Winfield shall govern the sale or consumption of Cereal Malt Beverage or Alcoholic Liquor on CITY property.

24. CITY agrees that advertising or other matter may be placed, posted, or distributed in or about said premises or announced or publicized over any loud speaker system or other media without having obtained advanced permission of the CITY. FAIR agrees that all advertising identify the event site as "the Winfield Fairgrounds". FAIR may not use the City of Winfield name to suggest co-sponsorship or endorsement of the activity without advanced written approval.

25. FAIR agrees to not distribute, or permit to be distributed in any manner, tickets in excess of site capacity. Nor admit a larger number of persons than can safely and freely move about on the premises; and the decision of State or City Fire Marshall in respect of questions raised under this paragraph shall be final.

26. Erection of special platforms, booths, scaffolding, rigging, and other apparatus is the responsibility of FAIR. In order to ensure the safety of the public, CITY reserves the right to reject any of the above-mentioned items. FAIR will then take the necessary action required to ensure the safety of the performers and the public.

27. The City of Winfield assures that no person shall on the grounds of race, color, national origin, or sex, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100.259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. Every effort will be made to ensure nondiscrimination in all City programs and activities, whether those programs and activities are federally funded or not.

28. FAIR shall at all times comply with and be subject to all ordinances, laws, rules and regulations of the City of Winfield, and State of Kansas, and the United States Government.

29. FAIR shall procure at its own cost and expense all licenses and permits necessary for carrying out the operation of the event. FAIR shall display in full view of the public all said licenses and permits.

30. The individual executing this lease on behalf of FAIR represents and warrants that he or she is duly authorized to execute and deliver this lease on its behalf.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

CITY OF WINFIELD, KANSAS

Brenda Peters, Interim City Manager

COWLEY COUNTY FAIR ASSOCIATION

Grady Martin, President
P.O. Box 346
Winfield, KS 67156

A RESOLUTION

AUTHORIZING and directing the City Manager of the City of Winfield, Kansas to execute a fairgrounds special event agreement between the City of Winfield and the Cowley County Fair Association.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. The City Manager of the City of Winfield, Kansas, is hereby authorized and directed to execute a Fairgrounds Special Event Agreement between the City of Winfield, Kansas, and the Cowley County Fair Association; a copy of which is attached hereto and made a part hereof.

Section 2. This resolution shall be in full force and effect from and after its adoption.

ADOPTED this 19th day of February 2019.

(SEAL)

Ronald E. Hutto, Mayor

ATTEST:

Carina Anderson, Deputy City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Brenda Peters, Interim City Manager



Request for Commission Action

Date: February 14, 2019

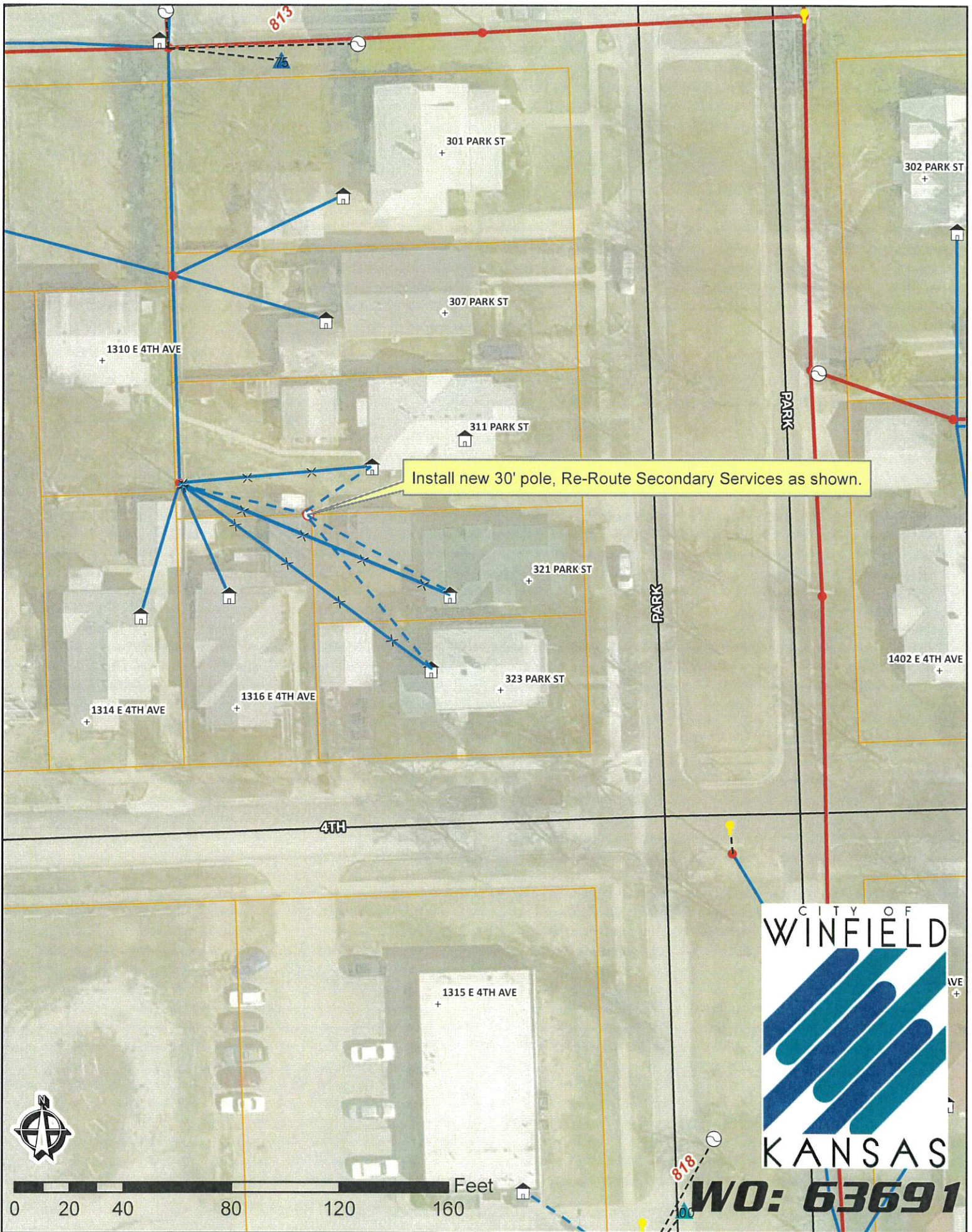
Requestor: Gus Collins, Director of Utilities

Action Requested: For the governing body to consider accepting two utility easements for the purpose of rerouting service line, primarily to serve 323 Park Street.

Analysis: To eliminate an electric service line that is currently crossing three different properties to serve the above location. We are proposing to do a reroute of the service as illustrated in the attachment.

Fiscal Impact: Minor, due to our city crews rerouting this electric service.

Attachments: A map reflecting the easements as well as the scope of proposed project. Staff is recommending approval.



A RESOLUTION

ACCEPTING and authorizing the filing of a certain permanent easement necessary to provide right-of-way for installation, construction, maintenance, repair, and removal of the utilities and the necessary appurtenances therefore, in, over, under, and across real estate in Highland Park Addition, City of Winfield, Cowley County, Kansas.

WHEREAS, it was necessary to acquire a certain permanent easement to provide right-of-way for installation, construction, maintenance, repair, and removal of the utilities and the necessary appurtenances in Cowley County, Kansas; and,

WHEREAS, said easement has been successfully negotiated.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. The Mayor and Clerk of the City of Winfield, Kansas, are hereby authorized and directed to accept a certain permanent easement in Cowley County, Kansas, granted by Jennifer Harrison, owner in Cowley County, Kansas, necessary to provide right-of-way for the purpose of installation, construction, maintenance, repair, and removal of the utilities and the necessary appurtenances therefore, in, over, under, and across the real estate described as follows:

Ten feet either side of the utility lines as constructed across the Southwest corner of a tract described as the South 50 feet of Lot 6, Block 5, Highland Park Addition, Winfield, Cowley County, Kansas.

Section 2. The Clerk of the City of Winfield, Kansas shall record said easement with the Register of Deeds of Cowley County, Kansas.

Section 3. This resolution shall be in full force and effect from and after its adoption.

ADOPTED this 19th day of February, 2019.

(SEAL)

Ronald E. Hutto, Mayor

ATTEST:

Carina Anderson, Deputy City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Brenda Peters, Interim City Manager

A RESOLUTION

ACCEPTING and authorizing the filing of a certain permanent easement necessary to provide right-of-way for installation, construction, maintenance, repair, and removal of the utilities and the necessary appurtenances therefore, in, over, under, and across real estate in Highland Park Addition, City of Winfield, Cowley County, Kansas.

WHEREAS, it was necessary to acquire a certain permanent easement to provide right-of-way for installation, construction, maintenance, repair, and removal of the utilities and the necessary appurtenances in Cowley County, Kansas; and,

WHEREAS, said easement has been successfully negotiated.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. The Mayor and Clerk of the City of Winfield, Kansas, are hereby authorized and directed to accept a certain permanent easement in Cowley County, Kansas, granted by Michael J. Mildfelt, owner in Cowley County, Kansas, necessary to provide right-of-way for the purpose of installation, construction, maintenance, repair, and removal of the utilities and the necessary appurtenances therefore, in, over, under, and across the real estate described as follows:

South 40 feet of Lot 6, except the West 50 feet thereof, Block 5, Highland Park Addition to the City of Winfield, Cowley County, Kansas (321 Park, Winfield, Kansas).

Section 2. The Clerk of the City of Winfield, Kansas shall record said easement with the Register of Deeds of Cowley County, Kansas.

Section 3. This resolution shall be in full force and effect from and after its adoption.

ADOPTED this 19th day of February, 2019.

(SEAL)

Ronald E. Hutto, Mayor

ATTEST:

Carina Anderson, Deputy City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Brenda Peters, Interim City Manager



Request for Commission Action

Date: 2/12/19

Requestor: Patrick Steward, Director of Public Improvements

Action Requested:

Consideration of an agreement with Professional Engineering Consultants for civil engineering services for Phase II of the Public Safety Facility (FD Bays.)

Analysis:

The commission approved a contract for design services with Agora Architecture (formally Gordon & Associates) for both Phase I and II of the public safety facility in 2017. However, the civil design services were specifically excluded from their scope of services. We utilized PEC for the Civil engineering portion of Phase I (the demolition) which was a relatively small contract. We now are at the point that the scope of services for civil engineering is better defined for Phase II. We have requested PEC provide a proposal for that scope.

Fiscal Impact:

The total contract amount is \$31,000. This includes both design services as well as construction administration for this phase. This cost is included within the total construction budget for this phase of the project.

Attachments: Agreement

2.11.19

Agora Architecture, LLC
800 Main St., Suite #308
Winfield, KS 67156

Reference: Winfield Fire Station Addition
PEC Project No. 35-190000

Dear :

This letter is written to serve as an agreement between Agora Architecture (CLIENT) and Professional Engineering Consultants, P.A. (PEC) to provide professional services for the Winfield Fire Station in Winfield, KS.

A. Project Description.

1. This Project shall consist of an expansion of the existing Fire Station by constructing an approximately 15,300 SF new addition. The existing Fuller Street right-of-way will be required to be vacated between E. 8th & E. 9th Streets.
2. This building will house fire department and EMS vehicles and equipment. The Project delivery method is design-bid-build.

B. Scope of PEC's Services.

PEC agrees to provide the various technical and professional services, equipment, material, and transportation to perform the Scope of Services set forth in Exhibit 'A'.

C. Anticipated Project Schedule. (Provide detailed schedule if possible.)

1. PEC shall commence its services on the Project within 7 days after receiving CLIENT's notice to proceed. PEC and CLIENT anticipate that construction of the Project will commence in March 2019.
2. CLIENT acknowledges that directed changes, unforeseen conditions, and other delays may affect the completion of PEC's services. PEC will not have control over or responsibility for any contractor or vendor's performance schedule.

D. PEC's Fees & Reimbursable Expenses.

1. PEC will invoice CLIENT one time per month for services rendered and Reimbursable Expenses incurred in the previous month. CLIENT agrees to pay each invoice within 30 days after receipt.
2. PEC's Fee for its Scope of Services will be:

Discipline	Design	CA
Civil	\$28,000	\$3,000

E. Client's Obligations. CLIENT agrees to:

1. Furnish to PEC any information currently available relative to existing and proposed improvements in the PROJECT area which may be pertinent to the PROJECT. Such information may include soil borings and geotechnical reports about subsurface conditions, hazardous conditions and/or history of site contamination, underground utilities, etc.

2. Provide right of entry for PEC's personnel in performing site visits, and inspections.
3. Promptly review all preliminary study reports, drawings, recommendations, contract documents, and other data submitted by PEC, and to advise PEC of any desired corrections, modifications, or additions thereto.
4. Pay PEC for authorized additional work including alternate designs or redesigns, and redesigns due to project exceeding the Project budget.
5. Provide plan changes to PEC design team with adequate time to revise the documents or the submitted, and notify PEC that said changes are coming with description of changes to help design team expedite the necessary adjustments.

If CLIENT's Consultant's services under this Agreement do not include project observation or review of Contractor performance during construction activities, those services will be provided by CLIENT. In such case, CLIENT assumes all responsibility for interpretation of the Contract Documents and for design review, construction observation, and waives any claims against CLIENT's Consultant that may be in any way connected thereto.

F. Other Terms.

1. PEC assumes no obligations or duties other than its obligations to CLIENT specifically addressed in this agreement. PEC shall not be responsible for CLIENT's obligations under any separate agreement with a third party including, without limitation, any agreement between CLIENT and the Project owner, unless specifically provided for in this agreement, and only if any such third-party agreement is provided to PEC prior to PEC's execution of this agreement.
2. Upon payment in full of its Fee and Reimbursable Expenses, PEC grants to the CLIENT a nonexclusive license to use PEC's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project.
3. PEC will upon request deliver to the CLIENT prints of the completed plans and copies of electronic data files, and other pertinent drawings and documents for the Project.
4. PEC shall not have control, be in or charge of, or responsible for construction means, methods, techniques, sequences, schedules, safety precautions, or safety programs in connection with the Contractor's work, for the acts or omissions the contractor, its subcontractors or any other person performing any of the work, or for the failure of any of them to carry out the work in accordance with the construction documents.
5. Since PEC has no control over the cost of labor, material or equipment, or over Contractor's methods of determining prices, or over competitive bidding or market conditions, any estimates of construction costs will be made on the basis of PEC's experience and qualifications, and represent PEC's judgment as a design professional familiar with the construction industry. PEC does not guarantee any accuracy when referencing the contractor's bids to PEC's probable cost of construction.
6. PEC will make available during regular office hours at the Wichita office all calculations, sketches, and drawings such as the CLIENT may wish to examine periodically during performance of the Agreement.
7. PEC and CLIENT do not by this Agreement intend to make the public or any contractor, subcontractor or surety a third-party beneficiary of this Agreement.
8. The rights and remedies of the CLIENT and PEC provided for under this Agreement are in addition to any other rights and remedies provided by law.

This letter, Exhibit 'A', and the attached "PEC Standard Conditions" comprise the entire agreement

Agora Architecture
Winfield Fire Station Addition
2.11.19

between the CLIENT and PEC. Our agreement may be altered only by supplemental agreement.

Thank you for contacting us to provide professional services for the Project. Should you have questions or if additional information is required, please do not hesitate to call. Return receipt of an executed copy of this letter will serve as our contract and notice to proceed with our services.

Sincerely,
PROFESSIONAL ENGINEERING CONSULTANTS, P.A.



Dar Cronk, P.E.

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

Enclosed: Attachment.

By: _____
(Principal Name)

Title: Principal

Date: 02/11/19 _____

ACCEPTED:

(CLIENT)

By: _____

Title: _____

Date: _____

EXHIBIT A

A. Scope of Services:

1. General Scope Items for Civil Services:
 - a) Conduct pre-design site visit to assess existing conditions.
 - b) Attend up to two design meetings with CLIENT.
 - c) Produce drawings and specifications for bidding and construction, sealed by an Engineer licensed in the State of KS.
 - d) Provide bidding assistance including response to Contractor's questions and preparation of items for inclusion in Addenda.
 - e) Review shop drawings for systems and elements designed by PEC. Review period will be 10 business days after received by PEC office unless other terms are agreed to by PEC and CLIENT.
 - f) Provide Engineer's opinion of probable construction cost.
 - g) Perform construction observation visits with written punch list as follows: 1 Civil. PEC shall be notified one week prior by the CLIENT of an upcoming observation visit. Construction observation is to familiarize the engineer with the general construction completeness and general conformity with the construction documents.
2. Civil Engineering Design Services including:
 - a) An existing conditions plan identifying pre-construction conditions based on an on-the-ground topographic survey of the subject area provided by the Client.
 - b) A geometry plan will be prepared for the site to identify the building location and limits of proposed pavement and project stake-out coordinates.
 - c) A paving plan will identify the limits of pavement and curbs as well as parking spaces. A typical pavement section will be included to establish subgrade preparation, pavement strength and thickness in accordance with the geotechnical report. Paving and jointing details will be prepared, as well as a jointing plan for concrete pavement.
 - d) A grading plan establishing finish floor elevations for the proposed building(s); as well as proposed spot elevations and contours in the drives, parking area, and any other disturbed area, as necessary, for positive drainage away from the proposed improvements.
 - e) A drainage plan will be prepared to address management of storm water runoff in accordance with local ordinances. The drainage plan will cover aspects related to storm water quality and management such as storm sewer piping, detention ponds, grading and water quality. The plan will include storm sewer improvements to collect and discharge site runoff water where feasible.
 - f) A water plan will be prepared for the domestic and fire protection water service connection to the existing utility system. Building service connections shall be designed to a point five feet from the building(s).
 - g) A sanitary sewer plan will be prepared for the service connection to the existing sanitary sewer system.
 - h) Water main plan and profile plans will be prepared to abandon a portion of the existing water line in Fuller Street where it conflicts with proposed construction.
 - i) PEC will coordinate with the City and utility companies to relocate or abandon franchise utilities in Fuller Street.

- j) A storm water pollution prevention plan (SWPPP) will be prepared in accordance with local and state requirements to assist in the completion of the Notice of Intent Form.
- k) PEC will assist the CLIENT with submittal of the permit application for the State Notice of Intent for storm water discharges.
- l) PEC will submit the private water, sewer, paving, and drainage plans to the Authority Having Jurisdiction for review and approval.
- m) Attend Pre-Application meeting with City staff to review application requirements for vacating street right-of-way.
- n) Prepare legal description for that right-of-way to be vacated.
- o) Request and obtain required ownership list for notification of Public Hearing. Notifications to be mailed by City of Winfield.
- p) Prepare and submit application for vacation, including legal description, ownership list and required exhibits.
- q) Representation at Planning Commission and City Council by City Staff.
- r) Assist in preparation of legal documents as may be required.

B. Responsibility of CLIENT:

The CLIENT agrees to provide the following pursuant to PEC accomplishing the Scope of Services outlined herein.

- 1. Electronic files for base sheet development.
- 2. Utility requirements for all equipment specified and/or provided by the Owner or other Contractors.
- 3. Progress prints for coordination between disciplines.
- 4. Minutes of meetings concerning this project.
- 5. Project design schedule and modifications to the design schedule made during project design.
- 6. Monthly construction schedule as provided by the contractor during the construction period.
- 7. Change order summary during the design and construction phase services.
- 8. Site survey.
- 9. Geotechnical investigation and report with recommendations for foundation and pavement design.
- 10. Establish a testing and inspection plan that includes all code mandated special structural inspections.
- 11. Landscaping and irrigation plans.
- 12. Site layout plan will be developed by the CLIENT, PEC will modify for vehicle turning movements and for final geometry.
- 13. Drawings, studies, reports, and other information available pertaining to the existing building and site.

C. Additional Services:

The following services can be provided by PEC at an additional cost by Supplemental Agreement:

- 1. Production of record drawings, as-builts, or release of electronic files.
- 2. Design engineer construction site observations in excess of the number above will be performed on an hourly basis.
- 3. Design of utilities to the PROJECT site, except as included in A.6 above.
- 4. Analysis of existing utility systems.
- 5. Platting or zoning requirements or changes.
- 6. Tree Survey/Identification Service.

7. Design of “Additional Services or Extra Services” as defined by CASE unless specifically agreed to. Additional services typically consist of site structures, screen walls, shoring, preparation of shop drawings, and review of value engineering and substitutions.
8. ALTA Land Title Surveys.
9. Construction Testing.
10. Construction Staking.
11. Resident inspection services.
12. Construction administration services.
13. Plan revisions, as necessary, to reduce the cost of construction after issue of CD’s. (Typically referred to “Value Engineering” or “VE”.)
14. Design of retaining walls.
15. Design of any water pump stations or sanitary sewer lift stations.

D. Exclusions:

The following shall be specifically excluded from the Scope of Services to be provided by PEC.

1. Printing costs.
2. Plan review and permit fees.
3. Environmental assessments/clearances.
4. Fire protection and fire alarm design, drawings and calculations.
5. Outside consultants.
6. Special inspection services are not included in the scope of work, which may be required by building codes, building officials, or designers. Special inspections are a specific set of requirements that are generally not covered under standard observation services. Special inspections are usually required for structural elements of the project but may include other design disciplines and testing agencies. Any special inspection services required will be covered under a separate or supplemental agreement.
7. Alternate designs not specifically listed in the Scope of Services.

PEC STANDARD CONDITIONS

1. **STANDARD OF CARE:** Professional Engineering Consultants, P.A., its officers, directors, employees, agents, shareholders, partners, consultants, sub-consultants, contractor, and sub-contractors (collectively “PEC”) shall provide professional services to Client, its officers, directors, employees, agents, owners, members, shareholders, partners, consultants, sub-consultants, contractors, and sub-contractors, (collectively “Client”) according to the agreed upon scope of services. PEC will perform the services with the level of care and skill ordinarily exercised by other consultants of the same profession under similar circumstances at the time the services are performed, and in the same locality.

2. **USE OF DOCUMENTS:** Drawings, specifications, reports, programs, manuals, cost estimates, or other documents, including documents on electronic media, prepared under this Agreement are instruments of service and as such are only applicable to the subject PROJECT. Use of these documents for any other purpose without written authorization and consent of PEC is prohibited. PEC shall retain ownership thereof.

3. **INSURANCE:** PEC and the Client agree to each maintain statutory Worker’s Compensation, Employer’s Liability Insurance, General Liability Insurance, and Automobile Insurance coverage for the duration of this agreement. Additionally, PEC will maintain Professional Liability Insurance for PEC’s negligent acts, errors, or omissions in providing services pursuant to this Agreement. If the Client is a design professional, then the Client agrees to maintain Professional Liability Insurance for its negligent acts, errors, or omissions in providing services pursuant to this Agreement. If a project is Design-Build, the Client and all subcontractors providing professional design or other services (e.g., architects, engineers, inspectors) shall maintain professional or similar liability insurance for claims arising from its negligent performance of said services. Proof of insurance shall be provided, upon request, prior to commencement of said services.

4. **NO GUARANTEE:** PEC does not provide a warranty or guarantee, express or implied, for any portion of the scope of services including drawings, specifications, reports, programs, manuals, cost estimates, or other documents of service. PEC does not warrant or guarantee any certification of the project, including any level of LEED certification. Items of beneficial use to the Owner, whether or not included in the contract documents, shall be paid for by the Owner. The provisions of this paragraph shall apply notwithstanding any statement or language contained in any other document or agreement that might be related to the project.

5. **INDEMNIFICATION/HOLD HARMLESS:** PEC agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client and its employees from any liability, damages, or costs (including reasonable attorneys’ fees and costs of defense) resulting from PEC’s negligent acts, errors, or omissions through services provided pursuant to this Agreement by PEC or anyone for whom PEC is legally liable. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless PEC, its employees and sub consultants from any liability, damages, or costs (including reasonable attorneys’ fees and costs of defense) resulting from the negligent acts, errors, or omissions by Client or those contractors, subcontractors, consultants, or anyone for whom Client is legally liable, and arising from the project(s) that is the subject of this agreement. PEC is not obligated to indemnify the Client in any manner whatsoever for the Clients’ own negligence. If any liability, damages, or costs (including reasonable attorneys’ fees and costs of defense) result from the concurrent negligence of PEC and the Client, this indemnification shall only apply to the extent of each party’s proportion of the responsibility.

6. **DISPUTES:** Any action or claims arising out of or related to this Agreement or the project that is the subject of this Agreement shall be governed by Kansas law. Good faith negotiation and mediation are express conditions precedent to the filing of any legal action. Mediation shall be conducted in accordance with the latest edition of the Construction Mediation Rules of the American Arbitration Association.

7. **ASSIGNMENT OR SUBLETTING OF CONTRACT:** Client shall not assign, transfer, or sublet any rights, duties, or interests accruing from this Agreement without the prior written consent of PEC. This Agreement shall be binding upon the Client, its successors and assigns.

8. **NON-PAYMENT/TERMINATION OF AGREEMENT:** If the Client fails to make payment for services and expenses within 30 days following receipt of an invoice, PEC may, after giving seven days written notice to the Client, without liability for any damages, including any damages for delay, suspend services and withhold deliverables under this Agreement until PEC has been paid in full for all amounts due. Each party to this Agreement reserves the right to terminate the Agreement at any time, without cause, upon 15 days written notice and subject to payment to PEC for the value of services rendered and expenses incurred up to the time of termination.

9. **DIFFERING SITE CONDITIONS:** The conditions at the site are the property of the Client/Owner regardless of whether or not they could be identified by an investigation or exploration conducted according to the professional standard of care. A “Differing Site Condition” is a subsurface, hidden, latent, or physical condition at a project site/building not revealed by the site exploration, site investigation, or other information provided to the Client and which cannot be reasonably anticipated. Special risks occur whenever engineering is applied to identifying site/building conditions. Even a comprehensive investigation according to the professional standard of care may not detect all subsurface or site/building conditions. If PEC performs the services specified in the Contract in a manner reasonably conforming to the terms of the Contract and to the Standard of Care, then Client (1) waives all claims against PEC for Differing Site Conditions; and (2) agrees to indemnify and hold PEC harmless from all third-party claims for Differing Site Conditions, and to reimburse PEC for its attorneys’ fees and costs incurred in defending the claim.

10. **EXTRA WORK:** Services not specified in the Scope of Services set forth in this Agreement or due to regulatory changes shall be considered “extra work”. No “extra work” will be performed without additional compensation per a supplemental agreement. Engineer shall be given written notice along with a request for an estimate of the increase necessary to complete the work.

11. **FORCE MAJEURE:** The Client shall not hold PEC responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of PEC, or that could not have been reasonably foreseen and prevented including, but not limited to, fire, weather, floods, earthquakes, epidemics, war, riots, terrorism, strikes, and unanticipated site conditions.

12. **AGREEMENT SOLELY FOR PARTIES’ BENEFIT INTEGRATION:** This agreement is solely for the benefit of PEC and Client. Nothing herein is intended in any way to benefit any third party or otherwise create any duty or obligation on behalf of PEC or Client in favor of such third parties. This agreement represents the entire and integrated agreement between PEC and Client and supersedes all prior negotiations, representations, or agreements, either written or oral.

13. **LIMITATION OF LIABILITY:** To the fullest extent permitted by law, PEC’s total liability to Client is limited to the greater of \$50,000 or two times PEC’s fee, for any and all damages or expenses arising out of this Agreement from any cause(s) or under any theory of liability. In no event shall PEC be liable for consequential damages, including, without limitation, loss of use or loss of profits, incurred by Client or its subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.



Request for Commission Action

Date: February 14, 2019

Requestor: Gus Collins, Director of Utilities

Action Requested: Consideration for approval to renew the gas transmission contract with Enable. To serve the two Electric Generation plants – West Gas Turbine and the East Steam Plant.

Analysis: Negotiated the same terms as last year, and terms will remain the same.

Fiscal Impact: Varies. This is a take or pay option. Fixed cost is approximately \$16,500.

Attachments: Agreement

**AMENDED AND RESTATED
FIRM (RATE SCHEDULE FT)
TRANSPORTATION SERVICE AGREEMENT
TSA No.: 1011266**

THIS TRANSPORTATION SERVICE AGREEMENT ("Agreement"), between Enable Gas Transmission, LLC, a Delaware limited liability company ("Transporter"), and Shipper (defined below), covering the transportation of natural gas by Transporter on behalf of Shipper as more particularly described herein, is entered into in accordance with the following terms and conditions:

1) SHIPPER INFORMATION:

City of Winfield, Kansas
2701 E. 9th Avenue
Winfield, KS 67156-0646
Facsimile No.: (620) 221-5618
E-mail Address: jwillmoth@winfieldks.org

Type of Entity: Kansas municipality

Transporter's wire transfer information and addresses for notices and payments shall be located on Transporter's Internet Web Site.

2) REGULATORY AUTHORITY: Part 284: Subpart G

3) TERM, CONTRACT DEMAND AND POINTS:

The term (including term extensions), Contract Demand, Receipt Entitlement(s), and Receipt and Delivery Points for this Agreement shall be shown below or on any designated Attachment, as applicable. Absent designation of MRO's for any specific physical Point of Receipt, Transporter shall have no obligation to permit Shipper to utilize any such Point of Receipt or to receive any specific quantities on Shipper's behalf at such point.

Term: Originally April 1, 2018, as amended and restated April 1, 2019, subject to FERC approval

Primary Term End Date: The end of the Day on March 31, 2020

Evergreen/Term Extension? No

Contract Demand (Dth/D): 1,500 Dth/D

Receipt Entitlement(s) (Dth/D): West 1 Pooling Area 1,500 Dth/D

<u>Primary Receipt Point(s):</u>	<u>Maximum Receipt Obligation (Dth/D)</u>
Markwest Arapaho Plant (Meter No. 810010)	1,500

<u>Primary Delivery Point(s):</u>	<u>Maximum Delivery Obligation (Dth/D)</u>
City of Winfield Pwr (Meter No. 805107)	1,500

4) RATE: Unless provided otherwise in an Attachment to this Agreement in effect during the term of this Agreement, in a capacity release award, or below, Shipper shall pay, or cause to be paid, to Transporter each month for all services provided hereunder the maximum applicable rate, and any other charges, fees, direct bill amounts, taxes, assessments, or surcharges provided for in Transporter's Tariff, as on file and in effect from time to time, for each service rendered hereunder. If any applicable Attachment or this Agreement provides for a rate other than the maximum applicable rate, the following shall apply:

Shipper agrees to pay the rates specified below or on any designated Attachment for performance of certain gas transportation service under the Agreement. These rates are applicable only in accordance with the following:

(a) Term, Points and/or Rates: The term of the rates, and the Receipt Point(s) and the Delivery Point(s) eligible for such rates, are specified below.

(i) Negotiated Rate.

AMENDED AND RESTATED
FIRM (RATE SCHEDULE FT)
TRANSPORTATION SERVICE AGREEMENT
TSA No.: 1011266
(continued)

(ii) Description of Points:

The Receipt Point(s) eligible for the rates specified herein shall be the Primary Receipt Point listed in Section 3 of the Agreement (as such Agreement provides on the Effective Date hereof), and all generally available points and Pools in the West 1 Pooling Area.

The Delivery Point(s) eligible for the rates specified herein shall be the Primary Delivery Point listed in Section 3 of the Agreement (as such Agreement provides on the Effective Date hereof).

If scheduled maintenance or other operational circumstances adversely affect the availability of primary firm capacity under the Agreement and Transporter notifies Shipper of the availability of non-primary capacity to receive and/or deliver other than at the points specified above, then such optional points as designated by Transporter shall be deemed eligible for the rates, quantities, and the period specified in the notice. Transporter may make such notification via e-mail, in writing or via Internet Web Site posting and the document in which such notice appears shall be deemed to amend this Agreement for the purposes hereof.

(iii) Description of Rates:

The rates which Transporter shall bill and Shipper shall pay under the Agreement for services shall be as follows:

Shipper shall pay a Reservation Charge each Month (calculated by multiplying \$0.03 per Dth by 30.41667) based on the Dth of Contract Demand specified in the Agreement, regardless of the quantity of gas transported during the Service Month, plus a fixed Commodity Rate of \$0.2799 per Dth transported. If Shipper releases capacity, it shall pay Transporter for any portion of the foregoing Commodity Rate not paid by the Replacement Shipper. The rates provided for herein shall not be subject to refund or reduction if in excess of any maximum otherwise allowed.

(iv) Term of Rate:

Begin Date(s): April 1, 2019

End Date(s): The end of the Day on March 31, 2020

- (b) Authorized Overrun: Unless Transporter agrees otherwise, the rate for any authorized overrun quantities shall be the greater of the maximum Tariff rate or \$0.3099 per Dth.
- (c) General: In consideration for Shipper's continuing compliance with the provisions of the Agreement, the transportation rates and charges as defined above or on any applicable Attachment for the specified services provided under the Agreement only apply to receipts from, and subsequent deliveries to, the Points of Receipt and Delivery, quantities and/or time periods described above or on any applicable Attachment and to reserved capacity necessary to effect such service. In addition to any rate or amount referred to herein (including discounted rates, Negotiated Rates, overrun rates and maximum Tariff rates), except as specifically provided otherwise herein or on any applicable Attachment, Shipper shall provide or pay and Transporter shall retain or charge Fuel Use and LUGF allowances or charges (including the EPC surcharge) in such quantities or amounts as authorized from time to time by the Tariff and shall pay any applicable charges, penalties, surcharges, fees, taxes, assessments and/or direct billed amounts provided for in the Tariff. The rate in any month shall never be below Transporter's applicable minimum Tariff rate, unless Transporter otherwise agrees. Transporter shall not be responsible for the payment and satisfaction of any taxes assessed or levied on the receipt, transmission (and any activities in connection therewith), delivery, use and/or consumption with respect to Gas delivered or received by Shipper, unless Transporter agrees otherwise.
- (d) Rate-Related Provisions:
- (i) Consideration for Rate Granted: Transporter agrees to the rates specified herein or on any applicable Attachment in exchange for Shipper's agreement to forego credits or other benefits to which Shipper would otherwise be entitled, but only to the extent such credits or benefits would result in a greater economic benefit over the applicable term than that represented by the agreed-upon rate. Accordingly,

AMENDED AND RESTATED
FIRM (RATE SCHEDULE FT)
TRANSPORTATION SERVICE AGREEMENT
TSA No.: 1011266
(continued)

unless Transporter otherwise agrees, Shipper will not receive credits (with the exception of (1) penalty revenue credits provided pursuant to Section 31 of the General Terms and Conditions of Transporter's Tariff, and (2) capacity release credits) from rates, refunds or other revenues collected by Transporter or Shipper if to do so would effectively result in a lower rate or greater economic benefit to Shipper; provided, however, that Transporter and Shipper can agree pursuant to Section 19.8 of the General Terms and Conditions of Transporter's Tariff that Transporter will retain some or all of the capacity release credits to the extent those credits exceed the amount of the Shipper's invoiced demand component. If the parties' agreement to the foregoing is determined invalid or if Shipper seeks to obtain credits or benefits inconsistent therewith, unless Transporter otherwise agrees, it will have the right to immediately terminate or modify any provisions herein or on any applicable Attachment that would allow Shipper to pay amounts less than the maximum applicable Tariff rate.

- (ii) Limitation on Agreed Upon Rate: Unless Transporter agrees otherwise, if at any time receipts and/or deliveries are initially sourced into the system, nominated, scheduled and/or made, by any means, including by temporary Replacement Shipper, or by operation of any Tariff mechanisms, with respect to the capacity obtained by, through or under the Agreement at points, or under conditions, other than those specified herein or on any applicable Attachment, then as of such date, and for the remainder of the Service Month in which such non-compliance occurred, or the remainder of the term of the Agreement, whichever is shorter, Shipper shall be obligated to pay no less than the maximum applicable Tariff rates for service under the Agreement.
- (iii) Regulatory Authority: This Agreement (including any applicable Attachment) is subject to Section 16 of the GT&C of Transporter's Tariff. Transporter and Shipper hereby acknowledge that this Agreement is subject to all valid and applicable federal and local laws and to the orders, rules and regulations of any duly constituted federal or local regulatory body or governmental authority having jurisdiction. Any provision of this Agreement which is determined by any court or regulatory body having jurisdiction to be invalid or unenforceable will be ineffective to the extent of such determination only, without invalidating, or otherwise affecting the validity of, the remaining provisions. Unless the parties agree otherwise, if Transporter has made a good faith determination that a federal or local law, or order, rule or regulation of any governmental authority having or asserting jurisdiction (1) requires performance by Transporter that is inconsistent with the terms specified herein or on any applicable Attachment or (2) conditions or prohibits the granting of selective discounts or other rates specified herein or on any applicable Attachment, then Transporter may provide notice that it intends to renegotiate the rates under the Agreement. If the parties fail to reach agreement within forty-five (45) days of any renegotiation notice given pursuant to the terms of this paragraph, then: (1) the rate provisions herein or on any applicable Attachment shall be terminated, and the rate for service herein or under any applicable Attachment shall be Transporter's applicable maximum Tariff rate, or (2) if Transporter's applicable maximum Tariff rate is greater than the rate for service herein or on any applicable Attachment at the Shipper's option, the Agreement and any applicable Attachment shall terminate. The effective date of this renegotiation or termination shall be the first day of the month following the end of the 45-day renegotiation period; provided, however, that the effective date will comply with the requirements of the applicable federal or local law, or order, rule or regulation of any governmental authority having or asserting jurisdiction.
- (iv) Entire Agreement: Any applicable Attachment shall supplement the Agreement with respect to the matters agreed to, and together shall constitute the entire understanding of the parties relating to said matters as of the effective date stated therein. Unless otherwise specified, all prior agreements, correspondence, understandings and representations are hereby superseded and replaced by any applicable Attachment and the Agreement. Except as otherwise provided herein, all terms used herein with initial capital letters are so used with the respective meanings ascribed to them in Transporter's Tariff.
- (v) Failure to Exercise Rights: Failure to exercise any right under any applicable Attachment, if applicable, or the Agreement shall not be considered a waiver of such right in the future. No waiver of any default in the performance of any applicable Attachment or the Agreement shall be construed as a waiver of any other existing or future default, whether of a like or different character.

AMENDED AND RESTATED
FIRM (RATE SCHEDULE FT)
TRANSPORTATION SERVICE AGREEMENT
TSA No.: 1011266
(continued)

- (e) Inability to Collect Negotiated Rates: If Transporter is unable to collect Negotiated Rates due to a change in Commission policy or rejection of the transaction by the Commission prior to or during the term of such transaction, then, unless the parties agree otherwise, Shipper shall pay the maximum Tariff rate for the services. In such event, Transporter shall notify Shipper in writing of the requirement to pay maximum Tariff rates and, if the maximum Tariff rates are greater than the Negotiated Rates under such transaction, Shipper shall have no more than thirty (30) days from the date of such notification to give notice in writing of termination of the applicable Agreement, with such termination to be effective no earlier than the end of the Month following the Month in which such termination notice is received.

5) **OTHER PROVISIONS:**

- 5.1) Payments shall be received by Transporter within the time prescribed by Section 14 of the GT&C of Transporter's Tariff. Amounts past due hereunder shall bear interest as provided in Section 14 of the GT&C of the Tariff. Shipper shall pay all costs associated with the collection of such past due amounts including, but not limited to, attorneys' fees and court costs. Shipper hereby represents and warrants that the party executing this Agreement on its behalf is duly authorized and possesses all necessary corporate or other authority required to legally bind Shipper.
- 5.2) Do the parties agree that the provisions of Section 13.4 of the GT&C of Transporter's Tariff shall apply with respect to third-party transportation? No
- 5.3) Does this Agreement supersede, cancel, amend, restate, substitute or correct pre-existing Transportation Service Agreement(s) between the parties? Yes
Effective April 1, 2019, this Agreement amends and restates Transportation Service Agreement No. 1011266, originally effective April 1, 2018, as subsequently amended, restated and/or superseded prior to or as of the effective date hereof.
- 5.4) Is this Agreement entered into pursuant to and subject to CAPACITY RELEASE, Section 19 of the GT&C of Transporter's Tariff? No
- 5.5) Does this Agreement include any other terms/provisions permitted by the Tariff? Yes

In accordance with Section 19.8 of the GT&C of the Tariff, the parties hereby agree that Transporter shall retain, and not credit back to Shipper, credits for capacity releases to the extent amounts paid by or invoiced to Replacement Shipper(s) as, or attributable to, demand or reservation type charges exceed the amount of Shipper's invoiced demand component.

Pursuant to Section 21.10, GT&C, of the Tariff, the parties have agreed to an extension of the term with respect to all of the capacity committed under the Service Agreement being amended and extended.

- 6) All modifications, amendments or supplements to the terms and provisions hereof shall be effected only by supplementary written (or electronic, to the extent Transporter permits or requires) consent of the parties.
- 7) **SIGNATURE:** This Agreement constitutes a contract with Transporter for the transportation of natural gas, subject to the terms and conditions hereof, the General Terms and Conditions attached hereto, and any applicable attachment(s), all of which are incorporated herein by reference and made part of this Agreement.

ENABLE GAS TRANSMISSION, LLC

CITY OF WINFIELD, KANSAS

By: _____
Name: John S. Pawlik
Title: Senior Manager, Commercial - T & S
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

**AMENDED AND RESTATED
FIRM (RATE SCHEDULE FT)
TRANSPORTATION SERVICE AGREEMENT
TSA No.: 1011266**

GENERAL TERMS AND CONDITIONS

1. This Agreement shall be subject to the provisions of Rate Schedule FT as well as the General Terms and Conditions ("GT&C") set forth in Transporter's Tariff, as on file and in effect from time to time, all of which by this reference are made a part hereof.
2. In accordance with Section 12.2 of the GT&C of Transporter's Tariff, Transporter shall have the right at any time, and from time to time, to file and place into effect unilateral changes or modifications in the rates and charges, and other terms and conditions of service hereunder, and as set forth in said Rate Schedule and in said GT&C of Transporter's Tariff, in accordance with the Natural Gas Act or other applicable law. Nothing contained in the foregoing provision shall preclude or prevent Shipper from protesting any such changes or modifications; however, Shipper agrees to pay all rates and charges, and to comply with all terms and conditions, in effect under the Tariff.
3. Upon Shipper's failure to pay when due all or any part of amounts billed in connection with services rendered or to comply with the terms of this Agreement, Transporter may terminate this Agreement and/or suspend service, as appropriate, in accordance with the provisions of Section 14 of the GT&C of Transporter's Tariff.
4. In accordance with Section 21.1 of the GT&C of Transporter's Tariff, upon termination hereof for whatever reason, Shipper agrees to stop delivering gas to Transporter for service and, unless otherwise agreed by Transporter, to seek no further service from Transporter hereunder. Shipper agrees to cooperate with and assist Transporter in obtaining such regulatory approvals and authorizations, if any, as are necessary or appropriate in view of such termination and abandonment of service hereunder.
5. In accordance with Section 5.7(e) of the GT&C of Transporter's Tariff, termination of this Agreement shall not relieve either party of any obligation that might otherwise exist to cash-out or correct any Imbalance hereunder nor relieve Shipper of its obligation to pay any monies due hereunder to Transporter and any portions of this Agreement necessary to accomplish such purposes shall be deemed to survive for the time and to the extent required.
6. In accordance with Sections 2.1 and 2.2 of Rate Schedule FT of Transporter's Tariff, subject to the provisions of the Tariff and this Agreement, Transporter shall receive, transport, and deliver, for the account of Shipper for the purposes contemplated herein, on a firm basis a quantity of Gas up to the quantity or quantities specified in the Agreement.
7. In accordance with Sections 2.1 and 3.3 of Rate Schedule FT of Transporter's Tariff, Gas shall be (i) tendered to Transporter for transportation hereunder at the Point(s) of Receipt and (ii) delivered by Transporter after transportation to Shipper, or for Shipper's account, at the Point(s) of Delivery on the terms and at the points shown in this Agreement. Subject to the provisions of the Tariff, Transporter shall tender for delivery quantities of Gas thermally-equivalent to those delivered by Shipper, less, as applicable, Fuel Use and LUGF, or Alternate Fuel Retentions, retained.
8. Except as otherwise permitted in the Tariff, and in accordance with Section 19 of the GT&C of Transporter's Tariff, this Agreement shall not be assigned by Shipper in whole or in part, nor shall Shipper agree to provide services to others by use of any capacity contracted for under the Agreement, without Transporter's prior written consent. In addition to all other rights and remedies, Transporter may terminate the Agreement immediately if it is assigned by Shipper or if Shipper subcontracts the capacity to others contrary to the provisions hereof, whether the assignment or contract be voluntary, or by operation of law or otherwise. Subject to the above, the respective rights and obligations of the parties under the Agreement shall extend to and be binding upon their heirs, successors, assigns and legal representatives. Shipper may request that Transporter consent to Shipper's assignment of this Agreement to an entity with which Shipper is affiliated subject to the assignee's satisfaction of the criteria in Section 14 of the GT&C of Transporter's Tariff, in the situation in which, after Shipper obtains the Agreement, a corporate reorganization results in a transfer to an affiliate of the function for which the capacity was obtained. Any person which shall succeed by purchase, merger or consolidation to the properties, substantially as an entirety, of either party hereto, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Agreement; and either party may assign or pledge this Agreement under the provisions of any mortgage, deed of trust, indenture, bank credit agreement, assignment or similar instrument which it has executed or may execute hereafter.
9. Any notice, statement, or bill provided for in this Agreement shall be in writing (or provided electronically via the Internet to the extent Transporter permits or requires) and shall be considered as having been given if hand delivered, or, if received, when mailed by United States mail, postage prepaid, to the addresses specified herein, or such other addresses as either party shall designate by written notice to the other. Additionally, notices shall be considered as having been given, if received, when sent via facsimile or through electronic data interchange.



Request for Commission Action

Date: February 14, 2019

Requestor: Gus Collins, Director of Utilities

Action Requested: Agreements with Enable – Consider renewal agreement with Enable regarding the transportation and storage of gas to the City of Winfield. The terms are unchanged, from the previous year. The only exception is the inclusion of the Evergreen Clause. The renewal date is April 1, 2019 through March 31, 2020.

Analysis: Background; The City of Winfield has been discussing the integrity of this pipeline with Enable for many years. They have attempted to entice the City in to taking the 29 miles of pipeline. We did a complete analysis, hired a consulting engineer firm to review the integrity and it was not recommended to acquire or accept the pipeline in its current condition. With that being said the City staff is still recommending proceeding with the renewal of this agreement. Enable is making some improvements to the pipeline and some HCA (high consequence area) which is very important as we move forward. The other aspect I requested is an automatic renewal or "evergreen" agreement. They have accepted that request, so we will not have to go through this process each year, the City can still terminate the contract with a 180-day notice prior to renewal date. This certainly fulfills our ability to provide gas to our 5,000 customers.

Fiscal Impact: Rate: .31 per MMBtu. Annual estimated cost is \$187,000. It is based on actual use only, not a take or pay. That is to the City's benefit. City staff recommends approval.

Attachments: Proposed Agreement

**AMENDED AND RESTATED
FIRM (RATE SCHEDULE FT)
TRANSPORTATION SERVICE AGREEMENT
TSA No.: 1001268**

THIS TRANSPORTATION SERVICE AGREEMENT ("Agreement"), between Enable Gas Transmission, LLC, a Delaware limited liability company ("Transporter"), and Shipper (defined below), covering the transportation of natural gas by Transporter on behalf of Shipper as more particularly described herein, is entered into in accordance with the following terms and conditions:

1) SHIPPER INFORMATION:

Shipper's Name:

City of Winfield
2701 E. 9th Avenue
Winfield, KS 67156-0646
Attn: Gus Collins
Phone: 620-221-5607
Email: gcollins@winfieldks.org

Type of Entity: a Kansas municipality

Transporter's wire transfer information and addresses for notices and payments shall be located on Transporter's Internet Web Site.

2) REGULATORY AUTHORITY: Part 284: Subpart G

3) TERM, CONTRACT DEMAND AND POINTS:

The term (including term extensions), Contract Demand, Receipt Entitlement(s), and Receipt and Delivery Points for this Agreement shall be shown below or on any designated Attachment, as applicable. Absent designation of MRO's for any specific physical Point of Receipt, Transporter shall have no obligation to permit Shipper to utilize any such Point of Receipt or to receive any specific quantities on Shipper's behalf at such point.

Term: Effective Date: Originally September 1, 1993, as amended and restated April 1, 2019

Primary Term End Date: The end of the Day on March 31, 2020

Evergreen/Term Extension? Yes
After Primary Term End Date, Agreement will continue year to year thereafter and until terminated by written notice given by either party to the other party at least one hundred and eighty (180) days prior to the end of the primary term or any extended term thereafter.

Contract Demand (Dth/D): 10,000 Dth/D

Receipt Entitlement(s) (Dth/D): West 1 Pooling Area 10,000 Dth/D

Primary Receipt Point(s):	<u>Maximum Receipt Obligation (Dth/D)</u>
Markwest Arapaho Plant (Meter No. 810010)	6,000
EGG McClure IC (Meter No. 301104)	4,000

<u>Primary Delivery Point(s):</u>	<u>Maximum Delivery Obligation (Dth/D)</u>
City Gate of Winfield (Meter No. 801669)	10,000

**AMENDED AND RESTATED
FIRM (RATE SCHEDULE FT)
TRANSPORTATION SERVICE AGREEMENT
TSA No.: 1001268
(continued)**

- 4) **RATE:** Unless provided otherwise in an Attachment to this Agreement in effect during the term of this Agreement, in a capacity release award, or below, Shipper shall pay, or cause to be paid, to Transporter each month for all services provided hereunder the maximum applicable rate, and any other charges, fees, direct bill amounts, taxes, assessments, or surcharges provided for in Transporter's Tariff, as on file and in effect from time to time, for each service rendered hereunder.
- 5) **OTHER PROVISIONS:**
- 5.1) Payments shall be received by Transporter within the time prescribed by Section 14 of the GT&C of Transporter's Tariff. Amounts past due hereunder shall bear interest as provided in Section 14 of the GT&C of the Tariff. Shipper shall pay all costs associated with the collection of such past due amounts including, but not limited to, attorneys' fees and court costs. Shipper hereby represents and warrants that the party executing this Agreement on its behalf is duly authorized and possesses all necessary corporate or other authority required to legally bind Shipper.
- 5.2) Do the parties agree that the provisions of Section 13.4 of the GT&C of Transporter's Tariff shall apply with respect to third-party transportation? No
- 5.3) Does this Agreement supersede, cancel, amend, restate, substitute or correct pre-existing Transportation Service Agreement(s) between the parties? Yes
Effective April 1, 2019, this Agreement amends and restates Transportation Service Agreement No. 1001268, originally effective September 1, 1993, as subsequently amended, restated and/or superseded prior to or as of the effective date hereof.
- 5.4) Is this Agreement entered into pursuant to and subject to CAPACITY RELEASE, Section 19 of the GT&C of Transporter's Tariff? No
- 5.5) Does this Agreement include any other terms/provisions permitted by the Tariff? Yes
- a) Pursuant to Section 21.10, GT&C, of the Tariff, the parties have agreed to an extension of the term with respect to all of the capacity committed under the Service Agreement being amended and extended.
- b) Shipper receives service under the Small Customer option as provided in Section 3.2 of Rate Schedule FT.
- 6) All modifications, amendments or supplements to the terms and provisions hereof shall be effected only by supplementary written (or electronic, to the extent Transporter permits or requires) consent of the parties.
- 7) **SIGNATURE:** This Agreement constitutes a contract with Transporter for the transportation of natural gas, subject to the terms and conditions hereof, the General Terms and Conditions attached hereto, and any applicable attachment(s), all of which are incorporated herein by reference and made part of this Agreement.

ENABLE GAS TRANSMISSION, LLC

CITY OF WINFIELD

By: _____
Name: Celso Alonso
Title: Sr. Director - Commercial T&S
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

**AMENDED AND RESTATED
FIRM (RATE SCHEDULE FT)
TRANSPORTATION SERVICE AGREEMENT
TSA No.: 1001268**

GENERAL TERMS AND CONDITIONS

1. This Agreement shall be subject to the provisions of Rate Schedule FT as well as the General Terms and Conditions ("GT&C") set forth in Transporter's Tariff, as on file and in effect from time to time, all of which by this reference are made a part hereof.
2. In accordance with Section 12.2 of the GT&C of Transporter's Tariff, Transporter shall have the right at any time, and from time to time, to file and place into effect unilateral changes or modifications in the rates and charges, and other terms and conditions of service hereunder, and as set forth in said Rate Schedule and in said GT&C of Transporter's Tariff, in accordance with the Natural Gas Act or other applicable law. Nothing contained in the foregoing provision shall preclude or prevent Shipper from protesting any such changes or modifications; however, Shipper agrees to pay all rates and charges, and to comply with all terms and conditions, in effect under the Tariff.
3. Upon Shipper's failure to pay when due all or any part of amounts billed in connection with services rendered or to comply with the terms of this Agreement, Transporter may terminate this Agreement and/or suspend service, as appropriate, in accordance with the provisions of Section 14 of the GT&C of Transporter's Tariff.
4. In accordance with Section 21.1 of the GT&C of Transporter's Tariff, upon termination hereof for whatever reason, Shipper agrees to stop delivering gas to Transporter for service and, unless otherwise agreed by Transporter, to seek no further service from Transporter hereunder. Shipper agrees to cooperate with and assist Transporter in obtaining such regulatory approvals and authorizations, if any, as are necessary or appropriate in view of such termination and abandonment of service hereunder.
5. In accordance with Section 5.7(e) of the GT&C of Transporter's Tariff, termination of this Agreement shall not relieve either party of any obligation that might otherwise exist to cash-out or correct any Imbalance hereunder nor relieve Shipper of its obligation to pay any monies due hereunder to Transporter and any portions of this Agreement necessary to accomplish such purposes shall be deemed to survive for the time and to the extent required.
6. In accordance with Sections 2.1 and 2.2 of Rate Schedule FT of Transporter's Tariff, subject to the provisions of the Tariff and this Agreement, Transporter shall receive, transport, and deliver, for the account of Shipper for the purposes contemplated herein, on a firm basis a quantity of Gas up to the quantity or quantities specified in the Agreement.
7. In accordance with Sections 2.1 and 3.3 of Rate Schedule FT of Transporter's Tariff, Gas shall be (i) tendered to Transporter for transportation hereunder at the Point(s) of Receipt and (ii) delivered by Transporter after transportation to Shipper, or for Shipper's account, at the Point(s) of Delivery on the terms and at the points shown in this Agreement. Subject to the provisions of the Tariff, Transporter shall tender for delivery quantities of Gas thermally-equivalent to those delivered by Shipper, less, as applicable, Fuel Use and LUFG, or Alternate Fuel Retentions, retained.
8. Except as otherwise permitted in the Tariff, and in accordance with Section 19 of the GT&C of Transporter's Tariff, this Agreement shall not be assigned by Shipper in whole or in part, nor shall Shipper agree to provide services to others by use of any capacity contracted for under the Agreement, without Transporter's prior written consent. In addition to all other rights and remedies, Transporter may terminate the Agreement immediately if it is assigned by Shipper or if Shipper subcontracts the capacity to others contrary to the provisions hereof, whether the assignment or contract be voluntary, or by operation of law or otherwise. Subject to the above, the respective rights and obligations of the parties under the Agreement shall extend to and be binding upon their heirs, successors, assigns and legal representatives. Shipper may request that Transporter consent to Shipper's assignment of this Agreement to an entity with which Shipper is affiliated subject to the assignee's satisfaction of the criteria in Section 14 of the GT&C of Transporter's Tariff, in the situation in which, after Shipper obtains the Agreement, a corporate reorganization results in a transfer to an affiliate of the function for which the capacity was obtained. Any person which shall succeed by purchase, merger or consolidation to the properties, substantially as an entirety, of either party hereto, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Agreement; and either party may assign or pledge this Agreement under the provisions of any mortgage, deed of trust, indenture, bank credit agreement, assignment or similar instrument which it has executed or may execute hereafter.
9. Any notice, statement, or bill provided for in this Agreement shall be in writing (or provided electronically via the Internet to the extent Transporter permits or requires) and shall be considered as having been given if hand delivered, or, if received, when mailed by United States mail, postage prepaid, to the addresses specified herein, or such other addresses as either party shall designate by written notice to the other. Additionally, notices shall be considered as having been given, if received, when sent via facsimile or through electronic data interchange.

**AMENDED AND RESTATED
RATE SCHEDULE NNTS
TRANSPORTATION SERVICE AGREEMENT
TSA No.: 1008426**

THIS TRANSPORTATION SERVICE AGREEMENT ("Agreement"), between Enable Gas Transmission, LLC, a Delaware limited liability company ("Transporter"), and a Shipper (defined below), covering the transportation of natural gas by Transporter on behalf of Shipper as more particularly described herein, is entered into in accordance with the following terms and conditions:

1) **SHIPPER INFORMATION:**

Shipper's Name:

City of Winfield, Kansas
2701 E. 9th Avenue
Winfield, KS 67156-0646
Attn: Gus Collins
Phone: 620-221-5607
Email: gcollins@winfieldks.org

Type of Entity: a Kansas municipality

Transporter's wire transfer information and addresses for notices and payments shall be located on Transporter's Internet Web Site.

2) **TERM, REGULATORY AUTHORITY AND QUANTITIES:**

Term: Effective Date: Originally January 1, 2011, as amended and restated, April 1, 2019

Primary Term End Date: The end of the Day on March 31, 2020

Evergreen/Term Extension? Yes

After Primary Term End Date, Agreement will continue year to year thereafter and until terminated by written notice given by either party to the other party at least one hundred and eighty (180) days prior to the end of the primary term or any extended term thereafter.

Regulatory Authority: Title 18 C.F.R. Part 284, Subpart G

Quantities:

Contract Delivery Demand 2,000 Dth/D

Receipt Entitlement(s): West 1 Pooling Area 2,000Dth/D

3) **RECEIPT AND DELIVERY POINTS:**

Receipt Point(s)*:

Receipt Quantity (Dth/D)

All generally available AIRP's and Pools in the West 1 Pooling Area

2,000

*Absent designation of MRO's for any specific physical Point of Receipt, Transporter shall have no obligation to permit Shipper to utilize any such Point of Receipt or to receive any specific quantities on Shipper's behalf at such point.

Shipper agrees that it will source its flowing supplies in accordance with Transporter's instructions.

Primary Delivery Point(s):

Maximum Delivery Obligation (Dth/D)

City Gate of Winfield (Meter No. 801669)

2,000

**AMENDED AND RESTATED
RATE SCHEDULE NNTS
TRANSPORTATION SERVICE AGREEMENT
TSA No.: 1008426**

- 4) **RATE:** Unless provided otherwise in any applicable Attachment to this Agreement in effect during the term of this Agreement or in a capacity release award, Shipper shall pay, or cause to be paid, to Transporter each month for all services provided hereunder the maximum applicable rate, and any other charges, fees, direct bill amounts, taxes, assessments, or surcharges provided for in Transporter's Tariff, as on file and in effect from time to time, for each service rendered hereunder.
- 5) **OTHER PROVISIONS:**
- 5.1) Payments shall be received by Transporter within the time prescribed by Section 14 of the GT&C of Transporter's Tariff. Amounts past due hereunder shall bear interest as provided in Section 14 of the GT&C of the Tariff. Shipper shall pay all costs associated with the collection of such past due amounts including, but not limited to, attorneys' fees and court costs. Shipper hereby represents and warrants that the party executing this Agreement on its behalf is duly authorized and possesses all necessary corporate or other authority required to legally bind Shipper.
- 5.2) Do the parties agree that the provisions of Section 13.4 of the GT&C of Transporter's Tariff shall apply with respect to third-party transportation? No
- 5.3) Does this Agreement supersede, cancel, amend, restate, substitute or correct pre-existing Transportation Service Agreement(s) between the parties? Yes
Effective April 1, 2019, this Agreement amends and restates Transportation Service Agreement No. 1008426, originally effective January 1, 2011, as subsequently amended, restated and/or superseded prior to or as of the effective date hereof.
- 5.4) Is this Agreement entered into pursuant to and subject to CAPACITY RELEASE, Section 19 of the GT&C of Transporter's Tariff? No
- 5.5) Does this Agreement include any other terms/provisions permitted by the Tariff? Yes
- a) Shipper receives service under the Small Customer option as provided in Section 5.2 of Rate Schedule NNTS.
- b) Pursuant to Section 21.10, GT&C, of the Tariff, the parties have agreed to an extension of the term with respect to all of the capacity committed under the Service Agreement being amended and extended.
- 6) All modifications, amendments or supplements to the terms and provisions hereof shall be effected only by supplementary written (or electronic, to the extent Transporter permits or requires) consent of the parties.
- 7) **SIGNATURE:** This Agreement constitutes a contract with Transporter for the transportation of natural gas, subject to the terms and conditions hereof, the General Terms and Conditions attached hereto, and any attachment referenced herein, all of which are incorporated herein by reference and made part of this Agreement.

ENABLE GAS TRANSMISSION, LLC

CITY OF WINFIELD, KANSAS

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

**RATE SCHEDULE NNTS
TRANSPORTATION SERVICE AGREEMENT
DATED APRIL 1, 2019
(TSA No.1008426)
(continued)**

GENERAL TERMS AND CONDITIONS

1. This Agreement shall be subject to the provisions of Rate Schedule NNTS as well as the General Terms and Conditions ("GT&C") set forth in Transporter's Tariff, as on file and in effect from time to time, all of which by this reference are made a part hereof.
2. In accordance with Section 12.2 of the GT&C of Transporter's Tariff, Transporter shall have the right at any time, and from time to time, to file and place into effect unilateral changes or modifications in the rates and charges, and other terms and conditions of service hereunder, and as set forth in said Rate Schedule and in said GT&C of Transporter's Tariff, in accordance with the Natural Gas Act or other applicable law. Nothing contained in the foregoing provision shall preclude or prevent Shipper from protesting any such changes or modifications; however, Shipper agrees to pay all rates and charges, and to comply with all terms and conditions, in effect under the Tariff.
3. Upon Shipper's failure to pay when due all or any part of amounts billed in connection with services rendered or to comply with the terms of this Agreement, Transporter may terminate this Agreement and/or suspend service, as appropriate, in accordance with the provisions of Section 14 of the GT&C of Transporter's Tariff.
4. In accordance with Section 21.1 of the GT&C of Transporter's Tariff, upon termination hereof for whatever reason, Shipper agrees to stop delivering gas to Transporter for service and, unless otherwise agreed by Transporter, to seek no further service from Transporter hereunder. Shipper agrees to cooperate with and assist Transporter in obtaining such regulatory approvals and authorizations, if any, as are necessary or appropriate in view of such termination and abandonment of service hereunder.
5. Except as otherwise permitted in the Tariff, and in accordance with Section 19 of the GT&C of Transporter's Tariff, this Agreement shall not be assigned by Shipper in whole or in part, nor shall Shipper agree to provide services to others by use of any capacity contracted for under the Agreement, without Transporter's prior written consent. In addition to all other rights and remedies, Transporter may terminate the Agreement immediately if it is assigned by Shipper or if Shipper subcontracts the capacity to others contrary to the provisions hereof, whether the assignment or contract be voluntary, or by operation of law or otherwise. Subject to the above, the respective rights and obligations of the parties under the Agreement shall extend to and be binding upon their heirs, successors, assigns and legal representatives. Shipper may request that Transporter consent to Shipper's assignment of this Agreement to an entity with which Shipper is affiliated subject to the assignee's satisfaction of the criteria in Section 14 of the GT&C of Transporter's Tariff, in the situation in which, for firm agreements, after Shipper obtains the Agreement, a corporate reorganization results in a transfer to an affiliate of the function for which the capacity was obtained. Any person which shall succeed by purchase, merger or consolidation to the properties, substantially as an entirety, of either party hereto, shall be entitled to the Rights and shall be subject to the obligations of its predecessor in title under this Agreement; and either party may assign or pledge this Agreement under the provisions of any mortgage, deed of trust, indenture, bank credit agreement, assignment or similar instrument which it has executed or may execute hereafter.
6. In accordance with Section 5.7(e) of the GT&C of Transporter's Tariff, termination of this Agreement shall not relieve either party of any obligation that might otherwise exist to cash-out or correct any imbalance hereunder (including payback of, and/or removal or withdrawal of parked or stored, quantities) nor relieve Shipper of its obligation to pay any monies due hereunder to Transporter and any portions of this Agreement necessary to accomplish such purposes shall be deemed to survive for the time and to the extent required.
7. In accordance with Sections 2.1 and 2.2 of Rate Schedule NNTS of Transporter's Tariff, subject to the provisions of the Tariff, any quantity limitations set forth in the Agreement, and other provisions of this Agreement, Transporter shall receive, transport, store and/or deliver, for the account of Shipper for the purposes contemplated herein, on a firm basis a quantity of Gas up to the quantity or quantities specified in the Agreement.
8. Any notice, statement, or bill provided for in this Agreement shall be in writing (or provided electronically via the Internet to the extent Transporter permits or requires) and shall be considered as having been given if hand delivered, or, if received, when mailed by United States mail, postage prepaid, to the addresses specified herein, or such other addresses as either party shall designate by written notice to the other. Additionally, notices shall be considered as having been given, if received, when sent via facsimile or through electronic data interchange.
9. References in this Agreement, or any Attachment hereto, to a specific Rate Schedule (or section thereof) or section of the GT&C of Transporter's Tariff shall be deemed to include any successor provisions, as applicable.
10. In accordance with Sections 2.2 and 5.3 of Rate Schedule NNTS, Gas shall be (i) tendered to Transporter for transportation hereunder at the Point(s) of Receipt and (ii) delivered by Transporter after transportation to Shipper, or for Shipper's account, at the Point(s) of Delivery on the terms and at the points shown in this Agreement. Subject to the provisions of the Tariff, Transporter shall tender for delivery quantities of Gas thermally-equivalent to those delivered by Shipper, less Fuel Use and LUG or Alternate Fuel Retentions, as applicable, retained.



Request for Commission Action

Date: February 14, 2019

Requestor: Kyle Gillett, Customer Service & System Reliability Specialist

Action Requested: Consider approval for 2019 substation technical support program with Southwest Electric Company.

Analysis: The City of Winfield has been implementing a technical support program as a form of preventive maintenance on our five electric substations and both generation plants since 2003. The program provides substation equipment maintenance and testing by an electrical contractor on a three-year rotation. Scheduled for maintenance in 2019 includes:

- Fifteen 15KV air circuit breakers
- Nine 15KV vacuum circuit breakers
- Eleven 5KV air circuit breakers
- Power Plant generator neutral breaker
- Power Plant static exciter field breaker
- Three 480-volt air circuit breakers
- Two liquid filled transformers located at the East Power Plant to provide station power
- Two dry-type transformers located in the East Power Plant to provide electric for the motor control center (MCC)
- Two 69KV gas circuit breakers
- Forty-two protective relays

Fiscal Impact: Staff solicited bids to complete the 2019 Technical Support Program. We received two of the three bids in return. They are as follows:

- Southwest: \$24,960.00
- Vertiv: \$67,680.00
- ElectriComm: bid not submitted



Request for Commission Action

The City of Winfield has contracted Southwest Electric Company for a few jobs in the past, which included processing of transformer oil at two locations due to high moisture content, and the rebuilding of a 480-volt breaker at the East Plant. Previous experience with SWE was positive but limited so we asked that they provide references. We were able to contact three references regarding SWE, and all feedback we received was very positive in nature.

Staff recommends that the commission consider the bid from Southwest Electric Company for the 2019 technical support program.

Attachments: