

**CITY COMMISSION MEETING  
Winfield, Kansas**

DATE: Monday, April 01, 2024  
TIME: 5:30 p.m.  
PLACE: City Commission – Community Council Room – First Floor – City Building

**AGENDA**

CALL TO ORDER..... Mayor Brenda K. Butters  
ROLL CALL.....City Clerk, Tania Richardson  
MINUTES OF PRECEDING MEETING.....Monday, March 18, 2024

**BUSINESS FROM THE FLOOR**

-Citizens to be heard

**NEW BUSINESS**

Ordinances & Resolutions

- Bill No. 2425 - A Resolution** – of the Governing Body of the City of Winfield, Kansas authorizing execution of a First Amendment to Site Lease and a First Amendment to Project Lease between the City and Petra Winfield Residences, LLC relating to the City's Taxable Industrial Revenue Bonds, Series 2023
- Bill No. 2426 - A Resolution** – Authorizing and directing the Mayor and Clerk of the City of Winfield, Kansas, to execute a contract for Project No. 24-TI929 for asphalt street improvements between the City of Winfield, Kansas and APAC-Kansas, Inc., Shears Division.
- Bill No. 2427 - A Resolution** – Authorizing and directing the Mayor and Clerk of the City of Winfield, Kansas, to execute a contract for Project No. 22-TI914 for street improvements on Pike Road between the City of Winfield, Kansas and Andale Construction.
- Bill No. 2428 - A Resolution** – Authorizing the execution of the Authority to Award Contract and Commitment of City Funds for Project No. 018-TE-0536-01.
- Bill No. 2429 - A Resolution** – Authorizing and directing the Governing Body and Clerk of the City of Winfield, Kansas, to execute a Federal-Aid Construction Engineering Agreement No. 159-24 for Project No. TE-0536-01 between the City and the Secretary of the Kansas Department of Transportation, relating to the performance of work for construction engineering inspection services.
- Bill No. 2430 - A Resolution** – Determining the existence of certain nuisances at 512 E 3<sup>rd</sup> Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.
- Bill No. 2431 - A Resolution** – Determining the existence of certain nuisances at 811 Menor St in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.
- Bill No. 2432 - A Resolution** – Determining the existence of certain nuisances at 811 Menor St in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.
- Bill No. 2433 - A Resolution** – Determining the existence of certain nuisances at 612 Maris St in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.
- Bill No. 2434 - A Resolution** – Determining the existence of certain nuisances at 222 N Park St in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.
- Bill No. 2435 - A Resolution** – Authorizing and providing for improvements included in the Multi-Year Capital Improvement Plan for the City of Winfield, Kansas; and providing for the payment of the costs thereof.
- Bill No. 2436 - A Resolution** – Authorizing the offering for sale of General Obligation Bonds, Series 2024-A, of the City of Winfield, Kansas.

**OTHER BUSINESS**

- Consider CMB License Application for Midwest Moos, Broadway Complex.
- Consider Temporary Caterer application for Xclusive Events, June 24, 2023, at Island Park.

**ADJOURNMENT**

- Tie Switchyard Ribbon Cutting, 7657 192nd Rd., Winfield, KS 67156, 3:00 p.m. Thursday, April 11, 2024.
- Next regular Work Session, City Hall, 4:00 p.m. Thursday, April 11, 2024.
- Volunteer Appreciation Dinner, Baden Square Community Center, 6:00 p.m. Thursday, April 11, 2024.
- GridLiance/City of Winfield Meet and Greet, 523 Main, Winfield, KS 67156, 7:00p.m. Thursday April 11, 2024
- Next regular meeting 5:30 p.m. Monday, April 15, 2024.

**CITY COMMISSION MEETING MINUTES**  
**Winfield, Kansas**  
**March 18, 2024**

The Board of City Commissioners met in regular session, Monday, March 18, 2024 at 5:30 p.m. in the City Commission-Community Council Meeting Room, City Hall; Mayor Brenda K. Butters presiding. Commissioners Gregory N. Thompson and Ronald E. Hutto were also present. Also in attendance were Taggart Wall, City Manager; Tania Richardson, City Clerk and William E. Muret, City Attorney. Other staff members present were Patrick Steward, Director of Public Improvements; and Eric Archambeau, Sanitation Superintendent.

Mayor Butters noted all Commissioners were present.

Commissioner Thompson moved that the minutes of the March 4, 2024 meeting be approved. Commissioner Hutto seconded the motion. With all Commissioners voting aye, motion carried.

**PROCLAMATION**

-Mayor Butters presented a proclamation to Eric Archambeau proclaiming April 1st through April 6th, 2024, as Spring Beautification Week.

**BUSINESS FROM THE FLOOR**

-None

**NEW BUSINESS**

**Bill No. 2416 - A Resolution** – Determining the existence of certain nuisances at 1120 Lowry St in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City. Director of Public Improvements Steward explains this Resolution would allow the City to take action to clean up the property at 1120 Lowry St. Upon motion by Commissioner Hutto, seconded by Commissioner Thompson, all Commissioners voting aye, Bill No. 2416 was adopted and numbered Resolution No. 1624.

**Bill No. 2417 - A Resolution** – Determining the existence of certain nuisances at 804 E 12<sup>th</sup> Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City. Director of Public Improvements Steward explains this Resolution would allow the City to take action to clean up the property at 804 E 12<sup>th</sup> Ave. Upon motion by Commissioner Thompson, seconded by Commissioner Hutto, all Commissioners voting aye, Bill No. 2417 was adopted and numbered Resolution No. 1724.

**Bill No. 2418 - A Resolution** – Determining the existence of certain nuisances at 1917 Central Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City. Director of Public Improvements Steward explains this Resolution would allow the City to take action to clean up the property at 1917 Central Ave. Upon motion by Commissioner Hutto, seconded by Commissioner Thompson, all Commissioners voting aye, Bill No. 2418 was adopted and numbered Resolution No. 1824.

**Bill No. 2419 - A Resolution** – Determining the existence of certain nuisances at 1414 E 4<sup>th</sup> Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City. Director of Public Improvements Steward explains this Resolution would allow the City to take action to clean up the property at 1414 E 4<sup>th</sup> Ave. Upon motion by Commissioner Thompson, seconded by Commissioner Hutto, all Commissioners voting aye, Bill No. 2419 was adopted and numbered Resolution No. 1924.

**Bill No. 2420 - A Resolution** – Determining the existence of certain nuisances at 1414 Loomis St in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City. Director of Public Improvements Steward explains this Resolution would allow the City to take action to clean up the property at 1414 Loomis St. Upon motion by Commissioner Hutto, seconded by Commissioner Thompson, all Commissioners voting aye, Bill No. 2420 was adopted and numbered Resolution No. 2024.

**Bill No. 2421 - A Resolution** – Authorizing and directing the Mayor and Clerk of the City of Winfield, Kansas, to execute Agreement No. 5-79 between the City and the Secretary of the Kansas Department of Transportation, relating to City Connecting Link Maintenance in the City of Winfield, Cowley County, Kansas. Director of Public Improvements Steward explains this agreement establishes who is responsible for the maintenance of all sections and the annual amount KDOT provides to the City for maintenance of the sections assigned to the City. Upon motion by Commissioner Thompson, seconded by Commissioner Hutto, all Commissioners voting aye, Bill No. 2421 was adopted and numbered Resolution No. 2124.

**Bill No. 2422 - A Resolution** – Authorizing and directing the City Manager and Clerk of the City of Winfield, Kansas to execute an amendment to a lease agreement between the City of Winfield, Kansas and the Capper Foundation, clarifying and confirming the length of the initial term. City Manager Wall explains this Resolution will clarify the term of the lease with Capper Foundation and correct the signatory for the City to the City Manager. Upon motion by Commissioner Hutto, seconded by Commissioner Thompson, all Commissioners voting aye, Bill No. 2422 was adopted and numbered Resolution No. 2224.

**Bill No. 2423 - A Resolution** – Authorizing an Outdoor Community Event and Temporary Entertainment District Application (Old Skool Pro, LLC) City Manager Wall explains this Resolution will approve an Outdoor Community Event and Temporary Entertainment District Application for Old Skool Pro, LLC at the Winfield Fairgrounds. Upon motion by Commissioner Thompson, seconded by Commissioner Hutto, all Commissioners voting aye, Bill No. 2423 was adopted and numbered Resolution No. 2324.

**Bill No. 2424 - A Resolution** – Authorizing an Outdoor Community Event and Temporary Entertainment District Application (Stone Barn Farms). City Manager Wall explains this Resolution will approve an Outdoor Community Event and Temporary Entertainment District Application for Stone Barn Farms at Island Park. Upon motion by Commissioner Hutto, seconded by Commissioner Thompson, all Commissioners voting aye, Bill No. 2424 was adopted and numbered Resolution No. 2424.

**OTHER BUSINESS**

-Consider appointments to the Human Relations Commission and the City Planning Commission. City Manager Wall presented a list of appointments to the Human Relations Commission and the City Planning Commission. Commissioner Thompson made a motion to approve the appointments to the Human Relations Commission and the City Planning Commission as follows:

Human Relations Commission – 3-year terms

- Jennifer Passaglia
- Jayde Wesley
- Jessica Dibble
- Bart Redford
- Cindy Goertz
- Michelle Chism
- Bob McGregor

Planning Commission to fill vacancies expiring in 2025

- Matt Bradbury
- Doug Kinnear

Commissioner Hutto seconded the motion. With all Commissioners voting aye, motion carried.

**ADJOURNMENT**

Upon motion by Commissioner Hutto, seconded by Commissioner Thompson, all Commissioners voting aye, the meeting adjourned at 5:38 p.m.

Signed and sealed this 26th day of March 2024.

Signed and approved this 1st day of April 2024.

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Tania Richardson, City Clerk

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Brenda K. Butters, Mayor

**BILL NO. 2425**

**RESOLUTION NO. 2524**

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS AUTHORIZING EXECUTION OF A FIRST AMENDMENT TO SITE LEASE AND A FIRST AMENDMENT TO PROJECT LEASE BETWEEN THE CITY AND PETRA WINFIELD RESIDENCES, LLC RELATING TO THE CITY'S TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2023**

**WHEREAS**, the City of Winfield, Kansas (the "Issuer") is authorized by K.S.A. 12-1740 *et seq.*, as amended (the "Act"), to acquire, construct, and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, and to enter into leases and lease-purchase agreements with any person, firm or corporation for said facilities, and to issue revenue bonds for the purpose of paying the cost of any such facilities; and

**WHEREAS**, pursuant to Ordinance No. 4208 and a Trust Indenture dated as of October 1, 2023 (the "Indenture") between the Issuer and Security Bank of Kansas City, as trustee (the "Trustee"), the Issuer has previously issued its Taxable Industrial Revenue Bonds, Series 2023, in a principal amount not to exceed \$27,550,000, to provide funds to pay the costs of the acquisition, construction, and equipping of a multifamily housing facility (the "Project") leased by the Issuer to Petra Winfield Residences, LLC, a Kansas limited liability company, (the "Tenant"); and

**WHEREAS**, the Tenant leased an interest in the Real Property to the Issuer pursuant to a Site Lease dated as of October 1, 2023 (the "Site Lease"), and the Issuer leased the Project to the Tenant pursuant to a Project Lease dated as of October 1, 2023 (the "Project Lease"); and

**WHEREAS**, *Section 6.3* of the Site Lease provides that the Site Lease may be amended by agreement of the Issuer and the Tenant; and

**WHEREAS**, *Section 28.1* of the Project Lease provides that the Project Lease may be amended by agreement of the Issuer and the Tenant; and

**WHEREAS**, the Tenant, as the owner of 100% of the Outstanding Bonds, has requested the Issuer assist in a financing plan by amending the Site Lease and Project Lease to permit an assignment of the Site Lease and Project Lease by the Tenant be made with notice to the Issuer; and

**WHEREAS**, the Issuer agrees to amend the Site Lease and Project Lease pursuant to the request of the Tenant.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS:**

**Section 1. Definition of Terms.** All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the Indenture, the Site Lease and the Project Lease referred to herein.

**Section 2. Authorization of First Amendment to Site Lease.** The Issuer is authorized to enter into the First Amendment to Site Lease with the Tenant substantially in the form presented with this Resolution.

**Section 3. Authorization of First Amendment to Project Lease.** The Issuer is authorized to enter into the First Amendment to Project Lease with the Tenant substantially in the form presented with this Resolution.

**Section 4. Further Action.** The Mayor, Clerk and other officials and employees of the Issuer, including the Issuer's counsel and Bond Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Resolution, including, but not limited to: (a) execution of the First Amendment to Site Lease; and (b) execution of the First Amendment to Project Lease. The Issuer further directs the Trustee to consent to such amending documents. The Clerk is hereby authorized to deliver an executed copy of this Resolution and the amending documents to the Tenant.

**Section 5. Effective Date.** This resolution shall become effective upon adoption by the Governing Body.

**ADOPTED** by the governing body of the City of Winfield, Kansas on April 1, 2024.

[SEAL]

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Brenda K. Butters, Mayor

Attest:

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Tania Richardson, City Clerk

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of the Resolution of the Issuer adopted by the governing body on April 1, 2024, as the same appears of record in my office.

DATED: \_\_\_\_\_ 2024.

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Tania Richardson, City Clerk



TRIPLETT WOOLF GARRETSON, LLC

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FIRST AMENDMENT TO PROJECT LEASE

BY AND BETWEEN

THE

CITY OF WINFIELD, KANSAS

AND

PETRA WINFIELD RESIDENCES, LLC

DATED AS OF MARCH 1, 2024

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## FIRST AMENDMENT TO PROJECT LEASE

THIS FIRST AMENDMENT TO PROJECT LEASE is made and entered into as of March 1, 2024 (the “First Amendment to Lease”), by and between the City of Winfield, Kansas, a municipal corporation, duly organized and existing under the laws of the State of Kansas (the “Issuer”), and Petra Winfield Residences, LLC, a limited liability company organized under the laws of the State of Kansas and qualified to conduct its business in the State of Kansas (the “Tenant”).

WHEREAS, Issuer is a municipal corporation duly organized and existing under the laws of the State of Kansas, with full, lawful power and authority to enter into this First Amendment to Lease by and through its governing body; and

WHEREAS, the Issuer has previously authorized and issued its Taxable Industrial Revenue Bonds, Series 2023 (Petra Winfield Residences Project), in the original aggregate principal amount of not to exceed \$27,500,000 (the “Bonds”) for the purpose of paying the costs of the acquisition, construction and equipping of a multifamily housing facility (the “Project”); and

WHEREAS, the Tenant has site-leased the Real Property (as defined in the Project Lease) to the Issuer and the Issuer leased the Project (including the Real Property) to the Tenant, pursuant to the Project Lease, dated as of October 1, 2023 (the “Project Lease”), by and between the Issuer and Tenant; and

WHEREAS, Section 28.1 of the Project Lease provides that the Project Lease may be amended by agreement of the Issuer and the Tenant; and

WHEREAS, Issuer, the Tenant and the Tenant, as the owner of 100% of the Outstanding Bonds, desire to amend the Project Lease as set forth herein; and

WHEREAS, all acts and things necessary have been done and performed and this First Amendment to Lease has in all respects been duly authorized.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

Section 1. Section 9.2 Amendments. Section 9.2 of the Project Lease shall be deleted in its entirety and replaced with the following:

**Section 9.2. Assignment by the Tenant.** The Tenant may assign, mortgage, sell, or otherwise transfer its interest in this Project Lease and the Agreement for Payment in Lieu of Taxes, dated as of October 1, 2023, by and between the Issuer and Tenant, and the same shall be automatically assigned to any successor-in-interest to the Real Property. Tenant shall provide written notice to the Issuer and Trustee of any such assignment, mortgage, sale, or transfer within ten (10) days of the same. In the event of any such assignment, the Tenant

shall remain fully liable for the performance of its duties and obligations hereunder, except to the extent hereinafter provided, and no such assignment and no dealings or transactions between the Issuer or the Trustee and any such assignee shall relieve the Tenant of any of its duties and obligations hereunder, except as may be otherwise provided in the following Section.

Section 2. Ratification of Project Lease. Except as supplemented and amended hereby, the Project Lease is in all respects ratified and confirmed and the Project Lease, as hereby amended, shall be read, taken and construed as one and the same instrument.

Section 3. Counterparts; Electronic Transactions. This First Amendment to Lease may be executed simultaneously in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one instrument. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law

*[Remainder of Page Intentionally Left Blank]*

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

CITY OF WINFIELD, KANSAS

[seal]

By \_\_\_\_\_  
Brenda K. Butters, Mayor

ATTEST:

By \_\_\_\_\_  
Tania Richardson, City Clerk

“ISSUER”

ACKNOWLEDGMENT

STATE OF KANSAS            )  
  )  
COUNTY OF COWLEY        )        ss:

BE IT REMEMBERED that on this \_\_\_\_ day of April, 2024, before me, a notary public in and for said county and state, came Brenda K. Butters and Tania Richardson, Mayor and City Clerk, respectively, of the City of Winfield, Kansas, a Kansas municipal corporation, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

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

\_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:  
\_\_\_\_\_

PETRA WINFIELD RESIDENCES, LLC

By Petra, LLC,  
a Kansas limited liability company, Manager

By \_\_\_\_\_  
Noah C. Swank, Manager

“TENANT”

ACKNOWLEDGMENT

STATE OF KANSAS            )  
  )  
COUNTY OF \_\_\_\_\_)        ss:

BE IT REMEMBERED that on this \_\_\_\_ day of April, 2024, before me, a notary public in and for said County and State, came Noah C. Swank, Manager of Petra, LLC, a Kansas limited liability company, Manager of Petra Winfield Residences, LLC, a Kansas limited liability company, who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said limited liability company, and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

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

\_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:  
\_\_\_\_\_

CONSENT AND ACKNOWLEDGEMENT OF TRUSTEE

Security Bank of Kansas City, as the Trustee, under that certain Trust Indenture, dated as of October 1, 2023, by and between the City of Winfield, Kansas and the Trustee, and as assignee under that certain Assignment of Site Lease and Project Lease, dated October 1, 2023, by the City of Winfield, Kansas, hereby consents to and acknowledges the above and foregoing First Amendment to Lease, dated as of March 1, 2024, by and between the City of Winfield, Kansas and Petra Winfield Residences, LLC.

SECURITY BANK OF KANSAS CITY  
Kansas City, Kansas

By \_\_\_\_\_  
Shawn T. Hoebener, Vice President

“TRUSTEE”

ACKNOWLEDGMENT

STATE OF KANSAS            )  
  )  
COUNTY OF SEDGWICK    )        ss:

BE IT REMEMBERED, that on this \_\_\_\_ day of April, 2024, before me, the undersigned, a Notary Public in and for said County and State, came Shawn T. Hoebener, a duly authorized Vice President of Security Bank of Kansas City, Kansas City, Kansas (the “Bank”), a banking association duly organized under the laws of the State of Kansas, who is personally known to me to be the same person who executed the within instrument on behalf of said Bank, and such person duly acknowledged the execution of the same to be the act and deed of said Bank.

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

\_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:

\_\_\_\_\_

CONSENT AND ACKNOWLEDGEMENT OF BONDOWNER

Petra Winfield Residences, LLC, as owner of 100% of the Outstanding Bonds, hereby consents to and acknowledges the above and foregoing First Amendment to Lease, dated as of March 1, 2024, by and between the City of Winfield, Kansas and Petra Winfield Residences, LLC.

PETRA WINFIELD RESIDENCES, LLC

By Petra, LLC,  
a Kansas limited liability company, Manager

By \_\_\_\_\_  
Noah C. Swank, Manager

“TENANT”

ACKNOWLEDGMENT

STATE OF KANSAS            )  
  )  
COUNTY OF \_\_\_\_\_)        ss:

BE IT REMEMBERED that on this \_\_\_\_ day of April, 2024, before me, a notary public in and for said County and State, came Noah C. Swank, Manager of Petra, LLC, a Kansas limited liability company, Manager of Petra Winfield Residences, LLC, a Kansas limited liability company, who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said limited liability company, and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

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

\_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:  
  
\_\_\_\_\_

TRIPLETT WOOLF GARRETSON, LLC

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FIRST AMENDMENT TO SITE LEASE

BY AND BETWEEN

THE

CITY OF WINFIELD, KANSAS

AND

PETRA WINFIELD RESIDENCES, LLC

DATED AS OF MARCH 1, 2024

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## FIRST AMENDMENT TO SITE LEASE

THIS FIRST AMENDMENT TO SITE LEASE is made and entered into as of March 1, 2024 (the “First Amendment to Site Lease”), by and between the City of Winfield, Kansas, a municipal corporation, duly organized and existing under the laws of the State of Kansas (the “Issuer”), and Petra Winfield Residences, LLC, a limited liability company organized under the laws of the State of Kansas and qualified to conduct its business in the State of Kansas (the “Lessor”).

WHEREAS, Issuer is a municipal corporation duly organized and existing under the laws of the State of Kansas, with full, lawful power and authority to enter into this First Amendment to Site Lease by and through its governing body; and

WHEREAS, the Issuer has previously authorized and issued its Taxable Industrial Revenue Bonds, Series 2023 (Petra Winfield Residences Project), in the original aggregate principal amount of not to exceed \$27,500,000 (the “Bonds”) for the purpose of paying the costs of the acquisition, construction and equipping of a multifamily housing facility (the “Project”); and

WHEREAS, pursuant to a Site Lease, dated as of October 1, 2023, (the “Site Lease”), the Lessor has site leased the Real Property (as defined in the Site Lease) to the Issuer and the Issuer has leased the Project (including the Real Property) to the Lessor, pursuant to the Project Lease, dated as of October 1, 2023 (the “Project Lease”), by and between the Issuer and Lessor, as tenant; and

WHEREAS, Section 6.3 of the Site Lease provides that the Site Lease may be amended by agreement of the Issuer and the Lessor; and

WHEREAS, Issuer, the Lessor and the Lessor, as the owner of 100% of the Outstanding Bonds, desire to amend the Site Lease as set forth herein; and

WHEREAS, all acts and things necessary have been done and performed and this First Amendment to Site Lease has in all respects been duly authorized.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

Section 1. Section 2.7 Amendments. Section 2.7 of the Site Lease shall be deleted in its entirety and replaced with the following:

**Section 2.7. Assignment.** The Lessor may assign, mortgage, sell, or otherwise transfer its interest in the Real Property and this Site Lease under the same terms and conditions as applicable to the Project Lease in Article IX of the Project Lease and Lessor’s interest in this Site Lease shall be automatically assigned to any successor-in-interest to the Real Property. Lessor shall provide

written notice to the Issuer and Trustee of any such assignment, mortgage, sale, or transfer within ten (10) days of the same.

Section 2. Ratification of Site Lease. Except as supplemented and amended hereby, the Site Lease is in all respects ratified and confirmed and the Site Lease, as hereby amended, shall be read, taken and construed as one and the same instrument.

Section 3. Counterparts; Electronic Transactions. This First Amendment to Site Lease may be executed simultaneously in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one instrument. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law

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

CITY OF WINFIELD, KANSAS

[seal]

By \_\_\_\_\_  
Brenda K. Butters, Mayor

ATTEST:

By \_\_\_\_\_  
Tania Richardson, City Clerk

“ISSUER”

ACKNOWLEDGMENT

STATE OF KANSAS            )  
  )  
COUNTY OF COWLEY        )        ss:

BE IT REMEMBERED that on this \_\_\_\_ day of April, 2024, before me, a notary public in and for said county and state, came Brenda K. Butters and Tania Richardson, Mayor and City Clerk, respectively, of the City of Winfield, Kansas, a Kansas municipal corporation, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

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

\_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:  
\_\_\_\_\_

PETRA WINFIELD RESIDENCES, LLC

By Petra, LLC,  
a Kansas limited liability company, Manager

By \_\_\_\_\_  
Noah C. Swank, Manager

“TENANT”

ACKNOWLEDGMENT

STATE OF KANSAS            )  
  )  
COUNTY OF \_\_\_\_\_)        ss:

BE IT REMEMBERED that on this \_\_\_\_ day of April, 2024, before me, a notary public in and for said County and State, came Noah C. Swank, Manager of Petra, LLC, a Kansas limited liability company, Manager of Petra Winfield Residences, LLC, a Kansas limited liability company, who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said limited liability company, and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

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

\_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:  
\_\_\_\_\_

CONSENT AND ACKNOWLEDGEMENT OF TRUSTEE

Security Bank of Kansas City, as the Trustee, under that certain Trust Indenture, dated as of October 1, 2023, by and between the City of Winfield, Kansas and the Trustee, and as assignee under that certain Assignment of Site Lease and Project Lease, dated October 1, 2023, by the City of Winfield, Kansas, hereby consents to and acknowledges the above and foregoing First Amendment to Site Lease, dated as of March 1, 2024, by and between the City of Winfield, Kansas and Petra Winfield Residences, LLC.

SECURITY BANK OF KANSAS CITY  
Kansas City, Kansas

By \_\_\_\_\_  
Shawn T. Hoebener, Vice President

“TRUSTEE”

ACKNOWLEDGMENT

STATE OF KANSAS            )  
  )  
COUNTY OF SEDGWICK    )        ss:

BE IT REMEMBERED, that on this \_\_\_\_ day of April, 2024, before me, the undersigned, a Notary Public in and for said County and State, came Shawn T. Hoebener, a duly authorized Vice President of Security Bank of Kansas City, Kansas City, Kansas (the “Bank”), a banking association duly organized under the laws of the State of Kansas, who is personally known to me to be the same person who executed the within instrument on behalf of said Bank, and such person duly acknowledged the execution of the same to be the act and deed of said Bank.

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

\_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:

\_\_\_\_\_

CONSENT AND ACKNOWLEDGEMENT OF BONDOWNER

Petra Winfield Residences, LLC, as owner of 100% of the Outstanding Bonds, hereby consents to and acknowledges the above and foregoing First Amendment to Site Lease, dated as of March 1, 2024, by and between the City of Winfield, Kansas and Petra Winfield Residences, LLC.

PETRA WINFIELD RESIDENCES, LLC

By Petra, LLC,  
a Kansas limited liability company, Manager

By \_\_\_\_\_  
Noah C. Swank, Manager

“TENANT”

ACKNOWLEDGMENT

STATE OF KANSAS            )  
  )  
COUNTY OF \_\_\_\_\_)        ss:

BE IT REMEMBERED that on this \_\_\_\_ day of April, 2024, before me, a notary public in and for said County and State, came Noah C. Swank, Manager of Petra, LLC, a Kansas limited liability company, Manager of Petra Winfield Residences, LLC, a Kansas limited liability company, who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said limited liability company, and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

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

\_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:  
  
\_\_\_\_\_



## Request for Commission Action

**Date:** March 27, 2024

**Requestor:** Patrick Steward, Dir. Of Public Improvements / City Engineer

---

**Action Requested:** Awarding of a contract for Asphalt projects for 2024.

### **Analysis:**

Bids were solicited for Asphalt Street improvements for this year. The primary area to be addressed with this year's projects is Mound from 9<sup>th</sup> to 19<sup>th</sup>.

We received four bids for this year's projects. We've attached the bid tab for your reference. The bids came in under the Engineer's estimate. Based on the bid's received, we are recommending awarding the contract to APAC-Wichita, Inc., Shears Division, Wichita, Kansas.

**Fiscal Impact:** Funding for this work would be sales tax dollars.

**Attachments:** Proposed Resolution  
Bid Tab

**A RESOLUTION**

**AUTHORIZING** and directing the Mayor and Clerk of the City of Winfield, Kansas, to execute a contract for Project No. 24-TI929 for asphalt street improvements between the City of Winfield, Kansas and APAC-Kansas, Inc., Shears Division.

**WHEREAS**, bids for the street improvements were requested and accepted; and,

**WHEREAS**, APAC-Wichita, Inc., Shears Division, Wichita, Kansas, submitted the apparent lowest proposal;

**NOW, THEREFORE, 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 execute a contract for the amount of two hundred fifty-four thousand seven hundred two dollars and thirty-five cents (\$254,702.35) for Project No. 24-TI929, and additional street improvements at the contract prices as determined to be within the budget, for street improvements for various locations, between the City of Winfield and APAC-Wichita, Inc., Shears Division, Wichita, Kansas, a copy of which is attached hereto and made a part hereof the same as if fully set forth herein.

**Section 2.** This resolution shall be in full force and effect from and after its passage and approval.

**ADOPTED** this 1st day of April 2024.

(SEAL)

\_\_\_\_\_  
Brenda K. Butters, Mayor

ATTEST:

\_\_\_\_\_  
Tania Richardson, City Clerk

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

Approved for Commission action: \_\_\_\_\_  
Taggart Wall, City Manager/ps





## Request for Commission Action

**Date:** March 17, 2024

**Requestor:** Patrick Steward, Dir. Of Public Improvements / City Engineer

---

**Action Requested:** Awarding the contract for a Cost Share project with KDOT regarding improvements on Pike Road from 19<sup>th</sup> to US77.

**Analysis:**

The request is to award a contact for improvements on Pike Road with aid from KDOT's Cost Share program. As previously discussed, the City submitted and was awarded funding for a project to improve a portion of Pike Road by the construction of curb and gutter, pavement, stormwater piping, and sidewalk. The agreement provides 70% of the construction costs with a not-to-exceed contribution by KDOT of \$1,005,267. The City received six bids with the low bid being submitted by Andale Cosntruction.

**Fiscal Impact:**

The City's participating costs would be funded with sales tax dollars within the Special Street/Highway Fund.

**Attachments:** Resolution & Agreement

**A RESOLUTION**

**AUTHORIZING** and directing the Mayor and Clerk of the City of Winfield, Kansas, to execute a contract for Project No. 22-TI914 for street improvements on Pike Road between the City of Winfield, Kansas and Andale Construction.

\_\_\_\_\_

**WHEREAS**, bids for the street improvements were requested and accepted as part of a KDOT cost share program; and,

**WHEREAS**, Andale Construction, Park City, Kansas, submitted the apparent lowest proposal;

**NOW, THEREFORE, 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 execute a contract for the amount of one million three hundred twenty-eight thousand sixty-three dollars and seven cents (\$1,328,063.07) for Project No. 22-TI914, between the City of Winfield and Andale Construction, Park City, Kansas, a copy of which is attached hereto and made a part hereof the same as if fully set forth herein.

**Section 2.** This resolution shall be in full force and effect from and after its passage and approval.

**ADOPTED** this 1st day of April 2024.

(SEAL)

\_\_\_\_\_  
Brenda K. Butters, Mayor

ATTEST:

\_\_\_\_\_  
Tania Richardson, City Clerk

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

Approved for Commission action: \_\_\_\_\_  
Taggart Wall, City Manager/ps



## Request for Commission Action

**Date:** March 27, 2024

**Requestor:** Patrick Steward, Dir. Of Public Improvements / City Engineer

---

**Action Requested:** Approval of the agreement with the Secretary of Transportation for funding for the award of a transportation alternatives project and commitment of funds.

**Analysis:**

This agreement commits the City's share of the funds for the TA project. The original estimated project cost was \$263,338 with a Federal TA award of \$210,670 (80%) and local project share of \$52,668 (20%). The low bid came in below the estimate therefore, this action commits \$44,000 of City funds to the project.

**Fiscal Impact:** The local share portion of the project is anticipated to be funded with sales tax dollars from balances available in the Special Street Fund.

**Attachments:** Proposed Resolution, Agreement

**A RESOLUTION**

**AUTHORIZING** the execution of the Authority to Award Contract and Commitment of City Funds for Project No. 018-TE-0536-01.

**WHEREAS**, the Kansas Department of Transportation received bids at Topeka, KS on 3/20/24 to construct the work shown on the plans; and,

**WHEREAS**, the low bidder for the work was Barkclay Construction, LLC, Wichita, Kansas; and,

**WHEREAS**, the bids are considered satisfactory and have been recommended by the Secretary of Transportation of the State of Kansas for consideration and acceptance of the work on this project; and,

**WHEREAS**, the bid less non participating construction cost and federal participation equals \$44,000 in City Funds.

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

**Section 1.** The Mayor, Commission and Clerk of the City of Winfield, Cowley County, Kansas, are hereby authorized and directed to execute DOT Form 1309, Authority to Award Contract and Commitment of City Funds for project 018-TE-0536-01, a copy of which is attached hereto and made a part hereof.

**Section 2.** The City funds in the amount of \$44,000 which are required for the matching of Federal funds are hereby pledged by the City to be remitted to the Chief of Fiscal Services of the Kansas Department of Transportation on or before 5/9/2024 for use by the Secretary in making payments for construction work and engineering on the above designated project with the final cost being determined on completion and audit of the project.

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

**ADOPTED** this 1st day of April 2024.

(SEAL)

\_\_\_\_\_  
Brenda K. Butters, Mayor

ATTEST:

\_\_\_\_\_  
Tania Richardson, City Clerk

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

Approved for Commission action: \_\_\_\_\_  
Taggart Wall, City Manager / ps

Dwight D. Eisenhower State Office Building  
700 S.W. Harrison Street  
Topeka, KS 66603-3745



Phone: 785-296-3861  
Fax: 785-296-6946  
kdot#publicinfo@ks.gov  
http://www.ksdot.gov

Calvin E. Reed, P.E., Secretary  
Tod L. Salfrank, Chief

Laura Kelly, Governor

March 22, 2024

**Project Number: 018 TE-0536-01  
TA-T053(601)**

City of Winfield  
Mr. Patrick Steward  
Director of Public Works  
P.O. Box 646  
Winfield, KS 67156-

Dear Mr. Steward:

We are listing below the bidder and the low bid received at Topeka, KS on 3/20/2024 for the above numbered project.

| CONTRACTOR               | TYPE OF WORK                     | AMOUNT    |
|--------------------------|----------------------------------|-----------|
| BARKLEY CONSTRUCTION LLC | Winfield: US-160 Pedestrian Path | \$212,766 |
| WICHITA, KS              |                                  |           |

This is considered satisfactory when compared with the engineer's estimate, and we believe that contracts should be awarded to the low bidder. If this bid is acceptable to the City, please sign the enclosed resolution and return it to this office. In order to guarantee the low bid, we must receive the expected resolution on or before 4/12/2024. Upon receipt of the signed resolution and approval by the Secretary of Transportation the contract will be awarded.

A combination of bid items and construction engineering less \$174,611 Federal funds will require City matching funds in the amount of \$44,000. The City remittance should be made on or before 5/9/2024.

Sincerely,

for Tod L. Salfrank, Chief  
Bureau of Local Projects

tls/cch  
Enclosures  
c Mayor/City Manager  
Ms. Pam Anderson, Chief of Fiscal Services  
Mr. Nick Squires, P.E., District Five Engineer

**AUTHORITY TO AWARD CONTRACT  
 COMMITMENT OF CITY FUNDS  
 3/22/2024**

2 Copies to City  
 Project Number: 018 TE-0536-01  
 TA-T053(601)

WHEREAS bids were received at Topeka, KS on 3/20/2024 for the performance of work covered by plans on the above numbered project, and

WHEREAS the bidder and the low bid or bids on work covered by this project were:

| CONTRACTOR               | TYPE OF WORK                     | AMOUNT    |
|--------------------------|----------------------------------|-----------|
| BARKLEY CONSTRUCTION LLC | Winfield: US-160 Pedestrian Path | \$212,766 |
| WICHITA, KS              |                                  |           |

WHEREAS bids are considered satisfactory and have been recommended by the Secretary of Transportation of the State of Kansas, hereinafter referred to as the SECRETARY, for consideration and acceptance of the work on this project as covered by such bid or bids.

**A combination of bid items and construction engineering less \$174,611 Federal funds  
 will require City matching funds in the amount of \$44,000.**

BE IT FURTHER RESOLVED that City funds in the amount of \$44,000 which are required for the matching of Federal funds are hereby pledged by the City to be remitted to the Chief of Fiscal Services of the Department of Transportation of the State of Kansas on or before 5/9/2024 for use by the SECRETARY in making payments for construction work and engineering on the above designated project with final cost being determined upon completion and audit of the project.

The City certifies that no known or foreseeable legal impediments exist that would prohibit completion of the project and that the project complies with all applicable codes, standards and/or regulations required for completion.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, Kansas.

Recommended for Approval:

\_\_\_\_\_  
 City Engineer/Road Supervisor

\_\_\_\_\_, Mayor

Attest:

(Seal)

\_\_\_\_\_, Member

\_\_\_\_\_, Member

\_\_\_\_\_  
 City Clerk

# INVOICE

**\*Keep for your Records\***

**Due on or before 5/9/2024**

PRELIMINARY STATEMENTS OF COSTS

018 TE-0536-01

TA-T053(601)

Winfield: US-160 Pedestrian Path

Please Remit Payment to:  
 Kansas Department of Transportation  
 Bureau of Fiscal Services  
 700 SW Harrison Street, 3rd Floor West  
 Topeka, KS 66603

| Construction and CE Breakdown              |                  |
|--|------------------|
| Actual Bid                                 | \$212,686        |
| Water (for grading)                        | \$80             |
| <b>Sub-Total Actual Bid Amount</b>         | <b>\$212,766</b> |
| LPA CE Contract                            | \$5,498          |
| <b>Sub-Total Construction and CE</b>       | <b>\$218,264</b> |
| Federal-aid Non-Participating Const. Costs | \$0              |
| Federal-aid Non-Participating CE           | \$0              |
| Participating PE Costs                     | \$0              |
| Participating Railroad Costs               | \$0              |
| Participating ROW Costs                    | \$0              |
| Participating Utility Costs                | \$0              |
| <b>Federal Participating Project Costs</b> | <b>\$218,264</b> |
| <b>Total Project Costs</b>                 | <b>\$218,264</b> |

| Federal/City Funding Summary             |                  |
|--|------------------|
| <b>Total Project Costs</b>               | <b>\$218,264</b> |
| 100% City Funds Due to Non-Participating | \$0              |
| Federal Participating Project Costs      | \$218,264        |
| Fund 1- Available Funding                | \$218,264        |
| 80% Federal Funds                        | \$174,611        |
| 20% City Funds                           | \$43,653         |
| 100% City Funds Due to Max Funding       | \$0              |

| CE Breakdown                 |         |
|------------------------------|---------|
| Total LPA CE                 | \$5,498 |
| Federal Non-Participating CE | \$0     |
| Federal Participating CE     | \$5,498 |

| Key    |                                       |
|--------|---------------------------------------|
| KDOT   | Kansas Department of Transportation   |
| LPA    | Local Public Authority                |
| CE     | Construction Engineering (Inspection) |
| Const. | Construction                          |

| Totals                                 |                 |                  |             |                  |
|--|-----------------|------------------|-------------|------------------|
|  | City Funds      | Federal Funds    | State Funds | Total Funds      |
| Federal Non-Participating Construction | \$0             |                  |             | \$0              |
| Federal Non-Participating CE           | \$0             |                  |             | \$0              |
| Fund 1- 80% Federal Funds              |                 | \$174,611        |             | \$174,611        |
| Fund 1- 20% City Funds                 | \$43,653        |                  |             | \$43,653         |
| City Funds Due to Max Funding          | \$0             |                  |             | \$0              |
| <b>Total</b>                           | <b>\$43,653</b> | <b>\$174,611</b> | <b>\$0</b>  | <b>\$218,264</b> |

|   |                 |
|---|-----------------|
| <b>Amount to Bill County (Rounded Up)</b> | <b>\$44,000</b> |
|---|-----------------|



## BUREAU OF CONSTRUCTION & MATERIALS

As Read By Project (Bidders List by Individual Project)

Date: 03/20/2024

Contract Number: 524032525

Project Number: 018 TE 0536-01

Federal Number: TA-T053(601)

Description: PEDESTRIAN AND BICYCLE PATHS

County: COWLEY

State Ties: --

Total Records: 4

[Helpful Definitions](#)

| Contractor Name                 | Bid Amount   |
|---------------------------------|--------------|
| BARKLEY CONSTRUCTION LLC        | \$212,686.00 |
| ANDALE CONSTRUCTION INC         | \$226,697.00 |
| APAC-KANSAS INC SHEARS DIVISION | \$243,693.00 |
| PRADO CONSTRUCTION LLC          | \$294,728.00 |





## Request for Commission Action

**Date:** March 25, 2024

**Requestor:** Patrick Steward, Dir. Of Public Improvements / City Engineer

---

**Action Requested:** Approval of an agreement with the Secretary of Transportation for the City to perform construction engineering services for the transportation alternatives project.

### **Analysis:**

As we've discussed previously, the City made application in 2022 for funding under KDOT's Transportation Alternatives (TA) program. The City was awarded a TA project for 2023. This project would be for the construction of a pedestrian path along 9<sup>th</sup> Avenue (US160) from College to Wheat Road. The engineering for this project was completed at the time of the roadway improvements.

This agreement establishes the parameters for the City to perform construction engineering inspection services. City staff will act as the LPA project manager and certified inspector.

**Fiscal Impact:** The agreement provides for reimbursement of the City for inspections services in the amount of \$5,497.61.

**Attachments:** Proposed Resolution, Agreement

**A RESOLUTION**

**AUTHORIZING** and directing the Governing Body and Clerk of the City of Winfield, Kansas, to execute a Federal-Aid Construction Engineering Agreement No. 159-24 for Project No. TE-0536-01 between the City and the Secretary of the Kansas Department of Transportation, relating to the performance of work for construction engineering inspection services.

---

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

**Section 1.** The Governing Body and Clerk are authorized and directed a Federal-Aid Construction Engineering Agreement No. 159-24 for Project No. TE-0536-01 between the City and the Secretary of the Kansas Department of Transportation, relating to the performance of work by the City of Winfield for construction engineering inspection services.

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

**ADOPTED** this 1st day of April, 2024.

(SEAL)

---

Brenda K. Butters, Mayor

ATTEST:

---

Tania Richardson, City Clerk

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

Approved for Commission action: \_\_\_\_\_  
Taggart Wall, City Manager/ps

Dwight D. Eisenhower State Office Building  
700 S.W. Harrison Street  
Topeka, KS 66603-3745

Greg M. Schieber, P.E.  
Acting Secretary of Transportation  
State Transportation Engineer  
Tod L. Salfrank, Chief



Phone: 785-296-3861  
Fax: 785-296-6946  
kdot#publicinfo@ks.gov  
<http://www.ksdot.gov>  
Laura Kelly, Governor

March 18, 2024

Project No. 18 TE-0536-01  
City of Winfield  
Sedgwick County

Patrick Steward  
Director of Public Works  
200 E. 9<sup>th</sup>  
PO Box 646  
Winfield, KS 67156

Dear Mr. Steward:

Attached is the Force Account Construction Engineering Inspection Services Agreement for performance of work for this project that was prepared from your submitted proposal. The Agreement is a nineteen - (19) page document with nine (9) special attachments. Please review the entire Agreement and specifically note how the authority to proceed is issued, Article III, A., (1) and also note the basis of payment, Article II, A., (1) through (4) and the first Attachment – Specific Construction Provisions, Paragraph III, A. through E.

The Agreement and Special Attachments should be signed and attested as follows:

1. Agreement - Page 18 - signed and attested
2. Attachment – Certification as to Current History Regarding Debarment, Eligibility, Indictments, Convictions or Civil Judgements – completed, signed and dated.
3. Attachment – Certification Against Contingent Fees – completed, signed and dated.
4. Attachment -- Policy Regarding Sexual Harassment - signed and dated.
5. Attachment – Certificate of compliance with K.S.A. § 46-239(c) - Sheet 1 - answer questions sign and date.
6. Attachment – Certification Against Boycott of Israel - signed and dated.
7. Attachment – Certification Against Federal Lobbying - signed and dated.

Mr. Patrick Steward  
Project No. TE – 0536 - 01  
Page 2  
March 18, 2024

The City of Winfield, after executing the Agreement the City should immediately email the digital copy to **Jen Brendel** at [Jennifer.M.Brendel@ks.gov](mailto:Jennifer.M.Brendel@ks.gov) in the **Bureau of Local Projects and the Kansas Department of Transportation Legal Department** at [KDOT#OCC.contracts@ks.gov](mailto:KDOT#OCC.contracts@ks.gov) as soon as possible. **Please keep the agreement intact as a complete document. Signature pages must be kept with the agreement and not forwarded to KDOT separately.**

When the Agreement has been executed and dated by KDOT, the City will receive by email a scanned executed copy for your records. The Notice to Proceed Letter will come from the KDOT Field Engineer assigned to the Project.

Sincerely,

Tod L. Salfrank, Chief  
Bureau of Local Projects

TLS:mlb  
Enclosures

**CONTRACT FOR  
FEDERAL-AID CONSTRUCTION ENGINEERING BY LPA  
(FORCE ACCOUNT AGREEMENT)**

**CMS CONTRACT NO.** \_\_\_\_\_

**PROJECT NO. 18 TE-0536-01  
FEDERAL PROJECT NO. TA-T053(601)  
WINFIELD, KANSAS**

**THIS AGREEMENT** is by and between **Winfield, Kansas** (“LPA”), and the Secretary of Transportation of the State of Kansas acting by and through the **Kansas Department of Transportation** (KDOT) (“Secretary”), collectively, referred to as the “Parties.”

**RECITALS**

- A. The Secretary and the LPA previously executed an agreement related to this Project dated April 15, 2023 (Agreement No. 047-23), which is incorporated by this reference as if set out in its entirety herein including, but not limited to, any funding maximums established by the Secretary for the Project in its entirety. The final design Plans and specifications for said Project are available in the KDOT Headquarters in Topeka.
- B. The Federal Government through its Department of Transportation (USDOT) and the Federal Highway Administration (FHWA), pursuant to Title 23, U.S. Code, has established a program of Federal-Aid to the states designated as the Federal-Aid Program, with a general purpose to increase the safety and capacity of roads in the United States.
- C. Pursuant to authority vested in K.S.A. §§ 68-401, *et seq.*, the Secretary authorizes the LPA to perform certain Construction Engineering and technical services for the above noted Project requiring inspection, sampling, and testing of materials and workmanship, as well as other technical services (“Services”).
- D. The LPA represents that it currently has sufficient equipment of suitable type and the necessary employees with the education, training, and experience necessary to perform the Services this Agreement requires in an accurate and timely manner available for the Project. The LPA’s individual employees are licensed by the Kansas Board of Technical Professions as required by Kansas law. The LPA represents that all personnel utilized in performance of Services have appropriate training, qualifications, and certifications to perform Services. The LPA further represents the use of the forces and equipment required for the performance of the Services will not interfere with other work which is necessary to be performed by such forces and equipment on other roads in the LPA.
- E. The Secretary agrees the LPA shall perform Construction Engineering Services for this Project under the terms set forth in this Agreement and its associated attachments and exhibits, whether attached or incorporated by reference.

## ARTICLE I

### DEFINITIONS:

A. **“Agreement”** means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.

B. **“Construction Contract”** means a written agreement between the LPA and a Contractor, requiring the Contractor to construct or reconstruct a portion of the LPA’s roadway system for the Project for which the LPA is providing Services. The Construction Contract includes the following Contract Documents, all of which constitute one instrument and are incorporated by reference into this Agreement: proposal, Exploratory Work Documents, addenda, amendments, contract form, contract bond, Standard Specifications, Special Provisions, Project Special Provisions, general plans, detailed plans, drawings, the notice to proceed, material test methods, material test reports, material certifications, Part V of the KDOT Construction Manual, change orders, payment vouchers, guarantees, warranties, and other agreements, if any, that become required for construction and completion of a Project.

C. **“Construction Engineering” or “CE” or “Construction Engineering Inspection Services” or “Services”** means the services necessary to inspect and monitor the construction of the Project as detailed herein this Agreement and in the **Specific Construction Provisions Attachment**.

D. **“Construction Project”** means the specified location where a Contractor shall perform construction together with all improvements the Contractor shall be constructing under a Construction Contract.

E. **“Contract Documents” or “Documents”** mean the written, printed papers, and electronic/digital files, including but not limited to, the Standard Specifications, the Construction Contract, the Special Provisions, the Project Special Provisions, and the Plans.

F. **“Contractor”** means the individual, partnership, corporation, joint venture, or other legal entity undertaking the performance of work designated under the terms of the Construction Contract.

G. **“Exploratory Work Documents”** mean documents developed by KDOT, local governments, or consultants to determine a Project’s subsurface conditions, engineering requirements, or both. These may include geotechnical foundation investigation reports; soils reports; geology reports; hydraulic investigations; hydrological investigations; bridge reports; earth work computations; boring logs; surveys; rock investigations; soils investigations; environmental investigations; building investigations; bridge investigations; and other geological, geotechnical, or design information for a Project.

H. **“KDOT”** means the Kansas Department of Transportation, the Secretary of Transportation, and its authorized representatives and employees.

- I. **“KDOT Area Engineer”** or **“Area Engineer”**, for administrative control of this Agreement, means the KDOT Area Engineer, the KDOT Field Engineering Administrator, or Construction Manager, or other designee of the KDOT District Engineer.
- J. **“KDOT District Engineer”** means the KDOT District Engineer or designee who will perform KDOT’s administrative functions for the Project.
- K. **“Local Public Authority”** or **“LPA”** means City of Winfield, Kansas, and its authorized employees with its place of business located at 200 E. 9<sup>th</sup>, P.O. Box 646, Winfield, KS 67156.
- L. **“Manuals”** means the current version of the KDOT Documentation Manual, Construction Manual, Form Manual, CMS Procedures Manual, the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by the Secretary and all other current relevant documents adopted by KDOT.
- M. **“Non-Participating Costs”** means the costs of any items or services which the Secretary, acting on the Secretary’s own behalf and on behalf of the FHWA, reasonably determines are not Participating Costs.
- N. **“Notice to Proceed”** means a written notice from KDOT authorizing the LPA to begin performance of Services.
- O. **“Participating Costs”** means expenditures for items or services which are an integral part of highway, bridge, and/or road construction projects, as reasonably determined by the Secretary.
- P. **“Plans”** mean, unless noted as “preliminary,” the plan profiles, typical cross sections, and other detail sheets showing the location, character, dimensions, and details of a Contractor’s work on a Project.
- Q. **“Project”** means KDOT Project No. 18 TE-0536-01 including construction of a 0.434-mile pedestrian path on East 9<sup>th</sup> Avenue (US-160) from College Street to Wheat Road in the City of Winfield, Kansas, which will be completed under a Construction Contract, and for which the LPA will perform Construction Engineering Services.
- R. **“Project Special Provisions”** means the Documents that modify the Standard Specifications for a particular Project.
- S. **“Reports”** mean the formal documents that detail or summarize information analyzed, generated, or gathered for the Project or for a Construction Contract. Any document or information which is or should be produced by the exercise or practice of a technical profession, as defined in K.S.A. § 74-7001, *et seq.*, is considered a Report. Any record of inspection, sampling, or testing of materials or workmanship is a Report.

T. “**Special Provisions**” mean Documents that modify the Standard Specifications, such as details not covered by KDOT’s Standard Specifications, special fabrication, or construction features.

U. “**Standard Specifications**” means the current English edition of the Kansas Department of Transportation Standard Specifications for State Road and Bridge Construction.

## ARTICLE II

### SECRETARY’S GENERAL RESPONSIBILITIES:

A. For the Services which the LPA performs under this Agreement, the Secretary will do the following:

1. Issue a written Notice to Proceed to LPA. The Secretary assumes no obligation to pay for Services the LPA performs prior to KDOT’s issuance of a Notice to Proceed for such Services.
2. Furnish or make available to the LPA a sufficient supply of blank field diaries, logs, recordkeeping books, reporting forms, and other documents KDOT requires the LPA to utilize in the performance of Services.
3. Furnish or make available all Manuals requested by the LPA, if unavailable online.
4. Assign such KDOT personnel to the Project as the Secretary determines are needed.
5. Perform, or provide KDOT-furnished laboratory for, testing of materials when a laboratory is required.
6. Pay the LPA according to Article V.

B. The Secretary has the authority to review, approve, reject, eliminate, or modify some or all of the Services. When reviewing the Services, issuing approvals/rejections, or taking any other action, the Secretary and the Secretary’s representatives are not undertaking the LPA’s responsibility for its Services. Any review undertaken by the Secretary is done for the Secretary’s purposes and not for the benefit of the LPA, the Contractor, or the traveling public. The Secretary and the Secretary’s representatives make no representations, or express or implied warranties to any persons or entities regarding the Services.



### ARTICLE III

#### LPA'S GENERAL RESPONSIBILITIES:

A. For all Services performed under this Agreement, the LPA shall be responsible for the following obligations:

1. Furnish all labor materials, equipment, supplies, transportation, and incidentals necessary to perform the Services necessary and incidental to the accomplishment of the Project to the satisfaction of the Secretary, and as more detailed in the **Specific Construction Provisions Attachment**. The LPA represents that it is adequately staffed, properly qualified, and suitably equipped to perform the Services in a timely manner. The LPA shall perform all Services: (a) in conformance with the terms of this Agreement; (b) in compliance with applicable laws, rules, and regulations; and (c) with the degree of care, skill, and diligence ordinarily exercised by professional engineering firms performing services of a similar nature.

2. Follow Quality Assurance Procedures in checking or testing equipment the LPA will use to perform its Services. The LPA shall conduct this checking or testing before use of the equipment on the Project.

3. Documentation and Deliverables.

a. Reports and other technical data collected, recorded, or prepared by the LPA shall be maintained in form and substance, as well as in formats (electronic or otherwise), approved by KDOT.

b. LPA personnel shall perform Services and maintain Reports, records, and other Documents in an accurate and timely fashion. LPA personnel shall record, submit, and process such Reports, records, and Documents on a current basis.

c. LPA personnel shall neither allow nor accept any inspection, sampling, or testing of materials from any individual without first confirming such individual is currently qualified by KDOT to perform such inspection, sampling, or testing. No inspection, sampling, or testing will be attributed to any individual unless such individual actually performed such inspection, sampling, or testing. No test results shall be accepted unless the test results are submitted in writing with the name of the technician and the technician ID number along with the expiration date of the technician's certification.

B. The LPA shall perform its inspection Services in conformity with all the terms, conditions, plans and specifications of the applicable Construction Contract.

C. The LPA shall have sole responsibility for the adequacy and accuracy of Reports, technical data, and all other Services. The Secretary's performance under this Agreement is not intended to fulfill the LPA's obligations under this Agreement.

## ARTICLE IV

### A. CONTRACT ADMINISTRATION AND AUTHORITY

1. The KDOT Area Engineer will designate a KDOT representative to monitor, oversee, and coordinate the LPA's Services. The LPA shall communicate and coordinate its Services with the KDOT representative. KDOT's monitoring, oversight, and coordination of the LPA's Services is not an undertaking of the LPA's duty to provide adequate and accurate Services but rather to fulfill the Secretary's obligations.
2. The LPA will provide progress reports to the KDOT representative.
3. The KDOT representative will make decisions regarding changes in the work, unacceptable work, unauthorized work, defective work, and the LPA's compliance with all federal, state, and local laws, regulations, and ordinances.
4. The KDOT District Engineer or KDOT Area Engineer may order the LPA to remove from the Project any personnel of the LPA who are unable to perform Services in a competent or timely manner.
5. LPA personnel shall communicate and coordinate the Services with the KDOT representative. Consultant personnel shall transmit all Reports, documentation, and paperwork to the KDOT representative.
6. If the LPA furnishes all inspection, sampling, and testing for a Project, the LPA shall furnish and designate a Project Manager or Project Engineer as well as other inspection personnel or technicians to inspect, sample, and test materials and workmanship under the Construction Contract. The Project Manager/Project Engineer shall not act as the Contractor's superintendent or foreman. The Project Manager/Project Engineer shall not issue the instructions contrary to the Construction Contract. For such Project, the Project Manager/Project Engineer shall:
  - a. Supervise all LPA personnel and Services and shall act as a liaison among the Contractor, the LPA, and KDOT.
  - b. Have the responsibility and authority to reject unacceptable work, including unacceptable materials, until the KDOT representative resolves any questions or disputes.
  - c. Have the responsibility and authority to suspend all or part of the Contractor's work on a Project because of unsafe site conditions or unsafe work practices.
  - d. Provide guidance in interpreting Contract Documents and refer issues of interpretation to the KDOT representative.

e. The Project Manager/Project Engineer shall not alter or waive Construction Contract provisions. If a controversy arises, the Project Manager shall notify the KDOT representative without delay.

f. The Project Manager/Project Engineer shall transmit to the Contractor the orders and instructions of the KDOT representative. If the Project Manager/Project Engineer is unavailable and the matter needs prompt attention, the KDOT representative will transmit to the Contractor such orders or instructions and then notify the Project Manager/Project Engineer of the situation.

## **B. THIRD PARTIES**

1. If the Project work requires contact or coordination with third parties, then KDOT will contact and, if necessary, coordinate activities with third parties, such as affected local, state, and federal agencies, the general public, utilities, railroad companies, private consultants, businesses, and contractors.

2. The LPA shall cooperate fully with KDOT, the LPA, local agencies, state agencies, federal agencies, including the FHWA, the general public, utilities, railroad companies, private consultants, businesses, and contractors. The LPA recognizes that its actions or inactions may adversely impact or affect KDOT as well as other third parties, including but not limited to other consultants in plan development, any Contractor on the Construction Project, public utilities, private utilities, public landowners, private landowners, or others. The LPA shall do, or require to be done, all things reasonably necessary to: (a) avoid or mitigate unavoidable delays, costs, losses or damages which may arise out of, be caused by or attributed to the LPA's actions or inactions in performance of Services under this Agreement and (b) effectively coordinate with KDOT and third parties so as to enable KDOT to implement the Project in a timely and cost-effective manner.

## **C. CONSTRUCTION CONTRACT PERFORMANCE**

1. At the Secretary's request, the LPA shall attend conferences or meetings that occur during performance of a Construction Contract, including but not limited to, pre-construction conferences held with potential bidders and other third parties interested in or involved in the Project. The Secretary may hold such conferences/meetings to discuss the LPA's Services, the Contractor's operations, third parties' concerns, or other relevant Project or Construction Contract issues. KDOT may hold a close-out conference with the LPA to evaluate the LPA's performance.

2. The LPA shall require its personnel that are KDOT-certified inspectors and technicians to be present on the Project any time the Contractor performs work requiring inspection, sampling, or testing under the Construction Contract.

**D. TERM AND TERMINATION OF AGREEMENT**

1. Unless terminated sooner under Article IV.D.2. or IV.D.3., the term of this Agreement will commence upon the Effective Date described in Article VI.H.1 and expire upon notice of written release from the Secretary.
2. The Secretary may terminate this Agreement, in whole or in part, upon ten (10) days advance written notice delivered to the LPA.
  - a. If the Secretary terminates this Agreement in whole or in part, for the Secretary's own convenience, then the Secretary will pay the LPA the LPA's costs incurred before the termination date as Article V provides.
  - b. If the Secretary terminates this Agreement, in whole or in part, because of the LPA's failure to comply with its contract obligations or because of the LPA's negligent acts, errors, or omissions, then the Secretary will pay the LPA the reasonable value of Services performed before the termination date.
3. The LPA may terminate this Agreement upon ten (10) days advance written notice to the Secretary and delivered to KDOT's Bureau of Local Projects.
4. The Secretary or the LPA may or may not claim the other Party breached the contract when exercising their right to terminate this Agreement. Termination, in any case, does not prevent the Secretary from recovering damages for the LPA's failure to comply with its obligations under this Agreement or for the LPA's negligent acts, errors, or omissions (See Article VI.F.) or prevent the LPA from seeking payment for additional Services under Article V.B.
5. Regardless of which Party terminates this Agreement, the Secretary may require the LPA to complete some of the remaining Services. The LPA's obligations to perform shall not end until such Services are completed.

**ARTICLE V**

**A. BASIS OF PAYMENT**

1. Subject to the upper limit of compensation, disallowed costs (Article V.A.6.) applicable to the Project, and sums withheld for liquidated damages (Article V.A.11.), the Secretary will pay the LPA eighty percent (80%) of the supported actual costs for the performed Services not to exceed the upper limit of compensation of five thousand four hundred ninety-seven dollars and sixty-one cents (**5,497.61**). Additionally, the Secretary will pay the LPA its other direct costs expended on the Project, such as contract labor, approved subcontractor/subconsultant costs as necessary, equipment costs, transportation costs, lodging costs, and meal expenses.

2. Subject to the upper limit of compensation, the Secretary will pay for additional Services according to Article V.B. The Secretary will not pay the LPA for any costs the LPA incurred because of the LPA's negligent acts, errors, or omissions or because of the LPA's failure to comply with its obligations under this Agreement.

3. Initially, the Parties shall identify the upper limit of compensation on the **Special Construction Provisions Attachment**. The Parties may thereafter adjust the upper limit of compensation through a revised **Special Construction Provisions Attachment**, CMS Change Order, or Supplemental Agreement. The LPA shall notify the KDOT District Engineer before the LPA's Services exceed the upper limit of compensation so the Parties may consider an adjustment. The Secretary has no obligation to pay costs that exceed the upper limit of compensation unless and until any adjustment thereof is agreed in writing between the Parties.

4. To initiate payment for Services, the LPA shall submit to the KDOT District Engineer an itemized billing in the form approved by the KDOT District Engineer. The LPA shall not submit a billing more frequently than once a month or for less than five hundred dollars (\$500.00) during the progress of the work, for partial payment on account for the approved work completed by the LPA to date. In cases where the LPA submits billings which include costs incurred by a subconsultant, the same requirements of subparagraphs (a) – (b) below will apply. For each billing cycle the LPA shall:

a. Submit payroll documentation identifying all tasks and employees that worked on such tasks for the Project during that billing period, all hours each of these employees worked, the rate of pay for each of these employees, and all monies paid to each of these employees; and

b. Itemize the direct expenses and provide adequate supporting documentation, therefore.

5. The Secretary will pay for the Services within thirty (30) days after receiving, reviewing, and generally approving the LPA's itemized billing and accompanying documentation. This approval does not prevent the Secretary from adjusting a previous payment(s) for disallowed costs (Article V.A.6.) discovered after the Secretary has made that payment.

6. The LPA shall incur and invoice its costs in conformity with generally accepted accounting principles and the cost principles established in the Federal-Aid Policy Guide and the Code of Federal Regulations, Title 48, Chapter 1, Subchapter E, Part 31 (48 C.F.R. § 31.000, *et seq.*). The Secretary will not pay for disallowed costs. Disallowed costs include costs the Secretary determines are unreasonable, not actually incurred, caused by the LPA's failure to comply with its obligations under this Agreement, caused by the LPA's negligent acts, errors, or omissions, or otherwise unallowable. The LPA shall reimburse the Secretary if the Secretary previously paid any disallowed costs.

7. For Services performed, accumulated partial payments shall not exceed ninety-five percent (95%) of the federal-aid share of the upper limit of compensation.

8. The LPA shall submit its final invoice (clearly marked and designated as “final”) for final payment following completion of Services, but no later than one hundred eighty (180) days from completion of such Services. The LPA shall clearly designate and label such invoice as “final” so as to enable KDOT to proceed to close out the Project in accordance with its own internal procedures.

9. All local governmental units, state agencies, or instrumentalities, non-profit organizations, institutions of higher education, and Indian Tribal governments shall comply with Federal-Aid Transportation Act and the requirements of 2 C.F.R. Part 200, “Uniform Administrative Requirements, Cost Principles, and Requirements for Federal Awards” (commonly known as the “Supercircular”). Further, the LPA agrees to the following provisions:

a. Audit. It is the policy of the Secretary to make any final payments to the LPA for services related to the Project in a timely manner. The Audit Standards set forth in 2 C.F.R. Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” and specifically the requirements in Subpart F, 2 C.F.R. § 200.500, *et seq.*, require either a single or program specific audit be performed by an independent certified public accountant in accordance with these standards. All information audited and audit standards and procedures shall comply with 2 C.F.R. § 200.500, *et seq.*

b. Audit Report. The Secretary may pay any final amount due for the authorized work performed based upon the LPA’s most recent Single or Program Specific Audit Report “(Audit Report”) available and a desk review of the claim by the Contract Audit Section of KDOT’s Bureau of Fiscal Services. The LPA, by acceptance of this Agreement, acknowledges the final payment is subject to all single or program specific audits which cover the time period of the expenses being claimed for reimbursement. The Parties agree as the Audit Report becomes available for the reimbursement period (normally should occur within a period of 1-2 years), the Secretary will review the Audit Report for items which are declared as not eligible for reimbursement. The LPA agrees to refund payment made by the Secretary to the LPA for items subsequently found to be not eligible for reimbursement by audit.

c. Agency Audit. If the LPA is not subject to the Audit Standards set forth in 2 C.F.R. Part 200, the Secretary and/or the FHWA may request, in their sole discretion, to conduct an audit of the Project. Upon the request of the Secretary and/or the FHWA for an audit, the LPA will participate and cooperate in the audit and shall make its records and books available to representatives of the requesting agency for a period of five (5) years after date of final payment under this Agreement. If any such audit reveals payments have been made with federal funds

by the LPA for items considered Non-Participating Costs, the LPA shall promptly reimburse the Secretary for such items upon notification by the Secretary.

10. The LPA has registered and shall maintain current registrations in the System for Award Management (<http://www.sam.gov>) at all times during which it has active federal awards.

11. Upon receiving the final invoice and verifying the LPA completed its Services, the Secretary will pay the LPA the next-to final payment for that portion of the eligible remaining five percent (5%) of the upper limit (up to the maximum of the federal-aid share and as allowed by provision of state law), withholding the retainage specified in Article V.A.12. The LPA will not have completed its Services until the LPA has completed and returned all records, Reports, and other such documents this Agreement requires. If the LPA fails to complete and return all such documents to the KDOT District Engineer, then the LPA shall owe the Secretary liquidated damages of five hundred dollars (\$500.00) which shall be withheld from final payment.

12. Once the LPA has earned ninety-five percent (95%) of the federal-aid share of the upper limit of compensation, the Secretary will withhold as retainage one percent (1%) of the upper limit or five hundred dollars (\$500.00), whichever is greater. If partial payments never reach ninety-five percent (95%) of the federal-aid share of the upper limit, the LPA may request payment one hundred percent (100%) of the federal-aid share minus a retainage equal to one percent (1%) of the upper limit or five hundred dollars (\$500.00), whichever is greater. The Secretary will hold the retainage until the Secretary or the Secretary's authorized representative has performed a final audit of the LPA's Services. The Secretary will make final payment, if any, within ninety (90) days after KDOT completes the final audit. If the LPA owes the Secretary no money after audit, the final payment will equal the retainage. However, if the final audit reveals the LPA owes the Secretary money, the Secretary will apply the retainage to the amount owed before paying the LPA any remaining funds. The amount owed to the Secretary may include liquidated damages under Article V.A.11, overpayments, or other sums. If the retainage is insufficient to pay the amount owed, then the Secretary will issue a notice of deficiency, demanding that the LPA pay the balance owed. The LPA then shall pay the balance owed promptly after receiving notice of the deficiency. The Secretary will consider no claim for additional compensation submitted after KDOT has completed the final audit.

## **B. CHANGE IN SERVICES**

1. The KDOT Area Engineer may change the LPA's Services by increasing, decreasing, or otherwise modifying the Services this Agreement requires.

2. The LPA may request payment for increased or modified Services as "extra Services" by written request to the KDOT Area Engineer. No additional payment will be made to the extent "extra services" were caused by the LPA's breach of its contract obligations or the LPA's negligent acts, errors, or omissions. If the Secretary determines the "extra Services" are reasonable and/or necessary, then the Secretary may authorize

payment for these “extra Services” and increase the upper limit of compensation if necessary to compensate for the “extra Services.” Such increases may include adding structures, increasing the Construction Contract scope, increasing Project termini, or changing the duration of Services, among others.

3. If the KDOT Area Engineer decreases the Services or decreases the expected duration of Services, then the LPA shall have no claim for additional compensation. Such decreases may include eliminating structures, decreasing the Construction Project scope, decreasing Construction Project termini, or changing the duration of Services, among others.

4. For changes in Services, the LPA will submit in writing its opinion and justification for extra Services and the estimated amount of additional compensation and submit to the KDOT representative.

5. If the KDOT Area Engineer denies additional compensation for “extra services”, in whole or in part, the LPA may appeal this denial to the Deputy Secretary of Transportation/State Transportation Engineer. The State Transportation Engineer’s decision represents KDOT final agency action under the Kansas Judicial Review Act (KJRA), K.S.A. § 77-601, *et seq.*

## ARTICLE VI

### A. OWNERSHIP OF DOCUMENTS

1. Upon completion or termination of Services, the LPA shall furnish to the KDOT Area Engineer all Documents KDOT provided to the LPA for such Services.

2. Upon completion or termination of Services, the LPA shall furnish to the KDOT Area Engineer all original Documents and Reports the LPA compiled and prepared in performing such Services.

3. Any Documents, procedures, specifications, engineering calculations, information, Reports, or any other work products developed by the LPA as deliverables to KDOT as part of the Services performed and paid for under this Agreement shall become the property of KDOT, but the LPA shall have the right to retain copies thereof for its own internal recordkeeping and for the purposes of performing Services for a Project.

4. Upon completion or termination of Services and at the Secretary’s request, the LPA shall furnish to the KDOT Area Engineer copies of all correspondence, memoranda, instructions, receipts, invoices, e-mails, and any other Documents pertaining to such Services and the Project. These Documents are KDOT’s property.

5. Any or all Services performed under this Agreement may result in the LPA using Documents (such as reports, surveys, schedules, lists, or data) the Secretary’s authorized



representatives prepared, compiled, or collected that are use restricted pursuant to 23 U.S.C. § 407. Such Documents are watermarked “Use Restricted 23 U.S.C. § 407,” providing the Secretary with an evidentiary privilege that only counsel for KDOT may assert in litigation against KDOT. The LPA shall use these watermarked Documents only to perform Services on the Project. The LPA shall not remove or otherwise damage the 23 U.S.C. § 407 watermark. The requirements of this paragraph shall be included by the LPA in its subcontract agreements, if any, for the performance of any Services.

6. Documents collected or prepared by the LPA in the performance of this Agreement may be used without restriction by the Secretary for any public purpose. Any such use shall be without compensation to the LPA.

## **B. ACCESS TO RECORDS; AUDITS**

1. The LPA shall keep all Project Documents arising out of or related to performance of Services for a five-year retention period beginning with the LPA’s final payment date. The final payment date is the voucher date on the Secretary’s last payment to the LPA. This final payment occurs after the LPA submits its request for final payment and KDOT has completed the final audit. The LPA shall make all Documents available at the LPA’s principal office.

2. The Secretary, FHWA, or both, may inspect and review all Documents pertaining to the LPA’s Services during the LPA’s performance and the five-year retention period.

3. The LPA shall maintain all cost documentation according to generally accepted accounting principles and the cost principles contained in Code of Federal Regulations, Title 48, Chapter 1, Subchapter E, Part 31 (48 C.F.R. § 31.000, *et seq.*).

4. Within five (5) years after the LPA has submitted its invoice for final payment on Work Estimate for a Project, having completed its Services, the Secretary or the Secretary’s authorized representatives may perform a final audit of the LPA’s costs conducted according to generally accepted governmental auditing standards and in compliance with cost principles contained in Code of Federal Regulations, Title 48, Chapter 1, Subchapter E, Part 31 (48 C.F.R. § 31.000, *et seq.*). Without limitation, the auditors may determine whether costs incurred were actual and necessary, reasonable, allowable, and in compliance with regulations and whether the compensation did not exceed the applicable upper limit of compensation. The auditors may review all subconsultant records and costs, if any, as well. The LPA shall reimburse the Secretary for overpayments.

5. The LPA shall include the provisions of Articles VI.B.1—B.4. above in all subconsultant agreements, if any.

**C. AGREEMENT ITEMS**

1. Incorporation of Documents. The correlation, interpretation, and intent of the Agreement documents, including the Agreement and attachments thereto, shall be as follows:
  - a. All Attachments listed and checked on the Index of Attachments are made a part of and incorporated into this Agreement.
  - b. The Agreement, the Notice to Proceed, and all supplemental agreements shall be included as the Agreement documents
  - c. The Agreement documents comprise the entire Agreement between the Secretary, the Consultant, and the LPA.
  - d. The Agreement documents are complimentary; that is, what is called for by one is binding as if called for by all. If the Consultant or the LPA finds a conflict, error, or discrepancy in the Agreement documents, the Consultant or the LPA will call it to the Secretary's attention before proceeding with the work affected thereby. In resolving such conflicts, errors, and discrepancies, the documents shall be given precedence in the following order: Supplemental Agreement, this Agreement, and Notice to Proceed.
2. No Party may alter or amend this Agreement except by a revised Work Estimate, CMS Change Order, or Supplemental Agreement evidencing written agreement between the Parties for such alteration or amendment.

**D. LEGAL RELATIONS**

1. The LPA shall observe and comply with all applicable federal, state, and local laws, ordinances, and regulations.
2. This Agreement binds the Parties and the Parties' successors and assigns. The LPA shall not assign this Agreement without the prior written permission of the Secretary. Notwithstanding any other provision of this Agreement, the LPA shall not subcontract any part of the Services without prior written approval by the Secretary.
3. This Agreement creates no third-party beneficiaries.
4. In the event any disagreement, dispute, or claim of the LPA arising out of or in connection with the LPA's performance of this Agreement, the LPA shall make written request to the KDOT District Engineer to review the matter. If dissatisfied with the review and decision of the KDOT District Engineer, then the LPA may appeal, in writing, to the Deputy Secretary of Transportation/State Transportation Engineer within fifteen (15) calendar days of receipt of the decision of the KDOT District Engineer. The State

Transportation Engineer's decision represents KDOT final agency action under the Kansas Judicial Review Act (KJRA), K.S.A. § 77-601, *et seq.*

5. The **Civil Rights Act Attachment** (Rev. 01.24.23) pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.
6. The provisions found in the current version of **Contractual Provisions Attachment (Form DA-146a)**, which is attached, are hereby incorporated into and made a part of this Agreement.

#### **E. WORKERS' COMPENSATION**

The LPA will elect to come within the provisions of the Workers' Compensation Act (K.S.A. § 44-505) for all Services performed for the Project and will provide such workers' compensation insurance as is required by the Commissioner of Workers' Compensation.

#### **F. ERRORS AND OMISSIONS; INDEMNIFICATION; INSURANCE**

1. The LPA shall promptly correct, without additional compensation, the LPA's failure to perform its obligations under this Agreement. The LPA shall promptly correct its negligent acts, errors, or omissions without additional compensation. If the Services affect a third party, then the LPA shall perform corrections in a manner that minimizes delay to the third party and other damages.

2. The LPA shall pay for or reimburse the Secretary for damages and costs the Secretary has incurred or will incur, because the LPA failed to comply with its obligations under this Agreement and LPA's negligent acts, errors, or omissions arising out of or in connection with the LPA's performance of this Agreement. These damages include personal injury to KDOT employees, damage to KDOT property, and economic loss whether the economic loss arises in contract, tort, or equity. Economic loss encompasses direct and consequential damages Kansas law permits the Secretary to recover, including monies the Secretary pays or owes to construction contractors, monies the Secretary pays or owes to consulting firms, delay damages, or other damages arising from the LPA's failure to comply with its obligations. This Agreement does not authorize third parties to seek recovery as third-party beneficiaries of this Agreement or in any other capacity.

3. To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act (K.S.A. § 75-6101, *et seq.*) as applicable, the LPA will defend, indemnify, hold harmless, and save the Secretary and the Secretary's authorized representatives from any and all claims, suits, damages, whether property damages, personal injury damages, or economic damages, and costs resulting from the LPA's failure to comply with its obligations under this Agreement, resulting from the LPA's negligent acts, errors, or omissions in performing its Services, or all of the above. The LPA shall have no obligation to defend, indemnify, hold harmless, and save the Secretary for negligent acts or omissions of the Secretary or the Secretary's authorized representatives or employees.

## G. CONFLICT OF INTEREST

1. The LPA warrants it has no public or private interest and shall not acquire (directly or indirectly) any such interest, which would conflict with the Services performed under this Agreement.
2. The LPA shall not hire persons in KDOT's employment to provide Services under this Agreement without the Secretary's prior written permission.

## H. EFFECTIVE DATE; REPRESENTATION OF AUTHORITY

1. This Agreement will become effective on the date when signed by the Secretary or the Secretary's designee ("Effective Date"). It is intended that the LPA will sign first, and the Secretary (or the Secretary's designated representative) will sign last; therefore, the effective date of the Agreement will be the latter date.
2. In signing this Agreement, the Parties and the individual person signing on behalf of such Party represent that the person signing is duly authorized, having the authority and capacity to execute and legally bind the respective entity to this Agreement.

## I. FEDERAL REQUIREMENTS

1. Anti-Lobbying. If the total value of this agreement exceeds one hundred thousand dollars (\$100,000.00), a **Certification for Federal Aid Contracts and accompanying Disclosure of Lobbying Activities Attachment** will be attached to and made part of this Agreement. Such certification must state the recipient or subrecipient of a federal grant will not and has not used Federally-appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. 2 C.F.R. § Pt. 200, App. II.
2. Debarment & Suspension. If the value of this Agreement exceeds twenty-five thousand dollars (\$25,000.00), it is a covered transaction for purposes of 2 C.F.R. Parts 180 and/or 1200. By signature on this Agreement, the LPA verifies that neither it, nor its agents or employees, are presently debarred, suspended, proposed for debarment, declared ineligible, disqualified, or voluntarily excluded from participation in this transaction by any federal department or agency as reflected in the System for Award Management (SAM). Exec.Orders No. 12549 and 12689; 2 C.F.R. § 200.213. A **Certification as to Current History Regarding Debarment, Eligibility, Indictments, Convictions, or Civil Judgments Attachment** will be attached to and made a part of this Agreement. 2 C.F.R. § 200.213.
3. System for Award Management. The LPA has registered with the System for Award Management (<http://www.sam.gov/>), which provides a Unique Entity Identifier (SAM).

The LPA shall maintain such registration at all times during which it has active federal awards.

4. Buy America Compliance. The Parties agree to comply with the Buy America requirements of 23 C.F.R. § 635.410, or other applicable Buy America requirements, when purchasing items using Federal funds under this Agreement. Buy America requires the Parties to purchase only steel and iron produced in the United States unless a waiver has been granted by FHWA or the product is subject to a general waiver. Costs for applicable materials which are not certified either compliant or under waiver will not be reimbursed. Buy America requirements apply to all contractors/subcontractors and should be incorporated through appropriate contract provisions as needed.
5. Prohibition on Certain Technologies. All Parties agree that they will comply with 2 C.F.R. §§ 200.216 and 200.471 regulations. Such regulations provide that recipients and sub-recipients of federal funds are prohibited from obligating or expending loan or grant funds to 1) procure or obtain; 2) extend or renew a contract to procure or obtain, or; 3) or enter into a contract to procure or obtain telecommunication or video surveillance equipment, services, or systems produced by: Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); and Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). Any expenditures for such telecommunication or video surveillance equipment, services or systems are unallowable costs and will not be reimbursed.

***The signature page immediately follows this paragraph.***

**NOW THEREFORE**, the Parties cause their duly authorized representatives to enter into this Agreement.

RECOMMEND FOR APPROVAL:

CITY OF WINFIELD, KANSAS

\_\_\_\_\_  
CITY ENGINEER (Date)

\_\_\_\_\_  
MAYOR (Date)

ATTEST:

\_\_\_\_\_  
CITY COMMISSION MEMBER (Date)

\_\_\_\_\_  
CITY CLERK (Date)

\_\_\_\_\_  
CITY COMMISSION MEMBER (Date)

(SEAL)

Kansas Department of Transportation  
Secretary of Transportation

By: \_\_\_\_\_  
Greg M. Schieber, P.E. (Date)  
Deputy Secretary and  
State Transportation Engineer

Approved as to form:

### **INDEX OF ATTACHMENTS**

- Specific Construction Provisions
- Certification as to Current History Regarding Debarment, Eligibility, Indictments, Convictions, or Civil Judgments
- Certification Against Contingent Fees
- Policy Regarding Sexual Harassment
- Certificate of Compliance with K.S.A. § 46-239(c)
- Certification of Company Not Currently Engaged in a Boycott of Goods or Services from Israel
- Contractual Provisions Attachment (DA-146a)
- Certification for Federal Aid Contracts and accompanying Disclosure of Lobbying Activities
- Civil Rights Act
- Listing of KDOT Certified Inspectors
- Estimate of Engineering Fee / Work Estimate Form
- Certificate of Tax Clearance

\*Note – If left unchecked, then inapplicable.

## **SPECIFIC CONSTRUCTION PROVISIONS**

### **ARTICLE I        SCOPE OF SERVICES (CONSTRUCTION ENGINEERING INSPECTION SERVICES TO BE PERFORMED BY THE CONSULTANT)**

#### **A.        THE CONSULTANT AGREES TO THE FOLLOWING:**

- (1)        Attend all conferences designated by KDOT or required under the terms of this Agreement.
- (2)        Designate a Project Engineer/Project Manager who shall meet KDOT's certification policy and report and transmit Project activity and documents to KDOT's Field Engineer.
- (3)        Assign KDOT Certified Inspector(s) of the appropriate classifications to the Project to perform the services required under this Agreement in a timely manner to avoid delay to the Contractor.
- (4)        Become familiar with the standard practices of KDOT, the Contract Documents, and the Contractor's proposed schedule of operations prior to beginning field services to be performed under this Agreement.
- (5)        Perform the Consultant's field operations in accordance with accepted safety practices.
- (6)        Furnish all equipment required to accomplish the Consultant's services and to check or test it prior to use on the Project.
- (7)        Provide for Consultant personnel such transportation, supplies, materials and incidentals as are needed to accomplish the services required under this Agreement.
- (8)        Transmit orders from KDOT to the Contractor and provide guidance in the interpretation of the Contract Documents.
- (9)        Transmit orders from KDOT to the Contractor and provide guidance in the proper interpretation of the Contract Documents.
- (10)       Perform or provide construction surveys, staking, and measurements needed by the Contractor (unless provided for in the contract where contractor construction staking is to be performed as a bid item by the Contractor) and perform measurements and surveys that are involved in the determination of final pay quantities.
- (11)       Inspect all phases of construction operations to determine the Contractor's compliance with the Contract Documents and to reject such work and materials, which do not comply with the Contract Documents until any questions at issue, can be referred to and be decided by the KDOT's Field Engineer.
- (12)       Take field samples and/or test materials to be incorporated in the work and reject those not meeting the provisions of the Contract Documents until any questions at issue can be referred to and be decided by the Field Engineer.



- (13) Make certain that test report records or certificates of compliance for materials tested off the Project site and required, prior to the incorporation in the work, have been received.
- (14) Keep such daily diaries, logs and records as are needed for a complete record of the Contractor's progress, including the Consultant's Project Engineer/Project Manager and Chief Inspector's diaries.
- (15) Measure and compute all materials incorporated in the work and items of work completed and maintain an item account record.
- (16) Provide measurement and computation of pay items.
- (17) Prepare and submit, or assist in preparing, such periodic, intermediate and final reports and records as may be required by KDOT and as are applicable to the Project, which may include:
  - a. Progress Reports
  - b. Weekly statement of working days
  - c. Notice of change in construction status
  - d. Report of field inspection of material
  - e. Test report record
  - f. Contractor pay estimates
  - g. Pile driving data
  - h. Piling record
  - i. Final certification of materials
  - j. Explanation of quantity variation
  - k. Other reports as required by the Project
- (18) Review, or assist in reviewing, all Contractor submittals of records and reports required by KDOT, as applicable to the Project, which may include:
  - a. Requests for partial and final payment
  - b. Other reports and records as required by the individual Project
- (19) Prepare and submit if desired by the Consultant, partial payment invoices for services rendered by the Consultant, but not to exceed one submittal per month.
- (20) Collect, properly label or identify, and deliver to KDOT all original diaries, logs, notebooks, accounts, records, reports and other documents prepared by the Consultant in the performance of this Agreement, upon completion or termination of this Agreement.
- (21) Return, upon completion or termination of this Agreement, all Contract Documents, Manuals, written instructions, unused forms and record keeping books, and other documents and materials furnished by KDOT. The Consultant shall be responsible for replacing lost documents or materials at the price determined by KDOT.
- (22) Prepare and submit a certification of Project completion.
- (23) Prepare and submit a final payment voucher for services rendered by the Consultant.

(24) Prepare and deliver (when Project is completed) one copy of major changes to the Plans (by letter) to KDOT. The letter should contain such items as the following:

- a. Earthwork and Culverts
  1. A revised list of benchmarks
  2. Location of government benchmarks
  3. Major changes in alignment
  4. Major changes in grade line
  5. Established references on cornerstones
  6. Major changes in location of drainage structures
  7. Major changes in flow-line of drainage structures
  8. Drainage structures added or deleted
  9. Any change of access control
  
- b. Bridges
  1. Changes in stationing
  2. Changes in type, size or elevation of footings
  3. Changes in grade line

**B. THE SECRETARY AGREES TO THE FOLLOWING:**

- (1) Make available to the Consultant sufficient copies of the Contract Documents, shop drawings, plan revisions, written instructions and other information and data considered by KDOT to be necessary for the Consultant to perform the Construction Engineering Inspection Services under this Agreement, for the Project.
- (2) Provide for the use of the Consultant a sufficient supply of the blank diaries, logs, record keeping books, and reporting forms considered by KDOT to be necessary for the Consultant to perform the Construction Engineering Inspection Services under this Agreement.
- (3) Provide space in the field office and field laboratory furnished by the Contractor under the terms of the Construction Contract, for the occupancy and use of the Consultant until completion of the construction work.
- (4) Perform or provide for laboratory testing of materials requiring off-site testing facilities and obtain test reports or certificates of compliance hereof.
- (5) Perform weld inspection when there is welding for bridge beam connections and splices, and for sign supports. This includes all cross frames, diaphragm connections, and stud welding.
- (6) Designate a Field Engineer Coordinator in the Construction Office with the duties and responsibilities set forth in Article I, Section C of this Agreement.
- (7) The Secretary reserves the right to assign and charge to the Project such KDOT personnel as may be needed.

## ARTICLE II PROSECUTION AND PROGRESS

- (1) It is anticipated the Construction Engineering Inspection Services to be performed under the Construction Contract will start in 2024 and be completed by 2024.
- (2) The Consultant shall complete all of the Construction Engineering Inspection Services to be rendered under this Agreement no later than two months after completion of Project construction. Failure to comply may result in disqualification of the Consultant's Project Engineer/Project Manager or Chief Inspector until proper documentation is submitted and accepted.

## ARTICLE III BASIS OF PAYMENT

- (1) Compensation of Construction Engineering Inspection Services provided by the Consultant under the terms of this Agreement shall be made on the basis of the reimbursable Consultant's actual cost plus a net fee amount of **\$0**. The actual cost shall be incurred in conformity with the cost principles established in Volume 1, Chapter 7, Section 2 of the Federal-aid Highway Policy Guide and 48 C.F.R. pt. 31 *et seq.* The upper limit of compensation for the Construction Engineering Inspection Services detailed in this Agreement shall be **\$5,497.61**.
- (2) Compensations for Construction Engineering Inspection Services during the progress of work normally will be made to the Consultant within 30 days after receipt by the Secretary of proper billing and when supported by appropriate documentation. The Consultant may not request partial payments at intervals of more than one per calendar month. Progress billings shall be acceptable to the Secretary before payments can be made to the Consultant. Unless extra Construction Engineering Inspection Services has been authorized by the Secretary, the total of the final payment and previous payments can not exceed the upper limit of compensation approved for the Construction Engineering Inspection Services. If extra Construction Engineering Inspection Services has been authorized it will be reimbursed as per the terms of the supplemental agreements(s).
- (3) The Secretary will pay 100 percent of all partial billings up to 95 percent of the upper limit of compensation. Any further amount due will be held until the KDOT field office obtains all deliverables (field books, CMS disks, as-built plans, etc.) from the Consultant. When all deliverables are received by KDOT the remainder due may be paid if requested by the Consultant minus a \$500.00 retainage or the amount earned in excess of 95 percent of the upper limit, whichever is less. If partial payments never reach 95 percent of the upper limit, the Consultant may request payment of 100 percent of the amount earned minus a \$500.00 retainage. The retainage amount will be released to the Consultant when this Agreement has been audited by KDOT.
- (4) The Secretary will reimburse the Consultant for the approved voucher amount up to the upper limit of compensation (or upper limit plus any amount approved by a revised supplemental) for Construction Engineering Inspection Services detailed in this Agreement. The payments will be made provided the LPA has submitted to KDOT the estimated LPA's share of the Project cost and the LPA's estimated share of the Construction Engineering cost.

- (5) If this Agreement's upper limit of compensation exceeds the amount approved by the FHWA, KDOT will reimburse the Consultant for the approved voucher fee (not to exceed this Agreement's upper limit of compensation unless authorization has been granted and included in a revised supplemental agreement for the Construction Engineering Inspection Services). The LPA will reimburse KDOT for fees voucher by the Consultant and approved by KDOT up to the upper limit of compensation in this Agreement that may exceed the FHWA's approved amount unless provisions are provided for payment under state law.

#### **ARTICLE IV MISCELLANEOUS PROVISIONS**

##### **A. AUTHORIZED REPRESENTATIVES**

- (1) The Field Engineer for KDOT will be A. J. Wilson, whose work address is 7093 U.S. 160, Winfield, KS 67156 and work telephone is (620) 705-6389.
- (2) The Project Engineer/Project Manager for the Consultant will be Patrick Steward, Certification Number N/A (expiration date N/A) 200 E 9<sup>th</sup> Ave, Winfield, KS 67156 and work telephone is (620) 221-5520.
- (3) The Chief Inspector for the Consultant will be Kevin Boekner, Certification Number 5836 (expiration date is February 2027), whose work address is 200 E 9<sup>th</sup> Ave, Winfield, KS 67156 and work telephone is (620) 218-8396.
- (4) The contact person for the LPA will be Patrick Steward, whose work address is 200 E 9<sup>th</sup> Ave, Winfield, KS 67156 and work telephone is (620) 221-5520.

##### **B. ACCESS TO RECORDS**

- (1) All documents and evidence pertaining to costs incurred under this Agreement will be available for inspection during normal business hours in the Consultant's office, located at 200 E 9<sup>th</sup> Ave, Winfield, KS 67156, for a period of three (3) years following final Agreement payment.

**For Consultant**

**Certification by Prospective Participants as to current history regarding debarment, eligibility, indictments, convictions, or civil judgments**

\_\_\_\_\_  
*President, Chairman, or Authorized Official*

being duly sworn (or under penalty of perjury under the laws of the United States), certifies that, except as noted below, \_\_\_\_\_

\_\_\_\_\_  
*Agency or Company*

or any person associated therewith in the capacity of \_\_\_\_\_

\_\_\_\_\_  
*Owner, partner, director, officer, principal investigator, project director, manager, auditor, or any other position involving the administration of federal funds*

is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;

has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;

does not have a proposed debarment pending; and

has not been indicted, convicted, or had a civil judgment rendered against (it) by a court of competent jurisdiction in any manner involving fraud or official misconduct within the past three years;

Exceptions \_\_\_\_\_

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder or respondent responsibility. For any exceptions noted, indicate below to whom it applies, initiating agency, and dates of action.

\_\_\_\_\_  
\_\_\_\_\_  
Providing false information may result in criminal prosecution or administrative sanctions.

\_\_\_\_\_  
Signature

Sworn to before me, a Notary Public in and for the County of \_\_\_\_\_, State of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_

**For LPA**

**Certification by Prospective Participants as to current history regarding debarment, eligibility, indictments, convictions, or civil judgments**

\_\_\_\_\_  
*President, Chairman, or Authorized Official*

being duly sworn (or under penalty of perjury under the laws of the United States), certifies that, except as noted below, \_\_\_\_\_

\_\_\_\_\_  
*Agency or Company*

or any person associated therewith in the capacity of \_\_\_\_\_

\_\_\_\_\_  
*Owner, partner, director, officer, principal investigator, project director, manager, auditor, or any other position involving the administration of federal funds*

is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;

has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;

does not have a proposed debarment pending; and

has not been indicted, convicted, or had a civil judgment rendered against (it) by a court of competent jurisdiction in any manner involving fraud or official misconduct within the past three years;

Exceptions \_\_\_\_\_

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder or respondent responsibility. For any exceptions noted, indicate below to whom it applies, initiating agency, and dates of action.

\_\_\_\_\_  
\_\_\_\_\_  
Providing false information may result in criminal prosecution or administrative sanctions.

\_\_\_\_\_  
Signature

Sworn to before me, a Notary Public in and for the County of \_\_\_\_\_, State of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_

CERTIFICATION OF LPA

I hereby certify that I am \_\_\_\_\_ and duly authorized representative of \_\_\_\_\_ (LPA) and that neither I nor the above agency I here represent has:

- (a) employed or retained for the payment of a commission, percentage, brokerage, contingent fee, or other consideration, any person (other than a bona fide employee working solely for me or the LPA) to solicit or secure this Agreement,
- (b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the agreement, or
- (c) paid, or agreed to pay, to any firm, organization of persons (other than a bona fide employee working solely for me or the LPA) any fee, contribution, donation, or consideration of any kind, for, or in connection with, procuring or carrying out the Agreement;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Secretary of Transportation of the State of Kansas in connection with this Agreement and is subject to applicable State and Federal laws, both criminal and civil.

\_\_\_\_\_  
(Date)

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

**Policy Regarding Sexual Harassment**

**WHEREAS**, sexual harassment and retaliation for sexual harassment claims are unacceptable forms of discrimination that must not be tolerated in the workplace; and

**WHEREAS**, state and federal employment discrimination laws prohibit sexual harassment and retaliation in the workplace; and

**WHEREAS**, officers and employees of the State of Kansas are entitled to working conditions that are free from sexual harassment, discrimination, and retaliation; and

**WHEREAS**, the Governor and all officers and employees of the State of Kansas should seek to foster a culture that does not tolerate sexual harassment, retaliation, and unlawful discrimination.

**NOW THEREFORE**, pursuant to the authority vested in me as Governor of the State of Kansas, I hereby order as follows:

1. All Executive Branch department and agency heads shall have available, and shall regularly review and update at least every three years or more frequently as necessary, their sexual harassment, discrimination, and retaliation policies. Such policies shall include components for confidentiality and anonymous reporting, applicability to intern positions, and training policies.
2. All Executive Branch department and agency heads shall ensure that their employees, interns, and contractors have been notified of the state’s policy against sexual harassment, discrimination, or retaliation, and shall further ensure that such persons are aware of the procedures for submitting a complaint of sexual harassment, discrimination, or retaliation, including an anonymous complaint.
3. Executive Branch departments and agencies shall annually require training seminars regarding the policy against sexual harassment, discrimination, or retaliation. All employees shall complete their initial training session pursuant to this order by the end of the current fiscal year.
4. Within ninety (90) days of this order, all Executive Branch employees, interns, and contractors under the jurisdiction of the Office of the Governor shall be provided a written copy of the policy against sexual harassment, discrimination, and retaliation, and they shall execute a document agreeing and acknowledging that they are aware of and will comply with the policy against sexual harassment, discrimination, and retaliation.
5. Matters involving any elected official, department or agency head, or any appointee of the Governor may be investigated by independent legal counsel.
6. The Office of the Governor will require annual mandatory training seminars for all staff, employees, and interns in the office regarding the policy against sexual harassment, discrimination, and retaliation, and shall maintain a record of attendance.
7. Allegations of sexual harassment, discrimination, or retaliation within the Office of the Governor will be investigated promptly, and violations of law or policy shall constitute grounds for disciplinary action, including dismissal.
8. This Order is intended to supplement existing laws and regulations concerning sexual harassment and discrimination, and shall not be interpreted to in any way diminish such laws and regulations. The Order provides conduct requirements for covered persons, and is not intended to create any new right or benefit enforceable against the State of Kansas.
9. Persons seeking to report violations of this Order, or guidance regarding the application or interpretation of this Order, may contact the Office of the Governor regarding such matters.

**Agreement to Comply with the Policy Against Sexual Harassment, Discrimination, and Retaliation.**

I hereby acknowledge that I have read the above State of Kansas Policy Against Sexual Harassment, Discrimination, and Retaliation established by Executive Order 18-04 and agree to comply with the provisions of this policy.

\_\_\_\_\_  
Contractor Name (Type or Print)

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



# KANSAS DEPARTMENT OF TRANSPORTATION

## SPECIAL ATTACHMENT

### CERTIFICATE OF COMPLIANCE WITH K.S.A. 46-239(c)

Kansas law (K.S.A. 46-239(c)) requires the Kansas Department of Transportation to report all contracts entered into with any legislator, or any member of a firm of which a legislator is a member, under which the legislator or member of the firm is to perform services for this agency for compensation. The following certification must be filled in by the signator of this contract:

\_\_\_\_\_ Yes, this contract is with a legislator or a firm in which a legislator is a member.

Legislator name \_\_\_\_\_

Business phone \_\_\_\_\_

Address (Street, City, State, Zip Code)

\_\_\_\_\_

\_\_\_\_\_

**Purpose of Employment:** \_\_\_\_\_

**Method of determining compensation:** \_\_\_\_\_

**or**

\_\_\_\_\_ No, this contract is not being entered into with a legislator or a firm in which a legislator is a member.

The signer understands that this certification is factual and reliable and is part of this transaction.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Contract/  
Project No: \_\_\_\_\_  
(if applicable)

County: \_\_\_\_\_  
(if applicable)

State of Kansas  
 Department of Administration DA-146a  
 (Rev. 07-19)

### CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 07-19), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001, *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, *et seq.*) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101, *et seq.*) (ADA), and Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to reasonably perform the duties of a particular job or position; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to

comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) Contractor agrees to comply with all applicable state and federal anti-discrimination laws and regulations; (g) Contractor agrees all hiring must be on the basis of individual merit and qualifications, and discrimination or harassment of persons for the reasons stated above is prohibited; and (h) if it is determined that the contractor has violated the provisions of any portion of this paragraph, such violation shall constitute a breach of contract and the contract may be canceled, terminated, or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

6. **Acceptance of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority to Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility for Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101, *et seq.*
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

**KANSAS DEPARTMENT OF TRANSPORTATION  
CIVIL RIGHTS ATTACHMENT**

**PREAMBLE**

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. § 2000d to 2000d-4) and other nondiscrimination requirements and the Regulations, hereby notifies all contracting parties that it will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, color, national origin, sex, age, disability, income-level or Limited English Proficiency (“LEP”).

**CLARIFICATION**

Where the term “contractor” appears in the following “Nondiscrimination Clauses”, the term “contractor” is understood to include all parties to contracts or agreements with the Secretary of Transportation, Kansas Department of Transportation. This Attachment shall govern should this Attachment conflict with provisions of the Document to which it is attached.

**ASSURANCE APPENDIX A**

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”), agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in its Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration (FHWA), the Federal Transit Administration (“FTA”) or the Federal Aviation Administration (“FAA”) as they may be amended from time to time which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontractors, Including Procurements of Material and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA, Federal Transit Administration (“FTA”), or Federal Aviation Administration (“FAA”) to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or, the FHWA, FTA, or FAA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA, FTA, or FAA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of the paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any

subcontract or procurement as the Recipient or the FHWA, FTA, or FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

### **ASSURANCE APPENDIX E**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- The Federal Aid Highway Act of 1973 (23 U.S.C. § 324 et. seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et. seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et. seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL No. 100-259), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with LEP, and resulting agency guidance, national origin discrimination includes discrimination because of LEP. To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681)



**WORK ESTIMATE FORM****Cost plus Net Fee**

|  |   |                              |                      |
|--|---|------------------------------|----------------------|
| <b>Work Scope Defined by Project Plans</b>   |   | <b>Date</b>                  | <u>1/9/2024</u>      |
| Consultant's Name                            | <u>City of Winfield</u>                   | Project No.                  | <u>18 TE-0536-01</u> |
| Mailing Address                              | <u>200 E 9th Ave.</u>                     | County/City                  | <u>Cowley</u>        |
|  | <u>Winfield, Kansas 67156</u>             | Working Days                 | <u>35</u>            |
| Work Estimate No.                            | <u></u>                                   | CMS Contract No.             | <u></u>              |
| Project Location                             | <u>US-160 from College St to Wheat Rd</u> |                              |                      |
| Name of Project Eng'r/Manager                | <u>Patrick Steward</u>                    | Phone Number                 | <u>620-221-5520</u>  |
| Name of Chief Inspector                      | <u>Kevin Beckner</u>                      | Phone Number                 | <u>620-218-8396</u>  |
| 1. Pre-construction preparation              | Eng'r(s) &/or Mang.                       | <u>10</u> @ <u>\$64.11</u> = | \$641.10             |
|  | Tech'n(s)                                 | <u>18</u> @ <u>\$25.64</u> = | \$461.52             |
|  | Others(s)                                 | <u></u> @ <u></u> =          | \$0.00               |
|  | Clerical                                  | <u></u> @ <u></u> =          | \$0.00               |
| Subtotal                                     |   |                              | <u>\$1,102.62</u>    |
| 2. Field Inspection daily contract documents | Eng'r(s) &/or Mang.                       | <u>14</u> @ <u>\$64.11</u> = | \$897.54             |
|  | Tech'n(s)                                 | <u>65</u> @ <u>\$25.64</u> = | \$1,666.60           |
|  | Others(s)                                 | <u></u> @ <u>\$0.00</u> =    | \$0.00               |
|  | Clerical                                  | <u></u> @ <u>\$0.00</u> =    | \$0.00               |
| Subtotal                                     |   |                              | <u>\$2,564.14</u>    |
| 3. On-site Testing                           | Eng'r(s) &/or Mang.                       | <u></u> @ <u>\$64.11</u> =   | \$0.00               |
|  | Tech'n(s)                                 | <u>20</u> @ <u>\$25.64</u> = | \$512.80             |
|  | Others(s)                                 | <u></u> @ <u>\$0.00</u> =    | \$0.00               |
|  | Clerical                                  | <u></u> @ <u>\$0.00</u> =    | \$0.00               |
| Subtotal                                     |   |                              | <u>\$512.80</u>      |
| 4. Surveying                                 | Eng'r(s) &/or Mang.                       | <u></u> @ <u>\$64.11</u> =   | \$0.00               |
|  | Tech'n(s)                                 | <u></u> @ <u>\$25.64</u> =   | \$0.00               |
|  | Others(s)                                 | <u></u> @ <u>\$0.00</u> =    | \$0.00               |
|  | Clerical                                  | <u></u> @ <u>\$0.00</u> =    | \$0.00               |
| Subtotal                                     |   |                              | <u>\$0.00</u>        |
| 5. Final Paper Preparation                   | Eng'r(s) &/or Mang.                       | <u>10</u> @ <u>\$64.11</u> = | \$641.10             |
|  | Tech'n(s)                                 | <u>20</u> @ <u>\$25.64</u> = | \$512.80             |
|  | Others(s)                                 | <u></u> @ <u>\$0.00</u> =    | \$0.00               |
|  | Clerical                                  | <u></u> @ <u>\$0.00</u> =    | \$0.00               |
| Subtotal                                     |   |                              | <u>\$1,153.90</u>    |
| Total Direct Payroll Costs                   |   |                              | <u>\$5,333.46</u>    |

Summary Total Direct Payroll Costs

|  | Hours                  | Rate              | Extension         |
|--|------------------------|-------------------|-------------------|
| Eng'r(s) &/or Mang.  | <u>34</u> @            | <u>\$64.11</u> =  | \$2,179.74        |
| Tech'n(s)  | <u>123</u> @           | <u>\$25.64</u> =  | \$3,153.72        |
| Others(s)  | <u>0</u> @             | <u>\$0.00</u> =   | \$0.00            |
| Clerical   | <u>0</u> @             | <u>\$0.00</u> =   | \$0.00            |
| Total Direct Payroll Costs   |                        |                   | \$5,333.46        |
| B. Salary Related Overhead   | <u>0</u> %             |                   | \$0.00            |
| C. Total Payroll plus Overhead   |                        |                   | \$5,333.46        |
| D. Net Fee -- N/A for LPA providing their own CE   |                        |                   | \$0.00            |
| E. Direct Expenses (Travel, Postage, Misc.)  |                        |                   |                   |
| Per Diem & Subsistence   | <u>        </u> Days @ | <u>        </u> = | \$0.00            |
| Mileage  | miles                  | \$0.00/mile       |                   |
| Auto   | <u>        </u> @      |                   | \$0.00            |
| Pickup   | <u>245</u> @           | <u>\$0.67</u>     | \$164.15          |
| Postage  | <u>        </u> @      | <u>        </u>   | \$0.00            |
| Testing Laboratory or Consulting Firm to Assist<br>(Name of Lab or Firm)<br>(Details Needed) | <u>        </u> @      | <u>        </u>   | \$0.00            |
| Equipment Rental<br>(Details \$500 +)  | <u>        </u> @      | <u>        </u>   | \$0.00            |
| Total Other Direct Expenses  |                        |                   | <u>\$164.15</u>   |
| TOTAL COST PLUS NET FEE ESTIMATE   |                        |                   | <u>\$5,497.61</u> |

Consultant Representative \_\_\_\_\_ Date \_\_\_\_\_

LPA Authorized Representative \_\_\_\_\_ Date 2/20/2024

Approving KDOT Representative \_\_\_\_\_ Date \_\_\_\_\_

\*\* Salary Related Overhead can only be charged if the rate has been approved by a Federal Agency.





## Request for Commission Action

Date: April 1<sup>st</sup>, 2024

Requestor: Trevor Langer, Environmental Inspector

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Action Requested: Seeking consideration for the approval of Nuisance Resolutions determining the existence of a nuisance at:

**512 E 3rd: limbs, wood, and other debris.**

**1112 E 5<sup>th</sup>: appliances, rubbish, garbage, and other debris.**

**811 Menor: mattress.**

**612 Maris: two sofas.**

**222 N Park: various furniture, debris, and rubbish.**

Analysis: The owners and tenants of all properties listed were sent notification via certified letter.

Fiscal Impact: Unknown fiscal impact at this time. Once approved, a contractor will be assigned to remove the nuisances and the owners will be billed for the cost of the removal as well as an administrative fee of \$100.

### Attachments:

**Nuisance Resolution – 512 E 3rd - 2 Photos**

**Nuisance Resolution – 1112 E 5th - 1 Photo**

**Nuisance Resolution – 811 Menor - 1 Photo**

**Nuisance Resolution – 612 Maris – 1 Photo**

**Nuisance Resolution – 222 N Park – 1 Photo**

**Request for Commission Action**  
**512 E 3rd**



**Request for Commission Action**  
**1112 E 5<sup>th</sup>**



Request for Commission Action  
**811 Menor**



Request for Commission Action  
**612 Maris**



**Request for Commission Action**  
**222 N Park**



**A RESOLUTION**

**DETERMINING** the existence of certain nuisances at 512 E 3<sup>rd</sup> Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

---

**WHEREAS**, under the provisions of Section 54-3 and 70-2 of the Winfield City Code, Winfield, Kansas, adopted pursuant to K.S.A. 12-1617e, the Governing Body has the power to remove or abate from any lot or parcel of ground within the City any nuisance thereon, upon a finding and determination thereof by said Governing Body; and,

**WHEREAS**, the City’s inspector, on or about the 18<sup>th</sup> day of October 2023 and on prior and subsequent times, inspected the premises described below and observed the following conditions as set forth below;

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

**Section 1.** The conditions hereinafter described are hereby found to be nuisances, and determined to be a menace and dangerous to the health of the inhabitants of the city or of any neighborhood, family or resident of the city, to wit:

Owner: ALAN INVESTMENTS III, LLC  
PO BOX 1348  
LEXINGTON, KS 29071

Occupant: VACANT  
512 E 3<sup>RD</sup> AVE  
WINFIELD, KS 67156

Legal Description: ANDREWS ADD, BLOCK 201, E15 LT5 & ALL LT 6

Nature of Nuisance: A nuisance consisting of a large accumulation of wood, limbs, and other vegetation creating an unsightly appearance and/or harborage for vermin.

Disposition of Items: Property items determined to be of value will be moved so that cleanup can be accomplished in an effective and thorough manner. Other items determined to be a nuisance will be disposed of by the contractor.

**Section 2.** The Clerk of the City of Winfield, Kansas is hereby authorized to issue notice for the removal and abatement of said nuisances and take any remedial action as authorized under Section 54-2 of the Winfield City Code, Winfield, Kansas.

**Section 3.** This resolution shall be in full force and effect from and after its passage and approval.

**ADOPTED** this 1st day of April, 2024.

(SEAL)

\_\_\_\_\_  
Brenda K. Butters, Mayor

ATTEST:

\_\_\_\_\_  
Tania Richardson, City Clerk

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

Approved for Commission action: \_\_\_\_\_  
Taggart Wall, City Manager/tl



**A RESOLUTION**

**DETERMINING** the existence of certain nuisances at 1112 E 5<sup>th</sup> Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

---

**WHEREAS**, under the provisions of Section 54-3 and 70-2 of the Winfield City Code, Winfield, Kansas, adopted pursuant to K.S.A. 12-1617e, the Governing Body has the power to remove or abate from any lot or parcel of ground within the City any nuisance thereon, upon a finding and determination thereof by said Governing Body; and,

**WHEREAS**, the City’s inspector, on or about the 1<sup>st</sup> day of January 2024 and on prior and subsequent times, inspected the premises described below and observed the following conditions as set forth below;

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

**Section 1.** The conditions hereinafter described are hereby found to be nuisances, and determined to be a menace and dangerous to the health of the inhabitants of the city or of any neighborhood, family or resident of the city, to wit:

Owner: ROBERT BUCK  
LYDIA BUCK  
1112 E 5<sup>TH</sup> AVE  
WINFIELD, KS 67156

Occupant: LYDIA BUCK  
Property Address: 1112 E 5<sup>TH</sup> AVE  
WINFIELD, KS 67156

Legal Description: LEWETT’S ADD, LOT 10

Nature of Nuisance: A nuisance consisting of a large accumulation of garbage, appliances, and debris in creating an unsightly appearance and/or harborage for vermin.

Disposition of Items: Property items determined to be of value will be moved so that cleanup can be accomplished in an effective and thorough manner. Other items determined to be a nuisance will be disposed of by the contractor.

**Section 2.** The Clerk of the City of Winfield, Kansas is hereby authorized to issue notice for the removal and abatement of said nuisances and take any remedial action as authorized under Section 54-2 of the Winfield City Code, Winfield, Kansas.

**Section 3.** This resolution shall be in full force and effect from and after its passage and approval.

**ADOPTED** this 1st day of April, 2024.

(SEAL)

\_\_\_\_\_  
Brenda K. Butters, Mayor

ATTEST:

\_\_\_\_\_  
Tania Richardson, City Clerk

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

Approved for Commission action: \_\_\_\_\_  
Taggart Wall, City Manager/tl

**A RESOLUTION**

**DETERMINING** the existence of certain nuisances at 811 Menor St in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

---

**WHEREAS**, under the provisions of Section 54-3 and 70-2 of the Winfield City Code, Winfield, Kansas, adopted pursuant to K.S.A. 12-1617e, the Governing Body has the power to remove or abate from any lot or parcel of ground within the City any nuisance thereon, upon a finding and determination thereof by said Governing Body; and,

**WHEREAS**, the City’s inspector, on or about the 29<sup>TH</sup> day of November, 2023 and on prior and subsequent times, inspected the premises described below and observed the following conditions as set forth below;

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

**Section 1.** The conditions hereinafter described are hereby found to be nuisances, and determined to be a menace and dangerous to the health of the inhabitants of the city or of any neighborhood, family or resident of the city, to wit:

Owner: EMMA THOMAS  
ADAM THOMAS  
811 MENOR ST  
WINFIELD, KS 67156

Occupant: EMMA THOMAS  
ADAM THOMAS

Property Address: 811 MENOR ST

Legal Description: BRUSHEAR ADD, BLOCK 68, E93 LOT C

Nature of Nuisance: A nuisance consisting of a mattress in front yard creating an unsightly appearance and/or harborage for vermin.

Disposition of Items: Property items determined to be of value will be moved so that cleanup can be accomplished in an effective and thorough manner. Other items determined to be a nuisance will be disposed of by the contractor.

**Section 2.** The Clerk of the City of Winfield, Kansas is hereby authorized to issue notice for the removal and abatement of said nuisances and take any remedial action as authorized under Section 54-2 of the Winfield City Code, Winfield, Kansas.

**Section 3.** This resolution shall be in full force and effect from and after its passage and approval.

**ADOPTED** this 1st day of April, 2024.

(SEAL)

\_\_\_\_\_  
Brenda K. Butters, Mayor

ATTEST:

\_\_\_\_\_  
Tania Richardson, City Clerk

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

Approved for Commission action: \_\_\_\_\_  
Taggart Wall, City Manager/tl

**A RESOLUTION**

**DETERMINING** the existence of certain nuisances at 612 Maris St in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

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**WHEREAS**, under the provisions of Section 54-3 and 70-2 of the Winfield City Code, Winfield, Kansas, adopted pursuant to K.S.A. 12-1617e, the Governing Body has the power to remove or abate from any lot or parcel of ground within the City any nuisance thereon, upon a finding and determination thereof by said Governing Body; and,

**WHEREAS**, the City’s inspector, on or about the 29<sup>th</sup> day of November 2023 and on prior and subsequent times, inspected the premises described below and observed the following conditions as set forth below;

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

**Section 1.** The conditions hereinafter described are hereby found to be nuisances, and determined to be a menace and dangerous to the health of the inhabitants of the city or of any neighborhood, family or resident of the city, to wit:

- Owner: SMS LLC  
5 N BERWICK CT  
Winfield, KS 67156
  
- Occupant: SKYE WINCHELL  
Property Address: 612 MARIS
  
- Legal Description: CITIZEN’S ADD, BLOCK 266, LOTS 5-6
  
- Nature of Nuisance: A nuisance consisting of a furniture in side yard creating an unsightly appearance and/or harborage for vermin.
  
- Disposition of Items: Property items determined to be of value will be moved so that cleanup can be accomplished in an effective and thorough manner. Other items determined to be a nuisance will be disposed of by the contractor.

**Section 2.** The Clerk of the City of Winfield, Kansas is hereby authorized to issue notice for the removal and abatement of said nuisances and take any remedial action as authorized under Section 54-2 of the Winfield City Code, Winfield, Kansas.

**Section 3.** This resolution shall be in full force and effect from and after its passage and approval.

**ADOPTED** this 1st day of April, 2024.

(SEAL)

\_\_\_\_\_  
Brenda K. Butters, Mayor

ATTEST:

\_\_\_\_\_  
Tania Richardson, City Clerk

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

Approved for Commission action: \_\_\_\_\_  
Taggart Wall, City Manager/tl

**A RESOLUTION**

**DETERMINING** the existence of certain nuisances at 222 N Park St in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

---

**WHEREAS**, under the provisions of Section 54-3 and 70-2 of the Winfield City Code, Winfield, Kansas, adopted pursuant to K.S.A. 12-1617e, the Governing Body has the power to remove or abate from any lot or parcel of ground within the City any nuisance thereon, upon a finding and determination thereof by said Governing Body; and,

**WHEREAS**, the City’s inspector, on or about the 15<sup>th</sup> day of November, 2023 and on prior and subsequent times, inspected the premises described below and observed the following conditions as set forth below;

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

**Section 1.** The conditions hereinafter described are hereby found to be nuisances, and determined to be a menace and dangerous to the health of the inhabitants of the city or of any neighborhood, family or resident of the city, to wit:

Owner: BRANDON MCBRIDE  
222 N PARK ST  
Winfield, KS 6 7156

Occupant: TIFFANY MCBRIDE  
Property Address: 222 N PARK ST

Legal Description: HIGHLAND PARK, BLOCK 31, LOT 7

Nature of Nuisance: A nuisance consisting of a large accumulation of wood and debris in side yard creating an unsightly appearance and/or harborage for vermin.

Disposition of Items: Property items determined to be of value will be moved so that cleanup can be accomplished in an effective and thorough manner. Other items determined to be a nuisance will be disposed of by the contractor.

**Section 2.** The Clerk of the City of Winfield, Kansas is hereby authorized to issue notice for the removal and abatement of said nuisances and take any remedial action as authorized under Section 54-2 of the Winfield City Code, Winfield, Kansas.

**Section 3.** This resolution shall be in full force and effect from and after its passage and approval.

**ADOPTED** this 1st day of April, 2024.

(SEAL)

\_\_\_\_\_  
Brenda K. Butters, Mayor

ATTEST:

\_\_\_\_\_  
Tania Richardson, City Clerk

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

Approved for Commission action: \_\_\_\_\_  
Taggart Wall, City Manager/tl



**BILL NO. 2435**

**RESOLUTION NO. 3524**

**A RESOLUTION AUTHORIZING AND PROVIDING FOR IMPROVEMENTS INCLUDED IN THE MULTI-YEAR CAPITAL IMPROVEMENT PLAN FOR THE CITY OF WINFIELD, KANSAS; AND PROVIDING FOR THE PAYMENT OF THE COSTS THEREOF.**

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**WHEREAS**, K.S.A. 14-570 *et seq.*, as amended by Charter Ordinance No. 39 (the “Act”) provides that the City Engineer of the City of Winfield, Kansas (the “City”), may file with the governing body of the City (the “Governing Body”) a master capital improvements plan (the “Plan”) for the physical development of the City within the boundaries of the City, including the acquisition of land necessary therefore, the acquisition of equipment, vehicles or other personal property to be used in relation thereto, and may provide for assumption and payment of benefit district indebtedness heretofore created for public improvements, and which Plan may require a number of years to execute; and

**WHEREAS**, upon approval of the Plan by the Governing Body, the City is authorized to issue its general obligation bonds in an amount sufficient to carry out such Plan and associated costs; and

**WHEREAS**, the City Engineer has filed such a Plan, as may be amended, with the Governing Body, a copy of which is attached as *Exhibit A*; and

**WHEREAS**, the Governing Body desires to ratify and approve the Plan and to authorize the issuance of general obligation bonds to finance all or a portion of such Plan.

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

**Section 1. Plan Approval.** The Governing Body hereby ratifies and approves the Plan, a copy of which is attached as *Exhibit A*.

**Section 2. Bond Authorization.** The Governing Body hereby authorizes the issuance of general obligation bonds of the City (the “Bonds”) for the following described projects included in the Plan (the “Improvements”):

| <u>Description</u>                        | <u>Estimated Cost</u> |
|---|-----------------------|
| Strother Field Airport – Land Acquisition | \$700,000             |

All or a portion of the costs of the Improvements, interest on interim financing and associated financing costs shall be payable from the proceeds of the Bonds issued under authority of the Act. The balance of the costs not paid from the Bonds are anticipated to be paid from available funds of the City.

**Section 3. Reimbursement.** The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation §1.150-2.

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

**ADOPTED AND APPROVED** by the governing body of the City of Winfield, Kansas, on April 1, 2024.

(Seal)

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Brenda K. Butters, Mayor

ATTEST:

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Tania Richardson, City Clerk

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of the Resolution of the City adopted by the governing body on April 1, 2024, as the same appears of record in my office.

DATED: April 1, 2024.

---

Tania Richardson, City Clerk

**EXHIBIT A**

**CITY OF WINFIELD, KANSAS  
MULTIYEAR CAPITAL IMPROVEMENTS PLAN**

| <u>Project</u>   | <u>Funds<br/>Needed</u> | <u>Year<br/>Funds<br/>Needed</u> | <u>Project Description</u>  |
|--|-------------------------|----------------------------------|---|
| Ambulance Purchase   | \$ 100,000              | 2016                             | Ambulance – Winfield EMS  |
| Baden Community Center Improvements                          | 100,000                 | 2016                             | Public Building Improvements  |
| Technology Upgrades  | 100,000                 | 2016                             | Digital Storage Capacity Improvements   |
| Public Safety Facility Study                                 | 100,000                 | 2016                             | Comprehensive Study for Public Safety Facility<br>Operational Needs   |
| 2016 KLINK   | 125,000                 | 2017                             | Street improvements and related appurtenances   |
| 12th Avenue KDOT Project                                     | 800,000                 | 2017                             | Street improvements and related appurtenances   |
| Fire Truck   | 750,000                 | 2018                             | Fire Truck Acquisition  |
| 14th Avenue Bridge   | 1,678,000               | 2017                             | Bridge improvements   |
| 2017 KLINK   | 315,000                 | 2017                             | Street improvements and related appurtenances   |
| Public Safety Facility                                       | 7,500,000               | 2017 -<br>2019                   | Construction of Public Safety Facility  |
| Acquisition of Wastewater Treatment<br>Plant Improvements    | 804,434                 | 2017 –<br>2018                   | Purchase wastewater treatment plant<br>improvements originally financed by a 2012<br>lease purchase agreement |
| Water Department SCADA System                                | 275,000                 | 2018                             | SCADA System upgrades   |
| Water Treatment Plant Lagoon System                          | 250,000                 | 2018                             | Construction of Lagoon  |
| Street Department Street Sweeper                             | 240,000                 | 2018                             | Street Sweeper Acquisition  |
| Public Safety Building – Phase 1                             | 4,825,000               | 2019                             | Public Safety Building – Phase 1 Construction   |
| Refuse Truck   | 225,000                 | 2019                             | Refuse Truck Acquisition  |
| Public Safety Facility – Phase 3                             | 8,800,000               | 2024                             | Public Safety Building – Phase 3 Construction<br>(Police Station)   |
| Strother Field Airport/Industrial Park –<br>Land Acquisition | 700,000                 | 2024                             | Strother Field Airport/Industrial Park- Land<br>Acquisition   |

**BILL NO. 2436**

**RESOLUTION NO. 3624**

**A RESOLUTION AUTHORIZING THE OFFERING FOR SALE OF GENERAL OBLIGATION BONDS, SERIES 2024-A, OF THE CITY OF WINFIELD, KANSAS.**

**WHEREAS**, the City of Winfield, Kansas (the “Issuer”), has previously authorized certain improvements described as follows (the “Improvements”):

| <u>Project Description</u>                | <u>Res. No.</u> | <u>Authority (K.S.A.)</u>                    | <u>Amount</u> |
|---|-----------------|--|---------------|
| Strother Field Airport – Land Acquisition | [ ]             | 14-570 <i>et seq.</i><br>Charter Ord. No. 39 | \$700,000     |

**WHEREAS**, the Issuer desires to issue its general obligation bonds in order to permanently finance the costs of such Improvements; and

**WHEREAS**, the Issuer has selected the firm of Stifel, Nicolaus & Company, Incorporated, Kansas City, Missouri (the “Municipal Advisor”), as municipal advisor for one or more series of general obligation bonds of the Issuer to be issued in order to provide funds to permanently finance the Improvements; and

**WHEREAS**, the Issuer desires to authorize the Municipal Advisor to proceed with the offering for sale of said general obligation bonds and related activities.

**WHEREAS**, the Issuer desires to authorize the Municipal Advisor, in conjunction with the City Manager, Clerk and Gilmore & Bell, P.C., Wichita, Kansas, the Issuer’s bond counsel (“Bond Counsel”), to proceed with the preparation and distribution of documents and all other preliminary action necessary to sell said general obligation bonds.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINFIELD, KANSAS, AS FOLLOWS:**

**Section 1.** The Municipal Advisor, in conjunction with the City Manager and the Clerk, is hereby authorized to proceed with the offering for sale of the Issuer’s General Obligation Bonds, Series 2024-A (the “Bonds”). The Issuer desires to sell the Bonds, subject to the approving opinion of Bond Counsel, directly to a purchaser or purchasers (collectively the “Purchaser”) to be designated by the City Manager, in consultation with the Municipal Advisor, after evaluating proposals submitted by prospective purchasers based on a term sheet prepared by the Municipal Advisor and distributed by the Issuer. The timing of offering for sale, the pricing, the determination of the structuring and repayment terms of the Bonds and the selection of various other professionals necessary to complete the issuance of the Bonds, shall be determined by the City Manager, in consultation with the Municipal Advisor and Bond Counsel. The confirmation of the sale of the Bonds shall be subject to the execution of a bond purchase agreement between the Purchaser and the Issuer (the “Bond Purchase Agreement”) in a form approved by Bond Counsel and the Issuer’s legal counsel, the passage of an ordinance and adoption of a resolution by the Governing Body authorizing the issuance of the Bonds and the execution of various documents necessary to deliver the Bonds.

Prior to the execution of the Bond Purchase Agreement, the Clerk, in conjunction with the Municipal Advisor and Bond Counsel, shall publish a Notice of Intent to Seek Private Placement relating to the Bonds in a newspaper of general circulation in Cowley County, Kansas, and the *Kansas Register*.

**Section 2.** The Mayor, City Manager, Clerk, and the other officers and representatives of the Issuer, the Municipal Advisor, the Purchaser and Bond Counsel are hereby authorized and directed to take such other action as may be necessary to carry out the sale of the Bonds. The Mayor and Clerk are hereby authorized and directed to execute the engagement letter related to services to be provided by the Municipal Advisor.

The transactions described in this Resolution may be conducted, and documents related to the Bonds may be sent, received, executed, and stored, by electronic means or transmissions. Copies, telecopies, electronic files and other reproductions of original executed documents (or documents executed by electronic means or transmissions) shall be deemed to be authentic and valid counterparts of such documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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

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**ADOPTED** by the City Commission on April 1, 2024.

(SEAL)

ATTEST:

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Brenda K. Butters, Mayor

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Tania Richardson, City Clerk

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of the Resolution of the Issuer adopted by the governing body on April 1, 2024, as the same appears of record in my office.

DATED: April 1, 2024.

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Tania Richardson, City Clerk