



AGENDA

GARDNER CITY COUNCIL

City Hall – 120 East Main Street -- Gardner, Kansas
Monday, May 20, 2024, 7:00 p.m.

If you wish to provide written public comment regarding any items below by email (please limit comment to 500 words), please provide them by noon on May 20, 2024 to cityclerk@gardnerkansas.gov.

*Watch this meeting live on the City's YouTube channel at <https://www.youtube.com/user/CityofGardnerKS> *

CALL TO ORDER

PLEDGE OF ALLEGIANCE

PRESENTATIONS

1. Electric Master Plan

PUBLIC HEARINGS

1. Hold a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale and consumption of Cereal Malt Beverages for consumption within 200 feet of a school, church or library during the Abdallah Shriners event weekend at the Johnson County Fairground.

PUBLIC COMMENTS

Members of the public are welcome to use this time to make comments about City matters or items on the agenda that are not part of a public hearing

CONSENT AGENDA

1. Standing approval of the minutes as written for the regular meeting on May 6, 2024.
2. Standing approval of City expenditures prepared May 3, 2024 in the amount of \$410,797.22; and May 8, 2024 in the amount of \$666,342.44.
3. Consider appointments to the vacancies on Boards and Commissions.
4. Consider authorizing the execution of an agreement for professional services with Revize for the development of the City of Gardner's website.
5. Consider authorizing the purchase of a Street Sweeper through the Sourcewell Cooperative Purchasing Program under the City's Vehicle and Equipment Replacement Policy.
6. Consider authorizing the purchase and training of a dual-purpose K-9 and a 12-week course for K-9 / handler Training using the Special Law Enforcement Trust Fund.
7. Consider authorizing an agreement with KDOT for the Gardner Traffic Signal Interconnect Project.

PLANNING & ZONING CONSENT AGENDA

None

COMMITTEE RECOMMENDATIONS

None

OLD BUSINESS

None

NEW BUSINESS

1. Consider a petition for the formation of a special benefit district for the Lone Star Prairie development.
2. Consider adopting a resolution authorizing the adoption and execution of an amended and restated benefit plan of the City of Gardner, Kansas.
3. Consider authorizing the City Administrator to execute a contract with Olsson for Substation 4 final design, equipment and construction specifications, bid review and recommendation, and project management, CIP Project EL4005.
4. Consider a request for a Waiver of the Distance Limitation and a "General Retailer" Special Event permit to allow for the sale of cereal malt beverages for consumption within 200 feet of a school, church, or library during the Abdallah Shriners event weekend at the Johnson County Fairground.

COUNCIL UPDATES – Oral presentation unless otherwise noted

EXECUTIVE SESSION

ADJOURNMENT



In compliance with the Americans with Disabilities Act, the City of Gardner will provide reasonable accommodations for all public meetings. Persons requiring accommodations in attending any of our public meetings should contact the City Clerk's Office at 913-856-0945 a minimum of 48 hours prior to the meeting.

COUNCIL ACTION FORM

PUBLIC HEARING ITEM NO. 1

MEETING DATE: MAY 20, 2024

STAFF CONTACT: RENEE RICH, CITY CLERK

Agenda Item: Hold a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale and consumption of Cereal Malt Beverages for consumption within 200 feet of a school, church or library during the Abdallah Shriners event weekend at the Johnson County Fairground

Strategic Priority: Quality of Life

Department: Administration

Background/Description of Item:

The Abdallah Shriners organization has applied for a "General Retailer" Special Event Permit and is requesting a Waiver of the Distance Limitation for an area to sell cereal malt beverages (CMB) during their Abdallah Shriners Rodeo & Demo Derby weekend, June 13 through June 15, 2024.

The location is to be in the derby arena area (see attached map). CMBs will be served within the gates of the beer garden and all alcohol will be required to be consumed in that area. Appropriate interior security will be stationed at both entrances.

Since the location of the proposed beer garden is within 200 feet of a school, church or library, the applicant must petition and be granted a Waiver of the Distance Limitation and a permit for a special event by the City Council.

This waiver and permit, if approved, will be for June 13, 2024 through June 15, 2024 only with the following restrictions:

- The location as shown on the map as provided.
- Hours of operation for the beer garden: 5:30 pm to 12:00 am.

Attachments:

- Fairgrounds Map (area of event shaded in yellow)

Suggested Motion:

Open a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale and consumption of Cereal Malt Beverages for consumption within 200 feet of a school, church or library during the Abdallah Shriners Rodeo & Demo Derby to be held June 13 through June 15, 2024 at the Johnson County Fairgrounds, 136 E. Washington St.



RECORD OF PROCEEDINGS OF THE GOVERNING BODY CITY OF GARDNER, KANSAS

Page No. 2024 – 47

May 6, 2024

The City Council of the City of Gardner, Kansas met in regular session on May 6, 2024, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with Mayor Todd Winters presiding. Present were Councilmembers Mark Baldwin, Kacy Deaton, Mark Wiehn, Steve Shute and Steve McNeer. City staff present were City Administrator Jim Pruetting; Finance Director Matt Wolff; Police Chief Pam Waldeck; Utilities Director Gonz Garcia; Parks Director Jason Bruce; Community Development Director Dave Knopick; Public Works Director Kellen Headlee; City Attorney Ryan Denk; City Clerk Renee Rich. Others present included those listed on the sign-in sheet and others who did not sign in.

There being a quorum of Councilmembers present, Mayor Winters called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Mayor Winters led those present in the Pledge of Allegiance.

PRESENTATIONS

PUBLIC HEARING

- 1. Hold a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale of sealed domestic table wine within 200 feet of a school, church or library during the weekly Gardner Farmers Markets events to be held on Thursdays, 4pm to 7pm, from May 23, 2024 to September 5, 2024.**

Councilmember Deaton made a motion to open a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale of sealed domestic table wine within 200 feet of a school, church or library during the weekly Gardner Farmers Markets events to be held on Thursdays, 4pm to 7 pm, from May 23, 2024 to September 5, 2024.

Councilmember Shute Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

No members of the public came forward.

Councilmember McNeer made a motion to close the public hearing.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

- 2. Hold a public hearing for the purpose of receiving comments for the proposed Wastewater Treatment Plant Improvements and KDHE State Revolving Fund Loan Application.**

Councilmember Deaton made a motion to open a public hearing for the purpose of receiving comments for the proposed Wastewater Treatment Plant Improvements and KDHE State Revolving Fund Loan Application.

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Finance Director Matt Wolff gave a brief presentation for the proposed wastewater treatment plan improvements and the KDHE loan financing approach. The Kill Creek Water Resource Recovery Facility phase two expansion project is necessary because we are currently running with an average of about 90% inflow which is near capacity. KDHE has set a deadline for the spring of 2026 for this expansion to be operative. This project is anticipated to take at least twenty months but could take longer if there are complications with supply chains. The lead time for electrical components has been taking a long time, so we need to get this project started as soon as

RECORD OF PROCEEDINGS OF THE GOVERNING BODY

CITY OF GARDNER, KANSAS

Page No. 2024 - 48

May 6, 2024

possible. This project will expand our capacity by 2.5 MGD. The project creates another train of two treatment basins, two sedimentation basins, a sludge thickener, two digester basins, sludge pumping and centrifuge, a UV system and resolves operation, code compliance and safety issues. The March project estimate was \$37M. The guaranteed maximum price will be in known in June and costs may go up due to KDHE Loan Requirements including the American Iron and Steel Act and the Davis-Bacon Act and prevailing wages. Despite these requirements, we think the KDHE loan approach is preferred due to low interest rates and interest rate savings that will offset those increased costs and still benefit the city. KDHE only has so much in funds available for state revolving fund loans, so we are applying and don't know if we will be approved or if we will be approved for the entire amount. We will also ask for authority to issue General Obligation bonds to finance the full project or fill the financial gap depending on how much we are approved for with the KDHE Loan. There are planned wastewater rate increases of 4.2% every year until 2031. Revenues and expenditures in the Wastewater Fund Forecast are related to Kill Creek Phase 2 Expansion, Cedar Niles Lift Station, the New Utilities Maintenance Building, and the Winwood Relief Sewer Capital projects and their associated debt proceeds. The planned rate increases each year are necessary to pay for the wastewater treatment plant improvements. The city intentionally built-up the fund balance in preparation for these projects and have been planning for years for these projects. Staff is asking the Council to pass a resolution authorizing the city to apply for a KDHE SFT Loan to finance the proposed Wastewater Treatment Plant Improvements.

No members of the public came forward.

Councilmember McNeer made a motion to close the public hearing.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

PUBLIC COMMENTS

No members of the public came forward.

CONSENT AGENDA

1. **Standing approval of the minutes as written for the regular meeting on April 15, 2024.**
2. **Standing approval of City expenditures prepared April 11, 2024 in the amount of \$571,302.42; April 18, 2024 in the amount of \$713,724.89; and April 25, 2024 in the amount of \$767,048.28.**
3. **Consider approving a City/County agreement for reconstruction of a culvert on Four Corners Road.**
4. **Consider a recommendation to authorize the City Administrator to execute a supply contract for the materials for Circuit 31 Overhead Powerline Rebuild. (CIP EL4000).**
5. **Consider reappointments to the Planning Commission**

Councilmember Shute made a motion to approve the Consent Agenda.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

PLANNING & ZONING CONSENT AGENDA

None

COMMITTEE RECOMMENDATIONS

OLD BUSINESS

NEW BUSINESS

RECORD OF PROCEEDINGS OF THE GOVERNING BODY

CITY OF GARDNER, KANSAS

Page No. 2024 - 49

May 6, 2024

1. Consider a request for a Waiver of the Distance Limitation to allow for the sale of sealed domestic table wine within 200 feet of a school, church or library during the weekly Farmers Markets events to be held on Thursdays, 4pm to 7pm, from May 23, 2024 to September 5, 2024.

City Clerk Rich said the Farmers Market is held weekly and is within 200 feet of a school, church, and library. This Waiver of Distance is to allow the sale of sealed domestic table wine to be purchased at the market.

Councilmember Wiehn asked if we could consider setting up districts where it would be common to serve or sell alcohol and we would not have to do a waiver each time. The concern is there may be businesses that would not want to operate downtown with these limitations. City Attorney Denk said it is the way our code is written, but we may be able to change our distance. Discussion continued about whether to look into districts or make a change to our codes. Councilmember Deaton said the only concern is losing a little bit of control because everything we have passed is outside of school times and this could open it up to times during school hours. Councilmember Shute asked what we would do if there was a building that was sold and the new business wanted to sell alcohol, we would have to continue looking at this. Councilmember Baldwin said the way we are working on this by approving waivers when they are requested seems to be working fine. Shute said we may want to look at it further in case we have a business move downtown that fall within the 200-foot limitation.

Denk said we can do what we want on cereal malt beverage licensing, but the limits for clubs and drinking establishments are different in the state law. The State allows alcohol to be served and consumed within 200 feet, but no package sales. It was determined to keep looking at waivers as they come in and keep the idea of making changes in the back of our minds so we can revisit if a scenario comes up that we want to review.

Councilmember Deaton made a motion to approve a request for a Waiver of the Distance Limitation to allow for the sale of sealed domestic table wine within 200 feet of a school, church or library during the weekly Farmers Markets events to be held on Thursdays, 4pm to 7pm, from May 23, 2024 to September 5, 2024.

Councilmember Shute Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

2. Consider a resolution declaring the intent of the City to issue Industrial Revenue Bonds (taxable under federal law) in the principal amount not to exceed \$5,250,000 for the purpose of financing a portion of the acquisition, construction and equipping of a multifamily apartment project within the city (Poplar Pointe Apartments).

Finance Director Matt Wolff said the developer of Poplar Pointe Apartments has asked for the use of Industrial Revenue Bonds for financing a portion of its multi-family apartment project. This financing approach would provide the developer with a sales tax exemption on the construction materials which would enable the developer to include more amenities into the project. The resolution included in the packet outlines the amenities which represent a significant private investment and adds additional value to the development project beyond the minimum development requirements. The IRBs will be paid solely out of the rentals revenues and receipts derived from the lease of the project to the company from the city. The bond shall not be a general obligation of the city nor constitute a pledge of full faith and credit and shall not be payable in any manner of taxation. There is no tax abatement associated with the bonds.

Councilmember Deaton made a motion to adopt Resolution No. 2137, a resolution declaring the intent of the City of Gardner, Kansas, to issue Industrial Revenue Bonds (taxable under federal law) in the principal amount not to exceed \$5,250,000 for the purpose of financing a portion of the acquisition, construction and equipping of a multifamily apartment project within the City (Poplar Pointe Apartments).

Councilmember McNeer Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2137.

RECORD OF PROCEEDINGS OF THE GOVERNING BODY

CITY OF GARDNER, KANSAS

Page No. 2024 - 50

May 6, 2024

Deaton: Yes

Wiehn: Yes

Shute: Yes

McNeer: Yes

Baldwin: Yes

3. Consider adopting a resolution authorizing filing of an application with the Kansas Department of Health and Environment for a loan under the Kansas Water Pollution Control Revolving Fund Act (K.S.A. 1988 Supp. 65-3321 through 65-3329).

Finance Director Matt Wolff said his earlier presentation also covered this business item and the next new business item. Mayor Winters asked if the loan amount is typically funded in full. Wolff said he expects the costs to go up and he is not sure if they will fund a loan higher than that amount. We could use G.O. Bonds to fill in the gap. They did advise they are getting a lot of requests from other cities and other projects, so we are not sure how much finding they have available. Shute said he hopes KDHE will make us a priority in the process since they are requiring these improvements.

Councilmember Shute made a motion to Adopt Resolution No. 2138, a resolution authorizing filing of an application with the Kansas Department of Health and Environment for a loan under the Kansas Water Pollution Control Revolving Fund Act (K.S.A. 1988 Supp. 65-3321 through 65-3329).

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2138.

Wiehn: Yes

Shute: Yes

McNeer: Yes

Baldwin: Yes

Deaton: Yes

4. Consider adopting a resolution authorizing the construction of certain sewerage system improvements and authorizing general obligation bonds to be issued in an amount not to exceed \$37,555,000 to pay the cost of such improvements, all pursuant to K.S.A. 12-617 and 12-618.

Councilmember Baldwin made a motion to adopt Resolution No. 2139, a resolution authorizing the construction of certain sewerage system improvements and authorizing general obligation bonds to be issued in an amount not to exceed \$37,555,000 to pay the cost of such improvements, all pursuant to K.S.A. 12-617 and 12-618.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Ordinance number 2139.

Shute: Yes

McNeer: Yes

Baldwin: Yes

Deaton: Yes

Wiehn: Yes

COUNCIL UPDATES

Pruetting said every spring we start getting inquiries about golf carts. A map was shared showing the streets that are 25 mph or less. There are provisions we can consider regarding speed, stay within residential streets, insurance, lighting, slow vehicle tags and others we could take from other ordinances. Baldwin does not have a

RECORD OF PROCEEDINGS OF THE GOVERNING BODY

CITY OF GARDNER, KANSAS

Page No. 2024 - 51

May 6, 2024

problem with them in neighborhoods. McNeer says it seems to be a question everywhere. Shute does not have a problem with golf carts unless they are on main streets. Baldwin says some people would be stuck in their neighborhoods if there is a restriction of 25 mph. Deaton says we would have to require insurance and is worried about them on busy streets. She also questions if there would be age restrictions. There is a concern of them being on trails and greenways. Kellen said KDOT may have to be involved for approval of golf carts to be on or crossing US56. There would be no way to get completely across town due to our corridors and layout.

Deaton put out a PSA about not putting grass in the street for motorcyclists. Shute added not to send the grass into the sewers either.

EXECUTIVE SESSION

ADJOURNMENT

There being no further business to come before the Council, on a motion duly made by Councilmember Deaton and seconded by Councilmember McNeer the meeting adjourned at 7:37 pm.

City Clerk

VEND NO INVOICE NO	SEQ# VOUCHER NO	VENDOR NAME P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0003525 961382	00	ALLEN, GIBBS & HOULIK LC PI0196 008558	00	04/19/2024	001-1305-413.31-01	2023 AUDIT SERVICES	EFT:	10,000.00
						VENDOR TOTAL *	.00	10,000.00
0001986 6030771-01 6029866-00	00	ANIXTER, INC. 001744	00	05/02/2024	501-4130-441.52-31	POLE SAVER SLEEVES	EFT:	2,326.34
			00	05/02/2024	501-4130-441.52-31	5/8 BOLT, BRACKET	EFT:	1,091.04
						VENDOR TOTAL *	.00	3,417.38
0099999 111396	00	ANTHONY TROY BECK 001743	00	05/02/2024	001-0000-207.10-20	RESTITUTION	500.00	
						VENDOR TOTAL *	500.00	
0002764 437139	00	APPLIED CONCEPTS 001741	00	05/02/2024	001-2110-421.43-02	TUNING FORKS (3)	EFT:	96.00
						VENDOR TOTAL *	.00	96.00
0004970 5672 5791	00	AQUATIC ECOSYSTEM CONSULTANTS 001740	00	05/02/2024	001-6120-461.31-15	CP POND TREATMENT	EFT:	435.00
			00	05/02/2024	001-6120-461.31-15	CP LAKE MANAGEMENT	EFT:	677.00
						VENDOR TOTAL *	.00	1,112.00
0002847 4848285043	00	BLACK HILLS ENERGY 0424001741	00	05/02/2024	501-4120-441.31-15	GAS PIPELINE O&M SERVICE	EFT:	2,668.84
						VENDOR TOTAL *	.00	2,668.84
0099999 000073463	00	BLAKE, WILLIAM UT	00	04/25/2024	501-0000-229.00-00	FINAL BILL REFUND	43.86	
						VENDOR TOTAL *	43.86	
0001199 17997	00	BLUE VALLEY PUBLIC SAFETY, INC 001741	00	05/02/2024	001-2110-421.43-02	REPAIR OUTDOOR SIREN #6	EFT:	1,025.00
						VENDOR TOTAL *	.00	1,025.00
0002420 BMS654993	00	BRENNTAG MID-SOUTH, INC 001744	00	05/02/2024	521-4220-442.52-13	SODIUM HYDROXIDE	EFT:	1,427.53
						VENDOR TOTAL *	.00	1,427.53
0005293 313440714	00	BRIGHTSPEED 0424 001732	00	05/02/2024	551-4520-445.40-03	AIRPORT PHONE	EFT:	214.03
						VENDOR TOTAL *	.00	214.03
0005262 WQVG225	00	BUSINESS RADIO LICENSING 001733	00	05/02/2024	001-3120-431.46-02	FCC LICENSING RENEWAL	115.00	
						VENDOR TOTAL *	115.00	
0004379 16552-00	00	C&B EQUIPMENT MIDWEST 001741	00	05/02/2024	531-4320-443.43-02	PUMP REPAIR/REFURBISH	EFT:	2,895.63
						VENDOR TOTAL *	.00	2,895.63
0005350	00	CARTER, WAYNE						

VEND NO INVOICE NO	SEQ# VOUCHER NO	VENDOR NAME P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0005350 04102024	00	CARTER, WAYNE		05/02/2024	001-3130-431.46-01	PER DIEM	291.32	
VENDOR TOTAL *							291.32	
0001201 49249-1 49203-1 49231-1	00	COMMERCIAL AQUATIC SERVICES, INC		05/02/2024	001-6130-461.52-13	CHLORINE	EFT:	5,267.36
				05/02/2024	001-6130-461.52-13	CHLORINE	EFT:	4,374.36
				05/02/2024	001-6130-461.43-01	REPAIRS FOR CHEMTROL	EFT:	300.00
VENDOR TOTAL *							.00	9,941.72
0004644 U767893	00	CORE & MAIN LP		05/02/2024	521-4230-442.52-31	12X3/4CC SADDLES	EFT:	1,817.16
VENDOR TOTAL *							.00	1,817.16
0004795 9403169032 9403167934 9403169032	00	CRAFCO, INC.		05/02/2024	001-3120-431.52-02	ASPHALT TOOLS	EFT:	199.90
				05/02/2024	605-3116-431.52-05	CRACK FILLER	EFT:	395.00
				05/02/2024	605-3116-431.52-05	CRACK FILLER REPAIR	EFT:	187.50
VENDOR TOTAL *							.00	782.40
0099999 71687	00	DALTON D PABST		05/02/2024	001-0000-228.30-00	BOND REFUND	75.00	
VENDOR TOTAL *							75.00	
0001557 214551	00	DATCO, INC		05/02/2024	001-2120-421.53-02	UNIFORMS	420.25	
VENDOR TOTAL *							420.25	
0001762 INV131921	00	DREXEL TECHNOLOGIES INC		05/02/2024	501-4110-441.47-01	BID POST	EFT:	40.25
VENDOR TOTAL *							.00	40.25
0004946 4469208877 7011930732 6466308678	00	EVERGY		05/02/2024	521-4220-442.40-05	ELECTRIC @ 14A AIR RD	44.29	
				05/02/2024	531-4320-443.40-05	ELECTRIC @ WAVERLY LIFT	20.38	
				05/02/2024	531-4320-443.40-05	ELECTRIC AT WWTP	27.67	
VENDOR TOTAL *							92.34	
0000855 21939640	00	EWING IRRIGATION PRODUCTS, INC		05/02/2024	001-6120-461.52-01	TURF MAINT PROGRAM	EFT:	484.97
VENDOR TOTAL *							.00	484.97
0001917 64143 64143 64155	00	FLAME-OUT		05/02/2024	603-3150-431.31-15	FIRE EXTINGUISHER INSPECT	EFT:	25.00
				05/02/2024	603-3150-431.31-15	FIRE EXTINGUISHER INSPECT	EFT:	104.75
				05/02/2024	603-3150-431.31-15	FIRE EXTINGUISHER INSPECT	EFT:	417.75
VENDOR TOTAL *							.00	547.50
0000086 027742669	00	GALLS, LLC		05/02/2024	001-2120-421.53-02	PATROL BOOTS - GRAY	EFT:	125.00

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE	VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO	NO	NO						AMOUNT
0099999	00	JENNIFER L REED						
101209		001743	00	05/02/2024	001-0000-228.30-00	BOND REFUND	400.00	
74276		001743	00	05/02/2024	001-0000-228.30-00	BOND REFUND	500.00	
						VENDOR TOTAL *	900.00	
0003023	00	JOHNSON COUNTY HUMAN SVCS						
2024-01-FUND		PI0197 008559	00	04/18/2024	001-1110-411.54-93	RENT ASSISTANCE PROGRAM	5,000.00	
						VENDOR TOTAL *	5,000.00	
0002671	00	KANSAS GAS SERVICE						
105962227	0424	001740	00	05/02/2024	001-6120-461.40-04	NATURAL GAS	192.51	
161419073	0424	001741	00	05/02/2024	501-4130-441.40-04	NATURAL GAS	373.86	
						VENDOR TOTAL *	566.37	
0002806	00	KANSAS GOLF AND TURF, INC						
02-321516		001740	00	05/02/2024	001-6120-461.43-02	MOWER REPAIR	EFT:	200.92
						VENDOR TOTAL *	.00	200.92
0002489	00	KPERS						
1756723		001748	00	05/03/2024	721-0000-202.03-01	050224 PAY PERIOD	CHECK #:	112 56,436.26
						VENDOR TOTAL *	.00	56,436.26
0002490	00	KPF						
1756725		001747	00	05/03/2024	721-0000-202.03-02	050224 PAY PERIOD	CHECK #:	113 37,701.28
						VENDOR TOTAL *	.00	37,701.28
0001103	00	KUTAK ROCK LLP						
3381499		001741	00	05/02/2024	001-1130-411.31-15	PROFESSIONAL SERVICES	EFT:	333.80
						VENDOR TOTAL *	.00	333.80
0099999	00	LINDA SHELLEY						
68358984		001743	00	05/02/2024	001-0000-228.40-00	SR CENTER DEPOSIT REFUND	60.00	
						VENDOR TOTAL *	60.00	
0005186	00	LINDE GAS & EQUIPMENT						
42377736		001735	00	05/02/2024	605-3116-431.44-02	CYLINDER RENTAL	EFT:	82.14
						VENDOR TOTAL *	.00	82.14
0002809	00	LOGIC, INC						
INV172087		PI0195 008554	00	04/05/2024	521-4220-442.31-15	AVEVA SOFTWARE LICENSE	EFT:	7,760.00
						VENDOR TOTAL *	.00	7,760.00
0003700	00	MCANANY VAN CLEAVE & PHILLIPS PA						
1040530		001741	00	05/02/2024	001-1120-411.31-15	LEGAL SERVICES	EFT:	4,830.50
						VENDOR TOTAL *	.00	4,830.50
0003179	00	MCELDOWNEY, TIM						
04242024		001741	00	05/02/2024	001-3130-431.46-01	SS4A MEETING - MARC	20.10	
						VENDOR TOTAL *	20.10	
0001382	00	MISSION COMMUNICATIONS, LLC						

VEND NO INVOICE NO	SEQ# VOUCHER NO	VENDOR NAME P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT	
0001382 1086521	00	MISSION COMMUNICATIONS, LLC PI0194 008553	00	04/11/2024	531-4320-443.31-15	LIFT STATION ALARM SERVIC	EFT:	5,196.20	
VENDOR TOTAL *							.00	5,196.20	
0005296 6581016 6581016	00	MISSIONSQUARE RETIREMENT 001749 001750	00	05/03/2024 05/03/2024	721-0000-202.03-04 721-0000-202.03-14	CONTRIBUTIONS CONTRIBUTIONS	CHECK #: CHECK #:	101 101	10,874.27 299.11
VENDOR TOTAL *							.00	11,173.38	
0000132 IN-206995	00	NATIONAL SIGN CO., INC. 001744	00	05/02/2024	001-3120-431.52-10	MARKING TAPE	EFT:	339.85	
VENDOR TOTAL *							.00	339.85	
0002813 32755	00	NOVATECH, LLC PI0188 008552	00	03/15/2024	501-4140-441.61-04	ORION UNITS FOR ELEC SUB	EFT:	5,959.08	
VENDOR TOTAL *							.00	5,959.08	
0000142 191971 01	00	OLATHE WINWATER WORKS 001744	00	05/02/2024	521-4230-442.52-12	2" GRIP RINGS	EFT:	275.00	
VENDOR TOTAL *							.00	275.00	
0000393 495608	00	OLSSON, INC. 001741	00	05/02/2024	501-4120-441.43-02	ON CALL SERVICES FOR	EFT:	2,045.00	
VENDOR TOTAL *							.00	2,045.00	
0099999 000068133	00	OPENDOOR LABS, INC. UT	00	04/25/2024	501-0000-229.00-00	FINAL BILL REFUND	30.84		
VENDOR TOTAL *							30.84		
0001569 INV05401880	00	PAYCOR, INC 001742	00	05/01/2024	001-1310-413.31-15	PAYROLL SERVICES	CHECK #:	107 820.50	
VENDOR TOTAL *							.00	820.50	
0000145 30140104	00	PEPSI-COLA 001741	00	05/02/2024	001-6110-461.52-15	CP CONCESSIONS	EFT:	788.42	
VENDOR TOTAL *							.00	788.42	
0005117 3-FINAL 3-FINAL 3-FINAL	00	PHOENIX CONCRETE PI0190 008415 PI0191 008435 PI0192 008449	00	04/19/2024 04/19/2024 04/19/2024	117-3120-431.62-05 117-3120-431.62-05 117-3120-431.62-05	2023 PAVEMENT MNGMNT PROG 2023 PAVEMENT MNGMNT PROG 2023 PAVEMENT MNGMNT PROG	EFT: EFT: EFT:	57,032.48 16,907.76 2,142.30	
VENDOR TOTAL *							.00	76,082.54	
0004385 1180087084 1180086858	00	POMP'S TIRE SERVICE, INC. 001741 001736	00	05/02/2024 05/02/2024	501-4130-441.52-04 605-3116-431.43-05	NEW TIRES FOR #405 TRUCK #603 - NEW TIRES	EFT: EFT:	3,003.78 1,404.08	
VENDOR TOTAL *							.00	4,407.86	
0004927 0159823-IN	00	PROGRESSIVE ELECTRONICS, INC 001741	00	05/02/2024	602-1340-413.31-15	REPLACED WEB PRESENTER	EFT:	977.00	

VEND NO INVOICE NO	SEQ# VOUCHER NO	VENDOR NAME P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004927 0159687-IN	00	PROGRESSIVE ELECTRONICS, INC 001741	00	05/02/2024	603-3150-431.31-15	REPLACE NVX DEVICE	EFT:	750.00
						VENDOR TOTAL *	.00	1,727.00
0000198 15721	00	QUALITY REFRIGERATION, INC. 001741	00	05/02/2024	001-6110-461.52-15	CLEANED & SANITIZED	EFT:	255.00
						VENDOR TOTAL *	.00	255.00
0099999 000041665	00	RAUSCH COLEMAN HOMES UT	00	04/25/2024	501-0000-229.00-00	FINAL BILL REFUND	53.18	
						VENDOR TOTAL *	53.18	
0004120 GRD113	00	RIVER GROUP DESIGN 001741	00	05/02/2024	001-1110-411.54-51	SOTC DESIGN DIRECTION &	EFT:	300.00
						VENDOR TOTAL *	.00	300.00
0005217 027	00	RIVERSIDE STRATEGIC SOLUTIONS PI0198 008522	00	05/01/2024	001-1130-411.31-15	PROFESSIONAL SERVICES	EFT:	9,000.00
						VENDOR TOTAL *	.00	9,000.00
0005307 3036183513 3036534191 3036534191	00	RUSH TRUCK CENTER OF MISSOURI 001737 001744 PI0186 008529	00	05/02/2024 05/02/2024 03/20/2024	605-3116-431.43-05 605-3116-431.43-05 605-3116-431.43-05	VEHICLE REPAIR - #508 #508 VEHICLE REPAIRS #508 VEHICLE REPAIR	EFT: EFT: EFT:	176.00 105.37 7,564.50
						VENDOR TOTAL *	.00	7,845.87
0002103 ENGAGE CONF	00	SCHULZ, JACKIE 001744	00	05/02/2024	001-1310-413.46-01	PER DIEM	103.50	
						VENDOR TOTAL *	103.50	
0001566 7000371475	00	STAPLES BUSINESS ADVANTAGE 001741	00	05/02/2024	001-2110-421.52-20	CD/DVD CASES	EFT:	68.38
						VENDOR TOTAL *	.00	68.38
0004613 ENGAGE CONF	00	SUMNER, JULIE 001744	00	05/02/2024	001-3110-431.46-01	PER DIEM	138.00	
						VENDOR TOTAL *	138.00	
0004482 405171	00	SUPERION, LLC PI0185 008381	00	03/04/2024	602-1340-413.47-05	ASP-TECHNICAL-ACCESS FEES	EFT:	9,993.35
						VENDOR TOTAL *	.00	9,993.35
0000203 45143 45205	00	SUPERIOR BOWEN ASPHALT, L.L.C. 001738 001739	00	05/02/2024 05/02/2024	551-4520-445.43-03 551-4520-445.43-03	ASPHALT ASPHALT	EFT: EFT:	786.07 849.63
						VENDOR TOTAL *	.00	1,635.70
0005194 8870	00	TIDD TREE 001741	00	05/02/2024	001-6120-461.31-15	TREE TRIMMING SERVICE	EFT:	2,010.00
						VENDOR TOTAL *	.00	2,010.00
0005450	00	TOTAL FILTRATION SERVICES INC						

VEND NO	SEQ#	VENDOR NAME	INVOICE NO	VOUCHER NO	P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0005450	00	TOTAL FILTRATION SERVICES INC	2678905-00	PI0199	008561	00	04/18/2024	501-4120-441.52-12	GENERATOR 1 & 2 FILTERS	EFT:	7,273.73
									VENDOR TOTAL *	.00	7,273.73
0099999	00	U.S.D. 231	000016621	UT		00	04/29/2024	501-0000-229.00-00	MANUAL CHECK	1,026.69	
									VENDOR TOTAL *	1,026.69	
0000366	00	WARDROBE CLEANERS INC.	04272024STM	001741		00	05/02/2024	001-2120-421.42-02	DRY CLEANING	437.50	
									VENDOR TOTAL *	437.50	
0003221	00	WEX BANK	96411095	001742		00	05/02/2024	001-0000-341.02-00	REBATES-MISC REVENUES	EFT:	65.55-
			96411095	001742		00	05/02/2024	001-2110-421.52-09	PD ADMIN FUEL	EFT:	445.95
			96411095	001742		00	05/02/2024	001-2120-421.52-09	PD OPERATIONS FUEL	EFT:	5,993.05
			96411095	001742		00	05/02/2024	001-2120-421.43-05	PD SERVICE EXPENDITURES	EFT:	2,312.69
			96411095	001742		00	05/02/2024	001-3120-431.52-09	STREETS & STORM FUEL	EFT:	1,662.67
			96411095	001742		00	05/02/2024	001-3130-431.52-09	PW ADMIN FUEL	EFT:	339.55
			96411095	001742		00	05/02/2024	001-6120-461.52-09	P&R FUEL	EFT:	1,772.71
			96411095	001742		00	05/02/2024	001-7120-471.52-09	COMM DEV FUEL	EFT:	116.79
			96411095	001742		00	05/02/2024	521-4230-442.52-09	FLEET APRIL FUEL	EFT:	96.42
			96411095	001742		00	05/02/2024	551-4520-445.52-09	AIRPORT FUEL	EFT:	236.52
			96411095	001742		00	05/02/2024	603-3150-431.52-09	BUILDING MAINT FUEL	EFT:	62.13
			96411095	001742		00	05/02/2024	605-3116-431.52-09	FLEET FUEL	EFT:	81.09
									VENDOR TOTAL *	.00	13,054.02
									HAND ISSUED TOTAL ***		106,131.42
									EFT/EPAY TOTAL ***		268,601.04
									TOTAL EXPENDITURES *****	36,064.76	374,732.46
									GRAND TOTAL *****		410,797.22

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE	VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO	NO	NO						AMOUNT
0004265	00	ACCESS INFORMATION PROTECTED						
10887209	001789		00	05/09/2024	001-1150-411.31-15	OFF-SITE STORAGE	1,393.31	
						VENDOR TOTAL *	1,393.31	
0004340	00	ALL CITY MANAGEMENT SERVICES INC						
92977	PI0203	008480	00	04/24/2024	001-2110-421.31-15	SCHOOL CROSSING GUARD	EFT:	4,367.68
						VENDOR TOTAL *	.00	4,367.68
0005245	00	AMERICAN SOLUTIONS FOR BUSINESS						
INV07358375	001786		00	05/09/2024	702-6110-461.54-52	GARDNER GOLD DUCK T-SHIRT	386.20	
						VENDOR TOTAL *	386.20	
0099999	00	BECKER, JOSIE						
000073673	UT		00	05/06/2024	501-0000-229.00-00	FINAL BILL REFUND	85.42	
						VENDOR TOTAL *	85.42	
0004994	00	BENEFITS DIRECT						
A026346	006278		00	05/09/2024	001-1120-411.21-01	MONTHLY BILLING	EFT:	50.14
A026346	006277		00	05/09/2024	001-1140-411.31-15	MONTHLY BILLING	EFT:	405.00
A026346	006279		00	05/09/2024	001-1140-411.21-01	MONTHLY BILLING	EFT:	31.38
A026346	006280		00	05/09/2024	001-1150-411.21-01	MONTHLY BILLING	EFT:	6.76
A026346	006282		00	05/09/2024	001-1305-413.21-01	MONTHLY BILLING	EFT:	16.92
A026346	006283		00	05/09/2024	001-1310-413.21-01	MONTHLY BILLING	EFT:	49.20
A026346	006285		00	05/09/2024	001-1330-413.21-01	MONTHLY BILLING	EFT:	21.22
A026346	006287		00	05/09/2024	001-2110-421.21-01	MONTHLY BILLING	EFT:	62.76
A026346	006288		00	05/09/2024	001-2120-421.21-01	MONTHLY BILLING	EFT:	341.98
A026346	006289		00	05/09/2024	001-2130-421.21-01	MONTHLY BILLING	EFT:	6.76
A026346	006290		00	05/09/2024	001-3110-431.21-01	MONTHLY BILLING	EFT:	14.46
A026346	006292		00	05/09/2024	001-3120-431.21-01	MONTHLY BILLING	EFT:	67.68
A026346	006293		00	05/09/2024	001-3130-431.21-01	MONTHLY BILLING	EFT:	69.56
A026346	006303		00	05/09/2024	001-6105-461.21-01	MONTHLY BILLING	EFT:	48.26
A026346	006304		00	05/09/2024	001-6120-461.21-01	MONTHLY BILLING	EFT:	59.36
A026346	006305		00	05/09/2024	001-7110-471.21-01	MONTHLY BILLING	EFT:	52.60
A026346	006306		00	05/09/2024	001-7120-471.21-01	MONTHLY BILLING	EFT:	24.62
A026346	006295		00	05/09/2024	501-4110-441.21-01	MONTHLY BILLING	EFT:	55.96
A026346	006296		00	05/09/2024	501-4120-441.21-01	MONTHLY BILLING	EFT:	38.14
A026346	006297		00	05/09/2024	501-4130-441.21-01	MONTHLY BILLING	EFT:	98.44
A026346	006298		00	05/09/2024	521-4210-442.21-01	MONTHLY BILLING	EFT:	6.76
A026346	006299		00	05/09/2024	521-4220-442.21-01	MONTHLY BILLING	EFT:	49.20
A026346	006300		00	05/09/2024	521-4230-442.21-01	MONTHLY BILLING	EFT:	87.34
A026346	006301		00	05/09/2024	531-4310-443.21-01	MONTHLY BILLING	EFT:	14.46
A026346	006302		00	05/09/2024	531-4320-443.21-01	MONTHLY BILLING	EFT:	67.06
A026346	006281		00	05/09/2024	601-1230-412.21-01	MONTHLY BILLING	EFT:	14.46
A026346	006286		00	05/09/2024	602-1340-413.21-01	MONTHLY BILLING	EFT:	52.60
A026346	006294		00	05/09/2024	603-3150-431.21-01	MONTHLY BILLING	EFT:	6.76
A026346	006284		00	05/09/2024	604-1320-413.21-01	MONTHLY BILLING	EFT:	23.68
A026346	006291		00	05/09/2024	605-3116-431.21-01	MONTHLY BILLING	EFT:	10.16
A026346	006275		00	05/09/2024	721-0000-202.03-07	MONTHLY BILLING	EFT:	10,279.70
A026346	006276		00	05/09/2024	721-0000-202.03-08	MONTHLY BILLING	EFT:	283.00
						VENDOR TOTAL *	.00	12,416.38
0001199	00	BLUE VALLEY PUBLIC SAFETY, INC						

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE	VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO	NO	NO						AMOUNT
0001199 18033	00	BLUE VALLEY PUBLIC SAFETY, INC 001752	00	05/09/2024	001-2110-421.43-02	PREVENTATIVE MAINT SIRENS	EFT:	2,375.00
VENDOR TOTAL *							.00	2,375.00
0001984 925559595 925596479	00	BSN SPORTS, LLC 001786 001793	00	05/09/2024 05/09/2024	001-6110-461.47-53 001-6110-461.47-53	MLB CAPS - T-BALL MLB CAPS & VISORS	EFT: EFT:	601.25 1,746.35
VENDOR TOTAL *							.00	2,347.60
0003080 11107709	00	CATES HEATING & AIR COND SVC INC 001792	00	05/09/2024	521-4220-442.43-02	HVAC MAINT CONTRACT	EFT:	1,860.00
VENDOR TOTAL *							.00	1,860.00
0002321 OLA/071719	00	CES 001753	00	05/09/2024	001-6120-461.52-01	ELECTRIC REPAIRS	EFT:	537.28
VENDOR TOTAL *							.00	537.28
0001538 GC00125527	00	CODE PUBLISHING COMPANY 001785	00	05/09/2024	001-1150-411.31-15	CODE WEB FEES	EFT:	830.00
VENDOR TOTAL *							.00	830.00
0011111 IEMC TRAINING	00	CODY WAGGONER 001788	00	05/09/2024	001-2120-421.46-01	PER DIEM	47.20	
VENDOR TOTAL *							47.20	
0001201 49281-1	00	COMMERCIAL AQUATIC SERVICES, INC 001754	00	05/09/2024	001-6130-461.52-13	CYANURIC ACID	EFT:	449.76
VENDOR TOTAL *							.00	449.76
0003716 DP2401944	00	DATAPROSE 001789	00	05/09/2024	604-1320-413.31-15	MONTHLY BILLING - APR '24	EFT:	8,743.67
VENDOR TOTAL *							.00	8,743.67
0001557 214558 214559	00	DATCO, INC 001755 001756	00	05/09/2024 05/09/2024	001-2120-421.53-02 001-2120-421.53-02	UNIFORMS UNIFORMS	27.00 50.00	
VENDOR TOTAL *							77.00	
0000517 10745869744	00	DELL MARKETING L.P. PI0204 008560	00	04/30/2024	602-1340-413.47-05	ADOBE ANNUAL	4,704.12	
VENDOR TOTAL *							4,704.12	
0004998 1005114202405 1005114202405 1005114202405 1005114202405 1005114202405 1005114202405 1005114202405	00	DELTA DENTAL OF KANSAS 006211 006212 006213 006214 006215 006217 006219	00	05/09/2024 05/09/2024 05/09/2024 05/09/2024 05/09/2024 05/09/2024 05/09/2024	001-1120-411.21-01 001-1140-411.21-01 001-1150-411.21-01 001-1305-413.21-01 001-1310-413.21-01 001-1330-413.21-01 001-2110-421.21-01	MONTHLY BILLING MONTHLY BILLING MONTHLY BILLING MONTHLY BILLING MONTHLY BILLING MONTHLY BILLING MONTHLY BILLING	EFT: EFT: EFT: EFT: EFT: EFT: EFT:	226.40 135.94 22.74 79.34 181.42 113.20 249.14

VEND NO	SEQ#	VENDOR NAME							EFT, EPAY OR
INVOICE	VOUCHER	P.O.	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK		HAND- ISSUED
NO	NO	NO		DATE	NO	DESCRIPTION	AMOUNT		AMOUNT
0004998	00	DELTA DENTAL OF KANSAS							
1005114202405	006220		00	05/09/2024	001-2120-421.21-01	MONTHLY BILLING	EFT:		1,380.86
1005114202405	006221		00	05/09/2024	001-2130-421.21-01	MONTHLY BILLING	EFT:		22.74
1005114202405	006222		00	05/09/2024	001-3120-431.21-01	MONTHLY BILLING	EFT:		260.76
1005114202405	006223		00	05/09/2024	001-3130-431.21-01	MONTHLY BILLING	EFT:		215.28
1005114202405	006232		00	05/09/2024	001-6105-461.21-01	MONTHLY BILLING	EFT:		204.16
1005114202405	006233		00	05/09/2024	001-6120-461.21-01	MONTHLY BILLING	EFT:		204.16
1005114202405	006234		00	05/09/2024	001-7110-471.21-01	MONTHLY BILLING	EFT:		158.68
1005114202405	006235		00	05/09/2024	001-7120-471.21-01	MONTHLY BILLING	EFT:		79.34
1005114202405	006225		00	05/09/2024	501-4110-441.21-01	MONTHLY BILLING	EFT:		204.16
1005114202405	006226		00	05/09/2024	501-4120-441.21-01	MONTHLY BILLING	EFT:		158.68
1005114202405	006227		00	05/09/2024	501-4130-441.21-01	MONTHLY BILLING	EFT:		441.68
1005114202405	006228		00	05/09/2024	521-4220-442.21-01	MONTHLY BILLING	EFT:		158.68
1005114202405	006229		00	05/09/2024	521-4230-442.21-01	MONTHLY BILLING	EFT:		306.24
1005114202405	006230		00	05/09/2024	531-4310-443.21-01	MONTHLY BILLING	EFT:		56.60
1005114202405	006231		00	05/09/2024	531-4320-443.21-01	MONTHLY BILLING	EFT:		215.28
1005114202405	006218		00	05/09/2024	602-1340-413.21-01	MONTHLY BILLING	EFT:		169.80
1005114202405	006224		00	05/09/2024	603-3150-431.21-01	MONTHLY BILLING	EFT:		22.74
1005114202405	006216		00	05/09/2024	604-1320-413.21-01	MONTHLY BILLING	EFT:		79.34
1005114202405	006210		00	05/09/2024	721-0000-202.03-08	MONTHLY BILLING	EFT:		5,482.43
						VENDOR TOTAL *	.00		10,829.79
0004959	00	DIGITAL EARTH CONSULTING LLC							
53	001789		00	05/09/2024	531-4320-443.47-39	SEWAGE SLUDGE DISPOSAL	EFT:		3,720.00
						VENDOR TOTAL *	.00		3,720.00
0005226	00	EVCO WHOLESALE FOOD CORP							
0785391	001786		00	05/09/2024	001-6110-461.52-15	CP BASEBALL CONCESSIONS		3,239.07	
						VENDOR TOTAL *		3,239.07	
0004946	00	EVERGY							
2424383255	0524001789		00	05/09/2024	521-4220-442.40-05	ELECTRIC AT WTP		11,218.22	
9279570154	0524001789		00	05/09/2024	521-4220-442.40-05	ELECTRIC AT INTAKE		5,533.41	
						VENDOR TOTAL *		16,751.63	
0000937	00	FLAGSOURCE UNLIMITED, INC							
44544	001785		00	05/09/2024	001-2110-421.52-20	STATE FLAG & US FLAG	EFT:		198.00
						VENDOR TOTAL *	.00		198.00
0000086	00	GALLS, LLC							
027836831	001785		00	05/09/2024	001-2120-421.53-02	BALLISTIC VEST - WILLIAMS	EFT:		1,460.00
						VENDOR TOTAL *	.00		1,460.00
0005238	00	GASKELL, JACOB							
04112024	001757		00	05/09/2024	501-4130-441.46-01	ELEC DIST UNDERGROUND		64.90	
						VENDOR TOTAL *		64.90	
0000092	00	GEORGE BUTLER ASSOC., INC.							
79793	PI0200 008452		00	02/15/2024	531-4340-443.62-10	CEDAR NILES LIFT STATION		34,472.36	
						VENDOR TOTAL *		34,472.36	
0005366	00	GONZALEZ, GUILLERMO							

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE	VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO	NO	NO						AMOUNT
0005366	00	GONZALEZ, GUILLERMO						
04112024	001758		00	05/09/2024	501-4130-441.46-01	ELEC DIST UNDERGROUND	64.90	
						VENDOR TOTAL *	64.90	
0000181	00	GRAINGER						
9104919163	001761		00	05/09/2024	001-6120-461.52-01	QUICK CONNECT STEM ELBOW	EFT:	26.02
						VENDOR TOTAL *	.00	26.02
0000996	00	GRASS PAD, INC						
105678	001790		00	05/09/2024	521-4230-442.52-12	SOD	105.75	
101083	001791		00	05/09/2024	521-4230-442.52-12	CREDIT	30.00-	
						VENDOR TOTAL *	75.75	
0001840	00	GT DISTRIBUTORS INC						
UNIV0044598	001762		00	05/09/2024	001-2120-421.53-02	UNIFORMS	EFT:	368.00
INV0999082	001763		00	05/09/2024	001-2120-421.61-09	GUN EQUIPMENT	EFT:	291.84
						VENDOR TOTAL *	.00	659.84
0005365	00	HART, SHELDON						
04112024	001759		00	05/09/2024	501-4130-441.46-01	ELEC DIST UNDERGROUND	64.90	
						VENDOR TOTAL *	64.90	
0004993	00	HARTFORD, THE						
069844937786	000188		00	05/09/2024	001-1120-411.21-02	MONTHLY BILLING	EFT:	38.25
069844937786	000189		00	05/09/2024	001-1140-411.21-02	MONTHLY BILLING	EFT:	19.30
069844937786	000190		00	05/09/2024	001-1150-411.21-02	MONTHLY BILLING	EFT:	6.15
069844937786	000192		00	05/09/2024	001-1305-413.21-02	MONTHLY BILLING	EFT:	15.30
069844937786	000193		00	05/09/2024	001-1310-413.21-02	MONTHLY BILLING	EFT:	33.10
069844937786	000195		00	05/09/2024	001-1330-413.21-02	MONTHLY BILLING	EFT:	21.45
069844937786	000197		00	05/09/2024	001-2110-421.21-02	MONTHLY BILLING	EFT:	45.90
069844937786	000198		00	05/09/2024	001-2120-421.21-02	MONTHLY BILLING	EFT:	248.10
069844937786	000199		00	05/09/2024	001-2130-421.21-02	MONTHLY BILLING	EFT:	7.65
069844937786	000200		00	05/09/2024	001-3110-431.21-02	MONTHLY BILLING	EFT:	15.30
069844937786	000202		00	05/09/2024	001-3120-431.21-02	MONTHLY BILLING	EFT:	59.70
069844937786	000203		00	05/09/2024	001-3130-431.21-02	MONTHLY BILLING	EFT:	59.05
069844937786	000214		00	05/09/2024	001-6105-461.21-02	MONTHLY BILLING	EFT:	42.90
069844937786	000215		00	05/09/2024	001-6120-461.21-02	MONTHLY BILLING	EFT:	41.40
069844937786	000216		00	05/09/2024	001-7110-471.21-02	MONTHLY BILLING	EFT:	29.10
069844937786	000217		00	05/09/2024	001-7120-471.21-02	MONTHLY BILLING	EFT:	13.15
069844937786	000205		00	05/09/2024	501-4110-441.21-02	MONTHLY BILLING	EFT:	39.25
069844937786	000206		00	05/09/2024	501-4120-441.21-02	MONTHLY BILLING	EFT:	36.75
069844937786	000207		00	05/09/2024	501-4130-441.21-02	MONTHLY BILLING	EFT:	67.35
069844937786	000208		00	05/09/2024	521-4210-442.21-02	MONTHLY BILLING	EFT:	15.30
069844937786	000209		00	05/09/2024	521-4220-442.21-02	MONTHLY BILLING	EFT:	35.25
069844937786	000210		00	05/09/2024	521-4230-442.21-02	MONTHLY BILLING	EFT:	73.50
069844937786	000211		00	05/09/2024	531-4310-443.21-02	MONTHLY BILLING	EFT:	7.65
069844937786	000212		00	05/09/2024	531-4320-443.21-02	MONTHLY BILLING	EFT:	45.90
069844937786	000213		00	05/09/2024	551-4520-445.21-02	MONTHLY BILLING	EFT:	2.16
069844937786	000191		00	05/09/2024	601-1230-412.21-02	MONTHLY BILLING	EFT:	7.65
069844937786	000196		00	05/09/2024	602-1340-413.21-02	MONTHLY BILLING	EFT:	36.75

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE	VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO	NO	NO						AMOUNT
0099999	00	KIPPING, CELENA						
000070829		UT	00	05/06/2024	501-0000-229.00-00	FINAL BILL REFUND	46.19	
						VENDOR TOTAL *	46.19	
0001626	00	KMEA GRDA OPERATING ACCT						
GRDA-GD-24-06	001787		00	05/09/2024	501-4120-441.41-01	GRDA ELECTRIC	EFT:	289,754.00
						VENDOR TOTAL *	.00	289,754.00
0003399	00	KMEA WAPA OPERATING FUND						
WAPA-GA-24-05	001787		00	05/09/2024	501-4120-441.41-01	WAPA ELECTRIC	EFT:	7,475.00
						VENDOR TOTAL *	.00	7,475.00
0004604	00	LAMP, RYNEARSON & ASSOCIATES						
0323149.01	- 05PI0206	008442	00	05/01/2024	531-4340-443.62-10	WINWOOD PARK SEWER LINE	28,061.95	
						VENDOR TOTAL *	28,061.95	
0099999	00	LARANGO, MARK						
000068659		UT	00	05/06/2024	501-0000-229.00-00	FINAL BILL REFUND	52.27	
						VENDOR TOTAL *	52.27	
0005186	00	LINDE GAS & EQUIPMENT						
42654292	001767		00	05/09/2024	605-3116-431.44-02	CYLINDER RENTAL	EFT:	207.29
						VENDOR TOTAL *	.00	207.29
0000123	00	MARC						
D-I-0004878	PI0205	008562	00	04/03/2024	001-1110-411.46-02	MARC SERVICES	EFT:	9,315.00
						VENDOR TOTAL *	.00	9,315.00
0099999	00	MCHENRY, AIMEE						
000070955		UT	00	05/06/2024	501-0000-229.00-00	FINAL BILL REFUND	20.09	
						VENDOR TOTAL *	20.09	
0000375	00	MID-AMERICAN SIGNAL, INC.						
24-147	001785		00	05/09/2024	001-3120-431.52-10	REPLACEMENT PED POLE	EFT:	1,600.00
						VENDOR TOTAL *	.00	1,600.00
0099999	00	NEWMAN, TERRI						
000073881		UT	00	05/06/2024	501-0000-229.00-00	FINAL BILL REFUND	71.31	
						VENDOR TOTAL *	71.31	
0005458	00	NICHOLS, THOMAS BRITT						
2024-003	001789		00	05/09/2024	001-1330-413.31-02	TRAFFIC DOCKET	60.00	
						VENDOR TOTAL *	60.00	
0099999	00	OPENDOOR LABS, INC.						
000068133		UT	00	05/01/2024	501-0000-229.00-00	MANUAL CHECK	81.40	
						VENDOR TOTAL *	81.40	
0099999	00	PALMA, AUDRY						
000071401		UT	00	05/06/2024	501-0000-229.00-00	FINAL BILL REFUND	6.71	

VEND NO INVOICE NO	SEQ# VOUCHER NO	VENDOR NAME P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0099999	00	PALMA, AUDRY						
						VENDOR TOTAL *	6.71	
0000145 28810711	00	PEPSI-COLA 001786	00	05/09/2024	001-6110-461.52-15	CP SOCCER CONCESSIONS	EFT:	274.43
						VENDOR TOTAL *	.00	274.43
0004198 1160655	00	PROTECT YOUTH SPORTS 001768	00	05/09/2024	001-6110-461.47-53	BACKGROUND CHECKS	EFT:	506.30
						VENDOR TOTAL *	.00	506.30
0004120 GRD114	00	RIVER GROUP DESIGN 001769	00	05/09/2024	001-1110-411.54-51	2023 GARDNER ACCOMPLISH-	EFT:	1,700.00
						VENDOR TOTAL *	.00	1,700.00
0005102 IEMC TRAINING	00	ROBERTS, ZACHARY 001788	00	05/09/2024	001-2110-421.46-01	PER DIEM		47.20
						VENDOR TOTAL *	47.20	
0004650 453369	00	RYAN LAWN AND TREE INC 001770	00	05/09/2024	001-6120-461.31-15	TREE CHEMICAL APPLICATION		1,694.75
						VENDOR TOTAL *	1,694.75	
0004713 2405-49	00	SALTUS TECHNOLOGIES 001785	00	05/09/2024	001-2110-421.31-15	DIGITICKET SOLUTION	EFT:	488.00
						VENDOR TOTAL *	.00	488.00
0005380 138422	00	SHAWNEE COPY CENTER 001785	00	05/09/2024	001-1120-411.52-20	BUSINESS CARDS	EFT:	97.36
138338		001771	00	05/09/2024	001-2110-421.47-02	SCAM PREVENTION POSTERS	EFT:	22.46
138368		001772	00	05/09/2024	001-2110-421.47-02	BUSINESS CARDS	EFT:	125.00
138395		001773	00	05/09/2024	001-2110-421.47-02	BUSINESS CARDS	EFT:	70.00
138443		001786	00	05/09/2024	001-6110-461.47-02	BUSINESS CARDS	EFT:	80.00
						VENDOR TOTAL *	.00	394.82
0099999 000067199	00	SHERARD, ANNETTE UT	00	05/06/2024	501-0000-229.00-00	FINAL BILL REFUND		26.85
						VENDOR TOTAL *	26.85	
0001566 7000469610	00	STAPLES BUSINESS ADVANTAGE 001789	00	05/09/2024	001-2110-421.52-20	PENS & WALL CLIPS	EFT:	61.15
						VENDOR TOTAL *	.00	61.15
0005195 8007019374	00	STERICYCLE 001785	00	05/09/2024	001-2110-421.31-15	SHREDDING SERVICES	EFT:	65.87
						VENDOR TOTAL *	.00	65.87
0000174 289097	00	TAPCO PRODUCTS CO. 001776	00	05/09/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:	167.60
290553		001777	00	05/09/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:	20.55

VEND NO	SEQ#	VENDOR NAME							EFT, EPAY OR
INVOICE	VOUCHER	P.O.	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	HAND-ISSUED	
NO	NO	NO		DATE	NO	DESCRIPTION	AMOUNT	AMOUNT	
0000174	00	TAPCO PRODUCTS CO.							
292540	001778		00	05/09/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:		20.55
290554	001779		00	05/09/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:		51.14
290560	001780		00	05/09/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:		38.54
290561	001781		00	05/09/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:		59.56
289088	001782		00	05/09/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:		145.56
289098	001783		00	05/09/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:		79.50
289094	001784		00	05/09/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:		223.60
						VENDOR TOTAL *	.00		806.60
0004635	00	TEST SMARTLY LABS							
20306	001774		00	05/09/2024	601-1230-412.31-15	SEASONAL DRUG TESTS	EFT:		1,632.00
20319	001775		00	05/09/2024	601-1230-412.31-15	SEASONAL DRUG TESTS	EFT:		350.00
						VENDOR TOTAL *	.00		1,982.00
0099999	00	THE SPLIT END							
000070131	UT		00	05/06/2024	501-0000-229.00-00	FINAL BILL REFUND		187.67	
						VENDOR TOTAL *	187.67		
0003962	00	TRANSLATIONPERFECT.COM							
11885	001789		00	05/09/2024	001-1330-413.31-15	INTERPRETER	EFT:		219.00
12033	001789		00	05/09/2024	001-1330-413.31-15	INTERPRETER	EFT:		199.50
						VENDOR TOTAL *	.00		418.50
0002067	00	TURN-KEY MOBILE, INC							
INV-71470	001785		00	05/09/2024	001-2120-421.61-09	MDT-NEW CAR BUILD	EFT:		3,314.00
						VENDOR TOTAL *	.00		3,314.00
0000238	00	USA BLUE BOOK							
INV00349486	001789		00	05/09/2024	521-4220-442.52-12	STIRRING BARS, STIRRER &	EFT:		279.00
INV00348921	001793		00	05/09/2024	531-4330-443.52-20	SMOKE BLOWER	EFT:		2,308.92
						VENDOR TOTAL *	.00		2,587.92
0099999	00	VENUS, STARLYN							
000070245	UT		00	05/06/2024	501-0000-229.00-00	FINAL BILL REFUND		28.98	
						VENDOR TOTAL *	28.98		
0099999	00	VILLA, MARCELO							
000072109	UT		00	05/06/2024	501-0000-229.00-00	FINAL BILL REFUND		33.73	
						VENDOR TOTAL *	33.73		
0003047	00	WAL-MART							
110268	001789		00	05/09/2024	001-0000-207.10-20	RESTITUTION		76.88	
						VENDOR TOTAL *	76.88		
0004226	00	WATCHMEN SECURITY SERVICES							
88541	001789		00	05/09/2024	501-4120-441.31-15	VIDEO SECURITY MONITORING	EFT:		443.96
						VENDOR TOTAL *	.00		443.96
0099999	00	WEST, MARCUS							

VEND NO INVOICE NO	SEQ# VOUCHER NO	VENDOR NAME P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0099999 000068709	00	WEST, MARCUS UT	00	05/06/2024	501-0000-229.00-00	FINAL BILL REFUND	74.53	
						VENDOR TOTAL *	74.53	
						EFT/EPAY TOTAL ***		433,797.23
						TOTAL EXPENDITURES ****	232,545.21	433,797.23
					GRAND TOTAL *****			666,342.44

COUNCIL ACTION FORM

CONSENT AGENDA ITEM NO. 3

MEETING DATE: MAY 20, 2024

STAFF CONTACT: TODD WINTERS, MAYOR

Agenda Item: Consider appointments to the vacancies on Boards and Commissions

Strategic Priority: Quality of Life
Infrastructure and Asset Management

Department: Administration

Staff Recommendation:

Consider appointing people to the vacancies on Boards and Commissions as follows:

Airport Advisory Board:

Andrew Wayman with a term expiration date of January 2027

David Gleiter with a term expiration date of January 2027

Planning Commission:

Robin Berg with a term expiration date of May 3, 2027

Utility Advisory Committee:

Christopher Jackson with a term expiration date of January 2025

Russell Wohler with a term expiration date of January 2027

Background/Description of Item:

David Gleiter is currently serving as a member of the Airport Advisory Board. As we did not have enough qualified individuals apply for the Airport Advisory Board vacancies, David Gleiter was reappointed for another term. All other individuals applied for posted vacancies and were selected by the interview team.

Suggested Motion:

Appoint new members to Board and Commission vacancies as listed.

COUNCIL ACTION FORM

CONSENT ITEM No. 4

MEETING DATE: MAY 20, 2024

STAFF CONTACT: DANEEKA MARSHALL-OQUENDO, COMMUNICATIONS MANAGER

Agenda Item: Consider authorizing the execution of an agreement for professional services with Revize for the development of the City of Gardner's website.

Strategic Priority: Promote Economic Development

Department: Administration

Staff Recommendation:

Staff recommends authorizing the execution of an agreement for professional services with web developer Revize for the development of the City of Gardner's website for a one-time fee of \$44,600.

Background/Description of Item:

On September 5, the City Council approved the 2024 budget, which earmarked funds for the overhaul of the city's outdated website and to address the technical issues that have transpired with a 10-year-old website. In accordance with the city's updated Purchasing Policy, staff issued an informal solicitation of bids to four website developers. Proposals were due on March 25. Of the four, the city received two qualified proposals, one of which was from Revize. Both vendors gave presentations via Zoom to the decision-making committee, including the City Administrator, Finance Director, IT Manager, and the Communications Manager and Specialist. This group unanimously selected Revize as the vendor of choice. Revize is a nearly 20-year-old company and an industry leader in providing high-quality, government-compliant web solutions. If approved, the project will kick off on June 1.

Financial Impact:

The city will use IT Services Funds to pay for the new website and the annual hosting and maintenance fee of \$6,900.

Attachments included:

- Professional Services Agreement
- Revize scope, schedule and fees (Appendix A)

Suggested Motion:

Authorize the City of Gardner to execute an agreement for professional services with web developer Revize for the development of the City of Gardner's website for a one-time fee of \$44,600.

AGREEMENT FOR PROFESSIONAL SERVICES

This agreement ["Agreement"], is made as of this _____ day of _____, 2024_ by and between the City of Gardner, Kansas, [hereinafter "City"], and Revize, [hereinafter referred to as "Contractor"].

RECITALS

WHEREAS, Contractor represents that it is a duly qualified website developer, experienced in the preparation of website development and related services; and

WHEREAS, in the judgment of the City of Gardner, it is necessary and desirable to employ the services of Contractor for website development

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

AGREEMENT

1.0 Term of Agreement.

The term of this Agreement shall be from June 1, 2024 to May 31, 2025 unless a different term is specified within the Scope of Services as described in Appendix A or unless terminated earlier in accordance with the provisions of Article 2 below. In the event that the services rendered under this Agreement may extend beyond any one budget year, the continuation of this Agreement from year to year is contingent upon the approval of sufficient budgetary authority for the continuation of this Agreement by the Governing Body of the City in the establishment of its annual budget.

2.0 Termination.

2.1 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, City shall have the right, in its sole discretion, to terminate this Agreement by giving 10 days written notice to Contractor.

2.2 Termination for Cause. Notwithstanding any other provision of this Agreement, should Contractor fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, City may immediately terminate this Agreement by giving Contractor written notice of such termination, stating the reason for termination.

2.3 Delivery of Work Product and Final Payment Upon Termination. In the event of termination, Contractor, within 14 days following the date of termination, shall deliver to City all materials and work product subject to Section 10.1 (Ownership of Documents) and shall submit to City an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

2.4 Payment Upon Termination. Upon termination of this Agreement by City, the City shall pay Contractor the reasonable value of Services rendered by Contractor prior to termination; provided, however, City shall not in any manner be liable for lost profits that might have been made by Contractor had the Agreement not been terminated or had Contractor completed the Services required by this Agreement. In this regard, Contractor shall furnish to City such financial information as in the judgment of the City is necessary for City to determine the reasonable value of the Services rendered by Contractor. In determining the reasonable value of Services, appropriate consideration shall be given to the defective or deficient nature of the Services rendered. The foregoing is cumulative and does not affect any right or remedy that City may have in law or equity.

2.5 Authority to Terminate. The City Council has the authority to terminate this Agreement on behalf of the City. In addition, the City Administrator, in consultation with the City Attorney, shall have the authority to terminate this Agreement on behalf of the City.

3.0 Scope of Services.

3.1 Contractor's Specified Services. The Scope of Services to be performed by Contractor under this Agreement is as described in Appendix A to the Agreement, attached and incorporated by reference.

3.2 Performance Standard. Contractor shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Contractor's profession. City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by City shall not operate as a waiver or release of liability. If City determines that any of Contractor's work is not in accordance with such level of competency and standard of care, City, in its sole discretion, shall have the right to do any or all of the following: (a) require Contractor to meet with City to review the quality of work and resolve matters of concern; (b) require Contractor to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 2; or (d) pursue any and all other remedies at law or in equity.

3.3 Assigned Personnel.

3.3.1 Contractor shall only assign competent personnel to perform work hereunder. In the event that at any time City, in its sole discretion, desires the removal of any person or persons assigned by Contractor to perform work hereunder, Contractor shall remove such person or persons immediately upon receiving written notice from City.

3.3.2 With respect to this Agreement, the Contractor shall employ the following key personnel: Joseph Nagrant, Thomas Jean, Alison Bieber ^{RR} *at DMD*

3.3.3 In the event that any of Contractor's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or

other factors outside of Contractor's control, Contractor shall be responsible for timely provision of adequately qualified replacements.

3.3.4 The Contractor shall designate ^{Alison Bieber} alison@revize.com as Principal (name/contact info) on the Project. As principal on this project, this person shall be the primary contact with the Project Representative and shall have authority to bind Contractor. So long as the individual named above remains actively employed or retained by Contractor, he/she shall perform the function of principal on the Project, unless otherwise agreed to in writing signed by both parties. The Contractor will supply a direct name, phone number and email and will notify the City if this contact information changes during the contract period. DMD
ar
RR

3.3.5 City shall designate Daneeka [Marshall-Oquendo/dmarshall-oquendo@gardnerkansas.gov](mailto:Marshall-Oquendo@dmrmarshall-oquendo@gardnerkansas.gov), 913.856.0912 as the Project Representative to represent the City in coordinating this project with Contractor, with authority to transmit instructions and define policies and decisions of City. The written consent of the City Administrator and/or Governing Body, shall be required to approve any increase in Project cost as defined in Appendix A.

4.0 Time of Performance.

The services described herein shall be provided during the period described in this Agreement, or in accordance with the schedule, set forth in the Scope of Services.

5.0 Payment.

5.1 Payment shall be made by City only for services rendered and upon submission of a payment request upon completion and City approval of the work performed as defined in Appendix A. In consideration for the full performance of the services set forth in Appendix A, City agrees to pay Contractor pursuant to rates stated in Appendix A to this Agreement, attached and incorporated by reference.

5.2 Contractor shall bill City monthly for all work performed. The bill submitted by Contractor shall itemize the work for which payment is requested. City agrees to pay Contractor within thirty (30) days of approval. Contractor agrees to submit herewith such financial information as shall be required by City to enable the City to properly report such payments as required by state or federal law.

5.3 All invoices should be sent to Daneeka Marshall-Oquendo, Communications Manager.

5.4 Right to Withhold Payment. City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to Contractor, to protect City from loss because of:

- 1) Defective Work not remedied by Contractor nor, in the opinion of City, likely to be remedied by Contractor;
- 2) Claims of third parties against City or City's property;
- 3) Failure by Contractor to pay Subcontractors or others in a prompt and proper fashion;

- 4) Evidence that the balance of the Work cannot be completed in accordance with this Agreement for the unpaid balance of the Contract Price;
- 5) Evidence that the Work will not be completed in the Contract Time required for substantial or final completion;
- 6) Persistent failure to carry out the Work in accordance with this Agreement;
- 7) Damage to City or a third party to whom City is, or may be, liable; or
- 8) Conditions unfavorable for the prosecution of Work, or because of conditions which, in the opinion of the Engineer, warrant such action.

6.0 Cash Basis and Budget Laws.

The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws, or if mill levy funds generated are less than anticipated.

7.0 Indemnification.

To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, and whether performed by Contractor or any permitted subcontractors hired by Contractor, the Contractor agrees to indemnify and hold harmless the City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent or intentional acts, errors, or omissions of the Contractor or its subcontractors. Contractor shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim.

8.0 Insurance.

8.1 The Contractor shall procure and maintain, at its sole expense, throughout the duration of this Agreement, insurance of such types (on an occurrence basis unless otherwise agreed to) and in at least such amounts as required herein (and not less than as required in any bid documents or other contract documents), from an insurance company licensed to do business in the State of Kansas, the following insurance coverages as may be necessary to protect the Contractor and the City and agents of the City against all hazards or risks of loss as hereinafter specified:

:

- Workers' Compensation and Employer's Liability - Demonstrate compliance with K.S.A. 44-532(b) including maintenance of insurance providing the statutory limits under the Kansas Workers Compensation Act; the Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.

- Commercial General Liability for bodily injury and property damage liability claims arising from the injuries to members of the public or damage to property of others arising out of any act or omission of the Contractor or its agents, employees or Subcontractors with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The property damage liability coverage shall contain no exclusion relative to blasting, explosion, and collapse of building or damage to underground property and/or facilities.;
- Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.
- Professional Liability - The Contractor shall maintain Professional Liability insurance in an amount not less than \$500,000, and shall provide the City with certification thereof.
- Additional Insurance - The Contractor shall be required to purchase an Owner's Protective Liability Insurance Policy, issued on an occurrence basis and covering bodily injury (and death) and property damage, naming the City as named insured. The liability limits shall be as stated in the Instructions to Bidders or in the Special Conditions. The original policy shall be placed on file with the City and maintained during the life of the Contract. Such policy shall contain no exclusion relative to any function performed by the City or its employees and agents in connection with the Work.
- Special Hazards - Additional insurance covering special hazards may be required on certain projects. Such additional insurance requirements shall be as specified in Instructions to Bidders or Special Conditions

8.2 The City shall be named as additional insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.

8.3 Industry Ratings - The City will only accept coverage from an insurance carrier who offers proof that it:

- 1) Is licensed to do business in the State of Kansas;
- 2) Carries a Best's policyholder rating of A or better;

AND

- 3) Carries at least a Class X financial rating.

OR

Is a company mutually agreed upon by the City and Consultant.

9.0 Conflict of Interest.

Contractor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder, including under 31 U.S.C.S. Section 1352.. Contractor further covenants that in the performance of this Agreement no person having any such interests shall be employed.

10.0 Nondiscrimination.

Contractor must comply with the Kansas Act Against Discrimination and if applicable, execute a Certificate of Nondiscrimination and Affirmative Action as provided in K.S.A. §44-1030. The Contractor further agrees that the Contractor shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

11.0 Facilities and Equipment.

Contractor shall furnish at its own cost and expense all labor, tools, equipment, materials, transportation, and any other accessories, services and facilities required to complete the Project as designated, described in accordance with this Agreement, including any attached exhibits and any addendums to this Agreement. The City expressly denies responsibility for or ownership of any item purchased until the same is delivered to and accepted by the City.

12.0 Accessibility.

Contractor will comply with the Rehabilitation Act of 1973, as amended, Section 504, which prohibits discrimination against handicapped persons in employment services, participation and access to all programs receiving federal financial assistance. Contractor shall also comply with applicable requirements with the Americans with Disabilities Act (ADA), as amended, which is a federal anti-discrimination statute designed to remove barriers which prevent qualified individuals with disabilities from enjoying equal treatment by state and local governments and their agencies in employment practices and accessibility in public services and programs.

13.0 Records, Ownership and Inspection.

13.1 Ownership of Documents.

All documents prepared by Contractor in the performance of this Agreement, although instruments of professional service, are and shall be the property of City, whether the project for which they are made is executed or not.

13.2 Open Records.

In recognition of the City's obligations under the Kansas Open Records Act ("KORA"), Contractor acknowledges that this Agreement along with any reports and/or records

provided pursuant to this Agreement are public documents and are subject to disclosure under KORA.

13.3 Maintenance of Records.

Except as otherwise authorized by the City, Contractor shall retain such documentation for a period of three (3) years after receipt of final expenditure report under this contract, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond this three (3) year period.

14.0 Independent Contractor.

It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining worker's compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employee's compensation.

15.0 Compliance with Laws.

15.1 The Contractor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.

15.2 Pursuant to K.S.A. 16-113, if the Contractor does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court of Johnson County, Kansas. These forms may be obtained at the Office of the Clerk of the District Court. Contractor shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Contractor for the awarding of the Contract.

16.0 Assignment.

Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented. The subcontracting, assignment, delegation or transfer of the Services shall in no way relieve the Contractor of its primary responsibility for the quality and performance of such Services.

17.0 Confidentiality.

All reports and documents prepared by Contractor in connection with the performance of this Agreement are confidential until released by City to the public. Contractor shall not

make any such documents or information available to any individual or organization not employed by Contractor or City without the written consent of City before any such release.

18.0 Notices.

All notices hereunder shall be given in writing and sent as follows:

To City: Communications Manager Daneeka Marshall-Oquendo
120 E. Main St., Gardner, KS 66030

To Contractor:

Akshaya Ray - CEO
150 Kirts Blvd. Troy, MI 48084

Dmo
ar
RR

19.0 Amendments.

19.1 This document represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, and agreements, either written or oral.

19.2 This document may be amended only by written instrument, signed by both City and Contractor.

20.0 No Third Party Beneficiaries.

City and Contractor specifically agree that this Agreement is not intended to create any third party beneficiary relationship nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement; the duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

21.0 Force Majeure.

City shall not be responsible for any delay or failure of performance resulting from fire, flood, other acts of God, vandalism, strike, labor dispute of a third party, domestic or international unrest, delay in receipt of supplies, energy shortage or failure, or any other cause beyond its reasonable control.

22.0 Titles.

The titles in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

23.0 Negotiations.

City and Contractor agree that disputes relative to the project should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Contractor shall proceed with the work as per this Agreement as if no dispute

existed; and provided further that no dispute will be submitted to arbitration without both parties' express written consent.

24.0 Costs and Attorney Fees.

If on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.

25.0 Severability.

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

26.0 Authority to Enter into Agreement.

Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

27.0 Incorporation of Appendices.

Appendix A: Revize Web Services Sales Agreement, which includes the Scope of Work, Schedule and Cost.

28.0 Entire Agreement.

This Agreement represents the entire agreement between the Parties hereto and any provision not contained herein shall not be binding upon either party, nor have any force or effect.

29.0 Governing Law and Venue.

This Agreement shall be governed by the laws of the State of Kansas and, in the event of litigation, the sole and exclusive venue shall be within the District Court of Johnson County, Kansas.

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

CITY OF GARDNER, KANSAS

CONTRACTOR

(Mayor/City Administrator)

Ary
Akshaya Ray (May 6, 2024 09:14 CDT)
Its Authorized Agent (*Insert Name, Title*)
Akshaya Ray CEO

ATTEST:

City Clerk

APPROVED AS TO FORM:

Ryan Denk, City Attorney

Signature: *Ary*
Akshaya Ray (May 9, 2024 09:40 EDT)

Email: ray@revize.com






Revize Website Agreement 2024

Final Audit Report

2024-05-09

Created:	2024-05-09
By:	Thomas Jean (thomas@revize.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA2TZCj2ICeXEI8UIPI3cFmw11rD7azRne

"Revize Website Agreement 2024" History

-  Document created by Thomas Jean (thomas@revize.com)
2024-05-09 - 1:08:49 PM GMT
-  Document emailed to Akshaya Ray (ray@revize.com) for signature
2024-05-09 - 1:08:59 PM GMT
-  Email viewed by Akshaya Ray (ray@revize.com)
2024-05-09 - 1:39:31 PM GMT
-  Document e-signed by Akshaya Ray (ray@revize.com)
Signature Date: 2024-05-09 - 1:40:31 PM GMT - Time Source: server
-  Agreement completed.
2024-05-09 - 1:40:31 PM GMT

Revize Web Services Sales Agreement

This Sales Agreement is between The City of Gardner, Kansas (“CLIENT”) and Revize LLC, aka Revize Software Systems, (“Revize”). Federal Tax ID# 20-5000179 Date: 4-25-2024

CLIENT INFORMATION:	REVIZE LLC:
Company Name: <u>City of Gardner</u>	Revize Software Systems
Company Address: <u>120 E. Main St.</u>	150 Kirts Blvd.
Company City/State/Zip: <u>Gardner, KS 66030</u>	Troy, MI 48084
Contact Name: <u>Daneeka Marshall-Oquendo 913.856.0912</u>	248-269-9263
Billing Dept. Contact: Dmarshall-oquendo@gardnerkansas.gov	
CLIENT Website Address: www.gardnerkansas.gov	

The CLIENT agrees to purchase the following products and services provided by REVIZE:

Quantity	Description	Price
1	Phase 1: Kickoff Meeting and Discovery/Project Planning, onetime fee:	\$2,500.00
1	Phase 2 – Design Mockups/Wireframes, onetime fee: <ul style="list-style-type: none"> 1 homepage mockup with unlimited rounds of changes Home page template and inner page design and layout. Unique department landing page with unlimited rounds of changes 	\$9,500.00
1	Phase 3 & 4 – HTML Development & Revize CMS Integration, onetime fee: <ul style="list-style-type: none"> Set-up all CMS modules listed in this agreement Integration with all 3rd party web applications 	\$13,200.00
1	Phase 5 – Quality Assurance Testing, onetime fee:	\$1,900.00
1	Phase 6 – Sitemap Development & Content Migration, onetime fee: <ul style="list-style-type: none"> Site map development and content migration from old website including spell checking and style corrections – up to 1,000 webpages & 1,000 documents 	\$7,700.00
1	Phase 7 –Content Editing Training, onetime fee:	\$2,900.00
1	Phase 8 – Go Live:	Included
1	Revize Annual Software Subscription, Tech Support, CMS Updates, Website Hosting, Unlimited Users, 50GB website storage, 100GB/Month Bandwidth, SSL Certificate pre-paid annual fee:	\$6,900.00
1	Grand Total First Year	\$44,600.00

Payment Schedule

Payment Amount	Payment Date	Includes
\$ 33,450.00	6/1/2024	75% 1 st Year Project Costs
\$ 11,150.00	9/1/2024	25% 1 st Year Project Costs
\$ 6,900.00	6/1/2025	Year 2 of Annual Hosting & Maintenance
\$ 6,900.00	6/1/2026	Year 3 of Annual Hosting & Maintenance
\$ 6,900.00	6/1/2027	Year 4 of Annual Hosting & Maintenance

AGREED TO BY:

CLIENT

REVIZE

Signature of Authorized Person:

Name of Authorized Person:

Thomas Jean

Title of Authorized Person

Project Manager

Date:

Please sign and return to:

Thomas@revize.com

Fax 1-866-346-8880

Terms:

1. Payments: All Invoices are due upon receipt. Work begins upon receiving initial payment.
2. Revize requires a check for the amount listed above to start this project.
3. Additional content migration, if requested, is available for \$3 per web page or document.
4. Additional bandwidth is available at \$360 per year for each additional 50GB per month.
5. Additional website storage is available at \$500 per year for each additional 10GB website storage.
6. This agreement is the only legal document governing this sale & Proper jurisdiction and venue for any legal action or dispute relating to this Agreement shall be the State of Michigan.
7. Both parties must agree in writing to any changes or additions to this Sales Agreement.
8. CLIENT understands that project completion date is highly dependent on their timely communication with Revize. CLIENT also agrees and understands that;
 - a. The primary communication tool for this project and future tech support is the Revize customer portal found at <https://support.revize.com>.
 - b. During the project, CLIENT will respond to Revize inquiries within 48 hours of the request to avoid any delay in the project timeline.
 - c. CLIENT understands that project timelines will be delayed if they do not respond to Revize inquiries in a timely manner.
9. CLIENT may terminate this agreement upon 60 day written notice to Revize before the next annual service renewal date listed within payment schedule on page 2 of this agreement. Notice of termination must be in writing and given to the non-terminating party at least 60 days prior to the effective date of termination. Revize will provide a free redesign of the website in year 4 of the agreement. This assumes the CLIENT agrees to 4 consecutive years of annual software subscription, tech support, CMS updates, and hosting.
10. CLIENT owns design, content, and will receive periodic updates to the CMS for the life of the contract.
11. Unless otherwise agreed, Revize does not migrate irrelevant records, calendar events, news items, bid results, low quality images, or data that can reasonably be considered non-conforming to new website layout.
12. Storage is limited only to relevant website data. Unreasonably large folders of documents or images are not permitted. Examples include, but are not limited to, plat/property maps, tax records, GIS data, etc.
13. After content migration, CLIENT is responsible for any additional content cleanup. This includes, but is not limited to, resizing photos, reformatting text, replacing photos/icons, consolidating unwanted content, adding future calendar events, and general prep of the site before go live. CLIENT will also have the ability to add new photos, content, and pages.

Project Timeline Statement of Understanding

Revize and CLIENT agree and understand that the timeline provided is an estimate of our expected timeline for this project. It is not a guarantee. Revize intends to adhere as closely to the proposed timeline expectation as reasonable. CLIENT is expected to take an active role in this project including, but not limited to, participating in meetings with Revize, providing design feedback and approval, providing sitemap feedback and approval, scheduling and participating in user training, etc. Revize expects to complete phase 7 (training) of this project according to timeline provided. Upon completion of phase 7 it is the CLIENT's responsibility to decide when to go live with the website. CLIENT decision to delay go-live for any reason, unrelated to a functional defect making site inoperable, does not constitute breach of contract on the part of Revize. CLIENT understands that it is incumbent upon the CLIENT to respond to Revize requests in a timely manner. CLIENT further agrees that any timeline delays due to their lack of timely communication do not constitute a breach of contract on the part of Revize. CLIENT also acknowledges that satisfaction related to visual and experiential services like that of a website design project can be subjective. The parties agree that this project is a collaborative project and agree to work in good faith to "fine-tune" final deliverables in preparation for go live of new website. Parties further agree that generalized dissatisfaction related to the aesthetic aspects or services previously approved by the CLIENT does not constitute a breach of contract unless Revize fails to cure the functional defect with the website. The CLIENT may also elect to postpone or delay certain deliverables in favor of earlier go-live date of the website.

Enterprise Revize CMS License

As part of this agreement Revize LLC. will provide full usage access to our Enterprise Revize CMS Software, hosted in our cloud servers. This software is a proprietary software built and maintained by Revize LLC. and is intended to allow the CLIENT to easily update the content of their website. CLIENT agrees that this software access will only be used to maintain the websites included in this agreement. Sharing of the access, by the CLIENT, with other entities not identified in this agreement is prohibited.

Revize will maintain, update, and host the Revize CMS in our cloud server during the contract period. In the event that the contract is terminated, for any reason, Revize will halt CLIENT access to the Revize CMS, and will provide website content to the client, provided all payments for the entire length of the contract are fully paid.

Revize will integrate the following web applications into your website

The Following Applications & Features will be integrated into Your Website:

In addition to the Government Content Management System that enables non-technical staff to easily and quickly create/update content in the new web site, Revize provides a suite of applications and features specifically designed for municipalities. All of those apps and features are fully described in the following section. The applications and features are grouped into five categories:

Citizen's Communication Center Apps

- Notification Center with Text/Email Alerts
- Bid Posting
- Document Center
- Email Notify
- FAQs
- Job Posting
- Multi-use Business Directory
- News Center with Facebook/Twitter Integration
- Online Forms
- Photo Gallery
- Quick Link Buttons
- Revize Web Calendar
- **"Share This"** Social Media Flyout App
- Sliding Feature Bar
- Language Translator

Citizen's Engagement Center Apps

- Citizen Request Center with Captcha
- Citizen Connect (Community Blog)
- Curated **"Smart Search"**
- Online Interactive Forms with Bookables (Public Records Request App)
- Online Bill Pay
- Public Service Request System
- RSS Feed

Staff Productivity Apps

- Agenda Posting Center
- Job Posting App
- Image Manager
- iCal Integration
- Intranet
- Link Checker
- Menu Manager
- Online Form Builder
- Staff Directory
- Website Content Archiving
- Website Content Scheduling

Site Administration and Security Features

- Audit Trail
- Auto Site Map Generator
- History Log
- URL Redirect Setup
- Roles and Permission-based Security Mode
- Secure Site Gateway
- Unique Login/Password for each Content Editor
- Web Statistics and Analytics
- Workflows by Department

Mobile Device and Accessibility Features

- Font Size Adjustment
- Alt-Tags
- Responsive Website Design (RWD)

COUNCIL ACTION FORM

CONSENT AGENDA ITEM NO. 5

MEETING DATE: MAY 20, 2024

STAFF CONTACT: KELLEN HEADLEE, PUBLIC WORKS DIRECTOR

Agenda Item: Consider authorizing the purchase of a Street Sweeper through the Sourcewell Cooperative Purchasing Program under the City's Vehicle and Equipment Replacement Policy

Strategic Priority: Infrastructure and Asset Management
Fiscal Stewardship

Department: Public Works Fleet

Staff Recommendation:

Staff recommends authorizing the purchase of an Elgin Eagle Mechanical Street Sweeper from Key Equipment through the Sourcewell Cooperative Purchasing Program under the City's Vehicle and Equipment Replacement Policy.

Background/Description of Item:

Under the City's Vehicle and Equipment Replacement Policy (VERP), vehicles and equipment with a VERP score over 26 qualify for replacement and those with a VERP score over 30 is recommended for immediate replacement. City policy states street sweepers have an age target of 15 years of service before replacement.

Vehicle 516 is a 2006 Elgin Eagle Street Sweeper, a mechanical sweeper custom built on a Sterling truck chassis. Based on current age, condition, usage statistics, and maintenance history, this vehicle's VERP score is 32 and it is identified for replacement in 2025. Due to the complexity of street sweepers and competitive ordering environment, delivery lead time for a new sweeper is at least one year after ordering. Because of this, the proposed sweeper replacement requires a 2024 order for delivery in 2025.

The existing street sweeper is used daily/weekly for scheduled and emergency road cleaning. The current sweeper has exceeded its useful life, with recent breakdowns and ensuing maintenance costs reflecting major components beginning to fail. The estimated price for the street sweeper under the 2024 Sourcewell program is \$390,000.

Financial Impact:

Funding for this purchase will come from the Vehicle and Equipment Replacement Fund (VERF).

Suggested Motion:

Authorize the City Administrator to execute the purchase of an Elgin Eagle Street Sweeper through the Sourcewell Cooperative Purchasing Program under the City's Vehicle and Equipment Replacement Policy at a cost not to exceed \$390,000 plus a 10% contingency.

COUNCIL ACTION FORM

CONSENT AGENDA ITEM NO. 6

MEETING DATE: MAY 20, 2024

STAFF CONTACT: PAMELA WALDECK, POLICE CHIEF

Agenda Item: Consider authorizing the purchase and training of a dual-purpose K-9 and a 12-week course for K-9 / handler Training using the Special Law Enforcement Trust Fund

Strategic Priority: Infrastructure and Asset Management

Department: Police Department

Staff Recommendation:

Staff recommends authorizing the purchase of 1, dual purpose K-9 from Performance Kennels for \$12,000 and attendance at the 12-week handler training course taught by Code Blue Kennels for \$6,000, using funds from the Special Law Enforcement Trust Fund totaling \$18,000.

Background/Description of Item:

Our current K9 Zeus turned 9 years old in February and is nearing the end of his career. The purchase of a new K9 and handler training will ensure the seamless continuation of our K-9 program. Zeus is a dual-purpose K-9 trained for patrol and detection; we will be pursuing the same for our new K-9. Based on experiences and recommendations from experts in the K-9 field, we have chosen to purchase the K-9 from Performance Kennels and attend training taught by Code Blue Kennels, both located in Minnesota.

Financial Impact:

The estimated total cost to purchase the K-9 and provide K-9 / handler training is \$18,000. There will be additional expense for the travel involved in this purchase.

Attachments included:

Quotes from:

- Hill Country
- Code Blue
- Performance Kennels
- Cedar Creek

Suggested Motion:

Authorize the City Administrator to purchase 1 dual purpose patrol dog (imported green GSD or GSD / Malinois cross suitable for dual purpose patrol /detection training) from Performance Kennels for a cost of \$12,000, and attendance at Code Blue K-9 LLC Dual Purpose Patrol Dog School for the K-9 and handler for the cost of \$6,000 bringing the total cost to \$18,000 paid for using funds from the Special Law Enforcement Trust Fund.

ESTIMATE

Performance Kennels Inc
5455 Edmonson Ave NE
Buffalo, MN 55313

performancekennels@gmail.com
612-916-1161
www.performancekennels.com



Gardner Police Department

Bill to

Gardner Police Department
16540 Moonlight Rd.
Gardner, KS 66030 USA

Ship to

Gardner Police Department
16540 Moonlight Rd.
Gardner, KS 66030 USA

Estimate details

Estimate no.: 1029
Estimate date: 04/30/2024
Expiration date: 06/07/2024

#	Date	Product or service	Description	SKU	Qty	Rate	Amount
1.		Patrol dog	Imported green GSD or GSD / Malinois cross suitable for dual purpose patrol / detection training		1	\$12,000.00	\$12,000.00
2.		Combined detector/patrol course	12 week basic detection and patrol dog and handler course		1	\$6,500.00	\$6,500.00
Total							\$18,500.00
						Expiry date	06/07/2024

Code Blue K9,LLC

23148 State Hwy 16
Rushford, MN. 55971
(507)259-5415

Dear Officer Anderson,

Enclosed you will find the bid that you requested along with details about what Code BlueK9, LLC. will offer your agency for your K9 and handler training needs.

First, a bit about me: I was a law enforcement officer from 1994 to March of 2023, 17 of those years as a K9 handler and unit supervisor. I served on the United States Police Canine Association board from 2007-2018, the last 8 of those years as the region President. I am a USPCA certified Master trainer and Regional National judge in both patrol and detection. I have a passion for training officers and their K9's, with an emphasis on excellence and quality. In 2023 I retired from law enforcement to focus all of my time and energy on K9 training.

We are offering a 12-week patrol/narcotics training class. After which, your officer and K9 will be proficient in the following areas:

- Apprehension and scenario based training
- Agility
- Article Searches
- Building Searches
- Obedience
- Open Area Searches
- Tracking
- Narcotics Detection (vehicle searches, room searches, luggage searches, etc..)

Upon completion of the training, your officer and K9 will be provided the opportunity to certify through the United States Police Canine Association and/or the National Police Canine Association in patrol work and narcotics detection and they will be street ready.

Upon request, I can provide references from multiple agencies in the upper Midwest who have trained through Code Blue K9 and are now successful K9 teams, working the street. Please do not hesitate to call with any questions. I hope to have the opportunity to help you with your K9 needs.

(Please see enclosed bid.)

Trace Erickson -Code Blue K9,LLC

Code Blue K9 LLC

23148 State Hwy 16
Rushford, MN. 55971
(507)259-5415

1/7/2024

Gardner Police Department
16540 Moonlight Road
Gardner, KS 66030

Proposed Bid:

Price for Green Patrol Dog \$12,000.00
(K9 green dog will be purchased directly from vendor with no added cost. Code Blue K9 will assist in procuring a dog that best fits your agency/handler K9 needs.)

Dual purpose Patrol Dog school \$6,000.00
(narcotics detection- rooms, vehicles and parcels; tracking; apprehension; article search; agility; obedience; open area/building searches; real life scenario based training)

Total Cost: **\$18,000.00**

All classes will run Monday-Thursday 7:00 a.m.-5:00 p.m.

We are a full-service training center with an on-site kennel as well as limited lodging.

Please contact for availability and pricing.

Trace Erickson
Owner/Head Trainer
Code Blue K9
(507)259-5415



2859 Bear Creek Rd
Pipe Creek, TX 78063
830-510-4700

Gardner Police Department

In Response to:

Request for quote for

HCDC Canine, Courses, and Lodging

January 8, 2024

Prepared for:

James Anderson

Prepared by:

Tania Rodriguez

2859 Bear Creek Road

Pipe Creek TX 78063

Tel. 830-510-4700

E-Mail: trodriquez@hcdogcenter.com



2859 Bear Creek Rd
Pipe Creek, TX 78063
830-510-4700

1 Introduction

Hill Country Dog Center (HCDC) is an established canine training center owned and staffed with prior military and law enforcement canine trainers with extensive real-world experience. HCDC has contracted with multiple entities for over 20 years to provide Working Canines including but not limited to numerous Federal Agencies, Private Security Firms, Law Enforcement Departments and agencies nationwide as well as multiple companies servicing overseas contracts. We have provided over 3,000 dogs to the Middle East that have been trained as Explosives Detection Dogs (EDD's), Narcotic Detection Dogs (NDD's) or combination Patrol / Explosive – Patrol / Narcotic Dogs. HCDC has U.S. Government contracts to deliver the handler training and provide procurement and logistics support to prepare and ship the canines and acquire equipment and supplies needed to facilitate the training around the world.

2 HCDC Training Center

Our team training facility main campus is located at Hill Country Dog Center (HCDC), near San Antonio, Texas, on a 40-acre site with over 50,000 square feet in classrooms, training buildings, and office space. This facility offers the following infrastructure and training areas to the contract:

Our facilities include: a main office with six offices (all with internet and advanced communication systems), three classrooms that can handle approximately 50, 20, and 20 students respectively (all with updated teaching aids and equipment), and a dedicated Conference Room with overhead projectors and conference call capability.



Images: Sixty (60) state-of-the-art kennels



2859 Bear Creek Rd
Pipe Creek, TX 78063
830-510-4700



One 8,000 square foot two-story training building with additional classrooms and areas where multiple EDD training scenarios can be replicated - including groups of personnel.
A large obstacle course where dogs are both trained and conditioned.



Vehicle training area that contains over 25 different types of vehicles for detection searches.





2859 Bear Creek Rd
Pipe Creek, TX 78063
830-510-4700

In addition to the enclosed training areas and large tracts of land for training scenarios at our training facility, we have sufficient space to accommodate more than 60 canine teams training simultaneously within our facilities. For surge training, we have immediate access to an additional 200 acres adjacent to their center, providing a variety of physical and environmental scenarios conducive to EDD and Explosive Ordnance Disposal training, evidence recovery, and scent discrimination. Further, within a ten to fifteen-mile radius of our training facility, there are numerous venues that can be used for training purposes; these include theaters, conference centers, sports arenas, aircraft, single and multiple family housing facilities, schools, and warehouses. We have arrangements in place and currently utilize these venues for training off-site.

HCDC includes on-site student lodging in an approximately 1960 square foot double-wide with fully equipped kitchen, five individual bedrooms/bathrooms, two common living areas, washer, dryer and satellite.



3 Canine Screening and Selection

The HCDC team has years of experience in conducting buy trips around the world during which the team has performed extensive pre-selection testing on vendors, their canine products, and on their kennels and training sites. As a result, the HCDC team has established excellent business relationships with premier canine vendors domestically and abroad and we are afforded preferential treatment based on our insistence on quality, the volume of canines purchased, our payment history, and our willingness to work with vendors to resolve canine performance or health issues.



2859 Bear Creek Rd
Pipe Creek, TX 78063
830-510-4700

Typically, less than 25% of canines screened meet our standards for purchase. The canines are acquired as “green” canines and are “finished” at our Texas-based kennels and training facility. The breeds that we prefer to work with are the Labrador, Belgian Malinois, German Shepherd, and Dutch Shepherd. Prior to acceptance, we pre-screen our canines to ensure that they are trainable, healthy, athletic, sociable, possess the drive and nerve strength to work long hours in physically demanding environments. We only purchase canines from vendors that offer health and workability guarantees for a minimum of one year, and only selects canines that are between 12 and 24 months old. In addition, we require our vendors to implant subcutaneous 15-digit ISO-compatible microchips for positive identification and tracking purposes.

3.1 Behavior Screening

The HCDC Team follows a thorough pre-selection regimen while screening canines for the disposition, character, and medical fitness required for the training and intended mission of the canines. The screening includes, but is not limited to:

Socialization – Given the potential of interchanging of handlers and exposure to people throughout its working life, the HCDC Team looks for well-socialized canines that possess a good demeanor. The HCDC Team checks to ensure the animal is well disciplined in and around humans, is not aggressive to the handler or other people with whom the canine may come in contact, with the ability to obey basic commands.

Hunt Drive/Ball Drive – The HCDC Team screens the canines for high ‘ball drive.’ Specifically, the HCDC Team looks for canines that show intense interest in a ball or valued reward and hunt for a prolonged period to locate and retrieve the object if hidden or in an area away from its immediate vicinity.

Possession – Another characteristic of good ‘ball drive’ is the desire of the canine to hold the ball or valued reward. This characteristic provides the HCDC Team with an indication of how effective the ball or valued reward will be when used as an incentive during training. As such, when screening the canine, the HCDC Team looks for a balance of possession and socialization whereby the canine will desire the ball or valued reward but will not be overly possessive or aggressive in its possession and will yield to the handler if so ordered.

Obedience/Trainability – The HCDC Team evaluates canines for basic obedience and discipline using drills such as ‘sit,’ ‘stay,’ ‘down,’ and other commands as applicable. Although most canines have received only limited obedience training from the vendor, these drills allow the HCDC Team to evaluate the canine’s disposition to determine if the canine is cooperative or unruly; this allows the HCDC Team to determine the trainability of the canine that it is screening.

Environmental Drills – The HCDC Team assess the canine’s reaction when it is in an enclosure, dark room, slick floor, traveling up and down stairs, in noisy conditions, and around vehicles to



2859 Bear Creek Rd
Pipe Creek, TX 78063
830-510-4700

determine if the canine is comfortable and trainable. By evaluating the reaction of the canine in these situations, the HCDC Team can ascertain the ability of the canine to be trained for and function in a variety of real-life environmental conditions

3.2 Medical Pre-Screening

Once the HCDC Team has identified the canines that possess the desired demeanor, drive, and trainability through the above prescreening assessments and drills, a medical prescreening by a licensed veterinarian is performed on each canine to ensure that each canine selected meets or exceeds the medical standards required. The medical prescreening includes a review of the canine's health records and x-rays, and a physical examination of the canine for:

Gait – Screen to see if the canine's basic walking and running postures appear normal.

Eyes – Examine the general appearance and ability to track an object.

Ears – A physical check is conducted to check for visible problems and/or touch sensitivity which could indicate internal infection.

Teeth and Jaws – The teeth are checked for damage such as breakage or excess wear. Jaws are checked for proper alignment.

Feet – A physical check of the pads and toes of the canine is conducted to check for abnormalities or deformities that could indicate a prior injury or genetic abnormality.

Skin and Coat – The skin and coat are checked to identify any lesions, tumors, or areas that may conceal a hernia. The skin and coat examinations also allow for the identification of external parasites. Selected canines should have a full, bright coat, free of baldness.

Male Canines – Genitals are checked to ensure that both testicles have extended into the scrotum.

Limbs and Joints – X-Rays are conducted on each of the canine's hips, spine, and elbows and are then evaluated by the veterinarian to ensure there is nothing prohibiting the canine from performing its functions.

Heartworms – Blood is drawn from each canine and a veterinary approved SNAP test is performed to ensure that the canine is negative for heartworm infection. Once the canines are cleared and found negative for heartworm infection, a treatment of heartworm preventative is administered each month perpetually thereafter.

Internal Parasites – All canines undergo a three (3) day course of veterinary approved parasitic treatment upon consideration for selection. The parasitic treatment course is repeated ten (10) days following the initial treatment.



2859 Bear Creek Rd
Pipe Creek, TX 78063
830-510-4700

4 Explosive or Narcotics Training

The following are a sample of what will be available to construct training aids and support the explosive and narcotics programs.

Explosive Training Aids:

- C4 (Trinitro-triazacyclohexane + plasticizers)
- TNT (Trinitrotoluene)
- AN (Ammonium nitrate)
- Smokeless Powder (Trinitroglycerin + Nitrocellulose)
- Detonating Cord (Pentaerythritol tetranitrate)
- Semtex (Pentaerythritol tetranitrate +Trinitro-triazacyclohexane + plasticizers)
- RDX (Trinitro-triazacyclohexane)

Narcotic Training Aids:

- Marijuana
- Cocaine
- Heroin
- Meth
- Additional odors may be added or excluded upon request

4.1 Canine Basic Training

Once selected, all of our newly acquired canines are entered into an extensive and aggressive training program to prepare them for bonding, training, and certification with a handler. This training is approximately six to eight weeks prior to handler training. The first week consists of quarantine, medical evaluation, and acclimation to the kennels. The next several weeks consists of increasing proficiency in obedience, behavior skills, drive, and explosive and/or narcotic odor recognition. The following highlights the methods we use to develop the canine skills in each of these critical tasks.

4.2 Obedience

Although most of the K-9s purchased from our vendors have some degree of obedience training, our trainers will instill all the basic obedience commands in the canine. The K-9 will be properly taught to respond to the full range of commands such as "sit," "stay," and "down", and operate on a leash in a variety of environments (indoors, outdoors, in and around various types of vehicles). During this process we also develop the canine's ability to socialize and operate in a working dog environment, introducing him to non-familiar surroundings and people. The canines will also be introduced to the routine life support cycle at a working dog kennel (feeding routines, bathing) and will participate in physical training and other conditioning drills to best prepare them for their assignments.



2859 Bear Creek Rd
Pipe Creek, TX 78063
830-510-4700

4.3 Basic Odor Recognition / Imprinting

Initially, this training is conducted with a “variable box” or “4-hole” method of associating individual explosive or narcotic odors with the reward (ball or “Kong”). This will produce the desired detection behavior in the canine. Our fundamental training methodology is based on the toy reward and positive reinforcement. The canine will progress in this manner until they have been imprinted with the odors that are standard for the industry.

Once the canines show consistent detection behavior with individual odors, they will transition from variable box training to “open area” training. They will also be taught to search rooms, buildings (internal and external), and other enclosed spaces.

4.4 Handler Training

Handler training courses consist of a three (3) week single purpose course and a four (4) week dual purpose course. The class will cover K9 health and welfare, record keeping, principles of conditioning, detector dog handling and search technique, obedience, controlled aggression and legal considerations.

5 Patrol

Each patrol dog trained by the Hill Country Dog Center is prepared for rigorous duty in law enforcement. We expose our patrol dogs to various situations and training such as hidden sleeve work, bite suit training, obedience, building search, scouting, tracking, and officer protection. The level and training of our patrol dog is tailored to your standards. We offer every level of adeptness from untrained patrol dogs to fully trained dogs ready for service on the street.

6 Trainer’s Course Outline

The 6 weeks Trainer’s Course will include but not limited to:

- Introduction of odor
- Intermediate and Advance detection work
- Problem solving with detection
- Agitator training
- Initial bite work
- Building civil (defense) aggression
- Gaining control while maintaining drive
- Initial, intermediate and advance tracking techniques

Trainers will be working with a minimum of 4 dogs personally and be interacting with a minimum of 20 other dogs in training during the course. The course will be 20% classroom and about 80% hands on training for a total of 240 hours.



2859 Bear Creek Rd
Pipe Creek, TX 78063
830-510-4700

Past Performance HCDC

US DOS Office of Anti-Terrorism Assistance (ATA) Afghanistan

Contract number: GS-07F-0477X, Task
Order SAQMMA13F1995
July 2013 – June 2015
Value \$921,351.41

US DOS Office of Anti-Terrorism Assistance (ATA) Amman Jordan

Contract number: GS-07F-0477X, Task
Order SAQMMA13F1995
August 2015 to November 2015
Value \$343,494.00

US DOS Office of Anti-Terrorism Assistance (ATA) Thailand

Contract number: GS-07F-0477X, Task
Order SAQMMA13F1995, Modification 002
July 2013 to May 2014; initial contract,
Modification September 2014 to April 2015
Value \$220,138.26

US DOS INL Colombia

Contract number: GS-07F-0477X, Order
SINLEC16F0039
March 2016 to June 2016
Value \$908,976.00

US DOS Office of Anti-Terrorism Assistance (ATA) Philippines

Contract number: GS-07F-0477X, Task
Order SAQMMA13F1995
January 2015 to April 2015
Value \$358,183.29

US DOS INL Mexico

Contract number: SMX900160005
March 2016 to July 2016
Value \$196,369.60

US DOS Office of Anti-Terrorism Assistance (ATA) Dominican Republic

Contract number: GS-07F-0477X, Task
Order SAQMMA13F1995
July 2015 to September 2015
Value \$163,672.00

US DOS INL Panama

Contract number: GS-07F-0477X, Order
SINLEC16F0089
August 2016 to September 2016
Value \$108,800.00

US DOS INL Mexico

Contract number: GS-07F-0477X, Order
SINLEC16F0128
October 2016 to September 2017
Value \$377,305.00



2859 Bear Creek Rd
 Pipe Creek, TX 78063
 830-510-4700

Hill Country Dog Center Team

<p>Michael Clemenson HCDC Owner and Program Manager</p>	<ul style="list-style-type: none"> • Owner, Hill Country Dog Center, LLC • Over 25-years canine handler/trainer/instructor experience • Over 15-years as Program Manager • Over 7-years training MDDs in support of UN and DOS-sponsored capacity building initiatives and clearance operations • Former MDD trainer at Global Training Academy • Certified Canine Tracking/Trailing • His company has trained and delivered over 2000 canines to support the US military, DOS, UN, and local law enforcement • Certified DoD, Military Working Dog Handler/Trainer • Graduate of the U. S. Air Force Basic Instructor Course • Certified Canine Trainer / Instructor
<p>Joseph Friel Instructor / Trainer</p>	<ul style="list-style-type: none"> • Instructor and Canine Trainer, Hill Country Dog Center • Over 20-years canine trainer experience • Chief of the DoD MWD Trainer/Supervisor Course • Training Advisor in the early evolution of the US Army MDD program • U.S. Air Force MWD Instructor • FAA (TSA) Explosives Detection Canine Team Program Evaluator • Certified DoD, Military Working Dog Handler (Kennel Master and Trainer Supervisor) • Graduate of the U. S. Air Force Basic Instructor Course • Certified DoD Military Working Dog Handler (Patrol, Explosive, and Narcotics)
<p>Arturo Terrazas Procurement Supervisor and Trainer</p>	<ul style="list-style-type: none"> • Lead Instructor and OCONUS Trainer, Hill Country Dog Center • Canine Procurement Supervisor at HCDC • Over 10-years Canine Trainer experience • Trained over 500 working dogs
<p>Caleb Owens Canine Handler And Trainer</p>	<ul style="list-style-type: none"> • Military Working Dog Trainer (2013) • Specialized Search Dog Handler Course (2014) • Train the Trainer Course, DoD (2014) • Homemade Explosives Imprint Training Course, Bureau of Alcohol, Tobacco, Firearms and Explosives (2015) • Military Working Dog Kennel Masters Course (2015)



2859 Bear Creek Rd
Pipe Creek, TX 78063
830-510-4700

References

The Hill Country Dog Center was established in 1994 in Pipe Cree, TX. We have placed over 5,000 dogs in Law Enforcement Departments, Department of Defense, and Private Security Firms. The following is a list of clients below with whom we have worked and to whom we have provided detection canines in the past. If you need additional contacts let me know.

Williamson County Sheriff's Office

Contact: Sgt. Albert Ortiz

512-769-3843

aortiz@wilco.org

Plano Police TX Department

Contact: Officer Mike Atkins

972-841-1474

matkins@plano.gov

Seadrift Police Department

Contact: Asst. Chief of Police Louis Warren

512-963-8423

l.warren@seadrifftx.org

Jackson County KS Sheriff's Office

Contact: Sgt. Scott Morris

785-256-5453

scott.morris@jasoks.org

Lubbock TX Police Department

Contact: Sgt. Michael Jordan

806-775-2865

mjordan@mail.ci.lubbock.tx.us

Calcasieu Parish Sheriff's Office

Contact: Sgt. Nathan G. McKee

337-936-1199

nmckee@cpsos.com

Ector County Independent School District

Contact: Chief Jeff Daniels

432-456-9999

jeff.daniels@ectorcountysd.org

Beaumont Police Department

Contact: Sgt. Scott Lisenby

409-221-9608

scott.lisenby@beaumonttexas.gov



2859 Bear Creek Rd
Pipe Creek, TX 78063
830-510-4700

January 8, 2024

James Anderson,

Thank you for reaching out to Hill Country Dog Center for your handler course needs. We look forward to having your department on board with us in the near future. The following is the pricing you've requested.

Pricing:

Green Dual Purpose Canine **\$10,500**

One (1) Year Medical* and Thirty (30) Days Trainability/Workability Guarantee

Dual Purpose Detection and Patrol Dog and 4-Week Handler Course..... **\$14,000**

Dog Equipment: Leather Collar and Leash, Bowl, Toy, Training Collar, Brush
One (1) Year Medical* and One (1) Year Trainability/Workability Guarantee

Trainer's Course 6-Weeks..... **\$9,000**

Lodging:

Optional On-site Lodging @\$400/wk (\$1,600/\$2,400)

Course Date Availability:

March 4, 2024, April 15, 2024 (Dual Purpose Handler Course)

June 24, 2024, September 30, 2024 (Trainer's Course)

We look forward to working with your department. If you need additional information, please feel free to contact us.

Sincerely,

Mike Clemenson
Vice President/Operator HCDC

*HCDC guarantees that all selected dogs will be 100% healthy and be free of any genetic defect or debilitating medical condition unrelated to improper utilization or training. If a Genetic, Hereditary or Neurological condition is diagnosed during the first twelve (12) months the canine will be replaced.

Prices Valid for 365 days

Pamela Waldeck

To: Pamela Waldeck
Subject: FW: New K9

From: Matt Greenlief <matt@cedarcreekkennelsil.com>
Sent: Thursday, January 11, 2024 4:34 AM
To: James Anderson <janderson@gardnerkansas.gov>
Subject: Re: New K9

Good morning,

Thank you for reaching out and expressing your interest in Cedar Creek Kennels. As you may already know we are one of the industry leaders in Police Canine Training. Our course is not quick, nor is it easy. We demand a lot from ourselves and of our handlers that attend our basic handlers course. Throughout the course you will be given instruction on how to respond and deploy your K9 in real world deployment scenario based training. The class is very challenging however your life, your other deputies lives and the public depend on the training you will receive. We will have between 5-10 dogs to select from upon your arrival to test.

FY2024 Pricing

Dual Purpose K9- \$12,500

10 Week Handler Course- \$8,000

Handler Housing-\$75 per night \$3750 for 10 weeks. Weekends are free.

A Trainers Course is 13 weeks \$13,000(with dog)

\$4500 for housing for trainers course

Feel free to contact me if you have any questions or concerns on my cell 309-351-1011

Matt Greenlief - Director of Canine Sales and Training
Cedar Creek Kennels
309-734-6528
www.cedarcreekkennelsil.com



On Thu, Jan 11, 2024 at 1:32 AM James Anderson <janderson@gardnerkansas.gov> wrote:

Matt,

I am reaching out because the Gardner Police Department hopes to add a second dog to our current K9 program. After attending your training last year and learning about your methods and your dogs, I would like to request more information about utilizing your services.

Specifically, I am seeking information about the pricing for green dogs, the price for a handler course and what exactly that looks like, and the price for a trainer's course and the details and length of said course. Also, if you have any lodging on site and how much would it be for the 10-week handler course? Any references of officers or departments that have bought your dogs.

Any additional information you feel would be helpful would also be welcome.

I'm putting information together for the Chief.

Thanks,
Officer Anderson
Gardner Police Department
K-9 Unit

COUNCIL ACTION FORM

CONSENT AGENDA ITEM NO. 7

MEETING DATE: MAY 20, 2024

STAFF CONTACT: KELLEN HEADLEE, PUBLIC WORKS DIRECTOR

Agenda Item: Consider authorizing an agreement with KDOT for the Gardner Traffic Signal Interconnect Project

Strategic Priority: Infrastructure and Asset Management; Quality of Life

Department: Public Works

Staff Recommendation:

Staff recommends authorizing the Mayor to execute an agreement with KDOT to interconnect traffic signals within the City of Gardner.

Background/Description of Item:

The City acquired funding in 2023 to interconnect traffic signals on US-56 and on Moonlight Road through the KDOT Bureau of Local Projects. The City is currently in the process of getting approval from KDOT to begin design.

Financial Impact:

There is no cost associated with this agreement. The estimated cost of the project is \$300,000. KDOT will provide a maximum of \$240,000 in grant funding for this project. The City's share of the costs is \$60,000. Funding will come from the City's Special Highway Fund.

Attachments Included:

- City/State Agreement

Suggested Motion:

Authorize the Mayor to execute an agreement with KDOT to interconnect signals within the City of Gardner.

PROJECT NO. 46 N-0796-01
CRP- N079(601)
GARDNER: TRAFFIC SIGNAL INTERCONNECT
CITY OF GARDNER, KANSAS

AGREEMENT

This Agreement is between the **Secretary of Transportation**, Kansas Department of Transportation (KDOT) (the “Secretary”) and the **City of Gardner** (“Sponsor”), **collectively**, the “Parties.”

RECITALS:

- A. The Mid-America Regional Council (MARC) has been designated by the states of Kansas and Missouri as the Metropolitan Planning Organization (MPO) for the bi-state Kansas City metropolitan region.
- B. The Sponsor has submitted a Project to MARC and MARC has approved Sponsor’s Project for receipt of Carbon Reduction Program (CRP) federal funds.
- C. The Sponsor agrees to sponsor the Project, as further described in this Agreement. The Secretary and the Sponsor are empowered by the laws of Kansas to enter into agreements for the development of such projects, and the Secretary is authorized to administer funds for such projects.

NOW THEREFORE, in consideration of these premises and the mutual covenants set forth herein, the Parties agree to the following terms and provisions.

ARTICLE I

DEFINITIONS: The following terms as used in this Agreement have the designated meanings:

1. **“Agreement”** means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.
2. **“Construction”** means the work done on the Project after Letting, consisting of building, altering, repairing, improving or demolishing any structure, building or pavement; any drainage, dredging, excavation, grading or similar work upon real property.
3. **“Construction Contingency Items”** mean unforeseeable elements of cost within the defined project scope identified after the Construction phase commences.
4. **“Construction Engineering” or “CE”** means inspection services, material testing, engineering consultation and other reengineering activities required during Construction of the Project.

5. **“CRP”** means the Carbon Reduction Program authorized under 23 U.S.C. § 175, funds to be used for activities for the reduction of transportation emissions and other eligible projects.
6. **“Design Plans”** means design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies necessary for the Project under this Agreement.
7. **“Effective Date”** means the date this Agreement is signed by the Secretary or the Secretary’s designee.
8. **“Encroachment”** means any building, structure, farming, vehicle parking, storage or other object or thing, including but not limited to signs, posters, billboards, roadside stands, fences, or other private installations, not authorized to be located within the Right of Way which may or may not require removal during Construction pursuant to the Design Plans.
9. **“Federal Government”** means the United States of America and any executive department or agency thereof.
10. **“FHWA”** means the Federal Highway Administration, a federal agency of the United States.
11. **Fiscal Year 2024” or “FFY 2024”** means the twelve-month period used by the United States Federal Government for financial reporting and budgeting beginning on October 1, 2023, and ending on September 30, 2024.
12. **Fiscal Year 2025” or “FFY 2025”** means the twelve-month period used by the United States Federal Government for financial reporting and budgeting beginning on October 1, 2024, and ending on September 30, 2025.
13. **“KDOT”** means the Kansas Department of Transportation, an agency of the state of Kansas, with its principal place of business located at 700 SW Harrison Street, Topeka, KS, 66603-3745.
14. **“Letting” or “Let”** means the process of receiving bids prior to any award of a Construction contract for any portion of the Project.
15. **“MARC”** means the Mid-America Regional Council, with its place of business at 600 Broadway, Suite 200, Kansas City, MO 64105.
16. **“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.
17. **“Participating Costs”** means expenditures for items or services which are an integral part of highway, bridge and road construction projects, as reasonably determined by the Secretary.
18. **“Parties”** means the Secretary of Transportation and KDOT, individually and collectively, and the Sponsor.

19. **“Project”** means **PROJECT NO. 46 N-0796-01; traffic signal interconnect at the following locations: US-56 & Center Street, US-56 & Elm Street, US-56 & Mulberry Street, US-56 & Moonlight Plaza, US-56 & Moonlight Street, Moonlight Street & Lincoln Lane, US-56 & Old 56 Highway, US-56 & Cedar Niles Road, and with future expansion capability to the US-56 & I-35 Interchange in Gardner, Kansas,** and is the subject of this Agreement.
20. **“Responsible Bidder”** means one who makes an offer to construct the Project in response to a request for bid with the technical capability, financial capacity, human resources, equipment, and performance record required to perform the contractual services.
21. **“Right of Way”** means the real property and interests therein necessary for Construction of the Project, including fee simple title, dedications, permanent and temporary easements, and access rights, as shown on the Design Plans.
22. **“Secretary”** means the Secretary of Transportation of the State of Kansas, and the Secretary’s successors and assigns, and KDOT, individually and collectively.
23. **“Sponsor”** means the City of Gardner, Kansas, with its place of business at 120 East Main Street Gardner, KS 66030.
24. **“Urbanized Area”** means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an “urbanized area” by the U.S. Secretary of Commerce.
25. **“Utilities” or “Utility”** means all privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, and other similar commodities, including non-transportation fire and police communication systems which directly or indirectly serve the public.

ARTICLE II

FUNDING:

Funding. The table below reflects the funding commitments of each Party. The Total Actual Costs of Construction include Construction Contingency Items. The Parties agree estimated costs and contributions are to be used for encumbrance purposes and may be subject to change. The Sponsor agrees to notify KDOT promptly in writing if costs increase by 10% or greater over the estimate.

Party	Funding Source	Responsibility
Secretary	Federal Funds	80% of Participating Costs of Preliminary Engineering (PE) in Fiscal Year 2024 up to a maximum of \$66,240.

		80% of Participating Costs of Construction in Fiscal Year 2025 up to a maximum of \$173,760. The Secretary’s total contribution to Participating Costs shall not exceed \$240,000.
Sponsor	Local Match	20% of Participating Costs of PE and Construction until the Secretary’s funding limit is reached in each Fiscal Year. 100% of Participating Costs exceeding the Secretary’s funding limit in the Secretary’s total contribution. 100% of Costs of Construction Engineering (CE), Right of Way, Utility adjustments, and Non-Participating Costs.

ARTICLE III

SECRETARY RESPONSIBILITIES:

1. **Secretary Authorization.** The Secretary is authorized by the Federal Government to administer CRP funds.

2. **Fiscal Year Allocation.** The Secretary has allocated CRP funds from federal fiscal year (FFY) 2024 and 2025 for the Project.

3. **Reimbursement Payments.** The Secretary agrees to reimburse the Sponsor for eighty percent (80%) of the total actual and eligible costs incurred by the Sponsor, but not to exceed \$240,000 for the Project, subject to any federal reduction in CRP funds. The Secretary shall not be responsible for the total actual costs that exceed \$300,000 for the Project. The Secretary agrees to make partial payments, for amounts not less than \$1,000 and no more frequently than monthly, to the Sponsor upon receipt of proper billings.

4. **Final Payment.** Any final amount due for the authorized work performed under this Project will be based upon the Sponsor’s most recent Single Audit Report available and a desk review of the claim by the Contract Audit Section of the Secretary’s Bureau of Fiscal Services.

ARTICLE IV

SPONSOR RESPONSIBILITIES:

1. **Incorporation of Project Application.** The Sponsor shall undertake and complete the Project and in accordance with the terms and conditions of this Agreement.

2. **Procurement.** The Sponsor shall undertake the purchase of materials related to the Project in accordance with the procedures established by the current K.S.A. 75-3739 *et seq.* and 49

C.F.R. 18.32, or the Sponsor's procurement policies or regulations if such policies or regulations are approved by KDOT's Bureau of Local Projects (BLP). The Secretary shall not be responsible for any obligations that the Sponsor has assumed with using the State of Kansas' procurement procedures. Furthermore, the Sponsor acknowledges and agrees its request to the Secretary to use the State of Kansas' procurement procedures shall not bind the Secretary to render or provide assistance in any manner associated with this Agreement.

3. **Meeting Requirements.** The Sponsor agrees, during the life of the Project, to attend any meetings requested by representatives of the Secretary or the MARC, if the Secretary deems such meetings to be necessary.

4. **Inspections.** Representatives of the Secretary or the MARC, if the Secretary deems necessary, may make periodic inspections of the Project and the records of the Sponsor as may be deemed necessary or desirable. The Sponsor will accomplish or direct or cause its subcontractors to accomplish any corrective action or work required by the Secretary's representatives as needed for federal participation. The Secretary does not undertake (for the benefit of the Sponsor, its subcontractors, or any third party) the duty to perform the day-to-day detailed monitoring of the Project, or to catch any errors, omissions, or deviations from the Project's scope of work by the Sponsor or its subcontractors.

5. **Reports.** The Sponsor shall advise the Secretary regarding the progress of the Project at such times and in such a manner as the Secretary may require, including, but not limited to, meetings, interim progress reports, summary of expenditures, and a detailed final report.

6. **Legal Authority.** The Sponsor agrees to adopt all necessary ordinances and/or resolutions and to take such administrative or legal steps as may be required to give full effect to the terms of this Agreement.

7. **Indemnification.** To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act, the Sponsor shall defend, indemnify, hold harmless, and save the Secretary and the Secretary's authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the provisions or performance of this Agreement by the Sponsor, the Sponsor's agents, employees, or subcontractors. The Sponsor shall not be required 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.

8. **Financial Obligation.** The Sponsor will be responsible for twenty percent (20%) of the total actual costs incurred for the Project up to \$300,000. In addition, the Sponsor agrees to be responsible for one hundred percent (100%) of the total actual costs of the Project that exceed \$300,000. Further, the Sponsor agrees to be responsible for one hundred percent (100%) of all costs of items found not eligible for reimbursement by the Secretary.

9. **Project Costs Prior to FHWA Approval.** The Sponsor agrees to be responsible for one hundred percent (100%) of any Project costs incurred by the Sponsor for the Project prior to the funding for the Project being authorized, obligated, and approved by the FHWA.

10. **Restricted Funding Source.** The Sponsor acknowledges and understands Secretary's share of the Project's total, actual, and eligible costs will be funded through the federal aid Carbon Reduction Program (CRP) Funds allocated to the Kansas City Urbanized Area. The Secretary does not assume any liability in connection with the Project. The Sponsor shall reimburse the Secretary for any funds approved for this Project and expended by the Secretary for which the Secretary is not reimbursed by the Federal Government (Federal Aid CRP Funds).

11. **Davis-Bacon Act Requirements.** As provided at 23 U.S.C 175(g), all projects funded with CRP funding shall be treated as located on a Federal-aid highway. Accordingly, 23 U.S.C 113 applies, and Davis-Bacon wage rates must be paid. In general, Davis-Bacon requires that all laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work on an award or project in excess of \$2000 funded directly by or assisted in whole or in part by funds made available under CRP shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the "Davis-Bacon Act" (DBA). For additional guidance on how to comply with DBA provisions and clauses, see <https://www.dol.gov/agencies/whd/government-contracts/construction> and <https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction> . See also <https://www.fhwa.dot.gov/construction/cqit/dbacon.cfm>.

12. **Billings and Reporting.** The Sponsor agrees to submit proper billings to the Secretary for amounts not less than \$1,000 and no more frequently than monthly. The Sponsor will submit progress reports on the Project, in a form acceptable to the Secretary, together with the billings. Further, if a final report is required for the Project, the Sponsor must submit such final report to the Secretary prior to the Sponsor's receipt of final payment.

13. **Payment of Final Billing.** If any payment is due to the Secretary, such payment shall be made within thirty (30) days after receipt of a complete and final billing from the Secretary's Chief of Fiscal Services.

14. **Annual Project Audit.** The Sponsor will participate and cooperate with the Secretary in an annual audit of the Project. If any such audits reveal payments have been made with federal funds by the Sponsor for items considered Non-Participating Costs, the Sponsor shall promptly reimburse the Secretary for such items upon notification by the Secretary.

15. **Retention of Records.** The Sponsor shall maintain accounting records and other evidence pertaining to the costs incurred and to make the records available at its office at all reasonable times during the period of Agreement performance and for five (5) years thereafter. Such accounting records and other evidence pertaining to the costs incurred will be made available for inspection by the Secretary, FHWA, U.S. Department of Transportation (USDOT), and Office of Inspector General, or their authorized representatives, and copies thereof shall be furnished if requested.

16. **Accounting.** Upon request by the Secretary and in order to enable the Secretary to report all costs of the Project to the legislature, the Sponsor shall provide the Secretary an accounting of all actual Non-Participating Costs which are paid directly by the Sponsor to any party outside of the

Secretary and all costs incurred by the Sponsor not to be reimbursed by the Secretary for any phase or any other major expense associated with the Project.

17. **Cancellation by Sponsor.** If the Sponsor cancels the Project after receiving written approval from MARC, it will reimburse the Secretary for any costs incurred by the Secretary prior to the cancellation of the Project. The Sponsor agrees to reimburse the Secretary within thirty (30) days after receipt by the Sponsor of the Secretary's statement of the cost incurred by the Secretary prior to the cancellation of the Project.

ARTICLE V

GENERAL 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 included to this Agreement and be attached and made a 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. **FHWA Approval.** This Agreement is subject to the approval of the Federal Highway Administration (FHWA).

3. **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 City 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.

4. **System for Award Management.** The City has registered with the System for Award Management (<http://www.sam.gov/>), which provides a Unique Entity Identifier (SAM). The City shall maintain such registration at all times during which it has active federal awards.

5. **Buy America Compliance.** The Parties agree to comply with the Buy America requirements of 23 C.F.R. § 635.410, as applicable, 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.

6. **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.

7. **Audit.** 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 Audit Requirements for Federal Awards” (commonly known as the “Supercircular”). Further, the City agrees to the following provisions:

(a) **Audit.** It is the policy of the Secretary to make any final payments to the City 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 City’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 City, by executing 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 once 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 City agrees to refund payment made by the Secretary to the City for items subsequently found to be not eligible for reimbursement by audit.

(c) **Agency Audit.** 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 City 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 the audit reveals payments have been made with federal funds by the City for items considered Non-Participating Costs, the City shall promptly reimburse the Secretary for such items upon notification by the Secretary.

ARTICLE VI

GENERAL PROVISIONS:

1. **Amendments.** Any change in this Agreement, whether by modification and/or supplementation must be accomplished by a formal contract amendment or supplement signed and approved by the duly authorized representatives of the Sponsor and the Secretary.
2. **Civil Rights Act.** The **Civil Rights Act Attachment**, Rev. 05.01.2024, pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.
3. **Contractual Provisions.** The Provisions found in **Contractual Provisions Attachment** (Form DA-146a), which is attached hereto, are hereby incorporated in this contract and made a part hereof.
4. **Headings.** All headings in this Agreement have been included for convenience of reference only and are not to be deemed to control or affect the meaning or construction or the provisions herein.
5. **Binding Agreement.** This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary and the Sponsor and their successors in office.
6. **No Third-Party Beneficiaries.** No third-party beneficiaries are intended to be created by this Agreement and nothing in this Agreement authorizes third parties to maintain a suit for damages pursuant to the terms or provisions of this Agreement.
7. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.
8. **Severability.** If any provision of this Agreement is held invalid, the invalidity does not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this Agreement are severable.

The signature page immediately follows this paragraph.

IN WITNESS WHEREOF the Parties have caused this Agreement to be signed by their duly authorized officers as of the Effective Date.

SPONSOR:

ATTEST:

THE CITY OF GARDNER, KANSAS

CITY CLERK (Date)

MAYOR

(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

- Certification for Federal Aid Contracts and Accompanying Disclosure of Lobbying Activities
- Certification as to Current History Regarding Debarment, Eligibility, Indictments, Convictions, or Civil Judgments
- Certification Against Contingent Fees
- Certificate of Compliance with K.S.A. § 46-239(c)
- Policy Regarding Sexual Harassment
- Certification of Company Not Currently Engaged in a Boycott of Goods or Services from Israel
- Civil Rights Act
- Contractual Provisions Attachment (DA-146a)

*Note – If left unchecked, then inapplicable.

**Federal Funds Lobbying Certification Attachment
Required Contract Provision**

Definitions

1. **Designated Entity:** An officer or employee of any agency, a Member of Congress or any state legislature, an officer or employee of Congress or any state legislature, or an employee of a Member of Congress or any state legislature
2. **Federal Grant:** An award of financial assistance by the Federal government (Federal Aid Highway Program is considered a grant program)
3. **Influencing (or attempt):** Making, with the intent to influence, any communication to or appearance before any designated entity in connection with the making of any Federal grant
4. **Person:** An individual, corporation, company, association, authority, firm, partnership, society, state or local government
5. **Recipient:** All contractors, subcontractors or subgrantees, at any tier, of the recipient of fund received in connection with a Federal grant.

Explanation

As of December 23, 1989, Title 31 U.S.C. (new) Section 1352 limits the use of appropriated Federal funds to influence Federal contracting. Under this new section no appropriated funds may be used by the recipient of a Federal grant to pay any person to influence or attempt to influence a designated entity in connection with the naming of a Federal grant or the extension, renewal, amendment or modification of any grant. These restrictions apply to grants in excess of \$100,000.00. Submission of this Certification is required for participation in this Project by Federal Law. For each failure to file, a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 may be imposed.

Note: If funds other than appropriated Federal funds have or will be paid to influence or attempt to influence a designated entity it must be reported. If required, the reporting shall be made on KDOT Form No. 401, "Disclosure of Lobbying Activities", in accordance with its instructions. KDOT Form No. 401 is available through the Bureau of Design.

THE ABOVE DEFINITIONS, EXPLANATION AND NOTE ARE ADOPTED AND INCORPORATED BY REFERENCE IN THIS CERTIFICATION FOR ALL PURPOSES THE SAME AS IF SET OUT IN FULL IN IT.

The maker of this Certification states that it has been signed on the maker's behalf or, if on behalf of some other person, that the maker is vested with legal right and authority to bind and obligate the other person in the making of this Certification submitted in regard to this Agreement.

The maker certifies that: No Federal appropriated funds have been paid or will be paid by or on behalf of the maker, to any person, for influencing or attempting to influence any designated person in connection with the awarding of any Federal grant or the extension, continuation, renewal, amendment or modification of any Federal grant.

In the event that the maker subcontracts work in this Agreement, the maker will provide to and require the signing of this Certification by the subcontractor, and shall keep and maintain the original signed form as part of the contract with the subcontractor.

The maker understands that this Certification is a material representation of fact upon which reliance was placed as part of this transaction.

(Date)

By: _____

**KANSAS DEPARTMENT OF TRANSPORTATION
CIVIL RIGHTS ACT 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

The term “Contractor” is understood to include the Contractor, the Contractor’s assignees and successors in interest, consultants, and all other 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, agrees as follows:

1. **Compliance with Regulations:** The Contractor will comply with the Acts and the Regulations relative to nondiscrimination 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 nondiscrimination 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, FTA, or 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 nondiscrimination 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 (1) through six (6) 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 agrees to comply with the following nondiscrimination 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, (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. §§12131-12189as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38);
- The Federal Aviation Administration’s nondiscrimination 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, (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 (prohibits you from discriminating because of sex in education programs or activities), (20 U.S.C. § 1681).

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.

COUNCIL ACTION FORM

NEW BUSINESS AGENDA ITEM NO. 1

MEETING DATE: MAY 20, 2024

STAFF CONTACT: MATTHEW WOLFF, FINANCE DIRECTOR

Discussion Item: Consider a petition for the formation of a special benefit district for the Lone Star Prairie development

Strategic Priority: Promote Economic Development, Quality of Life

Department: Finance

Staff Recommendation:

Staff recommends adopting a resolution determining the advisability of certain improvements in the City of Gardner, Kansas, and authorizing and providing for the making of such improvements in accordance with the findings of the Governing Body and K.S.A. 12-6a01 et seq. (Lone Star Prairie Special Benefit District)

Background/Description of Item:

The developer/property owner for the proposed Lone Star Prairie residential development has petitioned the City for the creation of a Special Benefit District for the construction of a lift station and offsite sanitary sewer improvements.

Lone Star Prairie is a multiphase residential development that will have approximately 188 single-family homes at full build out.

The maximum cost of the improvements for the improvement district is \$1,150,000, including the cost of issuance for temporary notes and long-term bonds and the interest expense on temporary notes.

Financial Impact:

The cost of the improvements will be assessed one-hundred percent (100%) against the improvement district and zero percent (0%) to be paid by the City at large. The proposed term of the improvement district is 20 years.

Attachments:

- Petition for Lone Star Prairie Special Benefit District
- Resolution No. 2140

Suggested Motion:

Adopt Resolution No. 2140, determining the advisability of certain internal improvements in the City of Gardner, Kansas, and authorizing and providing for the making of such improvements in accordance with the findings of the Governing Body and K.S.A. 12-6a01 et seq. (Lone Star Prairie Special Benefit District)

CITY OF GARDNER, KANSAS

PETITION FOR CREATION OF, AND CONSENT TO MAXIMUM ASSESSMENTS RELATING TO, AN IMPROVEMENT DISTRICT FOR CONSTRUCTION OF CERTAIN IMPROVEMENTS BENEFITING THE LONE STAR PRAIRIE SUBDIVISION WITHIN THE CITY.

To: The City of Gardner, Kansas (the “City”)

The undersigned, being the owner of record of 100% of the property liable to be assessed and being willing to pay the costs thereof for the following described proposed improvements, does hereby petition that such improvements be made in the manner provided by K.S.A. 12-6a01 *et seq.*, and amendments thereto:

1. GENERAL NATURE OF THE IMPROVEMENTS. The general nature of the improvements consists of the construction and installation of an offsite sanitary sewer line and a lift station benefiting the Lone Star Prairie Subdivision within the City, including, without limitation, approximately 2,593 linear feet of sanitary sewer line, approximately 680 linear feet of force main, approximately four (4) manholes, and all related appurtenances (collectively, the “Improvements”).

2. MAXIMUM ESTIMATED COST. The maximum estimated cost of the Improvements financed through the proposed improvement district, including costs associated with temporary notes and costs of issuance for long-term financing, is One Million One Hundred Fifty Thousand Dollars (\$1,150,000); the costs of the Improvements in excess of such amount, if any, will be paid by the undersigned outside the improvement district financing.

3. BOUNDARIES OF THE IMPROVEMENT DISTRICT. The boundaries of the proposed improvement district to be assessed (the “Improvement District”) shall include the land described on **Exhibit A** attached hereto and incorporated herein.

4. METHOD OF ASSESSMENT. The method of assessment is that the costs of the Improvements shall be assessed equally per platted residential lot within the Improvement District (estimated total of 188 lots) excluding those areas dedicated as public right of way, public parks, storm water retention or detention areas, association common areas, publicly owned easements or similar areas not containing residences. The property in the Improvement District is not currently subdivided. The assessment against the Improvement District shall initially be levied in an aggregate amount against the single parcel contained in the Improvement District, and this aggregate amount shall be reallocated on a per lot basis (or in such other equitable manner as the owners of such property agree to in writing, with the consent of the City) as and when such single parcel is platted or subdivided.

5. APPORTIONMENT OF COST. The apportionment of costs between the Improvement District and the City-at-large shall be one hundred percent (100%) against the Improvement District, said assessments to be levied over a twenty (20) year period, and zero percent (0%) against the City-at-large.

6. STATEMENT BY SIGNERS. The owner acknowledges that:

- A. This petition (the “Petition”) is submitted pursuant to subsection (c) of K.S.A. 12-6a04 and amendments thereto;
- B. The proposed Improvement District does not include all properties which may be deemed to benefit from the proposed Improvements; and
- C. The name of the undersigned may not be withdrawn from this Petition by the undersigned after the Governing Body commences consideration of the Petition or later than seven (7) days after the filing of the Petition with the City Clerk, whichever occurs first.

7. IMPROVEMENTS MADE WITHOUT NOTICE. The undersigned request(s) that the Governing Body of the City consider a resolution authorizing the Improvements without notice and hearing as provided by K.S.A. 12-6a04(c)(7), as amended.

8. CERTIFICATE AS TO OWNERSHIP OF LAND. The undersigned does hereby certify and warrant that the undersigned is the owner of all land set forth in **Exhibit A** as comprising the Improvement District. Each person identified as signing in a representative capacity shall be deemed to and does hereby certify, represent and warrant that (s)he has the authority to sign this Petition on behalf of and to legally bind the named owner of the land. The undersigned acknowledges that (s)he has signed this Petition and caused it to be filed with the City for the purpose of inducing the City to create the Improvement District and levy special assessments on the land as herein provided and that if the City does so, it will be acting in reliance on the representations and actions of the undersigned. The undersigned further agrees to indemnify and hold the City harmless from any costs or expenses, including reasonable attorneys’ fees, incurred as the result of any claim or assertion by any person or entity that any assessment levied pursuant to this Petition is invalid, and in the event any assessment against any tract of land is determined to be invalid for any reason, then the undersigned acknowledges and agrees that the amount of any such invalid assessment may be relieved or respread against the remainder of the land in the manner described in **Section 4** hereof.

9. WAIVER AND CONSENT TO MAXIMUM ASSESSMENTS. The undersigned states that they have been advised that the total maximum cost of the Improvements payable by the Improvement District is the amount set forth in **Section 2** hereof, all of which, together with interest thereon, will be charged as special assessments against the property in the Improvement District in the manner set forth in **Section 4** hereof and reflected on **Exhibit B** hereto (the “Special Assessments”) and further states that the undersigned: (a) waives any formal notice of and the holding of a public hearing by the City for the purpose of considering the Special Assessments; (b) consents to the levy of the Special Assessments against the property in the Improvement District by the City, all without formal or further notice to the undersigned; (c) represents that, if the undersigned elects to prepay the Special Assessments, the undersigned will prepay the Special Assessments by no later than the deadline provided by the City for doing so; (d) acknowledges that if the Special Assessments are not prepaid by such date, the undersigned consents to the City levying the Special Assessments, including interest, against the property in the Improvement District in approximately equal annual installments over a 20-year

period, and further consents to the City proceeding to issue its general obligation bonds or notes to include the full amount of the Special Assessments, all without further delay or notice to the undersigned; and (e) waives the 30-day statute of limitations provided in K.S.A. 12-6a11.

10. CONTRACT FOR SALE; SELLER DISCLOSURE. The undersigned represents that: (a) they are presently under contract with Hakes Brothers KCKS, LLC, a Kansas limited liability company (“Buyer”), to sell the estimated 188 residential lots to be platted within the Improvement District to the Buyer; and (b) pursuant to K.S.A. 12-6a20, the undersigned has disclosed to Buyer that the property in the Improvement District will be subject to special assessments, has provided a good faith estimate to Buyer of the amount of such special assessments, and has obtained the written acknowledgement of Buyer that Buyer is aware of such special assessments.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have hereunto affixed their signature.

CIRCLE H HOLDINGS, LLC,
a Nevada limited liability company

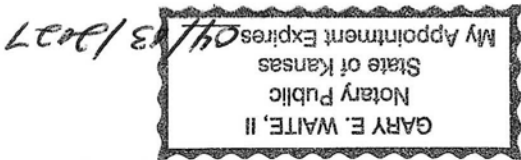
By: [Signature]
Name: Roman L. Haehn
Title: Owner & Managing Partner

STATE OF Kansas)
) SS.
COUNTY OF Johnson)

BE IT REMEMBERED, that on this 26th day of April, 2024, before me, the undersigned Notary Public, in and for said County and State, personally appeared Roman L. Haehn, to me personally known and who, by me duly sworn, did state that (s)he is Owner/Managing Partner of Circle H Holdings, LLC, a Nevada limited liability company, and that said instrument was signed on behalf of said company, and said Roman L. Haehn, acknowledged said instrument to be the free act and deed of said company.

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

[Signature]
Notary Public



[seal]

My Commission Expires:

04/03/2027

CONSENT AND ACKNOWLEDGEMENT OF BUYER

The undersigned, consents and acknowledges the following in connection with that certain Petition and Consent (the “Petition”) executed by Circle H Holdings, LLC, a Nevada limited liability company (“Seller”), relating to an improvement district for improvements benefiting the Lone Star Prairie Subdivision within the City of Gardner, Kansas (the “City”). Capitalized terms not defined herein shall have the meanings assigned to such terms in the Petition.

1. WAIVER AND CONSENT TO MAXIMUM ASSESSMENTS.

The undersigned states that they have been advised that the total maximum cost of the Improvements payable by the Improvement District is the amount set forth in the Petition, all of which, together with interest thereon, will be charged as Special Assessments in the manner described in the Petition and further states that the undersigned: (a) waives any formal notice of and the holding of a public hearing by the City for the purpose of considering the Special Assessments; (b) consents to the levy of the Special Assessments against the property in the Improvement District by the City, all without formal or further notice to the undersigned; (c) represents that, if the undersigned elects to prepay the Special Assessments, the undersigned will prepay the Special Assessments by no later than the deadline provided by the City for doing so; (d) acknowledges that if the Special Assessments are not prepaid by such date, the undersigned consents to the City levying the Special Assessments, including interest, against the property in the Improvement District in approximately equal annual installments over a 20-year period, and further consents to the City proceeding to issue its general obligation bonds or notes to include the full amount of the Special Assessments, all without further delay or notice to the undersigned; and (e) waives the 30-day statute of limitations provided in K.S.A. 12-6a11.

2. CONTRACT FOR SALE; ASSESSMENT DISCLOSURE. The undersigned represents that: (a) they are presently under contract with Seller to purchase from Seller the estimated 188 residential lots to be platted within the Improvement District; (b) they intend to construct homes on the property in the Improvement District for sale to owner occupants or to sell unbuilt lots in the Improvement District to builders or owner occupants who will construct homes; and (c) pursuant to K.S.A. 12-6a20, the undersigned has or will disclose to any person or entity that purchases property in the Improvement District from the undersigned that such property will be subject to special assessments, has or will provide a good faith estimate to such persons or entities of the amount of such special assessments, and has or will obtain the written acknowledgement of such persons or entities that they are aware of such special assessments.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have hereunto affixed their signature.

HAKES BROTHERS KCKS, LLC, a Kansas limited liability company

By: *CH*
Name: Christopher Hakes
Title: Division President

STATE OF New Mexico)
COUNTY OF Bernalillo) SS.

BE IT REMEMBERED, that on this 30 day of April, 2024, before me, the undersigned Notary Public, in and for said County and State, personally appeared Christopher Hakes, to me personally known and who, by me duly sworn, did state that (s)he is Division President of **HAKES BROTHERS KCKS, LLC**, a Kansas limited liability company, and that said instrument was signed on behalf of said company, and said Christopher Hakes acknowledged said instrument to be the free act and deed of said company.

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

Marcus A. Trujillo
Notary Public

[seal]

My Commission Expires:

07-14-2026

MARCUS A. TRUJILLO
NOTARY PUBLIC
STATE OF NEW MEXICO
COMMISSION # 1138363
COMMISSION EXPIRES: 07-14-2026

RECEIPT BY CITY CLERK

This Petition was filed in the office of the City Clerk of the City of Gardner, Kansas, on this 14th day of May, 2024.



Renee Rich, City Clerk

EXHIBIT A

BOUNDARIES OF IMPROVEMENT DISTRICT

All that part of the Northeast Quarter of Section 28, Township 14, Range 22, Johnson County, Kansas, described as follows:

Commencing at the Northwest corner of the Northeast Quarter of said Section 28; thence South 89 degrees 44 minutes 32 seconds East, along the North line of the Northeast Quarter of said Section 28, a distance of 1845.67 feet to the point of beginning; thence continuing South 89 degrees 44 minutes 32 seconds East, along the North line of the Northeast Quarter of said Section 28, a distance of 757.21 feet, to the Northeast corner of the Northeast Quarter of said Section 28; thence South 0 degrees 10 minutes 11 seconds East, along the East line of the Northeast Quarter of said Section 28, a distance of 2623.41 feet, to the Southeast corner of the Northeast Quarter of said Section 28; thence North 89 degrees 50 minutes 28 seconds West along the South line of the Northeast Quarter of said Section 28, a distance of 824.40 feet; thence North 0 degrees 48 minutes 10 seconds East, a distance of 2204.42 feet; thence South 89 degrees 44 minutes 32 seconds East, parallel to the North line of the Northeast Quarter of said Section 28, a distance of 29.78 feet; thence North 0 degrees 10 minutes 11 seconds West, a distance of 420.42 feet to the point of beginning, except that part in streets and roads.

Subject to easements and restrictions of record.

Containing Johnson County tax parcel number R185778.

EXHIBIT B

MAXIMUM ASSESSMENTS

DESCRIPTION OF PROPERTY SUBJECT TO ASSESSMENT	MAXIMUM AMOUNT OF ASSESSMENT
All that part of the Northeast Quarter of Section 28, Township 14, Range 22, Johnson County, Kansas, described as follows:	\$1,150,000

Commencing at the Northwest corner of the Northeast Quarter of said Section 28; thence South 89 degrees 44 minutes 32 seconds East, along the North line of the Northeast Quarter of said Section 28, a distance of 1845.67 feet to the point of beginning; thence continuing South 89 degrees 44 minutes 32 seconds East, along the North line of the Northeast Quarter of said Section 28, a distance of 757.21 feet, to the Northeast corner of the Northeast Quarter of said Section 28; thence South 0 degrees 10 minutes 11 seconds East, along the East line of the Northeast Quarter of said Section 28, a distance of 2623.41 feet, to the Southeast corner of the Northeast Quarter of said Section 28; thence North 89 degrees 50 minutes 28 seconds West along the South line of the Northeast Quarter of said Section 28, a distance of 824.40 feet; thence North 0 degrees 48 minutes 10 seconds East, a distance of 2204.42 feet; thence South 89 degrees 44 minutes 32 seconds East, parallel to the North line of the Northeast Quarter of said Section 28, a distance of 29.78 feet; thence North 0 degrees 10 minutes 11 seconds West, a distance of 420.42 feet to the point of beginning, except that part in streets and roads.

Subject to easements and restrictions of record.

RESOLUTION NO. 2140

A RESOLUTION DETERMINING THE ADVISABILITY OF CERTAIN IMPROVEMENTS IN THE CITY OF GARDNER, KANSAS, AND AUTHORIZING AND PROVIDING FOR THE MAKING OF SUCH IMPROVEMENTS IN ACCORDANCE WITH THE FINDINGS OF THE GOVERNING BODY AND K.S.A. 12-6a01 *ET SEQ.* (LONE STAR PRAIRIE SPECIAL BENEFIT DISTRICT).

WHEREAS, K.S.A. 12-6a02 authorizes the governing body of any city to make or cause to be made municipal works or improvements which confer a special benefit upon property within a definable area of the city and to levy and collect special assessments upon property in the area deemed by the governing body to be benefited by such improvements for special benefits conferred upon such property by any such improvements and to provide for the payment of all or any part of the costs of the improvements with the proceeds of such special assessments;

WHEREAS, a petition (the “Petition”), executed by 100% of the owners of property within the proposed improvement district, has been filed with the City Clerk of the City of Gardner, Kansas (the “City”), requesting certain improvements be made in accordance with K.S.A. 12-6a01 *et seq.*;

WHEREAS, K.S.A. 12-6a04(d) provides that upon receipt of a petition filed with the City Clerk in accordance with K.S.A. 12-6a04(c), the Governing Body of the City may (a) make findings by resolution as to the advisability of the improvements requested in the petition, the nature of the improvements, the estimated cost, the boundaries of the improvement district, the method of assessment and apportionment of cost, if any, between the improvement district and the city-at-large and (b) order the improvements without notice or public hearing; and

WHEREAS, the Governing Body finds it necessary to make its final findings by resolution as to the advisability of the proposed improvements and finds and determines it necessary to authorize the improvements;

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

SECTION 1. The Governing Body finds and finally determines that:

(a) It is advisable to make the following improvements (the “Improvements”):

Construction and installation of an offsite sanitary sewer line and a lift station benefiting the Lone Star Prairie Subdivision within the City, including, without limitation, approximately 2,593 linear feet of sanitary sewer line, approximately 680 linear feet of force main, approximately four (4) manholes, and all related appurtenances.

- (b) The maximum estimated or probable cost of the proposed Improvements is: \$1,150,000, including costs associated with temporary notes and costs of issuance for long-term financing.
- (c) The boundaries of the proposed improvement district (the “Improvement District”) are as described on the attached *Exhibit A*.
- (d) The method of assessment is: the costs of the Improvements shall be assessed equally per platted residential lot within the Improvement District (estimated total of 188 lots) excluding those areas dedicated as public right of way, public parks, storm water retention or detention areas, association common areas, publicly owned easements or similar areas not containing residences. The property in the Improvement District is not currently subdivided. The assessment against the Improvement District shall initially be levied in an aggregate amount against the single parcel contained in the Improvement District, and this aggregate amount shall be reallocated on a per lot basis (or in such other equitable manner as the owners of such property agree to in writing, with the consent of the City) as and when such single parcel is platted or subdivided.
- (e) The apportionment of the cost of the Improvements, between the Improvement District and the city-at-large, is: 100% to be assessed against the Improvement District and 0% to be paid by the city-at-large.
- (f) The Improvement District does not include all the property which may be deemed to be benefited by the proposed Improvements.
- (g) The persons or entities who signed the Petition are willing to pay the costs of the proposed Improvements as set forth in the Petition.

SECTION 2. The Improvements are authorized and ordered to be made in accordance with the findings of the Governing Body as set forth in Section 1 of this Resolution. General obligation notes or bonds are authorized to be issued in an aggregate amount not exceeding the estimated cost of the Improvements, and the proceeds from such notes or bonds may be used to reimburse expenditures made by the City 60 days before and during the time after the date of this Resolution in accordance with United States Treasury Regulation 1.150-2.

SECTION 3. This Resolution shall be published one time in the official City newspaper and shall also be filed of record in the office of the Register of Deeds of Johnson County, Kansas.

[remainder of page left blank intentionally]

ADOPTED by the Governing Body of the City of Gardner, Kansas, on May 20, 2024.

CITY OF GARDNER, KANSAS

(Seal)

ATTEST:

Mayor

City Clerk

EXHIBIT A

BOUNDARIES OF PROPOSED IMPROVEMENT DISTRICT

All that part of the Northeast Quarter of Section 28, Township 14, Range 22, Johnson County, Kansas, described as follows:

Commencing at the Northwest corner of the Northeast Quarter of said Section 28; thence South 89 degrees 44 minutes 32 seconds East, along the North line of the Northeast Quarter of said Section 28, a distance of 1845.67 feet to the point of beginning; thence continuing South 89 degrees 44 minutes 32 seconds East, along the North line of the Northeast Quarter of said Section 28, a distance of 757.21 feet, to the Northeast corner of the Northeast Quarter of said Section 28; thence South 0 degrees 10 minutes 11 seconds East, along the East line of the Northeast Quarter of said Section 28, a distance of 2623.41 feet, to the Southeast corner of the Northeast Quarter of said Section 28; thence North 89 degrees 50 minutes 28 seconds West along the South line of the Northeast Quarter of said Section 28, a distance of 824.40 feet; thence North 0 degrees 48 minutes 10 seconds East, a distance of 2204.42 feet; thence South 89 degrees 44 minutes 32 seconds East, parallel to the North line of the Northeast Quarter of said Section 28, a distance of 29.78 feet; thence North 0 degrees 10 minutes 11 seconds West, a distance of 420.42 feet to the point of beginning, except that part in streets and roads.

Subject to easements and restrictions of record.

Containing Johnson County tax parcel number R185778.

COUNCIL ACTION FORM

NEW BUSINESS ITEM NO. 2

MEETING DATE: MAY 20, 2024

STAFF CONTACT: SHANNON TEMPLETON, HUMAN RESOURCES MANAGER

Agenda Item: Consider adopting a resolution authorizing the adoption and execution of an amended and restated benefit plan of the City of Gardner, Kansas

Strategic Priority: Fiscal Stewardship

Department: Administration – Human Resources

Staff Recommendation:

Staff recommends adopting a resolution authorizing the adoption and execution of an amended and restated benefit plan of the City of Gardner, Kansas.

Background/Description of Item:

At the April 1, 2024 City Council work session, the City's employee benefits consultant and broker, CBIZ, presented a timeline for moving the benefit plan year to a January 1 renewal schedule. As part of this adjustment, all of the city's current offerings will renew July 1, 2024 for six months of coverage and renew again January 1, 2025 for a full 12 month period.

As part of this transition, Flex Made Easy, the city's service provider for Flexible Spending Accounts, requires that the Governing Body pass a resolution authorizing staff to amend the plan year and continue the administration of these FSA services.

Financial Impact:

None.

Attachments included:

- Resolution No. 2141
- Flex Made Easy Plan Document
- Flex Made Easy Summary Plan Description

Suggested Motion:

Adopt Resolution No. 2141, a resolution authorizing the adoption and execution of an amended and restated welfare benefit plan of the City of Gardner, Kansas.

RESOLUTION NO. 2141

A RESOLUTION AUTHORIZING THE ADOPTION AND EXECUTION OF AN AMENDED AND RESTATED WELFARE BENEFIT PLAN OF THE CITY OF GARDNER, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS, AS FOLLOWS:

Section 1. The form of amended and restated Welfare Benefit Plan, hereafter referred to as the “Plan”, effective July 01, 2024, presented to this meeting (and a copy of which is attached hereto) is hereby approved and adopted, and that the proper agents of the Employer are hereby authorized and directed to execute and deliver to the Administrator of said Plan one or more counterparts of the Plan.

Section 2. The Administrator shall be instructed to take such actions that the Administrator deems necessary and proper in order to implement the Plan, and to set up adequate accounting and administrative procedures for the provision of benefit under the Plan.

Section 3. The proper agents of the Employer shall act as soon as possible to notify the employees of the Employer of the adoption of the Plan and to deliver to each employee a copy of the Summary Plan Description of the Plan, which Summary Plan Description is attached hereto and is hereby approved.

Section 4. The City Administrator; the Human Resources Manager; and the other officers and representatives of the City are authorized and directed to take such other action as may be necessary to carry out the implementation of the plan

Section 5. This Resolution shall be in full force and effect from and after its adoption.

ADOPTED by the Governing Body of the City of Gardner, Kansas, on May 20, 2024.

CITY OF GARDNER, KANSAS

Mayor

(Seal)

ATTEST:

City Clerk



City of Gardner

City of Gardner
120 East Main Street
Gardner, KS 66030

City of Gardner Flexible Spending Plan

Plan Document

Amended and Restated July 01, 2024

TABLE OF CONTENTS

I. ARTICLE - PLAN DEFINITIONS

II. ARTICLE - PARTICIPATION

01. ELIGIBILITY
02. EFFECTIVE DATE OF PARTICIPATION
03. APPLICATION TO PARTICIPATE
04. TERMINATION OF PARTICIPATION
05. TERMINATION OF EMPLOYMENT
06. REINSTATEMENT OF A FORMER PARTICIPANT
07. DEATH

III. ARTICLE - CONTRIBUTIONS TO THE PLAN

01. SALARY REDIRECTION
02. APPLICATION OF CONTRIBUTIONS
03. PERIODIC CONTRIBUTIONS
04. EMPLOYER CONTRIBUTIONS

IV. ARTICLE - BENEFITS

01. BENEFIT OPTIONS
02. HEALTH FLEXIBLE SPENDING ACCOUNT BENEFIT
03. DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT BENEFIT
04. HEALTH INSURANCE BENEFIT
05. DENTAL INSURANCE BENEFIT
06. VISION INSURANCE BENEFIT
07. NONDISCRIMINATION REQUIREMENTS
08. NON-TAX DEPENDENT COVERAGE

V. ARTICLE - PARTICIPANT ELECTIONS

01. INITIAL ELECTIONS
02. SUBSEQUENT ANNUAL ELECTIONS
03. FAILURE TO ELECT
04. CHANGE IN STATUS

VI. ARTICLE - HEALTH FLEXIBLE SPENDING ACCOUNT

01. ESTABLISHMENT OF BENEFIT
02. DEFINITIONS
03. FORFEITURES
04. LIMITATION ON ALLOCATIONS
05. NONDISCRIMINATION REQUIREMENTS
06. COORDINATION WITH CAFETERIA PLAN
07. HEALTH FLEXIBLE SPENDING ACCOUNT CLAIMS
08. DEBIT AND CREDIT CARDS

VII. ARTICLE - DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT

01. ESTABLISHMENT OF ACCOUNT
02. DEFINITIONS
03. DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS
04. INCREASES IN DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS
05. DECREASES IN DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS
06. ALLOWABLE DEPENDENT CARE REIMBURSEMENT
07. ANNUAL STATEMENT OF BENEFITS
08. FORFEITURES
09. LIMITATION ON PAYMENTS
10. NONDISCRIMINATION REQUIREMENTS

11. COORDINATION WITH CAFETERIA PLAN
12. DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT CLAIMS

VIII. ARTICLE - ADMINISTRATION

01. PLAN ADMINISTRATION
02. EXAMINATION OF RECORDS
03. PAYMENT OF EXPENSES
04. INSURANCE CONTROL CLAUSE
05. INDEMNIFICATION OF ADMINISTRATOR

IX. ARTICLE - AMENDMENT OR TERMINATION OF PLAN

01. AMENDMENT
02. TERMINATION

X. ARTICLE - MISCELLANEOUS

01. PLAN INTERPRETATION
02. GENDER AND NUMBER
03. WRITTEN DOCUMENT
04. EXCLUSIVE BENEFIT
05. PARTICIPANT'S RIGHTS
06. ACTION BY THE EMPLOYER
07. EMPLOYER'S PROTECTIVE CLAUSES
08. NO GUARANTEE OF TAX CONSEQUENCES
09. INDEMNIFICATION OF EMPLOYER BY PARTICIPANTS
10. FUNDING
11. GOVERNING LAW
12. SEVERABILITY
13. CAPTIONS
14. CONTINUATION OF COVERAGE (COBRA)
15. FAMILY AND MEDICAL LEAVE ACT (FMLA)
16. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)
17. COMPLIANCE WITH HIPAA PRIVACY STANDARDS
18. COMPLIANCE WITH HIPAA ELECTRONIC SECURITY STANDARDS

City of Gardner

City of Gardner Flexible Spending Plan

INTRODUCTION

The company amends and restates this Plan as of July 01, 2024 with an original effective date of July 01, 1991. Its purpose is to provide benefits for those Employees who shall qualify hereunder and their Dependents and beneficiaries. The concept of this Plan is to allow Employees to elect between cash compensation or certain nontaxable benefit options as they desire. The Plan shall be known as the City of Gardner Flexible Spending Plan (the "Plan").

The intention of the Employer is that the Plan qualify as a "Cafeteria Plan" within the meaning of Section 125 of the Internal Revenue Code of 1986, as amended, and that the benefits which an Employee elects to receive under the Plan be excludable from the Employee's income under Section 125(a) and other applicable sections of the Internal Revenue Code of 1986, as amended.

I. ARTICLE - PLAN DEFINITIONS

01. **"Administrator"** means the Employer, unless another person or entity has been designated by the Employer pursuant to the Article titled: "Administration" to administer the Plan on behalf of the Employer. If the Employer is the Administrator, the Employer may appoint any person, including but not limited to the Employees of the Employer, to perform the duties of the Administrator. Any person so appointed shall signify acceptance by filing written acceptance with the Employer. Upon the resignation or removal of any individual performing the duties of the Administrator, the Employer may designate a successor.
02. **"Benefit"** or **"Benefit Options"** means any of the optional benefit choices available to a Participant as outlined in the Article titled: "Benefit Information".
03. **"Cafeteria Plan Benefit Dollars"** means the amount available to Participants to purchase Benefit Options as provided under the Article titled: "Benefit Information". Each dollar contributed to this Plan shall be converted into one Cafeteria Plan Benefit Dollar.
04. **"Code"** means the Internal Revenue Code of 1986, as amended or replaced from time to time.
05. **"Compensation"** means the amounts received as compensation by the Participant from the Employer during a Plan Year.
06. **"Dependent"** means any individual who qualifies as a dependent under an Insurance Contract for purposes of coverage under that Contract only or under Code Section 152 (as modified by Code Section 105(b)). Any child of a Plan Participant who is determined to be an alternate recipient under a qualified medical child support order shall be considered a Dependent under this Plan.

"Dependent" shall include any Child of a Participant who is covered under an Insurance Contract, as defined in the Contract, or under the Health Flexible Spending Account or as allowed by reason of the Affordable Care Act.

For purposes of the Health Flexible Spending Account, a Participant's "Child" includes his or her natural child, stepchild, foster child, adopted child, or a child placed with the Participant for adoption. A Participant's Child will be an eligible Dependent until reaching the limiting age of 26, without regard to student status, marital status, financial dependency or residency status with the Employee or any other person. When the child reaches the applicable limiting age, coverage will end at the end of the calendar year.

The phrase "placed for adoption" refers to a child whom the Participant intends to adopt, whether or not the adoption has become final, who has not attained the age of 18 as of the date of such placement for adoption. The term "placed" means the assumption and retention by such Employee of a legal obligation for total or partial support of the child in anticipation of adoption of the child. The child must be available for adoption and the legal process must have commenced.

07. **"Effective Date"** means July 01, 1991.
08. **"Election Period"** means the period, established by the Administrator, immediately preceding the beginning of each Plan Year, such period to be applied on a uniform and nondiscriminatory basis for all Employees and Participants. However, an Employee's initial Election Period shall be determined pursuant to the Article titled: "Participant Elections".
09. **"Eligible Employee"** means any Employee who has satisfied the provisions of the Section titled: "Eligibility".

An individual shall not be an "Eligible Employee" if such individual is not reported on the payroll records of the Employer as a common law employee. In particular, it is expressly intended that

individuals not treated as common law employees by the Employer on its payroll records are not "Eligible Employees" and are excluded from Plan participation even if a court or administrative agency determines that such individuals are common law employees and not independent contractors.

An "Eligible Employee" shall exclude the following:

- Non-Resident Aliens
- Leased Employees

10. **"Employee"** means any person who is currently or hereafter employed by the Employer.
11. **"Employer"** means City of Gardner and any successor which shall maintain this Plan; and any predecessor which has maintained this Plan. In addition, where appropriate, the term Employer shall include any Participating, or Adopting Employer.
12. **"Insurance Contract"** means any contract issued by an Insurer underwriting a Benefit, or any self-funded arrangement providing any Benefit offered for health and welfare coverage to Eligible Employees of the Employer.
13. **"Insurance Premium Payment Plan"** means the plan of benefits contained in the "Benefit Options" section of this Plan, which provides for the payment of Premium Expenses.
14. **"Insurer"** means any insurance company that underwrites a Benefit or any self-funded arrangement under this Plan.
15. **"Key Employee"** means an Employee described in Code Section 416(i)(1) and the Treasury regulations thereunder.
16. **"Participant"** means any Eligible Employee who elects to become a Participant pursuant to the Section titled: "Application to Participate" and has not for any reason become ineligible to participate further in the Plan.
17. **"Plan"** means the flexible benefits plan described in this instrument, including all amendments thereto.
18. **"Plan Year"** means the period beginning July 01 and ending December 31. The following plan year will be the 12-month period beginning January 01 and ending December 31 The Plan Year shall be the coverage period for the Benefits provided for under this Plan. In the event a Participant commences participation during a Plan Year, then the initial coverage period shall be that portion of the Plan Year commencing on such Participant's date of entry and ending on the last day of such Plan Year.
19. **"Premium Expenses"** or **"Premiums"** means the Participant's cost for the Benefits described in the Section titled: "Benefit Options".
20. **"Premium Expense Reimbursement Account"** means the account established for a Participant pursuant to this Plan to which part of his or her Cafeteria Plan Benefit Dollars may be allocated and from which Premiums of the Participant shall be paid or reimbursed. If more than one type of insured Benefit is elected, sub-accounts shall be established for each type of insured Benefit.
21. **"Run-out Period"** means the set number of days after the plan year ends that allows you to submit claims for eligible expenses incurred during the Plan Year.
22. **"Salary Redirection"** means the contributions made by the Employer on behalf of Participants pursuant to the Section titled: "Salary Redirection". These contributions shall be converted to Cafeteria Plan Benefit Dollars and allocated to the funds or accounts established under the Plan pursuant to the Participants' elections made under the Article titled: "Participant Elections".
23. **"Salary Redirection Agreement"** means an agreement between the Participant and the Employer under which the Participant agrees to reduce his or her Compensation or to forego all or part of the increases in such Compensation and to have such amounts contributed by the Employer to the Plan on the Participant's behalf. The Salary Redirection Agreement shall apply only to Compensation that has not been actually or constructively received by the Participant as of the date of the agreement (after taking this Plan and Code Section 125 into account) and, subsequently does not become currently available to the Participant.
24. **"Spouse"** means "spouse" as defined in an Insurance Contract, then, for purposes of coverage under that Insurance Contract only, "spouse" shall have the meaning stated in the Insurance Contract. In all other cases, "spouse" shall have the meaning stated under applicable federal or state law.

II. ARTICLE - PARTICIPATION

01. **ELIGIBILITY**

An individual is eligible to participate in this Plan if the individual:

- a. is an Eligible Employee as defined in the Article titled: "Definitions"
- b. is working an average of 20 hours or more per week; and
- c. is eligible for the group medical plan

02. **EFFECTIVE DATE OF PARTICIPATION**

An Eligible Employee shall become a Participant when the following condition(s) is/are met:

First of the month following hire date. If hired on the first day of the month, the entry date is their hire date.

03. **APPLICATION TO PARTICIPATE**

An Employee who is eligible to participate in this Plan shall, during the applicable Election Period, complete an application to participate in a manner set forth by the Administrator. The election shall be irrevocable until the end of the applicable Plan Year unless the Participant is entitled to change his or her Benefit elections pursuant to the Section titled: "Change in Status".

An Eligible Employee shall also be required to complete a Salary Redirection Agreement during the Election Period for the Plan Year during which he wishes to participate in this Plan. Any such Salary Redirection Agreement shall be effective for the first pay period beginning on or after the Employee's effective date of participation pursuant to the Section titled: "Effective Date of Participation".

Notwithstanding the foregoing, an Employee who is eligible to participate in this Plan and who is covered by the Employer's insured Benefits under this Plan shall automatically become a Participant to the extent of the Premiums for such insurance, unless the Employee elects, during the Election Period, not to participate in the Plan.

04. **TERMINATION OF PARTICIPATION**

A Participant shall no longer participate in this Plan upon the occurrence of any of the following events:

- a. **Termination of employment.** The termination of Participant's employment, subject to the provisions of the Section titled: "Termination of Employment"
- b. **Death.** The Participant's death, subject to the provisions of the Section titled: "Death" or
- c. **Termination of the plan.** The termination of this Plan, subject to the provisions of the Section titled: "Termination".

05. **TERMINATION OF EMPLOYMENT**

If a Participant's employment with the Employer is terminated for any reason other than death, his or her participation in the Benefit Options provided under the Section titled: "Benefit Options" shall be governed in accordance with the following:

- a. **Insurance Benefit.** With regard to Benefits which are insured, the Participant's participation in the Plan shall cease, subject to the Participant's right to continue coverage under any Insurance Contract for which premiums have already been paid.
- b. **Dependent Care FSA.** With regard to the Dependent Care Flexible Spending Account, the Participant's participation in the Plan shall cease and no further Salary Redirection contributions shall be made. However, such Participant may submit claims for employment-related Dependent Care Expense reimbursements for expenses within 90 days after the end of the month, limited by the balance in the Participant's Dependent Care Flexible Spending Account as of the date of termination.
- c. **Health FSA, COBRA applicability.** With regard to the Health Flexible Spending Account, the Participant may submit claims for expenses that were incurred during the portion of the Plan Year for which contributions to the Health Flexible Spending Account have already been made. Thereafter, the health benefits under this Plan including the Health Flexible Spending Account, shall be applied and administered consistent with such further rights that a Participant and his or her Dependents may be entitled to pursuant to Code Section 4980B and the Section titled: "Continuation of Coverage" of the Plan.

06. **REINSTATEMENT OF A FORMER PARTICIPANT**

An Employee whose participation terminates and returns to an eligible status less than thirty days later may re-enroll within thirty days of returning to an eligible status with a commencement date of the first of the month following the adjusted eligibility date. An Employee who re-enrolls in a Health Flexible Spending Account or Dependent Care Account after such time must re-enter the Plan and reinstate their original elections for that Plan Year with adjustments to the annual election amount as the Administrator deems necessary to prorate the annual election amount over the remainder of the Plan Year. Expenses incurred by the employee during the time that the employee was not a Participant will not be covered expenses unless COBRA was elected pursuant to the Article titled: "Continuation of Coverage (COBRA)".

Any Employee who terminates employment and is rehired into an eligible status after thirty days from the date of termination will be treated as a new enrollee under the Plan. If such Employee returns within the same Plan Year, prior contributions made to the Health Flexible Spending Account and/or the Dependent Care Account will be taken into consideration so as not to exceed Plan or IRS maximums.

07. **DEATH**

If a Participant dies, his or her participation in the Plan shall immediately cease. However, such Participant's spouse or Dependents may submit claims for expenses or benefits for the remainder of the Plan Year or until the Cafeteria Plan Benefit Dollars allocated to a particular specific benefit are exhausted. In no event may reimbursements be paid to someone who is not a spouse or Dependent. If the Plan is subject to the provisions of Code Section 4980B, then those provisions and related regulations shall apply for purposes of the Health Flexible Spending Account.

III. ARTICLE - CONTRIBUTIONS TO THE PLAN

01. SALARY REDIRECTION

Subject to the provisions of the section titled "Employer Contributions," benefits under the Plan shall be financed by Salary Redirections sufficient to support the benefits that a Participant has elected hereunder and to pay the Participant's Premium Expenses. The salary administration program of the Employer shall be revised to allow each Participant to agree to reduce his or her pay during a Plan Year by an amount determined necessary to purchase the elected Benefit Options. The amount of such Salary Redirection shall be specified in the Salary Redirection Agreement and shall be applicable for a Plan Year. Notwithstanding the above, for new Participants, the Salary Redirection Agreement shall only be applicable from the first day of the pay period following the Employee's entry date up to and including the last day of the Plan Year. These contributions shall be converted to Cafeteria Plan Benefit Dollars and allocated to the funds or accounts established under the Plan pursuant to the Participant's elections made under the Section titled: "Initial Elections".

Any Salary Redirection shall be determined prior to the beginning of a Plan Year (subject to initial elections pursuant to the Section titled: "Initial Elections") and prior to the end of the Election Period and shall be irrevocable for such Plan Year. However, a Participant may revoke a Benefit election or a Salary Redirection Agreement after the Plan Year has commenced and make a new election with respect to the remainder of the Plan Year, if both the revocation and the new election are on account of and consistent with a change in status and such other permitted events as determined under the Article titled: "Participant Elections" and are consistent with the rules and regulations of the Department of the Treasury. Salary Redirection amounts shall be contributed on a pro rata basis for each pay period during the Plan Year. All individual Salary Redirection Agreements are deemed to be part of this Plan and incorporated by reference hereunder.

02. APPLICATION OF CONTRIBUTIONS

As soon as reasonably practical after each payroll period, the Employer shall apply the Salary Redirection to provide the Benefits elected by the affected Participants. Any contribution made or withheld for the Health Flexible Spending Account or Dependent Care Flexible Spending Account shall be credited to such fund or account. Amounts designated for the Participant's Premium Expense Reimbursement Account shall likewise be credited to such account for the purpose of paying Premium Expenses.

03. PERIODIC CONTRIBUTIONS

Notwithstanding the requirement provided above and in other Articles of this Plan that Salary Redirections be contributed to the Plan by the Employer on behalf of an Employee on a level and pro rata basis for each payroll period, the Employer and Administrator may implement a procedure in which Salary Redirections are contributed throughout the Plan Year on a periodic basis that is not pro rata for each payroll period. However, with regard to the Health Flexible Spending Account, the payment schedule for the required contributions may not be based on the rate or amount of reimbursements during the Plan Year.

04. EMPLOYER CONTRIBUTIONS

The Employer may provide non-elective contributions in the form of Employer Funding into the Health Flexible Spending Account and Dependent Care Spending Account to the extent as described in the Section Titled: "Limitation on Allocations". Such contributions may be prorated for Participants who begin participating in the middle of the Plan Year. Contributions or matching contributions made to the Health Flexible Spending Account and Dependent Care Spending Account generally do not count toward the annual contribution limit as described in the Section Titled: "Limitation on Allocations".

IV. ARTICLE - BENEFITS

01. **BENEFIT OPTIONS**

Each Participant may elect any one or more of the following optional Benefits:

- Health Flexible Spending Account
- Dependent Care Flexible Spending Account

In addition, each Participant shall have a sufficient portion of his or her Salary Redirections applied to the following Benefits unless the Participant elects not to receive such Benefits:

- Group Medical Plan
- Group Dental Plan
- Group Vision Plan

02. **HEALTH FLEXIBLE SPENDING ACCOUNT BENEFIT**

Each Participant may elect to participate in the Health Flexible Spending Account option, in which case the Article titled: "Health Flexible Spending Account" shall apply.

03. **DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT BENEFIT**

Each Participant may elect to participate in the Dependent Care Flexible Spending Account option, in which case the Article titled: "Dependent Care Flexible Spending Account" shall apply.

04. **HEALTH INSURANCE BENEFIT**

- a. **Coverage for Participant and Dependents.** Each Participant may elect to be covered under a health Insurance Contract for the Participant, his or her Spouse, and his or her Dependents.
- b. **Employer selects contracts.** The Employer may select suitable health Insurance Contracts for use in providing this health insurance benefit, which contracts will provide uniform benefits for all Participants electing this Benefit.
- c. **Contract incorporated by reference.** The rights and conditions with respect to the benefits payable from such health Insurance Contract shall be determined therefrom, and such Insurance Contract shall be incorporated herein by reference.

05. **DENTAL INSURANCE BENEFIT**

- a. **Coverage for Participant and/or Dependents.** Each Participant may elect to be covered under the Employer's dental Insurance Contract. In addition, the Participant may elect either individual or family coverage under such Insurance Contract.
- b. **Employer selects contracts.** The Employer may select suitable dental Insurance Contracts for use in providing this dental insurance benefit, which contracts will provide uniform benefits for all Participants electing this Benefit.
- c. **Contract incorporated by reference.** The rights and conditions with respect to the benefits payable from such dental Insurance Contract shall be determined therefrom, and such dental Insurance Contract shall be incorporated herein by reference.

06. **VISION INSURANCE BENEFIT**

- a. **Coverage for Participant and/or Dependents.** Each Participant may elect to be covered under the Employer's vision Insurance Contract. In addition, the Participant may elect either individual or family coverage.
- b. **Employer selects contracts.** The Employer may select suitable vision Insurance Contracts for use in providing this vision insurance benefit, which contracts will provide uniform benefits for all Participants electing this Benefit.
- c. **Contract incorporated by reference.** The rights and conditions with respect to the benefits payable from such vision Insurance Contract shall be determined therefrom, and such vision Insurance Contract shall be incorporated herein by reference.

07. **NONDISCRIMINATION REQUIREMENTS**

- a. **Intent to be nondiscriminatory.** It is the intent of this Plan to provide benefits to a classification of employees which the Secretary of the Treasury finds not to be discriminatory

in favor of the group in whose favor discrimination may not occur under Code Section 125.

- b. **25% concentration test.** It is the intent of this Plan not to provide qualified benefits as defined under Code Section 125 to Key Employees in amounts that exceed 25% of the aggregate of such Benefits provided for all Eligible Employees under the Plan. For purposes of the preceding sentence, qualified benefits shall not include benefits which (without regard to this paragraph) are includible in gross income.
- c. **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to Key Employees or a group of employees in whose favor discrimination is prohibited by Code Section 125, it may, but shall not be required to, reduce contributions or non-taxable Benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. If the Administrator decides to reduce contributions or non-taxable Benefits, it shall be done in the following manner. First, the non-taxable Benefits of the affected Participant (either an employee who is highly compensated or a Key Employee, whichever is applicable) who has the highest amount of non-taxable Benefits for the Plan Year shall have his or her non-taxable Benefits reduced until the discrimination tests set forth in this Section are satisfied or until the amount of his or her non-taxable Benefits equals the non-taxable Benefits of the affected Participant who has the second highest amount of non-taxable Benefits. This process shall continue until the nondiscrimination tests set forth in this Section are satisfied. With respect to any affected Participant who has had Benefits reduced pursuant to this Section, the reduction shall be made proportionately among Health Flexible Spending Account Benefits and Dependent Care Flexible Spending Account Benefits, and once all these Benefits are expended, proportionately among insured Benefits. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and deposited into the benefit plan surplus.

08. **NON-TAX DEPENDENT COVERAGE**

- a. If (i) Employee Salary Redirections are made to fund Benefits under the Plan, and (ii) the Employer allows a Participant to elect to cover a Non-Tax Dependent through the Participant's coverage under group Medical, Dental or Vision benefit(s), a Participant who elects to participate in the Salary Redirection program may pay on a pre-tax basis through salary reduction contributions the Participant's portion of the premium cost of coverage under the Employer's Medical, Dental or Vision Benefits, provided that the full fair market value of such Medical, Dental or Vision coverage for any such Non-Tax Dependent shall be includible in the Participant's gross income as a taxable benefit in accordance with applicable federal income tax rules. For purposes of this Plan, the Participant electing coverage for Non-Tax Dependent(s) shall be treated as receiving, at the time that coverage is received, cash compensation equal to the full fair market value of such coverage and then as having purchased the coverage with after-tax employee contributions.
- b. Notwithstanding the foregoing, no medical care or dependent care expenses incurred by or with respect to a Non-Tax Dependent of a Participant shall be eligible for reimbursement as eligible expenses under the Health Flexible Spending Account or Dependent Care Flexible Spending Account.

V. ARTICLE - PARTICIPANT ELECTIONS

01. **INITIAL ELECTIONS**

An Employee who meets the eligibility requirements of the Section titled: "Eligibility" on the first day of, or during, a Plan Year may elect to participate in this Plan for all or the remainder of such Plan Year, provided he elects to do so on or before his or her effective date of participation pursuant to the Section titled: "Effective Date of Participation".

Notwithstanding the foregoing, an Employee who is eligible to participate in this Plan and who is covered by the Employer's insured benefits under this Plan shall automatically become a Participant to the extent of the Premiums for such insurance unless the Employee elects, during the Election Period, not to participate in the Plan.

02. **SUBSEQUENT ANNUAL ELECTIONS**

During the Election Period prior to each subsequent Plan Year, each Participant shall be given the opportunity to elect, on an election of benefits form or electronically, as provided by the Administrator, which spending account Benefit options he wishes to participate in. Any such election shall be effective for any Benefit expenses incurred during the Plan Year which immediately follows the end of the Election Period. With regard to subsequent annual elections, the following options shall apply:

- a. A Participant or Employee who failed to initially elect to participate may elect different or new Benefits under the Plan during the Election Period;
- b. A Participant may terminate his or her participation in the Plan by notifying the Administrator in writing or by electronic notification, as determined by the Employer, during the Election Period that he does not want to participate in the Plan for the next Plan Year;
- c. An Employee who elects not to participate for the Plan Year following the Election Period will have to wait until the next Election Period before again electing to participate in the Plan, except as provided for in the Section titled: "Change of Status".

03. **FAILURE TO ELECT**

With regard to Benefits available under the Plan for which no Premium Expenses apply, any Participant who fails to complete a new benefit election pursuant to the Section titled: "Subsequent Annual Elections" by the end of the applicable Election Period shall be deemed to have elected not to participate in the Plan for the upcoming Plan Year. No further Salary Redirections shall therefore be authorized or made for the subsequent Plan Year for such Benefits, subject to the provisions of the Section titled: "Change in Status" below.

With regard to Benefits available under the Plan for which Premium Expenses apply, any Participant who fails to complete a new benefit election pursuant to the Section titled: "Subsequent Annual Elections" by the end of the applicable Election Period shall be deemed to have made the same Benefit elections as are then in effect for the current Plan Year. The Participant shall also be deemed to have elected Salary Redirection in an amount necessary to purchase such Benefit options.

04. **CHANGE IN STATUS**

- a. **Change in status defined.** Any Participant may change a Benefit election after the Plan Year (to which such election relates) has commenced and make new elections with respect to the remainder of such Plan Year if, under the facts and circumstances, the changes are necessitated by and are consistent with a change in status which is acceptable under rules and regulations adopted by the Department of the Treasury, the provisions of which are incorporated by reference. Notwithstanding anything herein to the contrary, if the rules and regulations conflict with any of the provisions of this Plan, then such rules and regulations shall control. See below in this Section for other situations in which changes in Benefit elections are permitted.

In general, a change in election is not consistent if the change in status is the Participant's divorce, annulment or legal separation from a Spouse, the death of a Spouse or Dependent, or a Dependent's ceasing to satisfy the eligibility requirements for coverage, and the Participant's election under the Plan is to cancel accident or health insurance coverage for any individual other than the one involved in such event. In addition, if the Participant, Spouse or Dependent gains eligibility for coverage under any other plan, then a Participant's election under the Plan to cease or decrease coverage for that individual under the Plan is consistent with that change in status only if coverage for that individual becomes applicable or is increased under said other plan. Also, if the Participant, Spouse or Dependent loses eligibility for coverage under any other plan, then a Participant's election under the Plan to start or increase coverage for that individual under the Plan is consistent with that change in

status only if coverage for that individual ceases or is decreased under said other plan.

Regardless of the consistency requirement, if the individual, or the individual's Spouse or Dependent, becomes eligible for continuation coverage under the Employer's group health plan as provided in Code Section 4980B or any similar state law, then the individual may elect to increase payments under this Plan in order to pay for the continuation coverage. However, this does not apply for COBRA eligibility due to divorce, annulment or legal separation.

Any new election shall be effective at such time as the Administrator shall prescribe, but not earlier than the first pay period beginning after the election form is completed and returned to the Administrator. For the purposes of this subsection, a change in status shall only include the following events or other events permitted by Treasury regulations:

1. Legal Marital Status: events that change a Participant's legal marital status, including marriage, divorce, death of a Spouse, legal separation or annulment;
2. Number of Dependents: Events that change a Participant's number of Dependents, including birth, adoption, placement for adoption, or death of a Dependent;
3. Employment Status: Any of the following events that change the employment status of the Participant, Spouse, or Dependent: termination or commencement of employment, a strike or lockout, commencement or return from an unpaid leave of absence, or a change in worksite. In addition, if the eligibility conditions of this Plan or other employee benefit plan of the Employer of the Participant, Spouse, or Dependent depend on the employment status of that individual and there is a change in that individual's employment status with the consequence that the individual becomes (or ceases to be) eligible under the plan, then that change constitutes a change in employment under this subsection;
4. Dependent satisfies or ceases to satisfy the eligibility requirements: An event that causes the Participant's Dependent to satisfy or cease to satisfy the requirements for coverage due to attainment of age, student status, or any similar circumstance; and
5. Residency: A change in the place of residence of the Participant, Spouse or Dependent, that would lead to a change in status (such as a loss of HMO coverage).

For the Dependent Care Flexible Spending Account, a Dependent becoming or ceasing to be a "Qualifying Dependent" as defined under Code Section 21(b) shall also qualify as a change in status.

Notwithstanding anything in this Section to the contrary, the gain of eligibility or change in eligibility of a child, as allowed under Code Sections 105(b) and 106, and IRS Notice 2010-38, shall qualify as a change in status.

- b. **Special enrollment rights.** Notwithstanding subsection (a), the Participants may change an election for accident or health coverage during a Plan Year and make a new election that corresponds with the special enrollment rights provided in Code Section 9801(f), including those authorized under the provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIP), provided that such Participant meets the sixty (60) day notice requirement imposed by Code Section 9801(f) (or such longer period as may be permitted by the Plan and communicated to Participants). Such change shall take place on a prospective basis, unless otherwise required by Code Section 9801(f) to be retroactive.
- c. **Qualified Medical Support Order.** Notwithstanding subsection (a), in the event of a judgment, decree, or order (including approval of a property settlement) (collectively, an "order") resulting from a divorce, legal separation, annulment, or change in legal custody (including a qualified medical child support order) that requires accident or health coverage for a Participant's child (including a foster child who is a Dependent of the Participant):
 1. The Plan may change an election to provide coverage for the child if the order requires coverage under the Participant's plan; or
 2. The Participant shall be permitted to change an election to cancel coverage for the child if the order requires the former Spouse to provide coverage for such child, under that individual's plan, and such coverage is actually provided.
- d. **Medicare or Medicaid.** Notwithstanding subsection (a), a Participant may change elections to cancel accident or health coverage for the Participant or the Participant's Spouse or Dependent if the Participant or the Participant's Spouse or Dependent is enrolled in the accident or health coverage of the Employer and becomes entitled to coverage (i.e., enrolled) under Part A or Part B of Title XVIII of the Social Security Act (Medicare) or Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under Section 1928 of the Social Security Act (the program for distribution of pediatric vaccines). If the Participant or the Participant's Spouse or Dependent who has been entitled to Medicaid or Medicare coverage loses eligibility, that individual may prospectively elect coverage under

the Plan if a benefit package option under the Plan provides similar coverage.

- e. **Cost increase or decrease.** Notwithstanding subsection (a), if the cost of a Benefit provided under the Plan increases or decreases during a Plan Year, then the Plan shall automatically increase or decrease, as the case may be, the Salary Redirections of all affected Participants for such Benefit. Alternatively, if the cost of a benefit package option increases significantly, the Administrator shall permit the affected Participants to either make corresponding changes in their payments or revoke their elections and, in lieu thereof, receive on a prospective basis coverage under another benefit package option with similar coverage, or drop coverage prospectively if there is no benefit package option with similar coverage.

A cost increase or decrease refers to an increase or decrease in the amount of elective contributions under the Plan, whether resulting from an action taken by the Participants or an action taken by the Employer.

- f. **Loss of coverage.** Notwithstanding subsection (a), if the coverage under a Benefit is significantly curtailed or ceases during a Plan Year, affected Participants may revoke their elections of such Benefit and, in lieu thereof, elect to receive on a prospective basis coverage under another plan with similar coverage, or drop coverage prospectively if no similar coverage is offered.
- g. **Addition of a new benefit.** Notwithstanding subsection (a), if, during the period of coverage, a new benefit package option or other coverage option is added, an existing benefit package option is significantly improved, or an existing benefit package option or other coverage option is eliminated, then the affected Participants may elect the newly-added option, or elect another option if an option has been eliminated prospectively and make corresponding election changes with respect to other benefit package options providing similar coverage. In addition, those Eligible Employees who are not participating in the Plan may opt to become Participants and elect the new or newly improved benefit package option.
- h. **Loss of coverage under certain other plans.** Notwithstanding subsection (a), a Participant may make a prospective election change to add group health coverage for the Participant, the Participant's Spouse or Dependent if such individual loses group health coverage sponsored by a governmental or educational institution, including a state children's health insurance program under the Social Security Act, the Indian Health Service or a health program offered by an Indian tribal government, a state health benefits risk pool, or a foreign government group health plan.
- i. **Change of coverage due to change under certain other plans.** Notwithstanding subsection (a), a Participant may make a prospective election change that is on account of and corresponds with a change made under the plan of a Spouse, former Spouse's employer or Dependent's employer if (1) the cafeteria plan or other benefits plan of the Spouse, former Spouse's employer or Dependent's employer permits its participants to make a change; or (2) the cafeteria plan permits participants to make an election for a period of coverage that is different from the period of coverage under the cafeteria plan of a Spouse, former Spouse's employer or Dependent's employer.
- j. **Change in dependent care provider.** Notwithstanding subsection (a), a Participant may make a prospective election change that is on account of and corresponds with a change by the Participant in a dependent care provider. The availability of dependent care services from a new dependent care provider is similar to a new benefit package option becoming available. A cost change is allowable in the Dependent Care Flexible Spending Account only if the cost change is imposed by a dependent care provider who is not related to the Participant, as defined in Code Section 152(a)(1) through (8).
- k. Notwithstanding subsection (a), a Participant may prospectively revoke his or her election of group health plan coverage if (i) the Participant is eligible for a Special Enrollment Period to enroll in a Qualified Health Plan through a Marketplace, or seeks to enroll in a Qualified Health Plan through a Marketplace during the Marketplace's annual open enrollment period, and (ii) the Participant, and any related individuals whose coverage is also to be revoked, intend to enroll in a Qualified Health Plan through a Marketplace that is effective no later than the day immediately following the effective date of the revocation.
- l. **Health Flexible Spending Account cannot change due to insurance change.** A Participant shall not be permitted to change an election to the Health Flexible Spending Account as a result of a cost or coverage change under any health insurance benefits.

VI. ARTICLE - HEALTH FLEXIBLE SPENDING ACCOUNT

01. **ESTABLISHMENT OF BENEFIT**

This Health Flexible Spending Account is intended to qualify as a medical reimbursement plan under Code Section 105 and shall be interpreted in a manner consistent with such Code Section and the Treasury regulations thereunder. Participants who elect to participate in this Health Flexible Spending Account may submit claims for the reimbursement of allowable Medical Expenses. All amounts reimbursed shall be periodically paid from amounts allocated to the Participant's Health Flexible Spending Account. Periodic payments reimbursing Participants from the Health Flexible Spending Account shall in no event occur less frequently than monthly.

02. **DEFINITIONS**

For the purposes of this Article and the Plan, the terms below have the following meanings:

- a. **"Health Flexible Spending Account"** means the account established for a Participant pursuant to this Plan to which part of his or her Cafeteria Plan Benefit Dollars may be allocated and from which all allowable Medical Expenses incurred by the Participant, his or her Spouse and his or her Dependents may be reimbursed.
- b. **"Highly Compensated Participant"** means, for the purposes of this Article and determining discrimination under Code Section 105(h), a participant who is:
 1. one of the 5 highest paid officers;
 2. a shareholder who owns (or is considered to own, applying the rules of Code Section 318) more than 10 percent in value of the stock of the Employer; or
 3. among the highest paid 25 percent of all Employees (other than exclusions permitted by Code Section 105(h)(3)(B) for those individuals who are not Participants).
- c. **"Medical Expenses"** means any expense for medical care within the meaning of the term "medical care" as defined in Code Section 213(d) and the rulings and Treasury regulations thereunder, and not otherwise used by the Participant as a deduction in determining his or her tax liability under the Code. "Medical Expenses" can be incurred by the Participant, his or her Spouse and his or her Dependents. "Incurred" means, with regard to Medical Expenses, when the Participant is provided with the medical care that gives rise to the Medical Expense and not when the Participant is formally billed or charged for, or pays for, the medical care.

A Participant may not be reimbursed for the cost of other health coverage such as premiums paid under plans maintained by the employer of the Participant's Spouse or individual policies maintained by the Participant or his or her Spouse or Dependent.
- d. A Participant may not be reimbursed for "qualified long-term care services" as defined in Code Section 7702B(c).
- e. The definitions of the Article titled: "Plan Definitions" are hereby incorporated by reference to the extent necessary to interpret and apply the provisions of this Health Flexible Spending Account.

03. **FORFEITURES**

A Participant in the Health Care Flexible Spending Account may roll over up to \$640.00 of unused funds at the end of one Plan Year to the next Plan Year. The maximum limit may increase from year-to-year as provided under IRS Notice 2020-33 and Section 125(i) of the Internal Revenue Code. These funds can be used during the following Plan Year for expenses incurred in that Plan Year. Amounts carried over do not affect the maximum amount of salary redirections otherwise permitted for said next Plan Year. Unused amounts are those remaining after all eligible expenses for the Plan Year have been reimbursed. These amounts may not be cashed out or converted to any other taxable or nontaxable benefit. Unused amounts in excess of maximum limit will be forfeited.

04. **LIMITATION ON ALLOCATIONS**

Notwithstanding any provision contained in this Health Flexible Spending Account to the contrary, the maximum amount of salary redirections that may be allocated to the Health Flexible Spending Account by a Participant in any Plan Year is \$3,200.00. The maximum limit may increase from year-to-year pursuant to Section 125(i)(2) of the Internal Revenue Code.

Carryover: A Participant in the Health Care Flexible Spending Account may roll over up to \$640.00 of unused funds at the end of one Plan Year to the next Plan Year. The maximum limit may increase from year-to-year as provided under IRS Notice 2020-33 and Section 125(i) of the

Internal Revenue Code. These funds can be used during the following Plan Year for expenses incurred in that Plan Year. Amounts carried over do not affect the maximum amount of salary redirections otherwise permitted for said next Plan Year. Unused amounts are those remaining after all eligible expenses for the Plan Year have been reimbursed. These amounts may not be cashed out or converted to any other taxable or nontaxable benefit. Unused amounts in excess of maximum limit will be forfeited.

05. **NONDISCRIMINATION REQUIREMENTS**

- a. **Intent to be nondiscriminatory.** It is the intent of this Health Flexible Spending Account not to discriminate in violation of the Code and the Treasury regulations thereunder.
- b. **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination under this Health Flexible Spending Account, it may, but shall not be required to, reject any elections or reduce contributions or Benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. If the Administrator decides to reject any elections or reduce contributions or Benefits, it shall be done in the following manner. First, the Benefits designated for the Health Flexible Spending Account by the member of the group in whose favor discrimination may not occur pursuant to Code Section 105 that elected to contribute the highest amount to the fund for the Plan Year shall be reduced until the nondiscrimination tests set forth in this Section and/or the Code are satisfied, or until the amount designated for the fund equals the amount designated for the fund by the member of the group in whose favor discrimination may not occur pursuant to Code Section 105 who has elected the second highest contribution to the Health Flexible Spending Account for the Plan Year. This process shall continue until the nondiscrimination tests set forth in this Section or the Code are satisfied. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and credited to the benefit plan surplus.

06. **COORDINATION WITH CAFETERIA PLAN**

All Participants under the Plan are eligible to receive Benefits under this Health Flexible Spending Account. Enrollment under the Cafeteria Plan shall constitute enrollment under this Health Flexible Spending Account. In addition, other matters concerning contributions, elections and the like shall be governed by the general provisions of the Cafeteria Plan.

07. **HEALTH FLEXIBLE SPENDING ACCOUNT CLAIMS**

- a. **Expenses must be incurred during Plan Year.** All eligible Medical Expenses incurred by a Participant, his or her Spouse and his or her Dependents during the Plan Year shall be reimbursed, subject to the Section titled: "Termination of Employment", even though the submission of such a claim occurs after his or her participation hereunder ceases; but provided that the Medical Expenses were incurred during the applicable Plan Year. Medical Expenses are treated as having been incurred when the Participant is provided with the medical care that gives rise to the medical expenses, not when the Participant is formally billed or charged for, or pays for the medical care.
- b. **Reimbursement available throughout Plan Year.** The Administrator shall direct the reimbursement to each eligible Participant for all allowable Medical Expenses, up to a maximum of the amount designated by the Participant for the Health Flexible Spending Account for the Plan Year. Reimbursements shall be made available to the Participant throughout the year without regard to the level of Cafeteria Plan Benefit Dollars which have been allocated to the fund at any given point in time. Furthermore, a Participant shall be entitled to reimbursements only for amounts in excess of any payments or other reimbursements under any health care plan covering the Participant and/or his or her Spouse or Dependents.
- c. **Payments.** Reimbursement payments under this Plan shall be made directly to the Participant. However, in the Administrator's discretion, payments may be made directly to the service provider. The application for payment or reimbursement shall be made to the Administrator on an acceptable form within a reasonable time after incurring the debt or paying for the service. The application shall include a written statement from an independent third party stating that the Medical Expense has been incurred and the amount of such expense. Furthermore, the Participant shall provide a written statement that the Medical Expense has not been reimbursed or is not reimbursable under any other health plan coverage and, if reimbursed from the Health Flexible Spending Account, such amount will not be claimed as a tax deduction. The Administrator shall retain a file of all such applications.
- d. **Claims for reimbursement.** Claims for the reimbursement of Medical Expenses incurred in any Plan Year shall be paid as soon after a claim has been filed as is administratively practicable; provided however, that if a Participant fails to submit a claim within 90 days after the end of the Plan Year, those Medical Expense claims shall not be considered for reimbursement by the Administrator. However, if a Participant terminates employment

during the Plan Year, claims for the reimbursement of Medical Expenses must be submitted within 90 days after the end of the month.

08. **DEBIT AND CREDIT CARDS**

Participants may, subject to a procedure established by the Administrator and applied in a uniform nondiscriminatory manner, use debit and/or credit (stored value) cards ("cards") provided by the Administrator and the Plan for payment of Medical Expenses, subject to the following terms:

- a. **Card only for medical expenses.** Each Participant issued a card shall certify that such card shall only be used for Medical Expenses. The Participant shall also certify that any Medical Expense paid with the card has not already been reimbursed by any other plan covering health benefits and that the Participant will not seek reimbursement from any other plan covering health benefits.
- b. **Card issuance.** Such card shall be issued upon the Participant's Effective Date of Participation and reissued or remain in effect for each Plan Year the Participant remains a Participant in the Health Flexible Spending Account. Such card shall be automatically cancelled upon the Participant's death or termination of employment, or if such Participant has a change in status that results in the Participant's withdrawal from the Health Flexible Spending Account.
- c. **Maximum dollar amount available.** The dollar amount of coverage available on the card shall be the amount elected by the Participant for the Plan Year. The maximum dollar amount of coverage available shall be the maximum amount for the Plan Year as set forth in the Section titled: "Limitation on Allocations".
- d. **Only available for use with certain service providers.** The cards shall only be accepted by such merchants and service providers as have been approved by the Administrator.
- e. **Card use.** The cards shall only be used for Medical Expense purchases as defined in Code Section 213(d) and the rulings and Treasury regulations thereunder, including, but not limited to, the following:
 1. Co-payments for doctor and other medical care;
 2. Purchase of drugs prescribed by a health care provider, including, if permitted by the Administrator, over-the-counter medications as allowed under IRS regulations;
 3. Purchase of medical items such as eyeglasses, syringes, crutches, etc.
- f. **Substantiation.** Such purchases by the cards shall be subject to confirmation by the Administrator, usually by requiring the Participant to submit a receipt from a service provider describing the service, the date and the amount. The Administrator shall also follow the requirements set forth in Revenue Ruling 2003-43 and Notice 2006-69. All charges shall be conditional pending confirmation by the Administrator.
- g. **Correction methods.** If such purchase is later determined by the Administrator to not qualify as a Medical Expense, the Administrator, in its discretion, shall use one of the following correction methods to make the Plan whole. Until the amount is repaid, the Administrator shall take further action to ensure that further violations of the terms of the card do not occur, up to and including denial of access to the card.
 1. Repayment of the improper amount by the Participant;
 2. Withholding the improper payment from the Participant's wages or other compensation to the extent consistent with applicable federal and state law;
 3. Claims substitution or offset of future claims until the amount is repaid; and
 4. If subsections (1) through (3) fail to recover the amount, consistent with the Employer's business practices, the Employer may treat the amount as any other business indebtedness.

VII. ARTICLE - DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT

01. **ESTABLISHMENT OF ACCOUNT**

This Dependent Care Flexible Spending Account is intended to qualify as a program under Code Section 129 and shall be interpreted in a manner consistent with such Code Section. Participants who elect to participate in this program may submit claims for the reimbursement of Employment-Related Dependent Care Expenses. All amounts reimbursed shall be paid from amounts allocated to the Participant's Dependent Care Flexible Spending Account.

02. **DEFINITIONS**

For the purposes of this Article and the Plan, the terms below shall have the following meaning:

- a. **"Dependent Care Flexible Spending Account"** means the account established for a Participant pursuant to this Article to which part of his or her Cafeteria Plan Benefit Dollars may be allocated and from which Employment-Related Dependent Care Expenses of the Participant may be reimbursed for the care of the Qualifying Dependents of Participants.
- b. **"Earned Income"** means earned income as defined under Code Section 32(c)(2), but excluding such amounts paid or incurred by the Employer for dependent care assistance to the Participant.
- c. **"Employment-Related Dependent Care Expenses"** means the amounts paid for those expenses of a Participant that, if paid by the Participant, would be considered employment related expenses under Code Section 21(b)(2). Generally, they include expenses for household services and for the care of a Qualifying Dependent, to the extent that such expenses are incurred to enable the Participant to be gainfully employed for any period during which there are one or more Qualifying Dependents with respect to such Participant. Employment-Related Dependent Care Expenses are treated as having been incurred when the Participant's Qualifying Dependents are provided with the dependent care that gives rise to the Employment-Related Dependent Care Expenses, not when the Participant is formally billed or charged for, or pays for, the dependent care. The determination of whether an amount qualifies as an Employment-Related Dependent Care Expense shall be made subject to the following rules:
 1. If such amounts are paid for expenses incurred outside the Participant's household, they shall constitute Employment Related Dependent Care Expenses only if incurred for a Qualifying Dependent (as defined in the "Definitions" Section of the Article titled: "Dependent Care Flexible Spending Account") who regularly spends at least eight (8) hours per day in the Participant's household;
 2. If the expense is incurred outside the Participant's home at a facility that provides care for a fee, payment, or grant for more than six (6) individuals who do not regularly reside at the facility, the facility must comply with all applicable state and local laws and regulations, including licensing requirements, if any; and
 3. Employment-Related Dependent Care Expenses of a Participant shall not include amounts paid to or incurred by a child of such Participant who is under the age of 19 or to an individual who is a Dependent of such Participant or such Participant's Spouse.
- d. **"Qualifying Dependent"** means, for Dependent Care Flexible Spending Account purposes,
 1. a Participant's Dependent (as defined in Code Section 152(a)(1)) who has not attained age 13;
 2. a Dependent or Spouse of a Participant who is physically or mentally incapable of caring for himself or herself and has the same principal place of abode as the Participant for more than one-half of such taxable year; or
 3. a child that is deemed to be a Qualifying Dependent described in paragraph (1) or (2) above, whichever is appropriate, pursuant to Code Section 21(e)(5).
- e. The definitions of the Article titled: "Definitions" are hereby incorporated by reference to the extent necessary to interpret and apply the provisions of this Dependent Care Flexible Spending Account.

03. **DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS**

The Administrator shall establish a Dependent Care Flexible Spending Account for each Participant who elects to apply Cafeteria Plan Benefit Dollars to Dependent Care Flexible Spending Account benefits.

04. **INCREASES IN DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS**

A Participant's Dependent Care Flexible Spending Account shall be increased each pay period by the amount of Cafeteria Plan Benefit Dollars that he has elected to apply toward his or her Dependent Care Flexible Spending Account pursuant to elections made under Article V hereof.

05. **DECREASES IN DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS**

A Participant's Dependent Care Flexible Spending Account shall be reduced by the amount of any Employment-Related Dependent Care Expense reimbursements paid or incurred on behalf of the Participant pursuant to the Section titled: "Dependent Care Flexible Spending Account Claims" hereof.

06. **ALLOWABLE DEPENDENT CARE REIMBURSEMENT**

Subject to limitations contained in the Section titled: "Limitation on Payments" below, and to the extent of the amount contained in the Participant's Dependent Care Flexible Spending Account, a Participant who incurs Employment-Related Dependent Care Expenses shall be entitled to receive from the Employer full reimbursement for the entire amount of such expenses incurred during the Plan Year or portion thereof during which he is a Participant.

07. **ANNUAL STATEMENT OF BENEFITS**

On or before January 31st of each calendar year, the Employer shall furnish to each Employee who was a Participant and received benefits under the Section titled: "Definitions" during the prior calendar year, a statement of all such benefits paid to or on behalf of such Participant during the prior calendar year. This statement is set forth on the Participant's Form W-2.

08. **FORFEITURES**

The amount in a Participant's Dependent Care Flexible Spending Account as of the end of any Plan Year (and after the processing of all claims for such Plan Year pursuant to the Section titled: "Dependent Care Flexible Spending Account Claims" hereof) shall be forfeited and credited to the benefit plan surplus. In such event, the Participant shall have no further claim to such amount for any reason.

09. **LIMITATION ON PAYMENTS**

- a. **Code limits.** Notwithstanding any provision contained in this Article to the contrary, amounts paid from a Participant's Dependent Care Flexible Spending Account in or on account of any tax year of the Participant shall not exceed the lesser of the Earned Income limitation described in Code Section 129(b) or \$5,000.00 (or cannot exceed \$5,000 as provided under Code Section 129 or \$2,500 if a separate tax return is filed by a Participant who is married as determined under the rules of paragraphs (3) and (4) of Code Section 21(e)).

10. **NONDISCRIMINATION REQUIREMENTS**

- a. **Intent to be nondiscriminatory.** It is the intent of this Dependent Care Flexible Spending Account that contributions or benefits not discriminate in favor of the group of employees in whose favor discrimination is prohibited under Code Section 129(d).
- b. **25% test for shareholders.** It is the intent of this Dependent Care Flexible Spending Account that not more than 25 percent of the amounts paid by the Employer for dependent care assistance during the Plan Year will be provided for the class of individuals who are shareholders or owners (or their Spouses or Dependents), each of whom (on any day of the Plan Year) owns more than 5 percent of (i) the stock of, or (ii) the capital or profits interest in, the Employer.
- c. **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to a group of employees in whose favor discrimination is prohibited by Code Section 129, it may, but shall not be required to, reject any elections or reduce contributions or non-taxable benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. If the Administrator decides to reject any elections or reduce contributions or Benefits, it shall be done in the following manner. First, the Benefits designated for the Dependent Care Flexible Spending Account by the affected Participant that elected to contribute the highest amount to such account for the Plan Year shall be reduced until the nondiscrimination tests set forth in this Section are satisfied, or until the amount designated for the account equals the amount designated for the account of the affected Participant who has elected the second highest contribution to the Dependent Care Flexible Spending Account for the Plan Year. This process shall continue until the nondiscrimination tests set forth in this Section are satisfied. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited.

11. **COORDINATION WITH CAFETERIA PLAN**

All Participants under the Cafeteria Plan are eligible to receive Benefits under this Dependent Care Flexible Spending Account. The enrollment and termination of participation under the Cafeteria Plan shall constitute enrollment and termination of participation under this Dependent Care Flexible Spending Account. In addition, other matters concerning contributions, elections and the like shall be governed by the general provisions of the Cafeteria Plan.

12. **DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT CLAIMS**

The Administrator shall direct the payment of all qualified Dependent Care claims to the Participant upon the presentation to the Administrator of documentation of such expenses in a form satisfactory to the Administrator. However, in the Administrator's discretion, payments may be made directly to the service provider. In its discretion in administering the Plan, the Administrator may utilize forms and require documentation of costs as may be necessary to verify the claims submitted. At a minimum, the form shall include a statement from an independent third party as proof that the expense has been incurred during the Plan Year and the amount of such expense. In addition, the Administrator may require that each Participant who desires to receive reimbursement under this Program for Employment-Related Dependent Care Expenses submit a statement which may contain some or all of the following information:

- a. The Dependent or Dependents for whom the services were performed;
- b. The nature of the services performed for the Dependent, the cost of which the Participant wishes reimbursement;
- c. The relationship, if any, of the person performing the services to the Participant;
- d. If the services are being performed by a child of the Participant, the age of the child;
- e. A statement as to where the services were performed;
- f. If any of the services were performed outside the home, a statement as to whether the Dependent for whom such services were performed spends at least 8 hours a day in the Participant's household;
- g. If the services were being performed in a day care center, a statement:
 1. that the day care center complies with all applicable laws and regulations of the state of residence,
 2. that the day care center provides care for more than 6 individuals (other than individuals residing at the center), and
 3. of the amount of fee paid to the provider.
- h. If the Participant is married, a statement containing the following:
 1. the Spouse's salary or wages, if he or she is employed, or
 2. if the Participant's Spouse is not employed, that
 - i. he or she is incapacitated, or
 - ii. he or she is a full-time student attending an educational institution, and the months of the year during which he or she attends such institution.
- i. **Claims for reimbursement.** If a Participant fails to submit a claim within 90 days after the end of the Plan Year, those claims shall not be considered for reimbursement by the Administrator.

VIII. ARTICLE - ADMINISTRATION

01. PLAN ADMINISTRATION

The Employer shall be the Administrator, unless the Employer elects otherwise. The Employer may appoint any person or persons, including, but not limited to, one or more Employees of the Employer, to perform the duties of the Administrator. Any person so appointed shall signify acceptance by filing written acceptance with the Employer. An Administrator may resign by delivering a written resignation to the Employer or may be removed by the Employer by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery if no date is specified. Upon the resignation or removal of any individual performing the duties of the Administrator, the Employer may designate a successor. The Employer shall be empowered to appoint and remove the Administrator from time to time as it deems necessary for the proper administration of the Plan to ensure that the Plan is being operated for the exclusive benefit of the Employees entitled to participate in the Plan in accordance with the terms of the Plan and the Code.

The operation of the Plan shall be under the supervision of the Administrator. It shall be a principal duty of the Administrator to see that the Plan is carried out in accordance with its terms, and for the exclusive benefit of Employees entitled to participate in the Plan. The Administrator shall have full power and discretion to administer the Plan in all of its details and determine all questions arising in connection with the administration, interpretation, and application of the Plan. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan. The Administrator shall have all powers necessary or appropriate to accomplish the Administrator's duties under the Plan. The Administrator shall be charged with the duties of the general administration of the Plan as set forth under the Plan, including, but not limited to, in addition to all other powers provided by this Plan:

- a. To make and enforce such procedures, rules and regulations as the Administrator deems necessary or proper for the efficient administration of the Plan;
- b. To interpret the provisions of the Plan, the Administrator's interpretations thereof in good faith to be final and conclusive on all persons claiming benefits by operation of the Plan;
- c. To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan and to receive benefits provided by operation of the Plan;
- d. To reject elections or to limit contributions or Benefits for certain highly compensated participants if it deems such to be desirable in order to avoid discrimination under the Plan in violation of applicable provisions of the Code;
- e. To provide Employees with a reasonable notification of their benefits available by operation of the Plan and to assist any Participant regarding the Participant's rights, benefits or elections under the Plan;
- f. To keep and maintain the Plan documents and all other records pertaining to and necessary for the administration of the Plan;
- g. To review and settle all claims against the Plan, to approve reimbursement requests, and to authorize the payment of benefits if the Administrator determines such should be paid. This authority specifically permits the Administrator to settle disputed claims for benefits and any other disputed claims made against the Plan;
- h. To establish and communicate procedures to determine whether a medical child support order is qualified; and
- i. To appoint such agents, counsel, accountants, consultants, and other persons or entities as may be required to assist in administering the Plan.

Any procedure, discretionary act, interpretation or construction taken by the Administrator shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to comply with the terms of Code Section 125 and the Treasury regulations thereunder.

02. EXAMINATION OF RECORDS

The Administrator shall make available to each Participant, Eligible Employee and any other Employee of the Employer, for examination at reasonable times during normal business hours, such records as pertain to their interest under the Plan.

03. PAYMENT OF EXPENSES

Any reasonable administrative expenses shall be paid by the Employer unless the Employer determines that administrative costs shall be borne by the Participants under the Plan or by any Trust Fund which may be established hereunder. The Administrator may impose reasonable conditions for payments, provided that such conditions shall not discriminate in favor of highly compensated employees.

04. INSURANCE CONTROL CLAUSE

In the event of a conflict between the terms of this Plan and the terms of an Insurance Contract of an independent third party Insurer or other benefit program that is self-insured whose product is then being used in conjunction with this Plan, the terms of the Insurance Contract shall control as to those Participants receiving coverage under such Insurance Contract. For this purpose, the Insurance Contract shall control in defining the persons eligible for insurance, the dates of their eligibility, the conditions which must be satisfied to become insured, if any, the benefits Participants are entitled to and the circumstances under which insurance terminates.

05. INDEMNIFICATION OF ADMINISTRATOR

The Employer agrees to indemnify and to defend to the fullest extent permitted by law any Employee serving as the Administrator or as a member of a committee designated as Administrator (including any Employee or former Employee who previously served as Administrator or as a member of such committee) against all liabilities, damages, costs and expenses (including attorney's fees and amounts paid in settlement of any claims approved by the Employer) occasioned by any act or omission to act in connection with the Plan, if such act or omission is in good faith.

IX. ARTICLE - AMENDMENT OR TERMINATION OF PLAN

01. AMENDMENT

The Employer, at any time or from time to time, may amend any or all of the provisions of the Plan without the consent of any Employee or Participant. No amendment shall have the effect of modifying any benefit election of any Participant in effect at the time of such amendment, unless such amendment is made to comply with Federal, state and local laws, statutes and regulations.

02. TERMINATION

The Employer reserves the right to terminate this Plan, in whole or in part, at any time. In the event the Plan is terminated, no further contributions shall be made. Benefits under any Insurance Contract shall be paid in accordance with the terms of the Insurance Contract.

No further additions shall be made to the Health Flexible Spending Account or Dependent Care Flexible Spending Account, but all payments from such accounts shall continue to be made according to the elections in effect until 90 days after the termination date of the Plan. Any amounts remaining in any such fund or account as of the end of such period shall be forfeited and deposited in the benefit plan surplus after the expiration of the filing period.

X. ARTICLE - MISCELLANEOUS

01. PLAN INTERPRETATION

All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner. This Plan shall be read in its entirety and not severed except as provided in the Section titled: "Severability".

02. GENDER AND NUMBER

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

03. WRITTEN DOCUMENT

This Plan, in conjunction with any separate written document which may be required by law, is intended to satisfy the written Plan requirement of Code Section 125 and any Treasury regulations thereunder relating to cafeteria plans.

04. EXCLUSIVE BENEFIT

This Plan shall be maintained for the exclusive benefit of the Employees who participate in the Plan.

05. PARTICIPANT'S RIGHTS

This Plan shall not be deemed to constitute an employment contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him as a Participant of this Plan.

06. ACTION BY THE EMPLOYER

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by the Employer.

07. EMPLOYER'S PROTECTIVE CLAUSES

- a. **Insurance purchase.** Upon the failure of either the Participant or the Employer to obtain the insurance contemplated by this Plan (whether as a result of negligence, gross neglect or otherwise), the Participant's Benefits shall be limited to the insurance premium(s), if any, that remained unpaid for the period in question and the actual insurance proceeds, if any, received by the Employer or the Participant as a result of the Participant's claim.
- b. **Validity of insurance contract.** The Employer shall not be responsible for the validity of any Insurance Contract issued hereunder or for the failure on the part of the Insurer to make payments provided for under any Insurance Contract. Once insurance is applied for or obtained, the Employer shall not be liable for any loss which may result from the failure to pay Premiums to the extent Premium notices are not received by the Employer.

08. NO GUARANTEE OF TAX CONSEQUENCES

Neither the Administrator nor the Employer makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant under the Plan will be excludable from the Participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant. It shall be the obligation of each Participant to determine whether each payment under the Plan is excludable from the Participant's gross income for federal and state income tax purposes, and to notify the Employer if the Participant has reason to believe that any such payment is not so excludable. Notwithstanding the foregoing, the rights of Participants under this Plan shall be legally enforceable.

09. INDEMNIFICATION OF EMPLOYER BY PARTICIPANTS

If any Participant receives one or more payments or reimbursements under the Plan that are not for a permitted Benefit, such Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to withhold federal or state income tax or Social Security tax from such payments or reimbursements. However, such indemnification and reimbursement shall not exceed the amount of additional federal and state income tax (plus any penalties) that the Participant would have owed if the payments or reimbursements had been made to the Participant

as regular cash compensation, plus the Participant's share of any Social Security tax and Medicare tax that would have been paid on such compensation, less any such additional income tax, Social Security tax, and Medicare tax actually paid by the Participant.

10. **FUNDING**

Unless otherwise required by law, contributions to the Plan need not be placed in trust or dedicated to a specific Benefit, but may instead be considered general assets of the Employer. Furthermore, and unless otherwise required by law, nothing herein shall be construed to require the Employer or the Administrator to maintain any fund or segregate any amount for the benefit of any Participant, and no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account or asset of the Employer from which any payment under the Plan may be made.

11. **GOVERNING LAW**

This Plan is governed by the Code and the Treasury regulations issued thereunder (as they might be amended from time to time). In no event does the Employer guarantee the favorable tax treatment sought by this Plan. To the extent not preempted by Federal law, the provisions of this Plan shall be construed, enforced and administered according to the laws of Kansas.

12. **SEVERABILITY**

If any provision of the Plan is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provisions of the Plan, and the Plan shall be construed and enforced as if such provision had not been included herein.

13. **CAPTIONS**

The captions contained herein are inserted only as a matter of convenience and for reference, and in no way define, limit, enlarge or describe the scope or intent of the Plan, nor in any way shall affect the Plan or the construction of any provision thereof.

14. **CONTINUATION OF COVERAGE (COBRA)**

Notwithstanding anything in the Plan to the contrary, in the event any benefit under this Plan subject to the continuation coverage requirement of Code Section 4980B becomes unavailable, each Participant will be entitled to continuation coverage as prescribed in Code Section 4980B, and related regulations. This Section shall only apply if the Employer employs at least twenty (20) employees on more than 50% of its typical business days in the previous calendar year.

15. **FAMILY AND MEDICAL LEAVE ACT (FMLA)**

Notwithstanding anything in the Plan to the contrary, in the event any benefit under this Plan becomes subject to the requirements of the Family and Medical Leave Act and regulations thereunder, this Plan shall be operated in accordance with Regulation 1.125-3.

16. **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

Notwithstanding anything in this Plan to the contrary, this Plan shall be operated in accordance with HIPAA and regulations thereunder.

17. **COMPLIANCE WITH HIPAA PRIVACY STANDARDS**

- a. **Application.** If any benefits under this Cafeteria Plan are subject to the Standards for Privacy of Individually Identifiable Health Information (45 CFR Part 164, the "Privacy Standards"), then this Section shall apply.
- b. **Disclosure of PHI.** The Plan shall not disclose Protected Health Information to any member of the Employer's workforce unless each of the conditions set out in this Section are met. "Protected Health Information" shall have the same definition as set forth in the Privacy Standards but generally shall mean individually identifiable information about the past, present or future physical or mental health or condition of an individual, including information about treatment or payment for treatment.
- c. **PHI disclosed for administrative purposes.** Protected Health Information disclosed to members of the Employer's workforce shall be used or disclosed by them only for purposes of Plan administrative functions. The Plan's administrative functions shall include all Plan payment functions and health care operations. The terms "payment" and "health care operations" shall have the same definitions as set out in the Privacy Standards, but the term "payment" generally shall mean activities taken to determine or fulfill Plan responsibilities with respect to eligibility, coverage, provision of benefits, or reimbursement for health care. Genetic information will not be used or disclosed for underwriting purposes.
- d. **PHI disclosed to certain workforce members.** The Plan shall disclose Protected Health

Information only to members of the Employer's workforce who are authorized to receive such Protected Health Information, and only to the extent and in the minimum amount necessary for that person to perform his or her duties with respect to the Plan. "Members of the Employer's workforce" shall refer to all employees and other persons under the control of the Employer. The Employer shall keep an updated list of those authorized to receive Protected Health Information.

1. An authorized member of the Employer's workforce who receives Protected Health Information shall use or disclose the Protected Health Information only to the extent necessary to perform his or her duties with respect to the Plan.
2. In the event that any member of the Employer's workforce uses or discloses Protected Health Information other than as permitted by this Section and the Privacy Standards, the incident shall be reported to the Plan's privacy officer. The privacy officer shall take appropriate action, including:
 - i. investigation of the incident to determine whether the breach occurred inadvertently, through negligence or deliberately; whether there is a pattern of breaches; and the degree of harm caused by the breach;
 - ii. appropriate sanctions against the persons causing the breach which, depending upon the nature of the breach, may include oral or written reprimand, additional training, or termination of employment;
 - iii. mitigation of any harm caused by the breach, to the extent practicable; and
 - iv. documentation of the incident and all actions taken to resolve the issue and mitigate any damages.
- e. **Certification.** The Employer must and hereby does provide certification to the Plan that it agrees to adopt all required provisions as mandated under HIPAA for all non-exempt group health plans, including the following:
 1. Not use or further disclose the information other than as permitted or required by the Plan documents or as required by law;
 2. Ensure that any agent or subcontractor, to whom it provides Protected Health Information received from the Plan, agrees to the same restrictions and conditions that apply to the Employer with respect to such information;
 3. Not use or disclose Protected Health Information for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Employer;
 4. Report to the Plan any use or disclosure of the Protected Health Information of which it becomes aware that is inconsistent with the uses or disclosures permitted by this Section, or required by law;
 5. Make available Protected Health Information to individual Plan members in accordance with Section 164.524 of the Privacy Standards;
 6. Make available Protected Health Information for amendment by individual Plan members and incorporate any amendments to Protected Health Information in accordance with Section 164.526 of the Privacy Standards;
 7. Make available the Protected Health Information required to provide an accounting of disclosures to individual Plan members in accordance with Section 164.528 of the Privacy Standards;
 8. Make its internal practices, books and records relating to the use and disclosure of Protected Health Information received from the Plan available to the Department of Health and Human Services for purposes of determining compliance by the Plan with the Privacy Standards;
 9. If feasible, return or destroy all Protected Health Information received from the Plan that the Employer still maintains in any form, and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and
 10. Ensure the adequate separation between the Plan and members of the Employer's workforce, as required by Section 164.504(f)(2)(iii) of the Privacy Standards.

18. **COMPLIANCE WITH HIPAA ELECTRONIC SECURITY STANDARDS**

Under the Security Standards for the Protection of Electronic Protected Health Information (45 CFR Part 164.300 et. seq., the "Security Standards"):

- a. **Implementation.** The Employer agrees to implement reasonable and appropriate administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of Electronic Protected Health Information that the Employer creates, maintains or transmits on behalf of the Plan. "Electronic Protected Health Information" shall have the same definition as set out in the Security Standards, but generally shall mean Protected Health Information that is transmitted by or maintained in electronic media.
- b. **Agents or subcontractors shall meet security standards.** The Employer shall ensure that any agent or subcontractor to whom it provides Electronic Protected Health Information shall agree, in writing, to implement reasonable and appropriate security measures to protect the Electronic Protected Health Information.
- c. **Employer shall ensure security standards.** The Employer shall ensure that reasonable and appropriate security measures are implemented to comply with the conditions and requirements set forth in the Section titled: "Compliance with HIPAA Privacy Standards".



City of Gardner

City of Gardner
120 East Main Street
Gardner, KS 66030

City of Gardner Flexible Spending Plan

Summary Plan Description

Amended and Restated July 01, 2024

TABLE OF CONTENTS

I. ARTICLE - ELIGIBILITY

01. HOW CAN I PARTICIPATE IN THE PLAN?
02. WHAT ARE THE ELIGIBILITY REQUIREMENTS FOR OUR PLAN?
03. WHEN CAN I ENTER THE PLAN?
04. HOW DO I ENROLL IN THE PLAN?

II. ARTICLE - OPERATION

01. HOW DOES THIS PLAN OPERATE?

III. ARTICLE - CONTRIBUTIONS; ELECTIONS

01. HOW MUCH OF MY PAY MAY THE EMPLOYER REDIRECT?
02. WHAT HAPPENS TO CONTRIBUTIONS MADE TO THE PLAN?
03. WHEN MUST I DECIDE WHICH ACCOUNTS I WANT TO USE?
04. WHEN IS THE ELECTION PERIOD FOR OUR PLAN?
05. MAY I CHANGE MY ELECTIONS DURING THE PLAN YEAR?
06. MAY I MAKE NEW ELECTIONS IN FUTURE PLAN YEARS?

IV. ARTICLE - BENEFITS

01. WHAT BENEFITS ARE OFFERED UNDER THE PLAN?
02. HEALTH FLEXIBLE SPENDING ACCOUNT
03. DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT
04. PREMIUM EXPENSE ACCOUNT

V. ARTICLE - BENEFIT PAYMENTS

01. WHEN WILL I RECEIVE PAYMENTS FROM MY ACCOUNTS?
02. WHAT HAPPENS IF I DON'T SPEND ALL PLAN CONTRIBUTIONS DURING THE PLAN YEAR?
03. FAMILY AND MEDICAL LEAVE ACT (FMLA)
04. WHAT HAPPENS IF MY EMPLOYMENT TERMINATES?
05. WILL MY SOCIAL SECURITY BENEFITS BE AFFECTED?

VI. ARTICLE - HIGHLY COMPENSATED AND KEY EMPLOYEES

01. DO LIMITATIONS APPLY TO HIGHLY COMPENSATED EMPLOYEES?

VII. ARTICLE - PLAN ACCOUNTING

01. PERIODIC STATEMENTS

VIII. ARTICLE - GENERAL INFORMATION ABOUT OUR PLAN

01. GENERAL PLAN INFORMATION
02. EMPLOYER INFORMATION
03. PLAN ADMINISTRATOR INFORMATION
04. AGENT FOR SERVICE OF LEGAL PROCESS
05. TYPE OF ADMINISTRATION
06. CLAIMS SUBMISSION

IX. ARTICLE - CONTINUATION COVERAGE RIGHTS UNDER COBRA

01. WHAT IS COBRA CONTINUATION COVERAGE?
02. WHO CAN BECOME A QUALIFIED BENEFICIARY?
03. WHAT IS A QUALIFYING EVENT?
04. WHAT FACTORS SHOULD BE CONSIDERED WHEN DETERMINING TO ELECT COBRA CONTINUATION COVERAGE?
05. WHAT IS THE PROCEDURE FOR OBTAINING COBRA CONTINUATION COVERAGE?
06. WHAT IS THE ELECTION PERIOD AND HOW LONG MUST IT LAST?

07. IS A COVERED EMPLOYEE OR QUALIFIED BENEFICIARY RESPONSIBLE FOR INFORMING THE PLAN ADMINISTRATOR OF THE OCCURRENCE OF A QUALIFYING EVENT?

08. IS A WAIVER BEFORE THE END OF THE ELECTION PERIOD EFFECTIVE TO END A QUALIFIED BENEFICIARY'S ELECTION RIGHTS?

09. IS COBRA COVERAGE AVAILABLE IF A QUALIFIED BENEFICIARY HAS OTHER GROUP HEALTH PLAN COVERAGE OR MEDICARE?

10. WHEN MAY A QUALIFIED BENEFICIARY'S COBRA CONTINUATION COVERAGE BE TERMINATED?

11. WHAT ARE THE MAXIMUM COVERAGE PERIODS FOR COBRA CONTINUATION COVERAGE?

12. UNDER WHAT CIRCUMSTANCES CAN THE MAXIMUM COVERAGE PERIOD BE EXPANDED?

13. HOW DOES A QUALIFIED BENEFICIARY BECOME ENTITLED TO A DISABILITY EXTENSION?

14. DOES THE PLAN REQUIRE PAYMENT FOR COBRA CONTINUATION COVERAGE?

15. MUST THE PLAN ALLOW PAYMENT FOR COBRA CONTINUATION COVERAGE TO BE MADE IN MONTHLY INSTALLMENTS?

16. WHAT IS TIMELY PAYMENT FOR COBRA CONTINUATION COVERAGE?

17. ARE THERE OTHER COVERAGE OPTIONS BESIDES COBRA CONTINUATION COVERAGE?

18. MUST A QUALIFIED BENEFICIARY BE GIVEN THE RIGHT TO ENROLL IN A CONVERSION HEALTH PLAN AT THE END OF THE MAXIMUM COVERAGE PERIOD FOR COBRA CONTINUATION COVERAGE?

19. HOW IS MY PARTICIPATION IN THE HEALTH FLEXIBLE SPENDING ACCOUNT AFFECTED?

City of Gardner

City of Gardner Flexible Spending Plan

INTRODUCTION

The Company's Flexible Benefit Plan ("Plan") has been established to allow Eligible Employees to pay for certain benefits on a pre-tax basis. There are specific benefits that you may elect, and they are outlined in this Summary Plan Description. You will also be informed about other important information concerning the Plan, such as the conditions you must satisfy before you can join and the laws that protect your rights.

Read this Summary Plan Description ("SPD") carefully so that you understand the provisions of the Plan and the benefits you will receive. This SPD describes the Plan's benefits and obligations as contained in the Plan document, which governs the operation of the Plan. The Plan document is written in much more technical language. Please note that if the non-technical language in this SPD and the legal language of the Plan document conflict, the Plan document will always govern the Plan. Also, if there is a conflict between any of the insurance contracts and either the Plan document or this Summary Plan Description, the insurance contracts will control the respective insurance policies. If you wish to receive a copy of the legal Plan document, please contact the Plan Administrator.

The Plan is subject to the Internal Revenue Code and other federal and state laws and regulations that may affect your rights under this plan. This SPD explains the current details of the Plan in order to comply with all applicable legal requirements. From time to time, the Plan may be revised due to a change in laws or due to pronouncements by the Internal Revenue Service (IRS) or other federal agencies. This Plan may be amended or terminated by the Company. If the Plan is ever amended or changed, the Company will notify you.

This SPD was designed to provide you with information regarding the Company Flexible Benefit Plan. If this SPD does not answer all of your questions, please contact the Administrator (or other assigned person). The name and address of the Administrator can be found in the Article of this SPD entitled "General Information About our Plan."

I. ARTICLE - ELIGIBILITY

01. How can I participate in the Plan?

Before you can become a Participant in the Plan, there are certain conditions that you must satisfy. First, you must be an active employee working 20 or more hours per week and meet the eligibility requirements.

After that, you must enroll in the Plan on the "entry date" that has been established for all employees. The "entry date" is defined in Question 3 below. However, in certain limited situations, you may enroll in the Plan at other times as well. See the Article titled: "Contributions".

02. What are the eligibility requirements for our Plan?

You will be eligible to join the Plan once you have satisfied the conditions for coverage under our group medical plan and the other eligibility requirements established by your employer as defined in section 1.

03. When can I enter the plan?

An Eligible Employee shall become a Participant when the following condition(s) is/are met:

First of the month following hire date. If hired on the first day of the month, the entry date is their hire date.

04. How do I enroll in the Plan?

Before you can join the Plan, you must complete an enrollment form. The enrollment form will allow you to select which benefits you want to participate in under the Plan. This form will also authorize the Company to redirect some of your earnings in order to pay for the benefits you select.

However, if you are already covered under any of the insured benefits, you will automatically participate in this Plan to the extent of your premiums unless you elect not to participate in this Plan. These benefits are listed in the Article titled: "Benefits".

II. ARTICLE - OPERATION

01. **How does this Plan operate?**

Before the start of each Plan Year, you will be able to elect to have some of your earnings contributed to the Plan. These amounts will be used to pay for the benefits you have chosen. The portion of your earnings that is paid to the Plan is not subject to Federal income or Social Security taxes. In other words, this allows you to use tax-free dollars to pay for certain kinds of benefits and expenses that you normally pay for with out-of-pocket, taxable dollars. However, if you receive a reimbursement for an expense under this Plan, you cannot claim a Federal income tax credit or deduction on your return. Participation in this plan is completely voluntary.

III. ARTICLE - CONTRIBUTIONS; ELECTIONS

01. **How much of my pay may the Employer redirect?**

Each year, we will automatically contribute on your behalf enough of your compensation to pay for the insurance coverage provided unless you elect not to receive any or all of such coverage. You may also elect to have us contribute on your behalf enough of your compensation to pay for any other benefits that you elect under the Plan. These amounts will be deducted from your pay over the course of the year on a per payroll basis.

02. **What happens to contributions made to the Plan?**

Prior to the Plan start date each year, you must decide on the amount of pre-tax dollars you want to contribute to the Plan. It is very important that you make these choices carefully based on what you expect to spend on each covered benefit or expense during the Plan Year. Later, those dollars will be used to pay those expenses as they arise during the Plan Year. In addition, you should also note that any previous benefit payments made from any Account under the Plan that are unclaimed (e.g., uncashed benefit checks) at the end of the Plan Year following the period of coverage in which the qualifying expense was incurred will be forfeited to the Employer.

For information regarding the administration of contributions in specific accounts under this Plan, please refer to the Article titled: "Benefits".

03. **When must I decide which accounts I want to use?**

You are required by Federal regulations to decide during the enrollment or election period (defined below) prior to the Plan Year start. You must decide which accounts you want and how much you want to contribute to each account.

If you are already covered by any of the insured benefits offered by this Plan, you will automatically become a Participant to the extent of the premiums for such insurance, unless you elect during the election period (defined below) not to participate in the Plan.

04. **When is the election period for our Plan?**

You will make your initial election on or before your entry date. (Please review the Article titled: "Eligibility" to better understand the eligibility requirements and entry date.) Then, for each following Plan Year, the election period is established by the Company and applied uniformly to all Participants. It will normally be a period of time prior to the beginning of each Plan Year. The Company will inform you each year about the election period. (See the Article entitled "General Information About Our Plan" for the definition of Plan Year.)

05. **May I change my elections during the Plan Year?**

Generally, you cannot change the elections you have made after the beginning of the Plan Year. However, there are certain limited situations when you can change your elections.

You are permitted to change elections if you have a "change in status" and you make an election change that is consistent with the change in status. Currently, Federal law considers the following events to be a change in status:

- Marriage, divorce, death of a spouse, legal separation or annulment;
- Change in the number of dependents, including birth, adoption, placement for adoption, or death of a dependent;
- Any of the following events for you, your spouse or dependent: termination or commencement of employment, a strike or lockout, commencement or return from an unpaid leave of absence, a change in worksite, or any other change in employment status that affects eligibility for benefits;
- One of your dependents satisfies or ceases to satisfy the requirements for coverage due to change in age, student status, or any similar circumstance; and
- A change in the place of residence of you, your spouse or dependent that would lead to a change in status, such as moving out of a coverage area for insurance.

In addition, if you are participating in the Dependent Care Flexible Spending Account, then there is a change in status if your dependent no longer meets the qualifications to be eligible for dependent care.

There are detailed rules on when a change in election is deemed to be consistent with a change in status. In addition, there are laws that give you certain other rights to change health coverage for you, your spouse, or your dependents. If you change coverage due to rights you have under the

law, then you can make a corresponding change in your elections under the Plan. If any of these conditions apply to you, you should contact the Administrator.

If the cost of a benefit provided under the Plan increases or decreases during a Plan Year, then we will automatically increase or decrease, as the case may be, your salary redirection election. If the cost increases significantly, you will be permitted to either make corresponding changes in your payments or revoke your election and obtain coverage under another benefit package option with similar coverage, or revoke your election entirely.

If the coverage under a Benefit is significantly curtailed or ceases during a Plan Year, then you may revoke your elections and elect to receive on a prospective basis coverage under another plan with similar coverage. In addition, if the Company adds a new coverage option or eliminates an existing option, you may elect the newly-added option (or elect another option if an option has been eliminated) and make corresponding election changes to other options providing similar coverage. If you are not a Participant, you may elect to join the Plan. There are also certain situations when you may be able to change your elections on account of a change under the plan of your spouse, former spouse or dependent's employer.

These rules on change due to cost or coverage do not apply to the Health Flexible Spending Account, and you may not change your election to the Health Flexible Spending Account if you make a change due to cost or coverage for insurance.

You may not change your election under the Dependent Care Flexible Spending Account if the cost change is imposed by a dependent care provider who is your relative.

06. May I make new elections in future Plan Years?

Yes. For each new Plan Year, you may change the elections that you previously made. You may also choose not to participate in the Plan for the upcoming Plan Year. If you do not make new elections during the election period before a new Plan Year begins, the Company will assume you want your elections for insured benefits only to remain the same and you will not be considered a Participant for the non-insured benefit options under the Plan for the upcoming Plan Year.

IV. ARTICLE - BENEFITS

01. **What benefits are offered under the Plan?**

You may choose to receive your entire compensation or use a portion to pay for benefits under this plan.

02. **Health Flexible Spending Account**

The Health Flexible Spending Account enables you to pay for expenses allowed under Sections 105 and 213(d) of the Internal Revenue Code and that are not covered by our insured medical plan, and to save taxes at the same time. The Health Flexible Spending Account allows you to be reimbursed by the Employer for out-of-pocket medical, dental and/or vision expenses incurred by you and your dependents.

Drug costs, including insulin, may be reimbursed. You may not, however, be reimbursed for the cost of other health care coverage maintained outside of the Plan, or for long-term care expenses. A list of covered expenses is available from the Administrator.

The most that you can contribute to your Health Flexible Spending Account for the Plan Year is \$3,200.00. The maximum limit may increase from year-to-year pursuant to Section 125(i)(2) of the Internal Revenue Code. In addition, you may carry over any amount left in your account up to \$640.00. The maximum limit may increase from year-to-year as provided under IRS Notice 2020-33 and Section 125(i) of the Internal Revenue Code. This amount can be used the following Plan year to pay for eligible expenses.

For any short Plan Year, your maximum contribution to your Health Flexible Spending Account is prorated.

In order to be reimbursed for a health care expense, you must submit to the Administrator an itemized bill from the service provider. The Company will also provide you with a debit card to use to pay for qualified medical expenses. The Administrator will provide you with further details about the debit card. Amounts reimbursed from the Plan may not be claimed as a deduction on your personal income tax return. As required by law, reimbursement from the fund shall be paid at least once a month. Expenses under this Plan are treated as being "incurred" when you are provided with the care that gives rise to the expenses, not when you are formally billed or charged, or you pay for the medical care.

You may be reimbursed for expenses for any child until the end of the calendar year in which the child reaches age 26. A "child" is a natural child, stepchild, foster child, adopted child, or a child placed with you for adoption. If a child gains or regains eligibility due to these new rules, that qualifies as a change in status for purposes of coverage changes.

03. **Dependent Care Flexible Spending Account**

The Dependent Care Flexible Spending Account enables you to pay for out-of-pocket, work-related dependent day-care costs with pre-tax dollars. If you are married, you can use the account if you and your spouse both work or, in some situations, if your spouse goes to school full-time. Single employees can also use the account.

The most that you can contribute to your Dependent Care Flexible Spending Account for the Plan Year is \$5,000.00.

An eligible dependent is someone for whom you can claim expenses on Federal Income Tax Form 2441 "Credit for Child and Dependent Care Expenses." Children must be under age 13. Other dependents must be physically or mentally unable to care for themselves. Dependent Care arrangements which qualify include:

- a. A Dependent (Day) Care Center, provided that if care is provided by the facility for more than six individuals, the facility complies with applicable state and local laws;
- b. An Educational Institution for pre-school children. For older children, only expenses for non-school care are eligible; and
- c. An "Individual" who provides care inside or outside your home: The "Individual" may not be a child of yours under age 19 or anyone you claim as a dependent for Federal tax purposes.

You should make sure that the dependent care expenses you are currently paying qualify under our Plan.

The law places limits on the amount of money that can be paid to you in a calendar year from your Dependent Care Flexible Spending Account. Generally, your reimbursements may not exceed the lesser of: (a) \$5,000.00 (if you are married filing a joint return or you are head of a household) or

\$2,500 (if you are married filing separate returns); (b) your taxable compensation; (c) your spouse's actual or deemed annual earned income (a spouse who is a full time student or incapable of caring for himself/herself has a deemed monthly earned income of \$250 for one dependent or \$500 for two or more dependents).

Also, in order to be able to exclude from your income the reimbursements made to you from this account, you must provide on your tax form for the year the name, address, and in most cases, the taxpayer identification number of the service provider, as well as the amount of such expense. In addition, Federal tax laws permit a tax credit for certain dependent care expenses you may be paying even if you are not a Participant in this Plan. You may save more money if you take advantage of this tax credit rather than using the Dependent Care Flexible Spending Account under our Plan. Consult with your tax adviser for further information.

04. **Premium Expense Account**

A Premium Expense Account allows you to use tax-free dollars to pay for certain premium expenses under various group insurance programs the Company offers you. These premium expenses include:

- Health care premiums under our insured group medical plan
- Dental insurance premiums
- Vision insurance premiums

Under this Plan, the Company will allocate the pre-tax premium withholding to the accounts established under the Plan pursuant to the Participants' elections. Certain limits on the amount of coverage that can be paid through pre-tax premiums may apply.

The Company may terminate or modify Plan benefits at any time, subject to the provisions of any insurance contracts providing benefits described above. The Company will not be liable to you if an insurance company fails to provide any of the benefits described above. Also, your insurance will end when you leave employment, are no longer eligible under the terms of any insurance policies, or when insurance terminates.

Any benefits to be provided by insurance will be provided only after (1) you have provided the Administrator the necessary information to apply for insurance, and (2) the insurance is in effect for you.

If you cover your children up to age 26 under your insurance, you can pay for that coverage through the Plan.

V. ARTICLE - BENEFIT PAYMENTS

01. **When will I receive payments from my accounts?**

During the course of the Plan Year, you may submit requests for reimbursement of expenses you have incurred. Expenses are considered "incurred" when the service is performed, not necessarily when it is paid for. The Administrator will provide you with acceptable forms for submitting these requests for reimbursement. If the request qualifies as a benefit or expense that the Plan has agreed to pay, you will receive a reimbursement payment soon thereafter. Remember, these reimbursements which are made from the Plan are generally not subject to federal income tax or withholding. Nor are they subject to Social Security taxes. Requests for payment of insured benefits should be made directly to the insurer. You will only be reimbursed from the Health Flexible Spending Account or Dependent Care Flexible Spending Account to the extent that there are sufficient funds in the Account to cover your request.

02. **What happens if I don't spend all Plan contributions during the Plan Year?**

If you have unused contributions in your account at the end of the current Plan Year, those monies will be forfeited to the Employer. Obviously, qualifying expenses that you incur late in the Plan Year for which you seek reimbursement after the end of such Plan Year will be paid first before any amount is forfeited.

At the end of the Plan Year, and after all eligible reimbursements have been made, any unused funds up to \$640.00 in your Health Flexible Spending Account will roll over into the new Plan Year. The maximum limit may increase from year-to-year as provided under IRS Notice 2020-33 and Section 125(i) of the Internal Revenue Code. Any unused funds left in the account in excess of maximum limit will be forfeited. For the Health Flexible Spending Account, you must submit claims no later than 90 days after the end of the Plan Year.

For the Dependent Care Flexible Spending Account, you must submit claims no later than 90 days after the end of the Plan Year.

Because it is possible that you might forfeit amounts in the Plan if you do not fully use the contributions that have been made, it is important that you decide how much to place in each account carefully and conservatively. Remember, you must decide which benefits you want to contribute to and how much to place in each account before the Plan Year begins. You want to be as certain as you can that the amount you decide to place in each account will be used up entirely.

03. **Family and Medical Leave Act (FMLA)**

If you take a leave under the Family and Medical Leave Act, you may continue, revoke or change your existing elections for health insurance and the Health Flexible Spending Account. If your coverage for these benefits terminates, due to your revocation of the benefit to your non-payment of contributions, you will be permitted to reinstate coverage for the remaining part of the Plan Year upon your return. You can resume your coverage at its original level and make payments for the time that you are on leave. For example, if you elect \$1,200 for the year and are out on leave for 3 months, then return and elect to resume your coverage at that level, your remaining payments will be increased to cover the difference - for example, from \$100 per month to \$150 per month, etc. Alternatively your maximum amount will be reduced proportionately for the time that you were gone. For example, if you elect \$1,200 for the year and are out on leave for 3 months, your amount will be reduced to \$900. The expenses you incur during the time you are not in the Health Flexible Spending Account are not reimbursable.

If you continue your coverage during your unpaid leave, you may pre-pay for the coverage, you may pay for your coverage on an after-tax basis while you are on leave, or you and your Employer may arrange a schedule for you to "catch up" your payments when you return.

04. **What happens if my employment terminates?**

If you terminate employment during the Plan Year, your right to benefits will be determined in the following manner:

- a. You will remain covered by insurance, but only for the period for which premiums have been paid prior to your termination of employment.
- b. You will still be able to request reimbursement for qualifying dependent care expenses up to 90 days after the end of the month from the balance remaining in your Dependent Care Account at the time of termination of employment. However, no further salary redirection contributions will be made on your behalf after termination.
- c. For health benefit coverage and Health Flexible Spending Account coverage on termination of employment, please see the Article entitled "Continuation Coverage Rights Under COBRA."

Upon your termination of employment, your participation in the Health Flexible Spending Account will cease, and no further salary redirection contributions will be contributed on your behalf. However, you will be able to submit, within 90 days after the end of the month, claims for health care expenses that were incurred before the end of the period for which payments to the Health Flexible Spending Account have already been made. Your further participation will be governed by "Continuation Coverage Rights Under COBRA."

05. **Will my Social Security benefits be affected?**

Your Social Security benefits may be slightly reduced because when you receive tax-free benefits under our Plan, it reduces the amount of contributions that you make to the Federal Social Security system as well as the Company contributions to Social Security on your behalf.

VI. ARTICLE - HIGHLY COMPENSATED AND KEY EMPLOYEES

01. **Do limitations apply to highly compensated employees?**

Under the Internal Revenue Code, highly compensated employees and key employees generally are Participants who are officers, shareholders or are highly paid. You will be notified by the Administrator each Plan Year whether you are a highly compensated employee or a key employee.

If you are within these categories, the amount of contributions and benefits for you may be limited so that the Plan as a whole does not unfairly favor those who are highly paid, their spouses or their dependents. Federal tax laws state that a plan will be considered to unfairly favor the key employees if they as a group receive more than 25% of all of the nontaxable benefits provided for under our Plan.

Plan experience will dictate whether contribution limitations on highly compensated employees or key employees will apply. You will be notified of these limitations if you are affected.

VII. ARTICLE - PLAN ACCOUNTING

01. Periodic Statements

Periodically during the Plan Year, the Administrator will provide you with a statement of your account that shows your account balance. It is important to read these statements carefully so you understand the balance remaining to pay for a benefit. Remember, you want to spend all the money you have designated for a particular benefit by the end of the Plan Year.

VIII. ARTICLE - GENERAL INFORMATION ABOUT OUR PLAN

This Section contains certain general information which you may need to know about the Plan.

01. General Plan Information

City of Gardner Flexible Spending Plan is the name of the Plan.

Your Employer has assigned Plan Number 501 to your Plan.

The company amends and restates this Plan as of July 01, 2024 with an original effective date of July 01, 1991.

Your Plan's records are maintained on a twelve-month period of time known as the Plan Year. The current Plan Year is a shortened year that begins on July 01 and ends on December 31. The following Plan year will be a full 12 month period that begin on January 01 and end on December 31.

02. Employer Information

Your Employer's name, address, and tax identification number are:

City of Gardner
Shannon Templeton
120 East Main Street
Gardner, KS 66030
913-856-0977
stempleton@gardnerkansas.gov
FEIN: 48-6033380

03. Plan Administrator Information

The name and address of your Plan's Administrator are:

City of Gardner
120 East Main Street
Gardner, KS 66030
913-856-0977
stempleton@gardnerkansas.gov

The Administrator keeps the records for the Plan and is responsible for the administration of the Plan. The Administrator will also answer any questions you may have about our Plan. You may contact the Administrator for any further information about the Plan.

04. Agent for Service of Legal Process

Should it ever be necessary, you or your personal representative may serve legal process on the agent for service of legal process for the Plan. The Plan's Agent of Service is:

City of Gardner
120 East Main Street
Gardner, KS 66030
913-856-0977
stempleton@gardnerkansas.gov

05. Type of Administration

The type of Administration is Employer Administration.

06. Claims Submission

Claims for expenses should be submitted to:

Flex Made Easy
4551 W 107th St. Suite 310
Overland Park, KS 66207

IX. ARTICLE - CONTINUATION COVERAGE RIGHTS UNDER COBRA

Under the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), certain employees and their families covered under health benefits under this Plan will be entitled to the opportunity to elect a temporary extension of health coverage (called "COBRA continuation coverage") beyond the time when coverage under the Plan would otherwise end. This notice is intended to inform Plan Participants and beneficiaries, in summary fashion, of their rights and obligations under the continuation coverage provisions of COBRA, as amended and reflected in final and proposed regulations published by the Department of the Treasury. This notice is intended to reflect the law and does not grant or take away any rights under the law.

The Plan Administrator or its designee is responsible for administering COBRA continuation coverage. Complete instructions on COBRA, as well as election forms and other information, will be provided by the Plan Administrator or its designee to Plan Participants who become Qualified Beneficiaries under COBRA. While the Plan itself is not a group health plan, it does provide health benefits. Whenever "Plan" is used in this section, it means any of the health benefits under this Plan including the Health Flexible Spending Account.

01. What is COBRA continuation coverage?

COBRA continuation coverage is the temporary extension of group health plan coverage that must be offered to certain Plan Participants and their eligible family members (called "Qualified Beneficiaries") at group rates. The right to COBRA continuation coverage is triggered by the occurrence of a life event that results in the loss of coverage under the terms of the Plan (the "Qualifying Event"). The coverage must be identical to the coverage that the Qualified Beneficiary had immediately before the Qualifying Event, or if the coverage has been changed, the coverage must be identical to the coverage provided to similarly situated active employees who have not experienced a Qualifying Event (in other words, similarly situated non-COBRA beneficiaries).

02. Who can become a Qualified Beneficiary?

In general, a Qualified Beneficiary can be:

- a. Any individual who, on the day before a Qualifying Event, is covered under a Plan by virtue of being on that day either a covered Employee, the Spouse of a covered Employee, or a Dependent child of a covered Employee. If, however, an individual who otherwise qualifies as a Qualified Beneficiary is denied or not offered coverage under the Plan under circumstances in which the denial or failure to offer constitutes a violation of applicable law, then the individual will be considered to have had the coverage and will be considered a Qualified Beneficiary if that individual experiences a Qualifying Event.
- b. Any child who is born to or placed for adoption with a covered Employee during a period of COBRA continuation coverage, and any individual who is covered by the Plan as an alternate recipient under a qualified medical support order. If, however, an individual who otherwise qualifies as a Qualified Beneficiary is denied or not offered coverage under the Plan under circumstances in which the denial or failure to offer constitutes a violation of applicable law, then the individual will be considered to have had the coverage and will be considered a Qualified Beneficiary if that individual experiences a Qualifying Event.

The term "covered Employee" includes any individual who is provided coverage under the Plan due to his or her performance of services for the employer sponsoring the Plan. However, this provision does not establish eligibility of these individuals. Eligibility for Plan coverage shall be determined in accordance with Plan Eligibility provisions.

An individual is not a Qualified Beneficiary if the individual's status as a covered Employee is attributable to a period in which the individual was a nonresident alien who received from the individual's Employer no earned income that constituted income from sources within the United States. If, on account of the preceding reason, an individual is not a Qualified Beneficiary, then a Spouse or Dependent child of the individual will also not be considered a Qualified Beneficiary by virtue of the relationship to the individual. A domestic partner is not a Qualified Beneficiary.

Each Qualified Beneficiary (including a child who is born to or placed for adoption with a covered Employee during a period of COBRA continuation coverage) must be offered the opportunity to make an independent election to receive COBRA continuation coverage.

03. What is a Qualifying Event?

A Qualifying Event is any of the following if the Plan provides that the Plan participant will lose coverage (i.e., cease to be covered under the same terms and conditions as in effect immediately before the Qualifying Event) in the absence of COBRA continuation coverage:

- a. The death of a covered Employee.

- b. The termination (other than by reason of the Employee's gross misconduct), or reduction of hours, of a covered Employee's employment.
- c. The divorce or legal separation of a covered Employee from the Employee's Spouse. If the Employee reduces or eliminates the Employee's Spouse's Plan coverage in anticipation of a divorce or legal separation, and a divorce or legal separation later occurs, then the divorce or legal separation may be considered a Qualifying Event even though the Spouse's coverage was reduced or eliminated before the divorce or legal separation.
- d. A covered Employee's enrollment in any part of the Medicare program.
- e. A Dependent child's ceasing to satisfy the Plan's requirements for a Dependent child (for example, attainment of the maximum age for dependency under the Plan).

If the Qualifying Event causes the covered Employee, or the covered Spouse or a Dependent child of the covered Employee, to cease to be covered under the Plan under the same terms and conditions as in effect immediately before the Qualifying Event, the persons losing such coverage become Qualified Beneficiaries under COBRA if all the other conditions of COBRA are also met. For example, any increase in contribution that must be paid by a covered Employee, or the Spouse, or a Dependent child of the covered Employee, for coverage under the Plan that results from the occurrence of one of the events listed above is a loss of coverage.

The taking of leave under the Family and Medical Leave Act of 1993 ("FMLA") does not constitute a Qualifying Event. A Qualifying Event will occur, however, if an Employee does not return to employment at the end of the FMLA leave and all other COBRA continuation coverage conditions are present. If a Qualifying Event occurs, it occurs on the last day of FMLA leave and the applicable maximum coverage period is measured from this date (unless coverage is lost at a later date and the Plan provides for the extension of the required periods, in which case the maximum coverage date is measured from the date when the coverage is lost.) Note that the covered Employee and family members will be entitled to COBRA continuation coverage even if they failed to pay the employee portion of premiums for coverage under the Plan during the FMLA leave.

04. **What factors should be considered when determining to elect COBRA continuation coverage?**

You should take into account that a failure to continue your group health coverage will affect your rights under federal law. You should be aware that you have special enrollment rights under federal law (HIPAA). You have the right to request special enrollment in another group health plan for which you are otherwise eligible (such as a plan sponsored by your Spouse's employer) within 30 days after Plan coverage ends due to a Qualifying Event listed above. You will also have the same special right at the end of COBRA continuation coverage if you get COBRA continuation coverage for the maximum time available to you.

05. **What is the procedure for obtaining COBRA continuation coverage?**

The Plan has conditioned the availability of COBRA continuation coverage upon the timely election of such coverage. An election is timely if it is made during the election period.

06. **What is the election period and how long must it last?**

The election period is the time period within which the Qualified Beneficiary must elect COBRA continuation coverage under the Plan. The election period must begin no later than the date the Qualified Beneficiary would lose coverage on account of the Qualifying Event and ends 60 days after the later of the date the Qualified Beneficiary would lose coverage on account of the Qualifying Event or the date notice is provided to the Qualified Beneficiary of her or his right to elect COBRA continuation coverage. If coverage is not elected within the 60 day period, all rights to elect COBRA continuation coverage are forfeited.

07. **Is a covered Employee or Qualified Beneficiary responsible for informing the Plan Administrator of the occurrence of a Qualifying Event?**

The Plan will offer COBRA continuation coverage to Qualified Beneficiaries only after the Plan Administrator or its designee has been timely notified that a Qualifying Event has occurred. The Employer (if the Employer is not the Plan Administrator) will notify the Plan Administrator or its designee of the Qualifying Event within 30 days following the date coverage ends when the Qualifying Event is:

- a. the end of employment or reduction of hours of employment,
- b. death of the employee,
- c. commencement of a proceeding in bankruptcy with respect to the Employer, or
- d. entitlement of the employee to any part of Medicare.

IMPORTANT:

For the other Qualifying Events (divorce or legal separation of the employee and spouse or a dependent child's losing eligibility for coverage as a dependent child), you or someone on your behalf must notify the Plan Administrator or its designee in writing within 60 days after the Qualifying Event occurs, using the procedures specified below. If these procedures are not followed or if the notice is not provided in writing to the Plan Administrator or its designee during the 60-day notice period, any spouse or dependent child who loses coverage will not be offered the option to elect continuation coverage. You must send this notice to the Plan Administrator or its designee.

NOTICE PROCEDURES: Any notice that you provide must be *in writing*. Oral notice, including notice by telephone, is not acceptable. You must mail, fax or hand-deliver your notice to the person, department or firm listed below, at the following address:

City of Gardner

120 East Main Street
Gardner, KS 66030

If mailed, your notice must be postmarked no later than the last day of the required notice period. Any notice you provide must state:

- the **name of the plan or plans** under which you lost or are losing coverage,
- the **name and address of the employee** covered under the plan,
- the **name(s) and address(es) of the Qualified Beneficiary(ies)**, and
- the **Qualifying Event** and the **date** it happened.

If the Qualifying Event is a **divorce or legal separation**, your notice must include **a copy of the divorce decree or the legal separation agreement**.

Be aware that there are other notice requirements in other contexts, for example, in order to qualify for a disability extension.

Once the Plan Administrator or its designee receives *timely notice* that a Qualifying Event has occurred, COBRA continuation coverage will be offered to each of the qualified beneficiaries. Each Qualified Beneficiary will have an independent right to elect COBRA continuation coverage. Covered employees may elect COBRA continuation coverage for their spouses, and parents may elect COBRA continuation coverage on behalf of their children. For each Qualified Beneficiary who elects COBRA continuation coverage, COBRA continuation coverage will begin on the date that plan coverage would otherwise have been lost. If you or your spouse or dependent children do not elect continuation coverage within the 60-day election period described above, the right to elect continuation coverage will be lost.

08. Is a waiver before the end of the election period effective to end a Qualified Beneficiary's election rights?

If, during the election period, a Qualified Beneficiary waives COBRA continuation coverage, the waiver can be revoked at any time before the end of the election period. Revocation of the waiver is an election of COBRA continuation coverage. However, if a waiver is later revoked, coverage need not be provided retroactively (that is, from the date of the loss of coverage until the waiver is revoked). Waivers and revocations of waivers are considered made on the date they are sent to the Plan Administrator or its designee, as applicable.

09. Is COBRA coverage available if a Qualified Beneficiary has other group health plan coverage or Medicare?

Qualified Beneficiaries who are entitled to elect COBRA continuation coverage may do so even if they are covered under another group health plan or are entitled to Medicare benefits on or before the date on which COBRA is elected. However, a Qualified Beneficiary's COBRA coverage will terminate automatically if, after electing COBRA, he or she becomes entitled to Medicare or becomes covered under other group health plan coverage (but only after any applicable preexisting condition exclusions of that other plan have been exhausted or satisfied).

10. When may a Qualified Beneficiary's COBRA continuation coverage be terminated?

During the election period, a Qualified Beneficiary may waive COBRA continuation coverage. Except for an interruption of coverage in connection with a waiver, COBRA continuation coverage that has been elected for a Qualified Beneficiary must extend for at least the period beginning on the date of the Qualifying Event and ending not before the earliest of the following dates:

- a. The last day of the applicable maximum coverage period.
- b. The first day for which Timely Payment is not made to the Plan with respect to the Qualified Beneficiary.
- c. The date upon which the Employer ceases to provide any group health plan (including a successor plan) to any employee.
- d. The date, after the date of the election, that the Qualified Beneficiary first becomes covered under any other Plan that does not contain any exclusion or limitation with respect to any pre-existing condition, other than such an exclusion or limitation that does not apply to, or is satisfied by, the Qualified Beneficiary.
- e. The date, after the date of the election, that the Qualified Beneficiary first becomes entitled to Medicare (either part A or part B, whichever occurs earlier).
- f. In the case of a Qualified Beneficiary entitled to a disability extension, the later of:
 1. (i) 29 months after the date of the Qualifying Event, or (ii) the first day of the month that is more than 30 days after the date of a final determination under Title II or XVI of the Social Security Act that the disabled Qualified Beneficiary whose disability resulted in the Qualified Beneficiary's entitlement to the disability extension is no longer disabled, whichever is earlier; or
 2. the end of the maximum coverage period that applies to the Qualified Beneficiary without regard to the disability extension.

The Plan can terminate for cause the coverage of a Qualified Beneficiary on the same basis that the Plan terminates for cause the coverage of similarly situated non-COBRA beneficiaries, for example, for the submission of a fraudulent claim.

In the case of an individual who is not a Qualified Beneficiary and who is receiving coverage under the Plan solely because of the individual's relationship to a Qualified Beneficiary, if the Plan's obligation to make COBRA continuation coverage available to the Qualified Beneficiary ceases, the Plan is not obligated to make coverage available to the individual who is not a Qualified Beneficiary.

11. What are the maximum coverage periods for COBRA continuation coverage?

The maximum coverage periods are based on the type of the Qualifying Event and the status of the Qualified Beneficiary, as shown below.

- a. In the case of a Qualifying Event that is a termination of employment or reduction of hours of employment, the maximum coverage period ends 18 months after the Qualifying Event if there is not a disability extension and 29 months after the Qualifying Event if there is a disability extension.
- b. In the case of a covered Employee's enrollment in the Medicare program before experiencing a Qualifying Event that is a termination of employment or reduction of hours of employment, the maximum coverage period for Qualified Beneficiaries other than the covered Employee ends on the later of:
 1. 36 months after the date the covered Employee becomes enrolled in the Medicare program; or
 2. 18 months (or 29 months, if there is a disability extension) after the date of the covered Employee's termination of employment or reduction of hours of employment.
- c. In the case of a Qualified Beneficiary who is a child born to or placed for adoption with a covered Employee during a period of COBRA continuation coverage, the maximum coverage period is the maximum coverage period applicable to the Qualifying Event giving rise to the period of COBRA continuation coverage during which the child was born or placed for adoption.
- d. In the case of any other Qualifying Event than that described above, the maximum coverage period ends 36 months after the Qualifying Event.

12. Under what circumstances can the maximum coverage period be expanded?

If a Qualifying Event that gives rise to an 18-month or 29-month maximum coverage period is followed, within that 18- or 29-month period, by a second Qualifying Event that gives rise to a 36-months maximum coverage period, the original period is expanded to 36 months, but only for individuals who are Qualified Beneficiaries at the time of and with respect to both Qualifying Events. In no circumstance can the COBRA maximum coverage period be expanded to more than 36 months after the date of the first Qualifying Event. The Plan Administrator must be notified of

the second qualifying event within 60 days of the second qualifying event. This notice must be sent to the Plan Administrator or its designee in accordance with the procedures above.

13. How does a Qualified Beneficiary become entitled to a disability extension?

A disability extension will be granted if an individual (whether or not the covered Employee) who is a Qualified Beneficiary in connection with the Qualifying Event that is a termination or reduction of hours of a covered Employee's employment, is determined under Title II or XVI of the Social Security Act to have been disabled at any time during the first 60 days of COBRA continuation coverage. To qualify for the disability extension, the Qualified Beneficiary must also provide the Plan Administrator with notice of the disability determination on a date that is both within 60 days after the date of the determination and before the end of the original 18-month maximum coverage. This notice must be sent to the Plan Administrator or its designee in accordance with the procedures above.

14. Does the Plan require payment for COBRA continuation coverage?

For any period of COBRA continuation coverage under the Plan, Qualified Beneficiaries who elect COBRA continuation coverage may be required to pay up to 102% of the applicable premium and up to 150% of the applicable premium for any expanded period of COBRA continuation coverage covering a disabled Qualified Beneficiary due to a disability extension. Your Plan Administrator will inform you of the cost. The Plan will terminate a Qualified Beneficiary's COBRA continuation coverage as of the first day of any period for which timely payment is not made.

15. Must the Plan allow payment for COBRA continuation coverage to be made in monthly installments?

Yes. The Plan is also permitted to allow for payment at other intervals.

16. What is Timely Payment for COBRA continuation coverage?

Timely Payment means a payment made no later than 30 days after the first day of the coverage period. Payment that is made to the Plan by a later date is also considered Timely Payment if either under the terms of the Plan, covered Employees or Qualified Beneficiaries are allowed until that later date to pay for their coverage for the period or under the terms of an arrangement between the Employer and the entity that provides Plan benefits on the Employer's behalf, the Employer is allowed until that later date to pay for coverage of similarly situated non-COBRA beneficiaries for the period.

Notwithstanding the above paragraph, the Plan does not require payment for any period of COBRA continuation coverage for a Qualified Beneficiary earlier than 45 days after the date on which the election of COBRA continuation coverage is made for that Qualified Beneficiary. Payment is considered made on the date on which it is postmarked to the Plan.

If Timely Payment is made to the Plan in an amount that is not significantly less than the amount the Plan requires to be paid for a period of coverage, then the amount paid will be deemed to satisfy the Plan's requirement for the amount to be paid, unless the Plan notifies the Qualified Beneficiary of the amount of the deficiency and grants a reasonable period of time for payment of the deficiency to be made. A "reasonable period of time" is 30 days after the notice is provided. A shortfall in a Timely Payment is not significant if it is no greater than the lesser of \$50 or 10% of the required amount.

17. Are there other coverage options besides COBRA Continuation Coverage?

Yes. Instead of enrolling in COBRA continuation coverage, there may be other coverage options for you and your family through the Health Insurance Marketplace, Medicaid, or other group health plan coverage options (such as a spouse's plan) through what is called a "special enrollment period." Some of these options may cost less than COBRA continuation coverage. You can learn more about many of these options at www.healthcare.gov.

18. Must a Qualified Beneficiary be given the right to enroll in a conversion health plan at the end of the maximum coverage period for COBRA continuation coverage?

If a Qualified Beneficiary's COBRA continuation coverage under a group health plan ends as a result of the expiration of the applicable maximum coverage period, the Plan will, during the 180-day period that ends on that expiration date, provide the Qualified Beneficiary with the option of enrolling under a conversion health plan if such an option is otherwise generally available to similarly situated non-COBRA beneficiaries under the Plan. If such a conversion option is not otherwise generally available, it need not be made available to Qualified Beneficiaries.

19. How is my participation in the Health Flexible Spending Account affected?

You can elect to continue your participation in the Health Flexible Spending Account for the remainder of the Plan Year, subject to the following conditions. You may only continue to participate in the Health Flexible Spending Account if you have elected to contribute more money

than you have taken out in claims. For example, if you elected to contribute an annual amount of \$750 and, at the time you terminate employment, you have contributed \$400 but only claimed \$200, you may elect to continue coverage under the Health Flexible Spending Account. If you elect to continue coverage, then you would be able to continue to receive your health reimbursements up to the \$750. However, you must continue to pay for the coverage, just as the money has been taken out of your paycheck, but on an after-tax basis. The Plan can also charge you an extra amount (as explained above for other health benefits) to provide this benefit.

IF YOU HAVE QUESTIONS

If you have questions about your COBRA continuation coverage, you should contact the Plan Administrator or its designee.

KEEP YOUR PLAN ADMINISTRATOR INFORMED OF ADDRESS CHANGES

In order to protect your and your family's rights, you should keep the Plan Administrator informed of any changes in the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator or its designee.

Attachment A

****HIPAA NOTICE OF PRIVACY PRACTICES****

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

Purpose

This notice is intended to inform you of the privacy practices followed by your employer's Healthcare Flexible Spending Account Plan. It also explains the Federal privacy rights afforded to you and the members of your family as Plan Participants covered under a group health plan.

As a Plan sponsor your employer often needs access to health information in order to perform Plan Administrator functions. We want to assure the Plan Participants covered under our group health plan that we comply with Federal privacy laws and respect your right to privacy. We require all members of our workforce and third parties that are provided access to health information to comply with the privacy practices outlined below.

Uses and Disclosures of Health Information

Healthcare Operations. We use and disclose health information about you in order to perform Plan administration functions such as quality assurance activities, resolution of internal grievances, and evaluating plan performance. For example, we review claims experience in order to understand utilization and to make plan design changes that are intended to control health care costs.

Payment. We may also use or disclose identifiable health information about you without your written authorization in order to determine eligibility for benefits, seek reimbursement from a third party, or coordinate benefits with another health plan under which you are covered. For example, a healthcare provider that provided treatment to you will provide us with your health information. We use that information to determine whether those services are eligible for payment under our group health plan.

Treatment. Although the law allows use and disclosure of your health information for purposes of treatment, as a Plan sponsor we generally do not need to disclose your information for treatment purposes. Your physician or healthcare provider is required to provide you with an explanation of how they use and share your health information for purposes of treatment, payment, and healthcare operations.

As permitted or required by law. We may also use or disclose your health information without your written authorization for other reasons as permitted by law. We are permitted by law to share information, subject to certain requirements, in order to communicate information on health-related benefits or services that may be of interest to you, respond to a court order, or provide information to further public health activities (e.g., preventing the spread of disease) without your written authorization. We are also permitted to share health information during a corporate restructuring such as an merger, sale, or acquisition. We will also disclose health information about you when required by law, for example, in order to prevent serious harm to you or others.

Pursuant to your Authorization. When required by law, we will ask for your written authorization before using or disclosing your identifiable health information. If you choose to sign an authorization to disclose information, you can later revoke that authorization to cease any future uses or disclosures.

Right to Inspect and Copy. In most cases, you have a right to inspect and copy the health information we maintain about you. If you request copies, we will charge you \$0.05 (5 cents) for each page. Your request to inspect or review your health information must be submitted in writing to the person listed below.

Right to an Accounting of Disclosures. You have a right to receive a list of instances where we have disclosed health information about you for reasons other than treatment, payment, healthcare operations, or pursuant to your written authorization.

Right to Amend. If you believe that information within our records is incorrect or missing, you have a right to request that we correct the incorrect or missing information.

Right to Request Restrictions. You may request in writing that we not use or disclose information for treatment, payment, or other administrative purposes except when specifically authorized by you, when required by law, or in emergency circumstances. We will consider your request, but are not legally obligated to agree to those restrictions.

Right to Request Confidential Communications. You have a right to receive confidential communications containing your health information. We are required to accommodate reasonable requests. For example, you may ask that we contact you at your place of employment or send communications regarding treatment to an alternate address.

Right to Receive a Paper Copy of this Notice. If you have agreed to accept this notice electronically, you also have a right to obtain a paper copy of this notice from us upon request. To obtain a paper copy of this notice, please contact the person listed below.

Legal Information

The Company is required by law to protect the privacy of your information, provide this notice about information practices, and follow the information practices that are described in this notice.

We may change our policies at any time. Before we make a significant change in our policies, we will provide you with a revised copy of this notice. You can also request a copy of our current notice at any time. For more information about our

privacy practices, contact the person listed below:

City of Gardner
Shannon Templeton
120 East Main Street
Gardner, KS 66030
913-856-0977
stempleton@gardnerkansas.gov

If you have any questions or complaints, please contact the Plan Administrator listed under the Article titled: "General Information About Our Plan".

Filing a Complaint

If you are concerned that we have violated your privacy rights, or you disagree with a decision we made about access to your records, you may contact the person listed above. You also may send a written complaint to the U.S. Department of Health and Human Services; Office of Civil Rights. The person listed above can provide you with the appropriate address upon request or you may visit www.hhs.gov/ocr for further information.

COUNCIL ACTION FORM NEW BUSINESS AGENDA ITEM NO. 3

MEETING DATE: MAY 20, 2024

STAFF CONTACT: GONZ GARCIA, UTILITIES DIRECTOR

AGENDA ITEM: Consider authorizing the City Administrator to execute a contract with Olsson for Substation 4 final design, equipment and construction specifications, bid review and recommendation, and project management, CIP Project EL4005

Strategic Priority: Infrastructure and Asset Management

Department: Utilities – Electric Division

Staff Recommendation:

To execute a contract with Olsson in the amount of \$646,500 plus applicable sales taxes for Substation 4 final design, equipment and construction specifications, bid review and recommendation, and project management, CIP Project No. EL4005.

Background:

Due to a series of voluntary annexations over the past few years, the current city limits have been extended to 199th Street. To accommodate the future growth of this area, a new substation will be needed.

In 2022, Olsson was selected among several engineering firms as the most qualified for Substation 4 site location, land acquisition, and preliminary design, CIP Project No. EL2204. This project was completed in 2023. Substation 4 construction was originally planned for 2032 and moved forward to 2025 to accommodate new developments southeast of I-35. Due to the 32-36 month lead time for electrical equipment, it is imperative to begin the final design in order to secure Substation 4 to be ready for commercial operation in 2027.

On November 20, 2023, City Council authorized Staff to request a scope of work proposal from Olsson for Substation 4 final design, equipment and construction specifications, bid review and recommendation, and project management.

Staff has reviewed the proposal from Olsson and the amount is comparable to other proposals Utilities have received recently.

Financial Impact:

Funds are available in the Electric Fund, CIP Project No. EL4005.

Attachments included:

1. Olsson Proposal
2. Olsson Agreement

Suggested Motion:

Authorize the City Administrator to execute a contract with Olsson in the amount of \$646,500 plus applicable sales taxes for Substation 4 final design, equipment and construction specifications, bid review and recommendation, and project management, CIP Project No. EL4005

Gardner Substaion #4
Gardner, KS

SCOPE: Gardner Substation #4 Greenfield Substation. Civil: Grading/Site Prep Plan, Foundation Details, Fence/Gate plan, Truck turn analysis. Structural: 161kV Bus Supports/Switch Stand Physical: Foundation/Conduit/Grounding/Lightning/Lighting/Equipment/Site Plans, Associated details & calculations, 1 Site visits (Pre-Construction), 1 Design meeting/bi-weekly. Project Management: 1 External meeting/month, Project folder setup & management. All: Issue for Approval (30% & 90%), General: Permitting/local requirements, AID in procurement but no creation of specifications. Equipment Standards (Steel, Connectors etc...).

MAIN COMPONENTS		
DESCRIPTION	HOURS	COST
Scoping	0	\$0
Project Meetings	100	\$15,100
Site Visits	34	\$5,300
Document Management	56	\$6,320
Incidentals	28	\$6,720
Procurement Support	16	\$2,520
Electrical Design	506	\$66,930
Physical Design	567	\$72,990
Structural Design	340	\$43,840
Calculations	346	\$58,400
Bid Services	71	\$15,410
Relay Settings	272	\$52,960
Material Procurement	304	\$52,080
Transmission	340	\$68,000
Civil	385	\$77,000
Permitting	20	\$2,600
Construction Support	80	\$15,680
As-Builts	0	\$0
QA/QC	457	\$84,650
Total	3922	\$646,500

ESTIMATED HOUR BREAKDOWN						
	ELECTRICAL	PHYSICAL	CIVIL/STR	DRAFTING	MANAGEMENT	QAQC
30%	268.5	216	170.4	193.5	30.3	137.1
60%	375.9	278.4	238.56	270.9	42.42	191.94
90%	250.6	185.6	159.04	180.6	28.28	127.96

HOURS	COST	START DATE	IFC DATE
3922	\$646,500	TBD	TBD

AGREEMENT FOR PROFESSIONAL SERVICES

This agreement ["Agreement"], is made as of this 16th day of April, 2024, by and between the City of Gardner, Kansas, [hereinafter "City"], and Olsson, Inc. [hereinafter referred to as "Consultant"].

RECITALS

WHEREAS, Consultant represents that it is a duly qualified professional engineering and project management firm, , experienced in the electrical design services for substations, transmissions lines and power distribution systems and related services; and

WHEREAS, in the judgment of the City of Gardner, it is necessary and desirable to employ the services of Consultant for said services.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

AGREEMENT

1.0 Term of Agreement.

The term of this Agreement shall be from May 13, 2024, to January 27, 2025, unless a different term is specified within the Scope of Services as described on Exhibit A or unless terminated earlier in accordance with the provisions of Article 2 below. Schedule is subject to change based on Everygy interconnection and vendor prints delay. In the event that the services rendered under this Agreement may extend beyond any one budget year, the continuation of this Agreement from year to year is contingent upon the approval of sufficient budgetary authority for the continuation of this Agreement by the City Council in the establishment of its annual budget.

2.0 Termination.

2.1 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, City shall have the right, in its sole discretion, to terminate this Agreement by giving 10 days written notice to Consultant.

2.2 Termination for Cause. Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, City may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

2.3 Delivery of Work Product and Final Payment Upon Termination. In the event of termination, Consultant, within 14 days following the date of termination, shall deliver to City all materials and work product subject to Section 13.1 (Ownership of Documents) and shall submit to City an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

- 2.4 Payment Upon Termination. Upon termination of this Agreement by City, the City shall pay Consultant the reasonable value of Services rendered by Consultant prior to termination; provided, however, City shall not in any manner be liable for lost profits that might have been made by Consultant had the Agreement not been terminated or had Consultant completed the Services required by this Agreement. In this regard, Consultant shall furnish to City such financial information as in the judgment of the City is necessary for City to determine the reasonable value of the Services rendered by Consultant. In determining the reasonable value of Services, appropriate consideration shall be given to the defective or deficient nature of the Services rendered. The foregoing is cumulative and does not affect any right or remedy that City may have in law or equity.
- 2.5 Authority to Terminate. The City Council has the authority to terminate this Agreement on behalf of the City. In addition, the City Administrator or Utilities Department Director, in consultation with the City Attorney, shall have the authority to terminate this Agreement on behalf of the City.
- 3.0 Scope of Services.
- 3.1 Consultant's Specified Services. The Scope of Services to be performed by Consultant under this Agreement is as described in Exhibit A to the Agreement, attached and incorporated by reference.
- 3.2 Performance Standard. Consultant shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Consultant's profession. City has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable federal, state, and local laws, it being understood that acceptance of Consultant's work by City shall not operate as a waiver or release of liability. If City determines that any of Consultant's work is not in accordance with such level of competency and standard of care, City, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with City to review the quality of work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 2; or (d) pursue any and all other remedies at law or in equity.
- 3.3 Assigned Personnel.
- 3.3.1 Consultant shall only assign competent personnel to perform work hereunder. In the event that at any time City, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from City.
- 3.3.2 With respect to this Agreement, the Consultant shall employ the following key personnel: N/A

- 3.3.3 In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness, or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.
- 3.3.4 The Consultant shall designate Daniel V Bauerkemper (dbauerkemper@olsson.com) as Client Manager, Peter Bergamini (pbergamini@olsson.com) as Project Manager on the Project, and Brennan Campbell (bcampbell@olsson.com) as Associate Project Manager. Client Manager, Project Manager, and Associate Project Manager shall be primary contacts with Project Representative. Daniel V Bauerkemper shall have authority to bind Consultant. So long as the individual named above remains actively employed or retained by Consultant, he/she shall perform the function of principal on the Project, unless otherwise agreed to in writing signed by both parties. The Consultant will supply a direct name, phone number and email and will notify the City if this contact information changes during the contract period.
- 3.3.5 City shall designate Robert Davis (913-856-0918) as the Project Representative to represent the City in coordinating this project with Consultant, with authority to transmit instructions and define policies and decisions of City. The written consent of the Department Director, and if applicable, City Administrator and/or City Council, shall be required to approve any increase in Project cost as defined in Exhibit B.

4.0 Time of Performance.

The services described herein shall be provided during the period described in this Agreement, or in accordance with the schedule, set forth in the Scope of Services.

5.0 Payment.

- 5.1 Payment shall be made by City only for services rendered and upon submission of a payment request upon completion and City approval of the work performed as defined in Exhibit B. In consideration for the full performance of the services set forth in Exhibit A, City agrees to pay Consultant pursuant to rates stated in Exhibit B to this Agreement, attached and incorporated by reference.
- 5.2 Consultant shall bill City monthly for all work performed. The bill submitted by Consultant shall itemize the work for which payment is requested. City agrees to pay Consultant within thirty (30) days of approval. Consultant agrees to submit herewith such financial information as shall be required by City to enable the City to properly report such payments as required by state or federal law.
- 5.3 All invoices should be sent to Robert Davis.
- 5.4 Right to Withhold Payment. City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to Consultant, to protect City from loss because of:
 - 1) Defective Work not remedied by Consultant nor, in the opinion of City, likely to be remedied by Consultant;
 - 2) Claims of third parties against City or City's property;

- 3) Failure by Consultant to pay Subcontractors or others in a prompt and proper fashion;
 - 4) Evidence that the balance of the Work cannot be completed in accordance with this Agreement for the unpaid balance of the Contract Price;
 - 5) Evidence that the Work will not be completed in the Contract Time required for substantial or final completion;
 - 6) Persistent failure to carry out the Work in accordance with this Agreement;
 - 7) Damage to City or a third party to whom City is, or may be, liable; or
 - 8) Conditions unfavorable for the prosecution of Work, or because of conditions which, in the opinion of the Engineer, warrant such action.
- 5.5 City agrees to pay Consultant an amount not to exceed the sum of \$646,500.00 for performing services detailed in Exhibit A. This not to exceed amount may be increased for additional services as requested by the City and upon execution of a mutually acceptable amendment or change order signed by authorized representatives of City and Consultant.
- 5.6 If a portion of Consultant's statement is disputed by City, the undisputed portion shall be paid by City by the due date. City shall advise Consultant in writing of the basis for any disputed portion of any statement.
- 5.7 See Exhibit B for Schedule of Hourly Billing Rates. These rates are effective for services rendered through the term of this Agreement and are subject to revision thereafter, with no increase in Agreement amount. These rates are applicable to any additional service beyond the scope of services specified in Exhibit A which have been agreed to by the parties through a properly written and executed change order.

6.0 Cash Basis and Budget Laws.

The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws, or if mill levy funds generated are less than anticipated.

7.0 Indemnification.

To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, and whether performed by Consultant or any permitted subcontractors hired by Consultant, the Consultant agrees to indemnify and hold harmless the City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent or intentional acts, errors, or omissions of the Consultant or its subcontractors. Consultant shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim.

8.0 Insurance.

8.1 The Consultant shall procure and maintain, at its sole expense, throughout the duration of this Agreement, insurance of such types (on an occurrence basis unless otherwise agreed to) and in at least such amounts as required herein (and not less than as required in any bid documents or other contract documents), from an insurance company licensed to do business in the State of Kansas, the following insurance coverages as may be necessary to protect the Consultant and the City and agents of the City against all hazards or risks of loss as hereinafter specified:

- Workers' Compensation and Employer's Liability - Demonstrate compliance with K.S.A. 44-532(b) including maintenance of insurance providing the statutory limits under the Kansas Workers Compensation Act; the Consultant shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.
- Commercial General Liability for bodily injury and property damage liability claims arising from the injuries to members of the public or damage to property of others arising out of any act or omission of the Consultant or its agents, employees, or Subcontractors with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The property damage liability coverage shall contain no exclusion relative to blasting, explosion, and collapse of building or damage to underground property and/or facilities.
- Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.
- Professional Liability - The Consultant shall maintain Professional Liability insurance in an amount not less than \$500,000 and shall provide the City with certification thereof.

8.2 The City shall be named as additional insured on such policies, except Workers' Compensation and Professional Liability. Satisfactory certificates of insurance shall be filed with the City prior to starting any work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.

8.3 Industry Ratings - The City will only accept coverage from an insurance carrier who offers proof that it:

- 1) Is licensed to do business in the State of Kansas;
- 2) Carries a Best's policyholder rating of A or better;

AND

- 3) Carries at least a Class X financial rating.

OR

Is a company mutually agreed upon by the City and Consultant.

9.0 Conflict of Interest.

Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder, including under 31 U.S.C.S. Section 1352. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed.

10.0 Nondiscrimination.

Consultant must comply with the Kansas Act Against Discrimination and if applicable, execute a Certificate of Nondiscrimination and Affirmative Action as provided in K.S.A. §44-1030. The Consultant further agrees that the Consultant shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans with Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

11.0 Facilities and Equipment.

Consultant shall furnish at its own cost and expense all labor, tools, equipment, materials, transportation, and any other accessories, services and facilities required to complete the Project as designated, described in accordance with this Agreement, including any attached exhibits and any addendums to this Agreement. The City expressly denies responsibility for or ownership of any item purchased until the same is delivered to and accepted by the City.

12.0 Accessibility.

Consultant will comply with the Rehabilitation Act of 1973, as amended, Section 504, which prohibits discrimination against handicapped persons in employment services, participation and access to all programs receiving federal financial assistance. Consultant shall also comply with applicable requirements with the Americans with Disabilities Act (ADA), as amended, which is a federal anti-discrimination statute designed to remove barriers which prevent qualified individuals with disabilities from enjoying equal treatment by state and local governments and their agencies in employment practices and accessibility in public services and programs.

13.0 Records, Ownership, and Inspection.

13.1 Ownership of Documents.

All documents prepared by Consultant in the performance of this Agreement, although instruments of professional service, are and shall be the property of City, whether the project for which they are made is executed or not. Any reuse of documents prepared by Contractor/Consultant by the city on other projects not contemplated under this Agreement shall be at the City's sole risk, without liability to Contractor/Consultant.

13.2 Open Records.

In recognition of the City's obligations under the Kansas Open Records Act ("KORA"), Consultant acknowledges that this Agreement along with any reports and/or records provided pursuant to this Agreement are public documents and are subject to disclosure under KORA.

13.3 Maintenance of Records.

Except as otherwise authorized by the City, Consultant shall retain such documentation for a period of three (3) years after receipt of final expenditure report under this contract, unless action, including but not limited to, litigation or audit resolution proceedings, necessitate maintenance of records beyond this three (3) year period.

14.0 Independent Contractor.

It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Consultant shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to, overtime, vacation, retirement benefits, workers' compensation, sick leave, or injury leave. Contractor shall also be responsible for maintaining worker's compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employee's compensation.

15.0 Compliance with Laws.

15.1 The Consultant shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances, or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.

15.2 Pursuant to K.S.A. 16-113, if the Consultant does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court of Johnson County, Kansas. These forms may be obtained at the Office of the Clerk of the District Court. Consultant shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Consultant for the awarding of the Contract.

16.0 Assignment.

Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented. The subcontracting, assignment, delegation, or transfer of the Services shall in no way relieve the Consultant of its primary responsibility for the quality and performance of such Services.

17.0 Confidentiality.

All reports and documents prepared by Consultant in connection with the performance of this Agreement are confidential until released by City to the public. Consultant shall not make any such documents or information available to any individual or organization not employed by Consultant or City without the written consent of City before any such release.

18.0 Notices.

All notices hereunder shall be given in writing and sent as follows:

To City:

Gonz Garcia - Utilities Director
City of Gardner
1150 E Santa Fe Street
Gardner, KS 66030

To Consultant:

Daniel V Bauerkemper - Client Manager
Olsson, Inc.
7301 W 133rd St. #200
Overland Park, KS 66213

19.0 Amendments.

19.1 This document represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, and agreements, either written or oral.

19.2 This document may be amended only by written instrument, signed by both City and Consultant.

20.0 No Third-Party Beneficiaries.

City and Consultant specifically agree that this Agreement is not intended to create any third-party beneficiary relationship nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement; the duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

- 21.0 Force Majeure.
City shall not be responsible for any delay or failure of performance resulting from fire, flood, other acts of God, vandalism, strike, labor dispute of a third party, domestic or international unrest, delay in receipt of supplies, energy shortage or failure, or any other cause beyond its reasonable control.
- 22.0 Titles.
The titles in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
- 23.0 Negotiations.
City and Consultant agree that disputes relative to the project should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Consultant shall proceed with the work as per this Agreement as if no dispute existed; and provided further that no dispute will be submitted to arbitration without both parties' express written consent.
- 24.0 Costs and Attorney Fees.
If on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.
- 25.0 Severability.
If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.
- 26.0 Authority to Enter into Agreement.
Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.
- 27.0 Incorporation of Appendices.
Exhibit A - Scope of Services and Exhibit B - Fees are attached hereto and made a part hereof as if fully set out herein.

28.0 Entire Agreement.

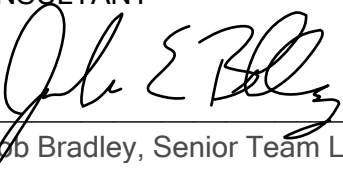
This Agreement represents the entire agreement between the Parties hereto and any provision not contained herein shall not be binding upon either party, nor have any force or effect.

29.0 Governing Law and Venue.

This Agreement shall be governed by the laws of the State of Kansas, and, in the event of litigation, the sole and exclusive venue shall be within the District Court of Johnson County, Kansas.

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

CONSULTANT



Jacob Bradley, Senior Team Leader

CONSULTANT



Shane Hennessey, Sector Leader

CITY OF GARDNER, KANSAS

(Mayor/City Administrator)

ATTEST:

City Clerk

APPROVED AS TO FORM:

Ryan Denk, City Attorney

EXHIBIT A – SCOPE OF SERVICES

This exhibit is hereby attached to and made a part of the Letter Agreement for Professional Services dated April 16, 2024, between City of Gardner, Kansas (“City”) and Olsson, Inc. (“Consultant”) providing for professional services. Olsson’s Scope of Services for the Agreement is indicated below.

PROJECT DESCRIPTION AND LOCATION

Project will be located at: 17955 Clare Road, Gardner, Kansas

Project Description: Substation 4 Final Design

SCOPE OF SERVICES

Consultant shall provide the following services (Scope of Services) to City for the Project:

City Substation 4 is a green field substation, encompassing one (1) primary 161kV line entering the substation with protective relays at each end.

Substation includes one (1) 161kV SF6 dead tank circuit breaker, one (1) 161/12.47kV 30MVA power transformers, and one (1) 15kV metal-clad switchgear, all wired to one (1) new control enclosure. The 161/12.47kV transformers are protected on the high side by the 161kV circuit breaker operated by relays with the low side feeding 15kV metal enclosed switchgear. The 15kV bus and distribution feeders in the switchgear (SWGR#8) are protected by circuit breakers operated by their relays.

All substation equipment shown on One-Line and layout drawings is required to be designed within this Scope of Services, excluding future substation expansion.

PROJECT REQUIREMENTS

Whenever applicable, City standards for designs, drawings, and practices shall be used. These standards include, but are not limited to:

- City standards stock item materials (these stock item numbers shall be included on bill of materials)
- Control and protection schemes
- Control and low voltage power cable conductor numbers, color coding, and sizing, including, non-shielded and shielded types
- AC and DC source and panel layout drawings
- Typical SCADA points list for each type of equipment, relay, panel, et cetera
- Typical City procurement bid process, including:
 - (1) 161kV SF6 circuit breaker
 - (1) 15kV motor operated switches
 - (6) 161kV motor operated switches
 - (1) Control enclosure
 - (6) Switch steel support structures
 - (6) Single Phase Bus steel support structures
 - (6) PT steel support structures

- (2) Three Phase Bus steel support structures
- (2) Lightning Mast steel structures
- (1) Bus duct steel structure

Throughout Project duration, communication and coordination with Every interconnection is required between Project transmission, substation, civil, and distribution teams respectively. A post-construction final coordination call will be scheduled between City, Olsson, and Every to finalize any outstanding construction comments.

Consultant shall provide Substation 4 Phase 1 design, as outlined below. Future substation expansions and additional design phases are not included in this Scope of Services.

All drawings and documentation will be in accordance with City standards. Drawings will be submitted electronically in PDF and AutoCAD DWG format. Documents will be submitted electronically in PDF and Native format. Upon request, Olsson shall provide a printed final set. Additional set submittal preferences shall be provided by Client before issuing.

PROJECT EQUIPMENT AND MATERIALS

Substation 4 new construction Project will consist of the following new major equipment and materials (*all material will be City sources unless otherwise specified):

Substation Equipment

- Long-lead time equipment:
 - One (1) – 161kV/12.47kV 30MVA power transformer
 - One (1) – 161kV 2000A SF6 circuit breaker
 - One (1) – 12.47kV 1200A switch gear (six breakers), including SWGR CPT
 - One (1) – City control enclosure equipped with the following panels:
 - One (1) – metering panel
 - One (1) – 12.47kV SWGR relaying panel
 - One (1) – Transformer/bus differential relay panel
 - One (1) – 161kV breaker control panel
 - One (1) – 161kV line panels with fiber
 - One (1) – RTU panels
 - One (1) – Communication cabinets

*Note: Control enclosure panels listed above will include spare locations for future substation expansion

- Additional equipment:
 - Six (6) – free standing CCVTs
 - Six (6) – Motor operated controlled disconnect switches
 - Three (3) – 98kV MCOV surge arresters for high side transformer
 - Three (3) – 8.4kV MCOV surge arresters for low side transformer
 - As Needed – Lightning mast
 - As Needed - Smaller equipment:
 - Lighting and security cameras at lighting pole locations
 - LV and MV cable
 - Fiber cable
 - PVC conduit

- 120/240VAC & 125VDC Power panels
- 125vdc battery charger and station batteries
- Ground conductor/rods
- Cable trench
- (3) Cable trench drive path covers

Transmission Equipment

- Long-lead time equipment:
 - One (1) – Self-supporting transmission structure
- Additional equipment:
 - Two (2) 161 transmission poles – direct embed
 - As Needed (FT) – Conductor
 - As Needed – Insulators
 - As Needed – Anchors and guys

Structural Equipment

- Long-lead time equipment: [N/A]
- Additional equipment:
 - CCVT steel
 - Switch steel
 - Various foundations
 - 161kV Aluminum round bus
 - 161kV bus support steel
 - 12.47kV Bus duct
 - 12.47kV bus duct support steel

DESIGN AND SUPPORT SERVICES

Substation Design – Consultant shall design the following:

- Electrical:
 - One-line, three-line diagram
 - AC and DC schematics
 - Connection diagrams
 - RTU/SCADA/Comms diagrams
 - Relay/metering
 - Panel layout
 - Relay programming & settings
 - Control enclosure cable interfacing with equipment and control as needed
- Physical:
 - General arrangement
 - Site layout
 - Plan view
 - Section details
 - Ground grid plan
 - Grounding detail
 - Conduit/trench plan
 - Conduit/trench details

- Control enclosure
 - Lightning protection plan
 - Lighting and security plan
 - Route fiber optic cable for substation communication
 - Redundancy as required by client
- Associated documents required in final design, as necessary:
 - IFC drawing list
 - Bill of materials
 - Cable schedule
 - RTU tab sheets
 - Major equipment specifications and bidding procurement support for long lead items. This may include creation of bidding specification, bid analysis and recommendation.
 - Substation fiber optic specifications and procurement
 - GIC specifications

Transmission Design – Consultant shall design the following:

- Plan and profile drawings
- Stringing charts and sag-tension tables (phase conductor and shieldwire)
- Assembly details/standards
- Associated documents required in final design, as necessary:
 - IFC drawing list
 - Bill of materials
 - Supporting design calculations
- Major equipment specifications and bidding procurement support for long lead items. This may include creation of bidding specification, bid analysis and recommendation.

Civil Design – Consultant shall design the following:

- Grading
- Site prep
- Drive path/fencing
- Retaining wall detail
- Geotechnical support of additional boring locations as needed
- Grading storm sewer
- Landscaping: Minimal landscaping and vegetation management as required by the city
- Existing road culvert head wall
- Stormwater pollution prevention plan (SWPPP) report
- Stormwater report
- Associated documents required in final design, as necessary:
 - IFC drawing list
 - Bill of materials
 - Supporting design calculations
- Major equipment specifications and bidding procurement support for long lead items. This may include creation of bidding specification, bid analysis and recommendation.

Structural Design – Consultant shall design the following:

- Bus calculations – stresses and fitting selection

- Lightning mast performance drawing
- Oil containment pit or basin
 - Final design coordination per city or state regulations whichever is more conservative
- Foundation layout
- Foundation details
- Substation steel structure fabrication documents and drawings
- Associated documents required in final design, as necessary:
 - IFC drawing list
 - Bill of materials
 - Supporting design calculations
- Major equipment specifications and bidding procurement support for long lead items. This may include creation of bidding specification, bid analysis and recommendation.

DESIGN SUPPORT

Consultant shall provide response to design questions in a timely manner. Consultant shall provide design support services via on-line communication or in-person. On-site support will consist of no more than 80 hours plus applicable expenses up to Eight Thousand Dollars (\$8,000.00).

PROJECT MANAGEMENT SERVICES

Consultant shall provide the following Project support:

- Submit deliverables, as shown on Project schedule
- Communicate Project schedule updates (e.g., task completion, actual hours expended, and percent complete) for reporting progress to coordinate with Project teams
- Status updates and communicate issues and/or risks to budget, schedule, or scope during periodic meetings
- Document/records management: final Project records shall be submitted to program manager. Program manager will maintain version control and perform check-in procedures to City.
- Project management/scheduling/reporting: information regarding Project progress including, budget, contract change orders, timelines, and overall progress for planned schedules will be reported to program manager.
- Response to requests for information (RFIs) from City's Contractor and vendors
- Review and approve/reject City's Contractor/vendor submittals

ASSUMPTIONS & CLARIFICATIONS

- Schedule subject to change based on Evergy interconnection and vendor prints delay

EXCLUSIONS

- 12.47kV distribution design not included in scope of work. Design demarcation at SWGR #8 exit
- RTU programming not included in scope of work
- Post-construction services
- Construction redlines and as-built drawings and documents

COMPENSATION

Client shall pay to Olsson for the performance of the Scope of Services, the actual time of personnel performing such services in accordance with the 2024 Energy Billing Rate Schedule, and all actual reimbursable expenses in accordance with the Reimbursable Expense Schedule attached to this Agreement. Olsson shall submit invoices on a monthly basis, and payment is due within 30 calendar days of invoice date.

Olsson's Scope of Services will be provided on a time-and-expense basis not to exceed Six Hundred Forty-Six Thousand Five Hundred Dollars (\$646,500.00).

Should City request work in addition to the Scope of Services, Consultant shall invoice City for such additional services (Optional Additional Services) at the standard hourly billing labor rate charged for those employees actually performing the work, plus reimbursable expenses if any. Consultant shall not commence work on Optional Additional Services without City's prior written approval.

Consultant agrees to provide all of its services in a timely, competent, and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

EXHIBIT B – FEES

2024 ENERGY BILLING RATE SCHEDULE

<u>Description</u>	<u>Range</u>
Market Leader	\$275 - \$375
Sector Leader	\$260 - \$335
Lead Engineer	\$225 - \$335
Discipline Expert	\$260 - \$335
Senior Team Leader	\$225 - \$335
Group Leader	\$165 - \$290
Senior Engineer	\$155 - \$230
Project Manager	\$135 - \$260
Associate Project Manager	\$120 - \$190
Client Manager	\$245 - \$300
Project Engineer	\$145 - \$210
Engineer	\$135 - \$200
Associate Engineer	\$110 - \$145
Assistant Engineer	\$100 - \$140
Design Technical Manager	\$130 - \$210
Design Manager	\$130 - \$200
Design Associate	\$105 - \$145
Senior Tech	\$85 - \$120
Associate Tech	\$70 - \$100
Assistant Tech	\$60 - \$95
Junior Technician Level 1	\$55 - \$75
Junior Technician Level 2	\$65 - \$95
Junior Technician Level 3	\$75 - \$110
Senior Administrative Coordinator	\$75 - \$110
Administrative Coordinator	\$60 - \$90

Note:

1. Special Services not included in the above categories will be provided on a Special Labor Rate Schedule. Special rates include but are not limited to Power Delivery, Survey, Field Operations, Special Inspection, Construction Observation, Geotechnical, Non-Destructive Testing, Drilling, Executive Staff.
2. Rates are subject to change based upon updates to Billing Rates for the upcoming year.

*Not inclusive of all services. Refer to Note 1.



REIMBURSABLE EXPENSE SCHEDULE

The expenses incurred by Olsson or Olsson's independent professional associates or consultants directly or indirectly in connection with the Project shall be included in periodic billing as follows:

<u>Classification</u>	<u>Cost</u>
Automobiles (Personal Vehicle)	\$0.67/mile*
Suburban's and Pick-Ups	\$0.75/mile*
Automobiles (Olsson Vehicle)	\$95.00/day
Other Travel or Lodging Cost	Actual Cost
Meals	Actual Cost
Printing and Duplication including Mylars and Linens	
In-House	Actual Cost
Outside	Actual Cost+10%
Postage & Shipping Charges for Project Related Materials including Express Mail and Special Delivery	Actual Cost
Film and Photo Developing	Actual Cost+10%
Telephone and Fax Transmissions	Actual Cost+10%
Miscellaneous Materials & Supplies Applicable to this Project	Actual Cost+10%
Copies of Deeds, Easements or other Project Related Documents	Actual Cost+10%
Fees for Applications or Permits	Actual Cost+10%
Sub-Consultants	Actual Cost+10%
Taxes Levied on Services and Reimbursable Expenses	Actual Cost

*Rates consistent with the IRS Mileage Rate Reimbursement Guidelines (Subject to Change).

COUNCIL ACTION FORM

NEW BUSINESS ITEM NO. 4

MEETING DATE: MAY 20, 2024

STAFF CONTACT: RENEE RICH, CITY CLERK

Agenda Item: Consider a request for a Waiver of the Distance Limitation and a “General Retailer” Special Event permit to allow for the sale of cereal malt beverages for consumption within 200 feet of a school, church, or library during the Abdallah Shriners event weekend at the Johnson County Fairground

Strategic Priority: Quality of Life

Department: Administration

Staff Recommendation:

Staff recommends Council approve a request for a Waiver of the Distance Limitation and a “General Retailer” Special Event permit to allow for the sale of cereal malt beverages (CMB) for consumption within 200 feet of a school, church or library during the Abdallah Shriners Rodeo & Demo Derby weekend, June 13 through June 15, 2024, at the Johnson County Fairgrounds, 136 E. Washington.

Background/Description of Item:

The Abdallah Shriners organization has applied for a “General Retailer” Special Event temporary permit and is requesting a Waiver of the Distance Limitation for an area to sell cereal malt beverages (CMB) during their Abdallah Shriners Rodeo & Demo Derby weekend, June 13 through June 15, 2024. Gardner Municipal Code (5.20.460) allows for the consumption of CMBs with an off-premise CMB license being required. The Governing Body will need to approve a permit for a special event pursuant to Chapter 5.20.460 of the City Code.

The location is to be in the derby arena area (see attached map). CMBs will be served within the gates of the beer garden and all alcohol will be required to be consumed in that area. Appropriate interior security will be stationed at both entrances. The hours of operation for the beer garden will be from 5:30 pm to 12:00 am each day. Since the location of the proposed beer garden is within 200 feet of a school, church or library, the applicant must petition and be granted a Waiver of the Distance Limitation and a permit for a special event by the City Council.

Gardner Police Department has reviewed the application and found nothing that would prohibit the issuance of the license.

This waiver and permit, if approved, will be for June 13, 2024 through June 15, 2024 only with the following restrictions:

- The location as shown on the map as provided.
- Hours of operation for the beer garden: 5:30 pm to 12:00 am.

Attachments:

- Fairgrounds Map (area of event shaded in yellow)

Suggested Motion:

Approve a request for a Waiver of the Distance Limitation and a General Retailer Special Event temporary permit to allow for the sale and consumption of Cereal Malt Beverages within 200 feet of a school, church or library during the Abdallah Shriners Rodeo & Demo Derby to be held June 13 through June 15, 2024 at the Johnson County Fairgrounds, 136 E. Washington St.

